

ADDENDUM NO. 1
TO
AGREEMENT BETWEEN THE CITY OF RINGGOLD, GEORGIA
AND THE CITY OF CHATTANOOGA, TENNESSEE

WHEREAS, the City of Ringgold, Georgia, (hereinafter referred to as "Ringgold") and the City of Chattanooga, Tennessee (hereinafter referred to as "Chattanooga"), have contemporaneously herewith entered in to an agreement captioned "Agreement" relative to the discharge of wastewater from Ringgold into the Chattanooga sewer system for treatment and ultimate disposal; and

WHEREAS, this Addendum shall provide for building a force main and a pump station to convey wastewater to Chattanooga pursuant to the terms of the Agreement.

Now, therefore, in consideration of the premises and the mutual obligations assumed herein, the parties agree as follows:

- 1.) Ringgold shall build a force main and a pump station to convey sewage to Chattanooga in accordance with the terms of the Agreement. This wastewater facilities project shall serve an area known as the Ringgold Sewer Basin.
- 2.) Ringgold shall convey to Chattanooga the site and easements upon which the force main and the pump station is built with an initial capacity of approximately 3,000 gallons per minute (gpm) at the terminus of the gravity line. Ringgold shall also convey to Chattanooga the site for a future mid-point pump station to be constructed at a later date and not as a part of this project. Easements shall be of sufficient width and of written language that shall allow the construction of a future parallel force main within in the easements.

- 3.) Ringgold shall be responsible for funding any construction costs and for all engineering and land acquisition costs associated with this project
- 4.) Chattanooga shall reserve treatment capacity at its Moccasin Bend Wastewater Treatment Plant ("MBWWTP") for this Basin of up to four million gallons per day (4,000,000 gpd) for treatment of sewage produced by the anticipated twenty-year population growth and development densities within the service area.
- 5.) The proposed pump station site shall be located in the vicinity of the existing Ringgold Wastewater Treatment Plant ("RWWTP") in Ringgold on the South Chickamauga Creek. This site shall be titled in the name of Chattanooga.
- 6.) The future pump station site shall be located in the vicinity of Hurricane Creek near its confluence with South Chickamauga Creek. This site shall also be titled in the name of Chattanooga.
- 7.) The proposed force main shall run along the selected route from the Ringgold Wastewater Treatment Plant and shall terminate on the existing Chattanooga Interceptor Sewer on Mackey Branch near its confluence with South Chickamauga Creek. Easements for the force main shall be obtained in the name of Chattanooga.
- 8.) Ringgold shall design and construct all facilities. Chattanooga shall have the right to review and comment upon the pump station and force main plans and any comment shall be given careful consideration by Ringgold, but Ringgold shall make final decisions. The pump station and force main shall be designed to be equal or better than comparable facilities now operated by Chattanooga, and designed to be compatible with equipment being used by Chattanooga.

- 9.) When completed, all gravity and interceptor portions of the project shall be owned, operated, and maintained by Ringgold. Ringgold shall retain ownership of the pump station and force main until such time that the debt to construct these facilities has been retired. At the time the debt is retired, ownership of the pump station and force main shall be conveyed to Chattanooga.
- 10.) The pump station and force main shall be operated and maintained by Chattanooga as a part this Agreement and Addendum with Ringgold until such time that the ownership of the pump station and force main is conveyed to Chattanooga.
- 11.) Chattanooga shall assist Ringgold with the closing of the RWWTP by agreeing to accept and treat the liquid and solids contents of the plant at no cost. This service shall be provided on a mutually agreeable schedule. To the fullest extent possible, the contents of the Ringgold plant shall be conveyed to the MBWWTP via the new pump station and force main. The costs for transporting any contents via other methods shall be borne by Ringgold.
- 12.) Ringgold shall be the sole agent for any collection systems connected to the Ringgold System including the pump station and force main. Chattanooga and Ringgold shall have joint approval for the construction future pump stations and the locations of the same. All collection systems connected to the Ringgold System shall be maintained, operated and controlled by Ringgold.
- 13.) Chattanooga shall assist Ringgold in obtaining any necessary easements in Tennessee. All easements for the force main in Tennessee or for the force main in Georgia shall be obtained in the name of the Chattanooga. If requested by

Ringgold, Chattanooga shall file an eminent domain action to obtain necessary easements. The total cost of any such suit, including any judgments or approved settlement, witness fees, including expert witness fees, court costs, and attorneys' fees shall be borne by Ringgold.

- 14.) Any future upgrades and expansions of the Chattanooga-owned facilities required to accommodate base flows from this Basin shall be the responsibility of Chattanooga and the Regional Users collectively.
- 15.) Ringgold shall obtain and repay all funding for the force main and pump station and easements to connect to the regional sewer system. Ringgold shall be billed at the regional flow meter rate per 1000 gallons for the Operation and Maintenance (O&M) portion of the Regional Rate only provided that the debt service being repaid by Ringgold exceeds the regional debt service portion of the Regional Rate. When the metered flow from Ringgold becomes such that the debt service being repaid by Ringgold falls below that of the debt service portion of the Regional Rate, Ringgold shall pay such an additional debt service charge so that the total debt service being paid by Ringgold is equal to the debt service portion of the Regional Rate.

16.) IN WITNESS WHEREOF, the parties have caused their respective names to be affixed by their duly authorized officers on this 22nd day of April, 2003.

CITY OF CHATTANOOGA, TENNESSEE

ATTEST:

By: William C. McDonald
ROBERT CORKER, *Mayor*
Or WILLIAM C. MCDONALD,
Administrator of Public Works

[Signature]
DAVID EICHENTHAL, *City Finance Officer*

CITY OF RINGGOLD, GEORGIA

ATTEST:

By: Joe Barger
JOE BARGER, *Mayor*

[Signature]
DAN WRIGHT, *City Manager*



Mike McMahan
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City of Chattanooga

DEPARTMENT OF PUBLIC WORKS - WASTE RESOURCES DIVISION
455 MOCCASIN BEND ROAD

Chattanooga, Tennessee 37403

REQUEST FOR MAYOR/COUNCIL APPROVAL

TO : Mayor Corker
FROM: William C. McDonald
DATE : April 2, 2003

A City Council resolution/ordinance is requested to authorize the Mayor or the Administrator of Public Works to execute an agreement with the City of Ringgold, Georgia, a municipal corporation, located in Catoosa County, Georgia, relative to Conveyance of Wastewater to Chattanooga's Wastewater System for treatment and disposal.

Total Project Cost \$ _____ New Contract/Project: Yes ___ No ___

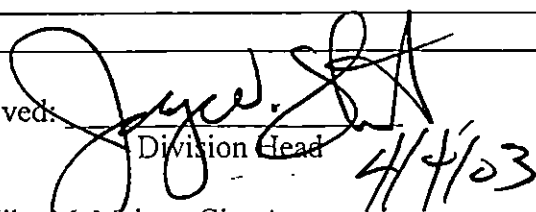
City Funding \$ _____ Fund Account _____

Project funding source(s): List all that are applicable and amounts for each: No City funding involved.

Change Order: Yes ___ Change Order # _____ No _____

Increase \$ _____ Decrease \$ _____

Reason(s) for change order _____

Approved:  Division Head *4/4/03* Approved: _____ Fiscal Coordinator

cc: Mike McMahan, City Attorney
Jim Boney
City of Ringgold, Georgia
Joachim Volz

AGREEMENT

THIS AGREEMENT entered into this 22nd day of April, 2003, between the CITY OF CHATTANOOGA, TENNESSEE, a municipal corporation located in Hamilton County, Tennessee, organized and existing under the laws of the State of Tennessee (hereinafter referred to as "Chattanooga"), and the CITY OF RINGGOLD, GEORGIA, a municipal corporation, located in Catoosa County, Georgia, organized and existing under the laws of the State of Georgia (hereinafter referred to as "Ringgold").

WITNESSETH:

WHEREAS, pursuant to the Chattanooga Area 208 Waste Treatment Management Plan, Chattanooga operates the Moccasin Bend Wastewater Treatment Plant, a "treatment works" of sufficient size and capacity to serve as an area wide waste treatment facility for portions of Hamilton County, Tennessee, and portions of Northern Georgia located in Dade, Walker, and Catoosa Counties; and

WHEREAS, pursuant to the Chattanooga Area 208 Waste Treatment Management Plan, Ringgold constructed and operated its own wastewater treatment works as apart of the 201 Area Wide Facilities Plan, Ringgold being located in the drainage area defined by the 201 Area Wide Facilities Plan and served by the Chattanooga's treatment works, desires to convey wastewater to Chattanooga's treatment works for treatment and disposal; and

WHEREAS, the construction of and operation of such sewer system by Ringgold and Chattanooga is extensively regulated by applicable laws and administrative regulations of the United States and the States of Tennessee and/or Georgia; and

WHEREAS, by virtue of the authority of the laws of Tennessee, particularly T.C.A. 7-35-301 through 7-35-304, Chattanooga and Ringgold are authorized to enter into such an agreement; and

WHEREAS, by virtue of the authority of the laws of Georgia, particularly Ga.L. 1956, P.3499 and Ga.L. 1989, pp. 4186-4187, Ringgold is authorized to enter into this Agreement;

NOW, THEREFORE, IN CONSIDERATION of the premises and mutual undertakings as hereinafter set forth, it is mutually agreed by and between Chattanooga and Ringgold, each acting by and through its duly authorized officials, and pursuant to resolutions duly, legally, and properly adopted, all as the same appear of record on the official minutes of Chattanooga, Second Resolution No. 23795, and Ringgold as Resolution No. _____ to wit:

1. **Purpose.** Ringgold shall discharge wastewater into the Chattanooga system for treatment and ultimate disposal. Chattanooga shall be responsible for the conveyance of Ringgold wastewater from the Ringgold Sanitary Sewer System to its treatment works and shall be responsible for appropriate treatment and disposal of said sewage.

2. **Term and Required Modifications.** The term of this Agreement shall be for a period of twenty (20) years from and after the date of its execution, although some provisions hereof may not be operative until the sewage systems of Ringgold and Chattanooga are interconnected and operative with all necessary meters and other appurtenances constructed or installed. The parties

recognize, however, that changes in federal or state law and regulations relating to the environment and to the operation of sewage systems and treatment works may require the modification from time to time of this Agreement and the parties therefore agree to fully cooperate to modify this Agreement as shall be required under such circumstances.

3. **Definitions.**

(a) Act or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*,

(b) Chattanooga Area 208 Waste Treatment Management Plan. A plan prepared under the provisions of Section 208 of the Act, (33 U.S.C. ' 1288) for area wide waste treatment management for areas of Hamilton County, Tennessee, and Dade, Catoosa, and Walker Counties in Georgia, as conditionally certified and designated by the respective governors of Tennessee and Georgia as conditionally approved by the Administrator of the Environmental Protection Agency or as may be modified from time to time hereafter.

(c) Environmental Protection Agency, or "EPA" means the Environmental Protection Agency, an agency of the United States, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

(d) Georgia Environmental Protection Division means the division of the Department of Natural Resources of the State of Georgia as defined by Ga.St. ' 12-5-22 which regulates the operation of sewer systems and activities that alter the waters of the State of Georgia including any successor agency having such responsibility.

(e) Interference means a Discharge which, along or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment process or operations, or its sludge processes, use or disposal; and

(2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act. [40 C.F.R. ' 403.3(i)]

(f) Local Pretreatment Standards. Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

(g) National Pretreatment Standard or Pretreatment Standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. ' 1317) which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to 40 C.F.R. ' 403.5. [40 C.F.R. ' 403.3(j)]

(h) Tennessee Department of Environment and Conservation. The administrative department or agency of the State of Tennessee regulating the

operation of sewer systems and activities that alter the waters of the State of Tennessee including any successor agency having such responsibility.

(I) Miscellaneous Terms The following terms shall have those meanings attributed to them by law or regulation:

Effluent limitation [33 U.S.C.A. ' 1362(11)]
Industrial User [see 33 U.S.C.A. ' 1362(18) and 40 C.F.R. ' 403.3(g) and (h)]
Person [33 U.S.C.A. ' 1362(5)]
Pollutant [33 U.S.C.A. ' 1362(6)]
Pollution [33 U.S.C.A. ' 1362(19)]
Pretreatment [see 33 U.S.C.A. ' 1317 and 40 C.F.R. ' 403.3(q)]
Publicly Owned Treatment Works [see 33 U.S.C.A. ' 1292]
Toxic Pollutant [33 U.S.C.A. ' 1362(13)]
Treatment Works [33 U.S.C.A. ' 1292]
User [33 U.S.C.A. ' 1362(18) and 40 C.F.R. ' 403.3(g) and (h)]

4. Sewer Use Ordinance. Ringgold will regulate through a comprehensive sewer user ordinance, a contract with the user and/or other appropriate regulatory measures, the introduction of wastewater into its system in a manner essentially consistent with ordinances and other regulatory measures adopted by Chattanooga. The ordinance shall conform to the minimum legal requirements contained in the Federal Pretreatment Regulation (40 C.F.R. Part 403). Additionally, said ordinance shall incorporate local pretreatment standards and other ancillary regulations at least as stringent as those then in effect in Chattanooga. Ringgold has previously, or shall promptly submit its comprehensive sewer user ordinance, contract, or other appropriate measure to the appropriate state agency for approval. Ringgold agrees to seek

appropriate state agency or EPA approval for any needed amendments. Chattanooga and Ringgold agree, from time to time and no less frequently than every three (3) years, to review said ordinance, contract, or other regulatory measure for continued compliance with appropriate state agency or EPA regulations and Chattanooga local pretreatment standards and other ancillary regulations as called for in this Agreement, and to adopt equivalent revisions as necessary, to their respective ordinances, contracts, and/or other appropriate measure. If Ringgold disagrees about the advisability of the adoption of more stringent pretreatment standards, it shall notify Chattanooga of its objection and shall support its position by such technical data and information as it has available. The parties shall then meet and confer and attempt to resolve the dispute. If the matter is not resolved to the mutual satisfaction of the parties, Ringgold shall implement the change subject to its right to seek review of the reasonableness of the change in a court of competent jurisdiction.

5. **Discharge and Pretreatment Standards.** The operation of sewerage systems and treatment works and the United States and the States of Tennessee and Georgia regulate the ultimate disposal of treated wastewater and its sludges or by-products. It is necessary to regulate the introduction of wastewater into the system, particularly from industrial and commercial

sources, to facilitate operation of the system in conformity with applicable federal and state laws, regulations, and NPDES permits. It is necessary to prohibit the introduction into the treatment works of certain classes of pollutants which may interfere with the operation of treatment works such as but not limited to: (1) pollutants which create a fire or explosion hazard, (2) pollutants which will cause corrosive structural damage, (3) solid or viscous pollutants in amounts which will cause obstruction to the flow in sewers or other interference with the operation of the POTW, (4) pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge of such volume or strength as to cause interference in the POTW, (5) heat which will inhibit biological activity in the POTW, (6) petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through, (7) pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems, and (8) any trucked or hauled pollutants, except at discharge points designated by the POTW. [40 C.F.R. ' 403.5] The discharge of effluent from the treatment works and the disposal of sewage sludge is also regulated by state and federal agencies. To achieve the standards established by the State of Tennessee in Chattanooga's NPDES permit, and other federal and state regulations, it is necessary to regulate the introduction of pollutants into the system. To achieve the aforementioned

objectives, Chattanooga has established specific discharge limitations (sometimes hereinafter referred to as "local pretreatment standards") regulating the introduction of sewage into the system by certain classes of users, particularly industrial users, which may from time to time need to be revised. Chattanooga shall be responsible for periodic review of said local pretreatment standards, and shall revise same as advisable for compliance with federal and state standards and for proper operation of the treatment works. If Ringgold disagrees with the necessity for the adoption of more stringent local pretreatment standards, it shall notify Chattanooga of its objection. The parties shall then meet and confer concerning the disputed standard and attempt to resolve the issue. If it cannot be resolved, Chattanooga may institute the more stringent standard subject to Ringgold's right to seek court review of the reasonableness of the change.

6. **Categorical Pretreatment Standard.** Ringgold's ordinance, user agreement, or other regulatory measure shall incorporate categorical pretreatment standards promulgated by the U.S. Environmental Protection Agency (EPA) [promulgated by authority of the Clean Water Act Sections 307(b) and (c), 33 U.S.C. ' 1317]. These standards shall supersede any specific discharge limits in the ordinance, contract or other regulatory measure which are less stringent than the categorical standards as they apply to the particular industrial subcategory. Ringgold shall notify all affected industrial users of pertinent

categorical standards and monitoring and reporting requirements contained in 40 C.F.R. 403.12 or included as part of the categorical standard. Ringgold agrees that all industrial wastes will be pretreated in accordance with the foregoing standards before being released into the Chattanooga sewer system.

7. **Compliance Monitoring and Enforcement.** Ringgold shall be responsible for enforcing violations of national, state and local pretreatment standards and regulations. Ringgold agrees to carry out monitoring and inspection activities to determine compliance by industrial users with pretreatment standards in a manner essentially consistent with such activities then being undertaken by Chattanooga. Ringgold may contract with a competent person, corporation, or governmental agency, including Chattanooga, to sample and analyze wastewater samples. Chattanooga shall be furnished a copy of the data obtained from such monitoring activities by Ringgold and a copy of all industrial monitoring reports submitted by users of the system. Chattanooga reserves the right, from time to time, to collect effluent samples with Ringgold on a split sample basis. Chattanooga and Ringgold agree to cooperate in the collection of said samples and to exchange the results of any analysis of such split samples. Ringgold agrees to work jointly with Chattanooga in processing applications for discharge of industrial waste or other regulated waste into the Ringgold system. Both Ringgold and Chattanooga shall have the authority for cause to withhold approval of an application for discharge of

industrial or other regulated waste. The approval of any application will not be unreasonably withheld.

8. **Chattanooga Administration of Pretreatment Program.** Ringgold and Chattanooga may enter into a pretreatment agreement providing Chattanooga with the legal authority and responsibility for performance of technical and administrative activities necessary for implementation of a pretreatment program for Ringgold. These activities may include, among others: 1) updating the industrial waste survey; 2) providing technical services, such as sampling, process chemical analysis, and engineering advice; 3) permitting; 4) compliance monitoring; 5) enforcement support.

9. **Chattanooga to Monitor Enforcement.** Chattanooga shall review Ringgold's ordinance and amendments thereto, and any inter-jurisdictional agreements for conformance with 40 C.F.R. Part 403, and to ensure inclusion of all other legal provisions mandated by this Agreement. Chattanooga shall periodically review the enforcement efforts of Ringgold and any other jurisdiction to ascertain whether pretreatment requirements are being diligently enforced. To the extent Ringgold chooses to administer its own pretreatment program, Chattanooga may periodically review Ringgold's pretreatment program activities and funding to ensure that Ringgold [and that of any outside jurisdiction utilizing Ringgold's sewer lines] is adequately

administering its pretreatment program in conformance with the Federal Pretreatment Regulations (40 C.F.R. ' 403) and all Chattanooga requirements.

10. **Remedial Plan.** If Chattanooga determines that Ringgold has failed or has refused to fulfill any pretreatment obligations, Chattanooga may develop and issue a remedial plan containing a description of the nature of the pretreatment deficiencies, an enumeration of steps to be taken by Ringgold, and a time schedule for attaining compliance with all pretreatment requirements. Such plans shall be specifically enforceable in a court of competent jurisdiction.
11. **Rejection of Wastewater.** Chattanooga reserves the right to reject any wastewater which does not meet its standards, as the same may be amended, but Chattanooga expressly covenants that no such rejection shall be arbitrary on its part. Unless there shall be an imminent, immediate, and substantial danger to the public health and safety, Chattanooga shall notify Ringgold in writing at least thirty (30) days prior to rejecting any such wastewater flow and shall cite its reasons for such rejection. To the extent that Chattanooga rejects such wastewater flow for treatment, Ringgold shall then be authorized to attempt to provide additional conveyance and treatment from any other source. To the extent possible Chattanooga covenants and agrees to prevent the total disruption of Ringgold's sewer service.
12. **Infiltration and Inflow.** Ringgold and Chattanooga will each repair and maintain its sewage collection system to prevent excessive infiltration and

inflow in accordance with commonly accepted practices and procedures. Ringgold agrees to implement a system to monitor the occurrence of infiltration and inflow, identify overflow or bypass points and develop a plan to correct excessive infiltration and inflow within a reasonable period of time.

Whenever either system is placed under moratorium, injunction, administrative order, or any other form of regulatory sanction affecting facilities jointly used, then each agree to meet and to develop a joint plan to correct the problems within a reasonable period of time.

13. **Rates and Billing.** For all wastewater treated by the City of Chattanooga at the Moccasin Bend Wastewater Treatment Plant, or through such other sewage treatment plants as may hereafter be constructed by Chattanooga, Ringgold shall pay Chattanooga in the manner hereafter set forth the lower of the following rates:

(a) After application of the "Running Average" as hereinafter defined, Chattanooga shall charge Ringgold the then existing Regional Rate (See *Chattanooga City Code* ' 31-36(d)) established for wastewater as measured through metering devices to be located near the inter-connection point between the two sewer systems.

(b) If a calculation of the Ringgold sewage treatment cost as figured in accordance with any other contract or practice of billing existing between the City of Chattanooga and any other entity or municipality would result in a

lower rate than above set forth, then Ringgold shall get the benefit of such lower rate. Chattanooga covenants and agrees that in no event shall Ringgold be charged at a rate greater than the most favorable contract or practice into which Chattanooga may enter in the future for sewage treatment. In the event of any such contract or practice by the City of Chattanooga, then Ringgold shall automatically benefit from the lower rate.

(c) Because the payments to the City of Chattanooga could vary widely depending upon the extent of rainfall in the Chattanooga 208 area and because of an adverse budgetary impact on Ringgold, it is agreed that the payments to the City of Chattanooga shall be based upon a thirty (30) month "Running Average". The "Running Average" shall be calculated by taking the preceding thirty (30) months or such portion thereof for which there may be data available and averaging the total monthly flows so as to avoid sudden fluctuations caused by infiltration and inflow. The applicable total monthly flow figures reported in the monthly discharge monitoring reports filed with the Tennessee Water Quality Control Board or the Georgia Environmental Protection Division shall be used in lieu of actual metered flow for months where there is no metered flow data for purposes of calculating the running average during the first thirty months of this agreement. If there are no accurate monthly discharge flow figures for Ringgold's system or any portion thereof, the flow shall be accurately estimated using sound engineering

practices for adjusting water metered flow, infiltration and inflow, and any existing peculiar circumstances. Payment from Ringgold to Chattanooga shall be made monthly, with payment due within thirty (30) days following the billing date for the preceding month.

(d) No payment shall be due to Chattanooga from Ringgold until Chattanooga actually commences treatment of wastewater from Ringgold under this Agreement.

14. **Industrial Use Surcharge.** Chattanooga now has various types of sewer service charges which apply to various dischargers to Chattanooga's sewer system. To the extent that the "industrial user Surcharge," as that term is defined by Chattanooga ordinances now in effect or similar charges hereafter adopted shall apply to industries which may locate within Ringgold, Chattanooga agrees to bill said charges directly to parties responsible therefore. Ringgold agrees to terminate the service, by means of its own water utility or through any other water utility district or municipal water utility that may provide service to user of the Ringgold Sanitary Sewer System, of any user who does not timely pay the billings, subject to any pending dispute about the accuracy of the billing, providing the bill shall have been paid except to the extent of any claimed overcharge.
15. **Rate Review and Revisions.** Chattanooga agrees to periodically revise the charges for users or user classes to accomplish the following:

- (a) maintain the proportionate distribution of operation and maintenance costs among users and user classes as required by federal law and regulations (see 33 U.S.C. ' 1284(b) and 40 C.F.R. ' 35.929, *et seq.*);
- (b) generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works;
- (c) apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rates accordingly;
- (d) to comply fully with Section 204(b) of the Act (33 U.S.C. ' 1284(b)) and all applicable federal or state laws and regulations;
- (e) the cost of operation and maintenance of Chattanooga collector lines and interceptor sewer lines not used by Ringgold under this agreement shall be specifically considered in said rate charge system and such cost shall be proportionately distributed to Chattanooga;
- (f) Chattanooga agrees to review said rates annually, and make appropriate revisions thereto. Chattanooga shall give Ringgold not less than sixty (60) days notice of any proposed rate increase and shall endeavor to avoid rate changes at times other than the start of a fiscal year (currently July 1). Chattanooga further covenants to operate the system at all times in an

efficient and economical manner in order to minimize the revenues needed for the operation of its system;

(g) Chattanooga shall on or before April 15 of each year, or such other time as shall be mutually agreeable, prepare a detailed preliminary budget of the estimated operating expenses of the sewer system for the succeeding year, a copy of which shall be mailed to Ringgold. Ringgold shall present to Chattanooga on or prior to June 1 of said year or other mutually agreeable date, any objections which it may have to the rates, which will be in effect for the users of the system. The parties shall attempt to reconcile any differences existing, but in the event they are unable to do so, the rates established by Chattanooga shall prevail unless and until changed following appropriate legal procedures; and

(h) Ringgold has heretofore adopted and agrees to maintain a user charge system for its users in accordance with Section 204(b)(1)(A) of the Act (33 U.S.C. ' 1284(b)(1)(A)) and 40 C.F.R. ' 35.929 through ' 35.929-3 or other applicable federal or state laws or regulations. These rates shall be incorporated in appropriate municipal legislative enactments and following the public notification requirements of 40 C.F.R., Part 25.

16. **Discharge Location.** Ringgold shall discharge its wastewater to Chattanooga's sewer system at interconnection points described in an addendum to this Agreement.

17. **Flow Meters.** The meters for measuring flow shall be installed by Ringgold and approved by Chattanooga. The meters shall be of the same or equivalent type of meter that is compatible with telemetry equipment as now being used in the Chattanooga system and shall be installed as a part of the construction of the pump station and force main. Chattanooga shall be responsible thereafter to operate, maintain, repair and replace said meters and telemetry equipment. The parties recognize that there may be areas where it is impractical to install meters and in such event the flow shall be accurately estimated using sound engineering practices for adjusting water metered flow, infiltration and inflow, and any peculiar circumstances.
18. **Liability for Wastewater.** The responsibility for wastewater discharged under this Agreement shall remain with Ringgold to the above-described points of discharge, and upon passing through the above-described points of discharge, it shall become the responsibility of Chattanooga. To the extent that the cause thereof can be identified, each party shall be liable for all damages, fines, penalties or costs relating to any injury caused by any improper discharge of wastewater into the system, to any person, property, to the environment or to the treatment works and other Chattanooga facilities, disruption of the treatment process or operations, degradation of sludge quality, NPDES violations, other water pollution violations, or violations of other applicable laws and regulations, to save and hold the other party

harmless from all claims, demands, and causes of action which may be asserted by anyone on account of the reception, transportation, delivery, and disposal of such wastewater while it is within the control of the respective party. This covenant shall not, however, relieve Ringgold of the responsibility for any claims, demands, and causes of action which may be asserted by anyone, specifically including Chattanooga, which arise out of the failure of Ringgold's wastewater to meet the standards and restrictions set forth in the agreement except such claims, demands, and causes of action which may be asserted and arise from wastewater from other members of the 201-208 Planning process being conveyed through portions of Ringgold's system. Any such liability payments by Chattanooga or Ringgold resulting from the operation of its system shall be deemed an operation and maintenance expense of the respective system for purposes of determining the user fees which shall be necessary to insure that the system has sufficient revenues for operation. This covenant is not made for the benefit of any third party except as set forth in Paragraph 27. Nothing herein shall be deemed to waive any defenses that either party may have to the claims of a third party pursuant to the Tennessee Governmental Tort Liability Act (T.C.A. '29-20-101, *et seq.*) or pursuant to Article IX, Section II, Paragraph IX, of the Constitution of the State of Georgia, or Ga.St. '36-31-1, *et seq.*

19. **Imminent Danger.** Where a discharge to the wastewater treatment system reasonably appears to present an imminent danger to the health and welfare of persons, or presents or may present an imminent danger to the environment, or threatens to interfere with the operation of the wastewater treatment system, Chattanooga may immediately initiate steps to identify the source of the discharge, and to halt or prevent said discharge. Chattanooga may seek injunctive relief against Ringgold and/or any user contributing to the emergency condition, and/or may pursue other self-help remedies. Ringgold agrees to assist Chattanooga and to join such litigation and/or hereby assigns to Chattanooga the right to bring such action in its name and for their mutual benefit.
20. **Source of Payments.** The obligation of Ringgold to pay for sewage delivered and treated under this Agreement shall not be construed as a debt of Ringgold requiring it to levy and collect a tax to discharge the same unless said obligation has been reduced to a legally enforceable judgment; but shall be an operating charge of its sewer system ranking equally to charges for salaries, wages, and other operating expenses of such system. Ringgold covenants at all times to establish, maintain, prescribe, and collect fees, tolls, and charges for wastewater facilities furnished its customers, sufficient to provide funds for the payment of all obligations of Ringgold under this Agreement.

21. **Chattanooga Obligations.** Chattanooga expressly covenants and agrees that it shall operate its wastewater conveyance and treatment facilities in such a manner as to fully meet the needs of Ringgold. Chattanooga may enter into other contracts relating to the conveyance and treatment of wastewater from other municipalities or agencies; however, Chattanooga shall not enter into other such contracts which restrict its ability to fully meet its obligations to Ringgold. Chattanooga covenants and agrees to acquire, equip, operate, and maintain sufficient treatment facilities to maintain a viable NPDES permit, and to maintain such other permits as may from time to time be reasonably required for handling the wastewater contemplated by this agreement and in conformance with applicable statutes and regulations.
22. **Compliance with 201/208 Plans.** Chattanooga covenants and agrees that it will promptly and diligently pursue a program of bringing all the other entities into the Regional User System as contemplated by the 201 and 208 Plans so that said system may be efficiently used as contemplated by said plan toward the end that the cost to Ringgold of participating in said Regional Plan shall be reduced by the benefits to be derived from the participation of other entities in said plan.
23. **Regional Council.** Chattanooga agrees to create and maintain a council consisting of representatives from each user. Said council shall meet at least bi-annually for the purpose of reviewing the overall operation of the regional

system and shall at least annually review the financial status of the operation of the regional system and the relation of the user charges then in effect. Said council shall be charged with the responsibility of mediating any differences among the parties making up the Regional User System. Said council shall be charged with the duty of encouraging the efficient development and operation of the Regional Sewer System as contemplated by the 201 and 208 Plans. Copies of the minutes of the meetings shall be forwarded to each of the affected governing bodies. Chattanooga shall furnish annually to Ringgold a copy of the certified audit on the operation of the Chattanooga Sewer System together with access to all documentation necessary for competent analysis and verification of said audit.

24. **Inter-jurisdictional Contracts.** If there exists any industrial user, private owner or owners, or outside jurisdiction discharging to Ringgold's sewer system but located outside the jurisdictional limits of Ringgold, then Ringgold shall regulate said user by a contract, ordinance, or resolution so as to enforce terms substantially equivalent to this Agreement, and if a contract it shall be jointly executed by Ringgold, Chattanooga and the outside jurisdiction. Regulation through the use of an ordinance or resolution shall be the preferred method of regulating users and this method shall be used where legally possible.

25. **Records.** Ringgold shall file with Chattanooga a certified copy of its ordinance and any amendments thereto, other inter-jurisdictional agreements, each industrial waste discharge permit issued, and any contract entered into for the purposes of industrial waste control. Ringgold shall provide Chattanooga access to and copies of, if requested, all industrial monitoring reports including 40 C.F.R. ' 403.12 compliance reports, self-monitoring reports, baseline reports, records of violations and actions taken, and any other monitoring or reporting requirements imposed by Federal, State or local regulations. These records and other relevant information shall be maintained for at least three years.
26. **Entry and Inspection.** Any authorized officer or employee of Chattanooga may enter and inspect at any reasonable time any part of the sewer system of Ringgold. The right of entry and inspection shall extend to public property, streets, and sewer easements. Additionally, Chattanooga shall be permitted, as appropriate, to enter onto private property to inspect industrial waste discharges. If a request to enter private property is refused and there is a reasonable need to enter the property, Ringgold shall institute necessary legal procedures to obtain an administrative search warrant or easement as appropriate. The right of inspection shall include on-site inspection of pretreatment and sewer facilities, observation, measurement, sampling,

testing, and access to (with the right to copy) all pertinent compliance records located on the premises of the industrial user.

27. **Third-Party Beneficiaries.** The parties hereto agree that the State of Tennessee and the State of Georgia are third-party beneficiaries of this Agreement and shall have all rights granted the parties hereunder to enforce the rights and obligations of the parties. The State of Tennessee Department of Health and Environment shall have the right to enforce all rights on behalf of the State of Tennessee under this Agreement. The Georgia Department of Natural Resources shall have the right to enforce all rights on behalf of the State of Georgia under this Agreement.
28. **Additional Documentation.** Each party hereto covenants to execute such additional documentation as will be necessary to effectuate the intent of this Agreement.
29. **Force Majeure.** In case by reason of "force majeure" either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then if such party shall give notice and full particulars of such "force majeure" in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such "force majeure," shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such party shall endeavor to remove or overcome such inability with

all reasonable dispatch. The term "force majeure" as employed herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of a public enemy, orders of any kind of Ringgold, of the United States, the State of Tennessee, or the State of Georgia (excluding orders requiring action to comply with Chattanooga's NPDES permit, a sewer collection permit, or other permit related to the operation of a sewer system) or of any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrest, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, partial or entire failure of water supply or inability on the part of Chattanooga to transmit or treat sewage hereunder, or Ringgold to deliver sewage hereunder, on account of any other causes not reasonably within the control of the party claiming such inability. Nothing herein shall be deemed to relieve Chattanooga or Ringgold of its responsibility to operate their respective systems to reasonably control infiltration and inflow in a storm or flood in accordance with generally accepted standards or government regulatory measures. The third party beneficiaries to this agreement shall be given notice of a force majeure if it will cause any violation of water quality standards or violations of any laws or regulations of that jurisdiction.

30. **Severability Clause.** Should any phrase, clause, sentence, or paragraph of this contract be held invalid, or unconstitutional by any Court of competent jurisdiction of the State of Tennessee, the State of Georgia or the United States of America in any manner or respect whatsoever, it shall in no wise affect any or all of the remaining provisions, all of which shall remain in full force and effect. Provided that if such invalidity or unconstitutionality shall destroy the essence or effectiveness of this agreement and the parties are unable to reach a new agreement which rectifies the invalidity or unconstitutionality, then the parties shall continue the physical arrangements concerning the flow and treatment of sewage upon a quantum meruit basis, subject to applicable state laws and regulations for a reasonable period of time until other suitable arrangements can be made for the treatment and disposal of the sewage.
31. **Controlling Law.** The parties hereto agree that this Agreement will be enforced and interpreted according to the laws of the State of Tennessee.
32. **Addendum.** The parties recognize that the foregoing is a form contract generally applicable to all regional users. Certain modifications or additions to this Agreement to meet particular needs of Ringgold and Chattanooga are attached hereto and labeled as an Addendum.
33. **Assignment.** The parties agree that the rights, liabilities, and obligations of either may be assigned to a successor governmental entity or authority, and

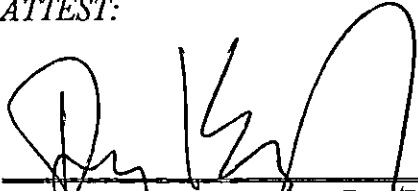
that either party's interest in this agreement may be used to securing financing to improve the system of that party or to establish a sewer authority. Providing that if the assignment involves a change in operational control of the sewer system or any material part thereof, the assignee shall agree to assume the liability and duty of the assignor to perform all of the terms and conditions of this agreement.

IN WITNESS WHEREOF, the parties hereto acting by and through their duly authorized officers, pursuant to the appropriate resolutions hereinbefore duly and properly adopted by each, have caused this contract and Agreement to be executed in duplicate, each delivering to the other a copy having the full force and effect of an original, all as of the 22nd day of April, 2003.


CITY OF CHATTANOOGA, TENNESSEE

[SEAL]

ATTEST:




DAVID EICHENTHAL, *City Finance Officer*

By: 
ROBERT CORKER, *Mayor*
Or WILLIAM C. MCDONALD,
Administrator of Public Works

CITY OF RINGGOLD, GEORGIA

[SEAL]

ATTEST:



DAN WRIGHT, *City Manager*

By: 

JOE BARGER, *Mayor*

SENDING REPORT

Jul. 26 2010 01:06PM

YOUR LOGO : CITYOFRINGGOLD
YOUR FAX NO. : 7069657446

NO.	OTHER FACSIMILE	START TIME	USAGE TIME	MODE	PAGES	RESULT
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