

## AGREEMENT

**THIS AGREEMENT** made and entered into this 5<sup>th</sup> day of March, 2019, by and between the City of Carterville, Missouri, a Municipal Corporation, hereinafter designated as "Carterville", and Heritage Acres Property Owners Association, a Missouri Not-for-Profit Corporation, hereinafter designated as "Heritage Acres".

**WHEREAS**, Heritage Acres is located next to Carterville, and has constructed a sewer collection system to serve the real property as described on Exhibit "A" attached hereto; and

**WHEREAS**, Carterville has constructed a wastewater collection and treatment system and desires to treat the wastewater generated by Heritage Acres.

**NOW, THEREFORE**, In consideration of the mutual representations, warranties, and covenants contained herein, and upon and subject to the terms and the conditions hereinafter set forth, the parties do hereby agree as follows:

1. **Connection to Carterville Public Sewer Mains**. Heritage Acres shall, at its own expense, cause its sewage collection system to be connected into the Carterville Public Sewer System at such place or places as have been designated by the Carterville Public Works Department. Such location shall result in the shortest possible distance between Heritage Acres and Carterville, and, if designated by the Carterville Public Works Department, a manhole shall be constructed at the place of connection at the expense of Heritage Acres. Heritage Acres shall in all respects comply with Carterville City Sewer Code in making this connection and during the term of this Agreement.

**2. Heritage Acres Collection System.** Heritage Acres shall provide its own sewage collection system to be constructed by Heritage Acres in accordance with the following requirements.

**a.** The plans and specifications of Heritage Acres' sewage collection system shall be designed by a registered engineer and approved by all appropriate agencies of Carterville, the State of Missouri, and the United States.

**b.** Carterville is to be given a complete set of original design drawings of the system and a reproducible set of drawings of the collection system as constructed.

**c.** During the construction, there shall be inspection and supervision by an engineering firm or a registered engineer and said engineering firm or registered engineer shall upon completion of construction give approval and recommendation of acceptance of the construction by Heritage Acres with a copy thereof to be given to Carterville.

**d.** The sewage collection system shall comply in all respects with Carterville City Code.

**3. Connections to Heritage Acres Sewage Collection System.** Connections by users of the Heritage Acres' sewage collection system shall be subject to the following conditions:

**a.** All connections by users of the sewage collection system shall be accomplished in accordance with the Carterville Plumbing Code in force and existence at the time the connection is actually made.

b. Before any new connection may be accomplished, there must first be secured from Carterville a permit for such connection, and said connection shall be inspected by Carterville, and no permit shall be issued until Carterville has been paid a connection fee in the amount that is then in effect for Carterville, plus an inspection fee in the amount that is then in effect for Carterville. Such permits may be obtained from Carterville. Carterville shall collect the connection fee and inspection fee. In the event that a connection has been made without obtaining a permit, a customer account shall be established, and Carterville may recoup funds by charging fees to the user's account in addition to a minimum monthly bill charge for each month since the connection was made. Heritage Acres Registered Agent will be notified immediately upon creation of such accounts and failure to bring such account into good standing within ninety (90) days will result in a demand for payment by Heritage Acres to Carterville.

c. Any connection by a resident of Heritage Acres to the Heritage Acres sewage collection system must not in any way be connected to any septic tank, unless approved, designed, and recommended by Heritage Acres' Engineer and agreed to by Carterville.

d. Any resident of Heritage Acres connecting to the Heritage Acres' sewage collection system must comply with the Heritage Acres Sewage Use Rules and Regulations as hereinafter defined.

e. All connections shall be for single or two-family dwellings. No multi-family, commercial, or industrial connections shall be allowed without express written consent of Carterville.

**4. Maintenance of Heritage Acres Sewage Collection System.** Maintenance, repairs and cleaning of Heritage Acres sewage collection system will be performed by Heritage Acres or, at the request of Heritage Acres, by Carterville. Regardless as to which party performs maintenance on the collection system, documentation shall be kept and remitted to the Department of Natural Resources by Carterville. In the event that work is

performed by Carterville, it shall be upon the following conditions:

**a.** Heritage Acres shall pay Carterville a charge equal to the hourly wage rates multiplied by the hours of work for personnel performing the maintenance, repairs and cleaning, plus 34 percent for supervision and employee fringe benefits. The hourly wage rates are defined as the rates adopted by ordinance by the Carterville City Council for public works employees of Carterville. In addition, the hourly rate for vehicles and equipment used shall be charged to Heritage Acres, said amount to be separately negotiated upon an annual basis, and such rates shall not exceed those charged for similar equipment in Carterville, and further, the actual cost of materials furnished, and services performed by subcontractors of Carterville shall not exceed the amount charged to Carterville for such materials or subcontractors services.

**b.** Heritage Acres shall designate a primary and a secondary representative to coordinate repairs and maintenance and to serve as the primary contact for billing and contractual negotiations.

**5. Operation of Heritage Acres Sewage Collection System.** Prior to and during such time as any connection is made to the Heritage Acres collection system, Heritage Acres shall have and enforce Sewage Collection System Rules and Regulations to be approved by Carterville and the appropriate agency of the State of Missouri, including the Missouri Clean Water Commission and the appropriate agency of the United States of America, including the United States Environmental Protection Agency.

**6. Parties to be served.** Only properties located within Heritage Acres may connect to, or utilize, the Heritage Acres system, without the express written permission of Carterville and Heritage Acres being first obtained.

**7. Charges for Services.** The parties agree that Carterville shall charge, bill, and collect monthly sewage treatment charges for Heritage Acres users, which

shall be calculated using each individual customer's three-month average water usage with data collected from Public Water District #3 for the months of February, March, and April each year. New rates will be reflected on May's billing, immediately following the average months. Those residents of Heritage Acres who have no water data available due to well water usage or insufficient data provided to Carterville by Public Water District #3 will be billed based on an overall average of Heritage Acres users. This average may be recalculated no more frequently than annually at the request of either party and all Heritage Acre users' averages will be recalculated coinciding with the date on which Carterville recalculates for residents within Carterville.

Charges for Heritage Acres customers will be based on this usage and calculated as follows:

- a.** A base charge for the first 100 cubic feet of sewer at the same rate as that charged for residents of Carterville. (currently \$1.28)
- b.** Charges for additional usage per cubic foot beyond the first 100 cubic feet charged at the same rate charged for residents of Carterville. (currently .0325 per cubic foot)
- c.** An additional charge of \$2.75 to compensate Carterville for its expenses in billing, collection of fees and expenses.
- d.** Charges imposed on Carterville by 3<sup>rd</sup> party sources such as Center Creek WWTP charges, state primacy fees, and sewer bond costs to be charged at the same rate as residents of Carterville. (currently \$16.31)
- e.** Any such charge as levied by Heritage Acres, as described in paragraph 10 below, to be remitted back to the Heritage Acres on a monthly basis.
- f.** The cost of maintenance, repairs and cleaning of the Heritage Acres sewage collection system as described in paragraph 10 of this Agreement, if performed by Carterville, shall be paid to Carterville by Heritage Acres.

In the event that Carterville's cost study shows an increased cost for treatment of sewage, which Carterville wishes to impose proportionately upon all users of the Carterville system, Carterville shall notify Heritage Acres Registered Agent by mailing a copy of said cost study to Heritage Acres Registered Agent, and by including a copy of the cost study in a billing to each Heritage Acres user. The rate change beginning the following month shall be the cost determined by said cost study plus the additional charge hereinabove described. Notwithstanding the provision herein, at no time during the Agreement shall the charges to residents of Heritage Acres be less than the charges to residents of Carterville, nor shall Carterville's charges to Heritage Acres be more than other Carterville out-of-town users of similar classifications.

The amount of the additional charge to compensate Carterville for its expense in billing and collection of fees may also be adjusted on each annual adjustment period. In the event that Carterville's actual expense in billing and collection of fees and expenses incurred under this agreement for the immediately preceding year is greater or less than the charge then in effect for the same, the charge shall be increased or decreased in direct proportion to the said actual cost. In the event of a proposed change in such charges, Carterville shall mail a copy of any proposed change in said fee, together with a copy of said actual expenses to the Heritage Acres Registered Agent and shall also mail a copy of said proposed new fee and a copy of the actual expenses incurred for the immediately preceding year to each Heritage Acres user.

**8. Payment Schedule.** Carterville shall collect all monthly charges from Heritage Acres users which shall be due within thirty (30) days of billing provided that if any user shall fail to pay Carterville, Heritage Acres users shall pay Carterville such charges, including the Ten Dollar (\$10.00) delinquent charges per month.

Carterville shall notify Heritage Acres' Registered Agent of all delinquent users on a monthly print-out to be included with the payment for fees for Heritage

Acres. Delinquent accounts will be paid, in full, by Heritage Acres biannually on March 31<sup>st</sup> and September 30<sup>th</sup> of each year for those accounts which are ninety (90) days or more past due.

Heritage Acres acknowledges that Carterville shall use all permissible means of collecting charges, but such collection methods shall be made solely by Carterville.

Carterville will pursue collection efforts in the same manner in which it pursues collection with its own residents. If, however, Carterville is unable to collect, it will assign all rights of collection to Heritage Acres upon any request to do so.

The obligation of Heritage Acres to pay Carterville shall not be contingent upon Heritage Acres collecting the same from its property owners, and, in fact, failure to collect shall in no way relieve Heritage Acres of its obligations hereunder.

9. **Monthly Charge by Heritage Acres to Users of the Heritage Acres System for Replacement.** Carterville will collect on behalf of Heritage Acres, such monthly charge as Heritage Acres imposes upon its system users, which shall represent an equitable share of the costs incurred by Heritage Acres in the operation, replacement and maintenance of its collection system, which shall be \$12.00, per month, per user, and may be adjusted annually as determined by Heritage Acres. Such charge shall cease at such time as any user of the Heritage Acres system comes within the City Limits of Carterville. In the event Heritage Acres is annexed by Carterville, such fund shall be transferred to Carterville.

Carterville shall remit said fees actually collected and report delinquencies of those not collected to Heritage Acres, at least as often as quarter annually, and be segregated by Heritage Acres accordingly. If a user makes a partial payment, such payment shall first be applied to such sums owed Carterville.

10. **Sewer Lines Within the City Limits of Carterville and Lines Between or Beyond Carterville and Heritage Acres.** It is understood by the parties that Heritage Acres has constructed the sewer line between the limits of

Heritage Acres, and the Carterville sewage collection system at the point designated by the Carterville Public Works Department for connection to the Carterville sewage collection system at no cost to Carterville, except as provided herein. With regard to said line, the parties agree as follows:

**a.** The portion of said sewer line within the current city limits of Carterville, shall belong to Carterville, and Carterville shall be responsible for all maintenance at its cost and shall authorize such connections as it desires at a cost, if any, as Carterville determines. Carterville shall receive, and Carterville shall collect all user fees.

**b.** Any property through which the above described sewer line passes that shall subsequently be annexed into or consolidated with Carterville, then Carterville shall become the owner of the sewer line in the annexed or consolidated property by reason of said annexation or consolidation but Carterville shall pay to Heritage Acres the depreciated value of that portion of the line, based upon an even Twenty (20) year depreciation schedule, and Carterville shall be responsible for maintenance thereof, the same as described in subparagraph "a" above.

**c.** In the event that any portion of Heritage Acres desires to annex into a corporate city limits, it shall be with Carterville who has the connection of sewer with Heritage Acres.

**d.** That portion of the above described sewer line, if any, which is located in neither Heritage Acres, nor Carterville, shall be owned and maintained by Heritage Acres, and Heritage Acres shall control the use of and fees generated by said line.

**e.** Heritage Acres shall authorize and allow Carterville to use the easement Heritage Acres obtains for said sewer line for Carterville to inspect, repair or disconnect any users of said line.

**f.** In the event any user not within the current limits of Carterville, or Heritage Acres shall desire to utilize the sewer line between Heritage Acres, and Carterville's point of collection, as a point of discharge, such users shall pay those fees in effect for other Carterville residents



11. **Termination.** Carterville may terminate this Agreement upon the failure of Heritage Acres to comply with the terms of this Agreement or any amendment thereto upon written notice of default, and failure to cure such default within thirty (30) days, or upon non-payment after ninety (90) days' notice by Carterville to Heritage Acres


12. **Effective Date.** This Agreement shall be in full force and effect after passage of an appropriate Ordinance by Carterville and corporate action by Heritage Acres.

CITY OF CARTERVILLE

A municipal Corporation

By:  , Mayor


Attest:

  
City Clerk

Heritage Acres Property Owners Associates, Inc.

By:  , President

Attest:

  
Secretary

## Appendix A:

### Billing Charges

Customer charges	Current rate
Base charge for 1 <sup>st</sup> 100 cubic feet	\$1.28
Primacy fee (State of Missouri)	\$0.06
Center-creek WWTP charge	\$11.25
Sewer bond payment	\$3.00
System contingency account	\$2.00
Collection fee/Administrative cost	\$2.75
Heritage Acres Association Fee	\$12.00
Charges for usage beyond 100cu'	\$0.0325 per cu'

#### Example #1 (customer with an average of 800 cubic feet per month)

Customer charges	Current rate	
Base charge for 1 <sup>st</sup> 100 cubic feet	\$1.28	\$1.28
Primacy fee (State of Missouri)	\$0.06	\$0.06
Center-creek WWTP charge	\$11.25	\$11.25
Sewer bond payment	\$3.00	\$3.00
System contingency account	\$2.00	\$2.00
Collection fee/Administrative cost	\$2.75	\$2.75
Heritage Acres Association Fee	\$12.00	\$12.00
Charges for usage beyond 100cu'	\$0.0325 per cu' X 700	\$22.75

**\$55.09**

#### Example #2 (customer with an average of 400 cubic feet per month)

Customer charges	Current rate	
Base charge for 1 <sup>st</sup> 100 cubic feet	\$1.28	\$1.28
Primacy fee (State of Missouri)	\$0.06	\$0.06
Center-creek WWTP charge	\$11.25	\$11.25
Sewer bond payment	\$3.00	\$3.00
System contingency account	\$2.00	\$2.00
Collection fee/Administrative cost	\$2.75	\$2.75
Heritage Acres Association Fee	\$12.00	\$12.00
Charges for usage beyond 100cu'	N/A	\$0

**\$32.34**

**Example #3 (customer with no data provided by PWDS#3)**

Customer charges	Current rate	
Base charge for 1 <sup>st</sup> 100 cubic feet	\$1.28	\$1.28
Primacy fee (State of Missouri)	\$0.06	\$0.06
Center-creek WWTP charge	\$11.25	\$11.25
Sewer bond payment	\$3.00	\$3.00
System contingency account	\$2.00	\$2.00
Collection fee/Administrative cost	\$2.75	\$2.75
Heritage Acres Association Fee	\$12.00	\$12.00
Charges for usage beyond 100cu'	\$0.0325 per cu' X 546*	\$17.75

\*The Feb-Apr 2018 average for residents based on water usage (provided by Rural Water) is 645 Cubic feet per month.

**\$50.09**