

020898

FILED IN CLERK'S OFFICE

Introduced by McDavid
First Reading 2-21-11 Second Reading 3-7-11
Ordinance No. 020898 Council Bill No. B 57-11

AN ORDINANCE

authorizing a general cooperative agreement with the Boone County Regional Sewer District relating to sewers in the Highway HH service area, Westwood Meadows Subdivision, El Ray Heights Subdivision, Cow Branch Watershed, Little Bonne Femme Pump Station and Jerry Morris Subdivision; and fixing the time when this ordinance shall become effective.


BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute a general cooperative agreement with the Boone County Regional Sewer District relating to sewers in the Highway HH service area, Westwood Meadows Subdivision, El Ray Heights Subdivision, Cow Branch Watershed, Little Bonne Femme Pump Station and Jerry Morris Subdivision. The form and content of the agreement shall be substantially as set forth in "Exhibit A" attached hereto and made a part hereof as fully as if set forth herein verbatim.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this 7th day of March, 2011.

ATTEST:



City Clerk



Mayor and Presiding Officer

APPROVED AS TO FORM:



City Counselor

GENERAL COOPERATIVE AGREEMENT

This agreement is entered into this 8th day of March, 2011, between the Boone County Regional Sewer District, a common sewer district organized pursuant to Chapter 204 RSMo ("District") and the City of Columbia, MO, a municipal corporation ("City").

WHEREAS, the District and the City currently have numerous connection agreements regarding various District service areas; and

WHEREAS, many of the conditions are common to the connection agreements and are mutually agreed upon and appear in this GENERAL COOPERATIVE AGREEMENT under the heading of GENERAL CONDITIONS; and

WHEREAS, some of the conditions are unique to certain District service areas and are mutually agreed upon and appear in this GENERAL COOPERATIVE AGREEMENT under the heading of SPECIAL CONDITIONS; and

WHEREAS, City operates a regional wastewater treatment plant which is capable of providing wastewater treatment services for all of the District service areas described herein; and

WHEREAS, it is feasible to construct sanitary sewers to connect all of the District service areas described herein to the City's sanitary sewer collection system; and

WHEREAS, such a sanitary sewer connection will allow for the closure of the wastewater treatment systems currently serving the District service areas described herein; and

WHEREAS, this agreement may be amended from time to time by adding, deleting, and/or revising the SPECIAL CONDITIONS and Exhibits as needed and as mutually agreed upon by the Board of Trustees of the District and the City Council of the City; and

WHEREAS, the following are the GENERAL CONDITIONS of this agreement.

GENERAL CONDITIONS

Therefore, the parties hereto agree as follows:

1. The scope of this agreement is limited to those geographic areas within the "Boundary of Area Covered by Agreement" on the attached Exhibits 1 through 6, both inclusive, and which are entitled "State Highway HH Cooperative Agreement", "Westwood Meadows Cooperative Agreement", "El Rey Heights Cooperative Agreement", "Cow Branch Watershed Cooperative Agreement", "Little Bonne Femme Pump Station Service Area Cooperative Agreement", and "Jerry Morris Subdivision Cooperative Agreement".
2. The following definitions apply to this agreement:

District's "Service Area" means that area shown on the attached Exhibits 1 through 6, both inclusive, as "Existing and Proposed BCRSD Customers (No Annexation or Development to City Standards)" and "New BCRSD Customers (Annex and Develop to City Standards)."

"Connecting sewer" means the sewer to be constructed pursuant to this agreement connecting the District's service areas to the City's sanitary sewer collection system.

3. The District shall prepare, and the City shall review and approve, the plans and specifications for construction of the connecting sewer.
4. The District shall acquire all easements necessary for construction of the connecting sewer.
5. The District shall bid the project pursuant to established District policy. District shall own the connecting sewer. The District shall maintain and operate the connecting sewer at its cost in accordance with established District policy. City will impose no connection fees upon District customers connecting to the connecting sewer.
6. The District shall provide construction management services associated with construction of said connecting sewer.
7. District shall maintain all public sewers in its Service Area in compliance with City sewer standards and plumbing codes. City shall inspect the public sewers within the Service Area prior to construction of the connecting sewer to determine the existing conditions and to identify any required repairs. District shall correct any deficiencies in the Service Area collection system prior to connection to the City's sewer system. City shall have the right to periodically inspect the public sewers in the Service Area for as long as the collection system is connected to the City's sewer system.
8. District agrees to pay City a service fee for each District customer in the Service Area. This fee shall be equivalent to 0.80 times what the customer would pay if the customer were connected to City sewer service within the corporate limits of the City. The City may change the percentage of service fee but shall notify the District 180 days prior to the beginning of the District's fiscal year of any intent to increase the percentage and shall provide documentation substantiating such changes with its notice of its intent to make such change. Any increase in the percentage of service fee must be based on an increase in the percentage of the City's sewer service charge attributable to the City's calculated actual cost for providing wastewater treatment and pumping and major trunk and interceptor line maintenance.
9. City shall submit to the District a monthly bill which shall represent the sum of the service fees for each customer of District being served by this agreement as calculated by City on the basis of the water records provided by District.
10. District shall furnish City monthly water usage records for its customers in the

Service Area for billing purposes. If a District customer in the Service Area occupies a unit which was unoccupied during the preceding month, City will calculate the water usage for billing purposes in the same manner as it calculates the water usage for City customers in the same situation.

11. District shall promptly notify City when customers in the Service Area have been connected to the District's collection system. District shall promptly inform City whenever customer changes occur in the Service Area.
12. City shall have the option of obtaining transfer of District customers within the city limits of the city covered under this agreement or any other written connection agreement between the City and District as mutually agreed upon, provided that (a) District has achieved a 3% annual growth rate in new customers, and (b) customers over the additional 3% are transferable provided the remaining number of District customers after transfer will generate sufficient revenue to pay the District's operation, maintenance, and replacement costs as determined by the District's board of trustees each year in its annual budget. City shall pay to District a one time purchase amount for the transfer of customers equal to District's then current bonded indebtedness, which is the outstanding principal plus interest over the term of the then current outstanding principal, divided by the total number of District customers, multiplied by the number of customers to be exchanged. The term "new District customers" shall exclude any additional sewer customers acquired by District from municipal systems or District boundary changes. Priority in transfer shall be given to groups of District customers which have been within the City's limits the longest time period and decisions concerning groups of customer transfers shall be based upon promoting efficiency in City and District operations and maintenance and management of customer accounts.
13. All new development, within the areas designated "New BCRSD Customers (Annex and Develop to City Standards)" on the attached Exhibits 1 through 6, both inclusive, shall, before receiving City or District sewer service, be required to annex to the City (if contiguous and compact to city limits) or enter into an agreement with the City to annex (if not contiguous and compact to city limits). Property owners entering into annexation agreements shall be required to develop their property according to City standards. City and District shall not provide sanitary sewer services to those property owners who choose not to annex into the City within the areas designated on the attached Exhibits 1 through 6, both inclusive. Property owners in the areas designated "Existing and Proposed BCRSD Customers (No Annexation or Development to City Standards)" on the attached Exhibits 1 through 6, both inclusive, shall not be required to annex their property or develop to City standards in order to receive sewer service from the District.
14. City agrees to defend, indemnify and hold harmless the District in any lawsuit involving annexation into the City. The District agrees to provide all documents and personnel as requested in support of this agreement. In any dispute, involving

the annexation provisions in Section 13 above, including disputes which result in litigation, City shall defend, indemnify and hold District harmless for any and all costs incurred by District in excess of \$10,000.00. Such costs shall include, but not be limited to, attorney's fees and any monetary award for damages determined by agreement, arbitration or court judgment. District shall provide City with all information deemed necessary by City to facilitate compliance with the indemnity provided herein.

15. City and District shall oppose any application for a Missouri Department of Natural Resources permitted discharge from a new facility or expansion of an existing facility into any part of the geographic areas within the "Boundary of Area Covered by Agreement" shown on Exhibits 1 through 6, both inclusive, unless it can be shown that it is more cost-effective to build a wastewater treatment facility than connect to public sewers. In the event a discharge permit is issued by the Missouri Department of Natural Resources for a new wastewater treatment facility within the "Boundary of Area Covered by Agreement" shown on Exhibits 1 through 6, both inclusive, annexation into the City of Columbia shall not be required for the area serviced by such wastewater treatment facility.
16. City shall be responsible for providing adequate capacity down stream of the District's service area shown in Exhibits 1 through 6, both inclusive, of this Agreement to handle all reasonably anticipated users within the geographic areas within the "Boundary of Area Covered by Agreement" as shown on Exhibit 1 through 6, both inclusive. Reasonably anticipated users are users that do not generate wastewater in quantity greater than normal domestic flows or that contains any contaminants in concentrations greater than normally found in domestic wastewater.

District shall not connect any nonresidential sewer customer, without the prior approval of City, which generates wastewater in quantity greater than normal domestic flows or which contains any contaminants in concentrations greater than normally found in domestic wastewater.

City shall refuse service to any anticipated new or expanding user, which could be reasonably expected to cause capacity shortfalls in service to areas designated "Existing and Proposed BCRSD Customers (No Annexation or Development to City Standards)" and "New BCRSD Customers (Annex and Develop to City Standards)" as shown on Exhibits 1 through 6, both inclusive.

District shall not, without the written consent of City, pump sewage from an area that is outside of the geographic areas within the "Boundary of Area Covered by Agreement" as shown on Exhibits 1 through 6, both inclusive.

City shall not, without the written consent of District, pump sewage to sewers in the territory described by this agreement from areas outside the territory described by this agreement.

17. District shall not connect sewers serving land outside the District's Service Area to sewers within the District's Service Area without the prior written consent of City.
18. City shall not connect sewers to the District's sewers without the prior written consent of the District.
19. The initial term of this Agreement shall be twenty (20) years beginning on the date first shown in this Agreement. Thereafter, this agreement shall automatically be renewed for successive terms of twenty (20) years unless it is terminated pursuant to the provisions of this paragraph. After the initial term of this Agreement, the parties shall have the right to terminate this Agreement with cause upon giving five (5) years written notice to the other party; provided, however, that no customer may be terminated from sewer service except upon nonpayment of user fees and charges, violation of sewer use regulations or violation of environmental or public health laws or regulations.
20. The parties hereto agree that this agreement was negotiated at arm's length and that for purposes of interpretation neither City nor District shall be deemed drafter of this agreement. In the event any portion of this agreement is found to be unlawful or unenforceable, the remaining terms and conditions of this agreement shall remain in full force and effect between the parties.
21. This agreement is not intended to confer any rights or remedies on any person other than the parties.
22. Disputes regarding this agreement that cannot be amicably resolved between the parties directly or through mediation may be litigated in the Boone County Circuit Court, but no circuit court action may be filed unless the parties through their authorized representatives have met and conferred, or engaged in mediation in an attempt to resolve the dispute in good faith.
23. The financial obligations of the parties to this agreement are subject to annual appropriations being made available by them to pay said obligations, and City and District hereby agree to make all reasonable efforts to assure that financial obligations are timely paid as they come due.
24. Any amendments to this agreement shall be in writing.
25. Both parties will enact and enforce sewer use and user charge ordinances which are acceptable to the Missouri Department of Natural Resources. Both parties agree to adopt user charge ordinances which will proportionately recover all operation, maintenance and replacement costs for which each party is responsible. Both parties will enact industrial pre-treatment ordinances as appropriate. Both parties shall comply with all Department of Natural Resources regulations in performing its obligations under this agreement.

END OF GENERAL CONDITIONS, BEGINNING OF SPECIAL CONDITIONS

WHEREAS, District currently provides sanitary sewer service within its Lake Capri Subdivision, Sharidan Hills Subdivision, Hillview Acres Subdivision, Fall Creek Subdivision, Sun Valley Estates, Richardson Acres Subdivision and its Brown's Station service areas; and

WHEREAS, District currently provides sanitary sewer service within the Westwood Meadows Subdivision service area; and

WHEREAS, District currently provides sanitary sewer service within the El Rey Heights Subdivision service area; and

WHEREAS, District currently provides sanitary sewer service within the Oberlin Valley Subdivision service area; and

WHEREAS, District currently provides sanitary sewer service within the Little Bonne Femme Pump Station Service Area and this service area is covered by a connection agreement that lapsed and the District and the City are desirous of renewing the connection agreement for this service area in accordance with the GENERAL CONDITIONS and SPECIAL CONDITIONS contained in this agreement; and

WHEREAS, District currently provides sanitary sewer service within the Jerry Morris Subdivision service area and this service area is covered by a connection agreement that lapsed and the District and City are desirous of renewing the connection agreement for this service area in accordance with the GENERAL CONDITIONS and SPECIAL CONDITIONS contained in this agreement; and

WHEREAS, the following are the SPECIAL CONDITIONS of this agreement.

SPECIAL CONDITIONS

1. The following definitions apply to this agreement:

"El Rey connecting sewer" means constructing a pump station and force main to connect the El Rey Heights Subdivision Service Area to the City's sanitary sewer collection system between MH 17L19 and MH 17L20, as shown on the City Sanitary Sewer Map, Page 17L. The El Rey connecting sewer may be constructed by the District if the District determines that the El Rey connecting sewer construction is in the best interest of the District.

"Oberlin Valley connecting sewer" means constructing a pump station and force main to connect the Oberlin Valley Subdivision Service Area to the City's sanitary sewer collection system between MH 1G9 and MH 1G8, as shown on the City Sanitary Sewer Map, Page 1G. The Oberlin Valley connecting sewer may be constructed by the District if the District determines that the Oberlin Valley

connecting sewer construction is in the best interest of the District.

2. The District shall prepare, and the City shall review and approve, the plans and specifications for construction of the El Rey connecting sewer and the Oberlin Valley connecting sewer.
3. The District shall acquire all easements necessary for construction of the El Rey connecting sewer and the Oberlin Valley connecting sewer.
4. The District shall bid the El Rey connecting sewer and the Oberlin Valley connecting sewer construction pursuant to established District policy. District shall own, operate and maintain the El Rey connecting sewer and the Oberlin Valley connecting sewer at its cost in accordance with established District policy. City will impose no connection fees upon District customers connecting to the El Rey connecting sewer and the Oberlin Valley connecting sewer.
5. The District shall provide construction management services associated with construction of the El Rey connecting sewer and the Oberlin Valley connecting sewer.

THE FOLLOWING PARAGRAPH 6 SHALL APPLY TO THE DISTRICT SERVICE AREA SHOWN ON EXHIBIT 5.

6. The City and District agree that the customers in the District's service area shown on Exhibit 5 are and shall remain connected to the City's wastewater treatment and collection system as provided for in the GENERAL CONDITIONS of this agreement.

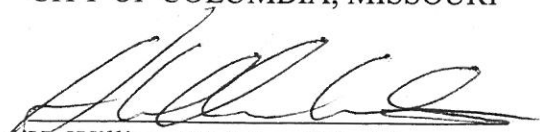
THE FOLLOWING PARAGRAPH 7 SHALL APPLY TO THE DISTRICT SERVICE AREA SHOWN ON EXHIBIT 6.

7. The City and District agree that the customers in the District's service area shown on Exhibit 6 are and shall remain connected to the City's wastewater treatment and collection system as provided for in the GENERAL CONDITIONS of this agreement.


IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

CITY OF COLUMBIA, MISSOURI

By:



H. William Watkins, City Manager

ATTEST:



Sheela Amin

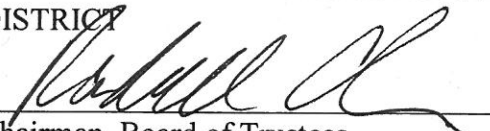
APPROVED AS TO FORM:



Fred Boeckmann, City Counselor

BOONE COUNTY REGIONAL SEWER
DISTRICT

By:



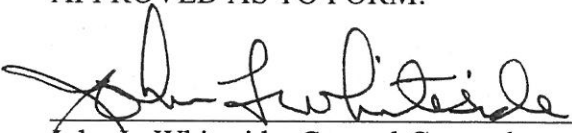
Chairman, Board of Trustees

ATTEST:



Secretary, Board of Trustees

APPROVED AS TO FORM:



John L. Whiteside, General Counsel


Boone County Regional Sewer District


1314 North Seventh Street
Columbia, Missouri 65201

Exhibit 1

State Highway HH Cooperative Agreement

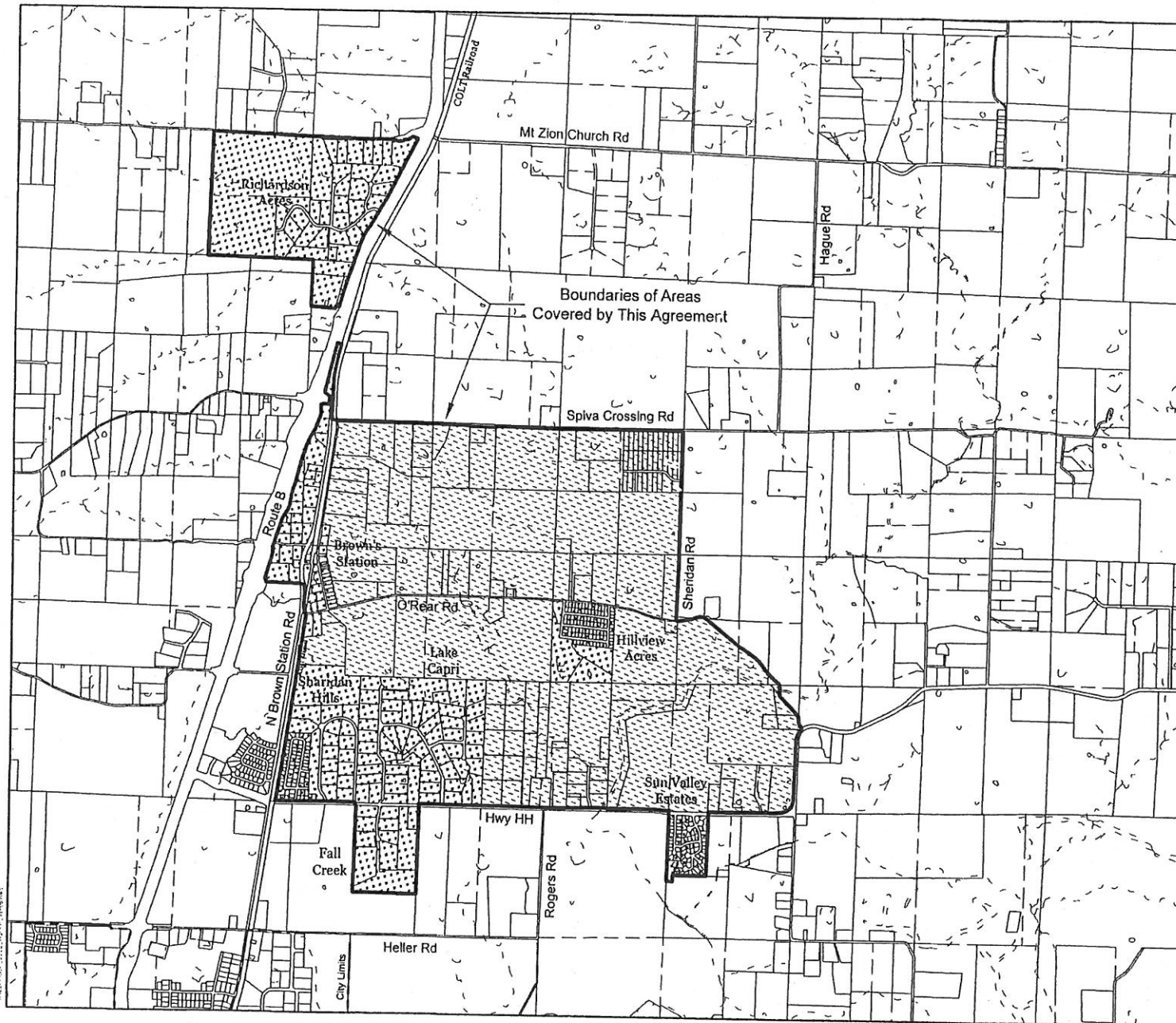
LEGEND

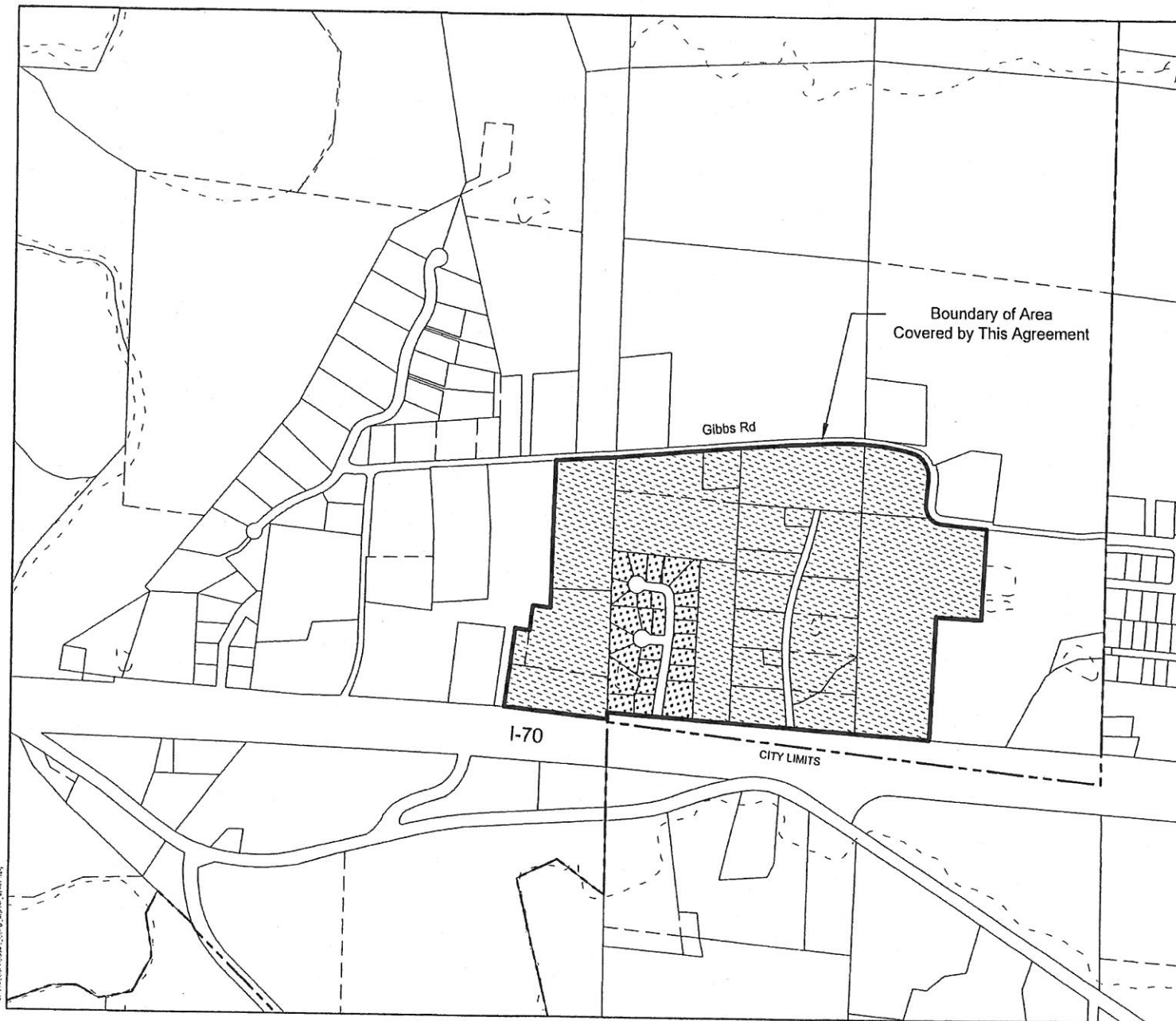
 Existing and Proposed BCRSD Customers -
No Annexation or Development to City
Standards

 New BCRSD Customers -
Annex and Develop to City Standards



Scale: 1" = 2,000'
Date: 02-07-2011






Boone County Regional Sewer District


1314 North Seventh Street
Columbia, Missouri 65201

Exhibit 2

Westwood Meadows Cooperative Agreement

LEGEND

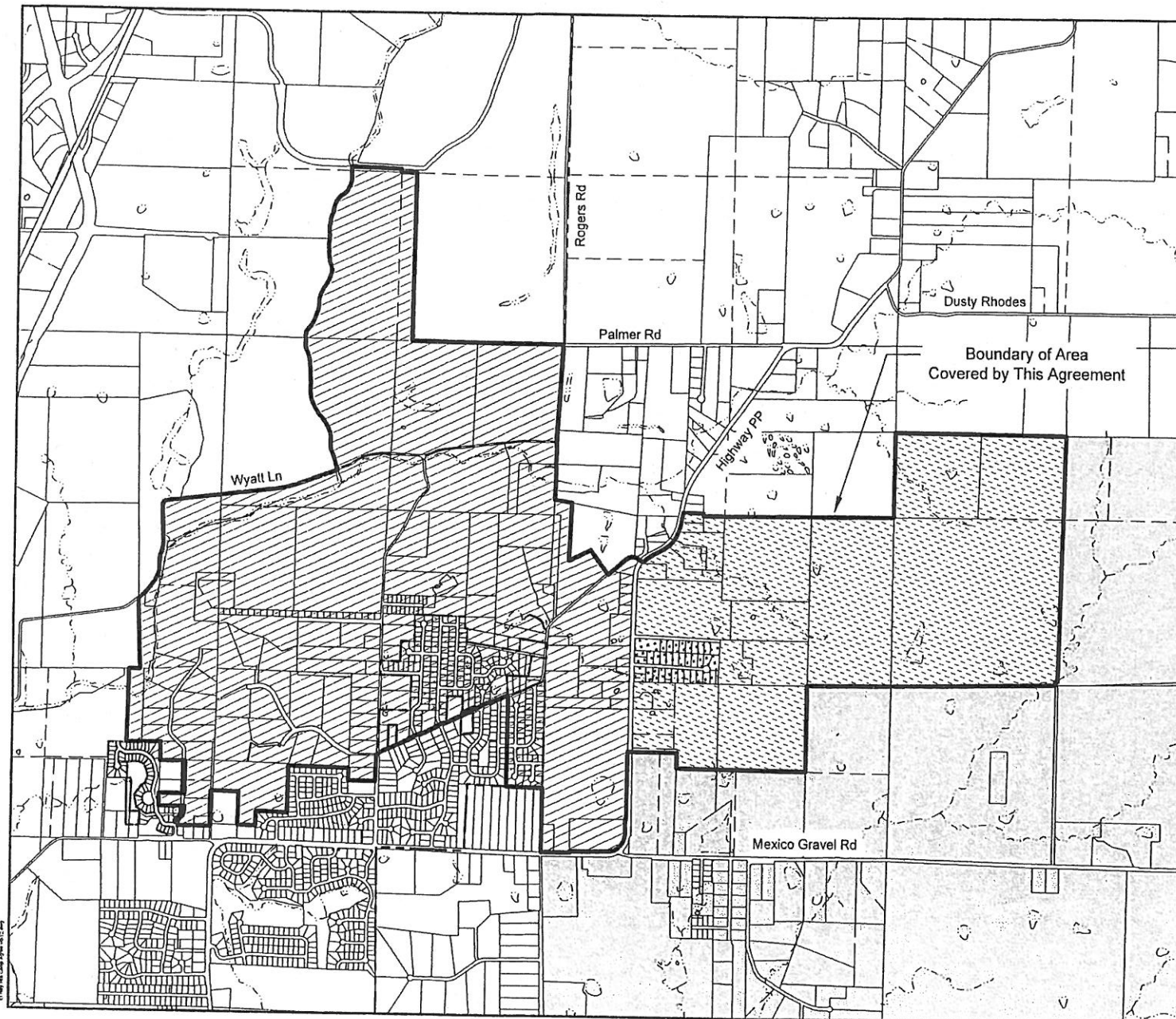
 Existing and Proposed BCRSD Customers -
No Annexation or Development to City
Standards

 New BCRSD Customers -
Annex and Develop to City Standards



Scale: 1" = 500'
Date: 02-07-2011





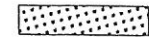
Boone County Regional Sewer District

1314 North Seventh Street
Columbia, Missouri 65201

Exhibit 3

El Rey Heights Cooperative Agreement

LEGEND



Existing and Proposed BCRSD Customers -
No Annexation or Development to City Standards



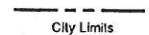
New BCRSD Customers -
Annex and Develop to City Standards



Proposed City of Columbia Customers



Area Covered by Prior Agreement
(see Exhibit A of the Grindstone Creek Watershed -
Upper North Fork; Hominy Branch Watershed; Little
Cedar Creek Watershed Cooperative Agreement)
(City of Columbia Ordinance No. 020538)



City Limits

Not to Scale
Date: 02-07-2011





Boone County Regional Sewer District

1314 North Seventh Street
Columbia, Missouri 65201

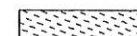
Exhibit 4

Cow Branch Watershed Cooperative Agreement

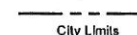
LEGEND



Existing and Proposed BCRSD Customers -
No Annexation or Development to City Standards



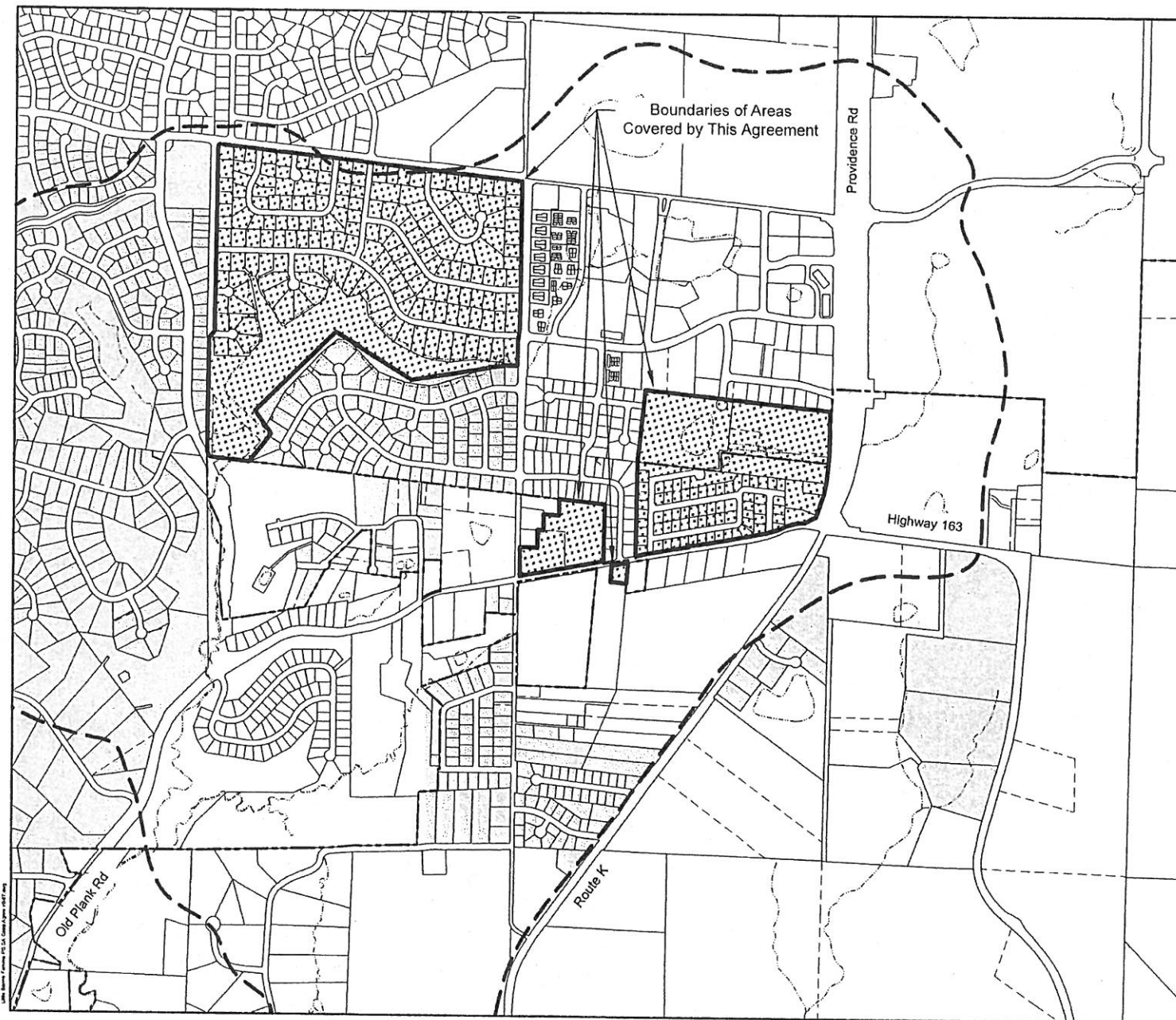
New BCRSD Customers -
Annex and Develop to City Standards



City Limits

Scale: 1" = 500'
Date: 02-07-2011





Boone County Regional Sewer District

1314 North Seventh Street
Columbia, Missouri 65201

Exhibit 5

Little Bonne Femme Pump Station Service Area Cooperative Agreement

LEGEND

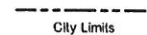


Existing and Proposed BCRSD Customers -
No Annexation or Development to City Standards



Areas Covered by Prior Agreements

Little Bonne Femme Pump Station Service Area

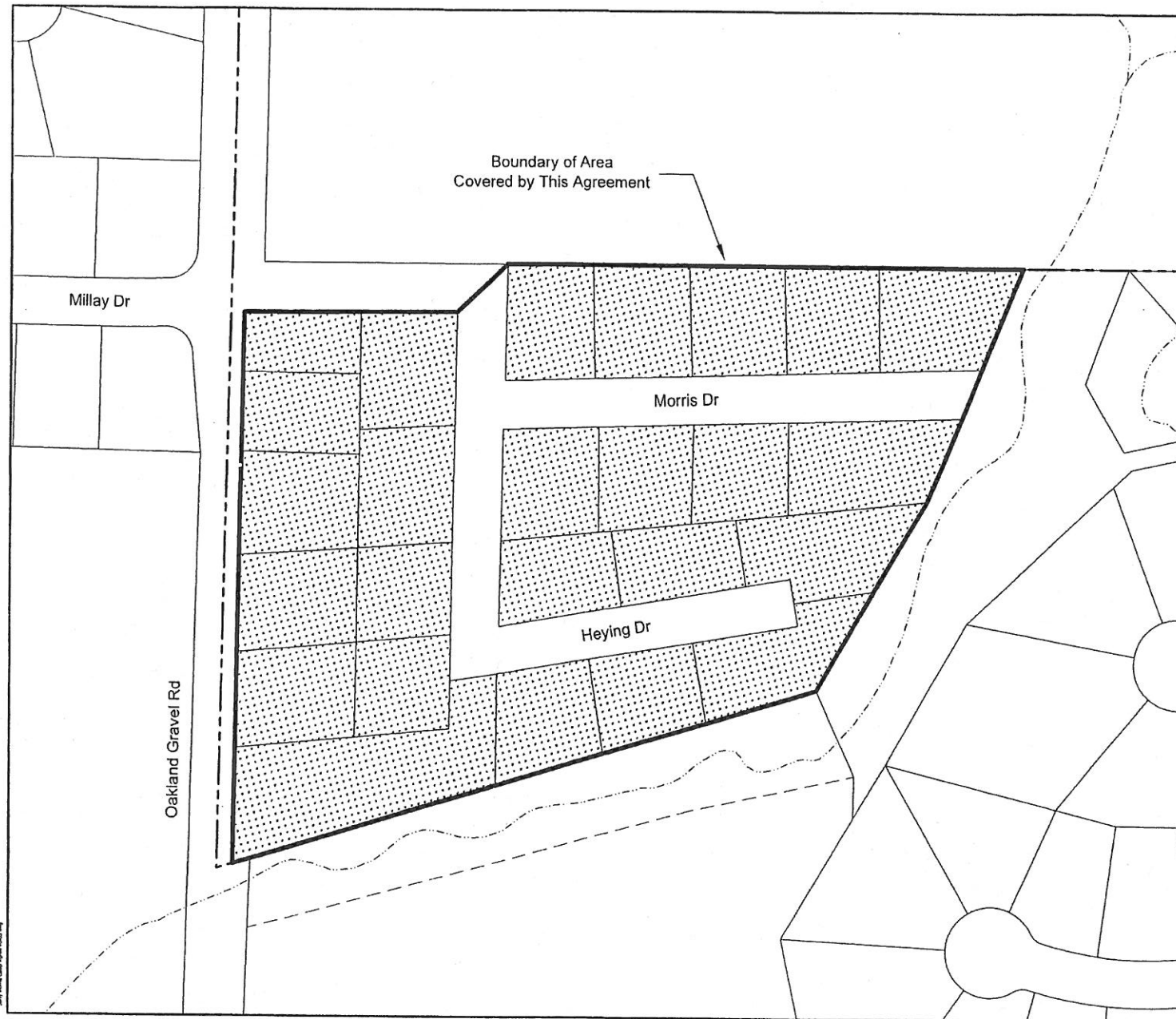


City Limits



Scale: 1" = 800'
Date: 02-07-2011





Boone County Regional Sewer District

1314 North Seventh Street
Columbia, Missouri 65201

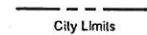
Exhibit 6

Jerry Morris Subdivision Cooperative Agreement

LEGEND



Existing and Proposed BCRSD Customers -
No Annexation or Development to City Standards



City Limits



Scale: 1" = 100'
Date: 02-07-2011

