

FIRST ADDENDUM TO INTERLOCAL COOPERATION AGREEMENT DATED FEBRUARY 28, 2008

BETWEEN WILLARD CITY AND PERRY CITY

WHEREAS, Perry City and Willard City desire to amend the Interlocal Cooperation Agreement entitled INTERLOCAL AGREEMENT, Between Willard City and Perry City, Dated the 28th day of February, 2008; and

WHEREAS, the respective Cities have considered the changes and have determined that it is in the best interest of both Cities to make these changes.

NOW THEREFORE, the Interlocal Agreement, dated the 28th day of February 2008 is hereby amended as follows:

3.4.1 Annexation and Development.

It is acknowledged by both Cities that the capacity of the plant was designed to provide for growth through development and annexation into the future. Each City may use up to it's full share of capacity to provide for development and annexation within it's boundaries. Through the use of Annexation, payback and development agreements, each jurisdiction is entitled to seek reimbursement for the costs incurred in acquiring it's share of capacity under this agreement. Once the assigned capacity is used by either entity, if additional unused capacity is available, that unused capacity may be used upon payment by the City needing the additional capacity as provided in Section 3.4 of the agreement. While each City is entitled to make full use of the capacity of the plant, any permanent decrease or increase in the ownership share of the plant, must be agreed to by both Cities as provided in Section 6.4 of this Agreement.

Section 4.1 Sewer Facility Board Created.

(b) Selection of Sewer Facility Board Members. The Governing Body of each City will select and approve ~~that the City's~~ representatives to serve on the Sewer Facility Board. ~~Each City will determine the duration of time for which its representatives will serve on the Sewer Facility Board.~~ Each of the respective City's representatives shall serve for a two year term and may be reappointed at the pleasure of the Governing Body of each City, to serve an additional two year term. A representative may be appointed to serve any number of subsequent two year terms, provided the appointment is reviewed and renewed every two years by the Governing Body of the respective City.

(d) The mutually selected member of the Sewer Facility Board shall serve for a term of two years. During the two year term of service, the mutually appointed member may only be removed for cause or by mutual agreement of both cities. The mutually selected member may be reappointed by the cities for a successive two year term under the same condition. If the term is not renewed by either city, the cities shall each act in good faith to select a new mutually appointed member. The Board may continue to function as a Board to accomplish the business of the Facility until the new mutually appointed member is appointed.

(e) The Sewer Facility Board shall provide in the Annual Budget each year for the training of the Board in the responsibilities of the Sewer Facility Board including training on Open Meetings (required yearly by State Law), Conflicts of interest, Sexual Harrassment , personnel issue and other training that would be essential to performing their functions as Sewer Facility Board members.

Section 4.2.1 Sewer Facility Board Chair and Vice Chair.

The one member of the Sewer Facility Board shall be elected by a majority vote of the Board, to the position of Chair and shall serve as Chair of the Sewer Facility Board for a 2 year period of time. Another member of the Sewer Facility Board shall be elected to serve as the Vice Chair, by a majority vote of the Board. The Vice Chair shall serve as Chair in the absence of the Chair and shall replace the Chair after the Chair's term is completed. If either position is vacated before the term is up, a new Vice Chair shall be elected by a majority vote of the Sewer Facility Board and if the position of Chair is vacated, the then current Vice Chair shall become the Chair.

Section 4.2.2 Sewer Facility Employees.

The day to day management of the Facility employees shall be the responsibility of the Board. The Board shall adopt the current version of the Perry City Personnel Policies and Procedures and shall be responsible to see that the employees are managed according to the policies set forth therein. The Board may amend policies and procedures for the management of Facility employees by providing notice to and by obtaining the consent from both Cities in regard to any proposed changes to the Personnel Policies and Procedures adopted under this amendment. In order to provide an administrative foundation and complete personnel policies and procedures administration for the Board and its management of the Facility employees, the Facility employees, including the Facility manager , shall be employees of Perry City until such time as the Board, under this section, institutes its own policies and procedures in compliance with State and Federal law. The employees of the Facility shall abide by all applicable provisions of Federal, State law and the Perry Personnel Policies and Procedures. The Board shall adopt the current version of Perry Personnel Policies and Procedures for the Facility and shall review and adopt such changes each year as shall reasonably apply to the Facility. The Board may recommend changes in the Policies and Procedures to address the day to day running of the Facility and the specific needs of the Facility and its employees. If and until such time as the Board institutes its own personnel policies and procedures, and upon written notice from the Board of any requested change to Perry City employee policies and procedures, said policies shall be timely reviewed by the Perry City Personnel department and a written recommendation, including the basis for the recommendation, shall be timely provided to the Board as to the impacts of any requested change. Perry City shall make every effort to accommodate the Board's requests and recognizes that the Board's day-to-day management of its employees where subject to Perry City Policies and Procedures may require policies and procedures independent of Perry City's management of its City employees. Except where such changes require a change in the Annual Budget, and where such

changes are consistent with Federal and State law, such changes shall be considered by the Cities and where reasonable and feasible for the efficient management and operation of the Facility, and where the changes are within the Annual Budget approved by the Cities, the changes shall be approved by the Cities and made applicable to Facility Employees. Any change requiring an increase in the budget of the facility shall require approval of both Cities.

Section 4.3 Operation of the Facility.

(h) Annual Budget Preparation. On or before April 1st of each year the Sewer Facility Board will prepare an Annual Budget for the next fiscal year, The Sewer Facility Board will provide a copy of the Annual Budget to each City. If they deem it pertinent, each City and the Sewer Facility Board will make recommended changes to the Annual Budget. In the event the Cities and the Sewer Facility Board are unable to agree on the Annual Budget, then the unresolved annual budget will be submitted to a panel of three experts to consist of two expert, one each selected by each City, and a third expert to be mutually agreed upon by both Cities and the Cities and the Sewer Facility Board will be bound to abide by the Annual Budget agreed upon by the panel of three experts. Notwithstanding the above, if the Cities and the Board are unable to agree on the Annual Budget or fail to be able to agree upon a panel within the time periods designated in State Law for approval of the preliminary and final budget for the Facility, the most recent prior approved Annual Budget shall be adopted. Amendments may then be made as provided in State Law, as agreed upon by the Cities or as provided by the dispute resolution panel

(i) The Board may select a qualified individual to review the financial transactions of the Facility on a quarterly basis and make a report to the Board of the state of the finances for the facility and make any recommendations relative to the finances for the Facility. A copy of the report shall also be sent to each City.

(j) Perry City shall perform the accounting functions for the Facility and shall keep such finances in accordance with Federal and State law and according to Government Accounting Standards Board GASB regulations. Based on the recommendations from the Board and where reasonable, feasible and consistent with the terms of this Agreement, Perry may incorporate the recommendations. Disbursements that are authorized by the Board and budgeted for in the Facilities budget, shall be paid promptly by Perry within a reasonable time after the request is received.

6.4.1 Additional Contributions.

An additional contribution to the plant was made in 2010 by Willard City as a result of a grant to Willard for the Facility, in the amount of Eight Hundred Thousand Dollars (\$800,000). The grant dollars were spent on improving the parking lot for the facility, purchasing a Vacuum Truck and various other expenses for the Facility. Inasmuch as the current capacity of the plant is far greater than the respective current use by either city, it is the intent of both cities that the benefit and responsibility created by this additional contribution be split between the parties. Perry agrees to a change in ownership, where Willard, as of the above date, owns 39% interest in the plant and Perry owns 61% interest. Perry received a \$400,000 benefit from the grant amount towards the Facility (1/2 of the \$800,000).

Notwithstanding the change in ownership due to the \$800,000 contribution, Perry will continue to pay 66% and Willard will continue to pay 34% of the costs of operation and maintenance. Each month, from the date the grant was received, 5% of the 66% cost operations and maintenance payment by Perry City shall be considered a contribution back to the facility towards the \$400,000 benefit Perry received. Each month, 5% of Perry's payment will be considered a credit against the \$400,000 until Perry has paid the entire \$400,000. At that time, the percentage ownership of the respective Cities will return to the original ownership percentages (Perry 66% ownership and **Willard 34%**). Perry may pay off the remaining balance of the \$400,000 at any time. Pursuant to Section 6.4 above, any capital improvements or new construction contributed by either or both cities, shall not increase or decrease the contribution share of the respective city, unless the cities, by separate agreement, mutually agree to such increase or decrease of ownership share.

All other provisions of the original Agreement shall remain in full force and effect.

This Addendum is hereby adopted and approved by the parties this ____ day of _____, 2016.

PERRY CITY

MAYOR

ATTEST

CITY RECORDER

WILLARD CITY

CITY RECORDER

ATTEST

CITY RECORDER
