

WATER AND SANITARY SEWER SERVICE AGREEMENT

between the

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

and

**ADA TOWNSHIP,
CITY OF EAST GRAND RAPIDS,
GAINES CHARTER TOWNSHIP, and
NORTH KENT SEWER AUTHORITY
(individually a "Customer Community" and
collectively the "Customer Communities")**

WATER AND SANITARY SEWER SERVICE AGREEMENT

Table of Contents

	<u>Page</u>
Parties	1
Recitals	1
Section 1. Definitions.....	2
Section 2. Sale to Public of Water and Sanitary Sewer Service	5
Section 3. Supply of Water	6
Section 4. Receipt of Sanitary Sewage.....	6
Section 5. Connection Points and Metering	7
Section 6. Rates, Charges and Fees	9
Section 7. Integrated System Costs.	12
Section 8. Cost Participation in Integrated Water and Sewer System Improvements	13
Section 9. Cost Participation in Upstream and Downstream Water and Sewer System Improvements	15
Section 10. Restriction of Water and Sanitary Sewer Service and Emergency Discontinuance ...	15
Section 11. Compliance with Ordinances, Rules, Regulations and Policies	16
Section 12. Rights-of-Way	18
Section 13. Title to Water and Sewer Systems	19
Section 14. Assessments and Taxes	19
Section 15. Term	19
Section 16. Indemnification by City and Customer Communities	20
Section 17. Review and Construction of Water and Sewer System Improvements.....	21
Section 18. Customer Community Utility Master Plans.....	22
Section 19. Utility Services District	23
Section 20. Urban Utility Boundary.	24
Section 21. Utility Advisory Board	25
Section 22. Customer Communities and City to Provide Information.....	27
Section 23. Inspection.....	28
Section 24. Notices	28
Section 25. Governing Law	29
Section 26. Severability	29
Section 27. Binding Effect.....	29
Section 28. Counterparts.....	29
Section 29. Captions	29
Section 30. Entire Agreement.....	30
Section 31. Amendments	30
Section 32. Exhibits	30
Section 33. Assignment	30
Section 34. Waiver.....	30
Section 35. Parties.....	30
Section 36. Effective Date	31
Exhibit A Master Map Identifying Water and Sanitary Sewer Service Urban Utility Boundaries and Utility Services Districts for All Customer Communities	A-1

Exhibit B	Individual Maps Identifying Water and/or Sanitary Sewer Service Urban Utility Boundary and Utility Services District for Each Customer Community.....	B-1
Exhibit B1	Ada Township Water Service Urban Utility Boundary and Utility Services District.....	B-2
Exhibit B2	Ada Township Sanitary Sewer Service Urban Utility Boundary and Utility Services District.....	B-3
Exhibit B3	City of East Grand Rapids Water Service Urban Utility Boundary and Utility Services District.....	B-4
Exhibit B4	City of East Grand Rapids Sanitary Sewer Service Urban Utility Boundary and Utility Services District.....	B-5
Exhibit B5	Gaines Charter Township Sanitary Sewer Service Urban Utility Boundary and Utility Services District.....	B-6
Exhibit B6	North Kent Sewer Authority Sanitary Sewer Service Urban Utility Boundary and Utility Services District.....	B-7
Exhibit C	Integrated Connection Fees.....	C-1
Exhibit D	Allocation of Integrated Costs in Rate Setting Methodology	D-1
Exhibit E	Zonegating for Upstream and Downstream Improvements	E-1
Exhibit F	Exclusions from Calculation of Developed Area of Utility Services District and Urban Utility Boundary	F-1

WATER AND SANITARY SEWER SERVICE AGREEMENT

THIS WATER AND SANITARY SEWER SERVICE AGREEMENT made and executed as of the 1st day of January, 1999 (hereinafter referred to as the "Agreement"), by and between the **CITY OF GRAND RAPIDS**, Kent County, Michigan, a Michigan municipal corporation (hereinafter referred to as the "City") and **ADA TOWNSHIP**, Kent County, Michigan, a Michigan general law township, **CITY OF EAST GRAND RAPIDS**, Kent County, Michigan, a Michigan municipal corporation, the **NORTH KENT SEWER AUTHORITY**, Kent County, Michigan, a statutory authority formed pursuant to Act 233 of the Public Acts of Michigan of 1955, as amended, and the **GAINES CHARTER TOWNSHIP**, Kent County, a Michigan charter township (hereinafter referred to individually as a "Customer Community" and collectively as the "Customer Communities.").

RECITALS

A. The City owns and operates a public water supply, treatment and distribution system which supplies water to, and a public sanitary sewer collection, treatment and disposal system which disposes of sanitary sewage of, Users within portions of Kent and Ottawa Counties, Michigan.

B. The City and each of the Customer Communities have previously entered into long-term agreements to provide public water and/or sanitary sewer service to Users within certain service areas within each of the Customer Communities on a wholesale basis.

C. The City and the Customer Communities desire to replace such long-term agreements with this Agreement pursuant to which public water and/or sanitary sewer service will be provided to Users within certain designated service areas within the Customer Communities on a wholesale basis.

D. The City and the Customer Communities recognize that they are mutually interdependent and that growth and development and the provision of urban services and regional needs must be addressed on a metropolitan-wide basis and to that end, simultaneously with the execution of this Agreement, they have agreed (or in the case of the North Kent Sewer Authority the municipalities comprising such Authority have agreed) to enter into an Urban Cooperation Agreement of even date herewith.

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

Section 1. Definitions. The following terms, whenever used in this Agreement, shall have the following meanings, unless the context shall indicate another or different meaning:

“Act 94” means the Revenue Bond Act, Act 94 of the Public Acts of 1933, as amended.

“Agreement” means this Water and Sanitary Sewer Service Agreement between the City and the Customer Communities.

“Business Day” means a day the City and Customer Communities are open to the public for business.

“City” means the City of Grand Rapids, Kent County, Michigan, a Michigan municipal corporation.

“City Commission” means the legislative body of the City.

“City Engineer” means the City's engineer or his or her designee.

“City Manager” means the City Manager of the City, the chief administrative officer of the City, or his or her designee.

“Connection Point” means each location where the City supplies water through the Water System to a Customer Community and/or receives sanitary sewage from a Customer Community for treatment and disposal by the Sewer System pursuant to this Agreement.

“Customer Communities” mean collectively Ada Township, Kent County, Michigan, the City of East Grand Rapids, Kent County, Michigan, the North Kent Sewer Authority, Kent County, Michigan and Gaines Charter Township, Kent County, Michigan, who are parties to this Agreement.

“Customer Community” means each of Ada Township, Kent County, Michigan, the City of East Grand Rapids, Kent County, Michigan, the North Kent Sewer Authority, Kent County, Michigan, and Gaines Charter Township, Kent County, Michigan, who is a party to this Agreement.

“Existing Facilities Improvements” mean improvements to the integrated system of the Water System and Sewer System necessary in order to improve the quality of service provided or required renovation and rehabilitation of existing facilities.

“Expansion Improvements” mean improvements to the Water System and Sewer System required in order to provide increased capacity in the integrated system of the Water System and Sewer System, respectively.

“North Kent Communities” mean, collectively, Alpine Township, Kent County, Michigan, Cannon Township, Kent County, Michigan, Courtland Township, Kent County, Michigan, Plainfield Charter Township, Kent County, Michigan, and the City of Rockford, Kent County, Michigan, each of which is a member of the North Kent Sewer Authority.

“North Kent Community” means each of Alpine Township, Kent County, Michigan, Cannon Township, Kent County, Michigan, Courtland Township, Kent County, Michigan, Plainfield Charter Township, Kent County, Michigan, and the City of Rockford, Kent County, Michigan, each of which is a member of the North Kent Sewer Authority.

“Rate Setting Methodology” means the method of establishing rates and charges for Users of the Water System and the Sewer System as provided in the 1976-77 Water and Sewage Disposal

Wholesale - Execution Copy

System Rate Study as modified by the 1997 Water-Sewer Rate Study and as modified by this Agreement.

“Rate Study” means the annual rate study of the City using the Rate Setting Methodology to establish rates and charges for Users of the Water System and Sewer System during the term of this Agreement.

“Rights-of-Way” mean the streets, highways, alleys, other public places, rights-of-way and easements.

“Sewer System” means the public sanitary sewer collection, treatment and disposal system of the City as it now or may hereafter exist.

“State” means the State of Michigan.

“Urban Utility Boundary” means that area within each of the Customer Communities identified on Exhibits A and B attached hereto and as may be amended from time to time pursuant to this Agreement.

“User” means the user of water service supplied by the Water System or sanitary sewer service supplied by the Sewer System through a Customer Community who receives such service from the City on a wholesale basis.

“Utility Advisory Board” means the Utility Advisory Board described in Section 23 hereof.

“Utility Services District” means that area within each of the Customer Communities identified on Exhibits A and B attached hereto as the wholesale service area for public water and/or sanitary sewer service provided pursuant to this Agreement and as may be amended from time to time pursuant to this Agreement.

“Water System” means the public water supply, treatment and distribution system of the City as it now or may hereafter exist.

Section 2. Sale to Public of Water and Sanitary Sewer Service. Subject to the right of the City and a Customer Community or the right of Customer Communities to enter into a “border-line street” agreement to serve an area along a common border line from one municipality or the other, the City and Customer Communities agree that the City shall be the exclusive provider of public water and sanitary sewer service within the Urban Utility Boundary within each of their boundaries and that such water and sanitary sewer service shall be supplied to each of the Customer Communities on a wholesale basis. Provided the Water System and Sewer System has sufficient capacity to meet substantiated demand, a Customer Community shall not (i) construct, own or operate its own public sanitary sewer treatment and disposal system or its own public water supply and treatment system within the Urban Utility Boundary within its boundaries or (ii) enter into an agreement to obtain water or sanitary sewer service from another source for Users within the Urban Utility Boundary within its boundaries without the prior written consent of the City. If the City does not provide water and/or sanitary sewer service to a Customer Community to serve Users within the Urban Utility Boundary within its boundaries to meet substantiated demand then the preceding provisions of this section providing that the City is the sole supplier of water and/or sanitary sewer service, as applicable, within the Urban Utility Boundary within its boundaries shall not apply and said Customer Community shall have the right to construct, own and operate its own water and/or sanitary sewer system, as applicable, to serve Users and/or to purchase such service from any third-party supplier.

All “border-line street” agreements existing as of the date of this Agreement between the City and a Customer Community, between Customer Communities and between a Customer Community and another municipality shall continue in effect.

A Customer Community supplied water from the Water System and/or sending sanitary sewage to the Sewer System for treatment and disposal pursuant to this Agreement shall not

provide water or sewer service, directly or indirectly, to be served by the Water System and/or Sewer System to any place or User outside its applicable Utility Services District without the prior written consent of the City.

Section 3. Supply of Water. The Water System shall deliver potable, treated water to the Customer Communities of the same quality and similar pressure (provided, however the Water System shall not be responsible for a temporary water loss or excessive pressure of a Connection Point during an emergency) as that provided City Users subject to such limitations and exceptions as are hereinafter in this Agreement provided. Water supplied to a Customer Community by the Water System shall be through a Connection Point(s) mutually agreed to by the City and the Customer Community and meeting the standards and specifications established by the Water System based on good engineering practices. Water supplied by the City shall not be mixed or mingled with water from any other source, unless otherwise authorized by the City. Further, each Customer Community supplied water from the Water System shall not permit water from any other source to be introduced into any part of its local retail water system and will carefully guard against contamination.

Section 4. Receipt of Sanitary Sewage. The Sewer System shall receive for treatment and disposal, subject to such limitations and exceptions as are hereinafter provided in this Agreement, all sanitary sewage emanating from Users within the Urban Utility Boundary in the Customer Communities delivered by the Customer Communities to the City for treatment and disposal. Sanitary Sewage received from a Customer Community for treatment and disposal shall be through a Connection Point(s) mutually agreed to by the City and the Customer Community and meeting the standards and specifications established by the Sewer System based on good engineering practices. All Connection Points existing and serving a Customer Community at the time of execution of this Agreement by a Customer Community shall be deemed to have been mutually

agreed to by the City and such Customer Community and to have met the standards and specifications of the Sewer System.

Sanitary sewage which the City prohibits the discharge of shall not be discharged into the Sewer System. No storm water, roof drain water or subsurface footing drain water shall be permitted to enter the Sewer System from the Utility Services District in each of the Customer Communities. Construction methods and materials used in the Utility Services District in each of the Customer Communities shall be such as to minimize other sources of ground water infiltration. A User in the Utility Services District in each of the Customer Communities discharging sewage, waste or any materials in violation of this Agreement shall pay (i) the cost of repair of any damage to the Sewer System caused by such discharge and (ii) any fines, charges or costs imposed upon the City because of such discharge. Each Customer Community shall adopt such ordinances as the City shall request to (a) assure compliance with the provisions of this section and (b) authorize the City to enforce such ordinances.

Section 5. Connection Points and Metering.

A. General Requirements. No water shall be delivered by the Water System to a Customer Community and no sanitary sewage shall be received by the Sewer System other than through a Connection Point except in the case of a "border-line street" agreement referenced in Section 2 of this Agreement. Each Customer Community shall be responsible for the maintenance, repair and replacement of Connection Points through which it receives water and/or sanitary sewer service at its cost provided, however, the Water System and/or Sewer System will maintain, operate, repair and replace any telemetry instrumentation the cost of which shall be included as a part of the revenue requirement of the related Customer Community.

B. Metering At Connection Points. All water supplied by the Water System to a Customer Community at a Connection Point and all sanitary sewage received by the Sewer System

from a Customer Community for treatment and disposal at a Connection Point shall be metered. All such meters shall be (i) magnetic flow meters, (ii) turbine meters, or (iii) such other meters as mutually agreed to by the City and the affected Customer Community. All meters and related control equipment shall be installed at the expense of the affected Customer Community. The Water System or Sewer System may inspect a related meter installation; the cost of which shall be included as a part of the revenue requirement of the related Customer Community. The related Water System or Sewer System shall perform or cause to be performed all necessary maintenance and repair of such meter(s) it uses in accordance with good engineering practices; the cost of which shall be included as a part of the revenue requirement of the related Customer Community. In the event that it is determined by the Water System or Sewer System in the exercise of good engineering standards that any meter and/or related control equipment is required to be repaired or replaced, the same shall be repaired or replaced by the related Water System or Sewer System; the cost of which shall be included as a part of the revenue requirement of the related Customer Community.

C. Reading of Meters. All meters shall be read by the Water System and/or Sewer System not less often than monthly. A permanent log shall be kept for each meter showing all meter readings that have been taken at such meter and all meter recordings shall be open to the City and the affected Customer Community for inspection. In the event a meter fails, until such meter has been repaired or replaced, the Water System or Sewer System, as applicable, shall estimate the water supplied or the sanitary sewage received through the Connection Point where the failed meter is located. This estimate shall be based on the average use for a like number of days at the same time of the year for the immediately preceding two years. If such historical information is not available, the Water System or Sewer System, as applicable, shall, in its reasonable judgment,

estimate the quantity of water supplied or sanitary sewage received based on a similar period of use at the Connection Point.

Section 6. Rates, Charges and Fees.

A. Rates. Rates for water and sanitary sewer service provided pursuant to this Agreement for each of the Customer Communities shall be established by the Rate Study through the Rate Setting Methodology. Such rates shall be determined annually and shall be computed and expressed as (i) a commodity charge per one hundred cubic feet of metered water and/or sanitary sewage flow and (ii) a monthly service charge.

The City shall bill each of the Customer Communities for water supplied and/or for sanitary sewage received for treatment and disposal on a monthly basis. Amounts billed shall be paid within thirty (30) days of the date of the invoice and all amounts not paid on or before such due date shall carry a service charge equal to ten percent (10%) per annum to be computed daily on all unpaid amounts currently due and payable beginning with the date such amount first became due and payable.

Each Customer Community shall be responsible for billing and collecting rates and charges from Users within such Customer Community, provided, however, the City shall be responsible for billing and collecting from commercial and industrial Users penalty surcharges as provided in subsection 6.B. hereof and amounts payable by commercial and industrial users pursuant to industrial pretreatment and cost recovery agreements between the City and each of the Customer Communities.

Rates will be reviewed by the City annually. The City agrees to meet with the Utility Advisory Board and each affected Customer Community, if requested, during the annual review of rates to provide for both input and understanding by the Utility Advisory Board and the affected Customer Communities. Once the annual review has been completed, the City shall report the

results, including any changes in rates to the Utility Advisory Board and each of the affected Customer Communities. Each Customer Community shall then have the opportunity to review such rates with the City before they become effective. This period of review and exchange between the City and each such Customer Community shall not take longer than thirty (30) days. The City shall make available to a Customer Community upon request all records and other documents used to establish such rates.

The annual review of User rates shall be completed prior to the beginning of each calendar year so that whenever possible any change in rates may become effective at the beginning of a calendar year. Any new rate shall become effective upon compliance with all of the above procedures and approval by the City Commission.

If a Customer Community disagrees with any new rates and if that disagreement cannot be resolved between it and the City, the Customer Community shall have the right, within forty-five (45) days of the effective date of the new rates, to serve a written demand for arbitration upon the City, setting forth the specific issues to be arbitrated.

Within thirty (30) days after a demand for arbitration is served on the City, the City and Customer Community shall mutually agree on a recognized utility rate consultant as arbitrator. If the City and Customer Community cannot agree on the selection of an arbitrator, the arbitrator shall be selected by the American Arbitration Association subject to the requirements and qualifications of this subsection A. Arbitration proceedings shall commence with an initial meeting of the parties and the arbitrator occurring no later than forty-five (45) days after selection of an arbitrator. The arbitrator shall determine the issues set forth in the demand for arbitration in strict conformance with this Agreement and the Rate Setting Methodology. No later than one hundred-twenty (120) days after the commencement of arbitration proceedings, the arbitrator shall submit his/her determination in writing to the parties and shall include a specific finding on each issue set forth in

the demand for arbitration and shall demonstrate how each finding was determined. Based on his/her decision on the issues set forth in the demand for arbitration, the arbitrator may affirm the rates or adjust them upward or downward. When reaching a decision the arbitrator shall require that any amounts due because of an adjustment in rates shall be paid with interest from their initial due date at the rate of five percent (5%) per annum computed monthly.

Arbitration shall be the exclusive means of resolving disagreements related to the Rate Study and rates. The arbitrator's decision shall be conclusive and binding on the City and the Customer Community except that either the City or Customer Community may avail itself of the remedy provided in Michigan Court Rule 3.602, as it may be amended from time to time. Said arbitrator shall not live or work within any area serviced by the Water System and Sewer System or be employed by either party unless approved by both parties. The Customer Community shall not withhold payment of the new rates during the pendency of the disagreement, but shall instead timely pay such rates, subject to adjustment at the conclusion of arbitration. The arbitrator's fee and his out-of-pocket expenses shall be shared equally by the City and the Customer Community.

B. Integrated Connection Fees. Persons in the Utility Services District in each of the Customer Communities connecting to the local retail water system and/or the sewer system of the Customer Community shall pay integrated connection fees established and determined by the Customer Community in accordance either of the options set forth in Exhibit C attached hereto and incorporated herein.

C. Surcharges. Industrial and commercial Users in the Utility Services District in each of the Customer Communities discharging into the Sewer System shall be charged a penalty surcharge if the concentration of certain discharges exceed certain limits as established from time to time by the City. The penalty surcharges shall be as established and adjusted by the City from time to time in the Rate Study and shall be the same for all applicable industrial and commercial Users

of the Sewer System. The penalty surcharges are intended to discourage the discharge of effluents in excess of normally accepted concentrations.

The City shall be responsible for billing and collecting said penalty surcharges directly from industrial and commercial Users. Employees or agents of the City shall have the right to monitor each industrial and commercial User in the Utility Services District in each of the Customer Communities in accordance with rules, regulations and policies of the Sewer System in order to determine discharge concentrations.

The City and each of the Customer Communities and some of the North Kent Communities have entered into an industrial pretreatment and cost recovery agreement related to the regulation, pretreatment and cost recovery of industrial waste of industrial users within Utility Services District of each Customer Community and each of such North Kent Communities, which agreements shall continue in effect and govern such matters addressed therein.

Nothing in this subsection C. shall prohibit a Customer Community or North Kent Community from separately charging industrial and Commercial Users in the Utility Services District in such Customer Community or North Kent Community a surcharge, if the concentration of certain sanitary sewer discharges exceed certain limits as established from time to time by such Customer Community or North Kent Community.

Section 7. Integrated System Costs. The Rate Setting Methodology is modified to provide that integrated system costs of the Sewer System shall be allocated, in part, among Customer Communities in proportion to the amount of billed flow of each Customer Community, Users in other customer communities receiving retail sanitary sewer service and the City to total billed flow of the Sewer System with appropriate credit being given for the flow of Customer Communities for infiltration and inflow as set forth and demonstrated in the attached Exhibit D.

The Rate Setting Methodology shall be further modified to provide that each Customer Community's share of integrated costs of the Water System and Sewer System, as applicable, for purposes of the annual Rate Study shall be determined in part by its share of billed flow (as determined in the immediately preceding paragraph) and, in part, by its share of the total land area within the applicable Utility Services District within such Customer Community as a percentage of total land area of Utility Services Districts of all Customer Communities, service areas of other customer communities and the land area within the boundaries of the City (excluding in the case of the Water System those areas served with water service pursuant to a Water Supply Agreement between the City and Ottawa County dated November 1, 1989) as set forth and demonstrated in the attached Exhibit D.

The Rate Setting Methodology shall also be modified to provide that costs of any non-integrated system improvements incurred after the date of this Agreement to the Water System or Sewer System that (i) result in an increase in the capacity of the integrated system of the Water System or Sewer System or (ii) defers or delays an expansion of the integrated system of the Water System or Sewer System may be included as an integrated system cost of the Water System or the Sewer System to the extent of the benefit to all Users of the Water System or Sewer System from such improvements. Nothing in this section or this Agreement shall be construed to permit the inclusion of the cost of storm sewers or the cost of eliminating storm water from the Sewer System (a) within the City in any costs allocated to Customer Communities under the Rate Setting Methodology or (b) within a Customer Community in any costs allocated to any other Customer Community or the City under the Rate Setting Methodology.

Section 8. Cost Participation in Integrated Water and Sewer System Improvements.

The parties recognize and acknowledge that from time to time improvements will be required in

the integrated system of the Water System and Sewer System as defined in the Rate Setting Methodology. The parties further recognize and acknowledge that some of said improvements will be Existing Facilities Improvements and other improvements will be Expansion Improvements.

The cost of Existing Facilities Improvements to the Water System and Sewer System shall be shared by all Users of the respective System in accordance with the Rate Setting Methodology as applied in the then current Rate Study.

Should Expansion Improvements be required because of the increased use or projected use of the Water System or Sewer System, as applicable, by Users or projected future Users in some or all of the Customer Communities, the Customer Communities agree that the affected Customer Communities, along with Users in other affected customer communities receiving retail water and/or sanitary sewer service where such Users will benefit from the Expansion Improvements, shall share in the cost of such Expansion Improvements (including financing costs) based on the increased use and projected increased use of such Expansion Improvements in each affected Customer Community and in the other affected customer communities for which such improvements have been designed and built.

The size and scope of such Expansion Improvements shall be based on (i) good engineering practices, (ii) increased use projections provided by Customer Communities and other affected customer communities and (iii) the utility master plans referenced in section 18 hereof.

Such proposed Expansion Improvements shall be reviewed by the Utility Advisory Board for input and advice, provided, however, the City shall ultimately be responsible for determining to proceed with such Expansion Improvements.

To the extent Expansion Improvements are designed and built to handle additional new use or projected new use in the City, City Users shall share in the cost (including financing costs) of such Expansion Improvements on a proportional basis.

It is understood that some improvements of the integrated system of the Water System and Sewer System may be part Existing Facilities Improvements and part Expansion Improvements. In such case, the cost of such improvements shall be allocated as Existing Facilities Improvements and Expansion Improvements for the purpose of applying the provisions of this section.

Section 9. Cost Participation in Upstream and Downstream Water and Sewer System Improvements. As the Customer Communities and other customer communities grow, demand for water and sanitary sewer service increase, requiring upstream and downstream capital improvements. Either the Water System or the Sewer System may construct improvements which are designed to serve Users in one or more municipalities. Such improvements generally would not be required but for the growth and projected growth in the Customer Communities and other customer communities.

The Rate Setting Methodology shall be modified to provide that return on system investment, for those fixed assets physically located in the City or a Customer Community and only serving the City or such Customer Community shall be established as provided in the Rate Setting Methodology. For any such fixed assets which are zoned from the City and/or one Customer Community to another, the rate of return shall be established at The Bond Buyer Index of 20 Municipal Bonds plus 6% per annum as set forth and demonstrated in the attached Exhibit E.

Section 10. Restriction of Water and Sanitary Sewer Service and Emergency Discontinuance. In the event the City is unable during a temporary period of scarcity or emergency to provide water and/or sanitary sewer service to one or more Customer Communities in

the quantity and/or capacity required, the quantity and/or capacity which the City can provide shall be allocated insofar as practicable during such period to all Users of the Water System and/or Sewer System, as applicable, in equitable proportions so that all Users are subject to similar restrictions on water and/or sanitary sewer service.

The City reserves the right to discontinue temporarily water and/or sanitary sewer service (i) without notice in times of emergency or (ii) whenever it shall, upon its own determination and after not less than twenty-four (24) hours' notice to the Customer Community, find it necessary for purposes of testing, repairing or replacing the Water System or Sewer System.

Upon notification by the Water System, a Customer Community supplied water from the Water System shall comply, and shall cause Users within the Customer Community to comply, with any water sprinkling restriction which shall be deemed necessary by the Water System and which shall apply equally to all similarly situated Users of the Water Supply including as applicable those Users receiving water service on a retail basis.

Each Customer Community waives any and all claims for damages resulting from such restrictions and discontinuance as set forth in this section 10 and agrees to defend, indemnify and hold harmless the City, its commission, officers, employees and agents from and against any and all claims, damages, demands, expenses, liabilities, and losses of any character or nature whatsoever arising out of or resulting from such restrictions or discontinuance, but only if such restrictions or discontinuance is not caused in whole or in part by the negligence of the City.

Section 11. Customer Community Responsibility for Service to Users. Each Customer Community shall be responsible for providing water and/or sanitary sewer service, as applicable, to Users in the applicable Utility Service District in such Customer Community, including the cost of construction, repair, operation, maintenance, renovation and replacement of, in the case of water service, water distribution lines, booster pump stations, storage facilities, local water distribution

lines and related appurtenances, and, in the case of sanitary sewer service, trunk sewer mains, interceptor sewer mains, lift stations, local sanitary sewer collector mains and related appurtenances.

A Customer Community supplied water from the Water System shall be responsible for the maintenance of water quality at all points at and beyond the applicable Connection Point(s).

After reasonable notice to a Customer Community by the Sewer System, no sanitary sewage emanating from such Customer Community for discharge into the Sewer System shall have characteristics (a) detrimental to the Sewer System or detrimental to the effective operation of the Sewer System's treatment facilities or (b) that require an unusually large treatment expense. No storm water, roof water or water from subsurface footing drains shall be permitted to enter the sanitary sewage flow from the Customer Community entering the Sewer System. Construction methods and materials used by each applicable Customer Community shall be such as to minimize sources of ground water infiltration. A Customer Community agrees to pay all fines, charges or costs of actions against the City resulting from the discharge of sewage or waste emanating from the Customer Community into the Sewer System in violation of this Agreement. Further, a Customer Community agrees to pay the cost of repair or replacement of any damage to the Sewer System resulting from the discharge of sewage or waste from such Customer Community.

Provided, however, nothing in this section 11 shall modify or eliminate the City's duties and responsibilities under certain industrial pretreatment and cost recovery agreements between the City and each of the Customer Communities and some of the North Kent Communities. Further, an industrial User and not the Customer Community in which such User is located shall be responsible for all fines, charges or costs of action against the City and the cost of repair and replacement of any damage to the Sewer System as a result of violations of the Sewer System's

industrial pretreatment program caused, in whole or in part, directly or indirectly, by such violations.

Section 12. Rights-of-Way. Each Customer Community hereby agrees, as a part of the consideration of this Agreement, and consents to permit the City without cost to use the Rights-of-Way for the purpose of constructing, installing, maintaining, repairing and replacing therein water and sanitary sewer facilities of the Water System and Sewer System as the City shall determine is necessary to provide water and sanitary sewer service to such Customer Community, to other Customer Communities and to Users in other customer communities receiving water or sanitary sewer service on a retail basis served or to be served by the City within or outside its corporate limits. Each Customer Community shall, upon request of the City, execute separate instruments in recordable form granting temporary or permanent easements, rights-of-way or consent over, across, under and within the Rights-of-Way for such purposes as provided in this section, (provided, each such Customer Community shall have the right to reasonably designate the location of such facilities). In the event, in the case of the North Kent Sewer Authority, it is necessary to obtain the consent of a North Kent Community to use such Right-of-Way in such North Kent Community, the North Kent Sewer Authority will assist the City in obtaining such consent. Each Customer Community agrees that the City shall have the right to enter the Rights-of-Way in such Customer Community for the purpose of operation, maintenance, repair and replacement of facilities of the Water System and Sewer System. Each Customer Community further agrees, upon request, to assist the City in obtaining any Rights-of-Way or consents over private property within such Customer Community which may be necessary to provide water or sanitary sewer services to future Users of the Water System and Sewer System.

In the event of such use of the Rights-of-Way by the City, the City shall replace the Rights-of-Way including all facilities, pavement and soil located thereon in as good condition as before

such use. No Right-of-Way shall be obstructed longer than is necessary to complete the required work.

Section 13. Title to Water and Sewer Systems. All right, title and interest in all water and sanitary sewer facilities of the Water System and Sewer System shall vest with the City and this Agreement, its terms or any payments made or conditions fulfilled as required hereunder shall not vest any right, title or interest in the Water System or Sewer System to the Customer Communities. All right, title and interest in all water and/or sanitary sewer facilities of the local water and/or sewer system of a Customer Community shall vest with such Customer Community and this Agreement, its terms or any payments made or conditions fulfilled as required hereunder shall not vest any right, title or interest in such system(s) to the City.

Section 14. Assessments and Taxes. An amount equal to the amount of any taxes and assessments that may be levied by a Customer Community on portions of the Water System and Sewer System located within a Customer Community shall be included in the revenue requirements in the annual Rate Study for such Customer Community and recovered through User rates and charges paid by Users of the Water System and Sewer System in the Customer Community.

Section 15. Term. This Agreement shall be effective for an initial term of thirty (30) years commencing from the date set forth in the first paragraph of this Agreement. Not more than ninety (90) days and not less than thirty (30) days prior to each successive five (5) year anniversary date of this Agreement, the City and each of the Customer Communities agree to consider the approval of a five (5) year extension of the term of this Agreement on the same terms and provisions or other mutually agreeable terms and provisions. The City and a Customer Community may on each five (5) year anniversary agree to a five (5) year extension independently and it shall not be necessary for all Customer Communities to agree to such an extension for such extension to be effective between the City and such Customer Community.

Section 16. Indemnification by City and Customer Communities. The City agrees, at the expense of the Water System and/or Sewer System, as applicable, to defend, indemnify and hold harmless each of the Customer Communities and their board, commission, council, officers, employees and agents (the “Customer Community Indemnified Party” or “Customer Communities Indemnified Parties”) from and against any and all claims, damages, demands, 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 its ownership, operation, construction, repair, replacement and maintenance of the Water System or Sewer System, provided, that if such injury or damage is caused in whole or in part by the acts or omissions of any of the Customer Communities Indemnified Parties, then the City's indemnification obligation shall be reduced in proportion to the Customer Community Indemnified Party's percentage of responsibility for such injury or damage. The indemnification obligations provided above shall include the payment of all reasonable attorneys' fees and other expenses of defense. The City 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, the City is not waiving any defenses otherwise available to it by law; provided such defenses are also available to and asserted by the City for the benefit of the Customer Communities Indemnified Parties. The City shall not be responsible for the indemnification obligations set forth above with respect to any Customer Community Indemnified Party to the extent that the Customer Community Indemnified Party has waived a defense which was otherwise available to it by law.

Each Customer Community, respectively, 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 its ownership, operation, construction, repair, replacement and

maintenance of its local retail water system and/or sewer system at and beyond the applicable Connection Point(s) provided, that if such injury or damage is caused in whole or in part by the acts or omissions of any of the City Indemnified Parties, then the Customer Community's indemnification obligation shall be reduced in proportion to the City's Indemnified Party's percentage of responsibility for such injury or damage. The indemnification obligations provided above shall include the payment of all reasonable attorneys' fees and other expenses of defense. The affected Customer Community 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, a Customer Community is not waiving any defenses otherwise available to it by law; provided such defenses are also available to and asserted by such Customer Community for the benefit of the City Indemnified Parties. A Customer Community shall not be responsible for the indemnification obligations 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.

The City shall, at the expense of the Water System and/or Sewer System, as applicable, defend, indemnify, and hold harmless each of the Customer Communities and their boards, commissions, councils, employees, and agents from and against any and all claims, damages, demands, expenses, liabilities, and losses of any character or nature whatsoever (including, without limitation, reasonable attorneys' fees) arising out of or resulting from any challenge to the validity or enforceability of any provision of this Agreement.

Section 17. Review and Construction of Water and Sewer System Improvements. The City agrees to review with each Customer Community any proposed capital improvement projects of the Water System or Sewer System which will have a significant effect upon the Users within the Utility Services District in such Customer Community. Except in cases of an emergency, this review shall take place in the initial planning stages of such capital improvement projects.

Section 18. Customer Community Utility Master Plans. Each Customer Community shall complete a public water and sanitary sewer utility master plan related to the Utility Services District within such Customer Community in a form acceptable to the Utility Advisory Board and the City and shall update such plan every five years. Each Customer Community shall provide the Utility Advisory Board and the City with a copy of an initial plan or a current existing plan no later than January 1, 2000, and a copy of each updated plan no later than each fifth anniversary of such date. The plan shall include the following elements:

1. The plan shall address future water and sanitary sewer use within and outside the boundaries of the Utility Services District up to the boundaries of the Urban Utility Boundary in the Customer Community.
2. The plan shall evaluate short-term and long-term needs of the Customer Community local retail water system and/or the sewer system within and outside the Utility Services District up to the boundaries of the Urban Utility Boundary in the Customer Community.
3. The plan shall include, where applicable, a State water reliability study.
4. The plan shall address necessary rehabilitation and replacement of the local retail water system and sanitary sewer system facilities serving Users within the Utility Services District of the Customer Community.
5. The plan shall establish timetables for the construction of any necessary upstream and downstream water and sanitary sewer improvements, as applicable, based on criteria mutually acceptable to such Customer Community, the Utility Advisory Board and the City.

The City shall make available to each Customer Community and its consultant preparing the plan existing Water System and Sewer System data.

Prior to preparation and release of the initial plan and each updated plan, each of the Customer Communities and City and their respective consultants shall meet to review, comment and provide input on the proposed plan.

The costs of preparing the initial plan and each five-year update by a Customer Community may, at the election of the Customer Community, be included as a part of the revenue requirement of the Customer Community in the Rate Study for the calendar year following its completion.

Section 19. Utility Services District. The boundaries of the Utility Services District in each of the Customer Communities and North Kent Communities identified on Exhibits A and B attached hereto shall be established as the area within which public water and/or sanitary sewer service shall be extended pursuant to the terms of this Agreement. The boundaries of the Utility Services District in a Customer Community and a North Kent Community for water service and sanitary sewer service need not be the same.

The City and each of the Customer Communities and North Kent Communities agree that public water and/or sanitary sewer services shall not initially be extended outside the boundaries of the applicable Utility Services District in such Customer Community or North Kent Community during the term of this Agreement, provided, however, such boundaries shall be adjusted at the request of the Customer Community or North Kent Community provided (a) at least sixty-five percent (65%) of property within such existing Utility Services District in such Customer Community or North Kent Community has been developed, (b) such Customer Community or North Kent Community has adopted a zoning and planning master plan for the property it desires to add to the Utility Services District, (c) such Customer Community or North Kent Community has adopted a utility master plan for the property it desires to add to the Utility Services District, (d) at the time of adjustment of the boundaries of the Utility Services District the property within such new expanded Utility Services District shall not be less than forty-five

percent (45%) developed and (e) the Customer Community or North Kent Community has met all the requirements of its utility master plan related to all prior expansions of the Utility Services District, provided, further, that such boundaries of such Utility Services District shall not extend beyond the limits of the Urban Utility Boundary in such Customer Community or North Kent Community except as otherwise provided in this Agreement. Upon establishing such new boundaries of the Utility Services District, the Customer Community or North Kent Community shall provide the City with a map identifying the new boundaries of the Utility Services District. When determining whether sixty-five percent (65%) of the property within an existing Utility Services District has been developed, there shall be excluded from such calculation public right-of-way, land dedicated to public use, land dedicated as open space and land used for agricultural purposes. The property which shall be excluded from such calculation shall include, but not be limited to, those exclusions identified in the attached Exhibit F.

A Customer Community or North Kent Community desiring to add property to the Utility Services District may do so without meeting the above sixty-five percent (65%) developed requirement by removing from the Utility Services District a quantity of land equal to that to be added to the Utility Services District provided such added land is contiguous to the boundary of the existing Urban Services District. Upon adjusting the boundaries of the Utility Services District, the Customer Community or North Kent Community shall provide the City with a map identifying the new boundaries of the Utility Services District.

Section 20. Urban Utility Boundary. The limits of the Urban Utility Boundary identified on Exhibits A and B attached hereto shall be established as the area within which more dense urban development can be expected to be encouraged and to occur and within which urban services can, as development occurs, be expected to be provided. It is agreed property outside the Urban Utility Boundary (and not currently served by another public water or sanitary sewer

system) should remain primarily rural with less dense use encouraged and promoted. Within the Urban Utility Boundary, the Utility Services District in each Customer Community and North Kent Community shall be established and may be expanded as provided in section 19 hereof.

The limits of the Urban Utility Boundary may be extended upon mutual agreement of the City and the affected Customer Community and North Kent Community after consultation with the Utility Advisory Board when (a) the boundaries of the Utility Services District in such Customer Community or North Kent Community have been extended to the limits of the Urban Utility Boundary and (b) sixty-five percent (65%) of property within the Urban Utility Boundary in such Customer Community or North Kent Community has been developed (taking into account the same exclusions as those set forth in section 19 hereof for determining development of the Utility Services District) and such Customer Community or North Kent Community has adopted a zoning and planning master plan for property it wishes to include within the Urban Utility Boundary.

A Customer Community or North Kent Community desiring to add property to the Urban Utility Boundary may do so without meeting the above sixty-five (65%) developed requirement by removing from the Urban Utility Boundary a quantity of land equal to that to be added to the Urban Utility Boundary provided such added land is contiguous to the boundary of the existing Urban Utility Boundary. Upon adjusting the boundaries of the Urban Utility Boundary, the Customer Community or North Kent Community shall provide the City with a map identifying the new boundaries of the Urban Utility Boundary.

Section 21. Utility Advisory Board. The parties hereby create and establish the Utility Advisory Board. It shall be comprised of one member appointed by each of the Customer Communities (except the North Kent Sewer Authority), one member appointed by each of the North Kent Communities, one member appointed by each of the other customer communities of the

Water System and/or Sewer System who have signed an agreement substantially similar to this Agreement providing for a Utility Advisory Board and such number of members appointed by the City equal to the total number of Customer Community, North Kent Communities and other customer community members. Each Customer Community, each of the North Kent Communities and the City shall designate an alternate for each appointed member who shall serve on the Utility Advisory Board in the member's absence. Elected or appointed officers or other representatives of the Customer Communities, the North Kent Communities and the City may be appointed to the Board. Members of the Board shall be appointed to two-year terms, provided, however, there shall be no limit to the number of terms a member may serve. Members and alternates shall serve without compensation.

The Board shall review the macro operations of the Water System and Sewer System and shall provide advice regarding their operation and maintenance. The Board shall review and approve the public water and sanitary sewer utility master plans referenced in section 18 hereof. The Board shall also review proposed capital improvements of the integrated system of the Water System and Sewer System and advise the City with respect to such improvements. The Board shall further review and offer its advice regarding the annual capital improvement plans of the Water System and Sewer System as it relates to non-integrated system capital improvements in customer communities receiving retail water and sanitary sewer service to be financed by the Water System and Sewer System and shall establish the priority of such improvements. Except in the case of an emergency, the City shall review with the Utility Advisory Board in advance each capital improvement to be financed by the Water System and Sewer System. The Board shall consult with the City and the affected Customer Community regarding the proposed expansion of the Urban Utility Boundary within such Customer Community. Further, the Board shall review the annual budgets of the Water System and Sewer System and offer advice with respect thereto to the City

within the time frame of the City's annual budgeting process. Pursuant to section 5.A. hereof, the Board shall provide input to the City during the annual Rate Study.

The City shall keep the Utility Advisory Board reasonably apprised with respect to all aspects of the operation and maintenance of the Water System and Sewer System and shall provide the Board with periodic financial and operational reports of the Water System and Sewer System.

The Utility Advisory Board shall meet once during each calendar quarter on such dates as established by the Board at the beginning of each calendar year. In addition, additional meetings of the Board shall be called by the Chairperson of the Board upon request of any two members or upon the independent action of the Chairperson. At least seven (7) days written notice of each meeting shall be given by the Chairperson to each member, however, the Chairperson if he/she deems it necessary may in good faith call a meeting with less than seven days' written notice in which case notice shall be given to each member in writing or verbally as far in advance of the meeting as reasonably possible.

The Chairperson of the Utility Advisory Board shall be a member appointed by the City and the Vice Chairperson shall be selected from the members not appointed by the City. A majority of members (or alternates) of the Board shall constitute a quorum. Each member of the Board shall be entitled to one vote. Proxies are permitted so long as they are in writing and are presented to the Chairperson at the meeting in which they are to be used.

The Utility Advisory Board may, in its discretion, establish subcommittees, the members of which need not be members of the Board.

Section 22. Customer Communities and City to Provide Information. Each Customer Community shall maintain and provide the City upon request the following:

- a. The number and size of all service connections.

- b. The number of Users served.
- c. The daily and hourly demand of water supplied by the Water System (for Customer Communities receiving water supplied by the Water System).
- d. Any other records and reports as may be reasonably required by the City.

The City shall provide to each Customer Community upon request information, provided such information exists in reportable form, related to the operation of the Water System and the Sewer System.

Section 23. Inspection. Representatives of the Water System and Sewer System shall have the right upon reasonable notice to inspect the local retail water system and/or sewer system of each Customer Community.

Section 24. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when dispatched by regular, registered or certified mail, postage prepaid, or by hand delivery or by telegram confirmed the same day by regular, registered or certified mail, postage prepaid, addressed as follows:

If to the City:

City of Grand Rapids
City Hall
300 Monroe Avenue, N. W.
Grand Rapids, Michigan 49503
Attention: City Manager

If to the Customer Communities:

Ada Charter Township
7330 Thornapple River Drive, S.E.
Ada, Michigan 49301
Attention: Supervisor

City of East Grand Rapids
750 Lakeside Drive, S.E.
East Grand Rapids, Michigan 49506
Attention: City Manager

North Kent Sewer Authority
7 S. Monroe Street
Rockford, Michigan 49341
Attention: Chairperson

Gaines Charter Township
1685 - 68th Street, S.E.
P.O. Box 8876
Grand Rapids, Michigan 49518-8876
Attention: Supervisor

The parties hereto may, by notice given hereunder, designate any further or different address to which subsequent notices, certificates or other communications may be sent.

Section 25. Governing Law. This Agreement shall be construed in all respects in accordance with the laws of the State.

Section 26. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 27. Binding Effect. The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective successors and assigns of the parties hereto.

Section 28. Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

Section 29. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 30. Entire Agreement. Except as otherwise indicated in this Agreement, this Agreement constitutes the entire agreement between the parties and there are no other representations, warranties, promises, guarantees or agreements, oral or written, express or implied, between the parties hereto with respect to this Agreement.

Section 31. Amendments. This Agreement may not be amended, changed, modified, altered, assigned or terminated early without the written consent of the City and the Customer Community(ies) to which such amendment, change, modification, alteration, assignment or early termination applies. A Customer Community shall only be required to consent to an amendment, change, modification, alteration, assignment or early termination that affects it. This Agreement may be amended, changed, modified, altered, assigned or terminated early by a written consent of the City and the affected Customer Community(ies) and the Customer Community(ies) not affected shall not be required to sign such consent.

Section 32. Exhibits. Any exhibit attached hereto are incorporated herein as though fully stated herein.

Section 33. Assignment. This Agreement and all rights and obligations hereunder shall not be assignable unless all parties affected thereby hereto agree in writing to such assignment.

Section 34. Waiver. The waiver by any party hereto of a breach or violation of any provision of this Agreement shall not be a waiver of any subsequent breach of the same or any other provision of this Agreement.

Section 35. Parties. This Agreement shall be enforceable only by the parties hereto and their successors in interest by virtue of an assignment which is not prohibited under the terms of this Agreement and no other person shall have the right to enforce any provisions contained herein. It is anticipated that one or more of the parties identified in the first paragraph of this Agreement may execute this Agreement at times different than other parties. Even though some of the parties

identified in such paragraph may not have executed this Agreement, the Agreement shall nevertheless be effective to those parties who have executed this Agreement. No party may execute this Agreement after June 30, 1999, without specific approval of the City Commission of the City and upon such terms as the City Commission shall then determine.

Section 36. Effective Date. This Agreement shall be effective as of the date set forth in the first paragraph hereof, provided, however, all modifications of the Rate Setting Methodology contained in this Agreement shall be applied in the 1999 Rate Study for rates and charges intended to be effective January 1, 2000.

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

Executed: _____

APPROVED FOR MAYOR'S SIGNATURE

Seamus A. Collins
Special Counsel

Executed: June 29, 1999

CITY OF GRAND RAPIDS

"City"

John H. Logie
John H. Logie, Mayor

Mary Therese Hegarty
Mary Therese Hegarty, City Clerk

ADA TOWNSHIP

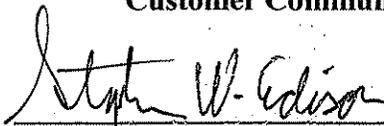
"Customer Community"

George Haga
George Haga, Supervisor

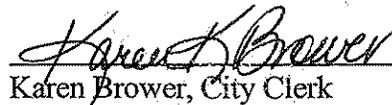
Deb Millhuff
Deb Millhuff, Township Clerk

Executed: August 12, 1999

CITY OF EAST GRAND RAPIDS
"Customer Community"



Stephen Edison, Mayor



Karen Brower, City Clerk

Executed: _____

GAINES CHARTER TOWNSHIP
"Customer Community"

Don Hilton, Supervisor

Crystal Osterink, Township Clerk

Executed: _____

NORTH KENT SEWER AUTHORITY
"Customer Community"

Michael F. Young, Chairperson

Cynthia Heinbeck, Secretary

Approved:

Executed: _____

ALPINE TOWNSHIP
"North Kent Community"

Sharon Steffens, Supervisor

Cynthia Heinbeck, Township Clerk

Executed: _____

CANNON TOWNSHIP
"North Kent Community"

James Alles, Supervisor

Bonnie Shupe, Township Clerk

Executed: _____

COURTLAND TOWNSHIP
"North Kent Community"

James McIntyre, Supervisor

Marilynn J. Crosby, Township Clerk

Executed: _____

PLAINFIELD CHARTER TOWNSHIP
"North Kent Community"

Ted Vonk, Supervisor

Susan Morrow, Township Clerk

Executed: _____

CITY OF ROCKFORD
"North Kent Community"

Neil C. Blakeslee, Mayor

Christine M. Bedford, City Clerk