

**ADDENDUM I TO  
WATER AND SANITARY SEWER SERVICE AGREEMENT**

between the

**CITY OF GRAND RAPIDS  
(the "City")**

and

**WRIGHT TOWNSHIP  
("Wright")**

**ADDENDUM I TO WATER AND SANITARY  
SEWER SERVICE AGREEMENT**

**THIS ADDENDUM I TO WATER AND SANITARY SEWER SERVICE AGREEMENT** made and executed as of this \_\_\_ day of October, 2000 (hereinafter referred to as "Addendum I"), by and between the **CITY OF GRAND RAPIDS**, Kent County, Michigan, a Michigan municipal corporation (hereinafter referred to as the "City"), and **WRIGHT TOWNSHIP**, a Michigan general law township (hereinafter referred to as "Wright").

**RECITALS**

A. Wright built, owns and has operated (through a contract with the Ottawa County Road Commission) since 1968 a sanitary sewer collection, transport, treatment and disposal system to serve users within the community of Marne, Michigan (the "Marne System").

B. The treatment and disposal portion of the Marne System lacks sufficient capacity and it is necessary for Wright to replace, or find a substitution for, this portion of the Marne System in order to continue to serve users.

C. Subject to the terms and conditions of this Addendum I, and as hereinafter indicated, the City is willing to provide sanitary sewer collection, transport, treatment and disposal service on a retail basis to users of the Marne System.

D. In order to provide such retail sanitary sewer service, Wright has simultaneously with the execution of this Addendum I, become a party to (i) the Water and Sewer Sanitary Sewer Service Agreement dated as of January 1, 1999, and (ii) the First Amendment to Water and Sanitary Sewer Service Agreement (collectively together with any future amendment executed by Wright, the "Agreement") both between the City and certain retail Customer Communities identified therein including Wright and (iii) the Urban Cooperation Agreement

dated as of January 1, 1999 (the "Urban Agreement"), between the City and certain Customer Communities identified therein including Wright.

E. The City and Wright have entered into this Addendum I for the purpose of dealing with those issues that are particular to providing for retail service to users of the Marne System and have no effect on other Customer Communities of the Sewer System.

**NOW, THEREFORE,** in consideration of the respective representations and agreements contained herein, the parties hereto agree as follows:

**Section 1. Retail Sewer Service to Users.** Subject to the provisions of this Addendum I, the Agreement and the Urban Agreement, the City agrees to provide retail sewer service to users within Wright and Tallmadge Charter Township ("Tallmadge") who are currently users of the Marne System and are within the Utility Services District identified in Exhibit B11 of the Agreement. Such service shall begin as soon as a combined forcemain-gravity sewer including related necessary appurtenances is constructed from Wright through Tallmadge to the City of Walker as identified on the attached Exhibit IA (the "Wright/Tallmadge Sewer Extension").

**Section 2. Users Rates.** User rates for users of the Marne System shall be established in the same manner as they are established for other Users within the Utility Services District in each of the Customer Communities, provided, once the annual revenue requirement is determined for Wright, it shall be recovered based on residential equivalents units ("REUs" or individually a "REU"). Each single family residential premises shall be assigned one REU and all other users of the Marne System shall be assigned the REUs indicated on that attached Exhibit IB. Each future new single family residential user within the Utility Services District in Wright shall be assigned one REU and all other future new users within the Utility Services

District in Wright shall be assigned REUs by the Sewer System in accordance with accepted engineering standards. Each year the annual revenue requirement shall be divided by the total REUs of then current users of the Marne System and then divided again by twelve to determine the monthly sewer user charge per REU. To determine its monthly sewer user charge, a user of the Marne System shall multiply the results by the number of REUs assigned to it. Notwithstanding the above provisions of this Section 2, should metered public water in the future become in the future available to users of the Marne System monthly sewer user charges shall be determined in the same manner they are determined for other retail Users located within retail Customer Communities as provided in Section 5.A. of the Agreement.

**Section 3. Acquisition of Marne System.** The City will acquire from Wright, as is, the collection and transport portions only of the Marne System as described on the attached Exhibit IC (the "Marne Sewer Collection and Transport System") for Five Hundred Thousand Dollars (\$500,000) (the "City Payment"). Such acquisitions shall not include any portion of the Marne System located in Tallmadge Township including, but not limited to, the two treatment ponds/lagoons and related components (the "Marne Sewer Treatment and Disposal System"), provided, however, the City and Wright recognize that, in order to acquire the Marne Sewer Collection and Transport System and construct the Wright/Tallmadge Sewer Extension, it is necessary to simultaneously decommission the Marne Sewer Treatment and Disposal System (the "Decommissioning"). The City and Wright agree that the City Payment will be applied only towards the cost of construction of the Wright/Tallmadge Sewer Extension and will not be included in the depreciation and return on system investment portions of the annual revenue requirement of users of the Marne System. Title to the Marne Sewer Collection and Transport System shall transfer to the Sewer System of the City upon completion and commencement of

operation of the Wright/Tallmadge Sewer Extension. At such time Wright shall provide the City with copies of all documents, records, reports, warranties, operation and maintenance manuals and all other materials in its possession related to the Marne Sewer Collection and Transport System. Upon such transfer the Sewer System shall be responsible for its operation, maintenance, repair and replacement as provided in the Agreement.

**Section 4. Construction of the Wright/Tallmadge Sewer Extension and Decommissioning of the Marne Sewer Treatment and Disposal System.** The City and Wright agree that the implementation of the provisions of this Addendum I along with Wright's participation in the Agreement and the Urban Agreement is dependent upon completion of (i) construction of the Wright/Tallmadge Sewer Extension and (ii) the Decommissioning (collectively, the "Project"). In addition to the City Payment, it is necessary for Tallmadge Township to contribute Six Hundred Thousand Dollars (\$600,000) (the "Tallmadge Payment" and, together with the City Payment, the "Project Payment") towards the cost of construction of the Wright/Tallmadge Sewer Extension. The City and Wright agree to use their respective best efforts to obtain this commitment from Tallmadge Township, with the understanding that the Sewer System cannot serve users of the Marne System without completion of the Wright/Tallmadge Sewer Extension. The City and Wright further agree that any additional costs of the Project in excess of the Project Payment used to complete the Project, currently estimated to be Three Hundred Thousand Dollars (\$300,000) (the "Additional Project Payment"), shall be financed through the Sewer System. If the costs of the Wright/Tallmadge Sewer Extension are less than the Project Payment, any savings shall be applied as a credit against any Additional Project Payment. After application of such credit, if any, the first One Hundred Thousand Dollars (\$100,000) of the Additional Project Payment shall be recovered from users of the Utility

Services District in Wright (including the existing six REUs in Tallmadge) through depreciation and return on system investment in accordance with the Rate Setting Methodology. Any Additional Project Payment in excess of One Hundred Thousand Dollars (\$100,000) shall be divided so that fifty percent (50%) will be recovered from users within the Utility Services District in Wright (including the existing six REUs in Tallmadge) and fifty percent (50%) from users within the Utility Services District in Tallmadge through depreciation and return on investment in accordance with the Rate Setting Methodology, provided, that Tallmadge shall have the option of paying up front the fifty percent (50%) to which the users in its Utility Services District are allocated. All of Wright's share of the Additional Project Payment shall be recovered from users in the Utility Services District in Wright (including the existing six REUs in Tallmadge) through depreciation and return on system investment in accordance with the Rate Setting Methodology. Upon receiving a binding commitment from Tallmadge for the Tallmadge Payment, the Sewer System will promptly cause, through Tallmadge, the design, bidding and construction of the Wright/Tallmadge Sewer Extension. Wright shall be responsible for promptly, upon the effective date of this Agreement, undertaking the Decommissioning in accordance with applicable laws, regulations and procedures. Except as specifically provided in the succeeding sentence, neither the City or the Sewer System shall have any responsibility or obligation with respect to completion of the Decommissioning. Wright shall no more frequently than every thirty (30) days make written requests of the Sewer System for payment of the costs of the Decommissioning (including appropriate documentation of such costs) and the Sewer System will, upon submission of the appropriate documentation, provide such payment within thirty (30) days. Prior to final payment of the Decommissioning by the Sewer System, Wright shall certify to the City and the Sewer System that the Decommissioning has been completed in

compliance with applicable laws, regulations and procedures, including those required by the Michigan Department of Environmental Quality.

**Section 5. Indemnification.** Wright agrees, at its expense, to defend, indemnify and hold harmless the City and its commission, officers, employees and agents (the "City Indemnified Party" or "City Indemnified Parties") from and against all claims, damages, expenses, liabilities and losses of any character or nature whatsoever arising out of or resulting from injury or damage to persons or property with respect to ownership, operation, construction, repair, replacement and maintenance of (i) the Marne Sewer Collection and Transport System prior to the date the City begins providing retail sewer service to users of the Marne System and (ii) the Marne Sewer Treatment and Disposal System both before and after the date the City begins providing retail sewer services to users of the Marne System including all activities related to the Decommissioning. The indemnification obligations provided above shall include the payment of all reasonable attorneys' fees and other expenses of defense. Wright shall have the option to settle any such claim demand or liability on such terms as it shall determine. In providing the indemnification set forth above, Wright is not waiving any defense otherwise available to it by law; provided such defenses are also available to and asserted by Wright for the benefit of the City Indemnified Parties. Wright shall not be responsible for the indemnification obligation set forth above with respect to any City Indemnified Party to the extent that the City Indemnified Party has waived a defense which was otherwise available to it by law.

**Section 6. Prohibited Action.** Wright agrees as further consideration of the City entering into this Addendum I, that it will not contest, or financially support the contest of, in any court (state or federal), in any administrative proceeding (state or federal), or before any administrative agency (state or federal) the user rates established pursuant to the Rate Setting

Methodology by the City for users within the Utility Services District in Wright (including the six REUs in Tallmadge) on the basis that (i) such rates are based in part on the land area of the Utility Services District, (ii) the allocation of infiltration and inflow costs among Customer Communities including Wright; (iii) the allocation of capital costs of the Sewer System based on projected costs rather than actual costs; or (iv) the establishment and application of integrated connection fees. Wright agrees that if it engages in or financially supports such contest, the City shall be entitled to an immediate dismissal of such matter and to be reimbursed by Wright all costs, including reasonable attorneys' fees and other expenses, the City or the Sewer System incurs in defense of such matter. If, for any reason, the matter shall not be dismissed and a final decision adverse to the City or Sewer System shall be rendered, in addition to reimbursing the City and the Sewer System for all costs, including reasonable attorneys' fees and other expenses, each has incurred, Wright shall reimburse the City and the Sewer System for the economic cost to the City and/or the Sewer System of a decision adverse to the City and/or the Sewer System.

In addition, Wright agrees to indemnify and hold the City harmless from any action (legal, administrative or otherwise) brought by a user(s) within the Utility Services District of Wright or Tallmadge contesting the method of recovery the Additional Project Payment from such user(s) pursuant to the provisions of Section 5 hereof. Such indemnification obligations shall include the payment of all reasonable attorneys' fees and other expenses of defense.

Notwithstanding the above, in the event that a change is made to the Rate Setting Methodology contained or referenced in a water and sanitary sewer service agreement applying to the residents of Cascade Charter Township, Grand Rapids Charter Township, the City of Kentwood, Tallmadge Charter Township or the City of Walker, whether such change results

from the City's consent or is compelled by judicial or administrative action, Wright shall be given the option of amending its agreements with the City so they contain the same changes.

**Section 7. No Retail Water Service Commitment.** Neither this Addendum I nor the Agreement obligates users in Wright to be served by the Water System on a retail basis or the Water S-ytem to serve users in Wright on a retail basis. Further, nothing in this Addendum I or the Agreement shall be viewed as inconsistent with the Water Supply Agreement between the City and Ottawa County dated November 1, 1989.

**Section 8. Definitions.** All terms not specifically defined in this Addendum I shall have those meanings as defined in the Agreement.

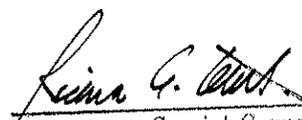
**Section 9. Conflict.** If there shall be a conflict between the provisions of this Addendum I and the Agreement, the provisions of this Addendum I shall control. In all other respects the provisions of the Agreement shall control.

**Section 10. Effective Date.** Wright and the City shall not be bound by this Addendum I, the Agreement or the Urban Agreement unless and until Wright and Tallmadge execute an agreement regarding the Wright/Tallmadge Sewer Extension.

IN WITNESS WHEREOF, the City and Wright have created these presents to be signed by their respective duly authorized officers all as of the day and year first written above.

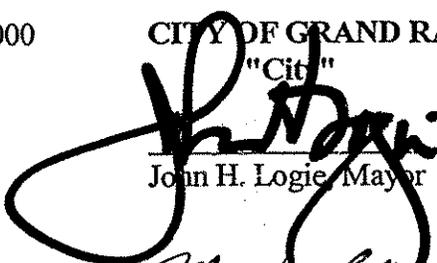
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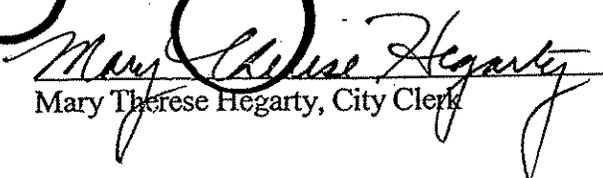
APPROVED FOR MAYOR'S SIGNATURE

  
Special Counsel

CITY OF GRAND RAPIDS

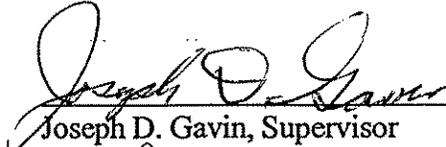
"City"

  
John H. Logie, Mayor

  
Mary Therese Hegarty, City Clerk

Executed: November 8, 2000

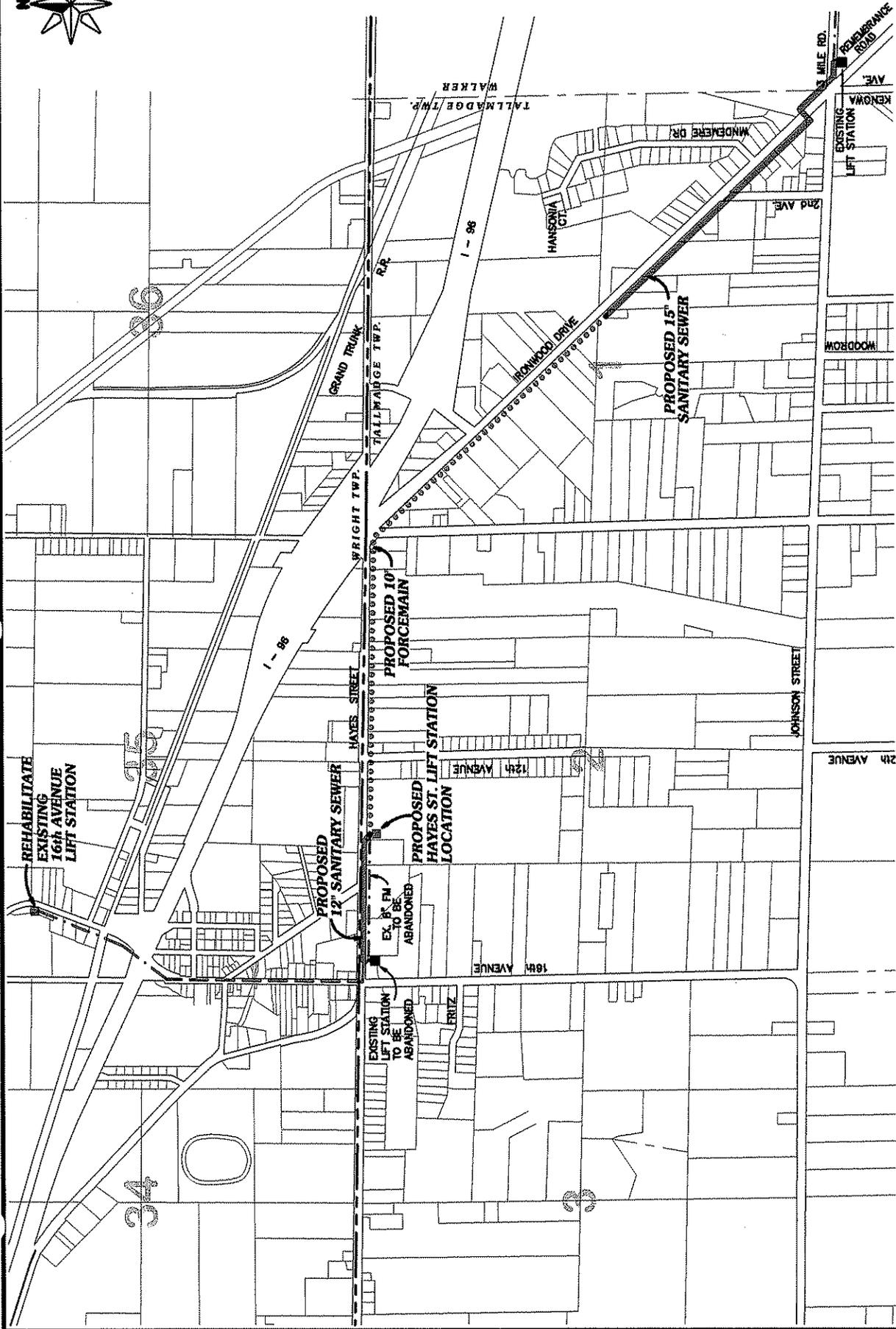
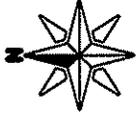
WRIGHT TOWNSHIP  
"Wright"

  
\_\_\_\_\_  
Joseph D. Gavin, Supervisor

  
\_\_\_\_\_  
Lori A. Rander, Township Clerk

**EXHIBIT 1A**

**Diagram of the Wright/Tallmadge Sewer Extension**



- PROPOSED SANITARY
- ○ ○ ○ ○ PROPOSED FORCEMAIN
- - - EXISTING SANITARY
- - - EXISTING FORCEMAIN

# Wright/Tallmadge Sewer Extension

## EXHIBIT IA

**MOORE & BRUGGINK, INC.**  
 Consulting Engineers  
 2020 Monroe Avenue N.W.  
 Grand Rapids, Michigan 49505-6298  
 Phone: (616) 363-9801

**EXHIBIT IB**

**Residential Equivalent Units for Other Than Signage Family Residential Premises**

<u>User</u>	<u>REUs</u>
Birchwood Care Center	107
Kenowa Hills Public School	12
Berlin Racetrack/Fair	10.25
Suburban Meadows AFC Center	6
Apartments at 14532 State	5
Apartments at 14529 16th Avenue	5
Marne Lions Club Report	4.38
Pit Stop Bar	4
ABC Discovery Day Care	3
Superior Environmental	3
Apartments at 14531 State Street	3
Comerica Bank	2
United States Post Office	2
14646 16th Avenue	2
Marne Fire/Wright Township Hall	2
Rinaldi Pizza	2
Homestead Timbers	2
1441 Franklin	2
Camp-n-Cruise (Building #1)	2
Camp-n-Cruise (Building #2)	2
Schneider Service Station	2
Superior Auto Body	1.5
Marne Heating and Cooling	1.5

## EXHIBIT IC

### Description of Marne Sewer Collection and Transport System

- 15,439 feet of 8" gravity sewer
- 2,044 feet of 10" gravity sewer
- 2,429 feet of 6" forcemain sewer
- 5,474 feet of 8" forcemain sewer
- 1 prefab pumping station – 200 gpm with 3 HP motors
- 1 built in place pumping station – 400 gpm with 20 HP motors

OT 05/12/2010  
05/12/2010 10:00 AM

7/1/2010

CHARTER  
FOR THE  
MARNE

**FIRST AMENDMENT TO:**

**A. ADDENDUM I TO WATER AND SANITARY SEWER  
SERVICE AGREEMENT**

between the

**CITY OF GRAND RAPIDS**

and

**WRIGHT TOWNSHIP**

**AND**

**B. WASTEWATER AGREEMENT**

between

**TALLMADGE CHARTER TOWNSHIP**

and

**WRIGHT TOWNSHIP**

**FIRST AMENDMENT TO (A) ADDENDUM I TO WATER AND SANITARY SEWER SERVICE AGREEMENT AND (B) WASTEWATER AGREEMENT**

**THIS FIRST AMENDMENT TO (A) ADDENDUM I TO WATER AND SANITARY SEWER SERVICE AGREEMENT AND (B) WASTEWATER AGREEMENT** made and executed as of this 12th day of June, 2002 (hereinafter referred to as the "First Amendment"), by and between the **CITY OF GRAND RAPIDS**, Kent County, Michigan, a Michigan municipal corporation (hereinafter referred to as the "City"), **WRIGHT TOWNSHIP**, Ottawa County, Michigan, a Michigan general law township (hereinafter referred to as "Wright"), and **TALLMADGE CHARTER TOWNSHIP**, Ottawa County, Michigan, a Michigan charter township (hereinafter referred to as "Tallmadge").

**RECITALS**

A. In order to provide retail sanitary sewer service to users within the community of Marne in Wright, Wright and the City (along with certain other Customer Communities identified therein) have entered into a Water and Sanitary Sewer Service Agreement dated as of January 1, 1999, and a First Amendment to Water and Sanitary Sewer Agreement dated as of March 28, 2000 (collectively, hereinafter referred to as the "Service Agreement").

B. Wright and the City have also entered into Addendum I to Water and Sanitary Sewer Service Agreement dated as of October 1, 2000 (hereinafter referred to as "Addendum I") to deal with those issues that are particular to providing retail sanitary sewer service within the community of Marne including the (i) funding and construction of the Wright/Tallmadge Sewer Extension, a/k/a Phase One of the Project, and (ii) the funding and decommissioning of the Marne Sewer Treatment and Disposal System, a/k/a Phase Two of the Project.

C. Wright and Tallmadge have entered into a Wastewater Agreement dated November 8, 2000 (hereinafter referred to as the "Agreement"), related to the (i) funding and construction of the Wright/Tallmadge Sewer Extension, a/k/a Phase One of the Project, and (ii) the funding and decommissioning of the Marne Sewer Treatment and Disposal System, a/k/a Phase Two of the Project.

D. Since the effective dates of the Service Agreement, Addendum I and the Agreement (i) final design plans have been prepared and bids have been received by Tallmadge for construction of the Wright/Tallmadge Sewer Extension, a/k/a Phase One of the Project, and final costs are known and (ii) more accurate cost estimates have been prepared by Wright for the decommissioning of the Marne Sewer Treatment and Disposal System, a/k/a Phase Two of the Project.

E. Wright and the City desire to amend Addendum I and Wright and Tallmadge desire to amend the Agreement as they both related to the (i) funding and construction of the Wright/Tallmadge Sewer Extension, a/k/a Phase One of the Project, and (ii) funding and decommissioning of the Marne Sewer Treatment and Disposal System, a/k/a Phase Two of the Project.

**NOW, THEREFORE**, in consideration of the respective representations and agreements contained herein, the parties agree as follows:

**Section 1. Amendment to Addendum I and the Agreement.** Addendum I, including specifically Sections 3 and 4 thereof, and the Agreement, including specifically Recital F and Sections 1 and 2, are amended by the following provision to the extent, and only to the extent, that the following provisions are inconsistent with the provisions of Addendum I and the Agreement. To the extent there is an inconsistency between provisions in Addendum I and the Agreement and the following provisions, the following provisions shall be controlling:

The total cost of constructing the Wright/Tallmadge Sewer Extension Phase One of the Project is \$1,900,000 (hereinafter referred to as the "Phase One Costs"), the estimated cost of decommission of the Marne Sewer Treatment and Disposal System Phase Two of the Project is \$300,000 (hereinafter referred to as the "Phase Two Costs") and the total actual/estimated cost of the Project is \$2,200,000.

The City will acquire from Wright the Marne Sewer Collection and Transport System for \$650,000 (hereinafter referred to as the "City Payment"). \$350,000 of the City Payment shall be used to pay a portion of the Phase One Costs and \$300,000 of the City Payment will be used, except as otherwise provided below, to pay the Phase Two Costs. The City Payment will not be included in the depreciation and return on system investment portions of the annual revenue requirement for users within the Utility Services District of Wright, including the existing six REUs in Tallmadge (hereinafter referred to as the "Wright Utility Services District").

The Sewer System will advance up to \$700,000 to be applied towards Phase One Costs (hereinafter referred to as the "Wright Payment"). The Wright Payment shall be recovered from users of the Wright Utility Services District through depreciation and return on system investment in accordance with the Rate Setting Methodology.

Tallmadge shall pay in cash \$850,000 (hereinafter referred to as the "Tallmadge Payment") towards the Phase One Costs.

Tallmadge shall design, engineer, contract for and have constructed the Wright/Tallmadge Sewer Extension, a/k/a Phase One of the Project, at the Phase One Costs. Upon execution of this First Amendment, the City will deposit with Tallmadge the \$350,000 City Payment to be used for a portion of the Phase One Costs. After Tallmadge has used the Tallmadge Payment and the City Payment for Phase One Costs, Tallmadge shall no more frequently than every 30 days make written request of the Sewer System for payment of Phase One Costs (including appropriate documentation of such costs). Upon receiving such

request, including appropriate documentation of costs, the Sewer System will provide payment to Tallmadge within 30 days from the Wright Payment.

Wright shall be responsible for promptly decommissioning the Marne Sewer Treatment and Disposal System, a/k/a Phase Two of the Project. Within 30 days after the Wright/Tallmadge Sewer Extension a/k/a Phase One of the Project is operational, Wright may request and receive from the City the remaining \$300,000 of the City Payment. Wright shall be responsible for all Phase Two Costs in excess of \$300,000. To the extent Phase Two Costs are less than \$300,000, Wright shall promptly remit the remainder to the City to be used to reduce the Wright Payment.

**Section 2. Definitions.** All terms used and not defined in this First Amendment shall have meanings as defined in the Service Agreement, Addendum I and the Agreement.

**Section 3. Ratification.** The Service Agreement, Addendum I and the Agreement are in all other respects hereby ratified and confirmed by the respective parties hereto.

IN WITNESS WHEREOF, the City, Wright and Tallmadge have caused these presents to be signed by their respective duly authorized officers all as of the day and year first written above.

Dated: June \_\_, 2002

APPROVED FOR MAYOR'S SIGNATURE

  
Special Counsel

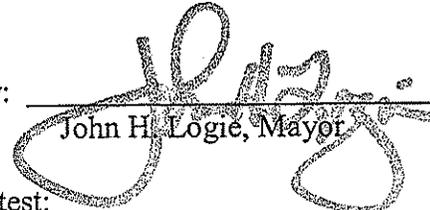
Dated: June/2, 2002

**AFFIX**  
Mayor's Signature

  
Dept. of Law

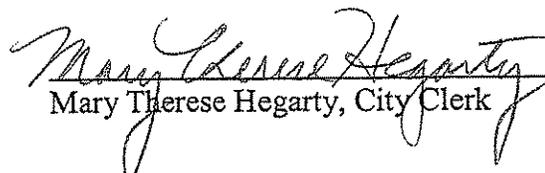
**CITY OF GRAND RAPIDS**

"City"

By: 

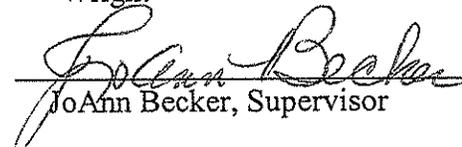
John H. Logie, Mayor

Attest:

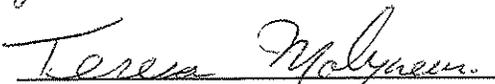
  
Mary Therese Hegarty, City Clerk

**WRIGHT TOWNSHIP**

"Wright"

By: 

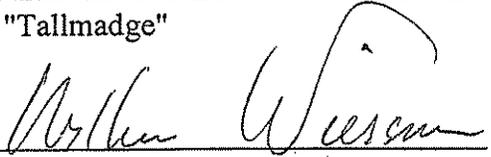
JoAnn Becker, Supervisor

By: 

Teresa Molyneux, Township Clerk

Dated: June \_\_, 2002

**TALLMADGE CHARTER TOWNSHIP**  
"Tallmadge"

By:   
William Wiersma, Supervisor

By:   
Lenore Cook, Township Clerk