

JOINT AGREEMENT FOR CONDITIONAL TRANSFER OF PROPERTY
BETWEEN JAMESTOWN CHARTER TOWNSHIP AND GEORGETOWN CHARTER
TOWNSHIP, OTTAWA COUNTY, MICHIGAN

Conditional Transfer Agreement made this 14th day of March, 1993, between the CHARTER TOWNSHIP OF JAMESTOWN and the CHARTER TOWNSHIP OF GEORGETOWN, municipal corporations within the County of Ottawa, Michigan.

WITNESSETH:

WHEREAS, both townships herein designated are municipal corporations organized and existing as public bodies corporate pursuant to Article VII, Section 17 of the 1963 Michigan Constitution and Act 359 of 1947, as amended; and

WHEREAS, Act 425 of the Public Acts of 1984 (MCL 124.21, etc; MSA 5.4087(21) etc.) hereinafter referred to as "Act 425", authorizes and provides for the conditional transfer of property and jurisdiction over the same between townships by agreement; and

WHEREAS, there exists within both townships hereto the need to promote better improvements suitable for residential, commercial, industrial and economic development; to promote environmental protection including ground water and surface water; to promote developments incidental thereto; and to strengthen and revitalize the economy of the townships; and

WHEREAS, Jamestown Township is in need of public water and a public sanitary sewer system to enhance economic development projects anticipated within the Township; and

WHEREAS, Georgetown Township has an established water and sanitary sewer system and has the ability to serve Jamestown Township; and

WHEREAS, the parties hereto have proposed that certain territory be conditionally transferred from Jamestown Township to Georgetown Township under said Act 425 to enhance the accomplishment of the foregoing needs; and

WHEREAS, in considering such proposal the parties hereto have considered the factors set forth in Section 3 of said Act 425 including, in summary, population, land uses, topography, past and probable future growth, comparative data from the territory proposed to be transferred and the remainder of the township thereafter, the need for organized community services, and the present cost and adequacy of governmental services, the probable future needs for services, and the practicability of supplying the same, the probable affects of the proposed transfer and of alternate courses of action, the financial ability of each of the parties to provide and maintain such services, and the general affect upon both townships as well as the relationship to the proposed transfers on existing land use plans; and

WHEREAS, after considering all of the foregoing, both townships find that the proposed transfer of property and jurisdiction have the potential to provide encouragement and assistance to residential, industrial and commercial development projects for the general public benefit of both townships including the protection of the environment; and

WHEREAS, the parties do not anticipate that any funds of the State of Michigan will be allocated to carry out this Agreement in whole or in part; and

NOW THEREFORE on the basis of the foregoing and pursuant to the authority contained in the foregoing Michigan Public Acts and the covenants and conditions hereinafter contained, it is hereby agreed by and between the parties hereto as follows:

Conditional Transfer of Territory from
Jamestown Charter Township to Georgetown Charter Township.

1. Jurisdiction Transferred

All of the territory within Jamestown Charter Township shown on Exhibit A attached hereto is hereby transferred from certain specified jurisdiction of Jamestown Charter Township to the jurisdiction of Georgetown Charter Township for the purpose of granting to Georgetown Charter Township jurisdiction over the following governmental functions within said territory:

- a. Installing public water and public sanitary sewer facilities and equipment where such installation is deemed necessary and feasible by Georgetown Township, and providing operation and maintenance services pertaining thereto.
- b. Obtaining necessary revenues from said territory to fund such governmental functions in the same manner as is available to Georgetown Township within the remainder of its territory through methods including, but not limited to, special assessments under 1954 P.A. 188, as amended; hook-up charges; and service fees; provided, that Georgetown Township shall impose a 20 percent surcharge on service fees within Jamestown Township to reflect administrative costs that are paid from general Georgetown Township tax revenues.
- c. Enforcing any applicable Jamestown Township ordinance, rules and regulations in effect on the effective date of this Agreement as if said ordinances had been adopted by Georgetown Township or in lieu thereof, adopting and enforcing Georgetown Township ordinances, rules and regulations within said territory in the same manner as they are in effect within the remainder of Georgetown Township and as are necessary to provide and fund such operation and maintenance service; provided

that all revenues generated by or attributable to the Jamestown Township systems shall be accounted for separately and only used for operating, maintaining, servicing, repairing or administering the Jamestown Township systems;

- d. Entering into contracts with connected users of the sanitary sewer system within said territory pertinent to providing such operation and maintenance service and funding the same which shall not be entered into until approved in writing by Jamestown Township;
- e. Providing inspections of connected users to the sanitary sewer system within said territory to ascertain compliance with all applicable ordinances, rules and regulations pertinent to said sanitary sewer system and to enforce such remedial action as may be necessary to secure compliance;
- f. Authorizing and regulating the connection of sanitary sewer customers within the territory.
- g. The phrase "operation and maintenance service" as utilized herein shall include the following:
 - (1) billing for service, connection and other sewer charges, special assessments and/or taxes;
 - (2) meter reading;
 - (3) collection proceedings;
 - (4) repairs;
 - (5) maintenance of any pumping stations including payment of electrical power for the same;
 - (6) testing and analyzing discharges into the system to ascertain compliance with all applicable rules and regulations;
 - (7) insuring that all labor necessary to maintain the system within the territory herein transferred is done in a good and workmanlike manner and that all equipment is kept in good operating condition.

2. Term of Agreement.

The within conditional transfer of territory from Jamestown Charter Township to Georgetown Charter Township shall extend for a term of 20 years ending on December 31st of the 20th year subject to its renewal by mutual written Agreement of both townships for an additional period of up to fifty years.

3. Termination.

In the event Georgetown Township fails to comply with its obligations set forth in the within Agreement for a period of ninety days following written notification from Jamestown Township of such default, Jamestown Township shall have the option of declaring a breach of the within Agreement and the return of the transferred territory to the township from which it was transferred.

The within Agreement may also be terminated by mutual written Agreement of the townships setting forth the reasons for such termination and the date such termination shall take effect.

4. Jurisdiction upon Termination.

Upon the termination of the within Agreement for any cause, the territory conditionally transferred shall automatically be returned and transferred back to the township from which it was transferred, which recipient township shall then have full and complete jurisdiction over such territory for all purposes.

5. Status of Improvements.

All improvements made by either township within the territory conditionally transferred hereunder shall, upon termination of the within Agreement, belong to and be owned by Jamestown Township. Jamestown Township shall assume responsibility to pay Georgetown Township for all capital costs incurred by Georgetown Township in installing such improvements in Jamestown Township, less capital costs previously returned to Georgetown Township through main assessments and hook-up charges. Jamestown Township shall also pay reasonable interest on such unpaid capital costs. No provision of this Agreement shall be construed in any manner as granting to Jamestown Township any rights (1) in and to any public water or public sewer facilities or equipment located in Georgetown Township, (2) to connect Jamestown Township facilities and equipment to Georgetown Township facilities and equipment, or (3) to utilize sewage treatment plant capacity dedicated to or owned by Georgetown Township.

6. Force Majeure.

In the event any governmental function as set forth in Section 1 cannot be performed by Georgetown Township because of unforeseeable causes beyond the control of such township and without its fault or negligence such as but not limited to acts of God; riot; public enemy; federal, state, or county rules or regulations; acts of the judiciary; epidemics; severe weather or other unusual or unforeseeable causes, such nonperformance shall not be a cause for the termination of the within Agreement unless such cause cannot be rectified or cured within a six month

period, in which latter case the non-defaulting party may, by written notice, terminate the within Agreement.

7. Indemnification

Jamestown Township covenants and agrees, at its expense, to pay, indemnify and save Georgetown Township, all Township Board members, their employees and their agents harmless of, from and against, any and all claims, damages, demands, expenses (including attorney and expert witness fees), and liabilities of any character or nature whatsoever relating to this transfer Agreement.

8. Severability.

Should any portion of the within Agreement be determined by a court of appropriate jurisdiction to be unenforceable, such determination shall not affect the remainder of said Agreement and the parties hereto covenant and agree to modify such unenforceable provision to the extent possible, by written amendment to the within Agreement to cause the intention of such unenforceable provision to become enforceable.

9. Counterparts.

This Agreement may be executed in any number of counterparts and each such counterpart shall be considered a valid original.

10. Public Hearing.

The township board of each township shall hold at least one public hearing within its respective jurisdiction upon the within Agreement before executing the same, preceded by notice complying with the requirements of the Michigan Open Meetings Act.

11. Referendum.

Following such public hearing, if a petition signed by 20 percent or more of the registered electors residing within the territory proposed to be conditionally transferred; or, if no registered electors reside therein, signed by persons owning 50 percent or more of the conditionally transferred territory is filed with the clerk of the township from which the territory is proposed to be transferred within thirty days after the last of the foregoing public hearings have been held, a referendum election shall be held within the township from which such petition has been filed on whether or not the Agreement should be executed by such township. If the referendum cannot be held within a regularly scheduled election, then Jamestown Township assumes liability for any costs for a special election. The results of such election shall govern the execution of the Agreement. If no such petition is filed within said thirty day period, the Agreement may be executed by the parties hereto.

12. Filing and Effective Date.

In accordance with said Act 425, following the execution of the within Agreement, a duplicate original of the Agreement shall be filed with the Clerk of Ottawa County and with the Michigan Secretary of State. The Agreement or a copy of the Agreement certified by such county clerk or secretary of state shall be prima facia evidence of the conditional transfer of the territory herein described. The Agreement shall be effective upon its being filed with such county clerk and secretary of state.

IN WITNESS WHEREOF the parties hereto have executed the within Agreement the day and date first above written by authority of the respective township board of each township.

Signed in the presence of:

CHARTER TOWNSHIP OF JAMESTOWN,
a municipal corporation,

James Miedema
Robert Vande Bunte

By: Henry G. Edema
Henry G. Edema
Its Supervisor

By: Lois Morren
Lois Morren
Its Clerk

CHARTER TOWNSHIP OF GEORGETOWN,
a municipal corporation

Diane Avink
Daniel Caldwell

By: Henry Hilbrand
Henry Hilbrand,
Its Supervisor

By: R. J. Poel
R. J. Poel
Its Clerk

Prepared by:

John K. Lohrstorfer, Esq.
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Kalamazoo, MI 49007-4781

and

Kurt D. Hassberger, Esq.
161 Ottawa Avenue, NW, Ste. 600
Grand Rapids, MI 49503-2793

Public hearing in Jamestown Charter Township held _____.

Public hearing in Georgetown Charter Township held March 14, 1999

No referendum petition was received by Jamestown Charter Township.