

**INTERLOCAL COOPERATION AGREEMENT FOR  
SURFACE WATER DRAINAGE AND FOR MUNICIPAL SEPARATE  
STORM SEWER SYSTEM (MS4) RULE 13 (327 IAC 15-13) COORDINATION**

THIS AGREEMENT, entered into the 19<sup>th</sup> day of March 2012, on the dates specified below, by and between the City OF JEFFERSONVILLE, Indiana (hereinafter referred to as "City") and the OAK PARK CONSERVANCY DISTRICT, Indiana (hereinafter referred to as "District"). Both Parties being political subdivisions located in Clark County, Indiana, and entered into for purposes of IC 36-1-7 *et seq.* as defined in IC 36-1-2-13.

WITNESSETH THAT:

WHEREAS, City has recently annexed certain areas, effective on January 1, 2008 and on January 1, 2010, one portion of which includes territory which is adjacent to and inclusive of the territory comprising the District (see "Exhibit A");

WHEREAS, the District has been engaged in the improvement of surface water drainage in the District, except for that areas within the right-of-way of public streets and thoroughfares and certain area known as the Lancassange Creek drainage right-of-way, which the Clark County Board of Commissioners (the "Commissioners") agreed to maintain pursuant to an agreement with the U.S. Army Corps of Engineers.

WHEREAS, the City has a duty to maintain surface water drainage within the right-of-ways of those public streets and thoroughfares located within the District which is necessary for the proper maintenance of those public streets and thoroughfares;

WHEREAS, both the City and the District have a Municipal Separate Storm Sewer System (MS4) program, as required by 327 IAC 15-13 and known as "Rule 13", within the territory located within the District, which fact sometimes leads to a duplication of services, confusion on a duty to report, and uncertainty among residents regarding enforcement. This situation is exacerbated by the fact that the regulations relating to surface water quality and drainage are not identical.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants, promises, and agreements set forth, and the opportunities provided through the Interlocal Cooperation Act, as amended (IC 36-1-7 *et seq.*), it is mutually agreed by and between the parties as follows:

1. Duration. The duration of this Agreement shall be for a period of thirty (30) years and shall automatically be renewed for additional ten (10) year periods, unless terminated as hereinafter set forth; provided however, if either party shall issue controlling long term, low interest financing through an arm of the Federal Government that requires

forty (40) years commitment and closes on said bond sale within thirty-six (36) months of the effective date of this Agreement, then this Agreement's initial term shall correspond with the life of said bond if it is greater than thirty (30) years.

2. Purpose. The purpose of this Agreement is to improve the effectiveness and efficiency of service provided to the residents of the City living within the territorial boundaries of the District.
3. Manner of Financing. The District will bear responsibility for the financial cost of providing services it is obligated to perform hereunder, which shall typically be paid from special benefits tax revenues. The City will bear responsibility for the financial cost of providing services it is obligated to perform hereunder, which shall typically be paid from real estate tax revenues and will not impose surface water drainage surcharges on real estate currently in the District. Furthermore, if any *ad valorem* property tax revenues are appropriated or used by the City to provide surface water drainage improvements or maintenance elsewhere in the City, then at least annually the City will calculate what portion (percentage) of the City's overall tax levy are set aside or used to provide surface water drainage improvements or maintenance in the City as a whole, and City shall transfer to the District an amount equal to the portion (percentage) of City's tax levy collected from assessments of property within the District. This percentage calculation *shall not* include any funds from the surface water drainage surcharges collected or expended by the City.
4. Method of Termination and Disposal of Property. This Agreement may be terminated as provided for in the attached Sewer Service, Water Service and surface water drainage Service Agreement. All property becoming a part of the City's System shall remain the property of the City. All property becoming a part of the District's wastewater collection or surface water drainage systems shall remain the property of the District.
5. Administration. The Parties agree that this Agreement should be administered in such a way as to always be striving for compliance with federal, state and local laws, including regulation, ordinances, and resolutions. To the extent that the parties regulate the same matters, they shall strive to have consistent regulations, standards, penalties, and enforcement procedures. The Parties understand that the City may need a separate agreement with the Clark County Board of Commissioners as concerns the surface water drainage and corresponding costs regarding Lancassange Creek.
6. Delegation to Disbursing Officer. The City may delegate its authority to disburse payment to the District and to account for monies as City finds appropriate for the sewer and drainage purposes heretofore described.

7. Starting Date. The starting date of this Interlocal Cooperation Agreement shall be the date so specified in the attached *Surface Water Drainage Agreement*.
8. Surface Water Drainage Agreement.
  - a. **MS4 Cooperation.** Both the City and the District are required to provide stormwater drainage services in the territory comprising the District, and report to the Indiana Department of Environmental Management (herein after "IDEM"). Because the City will be bearing responsibility for the drainage infrastructure located in all right of ways for streets and thoroughfares, as well as the right of way for the Lancassange Creek and the District will be bearing that responsibility for all areas not located in the right of ways of public streets and thoroughfares and Lancassange Creek, both the City and the District will be affected by drainage issues occurring within the District. Therefore, to the extent possible, the City and the District will submit a joint report, or, corresponding reports to IDEM relating to the territory comprising the District. Likewise, the City and the District will work cooperatively to implement the control measures required in the MS4 program.
  - b. **Construction Projects.** The City will bear responsibility for all drainage construction projects located solely within the rights of ways of streets and thoroughfares, as well as the Lancassange Creek drainage right of way and the District will bear responsibility for drainage infrastructure located elsewhere within the District. To the extent that a drainage project will overlap or fall within both of the "jurisdictions" the parties will work cooperatively to pay their pro rata share of the costs of the project. If the parties do not agree on the necessity for the project then either the City or the District can agree to bear the entire cost of the project, or the project will be postponed until the parties reach an agreement or funding becomes available.
  - c. **Alignment Of Regulations.** The parties agree to work together to align their storm water regulations, reporting, enforcement, and the penalties therefore. This shall be commenced immediately upon execution of this document, and shall be completed within six (6) months, unless the parties agree to a further enlargement of time.
  - d. **Enforcement Proceedings When Jurisdiction Overlaps.** To the extent that a drainage problem begins within the jurisdiction of either the City or the District, and extends into or in and out of the other territory which is the responsibility of the other party the jurisdiction in which the problem originates shall take lead responsibility for enforcement actions. To the extent that remediation is necessary in both Districts, any resolution of the problem by the party having lead jurisdiction shall include remediation in the other territory.

- e. **Disagreements.** To the extent there is a disagreement in the interpretation and application of this agreement, the parties shall first attempt to reach a common understanding by negotiation, which shall take place within sixty (60) days of the time the apparent disagreement becomes known. If no reconciliation is made by that time then the parties shall submit the matter to non-binding mediation within an additional sixty (60) days. If neither negotiation nor mediation is successful the matter shall be submitted for binding arbitration pursuant to the *Indiana Rules for Alternative Dispute Resolution*.
- f. **Complaints.** To the extent that either the City or the District receives a complaint regarding a violation of the *Surface Water Drainage Regulations* which are to be adopted hereunder, and the entity receiving that complaint believes that responsibility to resolve the complaint belongs to the other party of this agreement, that essence of that complaint shall be reduced to writing on a form approved by both parties and the form forwarded to the other party. In that event, on at least a monthly basis, a representative of both the City and the District shall meet to reconcile the list of complaints which have been thus forwarded to the other party. In the event that the representatives are unable to agree the extent to which each of the two (2) parties bears responsibility for attention to or remediation of the problem, the matter shall be referred, on behalf of the city, to the City's drainage board, and behalf of the District, to the District's board of directors. In any event the person or entity lodging the complaint shall be kept apprised of the status of the complaint/report and shall be provided with contact information for the parties to whom the responsibility for resolution of the complaint/report has fallen.
- g. **Engineering.** To the extent that the parties work jointly on a construction/remediation project within the District, the parties shall agree on the professional engineering firm or individual to design and/or oversee construction of any improvements.
- h. **Maps and Other Technical Information.** The City and the District shall, to the extent legally permissible, share with one another all maps, reports and technical information relating to drainage within the District, including but not limited to ditches, swales, culverts, headwalls, creeks, tributaries, manholes, pipes, causeways, drains, roadways and any other infrastructure which does or may affect surface drainage or the quality of waters within those areas.


This Interlocal Cooperation Agreement was approved by the duly passed resolutions of the following:

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BY THE BOARD OF DIRECTORS OF THE OAK PARK CONSERVANCY DISTRICT:

Approved on the 27 day of March, 2012, by the Board of Directors of the Oak Park Conservancy District, Clark County, Indiana.

By:

  
Marshall Johnson, Chairman

  
Bruce Herdt, Vice Chairman

  
Charlie Milburn, Board Member

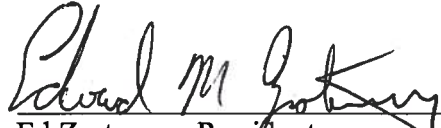
ATTEST:

  
Amy Burton, Secretary

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BY THE City OF JEFFERSONVILLE, INDIANA:

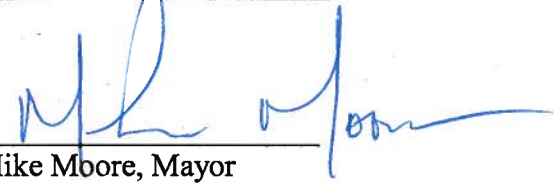
Approved on the 19<sup>th</sup> day of March 2012, by the Common Council of the City of Jeffersonville, Clark County, Indiana.

By:   
Ed Zastawny, President

ATTEST:

  
Vicki Conlin, Clerk

This resolution approved and signed by me this 20 day of March 2012.

By:   
Hon. Mike Moore, Mayor

ATTEST:

  
Vicki Conlin, Clerk

**(EXHIBIT A)**

**Legal Description of Current OPCD Territory**



## AREA 1

*Beginning at the northeasterly line of Allison Lane and the south line of Oak Park Boulevard; northeastwardly to the west line of Park Lane; southeastwardly to the southeast line of Oak Park Ninth Addition extended; northeastwardly with south east line to the southwest line of Riverside Subdivision; northwestwardly with southwest line of Riverside Subdivision to the southeast line of Oak Park Eighth Addition and northwest line of Riverside Subdivision; northeastwardly with northwest line to the northeast line of Oak Park Eighth Addition; northwestwardly with the northeast line of Oak Park Eighth Addition which is also the southwesterly line of Fields of Lancassange Subdivision to the southeast line of Middle Road; northwardly with the southeast line of Middle Road to the northeast line of Fields of Lancassange Subdivision; southeastwardly with the northeast line of Fields of Lancassange Subdivision to its southeast corner; southwestwardly with the southeast line of Fields of Lancassange Subdivision to the northeast line of Riverside Subdivision; southeastwardly with northeast line to northeast line of Meadowdowns; eastwardly with the northeast line to the southeasterly line of Meadowdowns; southeastwardly with southeast line of Meadowdowns to Utica Pike; northeastwardly with west line of Utica Pike to the northwest line of Island View; northeastwardly with northwest line to southeasterly line of Island View; southeastwardly with southeast line to southeasterly line of Island View; southwestwardly with southeasterly line to the southwest line of Island View; northwestwardly with the westerly line to the southerly line of Island View; northwestwardly with the southerly line to the east line of Utica Pike; southwestwardly along the east line of Utica Pike to Longview Drive, including all those properties facing Utica Pike; northwestwardly along the south line extended to the south line of Longview Drive; south along the westerly line of Utica Pike to the northeasterly line of Allison Lane; northwest along the northeasterly line of Allison Lane to the point of beginning. Containing all that part of the Conservancy District in McBride Heights, Riverside Subdivision, Island View, Meadowdowns, all that in the first section, second section, third section, and fourth section of Oak Park, South of Oak Park Boulevard and Fields of Lancassange Subdivision.*

## AREA 2

*Beginning at the southeast line of Oak Park Boulevard and the easterly line of Sycamore Road; southeastwardly with the southeast line of Oak Park Boulevard to the northeasterly line of Allison Lane; southeastwardly with the northeasterly line of Allison Lane to the westerly line of Utica Pike; southwestwardly with the westerly line of Utica Pike to the southerly corner of Wathen Heights, Virginia Addition; northwestwardly with the westerly line of Wathen Heights, Virginia Addition, to the easterly corner of Wathen Estates; southwestwardly with a southerly line of Wathen Estates; southeastwardly with a line to the southeasterly corner of Wathen Estates; southwestwardly with the most southerly line of Wathen Estates to the northeasterly line of Cherokee Terrace; northwestwardly with the northeasterly line to the most northerly corner of Cherokee Terrace; southwestwardly with the northerly line to the westerly corner of Cherokee Terrace; northwestwardly with the line of Cherokee Terrace extended to the southwesterly corner of the Avery/Read tract; northeastwardly with the southerly line of the Avery/Read tract to the southeasterly corner thereof; northwestwardly with the easterly line of the Avery/Read tract to the westerly line of Middle Road; northeastwardly with the westerly line of Middle Road to the northeasterly line of Allison Lane, including all those properties facing Middle Road on the southeast side; northwestwardly with the northeasterly line of Allison Lane to the northwesterly line of Indian Hills extended, including all those properties facing Allison Lane on the northeast side; northeastwardly with the northwesterly line of Indian Hills to the southwesterly line of Capitol Hills, Section 4; southeastwardly with the southwesterly line of Capitol Hills extended, to the most southerly corner of Oak Park, Section 8, southwestwardly to the easterly line of Sycamore Road; southeastwardly with the easterly line of Sycamore Road to the point of beginning. Containing all that part of the Conservancy District in Wathen Heights, Wathen Estates, Wathen Ridge, Walford Manor, Beech Grove, Indian Hills, Clark Dell, Oak Park, Section 4, Section 5, and Section 6; south of Sycamore Road and east of the east line of Allison Lane.*

### AREA 3

*Beginning at the southeast line of Oak Park Boulevard and the easterly line Sycamore Road; north westwardly with the northeasterly line of Sycamore Road to the northwesterly line of Oak Park, Section 6; northeastwardly to the southerly corner of Oak Park, Section 8; north westwardly to the westerly corner of the Klein tract and the southerly line of River City Park Road; southeastwardly to another corner of the Klein tract and the southerly line of River City Park Road; northeastwardly to northeasterly corner of Klein tract; southeastwardly with the line of Seilo Ridge extended, to a corner of Seilo Ridge; northeasterly to the northeast corner of Seilo Ridge; northeastwardly to the north east corner of Pebble Creek; southeastwardly to the southeast line of Middle Road; southwestwardly with the east line of Middle Road to the northeasterly line of Oak Park, Section 8; southeastwardly to the easterly corner of Oak Park, Section 8; southwestwardly to the most northerly corner of Oak Park, Section 7; southeastwardly to the most easterly corner of Oak Park, Section 9; southwestwardly with the southerly line of Oak Park, Section 9, extended to the westerly line of Park Lane; northeastwardly to the southeasterly line of Oak Park Boulevard; southwestwardly to the easterly line of Sycamore Road, the point of beginning. Containing the Klein tract, the Catholic Church tract, Seilo Ridge Subdivision, Autumn Ridge Apartments, Pebble Creek Subdivision, Marquise Meadow Subdivision, Lighthouse Apartments, Capitol Hills Subdivision, Sections 7, 8 & 9 of Oak Park, and part of Sections 3, 5 & 6 of Oak Park.*