

Thomas M. Taylor, Mayor

November 8, 2010

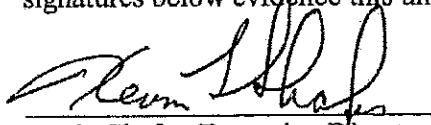
Kevin Shafer, P.E.
Executive Director
Milwaukee Metropolitan Sewerage District
260 West Seeboth Street
Milwaukee, Wisconsin 53204

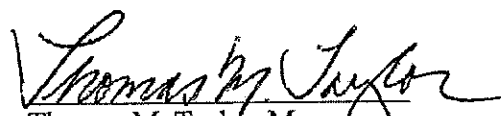
re: INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FRANKLIN AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING
FINANCING, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE, AND OWNERSHIP OF THE
RYAN CREEK INTERCEPTOR SEWER; Paragraph 3.1.1.

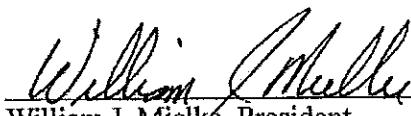
Dear Mr. Shafer:

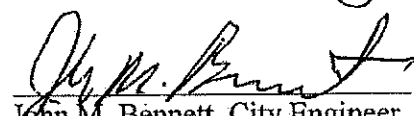
Pursuant to your request, this letter of understanding is provided to further define the use of the term "may" as is set forth in Paragraph 3.1.1 of the above-entitled Agreement, "Franklin to Include District Force Account Costs in its Application for CWFPP loan; Franklin May Retain the District to Perform Resident Engineer/Resident Inspection Duties."

Discussions and negotiations between and among the parties and their representatives and other governmental agency representatives which occurred in reaching the terms of the Agreement, included the understanding that the District would perform the resident engineer/resident inspection duties required by the project, but only if District staff were available at the time to perform those duties. The District's charges for such services are assumed to be CWFPP loan eligible. A separate agreement for such services would be required to specify the terms applicable to the above-entitled Agreement which may have to be amended or superseded, including, but not limited to those which may pertain to such matters as liability and environmental responsibilities between the parties, as they may be affected by an agreement for resident engineer/resident inspection services. The District also stated that such agreement for resident engineer/resident inspection services should also provide that the District would subcontract such services to Ruekert & Mielke, Inc., in the event District staff is not available to perform the services. Our signatures below evidence this understanding.


Kevin Shafer, Executive Director


Thomas M. Taylor, Mayor


William J. Mielke, President


John M. Bennett, City Engineer

9229 West Loomis Road, Franklin, Wisconsin 53132-9728 (414) 425-7500 Fax: (414) 425-6428

www.franklinwi.gov

58.92073.107 Agreements

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FRANKLIN AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING
FINANCING, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE, AND OWNERSHIP OF THE
RYAN CREEK INTERCEPTOR SEWER

This intergovernmental cooperation agreement,
hereafter "Agreement," entered into pursuant to Wis. Stat. §
66.0301 on the last date upon which this Agreement is
signed, by and between the MILWAUKEE METROPOLITAN
SEWERAGE DISTRICT, a municipal body corporate, organized
and existing under Wis. Stat. §§ 200.21 to 200.65, with its
principal offices located at 260 West Seeboth Street,
Milwaukee, Wisconsin, 53204, hereafter "District," and the
CITY OF FRANKLIN, a municipal corporation organized and
existing under Wis. Stat. § 62.02, with its principal offices
located at 9229 West Loomis Road, Franklin, Wisconsin
53132 (hereinafter "Franklin") concerning the financing,

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FRANKLIN AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING
FINANCING, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE, AND OWNERSHIP OF THE
RYAN CREEK INTERCEPTOR SEWER (OCTOBER, 2010)

5892073.104 Agreement

design, construction, operation, maintenance and ownership of the Ryan Creek Interceptor Sewer:

WHEREAS, the District owns and operates a sewerage system for the collection, treatment and disposal of all sewage and drainage of its sewerage service area, as approved by the Wisconsin Department of Natural Resources, hereinafter "DNR," and the Southeastern Wisconsin Regional Planning Commission, hereinafter "SEWRPC;" and

WHEREAS, Franklin is located within the District's sanitary sewerage service planning area, with a portion of Franklin located within the District's corporate boundary and a portion of Franklin presently located outside the District's corporate boundary; and

WHEREAS, sewage that is generated within the area presently outside the District's corporate boundary but within the District's sanitary sewerage service planning area is

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FRANKLIN AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING
FINANCING, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE, AND OWNERSHIP OF THE
RYAN CREEK INTERCEPTOR SEWER (OCTOBER, 2010)

treated by privately-owned on-site septic systems which systems have limited useful lives, and the repair or replacement of such private on-site septic systems is also dependent upon the nature of the site soils, which, within Franklin, are primarily clay soils. Upon the failure of any such private on-site septic system, the sewage treated therein eventually enters waterways tributary to lakes that are sources of drinking water for many municipalities; and

WHEREAS, the Milwaukee Metropolitan Sewerage Commission and its predecessors have authorized the construction of all facilities, including interceptor sewers, necessary to collect, treat and dispose of sewage generated within those areas within Franklin that are presently outside the District's corporate boundary and, upon entry into this Agreement, all of the remaining area of Milwaukee County; and

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FRANKLIN AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING
FINANCING, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE, AND OWNERSHIP OF THE
RYAN CREEK INTERCEPTOR SEWER (OCTOBER, 2010)

WHEREAS, adding the lands within Franklin that are presently outside the District's corporate boundary into the District's corporate boundary is consistent with the current SEWRPC regional water quality management plan; and

WHEREAS, the District's 2020 Facilities Plan, as approved by SEWRPC and DNR, identified the Ryan Creek Interceptor Sewer as a project that might be constructed prior to the year 2020; and

WHEREAS, the District has completed the "2020 Facilities Plan – Addendum 2, Franklin/Muskego Advanced Facilities Plan," in conjunction with Franklin and the City of Muskego and the City of New Berlin, which provides added analysis related to a Ryan Creek Interceptor; and

WHEREAS, SEWRPC and DNR have approved the "2020 Facilities Plan – Addendum 2, Franklin/Muskego Advanced Facilities Plan;" and

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FRANKLIN AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING
FINANCING, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE, AND OWNERSHIP OF THE
RYAN CREEK INTERCEPTOR SEWER (OCTOBER, 2010)

WHEREAS, Franklin desires that the Ryan Creek
Interceptor Sewer design and construction proceed promptly,
such that the sewer would be in service by the year 2014, and

WHEREAS, Franklin is willing to provide funding
needed for design and construction of the Ryan Creek
Interceptor Sewer so as to meet a 2014 completion date; and

WHEREAS, Franklin intends to fund such design and
construction through a Clean Water Fund Program loan; and
intends to own, operate, and maintain the Ryan Creek
Interceptor Sewer during the term of such loan and until
such loan is re-paid in full; and

WHEREAS, the District is willing to purchase the Ryan
Creek Interceptor Sewer from Franklin and, upon full
payment of the aforesaid Clean Water Fund Program loan,
own, operate and maintain the Ryan Creek Interceptor Sewer,
as it provides the capacity for both a portion of Franklin and

for a portion of the City of Muskego, provided it is designed and constructed in compliance with applicable District, state, and federal rules, regulations, and statutes, and in conformance with DNR and District specifications; and

WHEREAS, the District is willing to fund the purchase of the Ryan Creek Interceptor Sewer from Franklin beginning in the year 2015, as set forth in greater detail hereinafter; and

WHEREAS, the District re-established its boundary through Franklin in December, 1983, pursuant to then Wis. Stat. § 66.888(1)(c)4.a. (1983) (now numbered as Wis. Stat. § 200.29(1)(c)4.a. (2007-08)), which resulted in some lands within Franklin being excluded from the District; and

WHEREAS, the District requires that it undertake the procedures necessary to consider the inclusion of all lands within Franklin within the District's boundary as a condition

precedent to purchasing the Ryan Creek Interceptor from Franklin; and

WHEREAS, the Commission is authorized, pursuant to Wis. Stat. § 200.29(1)(c)5., to review its boundary established under § 66.888(1)(c)4.a., now § 200.29(1)(c)4.a., on a biennial basis and it is required to include all lands likely to receive sewerage service from the District within the next 10 years; and

WHEREAS, the Commission has authorized the Executive Director to conduct hearings to ascertain whether all of the City of Franklin should be included within the District boundary; and

WHEREAS, Franklin and District have previously agreed for the District to sell the Franklin Pump Station to Franklin once the District has paid off a Clean Water Fund Program

loan that the District used to construct such pump station;
and

WHEREAS, the District and Franklin, in cooperation with each other, enter into this Agreement for the joint governmental purpose to provide sewage conveyance, treatment, and disposal services to property owners and citizens within Franklin and the City of Muskego, to protect and promote the health, safety, and welfare of those communities and of all the communities and people served by the District;

NOW, THEREFORE, pursuant to Wis. Stat. § 66.0301 and in consideration of the mutual covenants and agreements of the parties contained herein and the mutual benefits to be derived from this Agreement, Franklin and the District agree as follows:

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FRANKLIN AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING
FINANCING, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE, AND OWNERSHIP OF THE
RYAN CREEK INTERCEPTOR SEWER (OCTOBER, 2010)

ARTICLE I

PROJECT DESCRIPTION

1.0. Project Description and Name. Franklin and the District agree that the primary subject of this Agreement is the design and construction of the Ryan Creek Interceptor Sewer, hereinafter "RCI." This project is more fully described as Alternative D in the above-referenced Addendum 2 to the District's 2020 Facilities Plan, depicted conceptually therein as Figure 2.2.

1.1. Project Financing.

1.1.1 Franklin To Fund Design and Construction.

Franklin agrees to provide and finance project management, engineering, land and easement acquisition, utility relocations, permitting, environmental assessments and investigations,

design, construction management, construction resident engineering and inspection, and construction of the RCI such that design and construction will be completed at a time acceptable to Franklin. The parties recognize that Franklin intends to construct the RCI through a joint Department of Natural Resources/ Department of Administration-administered Clean Water Fund Program loan, hereinafter "CWFP loan." Franklin's obligation to design and construct the RCI and the District's obligation to purchase the RCI from Franklin is dependent upon whether Franklin obtains such a CWFP loan. In the event Franklin does not receive a CWFP loan, Franklin will have no obligation to design or

construct the RCI and the District will have no obligation to purchase the RCI from Franklin.

1.1.2. District Acquisition of RCI to Begin in 2015.

Subject to paragraph 1.1.1., above, the District agrees to purchase the RCI from Franklin beginning in 2015. The estimated purchase price shall be determined on or before August 1, 2014, so that the District's 2015 payment toward the purchase price of the RCI, as established pursuant to Paragraph 1.1.2.1. can be included in the District's 2015 capital budget. Except as provided in section 1.1.3., below, the purchase price to be paid by the District to Franklin shall be the principal amount of the DNR/DOA-administered CWFPP loan, plus interest calculated using the actual interest rate for such loan,

assuming said CWFP loan is to be secured with a general obligation pledge of *ad valorem* taxes for a term not to exceed twenty (20) years, with interest only payments during the planned construction period and level payments of principal and interest thereafter.

- 1.1.2.1. Payments Commencing in 2015. Commencing in 2015, the District will annually pay to Franklin amounts equal to Franklin's annual principal and interest payment required as a condition of Franklin's general obligation debt pledged to secure the CWFP loans. The District shall make such payments to Franklin on the date upon which Franklin is required to make its debt service payment for such general obligation debt.

1.1.2.2. January 3, 2017 Payment. In addition to the District's annual payment to Franklin provided for in Paragraph 1.1.2.1., above, on January 3, 2017, the District shall make a lump sum payment to Franklin equal to all principal and interest payments made by Franklin prior to 2015.

1.1.3. Land Acquisition. Franklin shall be responsible for acquisition of all needed interests in real property to complete construction of the RCI. The District agrees to reimburse Franklin for real property acquisition expenditures that are CWFP loan eligible costs, including actual and normal attorney fees incurred in such acquisition. The District will not reimburse Franklin for the cost of easements in existing public rights-of-way for the RCI. Franklin will convey all right, title, and

interest in real property acquired or utilized for the RCI project on May 1, 2031 or on such other date on which final principal payment of the CWFP loan is made.

1.1.4. Franklin Transfer of Ownership of the RCI to the District.

Franklin and the District agree to treat this Agreement as a land contract for the District's purchase of the RCI from Franklin. This land contract is conditioned upon: 1) the District receiving sewage flow in the RCI at its connection to the District's MIS; 2) the District's timely payment to Franklin of all amounts due from Franklin to the state under the CWFP loan commencing in 2015 and continuing until the above referenced CWFP loan is retired; and 3) the

District's timely payment to Franklin on January 3, 2017, of all amounts paid under the CWFP loan by Franklin prior to January 1, 2015, as referred to above. Upon the District's completion of all of the above referenced actions, Franklin will convey all right, title, and interest in and to real property acquired or utilized for the RCI project and right, title and interest to the RCI. No act or omission whatsoever by Franklin or any other act or omission by any other person or entity or any other reason whatsoever, shall in any way relieve the District from its responsibility to timely pay to Franklin all amounts due and payable under the CWFP loan from time to time until it is paid in full.

1.1.5. Preclusion of Interference with the Interceptor Alignment.

At no additional cost to the District, Franklin will provide the District with such ownership or easement documents as the District believes are reasonably necessary to assure the District unlimited access to the RCI facility and to provide the District with sole control over the RCI such that no person, as the term "person" is defined in Wis. Stat. § 990.01(26), builds over this facility or in any way interferes with the operation, maintenance, replacement, rehabilitation, or integrity of the RCI facility. Notwithstanding the foregoing provisions of this Paragraph, Franklin may construct such public trails, streets, and appurtenances thereto over, upon, and across the

line of the RCI, as may be approved by the Franklin Common Council; *provided, however*, that any such improvements shall provide the District with such reasonable means of access as the District deems necessary to perform all acts of operation and maintenance as may be reasonably required when the District takes ownership of the RCI. In addition, Franklin reserves its right of access to operate the RCI or perform needed maintenance thereupon until such time as the formal title to the RCI is delivered.

ARTICLE II

PROJECT DESIGN

- 2.0. Design Standards to be Achieved. Franklin agrees to retain a design professional for preparation of the design and construction documents for the

RCI. Franklin will submit the proposed design contract to the Commission for its review and approval and such approval will not be unreasonably withheld. The design professional selected by Franklin to design the RCI shall comply with applicable District, state, and federal rules, regulations and statutes and follow and incorporate District design standards and conceptual specifications in the design and preparation of all contract documents. Franklin shall routinely include and involve the District during design of the project, so as to ensure the project is being designed consistent with District design standards. In acquiring a design professional, Franklin agrees to comply with the District's Small, Women's, and Minority Business

Enterprise rules and regulations. The District shall assist Franklin and be accorded review and approval rights of Franklin's efforts to comply with these regulations.

- 2.1. Geotechnical Report. Franklin agrees it will require preparation of a geotechnical data report of the entire RCI and a geotechnical baseline report of the tunnel portion of the RCI as part of the design of the RCI project.
- 2.2. Design Review. Franklin agrees to submit all preliminary engineering reports, preliminary design specifications, environmental documents, geotechnical reports, utility investigation reports, real estate documents, and final design specifications of the RCI for review and approval by the District and by the DNR. Franklin agrees

to invite the District to all meetings related to this project. Franklin agrees to ensure that reasonable comments provided by the District regarding the foregoing shall be incorporated into the design, bidding, and construction contract documents. To expedite the review process, Franklin agrees to make sets of plans and specifications available to the District at the 50% complete and the “essentially complete” stages of design. During design, Franklin shall notify the District in a timely manner of any issue that may adversely affect the cost, schedule, or quality of the final project. The District and Franklin will each designate in writing a single project manager to serve as a point of contact between the District and Franklin. All plans shall be developed in

accordance with District drafting and Geographic Information System, hereinafter "GIS," standards, and Franklin shall provide electronic versions of the drawings in accordance with these standards. Franklin shall also provide detailed record drawings in electronic format, also in accordance with District drafting and GIS standards. The District agrees that it will conduct its review as if the specifications and plans were submitted under §§ 2.310(1), 2.310(2)(a)2. & 4., and 2.310(2)(b), MMSD Rules, as they provide on the date Franklin and the District enter into this Agreement and will review additionally the scope of and actual location of the construction. The District shall not unreasonably withhold its approval. The District shall complete its review of all reports, plans and

specifications within thirty (30) days after receipt under the procedures in § 2.310(2)(b). Failure of the District to approve or reject any plans or specifications within thirty (30) days after their receipt by the District or within the time permitted in any written extension of such time provided by Franklin, shall be deemed approval. The District's approval rights under this Paragraph 2.2. do not apply or extend to any approval of shop drawings, approval of contract modification drawings, or minor changes in line or grade.

2.3. Construction Contract Provisions.

- 2.3.1. Contract Document Inclusions. Franklin agrees that it will include provisions to require the construction contractor(s) to comply with the District's Small, Women's, and Minority Business

Enterprise rules and regulations and with the District's Local Workforce Participation regulations. Franklin shall provide the District with on-going reports regarding compliance with these rules and regulations. The District shall provide regulatory administrative assistance, due to its experience and knowledge in administering its regulations, as requested by Franklin to assure compliance with this provision.

2.3.2. Bid Document Approval. The District shall approve all bid documents as to form prior to release of the RCI construction project for public bid. Such approval shall not be unreasonably withheld.

2.3.3. Bid Award Approval. The District shall review Franklin's analysis of bids received to assure that

Franklin intends to award the contract to the lowest responsible bidder complying with the bidding document's requirements as to price, quantity, quality, and delivery or performance of the contract. In the event Franklin's selection is acceptable to the District, the District will approve award of the RCI construction contract by Franklin. The District agrees that it will not unreasonably withhold such approval, and any matter upon which the District expresses disapproval, the District shall set forth the specific reasons for such disapproval in writing.

- 2.3.4. Change Order Approval. Franklin shall establish a 3-person change order review committee, that includes one District appointee, for the purpose of reviewing proposed change orders and making

recommendations thereon to the Franklin
Common Council.

ARTICLE III

PROJECT MANAGEMENT

3.0. Franklin To Provide Project Management.

3.1. Engineering Services During Construction.

Franklin will provide project management for RCI construction, including resident engineer and resident inspection services, preparation and maintenance of daily logs of construction progress, documentation of contractor compliance with construction plans and specifications, and documentation of compliance with District Small, Women's and Minority Business Enterprise and Local Workforce Participation requirements.

Resident inspection services shall generally be

provided on a full time basis and shall be consistent with District inspection practices. During construction, Franklin shall notify the District in a timely manner of any issue that may adversely affect the cost, schedule, or quality of the final project. The District and Franklin will each designate in writing a single project manager to serve as a point of contact between the District and Franklin.

3.1.1. Franklin to Include District Force Account Costs in its Application for CWFP loan; Franklin May Retain the District to Perform Resident Engineer/Resident Inspection Duties.

Franklin recognizes that the District will incur certain force account costs related to construction of the RCI. Franklin agrees to incorporate such costs in its CWFP loan application. Nothing herein

shall prevent Franklin from contracting with the District to provide resident engineer and resident inspection services for the RCI project.

- 3.2. Permits. Franklin will obtain any permits required under Wis. Stat. ch. 30 and any necessary permit issued by the United States or any of its agencies, related to the construction of the RCI. In addition, Franklin agrees to comply with ch. 13, MMSD Rules, as it pertains to the RCI. Franklin will prepare needed erosion control plans and obtain permits and any traffic control plans and permits needed to construct the RCI. .
- 3.3. Acceptance of Construction. Franklin reserves the right, as between itself and the contractor(s), to be the sole authority to issue acceptance of all work.

Before Franklin issues its acceptance of any work that will eventually be conveyed to the District, Franklin shall first obtain the District's approval of the work, which shall not be unreasonably withheld.

- 3.4. As-Built Drawings. Franklin shall provide a complete set of detailed as-built plans, in electronic form, to the District for all work upon completion of the project. One (1) set of as-built plans shall be in vellum reproducible form.
- Franklin shall also provide to the District copies of all final engineering and design reports, records, construction inspection reports, surveys, and like documents reflecting the course and events of construction so that the District will have a complete record of the project.

ARTICLE IV

ENVIRONMENTAL

4.0. Franklin is Responsible for Compliance with Applicable Environmental Laws, Regulations and Rules.

4.1. Hazardous Materials Brought on Job Site.

Franklin shall be responsible, as to the District as set forth below, for any required repair, clean-up, remediation or detoxification arising out of any Hazardous Materials brought onto or introduced into the construction zones of the RCI by its contractors or its agents. Franklin shall indemnify, defend and hold the District harmless from any liability, cost, damage, claim or injury (including reasonable attorney fees) arising therefrom.

4.2. Definitions Applicable to this Article. The following definitions apply to the interpretation of this Agreement:

4.2.1. “Hazardous Materials” means any substance: (i) the presence of which requires investigation or remediation under any currently existing applicable federal, state or local statute, regulation, ordinance, order, action, or policy; or (ii) which is defined as a “hazardous waste” or “hazardous substance” under any currently existing applicable federal, state, or local statute, regulation, or ordinance, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), or the Resource Conservation and Recovery Act (42 U.S.C. §6901,

et seq.); or (iii) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is currently regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Wisconsin, or any political subdivision thereof; or (iv) which contains gasoline, diesel fuel, or other petroleum hydrocarbons; or (v) which contains polychlorinated biphenyls (PCBs), asbestos, or urea formaldehyde foam insulation.

- 4.2.2. “Environmental Regulations” means all applicable currently existing statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions,

franchises, and similar items of all governmental agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, the State of Wisconsin, and political subdivisions thereof and all applicable judicial and administrative and regulatory decrees, judgments, and orders related to the protection of human health or the environment, including, without limitation: (i) all requirements, including, but not limited to, those pertaining to reporting, licensing, permitting, investigation and remediation of emissions, discharges, releases or threatened releases of Hazardous Materials, chemicals, substances, pollutants, contaminants, or hazardous or toxic substances, materials, or wastes, whether solid, liquid, or gaseous in

nature, and (ii) all requirements pertaining to the protection of the health and safety of employees or the public. The term "applicable," as set forth in this paragraph means capable of or suitable for being applied to this Agreement pursuant to law.

ARTICLE V

5.0. INSURANCE AND INDEMNIFICATION.

5.1. Insurance. The District's Owner Controlled Insurance Program does not apply to this construction. Franklin shall arrange for insurance coverage of the design and construction work on the RCI and shall otherwise insure the RCI until such time as the District obtains title to the RCI from Franklin. Franklin shall supply evidence of such insurance upon request.

- 5.1.2. Indemnification. To the fullest extent permitted by law, and subject to any applicable conditions, limitations, and prohibitions of Wis. Stat. Ch. 605, titled "Local Government Property Insurance Fund," Franklin and the District shall be liable for their own negligent acts, errors, and omissions. Franklin and the District agree to hold each other harmless for any losses, damages, costs, or expenses, including, but not limited to, reasonable attorney fees and litigation expenses paid or sustained by reason of one party being called upon to respond in litigation for the negligent acts, errors, or omissions of the other.

ARTICLE VI

6.0. MISCELLANEOUS PROVISIONS.

- 6.1. Entire Agreement; Amendment. This Agreement

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FRANKLIN AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING
FINANCING, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE, AND OWNERSHIP OF THE
RYAN CREEK INTERCEPTOR SEWER (OCTOBER, 2010)

constitutes the entire agreement between the parties pertaining to the subject matter therein, and supersedes all prior and contemporaneous agreements, understandings, associations and discussions of the parties, whether oral or written, and there are no representations, warranties, or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein. No amendment, supplement, modification, waiver or termination of the effectiveness of any terms of the Agreement shall be binding unless executed in writing and approved by the parties bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or constitute a waiver of any other provision of this Agreement, whether or not

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FRANKLIN AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING
FINANCING, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE, AND OWNERSHIP OF THE
RYAN CREEK INTERCEPTOR SEWER (OCTOBER, 2010)

similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

6.2. General Provisions.

6.2.1. Benefit. This Agreement and all of the covenants and conditions herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

6.2.2. Provisions Severable.

6.2.2.1. Provisions Other Than Contained in Article VII.

If any provision of this Agreement, with the exception of Article VII, shall be held or declared to be invalid, illegal or unenforceable under any law applicable thereto by the final decision of a court with jurisdiction of the subject matter, such provision shall be deemed deleted from this

Agreement without impairing or prejudicing the validity, legality, or ability to enforce the remaining provisions thereof.

6.2.2.2. Article VII Provisions. In the event that any provision of Article VII shall be held or declared to be invalid, illegal or unenforceable under any law applicable thereto by the final decision of a court with jurisdiction of the subject matter or if the District is precluded from incorporating any property or properties within the District as the term "within the District" is defined in Paragraph 7.1., the District may adopt by rule provisions for the recovery from any property that thereafter seeks incorporation within the District a charge equal to the amount such property would have been charged had the property or properties been

included within the District under § 200.29(1)(c)
as provided in Article VII.

6.2.2.3. Title Transfer Conditioned on Payments Made. In the event the provisions of Paragraph 6.2.2.2., above, become effective on account of any portion of Article VII being declared invalid, illegal or unenforceable under any law applicable thereto by the final decision of a court with jurisdiction of the subject matter, upon the District's payment of sums equal to Franklin's eligible costs of the CWFPP loan, including interest, Franklin will transfer ownership of the RCI to the District.

6.2.3. Governing Law. The laws of the State of Wisconsin shall govern this Agreement.

6.2.4. Records and Audits. Franklin and the District shall allow each other, or others authorized by the respective governing boards, when and as they demand, to audit, examine, and make copies of excerpts or transcripts from any records or other information directly relating to matters under this Agreement.

6.3. No Third Party Reliance Intended.

6.3.1. No third party is entitled to rely on any of the representations, warranties and agreements of Franklin and the District contained in this Agreement.

6.3.2. Franklin and the District assume no liability to any third party because of any reliance by such third party upon any representations, warranties,

and agreements of the District and Franklin
contained in this Agreement.

6.4. Zoning, Land Use, or Other Government Approvals
or Permits.

6.4.1. The District has no responsibility to secure any
building permits, zoning changes or other permits
that might be needed for any construction or
installation, or future construction or installation
or maintenance, except as shall have otherwise
been described herein.

6.4.2. All matters agreed herein assume there are no
conflicts with other existing zoning regulations,
laws, applicable rules or regulations, or other
factors beyond the reasonable control of Franklin
or the District. Excepting only Article VII, below,
in the event a conflict does exist, such other

existing zoning regulations, laws, applicable rules and regulations, or other factors shall control.

- 6.4.3. Franklin is required to provide the District with any drawings or easement documents in Franklin's possession for utility facilities or other infrastructure in the vicinity of the work to be completed on the RCI. Franklin is responsible for locating and plotting utilities and other infrastructure on the RCI bidding documents, as marked by the owners of said utilities and infrastructure that may be present in the area of the RCI at the time of construction; this responsibility applies to any utility or other infrastructure which may be adversely affected or damaged by RCI construction, operation, or maintenance now and in the future.

6.5. No Joint Venture; No Partnership.

6.5.1. Nothing contained in this Agreement shall constitute or be construed to create a partnership or joint venture between Franklin and the District, its successors or assigns. Entering into this Agreement and in acting in compliance herewith shall not change the fact that Franklin and the District are at all times acting and performing as independent contractors duly authorized to perform the acts required of them hereunder. This Agreement does not create the relationship of principal and agent or of partnership or a joint venture or of any association between Franklin and District.

ARTICLE VII

7.0. INCLUSION OF LANDS INTO THE DISTRICT'S BOUNDARY.

7.1. Definition of the term "within the District".

For purposes of this Article, the term "within the District" shall mean "within the District's corporate boundary".

- 7.1.1. Inclusion of Lands Within the District. The Commission will consider adoption of a resolution, pursuant to § 200.29(1)(c)5., no later than December 31, 2011, to include all lands in Franklin that are not within the District as of the effective date of this Agreement as a condition precedent to District receipt of sanitary sewage at the RCI connection to the District's Metropolitan Interceptor System.

- 7.2. The parties agree that the District has no legal or equitable obligation to accept sanitary sewage generated in those portions of Franklin that are not within the District.

ARTICLE VIII

8.0. NOTICES AND COMMUNICATIONS.

- 8.1. Whenever in this Agreement it shall be required or permitted that notice or communication be given by any party hereto to the other, such notice or communication shall be given by certified or registered mail, and any notice so sent shall be deemed to have been given on the date that the same is deposited in the United States mail, postage prepaid. Notices shall be addressed as follows:

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FRANKLIN AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING
FINANCING, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE, AND OWNERSHIP OF THE
RYAN CREEK INTERCEPTOR SEWER (OCTOBER, 2010)

8.1.1. If to the District:

Milwaukee Metropolitan Sewerage District
260 West Seeboth Street
Milwaukee, Wisconsin 53204
Attention: Executive Director

8.1.2. If to Franklin:

City of Franklin
9229 West Loomis Road
Franklin, Wisconsin 53132
Attention: City Clerk

8.1.3. Nothing in this Article VIII shall prevent a party from adding recipients of communications or notices at such other address as any party may from time to time specify in writing; provided, however, that nothing in this Agreement requires the District or Franklin to deliver notices to individual residences.

8.2. Notice provided pursuant to this provision is deemed satisfied upon receipt of the notice by the

first named addressee designated for each party under 8.1.1. or 8.1.2., respectively.

- 8.3. It is further agreed that each party hereto will promptly furnish to the other party hereto a copy of any notice it may receive from any third person that may affect the rights of any party hereunder.

ARTICLE IX

- 9.0. TRANSFER OF FRANKLIN PUMP STATION OWNERSHIP.

- 9.1. Franklin to Take Ownership of Pump Station after District's CWFP Loan Is Repaid.

On May 2, 2024, the District will transfer to and Franklin agrees to accept ownership of the Franklin Pump Station and associated sewerage force main for the sum of \$1.00 and other good and valuable consideration. Said pump station is

located at 11575 West Forest Home Avenue,
Franklin, Wisconsin.

ARTICLE X

10.0. EXECUTION OF THIS AGREEMENT.

10.1. Signatures Are Certification of Authority to Execute this Agreement.

Franklin and the District mutually agree that the execution by the officials who sign this document constitutes a certification that the signatory has been appropriately authorized by the respective governing board to execute this document.

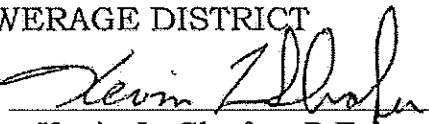
10.2. Execution of this Agreement Deemed to Reflect Compliance with Applicable Ordinances, Resolutions, and Statutes.

Franklin and the District mutually agree that the execution of this Agreement shall be and is deemed to constitute substantial compliance with

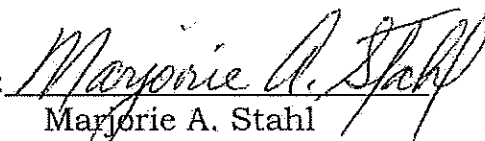
any applicable ordinances, resolutions, and
statutes.

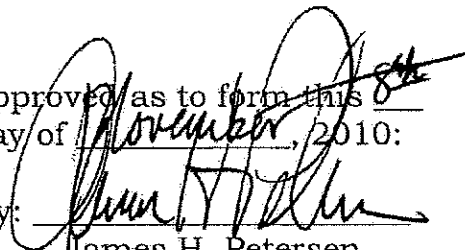
IN WITNESS WHEREOF, the parties have caused this
Intergovernmental Cooperation Agreement to be duly
executed and delivered as of the last date upon which this
Agreement is signed, as set forth below.

MILWAUKEE METROPOLITAN
SEWERAGE DISTRICT

By: 
Kevin L. Shafer, P.E.
Executive Director
Date: 11/8/10

ATTEST:

By: 
Marjorie A. Stahl
Secretary

Approved as to form this 8th
day of November, 2010:
By: 
James H. Petersen
Senior Staff Attorney

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FRANKLIN AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING
FINANCING, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE, AND OWNERSHIP OF THE
RYAN CREEK INTERCEPTOR SEWER (OCTOBER, 2010)

CITY OF FRANKLIN

By: Thomas M. Taylor
Thomas M. Taylor, Mayor
Date: 11-08-2010

Countersigned:

By: Calvin A. Patterson
Calvin A. Patterson
Director of Finance and Treasurer
Date: 11-8-10

By: Sandra L. Wesolowski
Sandra L. Wesolowski
City Clerk
Date: 11-08-2010

Approved as to form, this 8th day of
November, 2010:

By: Jesse A. Wesolowski
Jesse A. Wesolowski
City Attorney
City of Franklin

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FRANKLIN AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING
FINANCING, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE, AND OWNERSHIP OF THE
RYAN CREEK INTERCEPTOR SEWER (OCTOBER, 2010)

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Notary Public, State of Wisconsin
My commission is permanent.

Page 50 of 51

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Notary Public State of Wisconsin
My commission is permanent.

INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FRANKLIN AND THE MILWAUKEE
METROPOLITAN SEWERAGE DISTRICT CONCERNING
FINANCING, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE, AND OWNERSHIP OF THE
RYAN CREEK INTERCEPTOR SEWER (OCTOBER, 2010)