

TOWN OF WEST SENECA



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TOWN SUPERVISOR
SHEILA M. MEEGAN
TOWN COUNCIL
EUGENE P. HART
WILLIAM P. HANLEY, JR.

TO: The Honorable Town Board

FROM: John J. Fenz, Esq.
Town Attorney

DATE: September 24, 2015

RE: Out of District Sewer Connection Agreement
Sanitary Sewer District No. 13
2220 Southwestern Holdings, LLC

Kindly authorize the Supervisor to execute the necessary documents, on behalf of West Seneca Sanitary Sewer District No. 13, to enter into an Out of District Sewer Connection Agreement with 2220 Southwestern Holdings, LLC to furnish sanitary sewer facilities.

Please be advised that this connection has met with the approval of both the Town of Orchard Park and the Town of West Seneca's Engineer.

**AGREEMENT
OUT OF DISTRICT SEWER CONNECTION**

This Agreement dated the 28th day of September, 2015, by and between the Town of West Seneca, a Municipal Corporation, located at 1250 Union Road, West Seneca, New York, acting as Commissioner of Sanitary Sewer District No. 13, (the "Town"), and 2220 Southwestern Holding, LLC, PO Box 312, North Boston, New York 14110 (the "Customer").

WITNESSETH:

WHEREAS, the Town has created Sanitary Sewer District No. 13 in accordance with the provisions of the law; and

WHEREAS, the Customer resides in the Town of Orchard Park, outside of the boundaries of said sanitary sewer district; and

WHEREAS, the Customer is desirous of using the sanitary sewer facilities of said sewer district; and

WHEREAS, the Town of Orchard Park has approved a request of the Customer to pursue an out of district sanitary sewer connection agreement with the Town of West Seneca, as recommended by its Town Engineer.

NOW, THEREFORE, in consideration of the furnishing of sanitary sewer facilities to the Customer by the Town, the Customer does hereby agree as follows:

1. To pay for its proportionate cost of trunk line construction and/or future maintenance to said lines.
2. To obtain and deliver to the Town any and all rights-of-way and easements, in recordable form, which the Town considers necessary to provide said service and pay the costs of recording same.
3. To pay required tap-in fee to the Town and abide by and conform with the rules and regulations of said district now and as amended.
4. To submit plans, prior to tapping in, to the Engineering and Code Enforcement Departments of the Town showing the number of buildings and waste facilities on the property of the Customer.
5. Not to add to or otherwise increase the flow of discharge into sewer district by additional waste facilities beyond those shown in the plans submitted in Paragraph 4 without written approval of the Town Board of the Town of West Seneca.
6. To yearly pay an "out-of-district" charge based on the following rates as hereinafter set forth, and to pay the rates as they may from time to time be altered and changed by the Town of West Seneca. Said charge shall be payable in advance each year and shall be due and owing on the 15th day of March of each year except

as follows:

- A. In the first year said Customer shall pay on the next succeeding March 15 a prorated charge based on the date of this agreement in addition to a full yearly charge for the next succeeding year.
- B. In the last year said Customer shall pay the charge, but shall be reimbursed pro rata if this agreement shall be cancelled, terminated or expire from the date of such cancellation, termination or expiration.
- C. Statement of Charges: The sum of the following:
 - 1. Assessed valuation of property times the rate for Sewer District No. 13.
 - 2. Lateral frontage (in feet) times the rate for Sewer District No. 13.
 - 3. Yearly water usage times rate for Sewer District No. 13.

7. The term of this agreement shall be for a period of five (5) years from its effective date except as hereinafter provided, and either party thereto may cancel said agreement by ninety (90) days written notice to the other party of its desire to cancel.

8. Said agreement shall automatically terminate and said Customer shall sever his connection with the said Sewer District or any extension of same within ten (10) days of such time as the Town of Orchard Park makes available to the Customer sanitary sewer facilities.

9. In the event that this agreement is not cancelled or terminated as provided for above, the shall be automatically renewed by the customer for an additional five (5) years, but subject to cancellation or termination within said five (5) year renewable period as provided for in the initial five (5) year period.

10. The Customer shall give written notice of his intention to renew this agreement thirty (30) days prior to the expiration of any such five (5) year period.

11. This agreement may not be assigned without the written consent of the Town who shall not unreasonably withhold consent.

12. This agreement shall be binding upon the Customer, his heirs, executors and administrators, and the Customer agrees to give due notice of said agreement to any transferees and to hold harmless and indemnify the Town for any loss occasioned by his failure.

IN WITNESS WHEREOF, the Town Supervisor of the Town of West Seneca, acting on behalf of Town of West Seneca Sewer District No. 13 and an individual authorized to act on behalf of 2220 Southwestern Holdings, LLC.

**TOWN OF WEST SENECA
SEWER DISTRICT NO. 13**

By: Sheila M. Meegan, Supervisor
Dated:

2220 SOUTHWESTERN HOLDINGS, LLC

By:
Dated: