



MEMORANDUM

TO: Mayor Laurel L. Prussing and Members of the City Council
FROM: William R. Gray, Public Works Director
Bradley M. Bennett, Assistant City Engineer
DATE: February 6, 2014
RE: Stormwater Utility Fee
Intergovernmental Agreement with the University of Illinois for Stormwater Utility Services

Action Requested

Approval of a resolution authorizing the Mayor and City Clerk to sign the Intergovernmental Agreement with the University of Illinois regarding stormwater utility services.

Background and Facts

On May 7, 2012, the Council approved, by ordinance, the establishment of a stormwater utility fee (SWUF) and stormwater utility enterprise fund. The SWUF is applicable to all properties within the City's corporate limits, with the exception of public right-of-way.

From the start of the City's stormwater utility fee feasibility evaluation, the University has indicated it would pay its fair share. However, the University is a state entity and claims it is not subject to municipal ordinances so a separate intergovernmental agreement is required for the stormwater utility services it utilizes. The City Attorney has determined that Illinois law is not clear on the issue of whether or not a municipality can charge a use fee to a state entity which uses certain services or facilities of the municipality.

The Public Works Department and Legal Division recommend executing an intergovernmental agreement with the University for stormwater utility services. This approach is consistent with other municipal fees the University pays. The University has service agreements with Champaign, Urbana, and the Urbana and Champaign Sanitary District for sanitary sewer maintenance and wastewater treatment services. City and University staffs have completed a series of meetings to work out the details and finalize the stormwater utility services agreement between the City and the University of Illinois.

Some of the agreement's major components included are as follows:

- The University will pay a fee for parcels that utilize City stormwater systems.

- The University will not pay a fee for parcels that do not drain into City stormwater systems, also known as a 100 percent Direct Discharge Credit.
- The University will be eligible for five percent credit for their stormwater best management practices when completed as required by its National Pollution Discharge Elimination System (NPDES) stormwater permit.
- The University is eligible for credits or incentives for parcels that implement stormwater practices consistent with the City's Credit and Incentive Manual.
- Annual reports are required that outline the University's stormwater management efforts and changes in impervious areas.
- The University and City agree to meet every two years beginning in 2015 to discuss the SWUF rate, Credit and Incentive Manual, and provisions of the agreement.

In August 2013, the City of Champaign approved an intergovernmental agreement with the University for stormwater utility services with identical terms to the proposed agreement between Urbana and the University.

Financial Impact

The SWUF for the University of Illinois was determined to be \$168,023.23 per year based on its impervious surface area. The NPDES credit results in an annual reduction of \$6,435.72 to the University's SWUF. The direct discharge credit results in an annual reduction of \$60, 517.56 to the University's SWUF. The combined reduction in SWUF's for the two credits would be \$66,953.28 per year with the adjusted University annual SWUF becoming \$101,069.60.

Projected SWUF revenue for the 2013-2014 fiscal year was \$1.1 million dollars. The stormwater utility fund budget included \$72,500 in expenses for credits and incentives, which based on a low participation rate to date, should have lower expenses than budgeted to offset the reduction in revenues from the University. Additionally, the storm sewer cleaning and televising for the 2013-2014 fiscal year are projected to be below their budgeted amounts to offset the reduction in revenues. Future stormwater utility annual budgets will be adjusted to reflect the reduction in revenues from the intergovernmental agreement with the University for stormwater utility services.

Recommendation

It is recommended that the resolution authorizing the Mayor and City Clerk to sign An Intergovernmental Agreement for Stormwater Utility Services between the City of Urbana and the University of Illinois be approved.

Attachments: Authorization Resolution for Intergovernmental Agreement
Intergovernmental Agreement

RESOLUTION NO. 2014-02-006R

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE
BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS FOR STORMWATER
UTILITY SERVICES**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Urbana,
Champaign County, Illinois, as follows:

Section 1.

A Stormwater Utility Services Agreement between the City of Urbana, Illinois,
and the Board of Trustees of the University of Illinois, in substantially the
form of the copy of said Agreement attached hereto and hereby incorporated by
reference, be and the same is hereby authorized and approved.

Section 2.

The Mayor of the City of Urbana, Illinois, be and the same is hereby
authorized to execute and deliver and the City Clerk of the City of Urbana,
Illinois, be and the same is hereby authorized to attest to said execution of
said Agreement as so authorized and approved for and on behalf of the City of
Urbana, Illinois.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Laurel Lunt Prussing, Mayor

STORMWATER UTILITY SERVICES AGREEMENT

THIS Stormwater Utility Services Agreement, (“Agreement”) is made and entered into this **DATE** by and between THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS, a body corporate and politic under the laws of the state of Illinois (“University”), and the CITY OF URBANA, ILLINOIS, (“City”), a Municipal Corporation having its principal office in Champaign County, Illinois.

WITNESSETH:

WHEREAS, the University owns Parcels from which stormwater runoff flows into Stormwater Facilities or Conveyances that are owned and operated by the City; and

WHEREAS, the University independently manages stormwater runoff for some University Parcels; and

WHEREAS, the University owns parcels that discharge stormwater runoff initially into University owned Stormwater Facilities or Conveyances that eventually rejoin and discharge the stormwater runoff into City-owned Stormwater Facilities or Conveyances at a point downstream of the initial Parcel Discharge Point; and

WHEREAS, the operation and maintenance of these Stormwater Facilities or Conveyance systems are mutually beneficial on a community-wide basis to the City and the University; and

WHEREAS, the City has passed an ordinance by which it will charge a stormwater fee to owners of real property within the City corporate limits; and

WHEREAS, the City has determined that the average single family property or equivalent residential unit in the City has three thousand one hundred (3,100) square feet of impervious area; and

WHEREAS, the University acknowledges that it is fair to compensate the City for the use of its Stormwater Facilities or Conveyance systems; and

WHEREAS the University and City continue to collaborate to address common stormwater infrastructure needs; and

WHEREAS, Section 10 of Article VII of the 1970 Illinois Constitution and “The Intergovernmental Cooperation Act” (5 ILCS 220/1 et seq.) provides for intergovernmental cooperation.

NOW, THEREFORE, it is agreed by and between the parties hereto:

1. The following terms as used in this agreement shall have the meaning set forth below:
 - a. **Assessed Parcels** - any University-owned parcel from which stormwater flows into stormwater facilities or conveyance systems owned and maintained by the City.
 - b. **Credit and Incentive Manual** - the official document adopted, and as amended from time-to-time, by the City that outlines how credits and incentives are applied to the City’s stormwater utility program. The said manual was initially adopted on October 1, 2012.

- c. **Impervious Area** - areas that prevent or impede the infiltration of stormwater into the soil. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, and awnings.
- d. **Parcel** - means any designated lot, tract, or area of land, as established by a plat or other legal means or description, intended to be used, developed or built upon as a unit.
- e. **Parcel Discharge Point** - the point or points at which stormwater runoff flows off of a Parcel.
- f. **Stormwater Facilities or Conveyances** - any drainage system that collects, transports, holds, treats or manages stormwater. Examples of such facilities or conveyances include, but are not limited to, pipes, culverts, manholes, inlets, catch basins, detention/retention ponds, creeks, streams, channels, ditches, swales, pump stations or any other stormwater management system.
- g. **Stormwater Management Practice** - on-site stormwater controls that reduce stormwater runoff rate or volume or which improves stormwater quality before leaving the site.
- h. **Stormwater Utility Services** - City-provided Stormwater Facilities or Conveyances that are used by the University for the purpose of collecting and transporting stormwater runoff away from University property.
2. For Assessed Parcels, the University will pay an annual charge for Stormwater Utility Services, on a per Parcel basis, based on an equivalent residential unit which is currently at the rate of \$4.94 per month per three thousand one hundred (3,100) square feet of impervious area.
 3. The University shall make no payment for any University-owned Parcel that discharges runoff solely into Stormwater Facilities or Conveyances owned and/or operated by the University, where the runoff does not thereafter enter City-owned Stormwater Facilities or Conveyances.
 4. The University shall hire an engineering firm to research, prepare and deliver a report ("Study") to identify which University-owned Parcels discharge to City-owned Stormwater Facilities and Conveyance systems, either initially or at a point downstream of the Parcel Discharge Point. The University shall bear the expense of the Study and shall share the research and its results with the City. The Study shall aid in establishing the initial baseline level of stormwater services utilized by the University.
 5. The University shall submit a report each year ("Stormwater Report") to the City. Each Stormwater Report shall include a list of Assessed Parcels, which specifies the Impervious Area for each Assessed Parcel, as measured in square feet.
 6. The first Stormwater Report submitted by the University shall utilize the Study findings to determine the Assessed Parcels. The University shall adjust the Listings of Assessed Parcels in future Stormwater Reports to reflect changes during the year due to relevant factors, including but not limited to, University sale and purchase of real estate, and changes in impervious surface area due to University construction and development.

7. Credits or incentives are available to the University by which it can reduce its annual payment obligation to the City by following certain Stormwater Management Practices. These credits and incentives are as follows:
 - a. For maintenance of its permit compliance under the federal Clean Water Act, MS4 National Pollutant Discharge Elimination Systems (NPDES), the University shall receive an annual five percent (5%) credit for each parcel that discharges runoff to City-owned Stormwater Facilities or Conveyance systems; and
 - b. Each Assessed Parcel shall be eligible for credit and other incentives comparable to those outlined in the Credit and Incentive Manual, as amended from time-to-time.
8. The Stormwater Reports shall specify on a parcel-by-parcel basis any credits or incentives that apply. Changes to credits or incentives and impervious area square footage based on new construction or improvements shall be include in a Stormwater Report only after all such work is complete.
9. Each annual Stormwater Report shall be due on the first Friday of each October.
10. The City shall review each annual Stormwater Report within 30 days of receipt and shall either approve the Report in writing, or provide the University with a list of exceptions to items in the Report.
11. If the City provides a list of exceptions to the annual Stormwater Report, the City and University shall meet to discuss any and all exceptions and shall jointly prepare a revised Stormwater Report that shall be approved in writing by both parties.
12. Upon such approval of the annual Stormwater Report, the City shall bill the University for its annual Stormwater Utility Services as described herein. Payment from the University shall be due within sixty (60) days of receipt of the City's bill.
13. The University and City have historically collaborated to address critical stormwater infrastructure needs, such as local flooding, and will continue to do so. The parties agree to communicate periodically regarding joint stormwater infrastructure projects, and that each party shall bear a portion of the costs for any project that benefits the party according to the party's proportional benefit. The cost and proportionate benefit shall be agreed upon in writing before the project commences. Any modifications to such a project, including any changes to the proportional benefits or costs, shall be mutually agreed upon in writing, except that if the emergency nature of a needed stormwater infrastructure improvement or repair prevents advance agreement, the parties will use best efforts to reach an equitable agreement regarding allocation of costs. Such payments as due under this provision can be made directly to the other party.

14. No amendment of this Agreement will be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on either party hereto.
15. The University and City agree to meet every two (2) years beginning in 2015 to discuss the Stormwater Utility Services rate, the City's Credit and Incentive Manual, and the provisions of this Agreement. Such meetings may be waived or delayed by mutual consent.
16. This Agreement shall be for a term commencing on July 1, 2013 and ending August 30, 2014 and shall automatically renew for successive 12-month periods thereafter unless terminated by mutual written agreement or as otherwise provided under this Agreement. Successive renewals of this Agreement shall not require written notice of such renewal by either party to the other for the renewal to be effective.
17. The City expressly acknowledges that this Agreement is subject to termination and cancellation by the University in any Agreement year for which the General Assembly fails to make or fails to release appropriations adequate for payment as required by the terms of the Agreement. Upon such an occurrence, the University shall give written notice of immediate termination and cancellation of the agreement to the City on or before the first Friday of October of the applicable Agreement year.

IN WITNESS THEREOF the parties have caused these presents to be executed in the manner appropriate to each, all and as of the date and year first hereinabove set forth.

THE BOARD OF TRUSTEES OF THE
UNIVERSITY OF ILLINOIS,
a body corporate and politic

CITY OF URBANA,
a Municipal Corporation

By: _____
Comptroller

By: _____
Mayor

APPROVED:

Office of University Counsel

ATTEST:

Clerk

APPROVED:

Executive Director of Facilities and Services

APPROVED:

Legal Counsel