

CITY OF WYOMING-OTTAWA COUNTY
RESTATED WATER SUPPLY AGREEMENT

THE AGREEMENT, made this 5th day of May, 1988, by and between the CITY OF WYOMING, a municipal corporation (hereinafter referred to as the "City"), and the COUNTY OF OTTAWA, by its Board of County Road Commissioners (hereinafter referred to as the "County"),

WITNESSETH:

WHEREAS, pursuant to the provisions of Act 342, Public Acts of Michigan, 1939, as amended, the Board of Supervisors of the County of Ottawa, by resolution adopted January 10, 1961, by a majority vote of its members-elect, made the provisions of said Act applicable to the County of Ottawa and authorized and directed that there be established, maintained, and operated under the provisions of said Act a county-wide system or systems of water and sewer improvements and services and has determined and designated the Board of County Road Commissioners of the County of Ottawa to be the agency of the County for the purposes set forth in said Act; and

WHEREAS, the City and the County entered into a Water Supply Agreement on July 21, 1964 under the terms of which the City agreed to sell to the County, and the County agreed to purchase from the City, the County's needs for Lake Michigan treated water; and

WHEREAS, the City and the County entered into a Water Supply Agreement on July 21, 1964 providing generally for the

joint financing of the acquisition, construction and completion of a water supply system as described therein and the operation and maintenance of such system by the City; and

WHEREAS, the City and the County by agreement dated June 22, 1972 amended said 1964 Agreement to cover additions to such water supply system; and

WHEREAS, the City and the County by agreement dated February 11, 1974 further amended said 1964 Agreement to permit smaller water systems in Ottawa County to be connected to such water supply system; and

WHEREAS, the City is in the process of financing and constructing additional facilities for such water supply system; and

WHEREAS, the changes made in the original 1964 Agreement by the 1972 and 1974 amendments and the further changes to the original 1964 Agreement agreed upon by the parties at this time make it desirable that the 1964 Agreement be restated to incorporate into a single Restated Water Supply Agreement all the matters agreed upon by the City and the County;

NOW, THEREFORE, in consideration of the premises and covenants of each other, the said parties hereto AGREE that said original 1964 Agreement, as previously amended, be restated to read in its entirety as follows:

(1) The Project. Subject to all of the terms of this Agreement as originally executed on July 21, 1964, and subsequently amended by Agreements dated June 22, 1972, and February 11, 1974, the City and the County have heretofore jointly

financed the acquisition, construction, and completion of a water supply system to provide adequate water for the City, for designated portions of Ottawa County, and for wholesale water customers of the City. In addition, subject to the terms of this Agreement as originally executed on July 21, 1964, and subsequently amended by Agreements dated June 22, 1972 and February 11, 1974, the City has operated, maintained, managed, and administered said water supply system. Said water supply system as it relates to the County generally consists of a water intake in Lake Michigan, high service and low service pumping facilities, Water Treatment Plant, finished water storage at the Water Treatment Plant and at the Gezon Pumping Station, and transmission pipelines extending from the Water Treatment Plant to the Gezon Pumping Station in the City as same existed as of June 30, 1986. Said system, as it existed as of June 30, 1986, is hereinafter referred to as the "Original Project."

The City has developed plans and specifications for a significant expansion of the Original Project, which expansion generally consists of improvements to the Water Treatment Plant, added storage at the Gezon Pumping Station, and future expansion of the water system pipeline, including construction of a partial parallel pipeline. Said expansion, hereinafter referred to as the "1986 Expansion," is intended to be implemented in a series of phases as outlined in Exhibit D, attached to and made a part of this Agreement.

The Original Project, the 1986 Expansion, and all future expansions are hereinafter referred to collectively as the "Project."

(2) Ownership of Project. The City and the County have jointly financed and own together the entire beneficial ownership interest of the Original Project and will, as provided below, jointly finance and be the beneficial interest owners of the 1986 Expansion as well as any future expansions which may hereafter be made to the Project. The respective beneficial ownership interests of the City and the County in the Original Project, the 1986 Expansion, and all future expansions are specified in paragraphs (3) and (13) below. Subject to all of the terms and provisions of this Agreement, the City shall hold exclusive legal title to the facilities which comprise the Original Project and will also hold exclusive legal title to the facilities constructed under the 1986 Expansion, as well as any future expansions which may hereafter be made, regardless of the respective beneficial ownership interests of the parties.

(3) Beneficial Ownership Interest. The City has heretofore sold to the County, and the County has heretofore purchased from the City, a 15% beneficial ownership interest in the Original Project. The County herewith acquires from the City an additional 18% beneficial ownership interest in the Original Project (the cost of which is shown in Exhibit C), for which the County shall pay to the City in cash the sum of Three Million Six Hundred Sixty Three Thousand Four Hundred Eighteen and No/100 Dollars (\$3,663,418.00), such payment to be made as soon as

reasonably possible, taking into account the necessity of the County to sell its bonds and complete other procedures in order to make this payment. The County shall also acquire a 33% beneficial ownership interest in the 1986 Expansion and shall deposit with the Kent County Department of Public Works as soon as reasonably possible, taking into account the necessity of the County to sell its bonds and complete the procedures in order to make this payment, a sum equal to its pro rata share of the cost of construction of the 1986 Expansion. If the actual cost of the 1986 Expansion differs from the estimated cost utilized to determine the County's deposit pursuant to the immediately preceding sentence, then the County's share of the actual cost shall be determined, and any excess payment by the County, plus interest earned thereon, shall be repaid by the City to the County, and further, if there is a deficit, such deficit shall be paid by the County to the City as soon as reasonably possible, taking into account the County's necessity to sell bonds to provide the funds therefor. The beneficial ownership interest acquired by the County at any time during the term of this Agreement shall continue throughout the term of this Agreement.

(4) Management of Project. Regardless of the respective beneficial ownership interests of the City and the County, the City shall have the sole and exclusive right and obligation to operate, administer, maintain, and manage the Project, subject only to the provisions of paragraph (13) below. The cost of operating, maintaining, managing, and administering the Project shall

be an element in the operation and maintenance rate set forth in Exhibit B.

(5) Sale of Water. The City shall provide, supply, sell, and deliver to the County such quantity of Lake Michigan treated water from the Project as is specified in paragraph (10) below.

(6) Purchase of Water. The County agrees to purchase and receive such quantity of Lake Michigan treated water from the Project as shall serve the requirements of Ottawa Service Area "A," as described in Exhibit A, in accordance with the terms and conditions of this Agreement.

(7) Current Connections to Project. The County has previously connected to the Project all water systems presently under its jurisdiction within Ottawa Service Area "A," as described in Exhibit A. These connections to the Project and all future connections, unless otherwise agreed by the parties, shall be maintained and continued during the term of this Agreement. The County may connect to the Project and provide water service from the Project to all or any part of Ottawa County, subject to the provisions of paragraph (8) below.

(8) Future Connections to the Project.

(a) The City will permit further connections by the County to the Project pipeline in Ottawa County only when all of the following conditions have been met:

(i) The connection must have been authorized by the County and must tie into a system which is a part of a city or township water system within the County; and

(ii) The connection must be in accordance with a long-range water system plan for that particular city or township, which plan has been prepared or reviewed by a professional engineer and approved (i) by the legislative body of the city or township, (ii) by the County, and (iii) by the City, such approval by the City not to be withheld or delayed unreasonably; and

(iii) The connection is to be made at the expense of the County.

(b) At any time that a connection is made to the Project pipeline pursuant to sub-paragraph (a) above, said connection shall be of such size as to serve the ultimate requirements outlined in said city or township long-range water system plan for the portion of the city or township to be served by the Project with said connection and shall be provided with a meter for interim use. Said interim meter shall be subject to the approval of the City, such approval not to be withheld or delayed unreasonably, shall be purchased and installed at the expense of the County, and shall be equipped with a local recording device. The County shall be responsible for the repair and maintenance of all interim meters and shall have them tested for accuracy not less frequently than once every five (5) years. Results of such tests shall be delivered to the City. The cost of repairs necessary to maintain meter accuracy shall be assumed by the County. The County shall read all such meters and report the results to the City on a monthly basis. Use of a specific interim meter, either presently existing or installed in the future, may continue until

the city or township water system meets the conditions set forth in sub-paragraph (c) below.

(c) At such time as any city or township water system connection served with an interim meter pursuant to paragraph (b) above (i) services more than 250 customers, (ii) has an average water use of 500,000 gallons or more per day for a full Project fiscal year, or (iii) has an average water use of 100,000 gallons or more per day for a full Project fiscal year and, during the same fiscal year, a peaking factor (determined by comparing summer and winter monthly meter readings) of more than 3 to 1, then such city or township water system shall be provided with a permanent meter, flow control valve, remote valve control, and meter indication and with a system storage of sufficient size as to provide the maximum daily rate required. Water use occasioned by unusual circumstances, e.g., main breaks, fires, and water used for construction purposes, shall not be considered in computing water usage or peaking as provided in the immediately preceding sentence. "Maximum daily rate" shall include domestic, commercial, and industrial water requirements, including air conditioning and lawn sprinkling, but shall not include demands created by unusual circumstances, e.g., main breaks, fires, and water used for construction purposes. The County shall have up to six (6) months, after the date on which the City gives written notice to the County that one or more of the conditions specified above has been met, to design such facilities and up to one year, after the design is completed and approved by the City, to construct such facilities. If the County fails to do so, then all

water measured by the interim meter connection shall be billed by the City at double the then existing rate charged to the County until the facilities are complete. The plans and specifications for such facilities shall be subject to review and approval by the City, such approval not to be withheld or delayed unreasonably, in order to ensure a uniform standard of construction.

(9) Limitations on Sale of Water by City. The City shall not sell water directly to any public corporation, to any private customer, or to any other party in the County except as may be mutually agreed upon by the parties. The City will not contract with any customer, public or private, outside of the City for the sale of amounts of water which will limit the ability of the City to deliver the guaranteed amount to be furnished to the County pursuant to this Agreement. In the event the Board of Commissioners of Ottawa County shall at any time in the future refuse to approve a contract recommended by the County Board of Road Commissioners to sell water to any unit of government in Ottawa County or shall refuse to authorize the financing by the County of facilities and extensions of Ottawa County Water Supply Systems serving such unit, then the City may sell water directly to such unit of government on the same basis as though said unit of government were a party to this Agreement, subject, however, to all of the terms and provisions of this Agreement.

(10) Minimum and Maximum Quantities. The minimum and maximum quantities of water to be purchased and delivered pursuant to this Agreement shall be determined as follows:

(a) The maximum hourly withdrawal rate shall be determined on the basis of the County's five-year projection of average day demand (ADD). Prior to June 1 of each year, the County shall submit to the City such five-year projection. The projection for the first year (the "1st year ADD") shall be used to calculate the maximum hourly withdrawal rate for the ensuing year (July 1 through June 30). The 1st year ADD shall be multiplied by three (3), and the product shall be divided by 24 hours, thereby producing the maximum hourly withdrawal rate. The maximum hourly withdrawal rate shall be calculated, and compliance therewith determined, for the County as a single customer and not with respect to any individual city, village, or township which is a County customer. The 1st year ADD shall represent the only limit on water available for purchase by the County from the City.

(b) The County's guaranteed minimum annual use shall be the 1st year ADD multiplied by 365 or the actual metered amount of water purchased, whichever is greater. The County shall pay for such quantity of water whether or not the County actually uses same.

(c) The City may approve a temporary excess maximum hourly withdrawal rate above the County's maximum hourly withdrawal rate determined under sub-paragraph (a) above; however, such temporary excess maximum withdrawal rate shall not give the County a permanent right to purchase water in excess of the maximum hourly withdrawal rate determined pursuant to subparagraph (a) above; and if, by reason of a prior increase granted by the City, the City is unable to meet demands for water by its own

residents or by its wholesale users in Kent County, then the City shall have the right, upon giving advance notice, to reduce such temporary excess hourly withdrawal rate to the maximum hourly withdrawal rate provided for under subparagraph (a). The County shall not be obligated to increase subsequent projections due to any approval by the City of any temporary excess maximum hourly withdrawal rate as provided above in this paragraph.

(11) Charges. For all water delivered to the County under this Agreement, the County agrees to pay monthly the prescribed rates which shall, from time to time, be established by the City in accordance with Exhibit B appended hereto and made a part hereof, which method of computation shall not be changed except upon mutual written consent of the parties or except as ordered by a court of competent jurisdiction after all appeals have been exhausted or barred. Neither party shall at any time commence, maintain, or promote any law suit or other legal proceeding seeking a determination or order to the effect that the method of establishing rates for water in Exhibit B is contrary to law or otherwise unenforceable. The City shall give sixty (60) days' notice of any change in the rates and the estimated amount of such change; such notice shall be in writing, delivered in person or by mail, to the County. Bills for all water delivered pursuant to this Agreement shall be rendered monthly to the County, in person or by mail, and shall be payable on or before the due date shown thereon, which date shall be not less than thirty (30) days from the date of delivery to the County. All bills not paid on or before the due date shall carry a service

charge of one and one half percent (1 1/2%) per month until paid. Except as otherwise mutually agreed upon by the parties, all meter readings shall be taken by the City, and all meter recordings shall be open to reasonable inspection by the County. In addition, a permanent log shall be maintained at each County metering station showing all meter readings that have been taken at the metering station.

(12) Fiscal Year of Project. The fiscal year of the Project shall begin on July 1st of each year and end on June 30th of the next following year. The City will keep separate records relating to the cost of the acquisition, construction, financing, and operation of the Project. The City will have the records relating to the Project audited annually by a certified public accountant, and three copies of such audit shall be furnished to the County. The expense of said audits shall be deemed an operating expense of the Project and shall be a part of the operating and maintenance rate as shown in Exhibit B. Such audits shall include a separate report on the Project which shall include at least a statement of assets and liabilities of the Project and an income and expense statement.

(13) Future Expansion and/or Improvement. The parties recognize that expansion and/or improvement of the Project will be required from time to time during the term of this Agreement. For purposes of this Agreement, such expansion and/or improvement shall be classified into one of three classes based upon the amount of capital expended and whether such expansion and/or

improvement will increase the quantity of treated water produced and delivered by the Project.

A minor improvement is one where the capital expenditure does not exceed \$10,000. Such an expenditure shall be treated as an expense and shall be incorporated into the Operation and Maintenance Rate (O & MR) to be determined in the manner set forth in Exhibit B.

An intermediate capital expenditure is one the cost of which is expected to exceed \$10,000, but is not expected to exceed \$2,000,000 and will not increase the quantity of treated water produced and delivered by the Project. Whenever the City begins consideration of such an expenditure, it shall notify the County of same and shall consult and discuss the expenditure with the County. When the expenditure is undertaken, the City shall bill the County for its pro rata share commensurate with the County's then investment in the Project, and the County shall pay same in accordance with terms to be mutually agreed upon by the parties.

A major expansion or improvement is one the cost of which is expected to exceed \$2,000,000 and/or which will increase the quantity of treated water produced and delivered by the Project. Such an expansion or improvement normally will occur only when the five (5) year projection by all water customers of the Project as it then exists shows that the maximum limitations of the Project will be reached, or whenever the City deems it necessary to expand or improve the system to satisfy additional demands within the City or for any other appropriate purpose. At such time, the City shall notify the County in writing and take the necessary steps,

with appropriate discussion and consultation with the County, to study the need for expansion or improvement and will plan and design, in conjunction with the County, the next stage(s) of construction to meet the reasonable future needs of the County, the City, and the City's wholesale customers.

(a) If the City elects to proceed to undertake such major expansion or improvement, it will notify the County in writing of the estimated cost and production capacity of such expansion, at which time the County shall determine in a reasonable time whether and to what extent it will elect to invest additional funds in the proposed expansion or improvement. The cost of construction of such expansion or improvement shall be borne by the parties to this Agreement, and the beneficial ownership interest thereafter possessed by each party shall be determined in accordance with the following provisions:

(i) If the County elects not to maintain its existing beneficial ownership interest in the expanded Project, the City may nevertheless proceed with construction of the expansion or improvement at its own expense, whereupon the City's beneficial ownership interest percentage shall increase as necessary so as to be in direct proportion to its total investment in the Project, and the County's beneficial ownership interest percentage shall decrease as necessary so as to be in direct proportion to its total investment in the Project.

(ii) If the County elects to maintain its existing beneficial ownership interest in the Project, then the County shall assume its beneficial ownership percentage of the

cost of the proposed expansion or improvement so that, upon payment of said percentage, the County's cash investment in the Project, as expanded or improved, shall be the same percentage of the total cost of the Project as the County's beneficial ownership interest in the Project. The City shall do likewise so as to maintain its beneficial ownership interest.

(iii) If the County elects to acquire a larger beneficial ownership interest in the entire Project as expanded or improved, which increased interest shall be commensurate with the then annual volume of purchases of water by the County from the City and with the most current five-year projection presented to the City by the County, then the County shall pay to the City its increased percentage of the original cost to date of the Project plus it shall assume this increased percentage of the cost of the proposed expansion or improvement so that, upon payment of said sums, the County's cash investment in the Project, as expanded or improved, shall be in the same percentage of the total cost of the Project as the County's increased beneficial ownership interest in the Project, and the City's beneficial ownership interest shall be correspondingly decreased.

(b) If the City refuses or is financially unable to construct such required expansion or improvement, or if the City fails to undertake the study and planning of an expansion or improvement when the five (5) year projection by all water customers of the Project as it then exists shows that the maximum limitations of the Project will be reached, the County shall have the right (i) to terminate this Agreement upon giving one (1) year's

written notice to the City, (ii) to pay the entire cost of and to construct such expansion or improvement, or (iii) to take no action. In the event the County elects to construct such expansion or improvement at its own cost, the County will thereby acquire an additional beneficial ownership interest in the Project, as expanded or improved, so as to be in direct proportion to its total investment in the Project, and the City's beneficial ownership interest shall be correspondingly decreased. The County shall follow the plans and specifications for the expansion prepared for the City (with such modifications as are reasonably necessary) or, in the event that no such plans and specifications have been developed, the County may develop plans and specifications, but the County's plans and specifications shall be prepared by engineers selected by or acceptable to the City (such acceptance not to be withheld or delayed unreasonably), and the plans and specifications thus prepared must be approved by the City, but the City shall not unreasonably withhold or delay such approval. During the construction, the City shall have the right at its expense to make reasonable inspection to assure compliance with the plans and specifications approved by it, subject, however, to reasonable modifications in such plans and specifications as required during the course of construction. Despite such additional capital contribution to the total Project by the County, the total Project shall nevertheless continue to be managed, operated, administered, and maintained by the City as noted in paragraph (4) above.

(14) Capital Return Rate. The Capital Return Rate shall be paid by both the City and the County. As is provided in Exhibit B, all payments of the Capital Return Rate shall be placed in the "Capital Return Fund" and shall be disbursed to the City and County as is specified in Exhibit B. Disbursement from the Capital Return Fund by the Project to the City and County respectively shall be made by the City semi-annually on or before May 1 and November 1 of each year.

(15) Meters. All water supplied and delivered by the Project to the City shall be measured by meters installed at the Gezon Storage Tank, all such metering to be installed at the expense of the City. All water supplied and delivered by the Project to the County shall be measured by meters already installed at various connecting points between the mains or pipelines of the Project and the various County water systems and as shall hereafter be installed as provided in paragraph (8) of this Agreement, all such metering to be installed at the expense of the County and under the supervision and inspection of the City or its authorized agents. The City shall at its expense, but not as an expense charged to the Project, perform all necessary maintenance and repairs of its meters at the Gezon Storage Tank and shall also, unless the County shall make alternate arrangements as provided below, perform all necessary maintenance and repairs of the County meters, which service of the County meters shall be at the expense of the County, so that at all times the City and County meters shall correctly measure all water that may pass through them. All charges of the City to the County for meter

maintenance and repair shall be reasonable. The County may contract, at its expense, with a reputable outside concern to perform routine maintenance and repairs on the County meters. Selection of such outside concern shall, however, be subject to approval by the City, which approval shall not be unreasonably withheld or delayed. In addition, all emergency maintenance and repairs shall be performed by the City. In the event that any of the City meters and other related equipment is required to be replaced, the same shall be replaced at the expense of the City, but not as an expense charged to the Project. In the event that any of the County meters and other related control equipment is required to be replaced, the same shall be replaced at the expense of the County. The reasonable judgment of the City, taking into account industry standards, if any, as to the condition and accuracy of the City and County meters shall be binding upon the County. The cleanliness, repair, and maintenance of the buildings or structures within which the County meters and other related control equipment are housed shall be the responsibility and at the expense of the County. Notwithstanding the foregoing, with respect to the interim metering arrangements referenced in subparagraph (b) of paragraph (8), the maintenance, repair, calibration, and reading of such interim meters shall be governed by subparagraph (b) of paragraph (8).

(16) Fire Hydrants. Fire hydrants have previously been installed in the County in the northeast quadrant of each intersection of New Holland Street and the following streets: Lake Shore Avenue (raw water), Butternut Drive, 144th Avenue, 128th

Avenue, 112th Avenue, 96th Avenue, 48th Avenue, and 12th Avenue; in the southeast quadrant of the intersection of New Holland Street and the following streets: 168th Avenue (raw water), 152nd Avenue, 136th Avenue, 120th Avenue, 104th Avenue, 72nd Avenue, 40th Avenue, 22nd Avenue and 8th Avenue; and in the northwest quadrant of the intersection of Barry Street and Kenowa Avenue. With respect to the new pipeline which is a part of the 1986 Expansion, there shall be installed not to exceed 20 hydrants at locations to be designated by the County in a letter to be sent to the City. No additional hydrants shall be installed and connected to the Project except by mutual consent of the parties and upon mutually agreed terms. The routine maintenance and repairs of such fire hydrants shall be an expense of maintaining the Project. An annual charge of \$50 per hydrant shall be paid by the County for the use of same, which monies shall be paid into the Capital Return Fund. Replacement of a seriously damaged or destroyed hydrant resulting from motor vehicle collision or other catastrophe shall be at the expense of the County. In the event of such collision or catastrophe, the County shall be entitled to receive any insurance proceeds or self-insurance fund payment attributable to or collectible on account of the damage or destruction of the hydrant. The County shall also be subrogated to all rights of the City against any third party pertaining to such damage or destruction, and the City shall cooperate with the County in maintaining a claim against such third party. In the event of such damage or destruction, the City shall turn off the water and take any other immediate action required to protect the

Project and, thereafter, the County shall have the right to complete the hydrant repair itself. All charges to the County by the City pursuant to this paragraph for immediate turn-off and other required immediate action to protect the Project shall be reasonable.

(17) Right of Inspection. For those County water or sewer system improvements that cross a Project pipeline, the City shall have the right to inspect such improvements during installation and shall also review and approve the plans and specifications for such improvements, such approval not to be withheld unreasonably and to be granted within a reasonable period of time. Any such inspection by the City shall not relieve the County from full responsibility for conformance of the finished work with approved standards and specifications. The County shall bi-annually provide the City with an updated map of all its water supply systems that are connected to the Project.

(18) Protection against Contamination. For the protection of the health of all consumers supplied with water from the Project, the City and the County agree to guard carefully against all forms of contamination and, should contamination occur at any time, the area or areas affected shall immediately be shut off and isolated and remain so until such condition shall have been abated and the water has been declared again safe and fit for human consumption. The City and the County shall each inform the other of any contamination problem and the measures being taken to isolate and correct that problem. The City and the County shall each promptly take such measures as are reasonably necessary to correct

any contamination problem. If the County fails to take reasonable measures to isolate and correct a contamination problem, the City may, after notice to the County, take such measures, at the expense of the County, as shall be reasonably necessary to isolate and correct the problem. Expenses incurred by the City and the County respectively pursuant to this paragraph shall not be expenses charged to the Project.

(19) Emergency Discontinuance. The City and County each expressly reserves to itself the right to discontinue temporarily the supply of water to any of the water mains or pipelines of the County, without notice in times of emergency or whenever it shall, upon its own determination and after not less than forty-eight (48) hours notice to the other party, find it necessary, for purposes of testing, repairing, or replacing water mains, meters, or other of its facilities serving the County. No claim for damages of any kind or nature for such discontinuance shall be made against the other party.

(20) Restriction on Use of Water. If, due to circumstances beyond the control of the City, e.g., prolonged dry spells, the capacity of the Project becomes temporarily inadequate for short periods of time to meet the peak demands of all users of its water and if the City is compelled to impose temporary restrictions on its own residents, e.g., a ban or limit on lawn sprinkling, then the County will, at the request of the City, impose and enforce like restrictions on its water users.

(21) Water from Other Source. The City and the County will not, under any circumstances, permit water from any other

source or supply to mix or mingle with the supply from the Project, except when the Project is operating at capacity, or except upon prior written approval of the other, or except in case of emergency, and then only such water shall be used as shall meet the requirements of the Michigan State Department of Health and in the minimum quantities necessary to relieve the emergency. The City and the County jointly acknowledge the desirability of interconnections with other adjoining water systems such as the Grand Rapids and Holland Water Systems. The existing interconnections shown on Exhibit E attached hereto are hereby approved. No future interconnections shall be made except when mutually agreed upon in writing by the City and the County, such agreement not to be withheld or delayed unreasonably by either party.

(22) Responsibility for Quality of Water within County System. It shall be the responsibility of the County to maintain the water quality and purity at any point beyond the meter points at which the County receives water from the Project and within the County's water systems, and the County assumes all liability for any and all damages of any kind, including, but not limited to, injury to property or persons which occur directly or indirectly as a result of impure or substandard water emanating at or beyond such meter points within the County's distribution systems. In addition, the County shall defend, indemnify, and hold harmless the City, its officers, employees, and agents from liability on account of the lack of water quantity, pressure, and/or discontinuance of water service beyond the meter points, but only if such lack of water quantity or pressure and/or discontinuance

of water service is not caused in whole or in part by the City's acts or omissions in operating the Project. It shall be the responsibility of the City to maintain the water quality and purity at any point beyond the meter points at which the City receives water from the Project and within the City's water system and the water systems of its customers, and the City assumes all liability for any and all damages of any kind, including, but not limited to, injury to property or persons which occur directly or indirectly as a result of impure or substandard water emanating at or beyond such meter points within the City's water distribution system or the water distribution systems of its customers.

(23) Responsibility for Accident. So long as any bursting, breakage, or accident that may occur to the County's water systems is not caused in whole or in part by the City's acts or omissions in operating the Project, the City shall not be held liable or accountable for any bursting, breakage, or accident of any kind that may occur to the County's waterworks system or any damages of any kind or nature, including but not limited to, injury to persons or damage to property resulting from such bursting, breakage, or accident of watermains or pipes located past the points of delivery at which the County receives water from the Project; and the County shall defend, indemnify, and hold harmless the City for any liability therefor. The County shall not be held liable or accountable for any bursting, breakage, or accident of any kind that may occur to the City's waterworks system or the system of any City wholesale water customer or any damages of any kind or nature, including, but not limited to,

injury to persons or damage to property resulting from such bursting, breakage, or accident of watermains or pipes located past the points of delivery at which the City receives water from the Project; and the City shall defend, indemnify, and hold harmless the County for any liability therefor.

(24) Rights-of-Way. The County, as part of the consideration for this Agreement, grants in perpetuity to the City, without cost (except for the right-of-way permit referenced below), the necessary rights-of-way over and along the roads and highways under its jurisdiction and over county-owned property to enable the City to operate, maintain, and repair the pipelines and necessary facilities for the Original Project. The County makes the same grant with respect to the pipelines for the 1986 Expansion for the route as shown in Exhibit F. County approval shall be required for any further extension of the Project pipelines and necessary facilities, such approval not to be withheld or delayed unreasonably. In the event that such use may also require the approval of any municipality located within Ottawa County, the County will use its best efforts to persuade such municipality to grant approval. The County will also cooperate in obtaining whatever rights-of-way or easements may be required over private property within the limits of the County. All such easements shall be held in the name of the City. The City shall obtain and pay the fee for the usual permit to occupy a right-of-way in accordance with County policies and procedures and shall restore all existing structures and/or improvements lying in the right-of-way to as good condition as before the construction took place.

The City shall also obtain and pay for any zoning or building permit required by local municipal ordinance. The City shall, at the expense of the Project, save harmless the County from any and all liability, claims, suits, actions, or causes of action for damages or injuries caused by the City or its agents during the course of construction.

(25) Water Tank Engineering. Because of the benefit to the County of the water storage tank (the "Tank") referenced in Exhibit D, the County agrees, at its sole expense, to provide and pay for all design and supervisory engineering necessary for the erection and completion of the Tank up to \$150,000. The County shall select the engineer, subject to approval by the City, such approval not to be withheld or delayed unreasonably. Any engineering expense in excess of \$150,000 shall be part of the 1986 Expansion cost and paid for from the funds available for that purpose. The cost of such engineering up to \$150,000 to be paid by the County shall not be subject to the Capital Return Rate. Any amounts paid for such engineering in excess of \$150,000 shall be subject to the Capital Return Rate.

(26) Term. This Agreement shall continue as long as the Project is operational.

(27) Assignability and Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and neither party shall, without the prior written consent of the other, assign, transfer, or convey its interest or any part thereof in the Project or under this Agreement to any other person, private or public. If either party shall by operation of law

be merged into or be succeeded by another governmental agency or municipal corporation, its successor shall be bound by the terms of this Agreement as if originally a party hereto.

All written notices and other documents to be delivered or transmitted hereunder shall be addressed to the respective parties hereto at the below specified addresses or at such other address or addresses as shall be specified by the parties hereto from time to time. The addresses of the parties are as follows:

City of Wyoming
1155 28th Street, S.W.
Grand Rapids, Michigan 49509

County of Ottawa, by and through its Board
of County Road Commissioners
~~616 N. Sixth Street~~ P.O. Box 739
Grand Haven, Michigan 49417

Written notices and other documents may be delivered or transmitted in person or by ordinary or certified mail, properly addressed with sufficient postage. The waiver by any party hereto of a breach or violation of any provision of this Agreement shall not be a waiver of any subsequent breach of the same or any other provision of this Agreement. If any paragraph or provision of the Agreement is unenforceable for any reason, the unenforceability thereof shall not impair the remainder of this Agreement, which shall remain in full force and effect. This Agreement represents the entire understanding and agreement between the parties hereto. The captions in this Agreement are for convenience only and shall not be considered as part of this Agreement or in any way to amplify or modify the terms and provisions hereof. This Agreement shall not be changed, modified, or discharged orally,

but only in a written document signed by the party against whom enforcement of the change, modification, or discharge is sought.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers on the day and year first above written.

WITNESSES:

CITY OF WYOMING:

Shirley A. Geronis

BY Robert W. Nelson
Mayor PRO-TEM

Karen P. Kenmore

BY Charles W. Gress
City Clerk

AND

COUNTY OF OTTAWA
By Its Board of County Road
Commissioners

Michael C. White

John R. Walhout
Chairman

Thomas A. Kelly

Frank W. Shuller
Member

Rifford B. Jordanier

Louis Hallacy II
Member

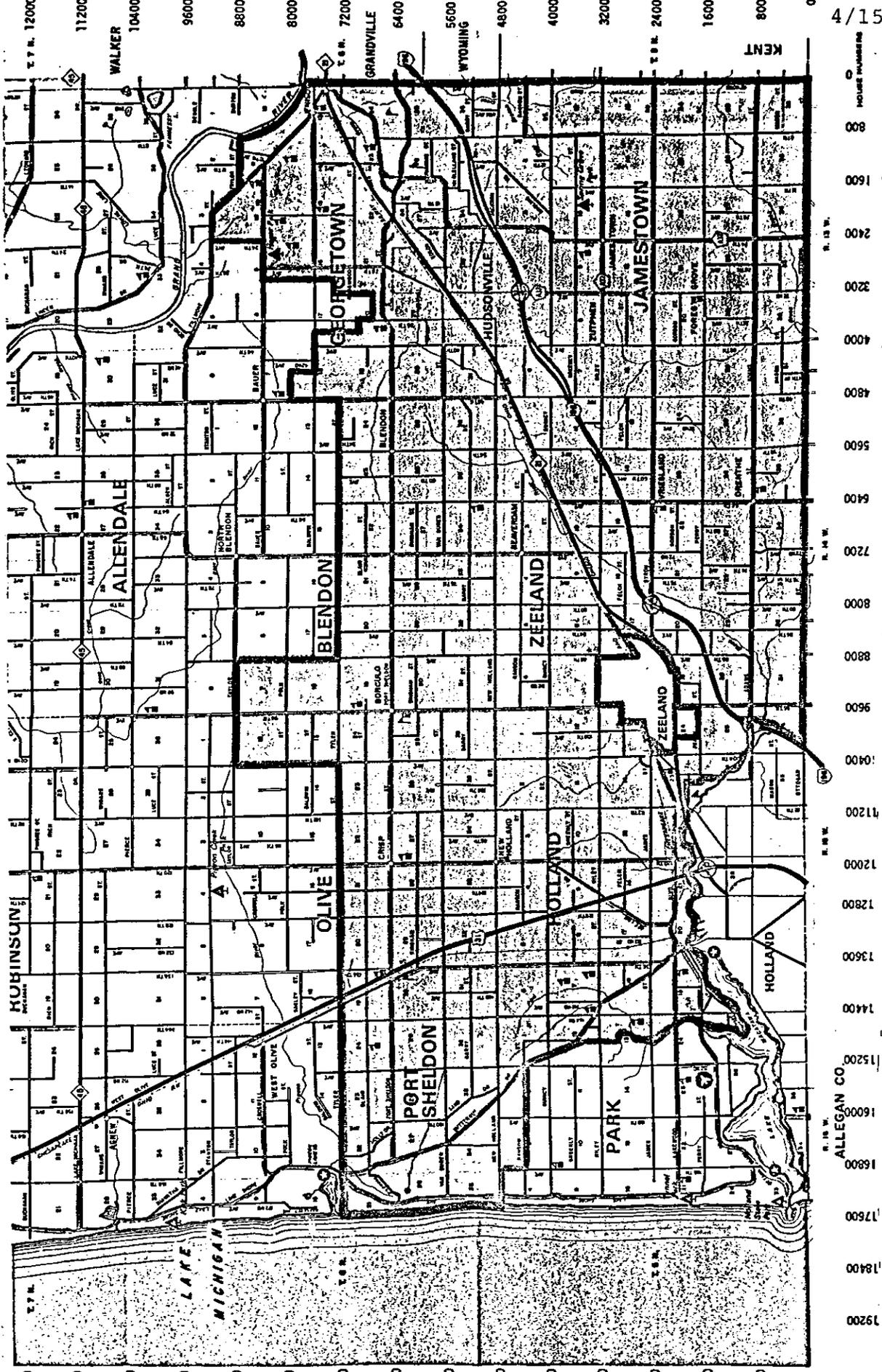
OTTAWA COUNTY MICHIGAN

BOARD OF COUNTY ROAD COMMISSIONERS

PRODUCED BY:
ROAD COMMISSIONER
518 North Oak Street
Grand Haven, Michigan 49427



- Interstate Route
- Diverted Interchange
- Federal Route
- State Route
- Intercounty Route
- Primary Paved Road
- Local Paved Road
- Local Green Road
- Local Unimproved Road
- State and County Parks
- School
- Golf Course
- Public Launching Site
- Airport



City Oshtemo
County JTCW

EXHIBIT A
OTTAWA COUNTY
SERVICE AREA

Exhibit A, page 2 - Ottawa County Service Area

North Boundary - Pigeon Lake in Section 16, Port Sheldon Township to Lake Shore Drive, Lake Shore Drive from Pigeon Lake to Tyler Street ROW, Tyler Street ROW from Lake Shore Drive to 104th Avenue, 104th Avenue from Tyler Street to Taylor Street, Taylor Street from 104th Avenue to 88th Avenue, 88th Avenue from Taylor Street to Tyler Street, Tyler Street from 88th Avenue to 48th Avenue, 48th Avenue from Tyler Street to the Southwest Corner of Section 7 of Georgetown Township, the South line of Section 7 in Georgetown Township from 48th Avenue to the Southwest corner of the Southeast 1/4 of Section 7, the west line of the Northeast 1/4 of Section 18 from the Southwest Corner of the Southeast 1/4 of Section 7 to Baldwin Street, Baldwin Street from the Southwest Corner of Northeast 1/4 of Section 18 to west 1/8 line of Section 17, the west 1/8 line of Sections 17 and 20 from Baldwin Street to the Southwest Corner of the Northeast 1/4 of the Northwest 1/4 of Section 20, the north 1/8 line of Section 20 from the Southwest Corner of the Northeast 1/4 of the Northwest 1/4 of Section 20 to 36th Avenue, 36th Avenue from the north 1/8 line of Section 20 to the south 1/8 line of Section 20, the south 1/8 line of Section 20 to the west line of section 21, the west line of Sections 21 and 16 from the south 1/8 line of Section 20 to the south 1/8 line of Section 16, the south 1/8 line of Section 16 from the west line of Section 16 to the west 1/8 line of Section 16, the west 1/8 line of Sections 16 and 9 from the south 1/8 line of Section 16 to Bauer Road, Bauer Road from the west 1/8 line of Section 9 to 24th Avenue, 24th Avenue from Bauer Road to Fillmore Street, Fillmore Street from 24th Avenue to Cottonwood Drive, Cottonwood Drive from Fillmore Street to Taylor Street, Taylor Street from Cottonwood Drive to the Grand River, the Grand River from Taylor Street to the Kenowa Avenue ROW.

East Boundary - Kenowa Avenue from the Grand River to Ottogan Street.

South Boundary - New Holland Street from Lake Michigan to 168th Avenue, 168th Avenue from New Holland Street to Ransom Street, Ransom Street from 168th Avenue to Butternut Drive, Butternut Drive from Ransom Street to a north-south line 500 feet west of the west lines of the Southeast Quarter of Section 12 and the Northeast Quarter of Section 13 of Park Township, said north-south line from Butternut Drive to Pine Creek, Pine Creek to Lake Macatawa, Lake Macatawa and the Black River from Section 25 in Park Township to Section 22 in Holland Township at the point of intersection with M-21, the north and east boundaries of Holland City in Sections 22, 23, and 26 in Holland Township from M-21 to the Black River, the Black River from 108th Avenue to I-196, I-196 from the Black River to Ottogan Street, Ottogan Street from I-196 to Kenowa Avenue.

West Boundary - Lake Michigan from New Holland Street to Pigeon Lake in Section 16, Port Sheldon Township.

In those circumstances where the Service Area shown by the shaded area on this Exhibit terminates at the centerline of a street, it is agreed that if a water main connected to another water system is located in that street, then water customers having frontage on that street and located within the Service Area may, nevertheless and notwithstanding paragraph (6), be served with water from such water main connected to another water system.

City OWA

County J.R.W.

CITY OF WYOMING - OTTAWA COUNTY
 RESTATED WATER SUPPLY AGREEMENT

EXHIBIT B

WATER RATE

The rate for water from the Project sold to the County and to the City shall be the sum of operation and maintenance rate and the capital return rate. These two rates shall be determined as follows:

A. OPERATION AND MAINTENANCE RATE (PER MILLION GALLONS)

An estimated operation and maintenance rate (O & MR) shall be established by the City annually on or before July first of each year. The O & MR shall be expressed in dollars per million gallons and shall be determined by dividing the estimated cost of Project operation by the estimated number of gallons of water to be sold to the City and County for the ensuing year.

The cost of Project operation shall include all reasonable and necessary expenses for operating and maintaining the Project and keeping same in good repair and working order, and shall include minor improvements, as defined in paragraph (13) of the Restated Water Supply Agreement (the "Agreement"), but shall not include intermediate capital expenditures or a major expansion or project, also defined in paragraph (13) of the Agreement.

A final adjusted O & MR shall be determined as soon as reasonably possible after the end of each year (June 30) based on the audited income and expense statement referred to in paragraph (12) of the Agreement and the published Wyoming Water System annual report. Adjustments to the amount previously paid based on the estimated O & MR during the preceding year shall then be made by debiting or crediting the ensuing monthly bill in such amount as is necessary to take into account the difference between what was billed based on the estimated O & MR referenced above and what should have been billed based on the final adjusted O & MR.

B. CAPITAL RETURN RATE (PER MILLION GALLONS)

(1) An estimated capital return rate (CRR) shall be established by the City annually on or before July first of each year. All payments of the CRR shall be placed in the Capital Return Fund, to be disbursed to the City and to the County as is provided below.

City BWB

County J.R.W.

- (2) To compute the CRR, capital return amounts shall first be determined as follows:
- (a) For the Original Project as shown on Exhibit C, the capital return amount shall be \$1,780,828.00 per annum, commencing July 1, 1988, and continuing through June 30, 2009;
 - (b) For the 1986 Expansion which is to be constructed in 1988 through 1990, the capital return amount per annum shall be equal to eight and three-fourths percent (8 3/4%) multiplied times the total capital investment paid for this Expansion, commencing for the City capital investment on the first day of the month following the date on which the City receives the proceeds from the sale of the bonds sold for its share of the cost of such Expansion, and commencing for the County capital investment on the first day of the month following the date the County pays the City or a third party on its behalf for its share of the cost of such Expansion, and continuing through June 30, 2009. As is provided in paragraph (25) of the Agreement, the cost of engineering for the Tank up to the sum of \$150,000 to be paid by the County shall not be included as part of the capital investment in the 1986 Expansion for purposes of computing the capital return amount; and
 - (c) For all future intermediate capital expenditures and major capital expansion or improvements (both as defined in paragraph (13) of the Agreement), and for the portion of the 1986 Expansion which is not to be constructed during the years 1988 through 1990, the capital return amount per annum shall be equal to a mutually agreed upon percentage multiplied times the total capital investment paid for such improvements by the City and by the County respectively, running for such time period as shall be mutually agreed upon. The manner in which these capital return amounts will be disbursed to the County and City shall also be mutually agreed upon.

The capital return amounts determined pursuant to items (a) through (c) inclusive shall be added together and then divided by the annual number of gallons sold to the City and County to compute the CRR per million gallons.

The amount paid for the 1986 Expansion and the improvements referenced in item (c) shall not include bond issue financing expenses, but shall include engineering expenses. For the portion of the 1986 Expansion which is to be constructed in 1988-90, the total capital investment shall be

City JWA

County JR. W.

finally adjusted when the actual cost of the 1986 Expansion is finally determined, to take into account any surplus or deficit in the construction account for the 1986 Expansion.

- (3) As soon as reasonably possible after the end of each year (June 30), a final adjusted CRR shall be calculated based on the published Wyoming Water System annual report and actual information concerning capital investment. Adjustments to the amounts previously paid, based on the estimated CRR during the preceding year, shall then be made by crediting or debiting the ensuing monthly bill in such amount as is necessary to take into account the difference between what was billed based on the estimated CRR referenced above and what should have been billed based on the final adjusted CRR.
- (4) CRR payments shall be disbursed to the County as follows:
- (a) A sum equal to the monthly County Debt Service (as defined below) for the applicable time period. The CRR payment to be made November 1 of each year shall include the monthly County Debt Service for the months May through October, inclusive, and the CRR payment to be made May 1 each year shall include the monthly County Debt Service for the months November through April, inclusive; and
- (b) An additional sum which shall be as follows:

<u>CRR Payment Date</u>	<u>Amount</u>
11/1/88	\$ 6,666.67
Semi-annually 5/1/89 through 5/1/93, inclusive	10,000.00
11/1/93	23,333.33
Semi-annually 5/1/94 through 5/1/2009, inclusive	30,000.00
11/1/2009 (for months May and June, 2009 only, one-third of \$30,000 semi-annual payment)	10,000.00

- (5) The balance of the CRR shall be disbursed to the City.
- (6) Computation of the CRR and the making of capital return payments to the City and to the County for the period commencing with the effective date of this Agreement and continuing through June 30, 1988, shall be completed and accomplished in accordance with the pertinent provisions of the Water Supply Agreement dated July 21, 1964, as amended, provided, however, that the capital return rate amount on all funds expended on the 1986 Expansion prior to June 30, 1988, shall be eight and three fourths per cent (8 3/4%) multiplied times the amount expended.

City BWA

County JRW

- (7) For purposes of this Exhibit B, the phrase "County Debt Service" shall be defined to be the sum of all of the following:
- (a) All principal and interest due and payable on the following enumerated County bonds:
 - (i) Ottawa County Water Supply System Bonds dated June 1, 1965; and
 - (ii) Ottawa County Water Supply System Bonds, Series 1972, dated April 1, 1972;
 - (b) All principal and interest due and payable on the County bonds, whether one or more series, to be sold either directly or through the Michigan Municipal Bond Authority for the 1986 Expansion which is to be constructed in 1988 through 1990; and
 - (c) All trustee and paying agency and all transfer fees and other expenses and charges which are payable on account of the County bonds referenced in items (a) and (b) above.

The County Debt Service shall be amortized on a monthly basis. The County shall give the City written notice annually on or before June 1 of each year of its monthly debt service amounts for the next 12 months beginning July 1, except that for the year beginning July 1, 1988, the County may give such notice after June 1, provided such notice is given within 15 days after the sale by the County of its bonds for the 1986 Expansion.

City OWA

County JRW.

CITY OF WYOMING - OTTAWA COUNTY
 RESTATED WATER SUPPLY AGREEMENT

Exhibit C

Original Project

The Wyoming Lake Michigan Water Supply System, known as the Original Project, was constructed in 1964-1966 and expanded in 1976. As of June 30, 1986, it consisted of the following:

A water intake in to Lake Michigan, high service and low service pumping facilities, Water Treatment Plant, finished water storage at the Water Treatment Plant and at the Gezon Pumping Station, and a transmission pipeline extending from the Water Treatment Plant to the Gezon Pumping Station in the City.

Location of Facilities:

- (1) Low Service pump station 4707 Lakeshore Drive
- (2) Water Treatment Plant 16700 New Holland Street

(3) Pipeline. The 54-inch transmission line lies generally on the North side of New Holland Street from the Water Treatment Plant East to the City of Hudsonville, thence on the North side of Jackson Street to 22nd Avenue, thence South one-half mile, thence East to Angling Road, thence Northeasterly to Jackson Road, thence East to 8th Avenue, thence North on 8th Avenue to Barry Street, thence East on Barry Street, continuing on 56th Street to the Gezon Pumping Station, one-half mile East of Byron Center Avenue.

- (4) Gezon Pumping Station 5610 Byron Center Avenue

Capital Investment in Original Project as of June 30, 1986, also as follows:

City of Wyoming	\$17,299,473
Ottawa County	<u>\$ 3,052,848</u>
Total	\$20,352,321

City *[Signature]*

County *J. R. W.*

CITY OF WYOMING - OTTAWA COUNTY
 RESTATED WATER SUPPLY AGREEMENT

Exhibit D

1986 Expansion

The 1986 Expansion shall consist of new pump and motor assemblies, related piping and appurtenances, and other miscellaneous improvements, all at the Low Service Pumping Station and the Water Treatment Plant; a Phased Parallel Pipeline, generally within the Ransom Street corridor from the Water Treatment Plant to 40th Street, and North in 40th Street to New Holland Street; and a 10 MG ground storage reservoir at the Gezon Pumping Station in Wyoming.

Estimated cost of the 1986 Expansion is as follows:

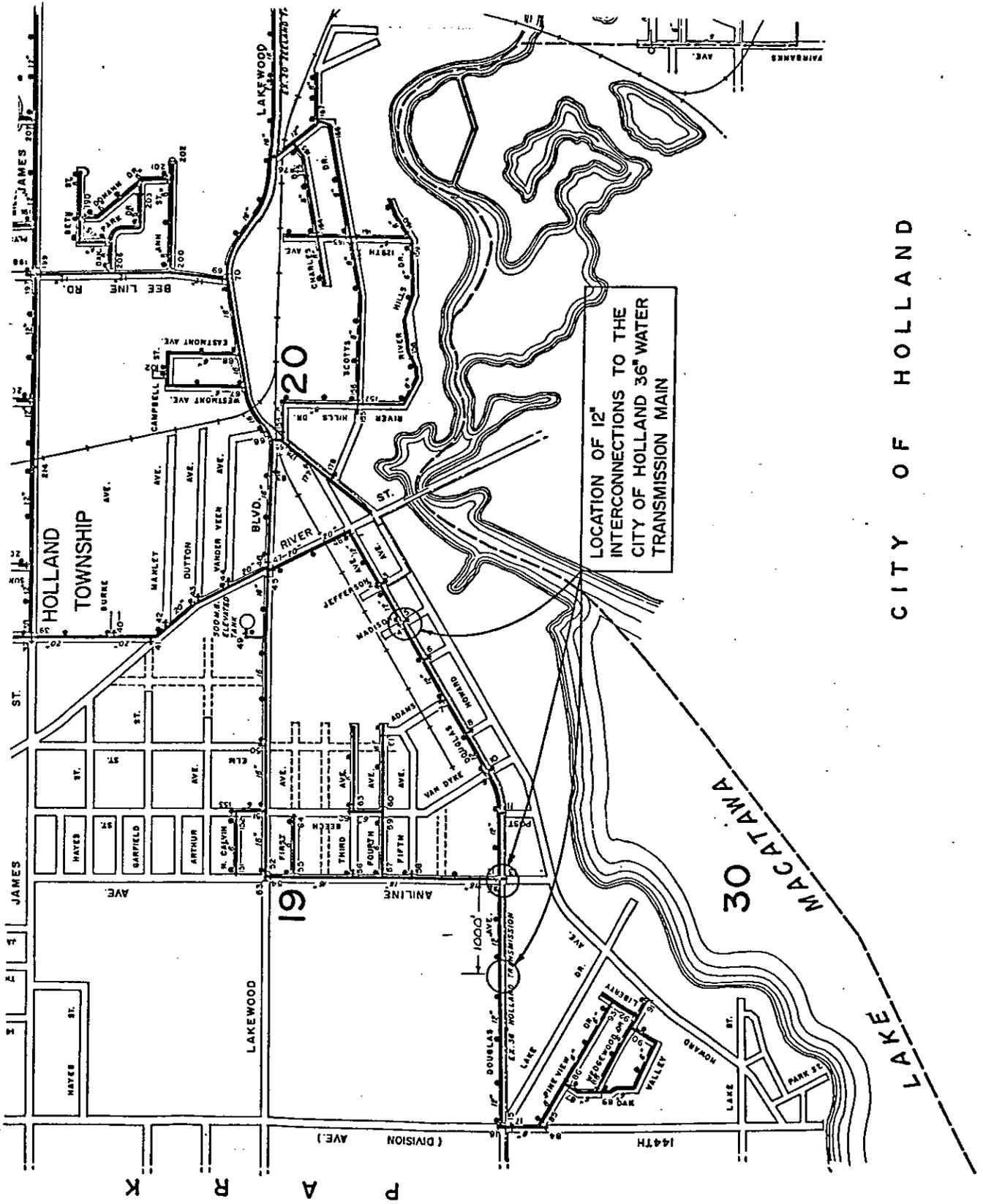
(1) Pump and motor assemblies, related piping, and other miscellaneous improvements.	\$ 4,172,000
(2) Phased Parallel Pipeline.	\$18,300,000
(3) 10 MG ground storage tank.	<u>\$ 2,500,000</u>
TOTAL	\$24,972,000

NOTE: Project costs will not be firm until construction is completed.

City OWA

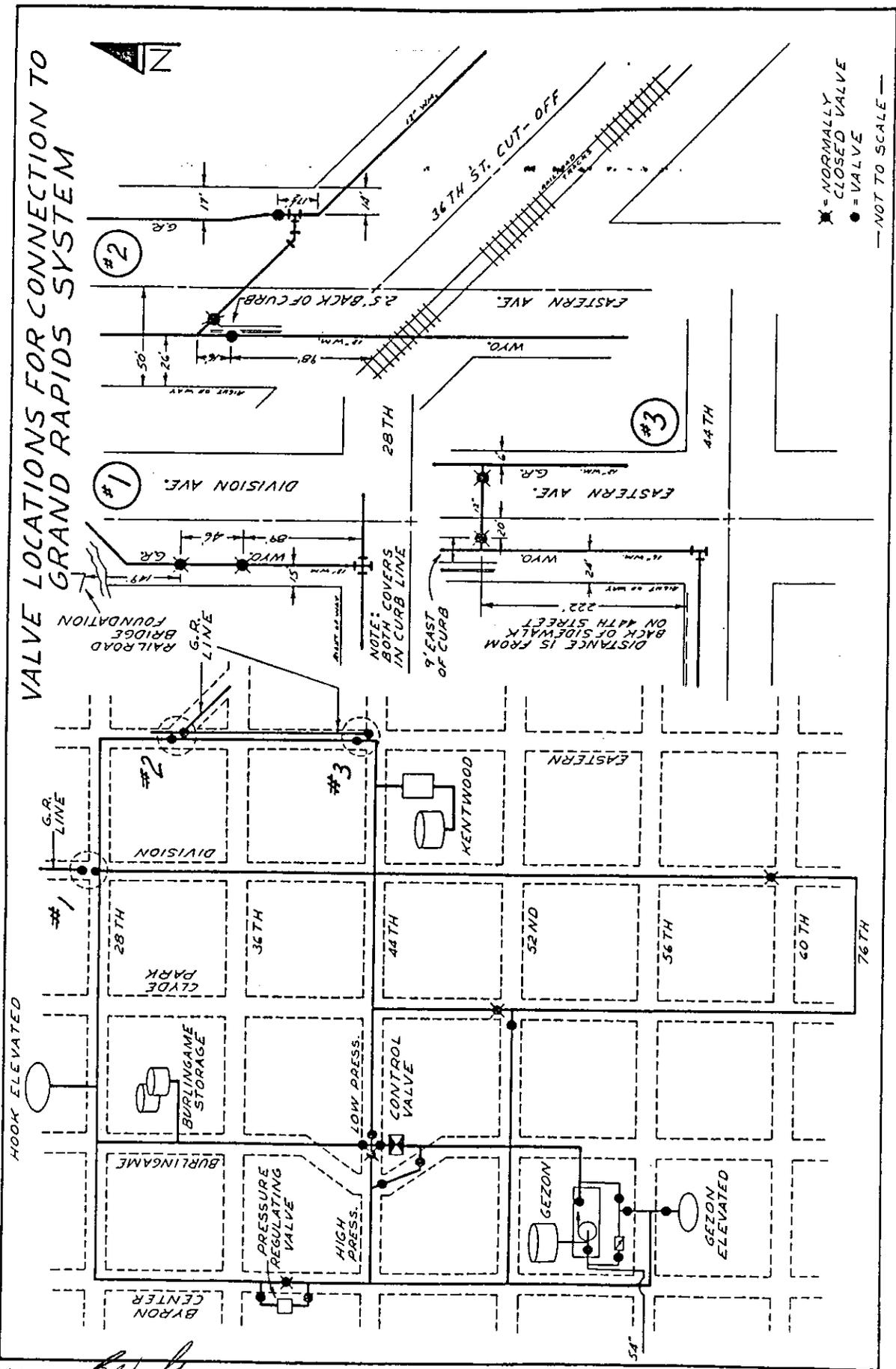
County JRW.

EXHIBIT E
OTTAWA COUNTY INTERCONNECTIONS



CITY OF HOLLAND

City SWD
 County J.R.W.



City Grand Rapids
 County Stonewall

CITY OF WYOMING - OTTAWA COUNTY
RESTATED WATER SUPPLY AGREEMENT

Exhibit F

PHASED PARALLEL PIPELINE

A pipeline parallel to the existing 54-inch line will be constructed in two phases. The first phase will be an 18-mile segment extending from the Water Treatment Plant to a connecting point at New Holland and 40th Street. This segment is scheduled to be operational in 1989 with final cleanup and restoration completed in the spring of 1990. The second phase will be constructed when it is deemed necessary to adequately meet water demands of the Project. It is anticipated that construction of this second phase will be necessary by the year 2000.

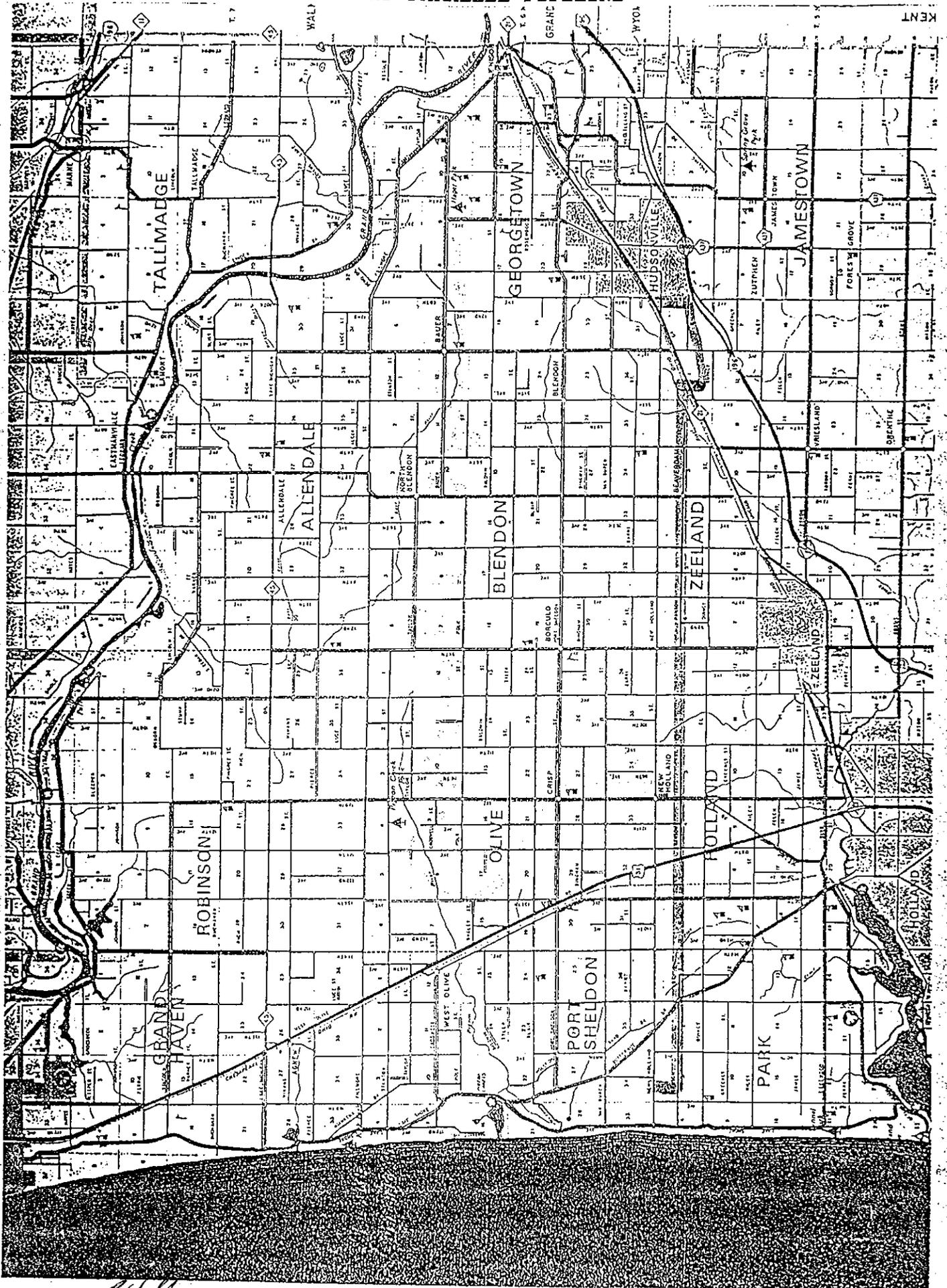
The first phase segment will consist of approximately 89,000 feet of 42- or 48-inch diameter pipeline, using either ductile iron or pre-stressed concrete cylinder pipe. After connecting to existing plant piping at the Water Treatment Plant site, the new pipeline will proceed south to Ransom Street. The line will then proceed East along Ransom Street on a route that parallels the existing 54-inch pipeline along New Holland Street. The pipe will then extend East through Park, Holland, and Zeeland Townships to a point on 40th Avenue on the West border of Hudsonville. Phase 1 construction ends with the new pipeline tied into the existing pipeline near the intersection of 40th Avenue and New Holland Street. (See attached map for route.)

The construction will include approximately 12 line isolation valves, combination air-vacuum release valves at high points, and blow-off valves at low points in the pipeline profile. Eighteen fire hydrants will be located along the pipeline at points to be selected by Ottawa County.

City OWA

County JRW.

EXHIBIT F
PHASED PARALLEL PIPELINE



City WALL
 County W. M.