

COUNTY OF OTTAWA

2024 WATER SUPPLY SYSTEM IMPROVEMENTS AGREEMENT

THIS AGREEMENT, made as of August 1, 2024, by and among the COUNTY OF OTTAWA, a Michigan county corporation (hereinafter called the “County”) by and through its Board of County Road Commissioners, the TOWNSHIP OF BLENDON, a Michigan general law township located in the County (“Blendon”), the CHARTER TOWNSHIP OF GEORGETOWN, a Michigan charter township located in the County (“Georgetown”), the CHARTER TOWNSHIP OF HOLLAND, a Michigan charter township located in the County (“Holland”), the CHARTER TOWNSHIP OF JAMESTOWN, a Michigan charter township located in the County (“Jamestown”), the TOWNSHIP OF OLIVE, a Michigan general law township located in the County (“Olive”), the TOWNSHIP OF PARK, a Michigan general law township located in the County (“Park”), the TOWNSHIP OF PORT SHELDON, a Michigan general law township located in the County (“Port Sheldon”), the CHARTER TOWNSHIP OF ZEELAND, a Michigan charter township located in the County (“Zeeland”), and the CITY OF HUDSONVILLE, a Michigan home rule city located in the County (“Hudsonville”) (Blendon, Georgetown, Holland, Jamestown, Olive, Park, Port Sheldon, Zeeland, and Hudsonville are hereinafter sometimes individually referred to as a “Municipality” and collectively as the “Municipalities”);

W I T N E S E T H:

WHEREAS, pursuant to Act 342, Public Acts of Michigan, 1939, as amended (hereinafter sometimes referred to as “Act 342”), the Board of Supervisors of the County made the provisions of Act 342 applicable to the County, authorized and directed that there be established, maintained and operated under the provisions of Act 342 a county-wide system or systems of water and sewer improvements and services, and designated the Board of County Road Commissioners of the

County (hereinafter sometimes referred to as the “County Agency”) to be the agency of the County for the purposes set forth in Act 342; and

WHEREAS, under and by the terms of Act 342, the County is authorized through its County Agency to acquire a water supply system within the County and to improve, enlarge, extend, operate and maintain the same, and the County and the Municipalities are authorized to enter into a contract for the acquisition, enlargement or extension of such water supply system and for the payment of the cost thereof in cash from available funds and/or as rates, charges, or assessments from the users and beneficiaries of the improvements, facilities, and services, or from any other funds available; and

WHEREAS, the County has acquired for the benefit of the Municipalities 43% of the production capacity in water supply facilities acquired and constructed by the City of Wyoming to take water from Lake Michigan and to transport the water across the County to the City of Wyoming (said water supply facilities hereinafter referred to as the “Wyoming System”); and

WHEREAS, it is proposed that the Wyoming System be improved by the construction of additional water supply facilities (hereinafter referred to as the “2025 Project”) and that the County pay 43% of the cost of the 2025 Project to satisfy its obligation to the City of Wyoming; and

WHEREAS, it is anticipated that the Wyoming System will be improved by the construction of additional water supply facilities in the future (the 2025 Project and such additional future projects collectively referred to as the “Future Projects”), that the County may have to acquire additional capacity in the Wyoming System in the future to meet the needs of the Municipalities and that the County will pay an agreed-upon portion of the Future Projects to satisfy its obligations to the City of Wyoming; and

WHEREAS, the parties hereto have concluded that the County's cost of Future Projects can be provided and financed most economically and efficiently by the County through the exercise of the powers conferred by Act 342, and especially Section 5 thereof; and

WHEREAS, the County and the City of Wyoming, previously entered into the City of Wyoming – Ottawa County Restated Water Supply Agreement, dated May 5, 1988 (the "Existing Wyoming Agreement"); and

WHEREAS, the Municipalities previously entered into an agreement with the County entitled 1988 Water Supply System Contract, dated April 1, 1988, pertaining to use of the Wyoming System by the Municipalities; and

WHEREAS, the County is negotiating an updated agreement (the "Superseding Wyoming Agreement") to replace the Existing Wyoming Agreement that may change how the wholesale water rate charged to the County will be calculated; and

WHEREAS, in order to allow for a cash contribution by one or more of the Municipalities in place of a component added to the water rate charged by the County to the Municipalities (which include the rates established by the City of Wyoming as well as one or more rate components established by the County to pay its costs and expenses associated with the Wyoming System including those associated with the Future Projects), the County shall have the authority to establish, charge and collect from the Municipalities the wholesale water rates for the Wyoming System, which shall include the rates established by the City of Wyoming as well as one or more components to pay the costs and expenses associated with existing obligations and with the costs and expenses associated with the County's share of the Future Projects; and

WHEREAS, the County and Municipalities agree that they do not want to delay the 2025 Project until negotiation and approval of the Superseding Wyoming Agreement are completed in

order to provide for a change in the County's protocol for setting wholesale rates to be paid by the Municipalities; and

WHEREAS, in order to provide for the acquisition and construction of the Future Projects, the maintenance and potentially necessary expansion of the County's interest in the production capacity of the Wyoming System, the payment of the County's obligations with regard to the Future Projects and to provide for other matters relative to the Wyoming System, it is necessary for the County and the Municipalities to enter into this Agreement; and

NOW, THEREFORE, in consideration of the premises and the covenants of each other, the parties hereto agree as follows:

1. The County and the Municipalities hereby approve and agree to the acquisition and construction of the 2025 Project and the payment by the County to the City of Wyoming of 43% of the cost of the 2025 Project in order for the County to maintain on behalf of the Municipalities 43% of the production capacity of the Wyoming System. A description of the 2025 Project is set forth on Exhibit A-1 attached hereto and a map showing the location of the 2025 Project is set forth on Exhibit A-2 attached hereto.

2. The County's cost of the Future Projects shall include the payments to be made by the County to the City of Wyoming equal to the cost of acquiring and constructing the County's interest in such Future Projects, and all other costs incurred by the County in connection with Future Projects. Each Municipality shall pay to the County its share of the County's cost of the Future Projects as determined by the County Agency on the date or dates as specified by the County Agency. The County Agency shall provide advance notice of necessary future projects and anticipated timelines for associated payments through consultation with the Municipalities as part of the communications and meetings described in Section 12 of this Agreement and other communications as the County Agency deems appropriate. Pursuant to Section 5 of Act 342, each

Municipality may raise the amounts required to be paid to the County under this Agreement from rates, charges, or assessments from the users and beneficiaries of the Wyoming System within the respective Municipality, or by levy upon the taxable property of such Municipality. So long as each Municipality timely makes all payments to the County required by this Agreement, each such Municipality may establish the rates, charges and assessments to water customers in its jurisdiction for services provided by the Wyoming System. Each Municipality acknowledges, however, that the County Agency shall have all rights provided by Act 342, particularly Sections 3, 4 and 5, to establish such rates, charges and assessments and to enforce collection thereof.

3. The County Agency will establish and charge to the Municipalities, and the Municipalities shall pay to the County, various rate components for the various Future Projects (hereinafter the “Future Project Charge(s)”) on the terms described in this Agreement. Such rate components will be in addition to the rates established by the City of Wyoming and charged to the Municipalities through the County for the City of Wyoming’s operation and maintenance of the Wyoming System, and associated administrative fees charged by the City of Wyoming pursuant to then-existing agreements. Each particular Future Project Charge will only apply to those Municipalities that do not pay cash upfront for the entirety of their respective allocation of the costs and expenses associated with that particular Future Project. The Future Project Charge for each particular Future Project shall be paid by each Municipality to which it applies, or where they are part of a multi-municipality local water supply system (“Combined Local Supply System”), by such system, to the County on the schedule established by the County Agency.

4. Any Municipality desiring to pay cash in lieu of an additional rate component for any particular Future Project shall pay to the County its allocation of that particular Future Project as determined by the County Agency in cash on the schedule established by the County Agency. The County Agency shall base such payment schedule on its need to have the funds available to timely deliver required capital improvement funding payments to the City of Wyoming.

Hudsonville hereby agrees to pay to the County its allocation of 2025 Project costs as provided herein in cash from available funds by the time and date established by the County Agency. Where the County issues bonds for payment of all or a portion of the cost of a Future Project, the County Agency shall advise the Municipalities of the debt service schedule and any call or redemption provisions for such bond issue to permit a Municipality or Municipalities to fund the call or early repayment of one or more bonds to pay off or correspondingly reduce its or their repayment obligation under this Agreement at such time as may be permitted by the terms of such bond issue.

5. In the event it shall become necessary to increase the estimated County cost of any Future Project for any reason, or if the actual County cost of any Future Project shall exceed the estimated cost, then (without execution of any further contract or amendment of this Agreement) the governing body of each Municipality shall adopt a resolution approving such increase or excess, or adjustment to rates, and agreeing that the same (or such part thereof as is not available from other sources) shall be defrayed by increased or additional payments to be made by each of the Municipalities to the County in the time and the manner acceptable to the County Agency. In addition, if the County Agency determines an additional amount is reasonably necessary or appropriate to meet a shortfall or fund a reserve, each Municipality agrees to pay the County an additional amount reasonably determined by the County Agency by the date and time reasonably established by the County, to be used on behalf of the County's interest in the Wyoming System. The County Agency shall endeavor to provide the Municipalities with reasonable advance written notice (e.g., not less than 60 days) of any such increases or additional payments required to provide the Municipalities with sufficient time to take such actions necessary to satisfy the Municipalities' increased or additional contractual obligations.

6. The County will deposit all revenue from the Future Project Charges in a fund or account, which shall be used to pay the County's costs and expenses associated with the Future Projects. The County Agency will keep records to allocate all revenue and expenses between the

various Future Projects. Any interest earnings from the fund balance will be allocated by the County Agency proportionally among the Future Projects, as appropriate. The County Agency will provide an annual summary of such fund or account to the Municipalities when it establishes the Future Project Charges for the following year. The County Agency will provide any Municipality with a summary of such fund or account between the annual reporting period if requested.

7. A fund balance that includes a component for each of the Future Projects will be created and maintained from the Future Project Charges, as well as other payments required under Section 5 of this Agreement (if any) and any other lawfully available funds as agreed by the parties to this Agreement. Each such fund balance component is intended to be sufficient to timely pay all costs and expenses associated with each corresponding Future Project respectively, with a safety factor for each component to provide for cash flow needs associated with the timing of obligations coming due, based on the absence of an initial fund balance for a Future Project and potential variations from projections of water usage. The targeted maximum fund balance for each such component will be the total costs and expenses due for that fiscal year with regard to the corresponding Future Project, plus a reasonable safety factor determined by the County Agency in its reasonable judgment for each of the Future Projects. Notwithstanding the foregoing, for the last year of any particular fund component, the County Agency shall adjust the respective Future Project Charge to draw down the corresponding component of the fund or account if and as the County Agency deems appropriate. After payment of all expenses and charges associated with any particular Future Project, any remaining balance in the corresponding fund component (including any remaining interest earnings allocated to that Future Project) shall be used or distributed by the County Agency as permitted by law after consultation with the Municipalities.

8. The County Agency is currently negotiating the Superseding Wyoming Agreement with Wyoming which, when complete and effective, may include or necessitate additional changes

to the rate making methodology, and the parties to this Agreement acknowledge and agree that notwithstanding any other provision of this Agreement, the County Agency shall adjust its methodology for establishing water rates in its reasonable judgment without amendment of this Agreement to address such included or necessary changes. Any additional rate changes will include provisions intended to generate sufficient revenue to timely pay all costs and expenses associated with the 2025 Project. The County Agency shall endeavor to provide regular updates to the Municipalities on any proposed changes to such methodology for establishing water rates and the anticipated schedule for implementation of such changes in water rates.

9. This Agreement describes how the Parties intend to establish rates and pay for the Future Projects, but in no way seeks to reduce, eliminate or change the parties' respective obligations pursuant to the Existing Wyoming Agreement; any existing bond contracts (including but not limited to each Municipalities' pledge pursuant to Section 5a of Act 342 of its full faith and credit, subject to applicable constitutional, statutory and charter tax limitations, for the prompt and timely payment of its obligations as set forth in Section 9 of certain existing bond contracts); and the 1988 Water Supply System Contract dated April 1, 1988 between and among these same parties (except that as and to the extent that the 1988 Water Supply System Contract and this Agreement may be in conflict, this Agreement shall control).

10. In the event that a Municipality shall fail for any reason to pay to the County Agency at the times specified by the County the amounts herein required to be paid, the County shall have all rights and remedies provided by law to enforce the obligations of each Municipality to make payments in the manner and at the times required by this Agreement. If a Municipality fails to make any payment required under this Agreement to the County when due, the same shall be subject to a penalty of one and one-half (1½%) percent thereof for each month or fraction thereof that such amount remains unpaid after due. Each Municipality covenants and agrees that it will make its required payments to the County promptly as herein specified, without regard as

to whether the Project herein contemplated is actually completed or placed in operation; provided that nothing herein contained shall limit the obligation of the County to perform in accordance with the covenants contained herein.

11. No change in the jurisdiction over territory in a Municipality shall in any manner impair the obligations of this Agreement. In the event all or any part of the territory of a Municipality is incorporated as a new municipality or is annexed to or becomes a part of the territory of another municipality, the municipality into which such territory is incorporated or to which such territory is annexed, shall assume the proper proportionate share of the contractual obligations and right to capacity in the Wyoming System for the territory that is taken, based upon a division determined by the County Agency that shall make such determination after taking into consideration all factors necessary to make the division equitable, and in addition, prior to such determination, shall receive a written recommendation as to proper division from a committee composed of one representative designated by the governing body of the Municipality from which the territory is taken, one designated by the governing body of the new municipality or the municipality annexing such territory, and one independent registered engineer appointed by the County Agency. The Municipality and the new or annexing municipality shall appoint their representatives within fifteen (15) days after being notified to do so by the County Agency and within a like time the County Agency shall appoint the engineer third member. If either the Municipality or the new or annexing municipality shall fail to appoint its representative within the time above provided, the County Agency may proceed without such recommendation. If the committee shall not make its recommendation within forty-five (45) days after its appointment or within any extension thereof by the County Agency, the County Agency may proceed without such recommendation.

12. The parties anticipate that it may be desirable or necessary for the County to acquire or construct additional facilities in the future in addition to the 2025 Project in order to

meet the needs of the Municipalities, and that it may be desirable or necessary for one or more of the Municipalities to acquire or construct additional water facilities to maintain or improve the efficiency of the water system in its or their jurisdiction. To facilitate planning to meet these needs each Municipality shall annually provide a report setting forth its projected water use for the next five and twenty years, or such other time period established by the County Agency from time to time, by March 31 of each year or such other date as may be established by the County from time to time. The County Agency will utilize such projections to develop an annual report, which it will provide to the Municipalities. The County Agency will consult with the Municipalities about any findings or recommendations in its annual report on a mutually agreeable schedule, or if the parties do not arrive on a mutually agreeable schedule in a reasonable period of time, at a meeting scheduled by the County Agency.

13. The parties hereto agree that the costs and expenses of any lawsuits arising directly or indirectly out of this Agreement or the construction or financing of any of the Future Projects, to the extent that such costs and expenses are chargeable against the County or the County Agency, shall be deemed to constitute a part of the County's cost of such Future Project and shall be paid by the Municipalities in the same manner as herein provided with respect to other County costs associated with such Future Project. In the event of such litigation, the County Agency shall consult with the Municipalities and shall retain legal counsel agreeable to the County and the Municipalities to represent the County; provided that if the County and the Municipalities cannot agree as to such representation within a reasonable time, the County Agency shall exercise its discretion as to the retention of such counsel. This Section shall not apply to a lawsuit instituted by any Municipality to enforce its rights under this Agreement.

14. All powers, duties and functions vested by this Agreement in the County shall be exercised and performed by the County Agency, for and on behalf of the County, unless otherwise provided by law or in this Agreement.

15. In the event that any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.

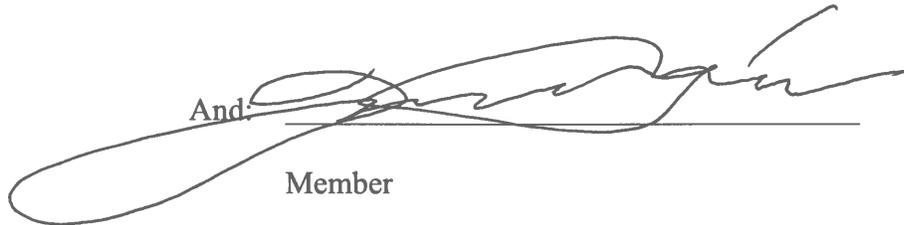
16. This Agreement shall become effective after its execution by each party hereto. This Agreement shall remain in full force and effect for a period of forty (40) years from the date hereof or such earlier date as all obligations and any future debt with respect to the County's interest in the Wyoming System are paid in full, unless terminated earlier by mutual agreement of the parties hereto in writing. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be executed in any number of counterparts.

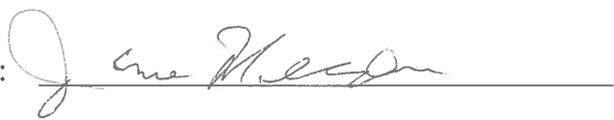
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered by their respective duly authorized officers, all as of the day and year first above written.

COUNTY OF OTTAWA

By: Its Board of County Road Commissioners as
County Agency

By: 
Chairman

And: 
Member

And: 
Member

TOWNSHIP OF BLENDON

By: _____
Supervisor

And: _____
Township Clerk

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

COUNTY OF OTTAWA

By: Its Board of County Road Commissioners as
County Agency

By: _____

Chairman

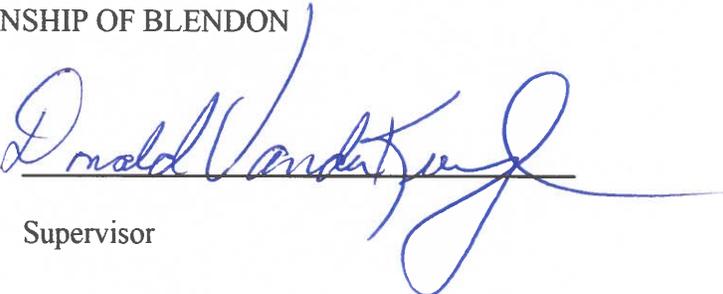
And: _____

Member

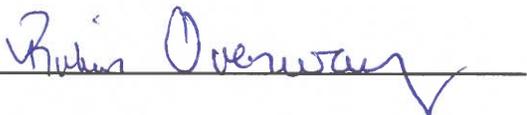
And: _____

Member

TOWNSHIP OF BLENDON

By:  _____

Supervisor

And:  _____

Township Clerk

CHARTER TOWNSHIP OF GEORGETOWN

By: James R. Wierenga
Supervisor JAMES R. WIERENGA

And: [Signature]
Township Clerk

CHARTER TOWNSHIP OF HOLLAND

By: _____
Supervisor

And: _____
Township Clerk

CHARTER TOWNSHIP OF JAMESTOWN

By: _____
Supervisor

And: _____
Township Clerk

CHARTER TOWNSHIP OF GEORGETOWN

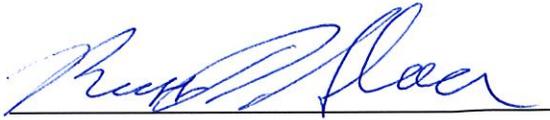
By: _____

Supervisor

And: _____

Township Clerk

CHARTER TOWNSHIP OF HOLLAND

By: 

Supervisor

And: 

Township Clerk

CHARTER TOWNSHIP OF JAMESTOWN

By: _____

Supervisor

And: _____

Township Clerk

CHARTER TOWNSHIP OF GEORGETOWN

By: _____

Supervisor

And: _____

Township Clerk

CHARTER TOWNSHIP OF HOLLAND

By: _____

Supervisor

And: _____

Township Clerk

CHARTER TOWNSHIP OF JAMESTOWN

By: 

Supervisor

And: 

Township Clerk

TOWNSHIP OF OLIVE

By: Al Nienhuis

Supervisor

And: Anna Brakem

Township Clerk

TOWNSHIP OF PARK

By: _____

Supervisor

And: _____

Township Clerk

TOWNSHIP OF PORT SHELDON

By: _____

Supervisor

And: _____

Township Clerk

TOWNSHIP OF OLIVE

By: _____

Supervisor

And: _____

Township Clerk

TOWNSHIP OF PARK

By: Gene Goelby

Supervisor

And: Joan Zecrip

Township Clerk

TOWNSHIP OF PORT SHELDON

By: _____

Supervisor

And: _____

Township Clerk

TOWNSHIP OF OLIVE

By: _____
Supervisor

And: _____
Township Clerk

TOWNSHIP OF PARK

By: _____
Supervisor

And: _____
Township Clerk

TOWNSHIP OF PORT SHELDON

By: *Michael A. Sabatino*
Supervisor

And: *Meredith Henneke*
Township Clerk

CHARTER TOWNSHIP OF ZEELAND

By:  _____

Supervisor

And:  _____

Township Clerk

CITY OF HUDSONVILLE

By: _____

Mayor

And: _____

City Clerk

CHARTER TOWNSHIP OF ZEELAND

By: _____

Supervisor

And: _____

Township Clerk

CITY OF HUDSONVILLE

By: Mark Northrup

Mayor

And: Jill Shuppen

City Clerk

Exhibit A-1

2024 Water Supply System Improvements

Project Description

The Project is the first phase of a multi-phased project to extend a third transmission main from the City of Wyoming Donald K Shine Water Treatment Plant to the Gezon Pumping Station. The first phase consists of the construction of transmission main piping and valves from the Wastewater Treatment Plant to approximately 9 miles east, as well as installation of a surge suppression system at the Water Treatment Plant. Improvements include the following:

- 64,000 feet of 60-, 54-, 48-, and 42-inch transmission main
- 400 feet of trenchless casing installation beneath Railroad and Highway
- Ten 42-inch and greater ball and butterfly valves
- Cathodic protection system
- 28,000 feet of asphalt road reconstruction
- 22,000 feet of gravel road reconstruction
- Five 32,000-gallon hydro-pneumatic surge tanks
- Yard and pipe gallery piping and valving, mechanical, and electrical as necessary to support surge tanks
- Surge tank building enclosure

Exhibit A-2

2024 Water Supply System Improvements

