

SEWER SERVICE AGREEMENT

This Agreement made as of June 30, 2019 between the **Town of Ithaca**, a municipal corporation with offices at 215 N. Tioga Street, Ithaca, New York and the **Town of Dryden**, a municipal corporation with offices at 93 East Main Street, Dryden, New York, on behalf of the Peregrine Hollow Sewer District (PHSD).

WITNESSETH:

WHEREAS the PHSD utilizes portions of the Town of Ithaca's sanitary sewer system to transport sewage to the jointly owned Ithaca Area Wastewater Treatment Facility, and

WHEREAS the Town of Ithaca is willing to provide such service upon the terms and conditions hereinafter set forth,

NOW THEREFORE in consideration of the premises and of the mutual covenants hereinafter set forth the parties agree as follows:

1. Subject to the limitations set forth in this agreement, the Town of Ithaca hereby agrees to transport all of the sanitary sewage from the PHSD entering the Town of Ithaca's Slaterville Road sewer through portions of the existing Town of Ithaca sanitary sewage collection system to the point of connection with the City of Ithaca's sanitary sewage collection system.

2. The Joint Interceptor Agreement between City of Ithaca and Town of Ithaca, dated December 31, 2003, states that sewage flow from the Town of Dryden may pass through Town of Ithaca sewers and into the interceptors jointly owned by the Town of Ithaca and City of Ithaca. The Joint Interceptor Agreement further provides that sewage flow from the Town of Dryden may pass through the City of Ithaca collection system and joint pump stations. The Joint Interceptor Agreement states such flows will be considered as Town of Ithaca flows. The Town of Ithaca's payments to the City of Ithaca under the Joint Interceptor Agreement compensate the City for transmission of these Dryden flows.

3. The Town of Dryden agreed in 1996 and reaffirms that all existing and future improvements required to connect the PHSD sanitary sewage collection system to the existing Town of Ithaca sanitary sewage collection system were and will be constructed to Town of Ithaca specifications subject to the approval of the Ithaca Town Engineer. The Town of Dryden also agreed in 1996 and reaffirms that all such improvements were and will be constructed at no cost to the Town of Ithaca.

4. The Town of Dryden also agreed in 1996 that the portion of the improvements within the Town of Ithaca would be dedicated to the Town of Ithaca at no cost to Ithaca. The Ithaca Town Board accepted dedication of these improvements in 1996. The Town

of Dryden agrees that any future improvements it constructs within the Town of Ithaca will be dedicated to the Town of Ithaca at no cost to the Town of Ithaca.

5. Improvements constructed within the Town of Ithaca consist of 1800 feet of 8 inch PVC sewer main and manholes, as more fully described by the map, plan, report and specifications prepared as approved by the Ithaca Town Engineer on May 9, 1995. The foregoing improvements were installed prior to the Town of Dryden's discharge of any sanitary sewage into the Town of Ithaca sanitary sewage collection system. The meter pit, flow meter and related appurtenances described in the map, plan, report and specifications were to be constructed at a later time but have not been constructed. The parties agree those items do not need to be constructed.

6. The Town of Ithaca maintains the portion of the improvements within the Town of Ithaca and has the right to use or modify the sewage collection system in the Town of Ithaca.

7. Sanitary sewage flows entering the Town of Ithaca sewers from the PHSD will be measured by water consumption in any and all premises that are connected to the sewer line which is discharging sanitary sewage into the Town of Ithaca's collection system, using water meter readings and assuming that 100% of the water used on the premises as reflected in such meter readings is converted to sewage (i.e. the water readings of the various facilities connected to the sewer shall be added together and the resulting sum shall be deemed to be the amount of sanitary sewage being discharged into the Town of Ithaca's system.)

8. The Town of Dryden, on behalf of PHSD, hereby agrees to pay to the Town of Ithaca an amount which is intended to be a fair portion of the operation and maintenance costs of the shared sewer lines. The Town of Dryden's annual payment shall be the total amount of annual water consumption in the sewer district multiplied by the rate specified below. The amounts shall be payable to the Town of Ithaca by August 31 following the year of usage. The Town of Dryden shall also submit the following information with the payment: number of units served in the district and total amount of water consumed and deemed contributed to the Town of Ithaca system. Any payment not received by August 31 of each year may, at the discretion of the Town of Ithaca, be charged a 1.5% per month late fee. The Town of Ithaca will not send the Town of Dryden an invoice. Beginning on July 1, 2019, the rate to be paid is \$96.20 per 100,000 gallons of water consumed, and that rate will be increased by 2.25% per year beginning on July 1, 2020, unless a different rate is mutually agreed upon in writing by both parties.

9. The payments described above are for the Town of Ithaca's transmission of sanitary sewage from the PHSD through the Town of Ithaca system, City/Town of Ithaca jointly owned interceptors and pump stations, and/or City of Ithaca collection system to the Ithaca Area Wastewater Treatment Facility. This agreement does not cover, and the PHSD is responsible for, all costs of treatment of sanitary sewage from the PHSD at the Ithaca Area Wastewater Treatment Facility.

10. The Town of Dryden agrees with the Town of Ithaca and represents as follows:

(a) All sanitary sewage discharged from the PHSD into the Town of Ithaca's collection system will be in compliance with all required pretreatment laws, rules or regulations and in compliance with the Town of Ithaca's sewer use law insofar as it relates to the quality and type of material that may be discharged into the Town of Ithaca sewer collection system, and

(b) All sewage shall also comply with all requirements of the Ithaca Area Wastewater Treatment Plant operations and be of a quality that is acceptable for sewage treatment by such plant in accordance with all rules, regulations, laws, and ordinances governing the operation of such plant, and

(c) If consumers in the PHSD violate any provision of any applicable rule, regulation, law or ordinance governing the manner, quality, or quantity of sewage discharged into the collection facilities that are ultimately discharging into the Town of Ithaca's collection system, and without limiting any other remedies available to Ithaca or any other party, the Town of Dryden will take all appropriate steps to cause such improper or illegal discharge to cease including, if appropriate, the termination of the rights of any such illegally dumping individual to be connected to the sewer system. The parties agree that the Town of Ithaca shall also have the right to take all appropriate steps to cause such improper or illegal discharge to cease if the Town of Dryden does not do so in an expeditious manner, and

(d) The Town of Dryden agrees to fully defend, indemnify and hold harmless the Town of Ithaca, its elected officials, public officers, employees, and agents from and against all claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorney's fees and costs), whether or not involving a third party claim, which any or all of them may incur, resulting from bodily injuries (or death) to any person, damage (including loss of use) to any property, other damages, penalties, fines or contamination of or adverse effects on the environment, caused by the acts or omissions of the Town of Dryden, the Town of Dryden's employees, agents or subcontractors, or persons or entities in the Town of Dryden utilizing the sewers, in connection with this Agreement. To the extent the Town of Ithaca is negligent, the Town of Dryden's duty to indemnify the Town of Ithaca shall not extend to the proportion of loss attributable to the Town of Ithaca's negligence.

11. The March 11, 1996 Sewer Service Agreement between the parties is terminated as of the effective date of this Agreement.

12. This agreement shall be effective from July 1, 2019 until June 31, 2022 and may be renewed upon mutual written agreement of the parties.

13. Should the parties not reach agreement about renewal, the Town of Ithaca shall endeavor to give at least three years' advance written notice to the Town of Dryden of the agreement's upcoming termination.

14. The parties acknowledge that the Town of Dryden has paid all past charges due through June 30, 2014 for the Town of Ithaca's transmission of sanitary sewage from the PHSD through the Town of Ithaca system, City/Town of Ithaca jointly owned interceptors, and/or City of Ithaca system to the Ithaca Area Wastewater Treatment Facility.

15. This Agreement constitutes the entire agreement of the parties. It may be amended only by the written consent of both parties, with each party executing and acknowledging the document containing the amendment through its duly authorized representative.

16. This Agreement shall be governed by the laws of the State of New York.

17. Each party represents and warrants that (a) this Agreement has been presented to its governing body; (b) its governing body has approved this Agreement by a majority vote of the full possible voting strength of that governing body; and (c) if required, all steps by way of public hearings and/or referendum or otherwise have been taken by the time of execution of this Agreement. Resolutions of each governing body approving this Agreement are attached to this Agreement as Exhibit A.

18. No party may assign or transfer its rights and interests in this Agreement to another entity without the prior written consent of the other party.

IN WITNESS WHEREOF the parties have executed this agreement as of the day and year first written above.

Town of Ithaca

Town of Dryden

By: _____
William D Goodman, Supervisor

By: _____
Mary Ann Sumner, Supervisor

STATE OF NEW YORK)
COUNTY OF TOMPKINS) SS:

On this ____ day of _____, before me came William D Goodman, to me personally known who, being by me duly sworn, did depose and say that he resides in the Town of Ithaca and that he is the Supervisor of the Town of Ithaca, who executed the within instrument and he acknowledged to me that he executed the same and that such execution was on behalf of the Town of Ithaca and that the Town Board of the Town of Ithaca duly authorized such execution.

Notary Public

STATE OF NEW YORK)
COUNTY OF TOMPKINS) SS:

On this ____ day of _____, before me came Mary Ann Sumner, to me personally known who, being by me duly sworn, did depose and say that she resides in the Town of Dryden and that she is the Supervisor of the Town of Dryden, who executed the within instrument and she acknowledged to me that she executed the same and that such execution was on behalf of the Town of Dryden and that the Town Board of the Town of Dryden duly authorized such execution.

Notary Public