

RESOLUTION NO. 124

**A RESOLUTION AUTHORIZING AND APPROVING THE INTER-MUNICIPAL SEWER AGREEMENT BY AND BETWEEN THE CITY OF TONTITOWN, ARKANSAS AND THE CITY OF SPRINGDALE, ARKANSAS**

**WHEREAS**, after thorough consideration and review, the Water and Sewer Commission of the City of Tontitown, Arkansas, recommends that the City Council for the City of Tontitown, Arkansas, approve the Inter-Municipal Sewer Agreement with the City of Springdale, Arkansas.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TONTITOWN, ARKANSAS:**

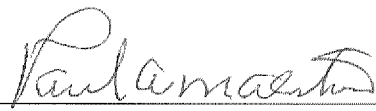
**Section 1:** That the Inter-Municipal Sewer Agreement, by and between the City of Tontitown, Arkansas and the City of Springdale, Arkansas, as recommended by the Water and Sewer Commission for City Council adoption, be and is hereby adopted.

**Section 2:** That the Mayor of the City of Tontitown, Arkansas and the chairman of the Water and Sewer Commission of the City of Tontitown, Arkansas are authorized to execute the Inter-Municipal Sewer Agreement.

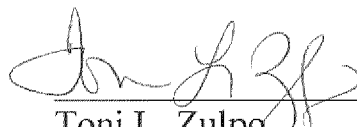
**Section 3:** That the Recorder-Treasurer of the City of Tontitown, Arkansas shall file a duly certified copy of this Resolution with the Washington County Circuit Clerk.

PASSED AND APPROVED this 2 day of August, 2005.

APPROVED:

  
\_\_\_\_\_  
Paul A. Maestri,  
Mayor of the City of Tontitown

ATTEST:

  
\_\_\_\_\_  
Toni L. Zulpo,  
City Recorder / Treasurer  
of the City of Tontitown

**ROLL CALL:**

**Shall the Ordinance pass:**

	<b>YEA</b>	<b>NAY</b>	
<b>Alderman Andrew Penzo</b>	<u>✓</u>	_____	<i>(Ward 2, Position 2)</i>
<b>Alderman Arthur Penzo</b>	<u>✓</u>	_____	<i>(Ward 2, Position 1)</i>
<b>Alderman Henry Piazza</b>	<u>✓</u>	_____	<i>(Ward 1, Position 2)</i>
<b>Alderman Kevin Riggins</b>	_____	_____	<i>(Ward 1, Position 1)</i>
<del><b>Alderman Ken Robertson</b></del>	<del><u>✓</u></del>	<del>_____</del>	<del><i>(Ward 3, Position 2)</i></del>
<b>Alderman Steve Smith</b>	<u>✓</u>	_____	<i>(Ward 3, Position 1)</i>
<b>Mayor Paul Maestri</b>	_____	_____	

**Yeas:** 5 **Nays:** \_\_\_\_\_ *(total)*

## INTER-MUNICIPAL SEWER AGREEMENT

THIS AGREEMENT is made this 24 day of August, 2005, by and between the City of Springdale, Arkansas, a municipal corporation, acting through its Water and Sewer Commission, hereinafter called Springdale, and the City of Tontitown, Arkansas, a municipal corporation, hereinafter called Tontitown;

WITNESSETH:

WHEREAS, Tontitown owns and operates a water distribution system that requires a supply of treated water currently purchased from Springdale under the terms and provisions of a five-year water purchase contract dated June 22, 2004;

WHEREAS, Springdale owns and operates a municipal sewer system providing sanitary service to users located within the corporate limits of Springdale, Johnson, and Lowell, Arkansas; and

WHEREAS, said sewer system includes a wastewater treatment facility that has sufficient capacity to treat current and foreseeable wastewater flows generated within the corporate limits of the cities it now serves; and

WHEREAS, Tontitown does not have a municipal sewer system and the lack of adequate sanitary facilities is placing a hardship on property owners located within the corporate limits of Tontitown; and

WHEREAS, Tontitown is planning to build a municipal sewer system in order to provide sanitary service to users within the corporate limits of Tontitown; and

WHEREAS, Tontitown has expressed its desire for Springdale to provide temporary assistance in the form of wastewater treatment services for sewer users to be connected to the Tontitown Sewer System; and

WHEREAS, it is specifically understood and mutually agreed by both parties that this is a temporary sewer agreement and that Tontitown is currently working toward the development of a permanent source of wastewater treatment either through the construction of its own treatment facilities or the contracting for such services through a regional venture.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Springdale and Tontitown hereto mutually agree as follows:

1. COOPERATION: Tontitown and Springdale shall cooperate and communicate in all the dealings contemplated herein.
2. FACILITIES: Tontitown agrees to construct the following sewer system improvements, hereinafter referred to as "Facilities," depicted on Exhibit "A" which is attached hereto and incorporated herein by this reference:

- a. A new sanitary collection system consisting of gravity sewers to be located within the corporate limits of Tontitown.
- b. A new sewage lift station designed to pump flows generated from the gravity collection system within the corporate limits of Tontitown.
- c. A new sewage force main transmitting flows being pumped from the Tontitown Lift Station to the Benton Farm Lift Station, a pumping facility owned and operated by Springdale.
- d. A new sewage metering and sampling station to be designed and constructed to accurately measure flows and to provide automated sampling of wastewater pumped from the Tontitown Lift Station to the Benton Farm Lift Station.

Except for the sewage metering and sampling station, all of the above Facilities are to be designed, constructed, operated, and maintained by Tontitown at its expense. Tontitown hereby agrees to secure at its expense all property rights and easements needed to construct said facilities. Upon completion by Tontitown, the sewage metering and sampling station shall be owned, operated, and maintained by Springdale on its property at the Benton Farm Lift Station, hereinafter referred to as the Point of Delivery.

Tontitown hereby agrees to construct a conventional gravity sewer system within its corporate limits. Septic Tank Effluent Pumping (STEP) systems and pressure sewer systems shall not be allowed to discharge into the Tontitown Sewer System.

3. QUANTITY: During the term of this agreement, Springdale agrees to receive from Tontitown at the Point of Delivery, wastewater pumped from the Tontitown Lift Station at a maximum flow rate of four hundred (400) gallons per minute. In order to control the rate of flow within the maximum rate of flow specified herein, Springdale reserves the right to install a flow restriction device to regulate the volume of wastewater pumped from the Tontitown Lift Station. Wastewater pumped from Tontitown to Springdale shall be in accordance with standards hereinafter specified.

4. POINT OF DELIVERY: The Point of Delivery for wastewater pumped from Tontitown to Springdale shall be at a sewage metering and sampling station located in the Benton Farm Lift Station. Tontitown shall be responsible for design and construction of the metering and sampling station. Plans and specifications for said station shall be prepared by a professional engineer licensed to practice in the State of Arkansas. Design of the metering and sampling station, including equipment and materials to be used in construction, shall be approved in writing by Springdale before the plans and specifications are submitted to the Arkansas Department of Health for review and approval. The metering and sampling station shall become the property of Springdale at such time construction is satisfactorily completed and the

metering equipment is certified by the manufacturer to be within accuracy limits specified by Springdale. Tontitown shall be responsible for paying any costs associated with connecting the metering and sampling station to a manhole located on the influent interceptor discharging into the Benton Farm Lift Station. Said connection to the manhole shall be made with a gravity sewer line to be owned and maintained by Springdale.

5. METERING EQUIPMENT: The sewage metering and sampling station shall be designed and equipped to accurately measure the volume of wastewater being pumped through the station based upon: 1.) The actual flow rate stated in gallons per minute, and 2.) the total flow passing through the meter stated in hundred gallons. The rate of flow and total flow shall be remotely transmitted to recording instrumentation maintained by Springdale at the Benton Farm Lift Station. Springdale agrees to operate and maintain the necessary metering equipment for properly measuring the quantity of wastewater received from Tontitown and to calibrate such metering equipment whenever requested by Tontitown but not more frequently than once every twelve (12) months. A meter register not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the four (4) months previous to such test in accordance with the percentage of inaccuracy found by such tests. If the meter should fail to register for any period, the amount of wastewater received at the Point of Delivery during such period shall be deemed to be the amount of wastewater received in the corresponding period immediately prior to the failure unless Tontitown and Springdale shall agree upon a different amount. The metering equipment shall be read monthly. An appropriate official of Tontitown shall have access to the meter equipment at reasonable times for the purpose of verifying readings.

6. PRICE: It is hereby stipulated and agreed by Tontitown that the following sewer charges and fees shall be paid for sewer services provided by Springdale in this agreement:

A.) The following rate schedule shall be used to calculate monthly payments for the volume of wastewater being pumped to the Point of Delivery for treatment by Springdale:

First	1,500 gallons.....	\$600.00	Minimum Monthly Charge
Next	23,500 gallons.....	\$ 3.23	per thousand gallons
Next	225,000 gallons.....	\$ 3.15	per thousand gallons
Next	350,000 gallons.....	\$ 3.02	per thousand gallons
Next	400,000 gallons.....	\$ 2.99	per thousand gallons
Over	1,000,000 gallons.....	\$ 2.61	per thousand gallons

The above monthly minimum charge shall remain constant throughout the term of this agreement; however, in the event the City of Springdale adopts an ordinance increasing the sewer rates being charged to outside city users, the above rates charged for each thousand gallons in excess of 1,500 gallons shall be adjusted to reflect the new sewer rate schedule applied to outside city users.

B.) Tontitown will be considered as an industrial user connected to the Springdale Municipal Sewer System, and therefore subject to the following surcharges for wastestreams containing excessive Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS). Said surcharge shall be based on the following formula:

$$S = V_{ww} \times 8.34 [Y (TSS - 300) + Z (BOD - 289)]$$

Where:

- S = Surcharge in Dollars (monthly)
- V<sub>ww</sub> = Volume wastewater in million gallons (monthly)
- 8.34 = Pounds per gallons of water
- Y = Unit charge for Total Suspended Solids in dollars per pound
- T.S.S. = Total Suspended Solids index in milligrams per liter by weight (300 mg/L or more)
- 300 = Maximum TSS in milligrams per liters by weight
- Z = Unit charge for BOD in dollars per pound
- BOD = Five day BOD index in milligrams per liter by weight (289 mg/L or more)
- Y & Z = Derived from annual plant expenses

Current charge for Y = \$0.458

Current charge for Z = \$0.384

The current unit charges for TSS and BOD shall remain effective for sewer service billed in calendar year 2005. The Springdale Sewer Commission shall review annually on a fiscal year basis the actual cost of treating excessive wastestreams and shall increase or decrease the unit charges for TSS (Y) and BOD (Z) based upon the finding of such review. The increase or decrease shall become effective January 1 of each calendar year. In the event surcharges are established for industrial users with excessive concentrations of phosphorus, or any other element, compound, substance or any other basis, Tontitown hereby agrees to pay the stipulated surcharge as enacted by ordinance of the City of Springdale, Arkansas.

C.) As a provision of its NPDES Permit, Springdale is required to administer an Industrial Pretreatment Program. If any Categorical Industrial Users or Significant Industrial Users are connected to Tontitown's sanitary sewer system, said users will be subject to and regulated by Springdale through its Industrial Pretreatment Program administered by the Springdale Water and Sewer Commission. Tontitown agrees to pay Springdale a reasonable fee to cover Springdale's costs for sampling, inspection, and administration of permits issued to each categorical or significant user. These fees shall be paid within thirty (30) days of invoice by Springdale. The fees paid to Springdale related to the Industrial Pretreatment Program will be evaluated annually by the Springdale Sewer Commission and will be subject to change based upon the determination of costs to meet this regulatory requirement. Categorical Industrial Users are defined in EPA regulations. Springdale retains the sole right to determine which users in Tontitown will be classified as Categorical Industrial Users or as Significant Industrial Users. Permits issued to said users shall be administered in the same manner as those issued to users in Springdale.

D.) Tontitown agrees to pay Springdale a one-time connection fee for incurred legal, engineering, and administrative expenditures to establish temporary service as set forth in this agreement. This amount shall not exceed \$5,000.00 and will be paid by Tontitown when the actual costs have been determined. Payment shall be made within thirty (30) days of the billing issued by Springdale for its expenditures.

7. BILLING AND PAYMENT: Springdale agrees to furnish Tontitown with an itemized statement of the volume of wastewater that was received during the preceding month. Tontitown agrees to pay Springdale for wastewater services provided according to the schedule of rates set forth herein and monthly payments shall be made in a timely manner pursuant to the ordinances of the City of Springdale presently in effect and hereafter adopted. In the event Tontitown fails to make timely payment as provided herein, then Springdale, at its discretion, shall give notice to Tontitown that water service being provided to Tontitown shall be terminated within five (5) days unless payment is made.

8. WASTEWATER STANDARDS: Tontitown agrees not to discharge wastewater containing any of the following substances at the Point of Delivery:

- A. General Prohibitions: Any pollutant which will pass through Springdale's Publicly Owned Treatment Works (POTW), inadequately treated, into receiving waters or otherwise be incompatible with the POTW.
- B. Specific Prohibitions: Tontitown agrees to regulate users within its collection system so that no person shall introduce into Springdale's POTW the following pollutants, substances, or wastewater:
  - Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140° F (60° C) using the methods specified in 40 C.F.R. 261.21;
  - Wastestreams having a pH less than 5.0 or more than 11.0, or otherwise causing corrosive structural damage to the POTW or equipment;
  - Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference;
  - Pollutants, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentrations which, either singly or by interaction with other pollutants, will cause interferences with the POTW;
  - Wastewater having a temperature greater than 150° F (65° C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the wastewater plant to exceed 104° F (40° C);
  - Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
  - Pollutants which result in the presence of toxic gases, vapor, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;



- Trucked or hauled pollutants;
  - Any liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to like, or to prevent entry into the sewers for maintenance or repair;
  - Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the POTW's NPDES permit;
  - Wastewater containing any radioactive wastes or isotopes except in compliance with applicable Federal or State regulations and approved by Springdale;
  - Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, noncontact cooling water, or unpolluted water;
  - Water from any source other than that supplied by Springdale to the Tontitown Water System;
  - Sludges, screening, or other residues from the pretreatment of industrial wastes;
  - Medical wastes which are deemed to have the potential to cause acute worker or safety problems;
  - Wastewater causing, alone or in conjunction with other sources, the POTW to violate its NPDES permit or the treatment plant's effluent to fail a toxicity test;
  - Any substance which may cause the POTW's effluent or other product of POTW such as residues, biosolids (sludges) or scums to be unsuitable for normal landfill/land application, reclamation or reuse, or to interfere with the reclamation process;
  - Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
  - Phosphorus levels that will cause the POTW to exceed NPDES permit limits or in sufficient concentrations to exceed the design capacity of the wastewater treatment facility to remove phosphorus biologically;
  - Any material into a manhole through its top unless specifically authorized by Springdale;
  - Water or wastewater into which anhydrous ammonia has been leaked or "bled off," or any other discharge from an anhydrous ammonia coolant source;
  - Any other substance, material, water, or waste, if it appears likely in the opinion of the Executive Director of Springdale Water Utilities that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance;
  - Septic wastewater containing elevated levels of hydrogen sulfide or other substances which could cause corrosion or odors at the Point of Delivery.
- C. Pollutants, substances, or wastewater processed or stored in such a manner they could be discharged to the POTW:

- Toxic or hazardous industrial materials being processed or stored without secondary containment, which could potentially leak into floor drains and other points of entry into the sanitary sewer system.
- Wastewater originating from a Septic Tank Effluent Pumping (STEP) system or from a pressure sewer system.

9. SPECIAL COVENANTS: Tontitown hereby agrees to adopt a sewer use code identical to that established by Springdale in Ordinance No. 2842, a copy of said code is attached hereto and incorporated herein by this reference. Every regulation established in the Sewer Use Code in its current format, or as subsequently amended, shall be effective when Tontitown delivers wastewater to the Point of Delivery. Any entity found to be violating any provision of the Tontitown Sewer Use Code shall be subject to same administrative and judicial enforcement remedies as entities located in Springdale.

Tontitown shall, on a monthly basis, provide a list of all commercial and industrial users that are connected to its sanitary sewer system in the preceding month. In addition, Tontitown shall notify Springdale's Water Utilities' Industrial Pretreatment Manager and obtain approval in advance of any Categorical Industrial User or Significant Industrial User connecting to its sanitary sewer system. If Tontitown is unsure whether an Industrial or Commercial User is to be considered as a Categorical or Significant User, it is Tontitown's responsibility to contact the Springdale's Industrial Pretreatment Manager for a determination.

Tontitown agrees to install, maintain, and operate chemical feeders at its lift station that will prevent the formation of hydrogen sulfide, corrosive gases, and noxious odors in the sewage force main between the Tontitown Lift Station and the Point of Delivery.

10. TERM: Springdale, for a period of seven (7) years from and after the execution of this agreement, shall agree to accept and treat wastewater generated in Tontitown. At the conclusion of the seven year term, this agreement shall be terminated and Tontitown shall have made suitable arrangements for other means of acceptable sewage treatment. **It is hereby agreed by the parties that this is a temporary arrangement for the treatment of wastewater generated in Tontitown and this agreement will not be renewed or extended for any additional periods of time.**

Tontitown shall, no less than once every six months, provide Springdale with a written outline of measures being taken to insure that suitable arrangements for other means of acceptable sewage treatment will be made before the term or this agreement has expired. Included shall be a detailed timeline of what specific actions are and will be taken, concluding on or before the expiration of this agreement. Failure to make reasonable progress toward these arrangements may result in notifications by Springdale to Tontitown and the Arkansas Department of Health of Springdale's intent to discontinue sewage service regardless of the availability of other service. This notification, if made, shall be no less than one year before the expiration of this agreement, allowing affected sewer users in Tontitown to make other arrangements.

11. TERRITORY: Tontitown agrees to limit sanitary sewer service to users located within its current water service boundary as identified in the water contract with Springdale dated June 22, 2004. Tontitown agrees to prohibit the discharge of any trucked or hauled waste streams into its Sanitary Sewer Facilities. Trucked or hauled waste streams shall include, but shall not be limited to, water and waste materials pumped from septic tanks and leachate collection systems.

The parties hereby agree that Springdale is allowed to provide temporary sewer service in an area described in Exhibit "B" attached hereto and incorporated by this reference, and hereinafter referred to as the Temporary Service Area. Sewer service provided by Springdale in the designated Temporary Service Area is subject to the following conditions:

- a.) All water and sewer service connections provided by Springdale in said Temporary Service Area must be approved in advance by Tontitown.
- b.) Water and sewer facilities constructed in said Temporary Service Area must be constructed in conformance with Tontitown's current specification requirements for the construction of water and sewer facilities.
- c.) Springdale must provide written notice to each water and sewer customer of the following:
  - 1.) The customer is located in the water and sewer service territory of Tontitown; and
  - 2.) Water and sewer service by Springdale is temporary; and,
  - 3.) In the near future, water and sewer service will be provided by Tontitown.
- d.) Water and sewer customers of Springdale located in the designated Temporary Service Area shall be transferred immediately to Tontitown when Tontitown has extended its Facilities to said area. Tontitown shall give to Springdale thirty (30) days advance notice before the water and sewer facilities are completed.
- e.) Water and sewer customers served by Springdale shall be charged the prevailing outside city rates as established by city ordinances.

12. CONNECTIONS: All new connections to the Tontitown Sewer System shall be made in accordance with rules and regulations of the Arkansas State Board of Health and the Arkansas Department of Environmental Quality. Each residential or commercial structure being provided a new sewer connection shall be inspected by a licensed plumbing inspector to certify that the service line and plumbing were installed in accordance with local and state codes in effect at the time such plumbing is installed. Septic tanks shall be abandoned in accordance with state regulations. Commercial and institutional facilities providing food preparation shall, prior to connection to the sewer, install grease traps that are appropriately sized and adequately maintained.

13. COMPLIANCE WITH RULES: Tontitown and all sewer customers in the corporate limits of Tontitown shall comply with, at all times, the health ordinances, Sewer Use Code of Tontitown, the Arkansas State Board of Health, and the Arkansas Department of Environmental Quality governing sewer connections, operations, and usage which may now exist or may hereinafter be promulgated. Failure or refusal of any customer to comply with such ordinances, rules, or regulations will subject the customer to immediate discontinuance of water and sewer service.

14. ORDINANCES AND REGULATIONS TO FACILITATE PERFORMANCE OF CONTRACT: Tontitown will enact and adopt any ordinances, codes, resolutions, rules, or regulations which may be deemed necessary to carry out the terms of this contract. This includes a sewer use code or ordinance acceptable to Springdale, the U.S. Environmental Protection Agency, and the Arkansas Department of Environmental Quality, and to control the quality and quantity of sewage that may be discharged to the Facilities owned, operated, and maintained by Tontitown.

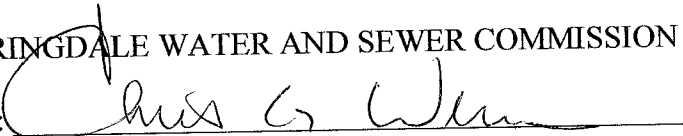
15. NOTICES: The written notices provided for herein shall be sufficient if sent by certified mail, return receipt requested, postage prepaid, to the respective parties hereto.

16. FURTHER INSTRUMENTS: Springdale and Tontitown will, whenever and as often as it shall be requested to do so by the other, cause to be executed, acknowledged, or delivered any and all such further instruments and documents as may be necessary or proper in order to carry out the intent and purpose of this agreement.

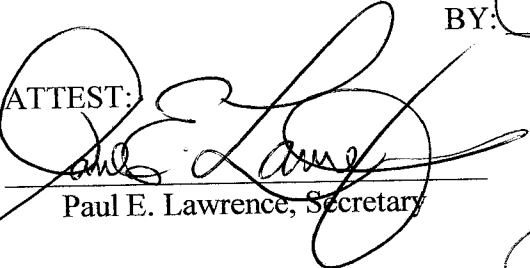
IN WITNESS WHEREOF, Springdale and Tontitown have executed these presents by their respective authorized representatives, having been authorized to do so by appropriate resolutions of their respective governing bodies.

SPRINGDALE WATER AND SEWER COMMISSION

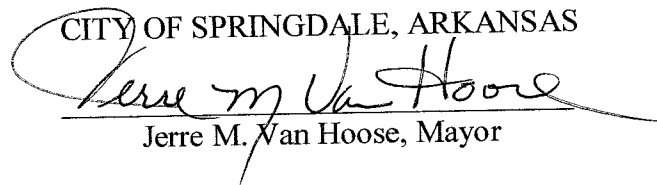
BY:

  
Chris G. Weiser, Chairman

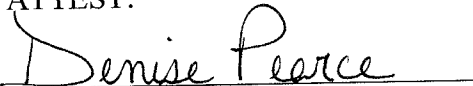
ATTEST:

  
Paul E. Lawrence, Secretary

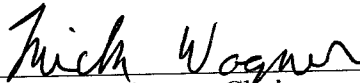
CITY OF SPRINGDALE, ARKANSAS

  
Jerre M. Van Hoose, Mayor

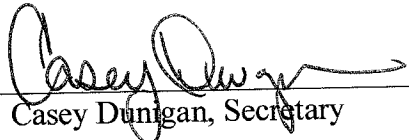
ATTEST:

  
Denise Pearce, City Clerk

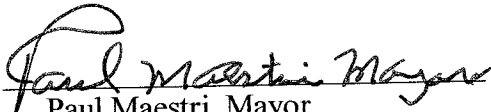
TONTITOWN WATER AND SEWER COMMISSION

  
Mick Wagner, Chairman

Attest:

  
Casey Dungan, Secretary

CITY OF TONTITOWN, ARKANSAS

BY:   
Paul Maestri, Mayor

ATTEST:

  
Toni Zulpo, City Recorder/Treasurer

EXHIBIT "B"  
INTER-MUNICIPAL SEWER AGREEMENT

LEGAL DESCRIPTION OF THE TEMPORARY SERVICE AREA:

A part of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of Section Six (6), Township Seventeen (17) North, Range Thirty (30) West, being more particularly described as follows to-wit: Beginning at a point which is the Northeast corner of said forty acre tract and running thence South  $0^{\circ} 27' 05''$  West along the East line of said forty acre tract – 1357.38 feet to the Southeast corner of said forty acre tract, thence North  $88^{\circ} 02' 02''$  West along the South line of said forty acre tract – 799.96 feet to the centerline of Arkansas Highway 112, thence along said centerline the following three (3) courses and distances, (1) North  $33^{\circ} 52' 44''$  West 734.47 feet, (2) thence along a curve to the right with a radius of 622.92 feet, a central angle of  $34^{\circ} 23' 41''$  and an arc length of 373.94 feet, (3) thence North  $0^{\circ} 30' 57''$  East – 407.89 feet to the Northwest corner of said forty acre tract, thence South  $88^{\circ} 14' 26''$  East along the North line of said forty acre tract – 1322.29 feet to the Point of Beginning, containing 36.54 acres, more or less.