

# Southgate City Council Agenda

## Council Chambers

Wednesday February 15, 2017

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### 6:30pm Work Study Session

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1. Officials Reports
2. Discussions regarding agenda items.

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### 7:00 pm Regular Meeting

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#### *Pledge of Allegiance*

**Roll Call:** Colovos, Farrah, George, Graziani, Rauch, Rollet, Zamecki.

**Minutes:**

1. Work Study Session Minutes dated February 1, 2017.
2. Regular City Council Meeting Minutes dated February 1, 2017.
3. Public Hearing Meeting Minutes date February 1, 2017.

#### **Scheduled Persons in the Audience:**

#### **Consideration of Bids:**

1. Letter from the Mayor; Re: Bid for the Purchase and Delivery of Trees Page 2

#### **Scheduled Hearings:**

1. Memo from Administrator; Re: Public Hearing - Parks & Recreation Master Plan Page 7
2. Memo from Administrator; Re: Public Hearing - CDBG 2017-2018 Program Funds Page 9

#### **Communications "A" –**

1. Memo from Administrator; Re: City of Southgate Park & Recreation Master Plan Page 11
2. Memo from Administrator; Re: CDBG 2017-2018 Program Funds Page 12
3. Memo from Administrator; Re: Brian Lawrence Sands, 12661 Fordline Page 13
4. Memo from City Clerk; Re: Precinct Consolidation Page 15
5. Memo from Administrator; Re: Resolution for Charitable Gaming License for the DCC Page 19
6. Memo from Administrator; Re: Downriver Sewage Disposal System Service Agreement Page 22
7. Memo from Deputy City Assessor; Re: March Board of Review 2017 Page 96
8. Memo from Administrator; Re: Market Center Park Page 97

#### **Communications "B" – (Receive and File)**

#### **Ordinances:**

1. Memo from Administrator; Re: Chapter 1422 International Property Maintenance Code Page 98
2. Memo from Administrator; Re: Chapter 1046 Water and Sewer Rates Page 100

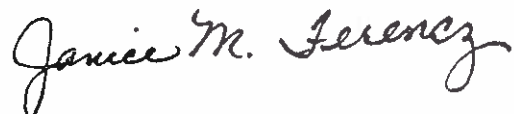
#### **Old Business:**

#### **New Business:**

#### **Unscheduled Persons in the Audience:**

**Claims & Accounts:** Warrant # 1323 - \$ 861,938.76

#### **Adjournment:**



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**Janice M. Ferencz, City Clerk**

**JOSEPH G. KUSPA**  
*Mayor*

**JANICE M. FERENCZ**  
*City Clerk*

**JAMES E. DALLOS**  
*Treasurer*



## **City of Southgate**

**NORMA J. WURLINGER**  
**MUNICIPAL BUILDING**

**- CITY COUNCIL -**

**JOHN GRAZIANI**  
*Council President*

**KAREN E. GEORGE**

**MARK FARRAH**

**BILL COLOVOS**

**DALE W. ZAMECKI**

**PHILLIP J. RAUCH**

**CHRISTOPHER P. ROLLET**

February 9, 2017

To the Honorable  
City Council  
Southgate, Michigan 48195

Re: Bid for the Purchase and Delivery of Trees

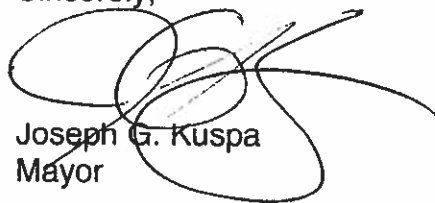
Ladies and Gentlemen:

Bids for the Purchase and Delivery of Trees were received and reviewed by the administration. It is recommended by DPS Director and I concur, that the bid be awarded to Schichtel's Inc., Springville, NY in the amount of \$11,000.00.

Adequate funds are available through the Great Lakes Restoration Initiative Grant in the amount of \$5,000.00, with the rest coming from the DPS Budget to cover costs associated with this bid award.

Your favorable consideration of this matter is requested.

Sincerely,



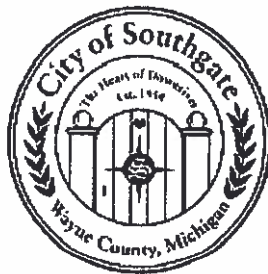
Joseph G. Kuspa  
Mayor

JGK/law

**JOSEPH G. KUSPA**  
*Mayor*

**JANICE M. FERENCZ**  
*City Clerk*

**JAMES E. DALLOS**  
*Treasurer*



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**PHILLIP J. RAUCH**

**CHRISTOPHER P. ROLLET**

## **MEMORANDUM**

**TO:** The Honorable Mayor and City Council

**FROM:** David Angileri, Assistant City Administrator/Finance Director 

**DATE:** February 8, 2017

**RE:** Recommendation for Purchase and Delivery Trees

I have reviewed the above with the DPS Director and concur with his recommendation to award this bid to, Schichtel's Nursery Inc. Springville NY in the amount of \$11,000.

Adequate funds will be available through the Great Lakes Restoration Initiative Grant in the amount of \$5,000 with the rest coming from DPS Budget for this purchase.

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From the Desk of:  
Robert Tarabula  
Director, D.P.S.  
February 8, 2017

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To: David Angileri  
Finance Director

Re: Bid Recommendation for the Purchase and Delivery of Trees

I have reviewed the bids submitted for the Purchase and Delivery of Trees and find Schichtel's Nursery, Inc. to be the best choice for the City based upon the following:

- They meet all bid specifications
- They are the low bidder

Therefore, I recommend that the bid is awarded to:

<p>Schichtel's Nursery, Inc 7420 Peters Rd Springville, NY 14141</p>
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If you have any questions, please contact me.

RT/ad

Enclosure: Bid Tabulation

(D/Bids-A: F4 Bid Recommendation: Trees-Purchase & Delivery)

## Tree Purchase and Delivery Tabulation 2017

Species	Schichtel's Nursery, Inc	Marine City Nursery Co.	Landscape Supply, Inc	Agroscaping, Inc <sup>1</sup>
Paperbark Maple				195.00
State Street Maple	159.00	205.00		175.00
Ft McNair Horsechestnut	93.00 <sup>2</sup>			235.00
Dura Heat River Birch				
Heritage River Birch	146.00	205.00		175.00
European Hornbeam	168.00			185.00
American Hornbeam	168.00	205.00		185.00
Magnifica Hackberry	159.00		176.00	175.00
Yellowwood	93.00 <sup>2</sup>	215.00	212.80	195.00
Perkins Pink Yellowwood	93.00 <sup>2</sup>			
Hardy Rubbertree	86.00 <sup>3</sup>	215.00		175.00
Skyline Honey Locust	126.00	205.00		165.00
Espresso Kentucky Coffeetree	168.00	215.00	170.80	170.00
Carolina Silverbell				
Tuliptree	146.00	205.00		170.00
Emerald City Tuliptree	146.00			185.00
Black Tupelo	168.00			195.00
Eye Stopper Amur Corktree			197.20	
Bloodgood London Planetree	146.00	205.00	176.80	175.00
Swamp White Oak		215.00		175.00

Species	Schichtel's Nursery, Inc	Marine City Nursery Co.	Landscape Supply, Inc	Agroscaping, Inc <sup>1</sup>
Shingle Oak			180.40	185.00
Red Oak	168.00	215.00		195.00
Regent Japanese Pagodatree				190.00
Ivory Silk Tree Lilac	160.00	205.00		185.00
Summer Snow Tree Lilac	160.00			
American Sentry Linden				175.00
Legend Linden				185.00
Redmond Linden	148.00	215.00	152.00	185.00
Sterling Silver Linden	138.00 <sup>2</sup>			175.00
Princeton Elm	168.00	215.00		175.00
Accolade Elm	91.00 <sup>3</sup>			175.00
Frontier Elm		205.00		175.00
Concolor Fir	164.00			195.00
Korean Fir	164.00		184.00	
Siberian Spruce	160.00	195.00	160.00	185.00
Black Hills Spruce	160.00		164.00	165.00

<sup>1</sup>Bid for Agroscaping received after bid deadline, Freight is approximately \$15.00 per tree

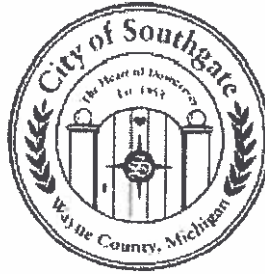
<sup>2</sup>1.75-2.0", bare root only

<sup>3</sup>1.5-1.75" bare root only

JOSEPH G. KUSPA  
*Mayor*

JANICE M. FERENCZ  
*City Clerk*

JAMES E. DALLOS  
*Treasurer*



## City of Southgate

NORMA J. WURLINGER  
MUNICIPAL BUILDING

- CITY COUNCIL -

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CHRISTOPHER P. ROLLET

### Memorandum

**To:** Honorable City Council Members

**From:** John J. Zech, City Administrator *JJE*

**Date:** February 9, 2017

**Re:** Public Hearing; City of Southgate Parks & Recreation Master Plan

At your February 1, 2017 meeting, you approved holding a public hearing on February 15, 2017 to consider comments from the residents concerning the proposed Parks and Recreation Master Plan. On February 8, 2017 the Park and Recreation Commission held a meeting wherein they voted unanimously to recommend to you the plan be approved. Attached please find a copy of their resolution.

Dustin Lent and Chris Nordstrom of Carlisle Wortman Associates, the City's planning consultants, will present a summary of the proposed Master Plan for your consideration.

Please contact me if you have any questions.

**Cc:** Mayor Joseph G. Kuspa  
Dustin Lent  
Chris Nordstrom

Resolution in Support of the Adoption of the City of Southgate Parks and Recreation Master Plan

WHEREAS, the City of Southgate has undertaken its five-year Parks and Recreation Plan which describes the community's physical and social characteristics, existing recreation facilities, and the desired actions to be taken to improve recreation facilities during the period between 2017 and 2021; and

WHEREAS, the Parks and Recreation Commission sought public input regarding the plan at a public meeting held on October 12, 2016; and

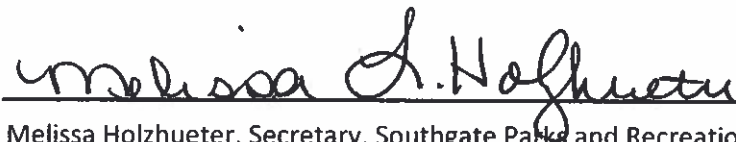
WHEREAS, the plan was made available for public review from December 23, 2016 to February 1, 2017 and a public hearing will be held on February 15, 2017 to provide further opportunity for citizens to express opinions, ask questions, and discuss all aspects of the Recreation Plan.

NOW, THEREFORE, BE IT RESOLVED that the City of Southgate Parks and Recreation Commission hereby recommends the adoption of the City of Southgate Parks and Recreation Master Plan to the Southgate City Council.

Motion by: Dave Pinkowski  
Seconded by: Rob Proulx

In favor: Unanimous  
Opposed: None  
Absent: Roy Birmingham

I hereby certify that the above is a true and complete copy of a resolution duly adopted by the City of Southgate Parks and Recreation Commission on the 8<sup>th</sup> day of February, 2017.



Melissa Holzhueter, Secretary, Southgate Parks and Recreation Commission



JOSEPH G. KUSPA  
Mayor

JANICE M. FERENCZ  
City Clerk

JAMES E. DALLOS  
Treasurer



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### Memorandum

**To:** Honorable City Council Members  
**From:** John J. Zech, City Administrator *JJZ*  
**Re:** Public Hearing; CDBG 2017-2018 Program Funds  
**Date:** February 7, 2017

The City Council has scheduled a second public hearing, as required by the Wayne County CDBG Program Guidelines, to receive suggestions from the public and address any concerns they may have regarding the City's proposed uses of its 2017-2018 CDBG Program Funds. As stated at your February 1, 2017 public hearing, the City is expecting to receive about \$153,751.00 for the upcoming fiscal year. The funds are to be used for eligible activities, which must meet at least one of the following criteria:

- Benefit low to moderate income persons;
- Address slum, blight or blighting conditions; and
- Meet an urgent community need.

The administration has recommended the funds be used in the following ways:

- Senior Services - \$21,000.00
- Housing Rehabilitation - \$40,000.00
- Americans with Disabilities Act (ADA) Improvements - \$12,751.00
- Demolition of Blighted Structures - \$70,000.00
- Administration, Engineering and Planning - \$10,000.00

Total	<u>\$153,751.00</u>
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Should there be any program income generated in conjunction with the City's Housing Rehabilitation Program, as houses are sold and loans are repaid, it is recommended the funds be allocated back to the Housing Rehabilitation Program to assist additional low and moderate income homeowners.

At your first public hearing there weren't any suggestions or questions from the public; however, there may be at the second hearing. Once the hearing has been closed, the Administration will ask the City Council to approve a resolution as to how the 2017-2018 funds are to be used.

Please contact me with any questions you may have.

Cc: Mayor Joseph G. Kuspa  
David Angileri  
Denise Sciacca  
Joan E. Hennessey

**CITY OF SOUTHGATE**  
**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**  
**PLEASE TAKE NOTICE that a PUBLIC HEARING will be held:**  
**WEDNESDAY, February 1, 2017 @ 7PM**  
**at City Hall, 14400 Dix-Toledo**

NOTICE is hereby given to the residents of the City of Southgate that the City Council will hold a public hearing to seek citizen input on the 2017-2018 Community Development Block Grant Program (CDBG). The CDBG Program under Title 1 of the Housing and Community Development Act of 1974 provides citizens the opportunity to participate in the preparation of the City's application for CDBG funding by discussing City needs and expressing preferences on proposed activities. Activities funded by CDBG must meet at least one of the following criteria.

1. Benefit low to moderate income persons.
2. Address slum and blight.
3. Meet an urgent need.

Total funds anticipated to be allocated for the City of Southgate for the 2017-2018 CDBG Year are to be around \$153,751. At its January 4, 2017 meeting, City Council approved to set a public hearing to review and approve the preliminary 2017-2018 CDBG projects:

- Senior Services - \$21,000.  
Costs incurred for the Senior Services Coordinator and staff, as well as programs and activities focused on the needs of the City of Southgate senior population.
- Housing Rehabilitation – \$40,000.  
A no-interest rate loan program designed to assist low- and moderate-income residents with home repairs.
- ADA Improvements -\$12,751.  
Improve accessibility upon municipal asset ways including our public infrastructure transportation system and municipal building access points.
- Administration, Engineering, Planning - \$10,000.00  
Monies to administer the CDBG program throughout the calendar year.
- Demolition of blighted structures - \$70,000.  
Demolition of blighted structures that the Dangerous Building Board and City Council have deemed necessary.

Program Income is often generated from the Housing Rehabilitation Program as houses sell and loans are repaid. We do not expect any Program Income to be generated during the 2017-2018 Program Year. However, if Program Income is generated, it will be allocated back to the Housing Rehabilitation Program to assist additional homeowners.

The public should note that these figures are an estimate based upon expected allocations to the program. If changes need to be made based on the final allocation received from HUD by Wayne County, then a proportional reduction or increase for all projects will occur.

Citizen comments are welcome. Individuals with disabilities who require special accommodations, auxiliary aids or services to respond to this notice should contact the City Clerk's Office at (734) 258-3023. Written comments may be sent to the City Clerk, 14400 Dix-Toledo, Southgate, MI 48195. Responses will be accepted until Tuesday January 26, 2017.

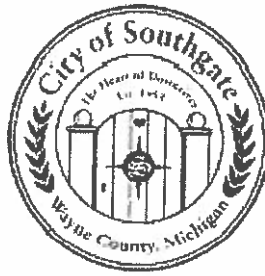
Janice M. Ferencz, City Clerk

Publish Date: 01/15 and 01/22

JOSEPH G. KUSPA  
Mayor

JANICE M. FERENCZ  
City Clerk

JAMES E. DALLOS  
Treasurer



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CHRISTOPHER P. ROLLET

**Memorandum**

**To:** Honorable City Council Members

**From:** John J. Zech, City Administrator 

**Date:** February 9, 2017

**Re:** City of Southgate Parks & Recreation Master Plan

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The proposed Master Plan represents the good efforts of the Parks and Recreation Commission, interested citizens and groups, the staff of the department and the City's consultant Carlisle Wortman Associates. Therefore, the Administration recommends the Parks and Recreation Master Plan be approved.

Please contact me if you have any questions.

**Cc:** Mayor Joseph G. Kuspa  
David Angileri  
Dustin Lent  
Chris Nordstrom

JOSEPH G. KUSPA  
Mayor

JANICE M. FERENCZ  
City Clerk

JAMES E. DALLOS  
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**Memorandum**

**To:** Honorable City Council Members

**From:** John J. Zech, City Administrator

*JJZ*

**Re:** CDBG 2017-2018 Program Funds

**Date:** February 7, 2017

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The Administration respectfully requests the City's 2017-2018 CDBG Program funds be used in the following ways:

- Senior Services - \$21,000.00
- Housing Rehabilitation - \$40,000.00
- Americans with Disabilities Act (ADA) Improvements - \$12,751.00
- Demolition of Blighted Structures - \$70,000.00
- Administration, Engineering and Planning - \$10,000.00

Total	<u>\$153,751.00</u>
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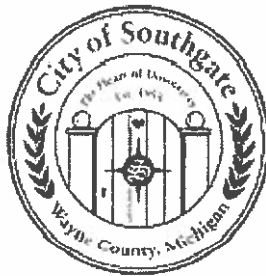
Please contact me with any questions you may have.

**Cc:** Mayor Joseph G. Kuspa  
David Angileri  
Denise Sciacca  
Joan E. Hennessey

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CHRISTOPHER P. ROLLET

**Memorandum**

**To:** Honorable City Council Members

**From:** John J. Zech, City Administrator

**Re:** Brian Lawrence Sands, 12661 Fordline

**Date:** February 8, 2017

On January 20, 2017, the City received via email from the Wayne County Treasurer, the Quit Claim Deed for 12661 Fordline. Mr. Brian Lawrence Sands is the gentleman that purchased 12661 Fordline from a person that represented himself as the owner of that address. However, that person was subsequently convicted of defrauding Mr. Sands, and others, and has been imprisoned. Last summer representatives of the Wayne County Treasurers office worked with the administration to make it possible for Mr. Sands to receive the deed for 12661 Fordline once it cleared through the tax foreclosure process. Now that the process has been completed, the Wayne County Treasurer has asked the City to convey the deed to Mr. Sands.

Therefore the Administration respectfully requests that you authorize the City Attorney to prepare the appropriate documents to convey the deed for 12661 Fordline to Mr. Brian Lawrence Sands. Attached please find a copy of the Quit Claim Deed.

Mr. Sands will be present at your meeting should you have any questions for him.

The City Attorney is reviewing the process the Wayne County Treasurer's staff followed, to make sure all of the necessary steps were followed.

If you have any questions, please contact me.

**Cc:** Mayor Joseph G. Kuspa  
David Angileri  
Brandon Fournier  
Brian Lawrence Sands

WAYNE COUNTY TREASURER

QUIT CLAIM DEED

(Issued under Act 206 Public Act of 1893, as Amended by Act 123 of Public Acts of 1999)

Eric R. Sabree, Treasurer of the Charter County of Wayne, Michigan, hereinafter called the Grantor/Treasurer whose address is 400 Monroe, Suite 520, Detroit, Michigan 48226, by authority of Act 206 of Public Acts of 1893, as amended by Act 123 of Public Acts of 1999, as amended, conveys and quit claims to:

CITY OF SOUTHGATE

hereinafter called the Grantee, whose address is:

14400 DIX ROAD SOUTHGATE, MI 48195

described premises located in the CITY OF SOUTHGATE, WAYNE COUNTY, MI the following

Tax Parcel I.D. #: 53008010307002

Legal Description:

24D307B 308 309A S 12 FT OF LOT 307 ALSO LOT 308 AND THE N 12 FT OF LOT 309 ALSO W 1/2 ADJ VAC ALLEY DIX NORTHLINE SUB NO. 1 T3S R10E L56 P95 WCR

Commonly known as: 12661 FORDLINE SOUTHGATE, MI 48195

For the full consideration of \$0.00 Dollars.

Date: January 6, 2017

Pursuant to the provisions of Section 78k(5)(c) and 78k(5)(e) parcels are subject to visible or recorded easements and rights of way, private deed restrictions; building restrictions of record; all future instalments of special assessments and liens recorded by the State or the foreclosing governmental unit or restrictions or other governmental interests imposed pursuant to the Natural Resources and Environmental Protection Act being Public Act 451 of 1994. This conveyance is exempt from taxes pursuant to MCL 207.505(h)(1) and MCL 207.526(h)(1).

In Witness Whereof the Grantor, has signed and affixed the seal of the Wayne County Treasurer the day and year first above written.



STATE OF MICHIGAN )  
 )ss  
COUNTY OF WAYNE )

*Eric R. Sabree*  
Eric R. Sabree  
Wayne County Treasurer

page 14

The foregoing instrument was acknowledged before me on this 6 day of January, 2017 by  
Eric R. Sabree, Wayne County Treasurer.

# Memo

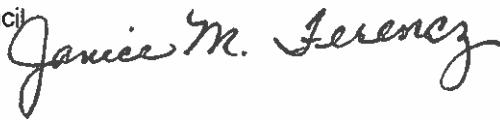
**To:** Mayor and Honorable City Council

**From:** Jan Ferencz, City Clerk

**CC:**

**Date:** 2/9/2017

**Re:** Precinct Consolidation



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We are asking for your concurrence to permanently consolidate the municipal precincts from 14 down to 11. Consolidating precincts will reduce the overall costs of running an election along with eliminate the need for two of our eight precinct locations. The Election Commission will be taking this up at their meeting this Friday, February 10th, at 3:15 p.m.

- 1) Proposed precinct locations including Total Registered Voter Counts
- 2) Old Precinct Map
- 3) New Precinct Map
- 4) Election Commission resolution (minutes) will be forwarded via email on Monday.

We are asking for your favorable concurrence with this precinct consolidation.

[illegible]

**\*voter totals as of 1/23/17**

**new precinct chart**

91



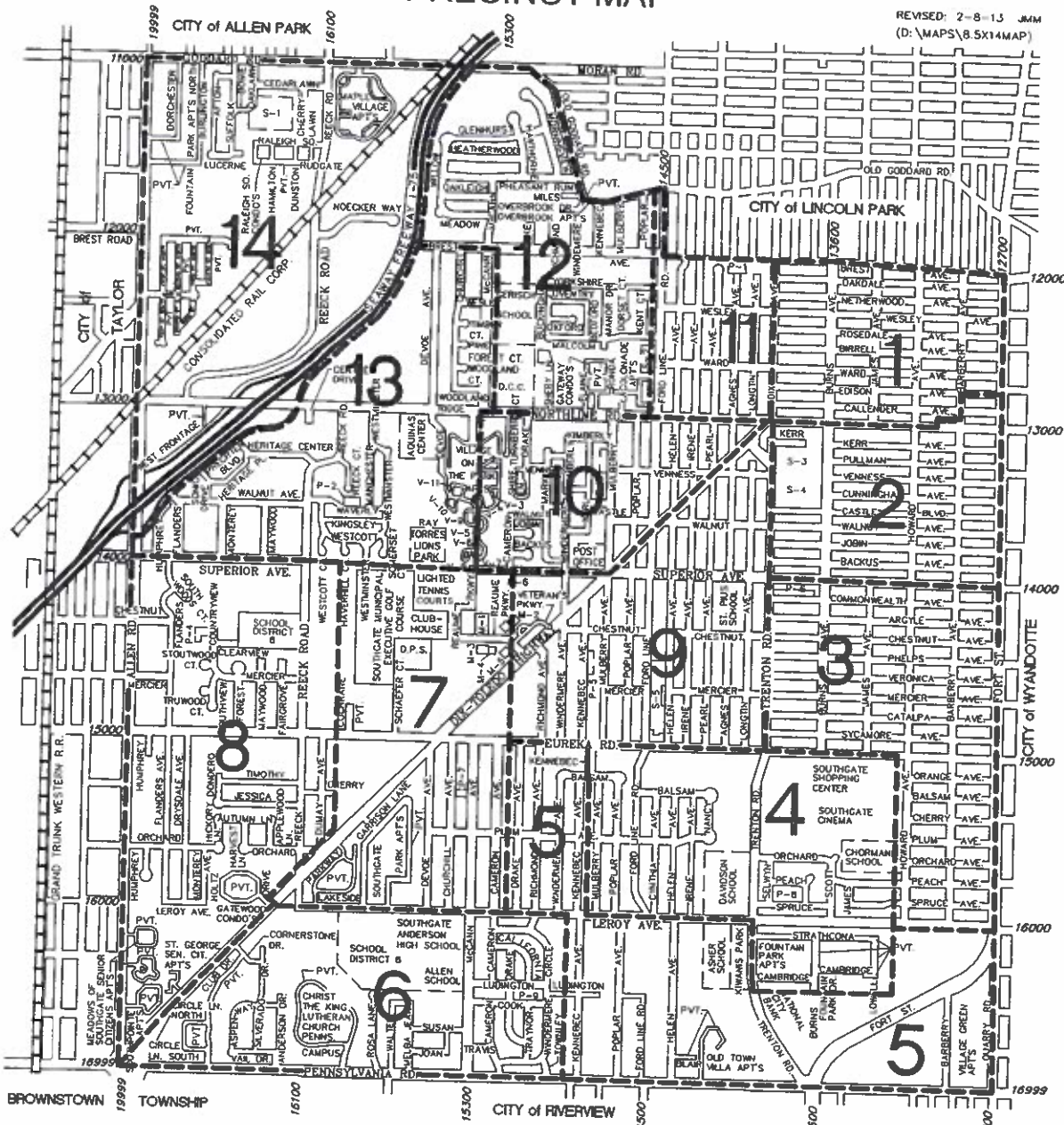
# CITY OF SOUTHGATE

## PRECINCT MAP



NORTH

REVISED: 2-8-13 JMM  
(D:\MAPS\8.5X14MAP)



### SOUTHGATE SCHOOLS

- S-1: NORTHPOINTE SCHOOL
- S-2: SHELTERS SCHOOL
- S-3: STGT. COMM. SCHOOL DISTRICT OFFICES
- S-4: GROGAN SCHOOL
- S-5: FORD LINE SCHOOL

### SOUTHGATE PARKS

- P-1: JAYCEE PARK
- P-2: WAVERLY PARK
- P-3: AUXILIARY POLICE PARK
- P-4: STOUT & TRU COUNTRYVIEW PARK
- P-5: KENNEBEC PARK
- P-6: COBB PARK
- P-7: McCANN PARK
- P-8: SPRUCE PARK
- P-9: ROTARY PARK

### SOUTHGATE MUNICIPAL COMPLEX

- M-1: CIVIC CENTER
- M-2: CITY HALL & LIBRARY
- M-3: POLICE STATION
- M-4: COURT HOUSE
- M-5: FIRE STATION
- M-6: HOMER HOWARD BASEBALL DIAMOND COMPLEX

### VILLAGE ON THE PARK APT'S. STREETS

- V-1: VILLAGE GREEN BLVD.
- V-2: GREENVIEW DR.
- V-3: PINE RIDGE LN.
- V-4: VILLAGE SQUARE DR.
- V-5: GREENFIELD WAY
- V-6: VILLAGE GREEN BLVD.
- V-7: GREENWICH LN.
- V-8: PARKVIEW LN.
- V-9: COURTSIDE WAY
- V-10: PARKSIDE DR.
- V-11: PINEVIEW WAY

### PRECINCT No.

### LOCATION

- 1 GROGAN SCHOOL, 13300 BURNS AVE.
- 2 CHRIST THE KING CHURCH, 15600 TRENTON RD.
- 3, 4, 5 DAVIDSON SCHOOL, 15800 TRENTON RD.
- 6 ALLEN SCHOOL, 16500 McCANN RD.

### PRECINCT No.

### LOCATION

- 7, 8, 9 CIVIC CENTER, 14700 REAUME PKWY.
- 10, 13 GERISCH SCHOOL, 12601 McCANN RD.
- 11, 12 SHELTERS SCHOOL, 12600 FORD LINE RD.
- 14 NORTHPOINTE SCHOOL, 18636 BOWE DR.

# CITY OF SOUTHGATE

## PRECINCT MAP



REVISED: 2-8-13 JMM  
(D:\MAPS\8.5X14MAP)



**SOUTHGATE SCHOOLS**  
S-1: NORTHPOINTE SCHOOL  
S-2: SHELTERS SCHOOL  
S-3: STGTE. COMM. SCHOOL DISTRICT OFFICES  
S-4: GROGAN SCHOOL  
S-5: FORD LINE SCHOOL

**SOUTHGATE PARKS**  
P-1: JAYCEE PARK  
P-2: WAVERLY PARK  
P-3: AUXILIARY POLICE PARK  
P-4: STOUT & TRU COUNTRYVIEW PARK  
P-5: KENNEBEC PARK  
P-6: COBB PARK  
P-7: MCCANN PARK  
P-8: SPRUCE PARK  
P-9: ROTARY PARK

**SOUTHGATE MUNICIPAL COMPLEX**  
M-1: CIVIC CENTER  
M-2: CITY HALL & LIBRARY  
M-3: POLICE STATION  
M-4: COURT HOUSE  
M-5: FIRE STATION  
M-6: HOMER HOWARD BASEBALL DIAMOND COMPLEX

**VILLAGE ON THE PARK APT'S. STREETS**  
V-1: VILLAGE GREEN BLVD.  
V-2: GREENVIEW DR.  
V-3: PINE RIDGE LN.  
V-4: VILLAGE SQUARE DR.  
V-5: GREENFIELD WAY  
V-6: VILLAGE GREEN BLVD.  
V-7: GREENWICH LN.  
V-8: PARKVIEW LN.  
V-9: COURTSIDE WAY  
V-10: PARKSIDE DR.  
V-11: PINEVIEW WAY

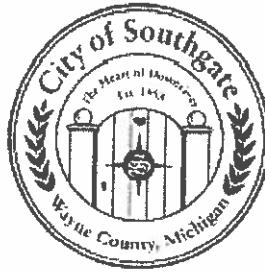
PRECINCT No.	LOCATION
1, 2	GROGAN SCHOOL, 13300 BURNS AVE.
3, 4, 5	DAWDSON SCHOOL, 15800 TRENTON RD.
6	ALLEN SCHOOL, 16500 MCCANN RD.

PRECINCT No.	LOCATION
7, 8	CIVIC CENTER, 14700 REAUME PKWY.
9, 11	GERISCH SCHOOL, 12601 MCCANN RD.
10	SHELTERS SCHOOL, 12600 FORD LINE RD.

JOSEPH G. KUSPA  
Mayor

JANICE M. FERENCZ  
City Clerk

JAMES E. DALLOS  
Treasurer



**City of Southgate**  
NORMA J. WURMLINGER  
MUNICIPAL BUILDING

- CITY COUNCIL -

JOHN GRAZIANI  
Council President

KAREN E. GEORGE

MARK FARRAH

BILL COLOVOS


DALE W. ZAMECKI

PHILLIP J. RAUCH

CHRISTOPHER P. ROLLET

**Memorandum**

**To:** Mayor and City Council

**From:** John J. Zech, City Administrator 

**Date:** February 9, 2017

**Re:** Resolution for Charitable Gaming License for the DCC

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The Downriver Community Conference is requesting a Local Governing body Resolution for Charitable Gaming License for their 40<sup>th</sup> Anniversary Dinner where they will hold a basket raffle. The resolution, which is attached, requests the City Council to recognize the Downriver Community Conference as a non-profit organization operating in Southgate. If adopted, the Resolution by City Council will be forwarded to the State to seek a charitable gaming license. The organization does rely heavily on donations and fundraising events for funding.

The Administration recommends favorable consideration.

Please contact me if you have any questions.

## Laura Walsh

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**From:** Cari Eggleton [Cari.Eggleton@dccwf.org]  
**Sent:** Thursday, February 09, 2017 12:04 PM  
**To:** Laura Walsh  
**Cc:** Joseph Kuspa; Jim Perry; Sue Pilon  
**Subject:** Special request for Southgate Council  
**Attachments:** Charitable Gaming Licenses form.pdf

Good afternoon Laura!

DCC has a special request to go before the City of Southgate Council. We have a 40<sup>th</sup> Anniversary Dinner scheduled for March 30<sup>th</sup> at Crystal Gardens in Southgate. We've requested basket donations from each of the 20 member communities, that we plan to raffle at the event.

As part of the formal request to the Michigan Charitable Gaming Division to hold such a raffle/fundraiser, we must obtain a resolution from the City of Southgate recognizing DCC as a nonprofit organization operating in the community.

Attached is a scanned form from the Gaming Division 'BSL-CG-1153'.

Thank you for your assistance in getting this placed on the Council's agenda as soon as possible, so we can complete the required process to the Michigan Gaming Division in time to operate the fundraiser/raffle. Please let me how soon this will occur.

Thanks again!

Cari

Cari Eggleton  
Executive Assistant  
Michigan Works! Southgate Service Center  
Downriver Community Conference  
15100 Northline Rd.  
Southgate, MI 48195  
Email: [Cari.Eggleton@dccwf.org](mailto:Cari.Eggleton@dccwf.org)  
Direct: 734-362-3469  
Fax: 734-281-0265  
Website: [www.dccwf.org](http://www.dccwf.org)

### CONFIDENTIALITY NOTE:

The above information is intended for the addressee and may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone. Thank you.

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**LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES**  
(Required by MCL 432.103(K)(ii))

At a \_\_\_\_\_ meeting of the \_\_\_\_\_  
REGULAR OR SPECIAL TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD

called to order by \_\_\_\_\_ on \_\_\_\_\_  
DATE

at \_\_\_\_\_ a.m./p.m. the following resolution was offered:  
TIME

Moved by \_\_\_\_\_ and supported by \_\_\_\_\_

that the request from \_\_\_\_\_ of \_\_\_\_\_  
NAME OF ORGANIZATION CITY

county of \_\_\_\_\_, asking that they be recognized as a  
COUNTY NAME

nonprofit organization operating in the community for the purpose of obtaining charitable

gaming licenses, be considered for \_\_\_\_\_  
APPROVAL/DISAPPROVAL

APPROVAL	DISAPPROVAL
Yeas _____	Yeas: _____
Nays _____	Nays: _____
Absent: _____	Absent _____

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the \_\_\_\_\_ at a \_\_\_\_\_  
TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD REGULAR OR SPECIAL

meeting held on \_\_\_\_\_  
DATE

SIGNED: \_\_\_\_\_  
TOWNSHIP, CITY, OR VILLAGE CLERK

\_\_\_\_\_  
PRINTED NAME AND TITLE

\_\_\_\_\_  
ADDRESS

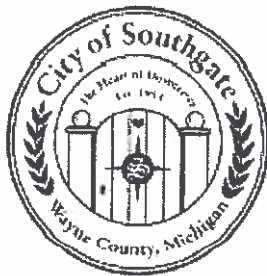
COMPLETION Required  
PENALTY Possible denial of application  
BSL-CG-1153(R6/09)



JOSEPH G. KUSPA  
Mayor

JANICE M. FERENCZ  
City Clerk

JAMES E. DALLOS  
Treasurer



**City of Southgate**  
NORMA J. WURLINGER  
MUNICIPAL BUILDING

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PHILLIP J. RAUCH

CHRISTOPHER P. ROLLET

**Memorandum**

**To:** Honorable City Council Members

**From:** John J. Zech, City Administrator

**Re:** Downriver Sewage Disposal System Service Agreement

**Date:** February 8, 2017

We are now at the second of the three critical decision points regarding the acquisition of the Downriver Sewage Disposal System from Wayne County. On July 1, 2015 the City Council adopted the Articles of Incorporation regarding this matter. In July and August of 2015, the other twelve communities that are serviced by the Downriver system voted to do the same. They are: Allen Park, Belleville, Brownstown Twp., Dearborn Heights, Ecorse, Lincoln Park, River Rouge, Riverview, Romulus, Taylor, Van Buren Twp. and Wyandotte. After 18 months of discussion, evaluation and analysis, a service agreement has been developed that will require the approval of the communities. As of this writing, the following communities have approved it: Belleville, Brownstown Twp., Dearborn Heights, Ecorse, River Rouge, Romulus, Taylor, Van Buren Twp., and Wyandotte. Allen Park, Lincoln Park and Riverview plan to place it on their city council agendas over the next few weeks.

Adoption of the Service Agreement by the communities is very important as it delineates all of the rights and responsibilities the Downriver Utility Wastewater Authority (DUWA) would have if it purchases the wastewater treatment facility from Wayne County for \$57.5 million.

Once the individual communities have decided whether or not they will approve the Service Agreement, the bond rating agency will assign a bond rating for DUWA so that bonds can be sold to cover the purchase of the waste water treatment plant. Repayment of the bonds would be through the savings from having a private contractor, Veolia, operating the plant and DUWA managing it rather than Wayne County.

The actual purchase agreement is the third critical decision point wherein the communities will be asked to approve the transfer of the ownership of the plant through what is being referred to as the "definitive agreement". A draft of the definitive agreement is currently being reviewed by a DUWA committee which includes Richard Hinshon, DUWA's Technical Consultant, Beth Bialy of Plante Moran and James Fausone of Fausone Bohn, DUWA's legal counsel. Therefore, once all of the details of the definitive agreement have been worked out, the communities will be asked to consider finalizing the purchase of the facility. Prior to the decision, the City Council will be provided with a copy of the definitive agreement.

Mr. Hinshon will be present at your February 15, 2017 meeting to answer any questions you may have

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As the service agreement is 72 pages, we are sending it to you electronically. If you would like a hard copy, please let me know and we'll put one in your mailbox.

We therefore respectfully request that you approve the Service Agreement at your February 15th meeting.

If you have any questions, please contact me.

Cc: Mayor Joseph G. Kuspa  
David Angileri  
Brandon Fournier  
Richard Hinshon

## **DOWNRIVER SEWAGE DISPOSAL SYSTEM SERVICE AGREEMENT**

**This Sewage Disposal System Service Agreement** (hereinafter "Agreement") entered into this 13<sup>th</sup> day of October, 2016, by and between the Downriver Utility Wastewater Authority, a Michigan Authority created and governed under the provisions of Act 233, Public Acts of Michigan, 1955, as amended (hereinafter referred to as the "DUWA"), and the City of Belleville, City of Ecorse, City of Lincoln Park, City of River Rouge, City of Southgate, City of Wyandotte, City of Allen Park, City of Taylor, City of Dearborn Heights, City of Romulus, City of Riverview, Charter Township of Van Buren, and Charter Township of Brownstown, Michigan municipal corporations (hereinafter referred to as the "Community(ies)") located in Wayne County, relating to the acquisition, improvement, enlargement, extension, operation and use of a certain sewage disposal system owned and operated by the DUWA and serving the Communities (the "System"). The Community(ies) and the DUWA are collectively referred to as the "Parties" or "Party". The Parties understand that this Agreement will be executed by each Community prior to DUWA's acquisition of the System. This Agreement shall be immediately binding on the Parties upon execution by all the Parties, but shall only be implemented upon the DUWA acquiring ownership of the System.

### **WITNESSETH**

**WHEREAS**, 1955 PA 233, as amended ("Act 233") authorizes an authority to acquire sewage disposal systems such as the System; and

**WHEREAS**, the DUWA is negotiating the acquisition of the System from the County of Wayne, a Michigan county corporation (the "County"); and

**WHEREAS**, by the terms of Act 233, the DUWA and the Communities are authorized to enter into a contract to provide for the acquisition; improvement, enlargement or extension of a sewage disposal system and for the payment of the cost thereof by the Communities, with interest; and

**WHEREAS**, the Parties have jointly agreed that if the DUWA completes the acquisition of the System, the DUWA shall operate the System and acquire the System from the County consistent with this Agreement; and

**WHEREAS**, the System has undergone a major expansion and renovation as a result of U.S. Environmental Protection Agency ("EPA") and Michigan Department of Environmental Quality ("MDEQ") mandates which were set forth in a Consent Decree dated May 24, 1994 in the matter of *USA, et al vs Wayne County Michigan, et al*, Civil Action No. 87-70992, filed in the U.S. District Court – Eastern District of Michigan, Southern Division; and



**WHEREAS**, as a result of said renovation and expansion, the County issued bonds in the aggregate amount of approximately \$285 million pursuant to a Financing Plan and Final Judgment entered in the above referenced matter on March 14, 1994; and the County and the Communities have pledged their full faith and credit in the support and payment of those bonds as provided for in the 1962 Contract; and

**WHEREAS**, the Consent Decree was terminated by Court Order on November 28, 2005; and

**WHEREAS**, subsequent to the acquisition of the System, the Parties have agreed to enter into a new service agreement for the management, operation and, if necessary, the expansion of a System, to transport, treat, and dispose of Wastewater, as set forth below; and

**WHEREAS**, the Parties agree that certain responsibilities and functions regarding overall management of the System as specified herein shall be transferred from the County to the DUWA and the Parties agree that the DUWA Board of Commissioners (hereinafter referred to as the "DUWA Board") shall supervise implementation of this Agreement, through which the Parties will exercise their shared decision making authority over the specified matters; and

**NOW THEREFORE**, in consideration of the mutual covenants, benefits and other consideration set forth below, the receipt and sufficiency of which is hereby acknowledged by each of the Parties, the Parties hereby agree as follows:

#### **Article 1. Definitions**

1.01 The following words and expressions, or pronouns used in their stead, shall be construed as follows:

"Agreement" means each of the various provisions and parts of this document, including all attached Exhibits and any amendments thereto, as may be executed by the duly authorized representatives of the Parties, and approved by each Community and the DUWA.

"Bypass" means the intentional diversion of waste streams from any portion of the sewage collection, transport, or treatment system, except as authorized by the NPDES permit.

"Capital Improvement" means any project with a cost of \$500,000 or more which increases the capacity of the System or a System component, or which extends the useful life of the System or a System component.

"Combined Sewer" means a sewer that is intended to convey both sanitary wastewater and storm water drainage.

"Community" means each of the municipal corporations that are designated herein as parties to this Agreement.

"Community Connection" means the point at the terminus of the Local Sewer System where the Community's pipe connects to the System either directly or via a Drainage District.

"Controlled Flow Communities" means those Communities or portions of Communities whose flow is conveyed through the Riverdrive Interceptor and whose respective Maximum Allowable Wet Weather Flow Limit is established as a specified peak flow rate. The "Controlled Flow Communities" are River Rouge, Ecorse, Lincoln Park, Allen Park (partial), Southgate (partial) and Wyandotte.

"Corrective Action Plan" or "CAP" means a document which identifies the steps needed to be taken by a Community, the DUWA and/or Communities to attain compliance with the Maximum Allowable Flow Limits established in this Agreement and a schedule for completing those steps.

"County" means the Charter County of Wayne.

"Current rate methodology" means the procedure whereby monthly billings are determined from a two step process which includes (1) the computation of each Community's Base Flow as derived from water consumption records for the portion of the Community that is served by the System, and (2) a computation of each Community's share of the Excess Flow using a formula which references statistical information relating to the flow derived from various types of sewers including Combined Sewers, Separated Sewers with Footing Drains and Separated Sewers with no Footing Drains. Excess flow is the quantity of flow delivered to the Treatment Plant not including the Base Flow. For rate making purposes the Excess Flow quantity shall be adjusted to reflect a multi-year average of data to account for variations in annual precipitation, and will be billed at a flat monthly amount.

"Customer" or "Customer Community" means any Community whose wastewater is transported and treated by the System, but who is not a member of the Downriver Utility Wastewater Authority as set forth in the Authority's Articles of Incorporation.

"Design Storm Event" means 4.42 inches of rainfall in 24 hours, used (per requirement of the Michigan Department of Environmental Quality) to design the Downriver Storage and Transport Tunnel, and various improvements to the Treatment Plant, during the period 1995 through 1999, as may be amended.

"Drainage District" means any entity established under Public Act 40, 1956 which includes facilities for the storage, conveyance or treatment of sanitary sewage generated within the Service Area of the System.

"Dry Weather Day" means any day within which no measurable response in flow rate to rainfall or snowmelt as recorded at any of the rain gages used for the System Monitoring Plan within the Service Area, and the 96 hour period immediately following the initiation of rainfall or snowmelt, and any day during which a wet weather storage facility is being dewatered. Example: If measurable rainfall for the month of June is recorded on June 5, June 8 and June 14, and the Wet Weather Storage Facilities are being dewatered on June 6, June 9 and June 15, the "Dry Weather Days" would be June 1, 2, 3, 4, June 12, June 13, and June 18 – June 30.

"Dry Weather Flow" means the Flow which is contributed on a Dry Weather Day.

"Excess Wet Weather Infiltration and Inflow" means the infiltration and inflow that can economically be eliminated from the System by rehabilitation as determined by a cost effectiveness analysis that compares the cost of correcting and removing the infiltration/inflow to the total cost of transporting and treating the infiltration/inflow.

"Flow" means wastewater delivered by a Community from the Community's Service Area to the System. It shall include Wastewater from: residences, businesses, commercial establishments, institutions, industries and Significant Industrial Users; groundwater infiltration in dry weather; and wet weather Infiltration and Inflow.

"Indirect Costs" means expenses charged to or incurred by the System for services provided by the DUWA other than the direct charges for operating, maintaining, and financing the System. Indirect Costs include charges for administrative, managerial and support staff for employees, other material or service providers, contractors and vendors whose work product is either not directly or fully related to operation and maintenance of the System. Indirect Costs include, but are not limited to outside legal and other professional services retained to assist on litigation or other issues related to the System.

"Industrial Pretreatment Program" means the program by which discharges from industrial customers are regulated in accordance with the requirements of regulations established by U.S. EPA pursuant to 40 CFR Part 403.

"Infiltration" means any water or groundwater that enters the System or the Local Sewer System through such means as, but not limited to, defective pipes, pipe joints, connections, and manhole walls.

"Inflow" means the storm water that enters the sanitary sewer System or the Local Sewer System through, by way of example, but not limited to, direct connection of downspouts, sump pumps, foundation drains and/or storm sewers.

"Institutions" means any nonprofit or quasi-public users or institutions such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for a public purpose as may be defined in the local zoning ordinance.

"Local Sewer System" means those wastewater facilities which are connected to the System but which are owned, operated and maintained by a Community or a Drainage District. Local Sewer Systems may include collector sewers, trunk sewers, manholes, junction chambers, regulators, pumping stations, Wet Weather Storage Facilities and other appurtenances.

"Maximum Allowable Flow Limit" means the maximum allowable Flow that a Community may deliver to the System for either Dry Weather Flow, if applicable, and/or Wet Weather Flow, as identified in Exhibits A and/or B, respectively.

"MDEQ" means the Michigan Department of Environmental Quality, or its successor agency.

"Meter" means a Flow meter.

"MGD" means a rate of Flow equal to million gallons per day.

"Non-Controlled Flow Communities" means those communities or portions of communities whose Flow is not conveyed through the Riverdrive Interceptor and whose Maximum Allowable Wet Weather Flow is established as a specified volume of Flow generated during a Design Storm Event. The "Non-Controlled Flow Communities" are Belleville, Van Buren Township, Romulus, Taylor, Dearborn Heights, Allen Park (partial), Southgate (partial), Brownstown Township and Riverview.

"NPDES Permit" means the National Pollutant Discharge Elimination System Permit issued to the DUWA regulating the discharge from the System under Public Law 92-500 as amended (the federal Clean Water Act).

"Notices" means all notices, consents, approvals, requests and other communications required to be given under the terms of this Agreement.

"Operation and Maintenance" or "O & M" means those expenses which are incurred to keep all equipment and processes running properly. O & M includes routine and non-routine repair and replacement of equipment, as well as preventive measures to keep units functioning and avoid breakdowns.

"Overflow" means the Wastewater that is collected in the Local Sewer Systems, but which is discharged to the environment without receiving treatment at the Treatment Plant.

"Owner" or "Owner Community" means any Community who is a member of the Downriver Utility Wastewater Authority as specified in the Authority's Articles of Incorporation.

"Sanitary Sewer" means a sewer that is intended to convey sanitary Wastewater and a limited amount of infiltration and inflow, but which is not intended to convey stormwater drainage.

"Services" means the conveyance, storage, and treatment of Flow delivered by the Communities to the System.

"Service Area" means the geographical area as shown on Exhibit C which establishes the area within which Wastewater is generated and can be conveyed through the System for treatment and discharge at and from the Treatment Plant.

"Sewer Use Regulations" means rules and regulations as may be adopted by the DUWA that establishes standards for the design, construction, operation, and usage of sewers and other terms and conditions for the discharge of Wastewater into the System, including the DUWA's Industrial Pretreatment Program.

"Significant Industrial Users" means those all industrial users subject U.S. EPA's Categorical Pretreatment Standards under 40 CFR Part 403 and 40 CFR Chapter I, Subchapter N, as amended, and any other industrial user that is defined as a Significant Industrial User in the Sewer Use Regulations.

"System" means the Downriver Sewage Disposal System including the Treatment Plant, all interceptors, bypasses, outfalls, Flow metering devices, pump stations, tunnels, sewage treatment systems, and related facilities and equipment used to provide Services.

"System Costs" means all costs and expenses incurred in operating, maintaining, and financing the System. System Costs include, but are not limited to the following:

1. A fund in such amount as shall be determined by the DUWA for the repair, replacement and improvements of the physical assets of the System;
2. All costs necessary to upgrade, alter, modify, expand and improve the System to comply with all applicable federal and state laws, rules and regulations, including Capital Improvements;

3. The direct costs of operating and maintaining the System, the costs of governance and oversight by the DUWA Board pursuant to Article 6 of this Agreement, and other reasonable and necessary costs and expenses relating to the System, including the costs of insurance;
4. Costs of defending and settling/satisfying claims against the DUWA and/or the System related to the System;
5. The DUWA's Indirect Costs incurred in operating, maintaining, and financing the System; and
6. The cost of financing any System cost and expense, including costs of bonded indebtedness.

"System Monitoring Plan" means a plan, as may be amended, that establishes how Flow into the System from each of the Communities shall be measured. The current plan was adopted on November 8, 2012.

"Treatment Plant" means the Downriver Wastewater Treatment Facility located at Biddle and Pennsylvania in Wyandotte, Michigan.

"Wastewater" means the combination of the liquid and water-carried wastes from residences, commercial buildings, institutions, industrial plants, and Significant Industrial Users, whether treated or untreated, which are contributed to or permitted to enter the System. Wastewater may also contain Inflow and Infiltration and cooling water.

"Wet Weather Event" means the period of time beginning with a measurable increase above the Dry Weather Flow rate as a result of rainfall or snowmelt, and continuing for 96 hours thereafter.

"Wet Weather Flow" means the Flow contributed over a 96-hour period after the onset of a Wet Weather Event.

"Wet Weather Storage Facilities" means combined sewer overflow retention treatment basins, equalization basins, or other facilities which are used to store and/or treat excess Wet Weather Flows and which may subsequently be dewatered to the System.

"Wet Weather Tunnel" means the 15 million gallon tunnel constructed as part of the 1994 Consent Judgment to provide capacity to store and convey Wet Weather Flows generated in the Non-Controlled Flow Communities.

## **Article 2.**

**Delivery of Flow, Operation and Maintenance of  
Local Sanitary Sewers and Connections to System**

- 2.01 Delivery of all Flow from Within the Service Area. Each Community shall deliver to the System all of the Flow generated from the Community's Service Area as depicted in Exhibit C except for the following:
1. Flows approved to be delivered to other systems as may be authorized pursuant to Section 3.03 of this Agreement;
  2. Bypasses and Overflows;
  3. Wastewater from septic systems and other private on-site sewage disposal systems within the Service Area; and
  4. Direct discharges of wastewater to receiving waters from facilities as authorized by applicable NPDES permits.
- 2.02 Local Sewer System Operation and Maintenance. Each Community shall, operate and maintain, at its expense, the sanitary sewers and related infrastructure by which Flow is collected and delivered to the System. Each Community shall properly operate and maintain its Local Sewer System including, but not be limited to the removal of Excess Wet Weather Infiltration and Inflow (I/I).
- 2.03 Compliance with Rules and Regulations. Each Community shall comply with all permit requirements, rules and regulations applicable to sewer design, construction permits and allowable wastes, including but not limited to the DUWA Sewer Use Regulations and any other standards adopted by the DUWA.
- 2.04 Local Sewer System Connections to the System. Each Community must deliver all Flow to the System at defined connection points approved by the DUWA. Each Community shall, at its expense, make, operate and maintain all Community Connections to the System, and secure written consent from the DUWA for any new Community Connections, which consent shall not be unreasonably withheld. The Community shall obtain all necessary permits prior to initiating construction of any new Community Connections to the System. The DUWA shall have no responsibility for operating or maintaining any portions of a Local Sewer System.
- 2.05 Acceptance of Flow From Outside the Service Area. The Communities shall not deliver to the System any wastewater originating in any area outside of the specified Service Area without the prior written consent of the DUWA, which consent shall not be unreasonably withheld. The System shall not be obligated by this Agreement to convey, store or treat Flow that originates outside the Service Area, except as authorized in this Article. Van Buren Township is authorized to convey stored Wet Weather Flow from its Equalization Basin ("EQ Basin") into the

System from any territory within Van Buren's corporate boundaries served by the Rouge Valley Sewage Disposal System, the South Huron Valley Utility Authority's system, or the System provided that the approved operation and maintenance procedures for the EQ Basin are followed, and also provided that the Flows contributed by Van Buren Township during and after Wet Weather Events are within the Maximum Allowable Flow Limit as set forth in Article 3 and Exhibit B. The operation and maintenance procedures for the Van Buren Township EQ Basin may be updated or revised from time to time as necessary, subject to the approval of the DUWA, which approval shall not be unreasonably withheld.

- 2.06 Construction of New Sewer Facilities within the Service Area. Except as may be authorized pursuant to Section 3.04, no Community shall construct or permit the construction of any sanitary sewer in the Service Area that does not connect directly or indirectly to the System. Any new facilities for sanitary sewer overflow control, combined sewer overflow control, equalization basins, interceptors and relief sewers within the Service Area shall not be constructed without the prior written consent of the DUWA, which consent shall not be unreasonably withheld. All new sewer facilities and sewers constructed within the Service Area shall conform to the standards adopted by the DUWA including those which are set forth in the Sewer Use Regulations.
- 2.07 Changes in Jurisdiction. No change in the jurisdiction over any territory of a Community shall in any manner impair the Parties' obligations under this Agreement. In the event that all or any part of the territory of any Community is incorporated as a new city or is annexed to or becomes a part of the territory of another municipality, the municipality into which the Community territory is incorporated, or to which such territory is annexed, shall assume the proportionate share of the contractual and Flow obligations and otherwise comply with and be bound by this Agreement.
- 2.08 Changes in Service Area. The boundaries of the Service Area may be changed only by the express, written consent of the DUWA, which consent shall not be unreasonably withheld. However, any Community that obtains authorization to change its Service Area boundary shall remain obligated for any prior debt pursuant to the provisions of Article 5 of this Agreement.



**Article 3.**  
**Maximum Allowable Flow Limits**

- 3.01 Maximum Allowable Flow Limits. Each Community shall have the right to deliver Flow to the System for transport, treatment and disposal up to the Maximum Allowable Flow Limits as set forth in Sections 3.04 and 3.05.

Each Community shall ensure that the Flow it delivers to the System is within its Maximum Allowable Flow Limits. The DUWA shall ensure that Flows delivered by the Communities up to the Maximum Allowable Flow Limits shall be accepted for treatment and disposal.

- 3.02 Transfer of Maximum Allowable Flow Limit.

1. Transfer to another Community. Any Community may, with the prior written consent of the DUWA, which consent shall not be unreasonably withheld, agree with any other Community to transfer any portion of its Maximum Allowable Flow Limit if the Community provides the DUWA with ninety (90) days prior written notice and provided that such transfer and agreement:
  - a. Will not cause the transferee Community to exceed its remaining Maximum Allowable Flow Limits as set forth in Exhibit A and/or Exhibit B;
  - b. Is to a Community that is physically located so as to make use of the transferred Flow in the interceptor;
  - c. Shall not affect, alter or diminish the obligations of the Community transferring a portion of its Maximum Allowable Flow Limit as set forth in this Agreement, including any obligation to pay in full all outstanding capital costs and any remaining rates and charges accumulated and/or assessed. Nothing herein precludes the transferring Community from assigning its responsibility for any remaining capital costs rates and/or charges to another Community that has been re-allocated some or all of the Community's Maximum Allowable Flow Limit, provided that the terminating Community shall remain ultimately responsible for the remaining capital costs, rates, and/or charges in the event the other Community fails to timely pay said capital costs, rates, and/or charges; and
  - d. Shall conform to System design parameters.

2. Transfer to a Non-Party. If any Community wishes to transfer any of its Maximum Allowable Flow Limit to a community that is not a party to this Agreement, each of the requirements set forth in subsection 1(a)-(d) apply. In addition, the Community must first provide written notice to the DUWA and the Communities and offer for 90 days that portion of its Maximum Allowable Flow Limit to the Communities.
  3. Unapproved Termination of Flow. A Community that terminates its Flow into the System with regard to all or part of its Service Area without an approved transfer under subsection 3.02.1 or 3.02.2, above, shall be in breach of this Agreement. In such event:
    - a. The Community shall remain responsible for all outstanding capital costs and any remaining rates and charges accumulated and/or assessed and shall either (1) pay in full all outstanding capital costs and any remaining rates and charges accumulated and/or assessed as of the date of such termination, or (2) enter into a contract guaranteeing monthly payments to the DUWA for the full amount of such capital costs, rates and/or charges, it being expressly understood and agreed that the DUWA may seek any and all available relief on behalf of the System for breach of this Agreement and shall be entitled to recover its reasonable litigation costs, including its actual attorney and expert fees, if the Community fails to fully perform as set forth in this subsection; and
    - b. That portion of the Community's Maximum Allowable Flow Limit so terminated or reduced shall be re-allocated at the discretion of the DUWA for the benefit of the System.
- 3.03 Delivery of Flow to Other Systems. A Community may request authorization to convey a portion of the Wastewater generated within the Service Area as designated in Exhibit C to other wastewater systems, and the DUWA may approve the request if it determines that this is in the best interest of the System, and that all other requirements of this Agreement are met. Such a transfer shall not affect, alter or diminish the obligations of the Communities as set forth in this Agreement, including any obligation to pay previously assessed System Costs. Van Buren Township is authorized to dewater and convey stored Wet Weather Flows generated within the Service Area to the South Huron Valley Utility Authority system in accordance with the approved EQ Basin operation and maintenance procedures. Romulus is authorized to allow the Detroit Metropolitan Wayne County Airport to discharge spent Aircraft Deicing Fluid ("ADF") to the Rouge Valley Sewer District in accordance with the approved operating protocol and the Industrial Discharge Permit.

3.04 Maximum Allowable Flow Limits – Non-Controlled Flow Communities.

1. Dry Weather Flow. Each of the Non-Controlled Flow Communities shall have the right to deliver Dry Weather Flow including all Wastewater (residential, commercial, and industrial) plus dry weather Infiltration and Inflow to the System up to the Maximum Allowable Flow Limit for Dry Weather Flow set forth in Exhibit A.
2. Increases to Dry Weather Flow Contributions. Actions which may result in Dry Weather Flow increases above those shown in Exhibit A including but not limited to new or increased discharges from industrial facilities and construction of new sewers within the Service Area, shall not be undertaken without the prior written approval of the DUWA. Any request for a proposed increase in the Dry Weather Flows from a Community shall be submitted to the DUWA and shall include the following:
  - a. A demonstration by the requesting Community that the increase will not adversely affect the performance of the System in both dry and wet weather (both the Treatment Plant and the interceptor system), and that the NPDES Permit limits will continue to be met; and
  - b. A demonstration by the requesting Community that there is sufficient transport and treatment capacity for the System such that a similar increase in allowable Dry Weather Flows could also be made available to all of the other Communities served by the System without adversely affecting the performance of the Treatment Plant and the interceptor system.

After the request has been reviewed, the DUWA may approve (with or without conditions) or deny the proposed increase, provided that any Community that disagrees with the DUWA's approval shall have the opportunity to pursue the matter under the Dispute Resolution provisions as set forth in Article 10 of this Agreement.

3. Wet Weather Flow. The Non-Controlled Flow Communities shall have the right to deliver Wet Weather Flow up to the Maximum Allowable Flow Limits set forth in Exhibit B.

3.05 Maximum Allowable Flow Limits – Controlled Flow Communities. Dry Weather Flows from Controlled Flow Communities are not subject to a separate Maximum Allowable Flow Limit under Exhibit A. The Controlled Flow Communities may, at their discretion, discharge any combination of Dry and Wet Weather Flows to the System provided that the total Flow rate does not exceed the Maximum Allowable Flow Limit for Wet Weather Flow established in Exhibit B.

3.06 Storage and Dewatering of Excess Wet Weather Flows.

1. General. Stored Wet Weather Flows may only be discharged to the System from existing or proposed Wet Weather Storage Facilities if authorized in writing by the DUWA, which authorization shall not be unreasonably withheld, based on a determination by the DUWA that the discharge of such Flows can be transported and treated by the System without adverse effects to the Communities, and that compliance with NPDES Permit limitations can be maintained.
2. Existing Wet Weather Storage Facilities. The existing Wet Weather Storage Facilities in the System that, upon authorization, may discharge stored Wet Weather Flows to the System are listed in Exhibit D. Dewatering of these facilities at the end of a Wet Weather Event shall be performed as soon as possible based on available transport and treatment capacity in the interceptors and at the Treatment Plant as authorized by the DUWA as provided in Section 3.06(1).
3. Proposed New Wet Weather Storage Facilities. Any Community seeking to construct a new Wet Weather Storage Facility shall obtain written approval from the DUWA, which approval shall not be unreasonably withheld, prior to constructing the facility. A request for approval to construct and operate Wet Weather Flow Storage Facilities must include an evaluation of the impacts of the facility on the System and treatment performance by the requesting Community, and shall specify the anticipated maximum dewatering rate and time period anticipated to be needed to fully dewater the storage facility.

Upon receipt of an application for a new Wet Weather Storage Facility, the request shall be distributed with the supporting information to the DUWA for review. The DUWA may approve (with or without conditions) or deny the proposed increase, provided that any Community which disagrees with the approval or denial shall have the opportunity to pursue the matter under the Dispute Resolution provisions as set forth in Article 10 of this Agreement. Any approval of a new Wet Weather Storage Facility shall include limitations and conditions on the initiation and termination of dewatering from the facility.

- 3.07 System Expansion and Increases to Maximum Allowable Flow Limits. It is recognized that it may be necessary to expand the System and/or increase the transport or treatment capacity of the System in the future in order to accommodate the needs of the Communities as growth and development takes place within the Service Area. The Parties hereto agree to work collaboratively to plan, design and construct such additional facilities as may be necessary, with the understanding that the costs for such expansion and/or increased capacity will be borne by the Communities benefitting from the expansion or capacity increase, and that any such expansion or increase in capacity shall not adversely affect the current rights to deliver Flows by any Community to the System up to its Maximum Allowable Flow Limits.

#### **Article 4.**

#### **Determination of Non-Compliance with Maximum Allowable Flow Limits And Enforcement of Flow Limits**

- 4.01 Monitoring to Determine Flow Contributions. Flow meters shall be operated and maintained by the DUWA throughout the System to provide data for the purpose of determining each Community's Flow contributions. The process currently used to monitor Flows from the Communities is set forth in the System Monitoring Plan. The DUWA shall use reasonable best efforts to maintain all the System's Flow meters and associated equipment in good working order, and shall regularly review meters to assess their accuracy. Additional temporary and/or permanent meters may be installed as necessary to further identify Flows contributed by individual Communities for those meter sites which record Flow from more than one Community. Computer models and/or other analytical tools may also be used to estimate Flow contributions. The DUWA may require a Community to conduct supplemental Flow monitoring to provide additional information about the Flows being conveyed to the System.
- 4.02 Meter Data Analysis. Meter data shall be compiled and analyzed by the DUWA. A report shall be periodically prepared by the DUWA and distributed to the Communities which describes the actual Dry and Wet Weather Flows contributed by each Community each month and the year-to-date average, along with a comparison of actual Flows to the Maximum Allowable Flow Limits and other relevant information. The methodology for analyzing Flow data may be modified from time to time as necessary. Metering data may be supplemented with computer modeling and/or other evaluation tools.

4.03 Non-Compliance with Maximum Allowable Limits. Any Community with Flow in excess of its Maximum Allowable Flow Limit as set forth in Exhibit A and/or B as applicable, may be deemed by the DUWA to be in non-compliance with this Agreement.

4.04 Corrective Action Plans. Any Community identified as being in non-compliance with its Maximum Allowable Flow Limit pursuant to Section 4.03 shall be so notified by the DUWA and the DUWA may require the Community in non-compliance to prepare and implement a CAP, provided that the DUWA shall have the discretion to waive an exceedance deemed by the DUWA to be minor and/or temporary.

Any Community that disagrees with the DUWA's finding of non-compliance shall have the opportunity to pursue the matter under the Dispute Resolution provisions of Article 10, and any requirement to prepare a CAP shall be deferred until the dispute is resolved. A Community which is deemed to be in non-compliance with its Maximum Allowable Flow Limit shall prepare a CAP that identifies the steps needed to be taken to attain compliance with the Maximum Allowable Flow Limit and a schedule for completing those steps. The CAP shall be developed and approved for implementation within six months after receipt of notification from the DUWA of non-compliance or within six months after resolving the dispute if the Community invokes the Dispute Resolution process. An extension of up to six additional months may be granted by the DUWA if necessary due to technical or financial constraints that preclude the preparation of the CAP in six months. Once prepared, the CAP shall be submitted to the DUWA and all Communities. The Community shall implement the CAP upon approval of the CAP by the DUWA. Notwithstanding the above, a CAP need not be prepared if the Community can demonstrate that it is in compliance with its Maximum Allowable Flow Limits based on additional Flow monitoring and such demonstration is acceptable to the DUWA in its reasonable discretion.

4.05 Enforcement and Sanctions. In addition to requiring a CAP, the DUWA may assess other appropriate sanctions against any Community for exceeding Maximum Allowable Flow Limits. No sanctions shall be imposed except as may be authorized by the DUWA based on a determination that sanctions are warranted in order to compel compliance by the Community or to ensure that the System is not subject to increased risk as a result of the violations. Any decision to impose a sanction shall be made on a case by case basis after providing opportunity for the subject Community to present information and evidence in support of its position. Sanctions which could potentially be imposed include, but are not limited to, the following:

1. Restriction on sewer construction;
2. Limitations on sewer taps for new industrial, commercial or residential customers;
3. Installation of Flow restriction measures within the Local Sewer in the vicinity of a Community's Connection to the System in order to prevent a Community from contributing more than its Maximum Allowable Flow Limit to the System;
4. Financial penalties of up to \$10,000 per day for each day of non-compliance; and/or
5. Legal or administrative actions necessary to enforce the provisions of this Agreement.

Provided, however, that any Community may contest any enforcement action including the assessment of sanctions pursuant to the Dispute Resolution provisions in Article 10 of this Agreement. Any monetary fines or penalties collected as a result of sanctions shall be used to offset System Costs.

- 4.06 Sewer Use Regulations. Nothing contained in this Agreement is intended to limit the DUWA's right to enforce the Sewer Use Regulations, the NPDES Permit requirements or to assess sanctions as set forth therein.

## **Article 5.**

### **System Operation and Payment of System Costs**

- 5.01 System Operation. The DUWA, subject to Article 6, shall operate and maintain the System and shall:
1. Provide Services for the Flow delivered by the Communities to the System within their respective Maximum Allowable Flows and in compliance with the Sewer Use Regulations and other applicable laws and regulations; and
  2. Use reasonable best efforts to operate and maintain the System in accordance with all NPDES Permit requirements and all applicable laws and regulations that apply to the System; and
  3. Perform other necessary duties and tasks relating to the operation, maintenance, management and administration of the System including those listed in Exhibit E
- 5.02 Payment of System Costs. Each Community shall timely pay all rates and charges approved under Article 6 and assessed by the DUWA. Such rates and charges shall be sufficient to pay for all System Costs. The DUWA is authorized to establish

a surcharge for Customer Communities to be assessed and paid in addition to the basic rates and charges which are applicable to Owner Communities. The DUWA shall use all methods available to collect rates and charges from any Community that does not timely pay such rates and charges. The Parties shall have no claim of setoff for charges billed by the DUWA for System Costs. Pursuant to Act 233, each Community shall include in the resolution adopting this Agreement an irrevocable pledge and assignment of an amount not to exceed twenty-five percent (25%) of the funds derived from the State Sales Tax levied, pursuant to law, and from time to time returned to that Community pursuant to Section 10 of Article IX of the Michigan Constitution of 1963, to pay that Community's contractual obligations under this Agreement. The resolution shall also authorize and direct the County Treasurer or any other official charged with the disbursement of said funds to withhold and pay over to the DUWA sufficient monies to make up any deficiencies of that Community's contractual obligations under this Agreement.

5.03 Payment Procedures. Invoices for each Community's share of System Costs shall be due and payable not more than thirty (30) calendar days from the date shown on the invoice. Fees for the base flow sewage disposal services are due and payable not more than forty-five (45) calendar days after the month of service. Any charges or portion of the charges that is not paid by the due date shall be subject to a finance charge at a rate of 1.5% per month for each month or fraction thereof that they remain unpaid. Any portion of the total invoice, plus any finance charges applied to the invoice which are not paid by the next invoice date, shall be shown on the next invoice as arrears. If the accuracy of an invoice is in dispute, the Community shall place the disputed amount of the invoice in an interest bearing escrow account maintained by the DUWA Treasurer pending resolution of the dispute and the finance charge shall thereupon cease. Accrued interest on the escrow account shall be allocated between the Parties directly proportional with the resolution of the dispute. The cost, if any, of maintaining the escrow account shall be allocated between the Parties inversely proportional with the resolution of the dispute. Disputes related to rates for System Costs charged by the DUWA are specifically excluded from the application of this Section 5.03.

5.04 Schedule of Rates. The rates for System Costs shall be made to each Community based on a schedule of rates prepared by the DUWA and approved pursuant to Article 6. Any rates specified in any such schedule shall be subject to adjustment by the DUWA, subject to Article 6, with proper notice as set forth in Section 5.05, if necessary in order to provide sufficient funds to pay for System Costs. Notwithstanding anything to the contrary in this Agreement, the current rate methodology utilized to set rates for the System for FY17 shall continue to be utilized for five (5) years subsequent to the adoption of this Agreement. The utilization of this rate methodology, or any rate methodology adopted in the future, shall not prohibit or limit the DUWA Board's ability to assess Customers or



Customer Communities the surcharge identified in Section 5.02 or to assess and enforce any fine, penalty, enforcement order, corrective plan or sanction imposed by the DUWA Board pursuant to Article 4 and/or Article 9 hereof.

- 5.05 Notification of Rates. As soon as practical in the ratemaking process, the DUWA shall provide information on proposed rates and the draft data and information used in the calculation of proposed rates, including detail of charges and flow rate charges, in a format that will enable the Communities to assist in the ratemaking process. The Communities will be provided 10-day prior written notice of any rate meetings. The DUWA shall provide each Community with written notice of a proposed rate and the underlying data used to calculate the rate charge. Upon written request, the DUWA Board or its designee(s) shall meet at least once with each Community to review the rate data.
- 5.06 Rates to be charged to individual users. Each of the Communities shall establish rates to be collected from its individual users that shall be sufficient to fund the rates and charges to be paid to the DUWA for System Costs.
- 5.07 Disclosure of Rate and Charge Information by Community. Each Community will disclose to its individual users annually information related to its rates and other charges.
- 5.08 Notification of Debt Issuance. Immediately upon the issuance of any debt to finance System Costs, the DUWA shall notify each of the Communities by written communication of the amortization schedule of payments of principal and interest, along with the proportionate share to be paid by each Community.
- 5.09 General Ledger Debt Service Cash Accounts. The DUWA shall maintain distinct debt service general ledger cash accounts for each Community for any funds remitted by Communities. These cash accounts will be used to track payments made to the DUWA for each Community's share of upcoming debt payments less actual payments made for principal, interest, and paying agent fees. No Community shall be in a negative cash balance position. If a negative cash balance position does occur, it shall be cured by the Community within thirty (30) days of being provided written notice by DUWA. In the event that a Community's cash account is in a negative position, the account will be charged with interest expense on a monthly basis at the average rate earned on DUWA's investment account. The DUWA shall use all methods available to compel a Community to cure their negative cash position. In addition, the DUWA shall not borrow funds from any Community general ledger cash account.

**Article 6.**  
**The DUWA Board**

- 6.01 Responsibilities and Functions. Subsequent to the transfer of the System from the County to the DUWA, the DUWA Board (the "DUWA Board") shall be responsible for overseeing the management of the System with regard to the functions and responsibilities described in this Article 6.
- 6.02 Board Composition and Officers. The DUWA Board shall consist of one member from each Community who is designated as a constituent municipality in Article II of the DUWA Articles of Incorporation. The DUWA Board shall annually elect, by majority vote, a Chairperson and Vice-Chairperson to serve for a term of 1 year and shall conduct itself generally in accordance with its duly adopted Articles of Incorporation as amended.
- 6.03 Meetings. The DUWA Board shall meet upon proper prior notice at designated times and locations mutually agreeable to the greatest extent possible for all members. Regular meetings of the DUWA Board shall be scheduled to occur not less than quarterly. Special meetings may be called by written request of 3 or more of the DUWA Board members. As set forth in Article X of the DUWA Articles of Incorporation, A quorum constituting of a majority of the constituent municipality representatives or alternates is required to conduct business.
- 6.04 Voting. Each member shall have one vote on each matter voted upon by the DUWA Board; provided however, that the DUWA Board members shall use their best efforts to arrive at a consensus on all matters considered by the DUWA Board. All decisions by the DUWA Board shall be by majority vote at any meeting in which there is a quorum, except for those matters identified in Section 6.07 below, on which a supermajority shall be required for approval. Matters which have been presented to the DUWA Board for action but which have been tabled, referred to subcommittee for consideration and/or upon which further information is sought, shall not be acted upon by the DUWA, except in exigent circumstances.
- 6.05 Subcommittees. The DUWA Board may establish such subcommittees as it deems appropriate.
- 6.06 DUWA Board Responsibilities. The DUWA Board shall have the responsibilities set forth below. To the greatest extent possible as allowed by applicable legal requirements and absent exigent circumstances, the DUWA Board's decisions regarding the matters enumerated below shall be final:

1. Approval of Operational Budget. The DUWA Board shall review and approve the annual operational budget prepared by the DUWA;
  2. Approval of Rates and Charges. The DUWA Board shall establish and approve the rates and charges to be paid to the DUWA by the Communities for operation of the System for each ensuing fiscal year as set forth in Section 5.02;
  3. Allocation of System Costs/Flow. The DUWA Board shall review and approve the allocation of System Costs and any transfer of Maximum Allowable Flow Limits among the Communities;
  4. Issuance and Approval of Contracts. The DUWA shall be the contracting party with regard to all contracts related to the System. The DUWA Board shall vote on the award of all professional services and construction contracts where the contract amount exceeds \$50,000;
  5. Approval of Construction Change Orders. The DUWA Board shall review and approve any construction contract Change Order whose cost exceeds \$50,000. Change orders shall not be artificially divided so as to constitute a change order of less than \$50,000;
  6. Capital Improvements. The DUWA Board shall review and approve any proposed Capital Improvements and funding sources, and any bond sale or other debt instrument;
  7. Adoption of Maximum Allowable Flow Limits. The DUWA Board shall develop and approve Maximum Allowable Flow Limits for Dry Weather Flow (for Non-Controlled Communities) and for Wet Weather Flow as set forth in Section 3.01; and
  8. Acquisition and Disposition of Real Property. The DUWA Board shall review and approve any proposed acquisition and/or disposition of Real Property for use by the System.
  9. All Other Related Matters. The DUWA Board shall have the power to act in connection with all other related matters not specifically stated above or in Section 6.07.
- 6.07 Super Majority. All decisions by the DUWA Board shall be by majority vote at any meeting in which there is a quorum, except for decisions regarding the following issues, for which a combined weighted voting percentage of not less than 66% in favor are required for approval using the percentages allocated to each Community as reflected in Exhibit A of the DUWA Articles of Incorporation, a copy of which are included as Exhibit F to this Agreement:

1. All contracts over \$500,000 (including change orders and contract amendments) funded by System revenues or Bonds for operation, maintenance, and repair of the System;
  2. Capital Improvements;
  3. Cost Allocations among the Communities for Capital Improvements;
  4. Rate and charge setting for System services;
  5. Amendment of the Sewer Use Regulations;
  6. Issuance of bonds;
  7. Approval of services to non-constituent Communities; and
  8. Assumption of any financial obligation of any Community or Communities.
- 6.08 **Reporting.** The DUWA shall provide the Communities with timely and appropriate information on System operation and maintenance, including without limitation: a) quarterly financial reports detailing a line item operation and maintenance budget; b) an annual audited financial report for each fiscal year containing the general status of the operation and maintenance activities and a breakdown of all financial revenues and expenditures for the System; c) the information described in Section 4.02, above; and d) a quarterly Operations report that includes the DMR forms submitted to MDEQ showing the quality and quantity of discharges and the status of compliance with NPDES Permit limits. Such reports shall be provided to the DUWA Board promptly upon completion of the final reports. These reports shall be provided to each Community at no cost; however, the cost of preparing and disseminating such reports shall be a System Cost.

## **Article 7.**

### **Agreement Term; Renewal and Termination**

- 7.01 **Term.** The DUWA shall provide Services to the Communities in accordance with the terms and conditions of this Agreement for a period of Twenty-five (25) years from the effective date of this Agreement. This Agreement is effective following approval of each of the Community's legislative bodies and on the date specified in the resolution by the DUWA Board. This Agreement replaces and supersedes any prior sewage disposal system contracts between the Parties, subject to Sections 7.02 and 7.03, below.
- 7.02 **Pre-Agreement Debt.** Each Community's obligation to repay any debt incurred or assessed prior to this Agreement, including, but not limited to, any debt related to the issuance of bonds, under the terms of the 1962 Contract, as amended, any

subsequent Construction, Finance and Service Agreements, and since the expiration of the 1962 Contract, are preserved and are not superseded by this Agreement. A schedule of the current debt for each Community as of the effective date of this Agreement is included as Exhibit G.

7.03 Survival of Payment Obligations. The following payment obligations survive the termination or expiration of this Agreement:

1. Each Community's obligations under this Agreement for capital cost recovery, if any;
2. Each Community's obligations to repay debt incurred by the DUWA related to the issuance of bonds by the DUWA during the term of this Agreement for the System; and
3. Each Community's obligations to repay debt incurred by the DUWA related to the issuance of bonds by the DUWA prior to this Agreement.

All such obligations continue until satisfied.

**Article 8.  
Force Majeure**

- 8.01 Force Majeure. No failure or delay in performance of this Agreement, by any Party, shall be deemed to be a breach thereof when such failure or delay is caused by a force majeure event, including but not limited to, any Act of God, strikes, lockouts, wars, acts of terrorism, riots, epidemics, explosions, sabotage, breakage or accident to machinery, equipment or System components the binding order of any court or governmental authority, change in economic conditions or any other cause, whether of the kind enumerated in this Article 8 or otherwise, not within the control of a party, except that no cause or contingency shall relieve a Community of its obligation to make payment for System Costs.

**Article 9.  
Character of Sewage**

- 9.01 Character of Sewage. Each Community shall be responsible for the character of the sewage originating therein except for the Wastewater discharges from Significant Industrial Users which are subject to independent monitoring, control and regulation directly by the DUWA pursuant to the Sewer Use Regulations. Each Community shall comply with the Sewer Use Regulations and other regulations together with any other federal, state or local rule, regulation or ordinance controlling the discharge of Wastewater into the System.

- 9.02 Sewer Use Regulations. Each Community agrees to abide by the requirements of the Sewer Use Regulations and to cooperate with the DUWA's enforcement thereof. To the extent that the DUWA's proper enforcement of the Sewer Use Regulations reasonably requires a Community to adopt any new or modified ordinance, rule, or regulation, the Community shall, upon notice, adopt the necessary ordinance, rule, or regulation after review and approval of the DUWA.
- 9.03 Remedies. If the DUWA determines that the character of Wastewater contributed from any Community is such that it imposes an unreasonable burden upon the System, including causing or contributing to an event of non-compliance with the System NPDES Permit, then the DUWA shall so notify the Community in writing and may assess an additional charge over and above the regular charge for Services. A Community which is deemed to have imposed an unreasonable burden upon the System due to the character of its Wastewater, shall prepare a CAP that identifies the steps needed to be taken to relieve such burden and a schedule for completing those steps. The CAP shall be prepared within a reasonable time set by the DUWA. Any Community that disagrees with the DUWA's determination shall have the opportunity to pursue the matter under the Dispute Resolution provisions of Article 10, and any requirement to pay any charge assessed or to prepare a CAP shall be deferred until the dispute is resolved. Once prepared, the CAP shall be submitted to the DUWA Board and all Communities. The Community shall implement the CAP upon approval of the CAP by the DUWA Board.

In addition, the DUWA may take any of the following actions:

1. Require that such Wastewater be treated before being discharged into the System or other corrective action;
2. Deny the Community the right to discharge said Wastewater into the System, if necessary, for the protection of said System or the public health or safety;
3. Assess financial penalties of up to \$10,000 per day for each day of non-compliance; and/or
4. Take any legal or administrative actions necessary to enforce the provisions of this Agreement.

The affected Community shall have the right to appeal the DUWA's determination or its proposed sanction under the Dispute Resolution provisions as set forth in Article 10 of this Agreement.

- 9.04 Combined Sewer Overflows (CSOs). This Agreement shall not prevent areas being served at the time of the execution of this Agreement by combined sewers from continuing to be served by the existing combined sewers. Such combined sewers shall continue to conform to the requirements of the Sewer Use Regulations.
- 9.05 Other Agreements. For the Agreements listed below, as may be amended, the Authority will replace the County by way of assignment, and the Agreements will remain in full force and effect notwithstanding the provisions of this Agreement:
1. Emergency Flow Restriction Reimbursement Agreement Between the Ecorse Creek Pollution Abatement Drainage District On Behalf of the Cities of Lincoln Park and Allen Park and The Charter County of Wayne on Behalf of the Downriver Collection and Treatment System; and
  2. Emergency Bypass Procedure Between Southgate-Wyandotte Relief Drain Drainage District and Downriver Collection and Treatment System, approved by the US District Court for the Eastern District by Order Establishing Emergency Bypass Procedure dated August 31, 1999.
  3. Outfall Usage Agreement Between the Downriver Sewage Disposal System and the Southgate Wyandotte Drainage District dated May 16, 1995.
  4. The 1994 Judge Feikens Financing Agreement.

#### **Article 10. Dispute Resolution**

- 10.01 Procedures. The procedures set forth in Exhibit H shall be utilized in the event that a dispute arises between the Parties arising under this Agreement.

#### **Article 11. Assignment**

- 11.01 This Agreement shall not be assigned, in whole or in part, by any Community without the prior written consent of the DUWA. Consent to an assignment shall not be unreasonably withheld.

**Article 12.**  
**Amendment**

- 12.01 The Parties may from time to time consider it in their best interests to change, modify or extend a term, condition or covenant of this Agreement. Any such change, addition, deletion, extension or modification, which is mutually agreed upon by the DUWA and the Communities shall be incorporated in written amendments to this Agreement. Such amendments shall not invalidate this Agreement nor relieve nor release any Party of any of its respective obligations under this Agreement unless so stated in the amendment. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way rights arising by virtue of any such prior or subsequent occurrence.
- 12.02 No amendment to this Agreement shall be effective and binding upon the Parties unless it expressly makes reference to this Agreement, is in writing, is signed and acknowledged by duly authorized representatives of all Parties, and is approved by each of the Communities' respective legislative bodies and the DUWA Board.

**Article 13.**  
**Notices**

- 13.01 Except as otherwise specified in this Agreement, all notices, consents, approvals, requests and other communications required or permitted under this Agreement shall be given in writing and mailed by first class mail, addressed as follows:

If to the DUWA:  
Attn.: Chairperson  
Downriver Utility Wastewater Authority  
25605 Northline Road  
Taylor MI 48180

If to a Community:  
The Community's Mayor or Supervisor

- 13.02 All notices shall be deemed given on the day of post-marked mailing. Any notice given by a party hereunder must be signed by an authorized representative of such party.



- 13.03 Notwithstanding the requirement above as to the use of first-class mail, change of address notices, termination notices and notices of non-compliance pursuant to Article 4 shall be sent by certified mail, postage prepaid, return receipt requested, or by a nationally recognized overnight courier service.

**Article 14.**  
**Miscellaneous**

- 14.01 Enforceability. If any provision of this Agreement including documents and Exhibits referred to herein or its application to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected and shall remain valid and enforceable to the fullest extent permitted by law.
- 14.02 Integration. This Agreement contains the entire agreement regarding Wastewater services between the Parties and all prior agreements are merged into this Agreement, to the extent they have not been fully performed, amended, superseded or otherwise conflict with this Agreement. No Party has made any representations except those expressly set forth in this Agreement, and no rights or remedies are, or shall be, acquired by any party by implication or otherwise unless expressly set forth in this Agreement.
- 14.03 No Impairment of Bond Obligations. The Communities each recognize that the holders of bonds issued by the County from time to time, for the benefit of the System, and the 1962 Contract and secured by the full faith and credit of the County and the full faith and credit pledges of the Communities, will have contractual rights in this Agreement and it is therefore, covenanted and agreed by each Community that so long as any said bonds shall remain outstanding and unpaid, the provisions of this Agreement shall not be subject to any alteration or revision which would in any manner affect either the security of the bonds or the prompt payment of principal or interest thereon. The Parties covenant and agree that they will not suffer to be done any act which would in any way impair such bonds, the security therefore, or the payment of principal and interest thereon. It is hereby declared that the terms of this Agreement insofar as they actually pertain to the security of any such bonds, shall be deemed to be for the benefit of the holders of such bonds. The Communities further agree that nothing in this Agreement shall impair any Party's ability to protect and maintain its full faith and credit with regard to such bonds.
- 14.04 Headings. The headings of the sections of this Agreement are for convenience only and shall not be used to construe or interpret the scope or intent of this Agreement or in any way affect the same.

- 14.05 Jurisdiction. The rights and remedies set forth in this Agreement are not exclusive and are in addition to any of the rights or remedies provided by law or equity. This Agreement and all actions arising under it shall be governed by, subject to, and construed according to the laws of the State of Michigan. Each Party agrees, consents and submits to the exclusive personal jurisdiction of any court of competent jurisdiction located in Wayne County, Michigan, for any action arising out of this Agreement.
- 14.06 Execution of Agreement. This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument. A Party may deliver executed signature pages to this Agreement by facsimile transmission or electronic mail to another Party, which facsimile or electronic copies shall be deemed to be an original executed signature page binding on the Party that so delivered the executed signature page by facsimile or electronic mail.
- 14.07 Agreement Beneficiaries. The rights and benefits under this Agreement shall inure to the benefit of and be binding upon the Parties, their agents, successors, and consented-to assigns.
- 14.08 Third Party Beneficiaries. Except as specifically set forth in herein, there are no third party beneficiaries to this Agreement and this Agreement shall not be construed to benefit any persons or entities other than the DUWA and the Communities.
- 14.09 Incorporation of Exhibits. The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.
- 14.10 Authority to Execute. Each Party to this Agreement represents that they have appropriate power and authority, by resolution or otherwise, to execute this Agreement on behalf of their respective Party.
- 14.11 Other Agreements. The Parties acknowledge and agree that other agreements exist to which the DUWA is a party by assignment and which pertain to the operation of the System, including but not limited to, those other agreements that are incorporated by reference are listed in Section 9.05.
- 14.12 Construction. The Parties have participated jointly in the development and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, or local statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation.