

RESOLUTION NO. 2009-R-006

**A RESOLUTION AUTHORIZING THE
METRO EAST SANITARY DISTRICT
TO ENTER INTO AN AGREEMENT WITH
THE ILLINOIS AMERICAN WATER COMPANY
TO CUT OFF THE WATER SUPPLY OF DELINQUENT
SANITARY SEWER CHARGES OWED BY CUSTOMERS OF
THE METRO EAST SANITARY DISTRICT**

WHEREAS, the Metro East Sanitary District is authorized by Illinois Statutes (Illinois Municipal Code, Section 11-141-7, 65 ILCS 5/11-141/7) to contract with the Illinois American Water Company to shut off the supply of water from the water company system to any premises at which the user charges for sewer services supplied by the Metro East Sanitary District are delinquent for more than thirty (30) days, and

WHEREAS, the Metro East Sanitary District desires to enter into an Agreement with the Illinois American Water Company in order to accomplish material savings in collecting delinquent sewer service charges,

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF
COMMISSIONERS OF THE METRO EAST SANITARY DISTRICT OF ST. CLAIR AND
MADISON COUNTIES, ILLINOIS AS FOLLOWS:**

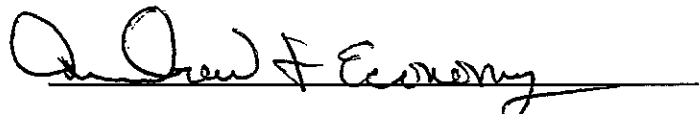
SECTION 1: That the Board of Commissioners of the Metro East Sanitary District of St. Clair and Madison Counties, Illinois, does hereby approve the proposed Disclosure Agreement with the Illinois American Water Company attached hereto as Exhibit "A" and made part hereof.

SECTION 2: That the Board of Commissioners of the Metro East Sanitary District of

St. Clair and Madison Counties, Illinois, authorizes and directs, Bob Shipley, the Executive Director of the Metro East Sanitary District, to sign the proposed Disclosure Agreement with Illinois American Water Company attached hereto and described as Exhibit "A".

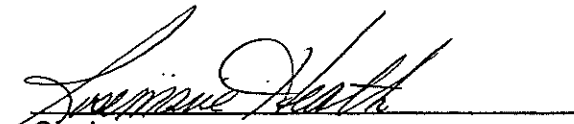
SECTION 3: That an Ordinance be prepared adopting the Disclosure Agreement marked Exhibit "A" and attached hereto as an addition to all Ordinances of the Metro East Sanitary District now in effect regulating collection of sanitary sewer service charges by adding such Agreement with the Illinois American Water Company to said Ordinances.

PASSED AND ADOPTED THIS 3rd DAY OF
June, 2009



President, Metro East Sanitary District

ATTEST:



Clerk

Votes: Four (4) Ayes None (0) Nays
One (1) Absent

DISCONTINUANCE AGREEMENT

THIS DISCONTINUANCE AGREEMENT ("Agreement") is made and entered into as of this 27th day of May, 2009 by and between the Metro East Sanitary District ("District") and Illinois-American Water Company, an Illinois public utility corporation ("Water Company").

RECITALS:

WHEREAS, the District is engaged in providing sewerage service to the residential and non-residential customers who reside within the service area provided by the Metro East Sanitary District as shown by the current map attached hereto and made part hereof which sets forth the boundaries of the District; and

WHEREAS, the map may be changed from time to time to accommodate a new service area, and if that occurs, a new map will be provided to the Company and will replace the map currently attached hereto; and

WHEREAS, the District collects user charges from its users of the sewerage service ("users") so served; and,

WHEREAS, the user of the sewerage service is defined as the person(s) who is/(are) the customer(s) of the water service and/or discharges wastewater into the sewerage system; and,

WHEREAS, the Water Company is the owner and operator of a water distribution system serving customers within the Territory which encompasses the boundaries of the District in accordance with the applicable Rules and Regulations of the Illinois Commerce Commission;

WHEREAS, the Water Company is authorized, at the request and direction of the Executive Director of the Metro East Sanitary District, pursuant to the provisions of the Illinois Municipal Code, Section 11-141-7, 65 ILCS 5/11-141-7, to contract to shut off the supply of water from its system to any premises at which the User charges for sewer service supplied by the District are delinquent for more than thirty (30) days; and

WHEREAS, the Water Company will, at the request and direction of the Executive Director of the Metro East Sanitary District, shut off said water supply in accordance with the provisions of this Agreement.

NOW, THEREFORE, in consideration of the sum of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. When the District determines in accordance with applicable law that a User's charges remain unpaid and are in arrears for more than thirty (30) days after rendition of a written notice of such charge sent by first class mail to each User for a particular premise, and the District makes written request to the Water Company to terminate water service to the District's User until such time as the User charges and all related costs are paid, the District shall, by written certification signed by the Billing Department Office Manager of the Metro East Sanitary District, certify to the Water Company,:

- (a) the name and address of the User that is in arrears in payment of User charges;
- (b) the address of the premises where such sewer service was received;
- (c) that said User's charges are in arrears for more than thirty (30) days after sending written notice by first class mail;
- (d) that said User has been afforded written notice by first class mail of (i) the arrearage amount, and (ii) the District's intent to terminate sewer service by means of a written request to the Water Company to discontinue said District's User's water service;
- (e) that the District's User has been afforded a right to be heard on the correctness of the District's record of arrearage;
- (f) that all Federal and State Constitutional as well as all Federal and State statutory prerequisites applicable to the collection of debt have been properly satisfied by the District; and
- (g) that the District has complied with its own policies and procedures.

2. Per the attached "Metro East Sanitary District Shutoff / Release Procedure" and upon receipt of the written request and certification as set out in Section 1, the Water Company shall, within twenty (20) days, send an employee of the Water Company to the premises as identified by the District and terminate the water service to such premises after having first advised any responding person present at such premises of the termination of water service at the request of the District due to non-payment of User charges.

3. Notwithstanding anything to the contrary herein stated, the Water Company reserves the exclusive right at its sole discretion to process the District's requests for termination of water service on such schedules and at such times as are convenient to the Water Company consistent with the Water Company's normal business practice and procedure.

4. The District shall pay to the Water Company, within thirty (30) days of receipt of an invoice from the Water Company, the sum of Sixty-Five Dollars (\$65.00) to cover the Water Company's cost of terminating and restoring water supply to each premise that requires a one person shut off crew. For premises in which a two person crew is required to perform the terminating & restoring of water supply, the sum of One-Hundred Dollars (\$100.00) will be charged for each premise. Such invoice shall be sent and payable following termination of service, even if restoration is not requested. In the event that more than one hour is required for either the termination or restoration of water service to any designated premises, the District shall pay the actual cost thereof to the Water Company based on time, material, transportation and other fixed charges. If more than one hour is required to terminate or restore water service, the District shall be notified of the charges within one (1) business day of the additional charges. The fees fixed hereunder may be amended from time to time as agreed by the parties.

5. The District, in addition to the sums as set out in Section 4, shall pay to the Water Company the estimated loss of water revenues resulting from each such termination made hereunder. The estimated loss of water revenue for each termination of residential water service shall be as follows:

From Date of Shut Off up to 4 days = \$5.00

From Date of Shut Off to 5 - 35 days = \$40.00

From Date of Shut Off to 36 - 65 days = \$80.00

From Date of Shut Off to 66 days through 90 days = \$120.00

The District shall pay monthly for the lost water revenue for the period beginning with the termination through the restoration of water services. For residential property, if the water service is required to be off for longer than ninety (90) days, the account shall be considered abandoned at the end of said ninety (90) days and the lost revenue charge to the District shall cease.

6. Notwithstanding the preceding, should a new customer who was not a User at the time the arrearage owed to the District was incurred at a terminated premises apply for water service to that premises, the Water Company may provide such service and the District will not look to such new water customer for payment of the prior sewer arrearage.

7. The Water Company shall not be liable for any loss, damage or other claim asserted by the District Users, the owner and/or tenant of the premises, the water customer, the District or any other person, corporation, or entity based upon or arising out of the termination of water service at the request of the District. As provided by statute, the District agrees to indemnify, defend and hold the Water Company, and its affiliates, and any of their respective employees, directors, owners, agents, successors and assigns harmless from and against any and all claims (including attorneys' fees), complaints or causes of action (whether judicial, administrative, or otherwise) arising out of actions taken by the Water Company pursuant to any of the District's "Instruction(s) to Terminate Service."

8. The District shall handle all User communications regarding service terminations implemented pursuant to this Agreement. Communications from customers and/or Users to the Water Company shall be referred and directed to the District at the phone number provided by the District.

9. The Water Company's actions required under this Agreement shall be excused if due to matters beyond its control, including but not limited to employee work stoppages, strikes, inclement weather and emergencies requiring utilization of manpower or resources elsewhere. Termination will not be completed if a local board of health, municipality, fire district, court of competent jurisdiction or other governmental entity having jurisdiction issues an instruction to the Water Company so stating. At such time, the Water Company will relay such conflicting instructions to the District and the Water Company will not knowingly take further actions toward termination until the District notifies the Water Company in writing that it has resolved the conflicting instructions and provides written evidence thereof. Thereafter, the District shall indemnify, defend, and hold the Water Company harmless for actions taken by the Water Company based on the District's notification.

10. In no event shall the Water Company be required to disconnect a fire line service without authorization from the governmental authority responsible for fire protection to the affected property, even in cases of combined fire and domestic service lines.

11. This Agreement may be terminated by either of the parties hereto by sixty (60) days written notice given to the other party at its principal place of business.

12. This Agreement may not be assigned by the District. This Agreement may be assigned to any affiliate or successor in interest to the Water Company.

13. This Agreement shall be governed by the laws of the State of Illinois without respect to conflict of laws principles.

14. Subject to the right of each party to terminate under Section 11, this Agreement shall have a term of one (1) year and shall automatically renew for additional one year periods.

[Remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

METRO-EAST SANITARY DISTRICT

By: Bob Shipley
Name: BOB SHIPLEY
Title: EXEC DIR

ILLINOIS-AMERICAN WATER COMPANY

By: [Signature]
Name: Frederick L. Ruckman
Title: Director - Field Operations

ATTEST

By: George J. [Signature]
Name: [Signature]
Title: Attorney for Metro East Sanitary District

ATTEST

Asst. Secretary: [Signature]