

Water System Master Operating Agreement
for the
Marion, Howell, Oceola and Genoa
Sewer and Water Authority

Dated as of February 1, 2011

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WATER SYSTEM MASTER OPERATING AGREEMENT

THIS WATER SYSTEM MASTER OPERATING AGREEMENT (the “Agreement”) is dated as of February 1, 2011, and is adopted by the Board of Commissioners (the “Board”) of the MARION, HOWELL, OCEOLA AND GENOA SEWER AND WATER AUTHORITY (the “Authority”).

WHEREAS, Marion Township, Howell Township, Oceola Township and Genoa Charter Township (all of which are located in Livingston County) (the “Townships”) have organized the Authority pursuant to the provisions of Act 233, Michigan Public Acts of 1955, as amended (“Act 233”) for the purpose, among other things, of acquiring, owning, managing and operating a water supply system; and

WHEREAS, the Townships have concluded that the operation of a water supply system is needed to promote and improve the health and welfare of the residents of the Townships, and that such water supply system can most economically and efficiently be operated and maintained by the Authority pursuant to the provisions of Act 233; and

WHEREAS, the Authority is currently operating the series of lines, mains, pipes, valves, storage tanks, storage facilities, wells, water production and treatment facilities, and related appurtenances for its water system, as further described in Schedule 1.0(a), and as such elements may be modified or expanded in the future in accordance with the terms of this Agreement (collectively, the “System”); and

WHEREAS, this Agreement will govern the operation of the System; and

WHEREAS, the Township Boards of each of the Townships (i) have approved by resolution the adoption of this Agreement by the Board of the Authority, (ii) have agreed that this Agreement may be modified, amended and supplemented from time to time in the future by

the Board of the Authority, provided that no modifications can be made to this Agreement that would alter the rights or responsibilities of the Townships set forth in the Amended and Restated Articles of Incorporation of the Authority (a copy of which is attached as Scheduled 1.0(b)) without a corresponding change to the Amended and Restated Articles of Incorporation of the Authority, and (iii) have terminated, as of the date hereof, the Prior Agreements (as defined in this Agreement) between the Authority and each Township.

NOW, THEREFORE, in consideration of the premises and in order to provide for the operation and maintenance of the System and for other related matters, the Authority and the Townships agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Definitions. Capitalized terms used throughout this Agreement shall have the meanings assigned to such terms in the Sections identified below:

<u>Definition</u>	<u>Section</u>
Act 233	Introductory Paragraphs
Agreement	Introductory Paragraphs
Allocated Share	Section 7.1
Authority Director	Section 5.8
Authority Engineer	Section 5.8
Authority Improvement	Section 4.1.1
Authority	Introductory Paragraphs
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Common Elements	Section 3.2.1
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Future Allocated Share	Section 7.2
Local Distribution Elements	Section 3.2.2
MHOG Water Design Standards	Section 4.4
Petitioned Improvement	Section 4.1.1
Prior Agreements	Section 2.1
Readiness to Serve Charge	Section 6.1
Secondary Improvement	Section 4.2.1
Substantial Additional Usage	Section 4.1.2
System	Introductory Paragraphs
Townships	Introductory Paragraphs
Users	Section 5.1
Users of the System	Section 5.1

Section 1.2 Rules of Construction. The following provisions shall be applied where appropriate in this Agreement: (a) all definitions set forth herein shall be deemed applicable whether the words defined are used in the singular or the plural; (b) wherever used in this Agreement, any pronoun or pronouns shall be deemed to include both the singular and plural and to cover all genders; (c) “herein”, “hereby”, “hereunder”, “hereof” and other equivalent words shall refer to this Agreement in its entirety and not solely to the particular portion of this Agreement in which any such word is used; (d) any references to a particular Section, Article, Exhibit or Schedule means a Section or Article of, or an Exhibit or Schedule to, this Agreement

unless another agreement is specified; and (e) the Exhibits and Schedules attached hereto are incorporated herein by reference and shall be considered part of this Agreement.

ARTICLE II
TERMINATION OF PRIOR AGREEMENTS

Section 2.1 Identification of Prior Agreements. The Townships and the Authority have previously entered into the following agreements, which are collectively referred to as the “Prior Agreements”:

- Common Elements Agreement dated November 1, 1996 among the Authority, Genoa Township, Howell Township, Marion Township and Oceola Township;
- First Expansion to the Joint Water Treatment Plant dated December 1, 1999 among the Authority, Genoa Township, Howell Township, Marion Township and Oceola Township;
- Operation and Maintenance Service Contract for Howell Township previously entered into between the Authority and Howell Township;
- Operation and Maintenance Service Contract for Genoa Township previously entered into between the Authority and Genoa Township;
- Operation and Maintenance Service Contract for Marion Township previously entered into between the Authority and Marion Township; and
- Operation and Maintenance Service Contract for Oceola Township previously entered into between the Authority and Oceola Township.

Section 2.2 Termination of Prior Agreements by the Townships and the Authority. The Townships have adopted the resolutions attached as Schedule 2.2(a) which

authorize the termination of the Prior Agreements, and the Prior Agreements have been terminated pursuant to the Agreement Terminating Prior Agreements, a copy of which is attached as Schedule 2.2(b).

Section 2.3 Continuing Agreements. The following agreement has previously been executed by the Authority and Marion Township (a copy of which is attached as Schedule 2.3) and such agreement will remain in full force and effect in accordance with its terms:

- Agreement Regarding Water System Improvements and Reimbursement of Construction Costs (Peavy Road) dated March 22, 2007 between the Authority and Marion Township.

ARTICLE III THE SYSTEM

Section 3.1 Approval of System. Pursuant to the Resolutions attached as Schedule 3.1, the Townships have approved the execution of this Agreement by the Authority and have approved and agreed to the operation and maintenance of the System under and pursuant to Act 233 and approved the designation of “MHOG Water System” as the name of the System. Pursuant to the Resolutions attached as Schedule 3.1, the Townships, by way of compliance with Section 29, Article VII, Michigan Constitution of 1963, have consented and agreed to the establishment and location of the System within their corporate boundaries in accordance with the terms of this Agreement and have agreed to allow the Authority to be the exclusive provider of municipal water service to the properties in each Township that are served by the System, as the System may be modified from time to time as provided for in this Agreement. Furthermore, the Townships have agreed that they will assist the Authority in

obtaining all easements, licenses, rights-of-way and/or title to property necessary for the operation of the System.

Section 3.2 Ownership of the System. The System and the System's Assets, including all local distribution lines used to distribute water to customers of the System, shall be owned as follows:

3.2.1. Common Elements. "Common Elements" shall be defined as elements of the System for which two or more Townships obtain a benefit of improved water production, storage, pressure, or transmission as a result of the element, and such Common Elements are further identified on the map attached as Schedule 1.0(a). All transmissions lines, booster stations, and water towers of the System shall be classified as Common Elements. All Common Elements of the System shall be owned by the Authority.

3.2.2. Local Distribution Elements. "Local Distribution Elements" shall be defined as elements of the System that are not common elements and that specifically benefit one of the Townships, and such elements can be serviced by the System's existing Common Elements without impacting the distribution of water to the other Townships, and further such elements do not serve as transmission lines for the Authority's System as a whole, and such Local Distribution Elements are further identified on the map attached as Schedule 1.0(a). The Local Distribution Elements of the System shall be owned by the Authority, except that the Local Distribution Elements of the System located in Howell Township (which Local Distribution Elements are identified on Schedule 1.0(a)) shall be owned by Howell Township and Howell Township has entered into a Lease and License

Agreement (the form of which is attached as Schedule 3.2.3) allowing the Authority the right to use such Local Distribution Elements.

Section 3.3 Maintenance, Repair and Replacement of Common Elements and Local Distribution Elements.

3.3.1. Common Elements. The Authority shall be responsible for the maintenance, repair and replacement of Common Elements, and the costs of such maintenance, repair and replacement shall be paid by the Authority.

3.3.2. Local Distribution Elements. Except for the Local Distribution Elements located in Howell Township, the Authority shall be responsible for the maintenance, repair and replacement of Local Distribution Elements, and the costs of such maintenance, repair and replacement shall be paid for by the Authority. With respect to the Local Distribution Elements located in Howell Township, the maintenance, repair and replacement of such elements shall be governed by the Lease and License Agreement between the Authority and Howell Township, a copy of which is attached as Schedule 3.2.3.

Section 3.4 Easements for the Operation of the System. Each Township will use its best efforts to obtain easements for the benefit of the Authority that may be necessary for the current operation of the System within the municipal boundaries of such Township. Furthermore, in connection with any expansion of the System, each Township will use its best efforts to obtain easements for the benefit of the Authority that may be necessary for the expansion of the System within the municipal boundaries of such Township.

Section 3.5 Transfer and Assignment Documents for Existing Easements. To the extent that easements have previously been granted to a Township for the location or operation

of the System within the municipal boundaries of such Township, then the respective Township agrees to execute an Assignment of Easement for the benefit of the Authority in substantially the form attached as Schedule 3.5.

Section 3.6 Transfer and Assignment Documents for Existing Real Estate and Related Assets. To the extent that any parcels of the real estate and related assets that constitute the System are owned by a Township, then to the extent practicable the Township shall convey such real estate and related assets to the Authority with a quit claim deed and bill of sale the form of which shall be acceptable to the Township and the Authority. Notwithstanding the foregoing, (i) the Local Distribution Elements located in Howell Township shall be owned by Howell Township as described in Section 3.2.3, and (ii) if a Township has issued bonds or other indebtedness to finance such real estate and related assets, and the terms of such bonds or other indebtedness require the Township to retain title to such real estate or assets until the bonds are paid, then in such event the Township may retain title to such real estate or assets until the bonds are paid. Following the payment of such bonds, the real estate and assets shall be conveyed to the Authority as described above.

Section 3.7 Insurance. The Authority shall obtain property and liability insurance for the System and the assets of the System with coverage amounts and deductibles that are customarily obtained by municipalities for similar water systems.

ARTICLE IV

IMPROVEMENTS TO AND SUBSTANTIAL ADDITIONAL USAGE OF THE SYSTEM

Section 4.1 Process for Determining and Approving Improvements to and Substantial Additional Usage of the System.

4.1.1. Types of Improvements. The System will require improvements for the purpose of improving production, transmission, storage, pressure, and localized distribution. Improvements can be initiated by the Board of the Authority or by a petitioner. The Board of the Authority shall not authorize improvements without the written approval of the Township in which the improvement will be constructed. Improvements shall be classified either as an Authority initiated improvement (an “Authority Improvement”) or a petitioner initiated improvement (a “Petitioned Improvement”).

4.1.2. Substantial Additional Usage of the System. To the extent that a new user, or a group of contiguous new users, would have a usage equal to or in excess of 100 REUs, then the such new use shall constitute a “Substantial Additional Usage”. Furthermore, to the extent that an existing user changes its use in such a manner that the user will be using 100 or more REUs, then such change in use shall constitute a Substantial Additional Usage.

Section 4.2 Approval of Improvements to or Substantial Additional Usage of the System. Improvements to and Substantial Additional Usage of the System shall be subject to prior review and approval by the Board of the Authority following the procedures described below.

4.2.1. Impact Determination. Upon development of preliminary plans for an Authority Improvement, a Petitioned Improvement or a Substantial Additional Usage to the System, the plans shall be reviewed by the Authority for determination of the impact to the System. The plans will be reviewed to determine if the improvement or usage will negatively impact the Authority’s distribution system or plant. The Authority will complete its review within 60 days of the plans being submitted, unless the plans are exceedingly complex in which case the Authority may request an extension of the 60 day deadline. The impact determination may require upsizing or other improvements beyond the extent of the proposed improvement or usage to ensure there is no detrimental impact to the distribution system or plant. The cost of performing the impact determination for a Petitioned Improvement or proposed Substantial Additional Usage of the System shall be paid by the party requesting the proposed improvement or usage. Proposed improvements or proposed Substantial Additional Usages will have three possible impact determinations:

a. No Impact. If an improvement or usage is determined to be serviceable within the framework of the existing System, the Authority shall provide written documentation of the findings of the impact determination authorizing the improvement to proceed to construction plan development or authorizing the usage.

b. Impact Requiring Secondary Improvements. If a proposed improvement or usage is determined by the Authority to require additional improvements to the System (a “Secondary Improvement”) as a result of the proposed improvement or usage, a description of such Secondary Improvements shall be provided in writing by the Authority to the petitioner. For improvements or usage requiring upsizing, the Authority

shall agree to pay the upsizing cost for the improvement or usage, if the Authority requires the upsizing to be completed. The Authority will only pay for upsizing of new pipes, and will not pay to upsize existing distribution or transmission lines. For improvements or usage that require additional Secondary Improvements other than upsizing, the party requesting the improvement or usage shall be responsible for developing a plan to implement those improvements, including development of a plan acceptable to the Authority to pay for or finance the respective Secondary Improvements.

c. Unacceptable Improvement. If an improvement or usage is proposed which is determined by the Authority to have a materially adverse affect on the existing System, and for which no agreement can be reached with the party requesting the improvement or usage to provide a means for Secondary Improvements, the Authority shall reject the proposed improvement to the System or proposed Substantial Additional Usage of the System as being unacceptable.

4.2.2. Dispute Resolutions. In the event that a petitioner disagrees with the Authority's impact classification of a Petitioned Improvement or Substantial Additional Usage, the petitioner may request that the Authority appoint a third party engineer to review the Petitioned Improvement or Substantial Additional Usage and provide an independent opinion regarding the impact classification of the Petitioned Improvement or Substantial Additional Usage. The costs of such third party engineer shall be paid by the petitioner in advance. The opinion provided by the third party engineer to the Authority shall be advisory in nature and the Authority shall have the final authority for determining the impact classification of a Petitioned Improvement or Substantial Additional Usage. Any such request for a third party engineer review must be made by

the petitioner within 30 days of the Authority's release of the impact classification. The third party engineer's opinion shall be completed within 60 days of the request by the petitioner, unless the plans are exceedingly complex in which case the third party engineer may request an extension of the 60 day deadline.

4.2.3. Construction Plan Review. Following the impact determination, all construction plans shall be reviewed by the Authority for conformance to the MHOG Water Design Standards. The Authority shall submit all Part 399 Permit Applications to the State of Michigan for approval. The cost of performing the construction plan review shall be paid by the petitioner of the improvement.

Section 4.3 Financing of Improvements to the System. The Authority shall not be obligated to proceed with a proposed improvement unless there is an agreement for financing of the improvement that is acceptable to the Board of the Authority. Approved methods of financing are as follows.

4.3.1. Financing of Authority Improvements. All Authority Improvements shall be paid by the Authority with traditional financing methods, such as funds on hand by the Authority, or financed by the Authority issuing revenue bonds, special assessment bonds, or bonds of the Authority secured by the full faith and credit contractual pledges from the Townships, or cash contributions from the Township. In no event shall a Township be required to pay for the cost of an improvement unless the Township Board of such Township has entered into a written agreement with the Authority regarding such payment.

4.3.2. Financing of Petitioned Improvements. All Petitioned Improvements shall be paid by the respective Township or by the respective developer requesting the

improvement, including, but not limited to available funds on hand, proceeds of Township-issued bonds, notes, or other debt obligations.

4.3.3. Financing of Secondary Improvements. All Secondary Improvements shall be paid by the petitioner requesting the improvement or Substantial Additional Usage, except that any upsizing of such Secondary Improvement may be paid by the Authority with one of the methods of financing set forth in Section 4.3.1.

Section 4.4 Design Requirements for Improvements to the System. All improvements shall comply with the then current version of the MHOG Water Design Standards as approved by the Board of the Authority (the “MHOG Water Design Standards”). In the event that improvements are proposed that do not comply with the then current version of the MHOG Water Design Standards, the Board of the Authority, after considering the recommendations of the Authority Engineer, may provide a written waiver to the MHOG Water Design Standards. Such waiver shall become part of the MHOG Water Design Standards through a written amendment.

Section 4.5 Construction of Improvements to the System. Authority Improvements shall be constructed under the direction of the Authority. Petitioned Improvements must have the plans and specifications approved by the Authority, and the Authority shall perform inspections of such improvements during construction and prior to the finalization and acceptance of operational responsibility for such improvements. The cost for the review of the plans and the cost for the inspections shall be paid by the petitioner. In the case where the petitioner is a Township, the improvement may be constructed under the direction of the Authority, or if so determined by the Authority, then under the direction of the Township. If the Township constructs the improvements, then the Authority shall perform inspections of such

improvements prior to the finalization and acceptance of operational responsibility for such improvements.

Section 4.6 Acceptance of Improvements to the System. The Authority's consulting engineer shall notify the Authority Director when a project is ready for acceptance. Upon notification, the Authority shall perform an inspection of the project, including operation of valves, hydrants, and any other associated equipment. Upon completion and rectification of all irregularities identified by the Authority's personnel, the Authority Director shall provide notification to the Board of the Authority and the petitioner that the project has been accepted.

Section 4.7 Individual Connections. From time to time, individual properties without water service may seek connection to existing water mains in the System. These connections shall be performed and inspected by the Authority after the Authority receives notification from the Township that the property owner seeking connection has paid the appropriate tap and meter fees. The fees and expenses incurred by the Authority in connection with the new service shall be paid by the respective Township to the Authority (with the Township collecting its applicable tap fee from the property owner) unless an existing service was damaged or removed by the Authority or actions of the Authority, in which case the cost of installation of a new service shall be borne by the Authority. Connection of an individual property with a service lead shall not require a plan review or an impact determination unless such connection amounts to a Substantial Additional Usage as defined in Section 4.1.2. Provided that the property proposed to be connected to the System can be served by the System, as determined by the Authority in its sole discretion, and provided that the Township in which the property is located approves the connection of such property to the System, the Authority shall construct a service lead from the water main to the edge of easement, right-of-way, or

property line of the affected parcel, and the connection from the terminus of the service lead to the building shall be the responsibility of the property owner.

Section 4.8 Ownership of Improvements to the System.

4.8.1. Authority Improvements. Authority Improvements shall be owned by the Authority.

4.8.2. Petitioned Improvements. Any improvements constructed by a petitioner must be conveyed to the Authority following the completion of the construction of any improvement, and approval by the Authority's Engineer of the improvement, except that (i) any such Petitioned Improvements that consist of Local Distribution Elements that are located in Howell Township shall be owned by Howell Township and shall be subject to the Lease and License Agreement described in Section 3.2.3, and (ii) if a Township has issued bonds or other indebtedness to finance such Petitioned Improvements, and the terms of such bonds or other indebtedness require the Township to retain title to such Petitioned Improvements until the bonds are paid, then in such event the Township may retain title to such Petitioned Improvements until the bonds are paid, after which time such improvements shall be conveyed to the Authority.

ARTICLE V

OPERATION OF THE SYSTEM

Section 5.1 Operation of the System. The Authority hereby agrees to operate, maintain, and administer the System as provided herein and under Act 233. The Authority intends that the customers receiving water from the System, the parties receiving automatic fire suppression system service from the System and the other parties benefitting from the System

(the “Users of the System” or the “Users”) shall be responsible for paying all the costs of the operation, maintenance, and administration of the System through the Authority. The Townships acknowledge that the Authority may contract with third parties to provide for the operation, maintenance and administration of the System.

Section 5.2 Costs and Expenses. The parties agree that the Users of the System shall pay for the Authority’s annual operating and maintenance costs.

Section 5.3 Ordinances for Use of the System. Each Township has previously adopted a water use ordinance that governs the use of the System by the Users of the System that are located in the respective Township, as described on Schedule 5.3. Additionally, to the extent that the Authority requests that the Townships adopt modifications to such water rate ordinances in the future, each Township Board shall be requested to approve the modifications by the Board of the Authority.

Section 5.4 Independent Auditor. The Authority agrees to hire an independent CPA for the purpose of conducting an annual audit of the financial records of the Authority and reviewing the Authority’s rates, charges and reserve funds. The Authority will consider recommendations provided by the CPA regarding rates, charges and reserve funds.

Section 5.5 Books and Records. The Authority will cause to be maintained books and records of the System in accordance with the provisions of Act 2, Michigan Public Acts of 1968, as amended.

Section 5.6 Reserves at the Authority for Operation, Maintenance and Capital Improvements. The Authority shall maintain the following accounts and funds which can be used as specified below for the corresponding account or fund, and the Authority may create other accounts and funds from time to time. The Board of the Authority is expressly authorized

to borrow and lend between funds, and the repayment terms and interest rates on such borrowings shall be determined by the Authority Board.

a. Operating Savings Account – The Operating Savings Account shall be maintained to receive deposits from billings. Periodic transfers are made from this fund to the O&M Checking Fund to cover expenses approved monthly by the MHOG Board. Transfers from the savings account can also be made to each of the reserve funds as approved by the Board of the Authority.

b. Capital Reserve Fund – The Capital Reserve Fund is a dedicated reserve account for replacement of failed physical or mechanical parts needed for operation of the System. The capital reserve fund receives annual transfers from operating savings, as a budgeted line item, based on an asset management study of anticipated useful life of the System's equipment.

c. Capital Improvement Fund – The Capital Improvement Fund is a dedicated reserve account for new improvements or upgrades to the System.

d. Expansion Fund – The Expansion Fund is maintained to fund construction projects related to the expansion of the System. Transfers of funds to the Expansion Fund can be made from any of the reserve funds, or from proceeds of bond issues, or from township contributions.

e. Debt Service Fund – The Debt Service Fund is dedicated to pay debt service. Transfers to the Debt Service Fund can be made from the O&M Fund, Capital Improvement Fund, or Capital Reserve Fund. The Debt Service Fund shall maintain a sufficient balance to make timely debt service payments on their scheduled due dates.

Section 5.7 Investment Policy. The Board of the Authority has previously adopted an investment policy for the funds of the Authority, and a copy of such investment policy is attached as Schedule 5.7.

Section 5.8 Staff. The Authority may maintain an Authority Director (the “Authority Director”) and an Authority Engineer (the “Authority Engineer”), retained either as employees of the Authority or as third party contractors. Current contracts and duties of the Authority Director and Authority Engineer are set forth in Schedule 5.8.

Section 5.9 Consulting Engineer. MHOG may maintain a consulting engineer (the “Consulting Engineer”). The consulting engineer shall perform such duties and responsibilities as are directed from time to time by the Board of the Authority, the Authority Director, or the Authority Engineer. The consulting engineer must have the following capabilities to serve as the consulting engineer:

- Ability to maintain and utilize a water model which accurately describes the System for the purpose of modeling improvements, performing impact determinations, and fire flow conditions.
- Ability to maintain, utilize, and update the current GIS database of the System’s Common Elements and Local Distribution Elements.
- Maintain an experienced Professional Engineering staff familiar with water system distribution and water plant design in the State of Michigan.

Section 5.10 Emergency Connection Contracts. The System maintains emergency connections with the City of Howell and the City of Brighton water systems. The use, location, and authority over these connections is set forth in the City of Howell and City of Brighton MHOG Emergency Connection Agreements attached as Schedule 5.10.

Section 5.11 Competitive Bidding. It is the preference of the Authority to require competitive bidding for contracts involving expenditures of Authority funds. This preference for competitive bidding shall not apply to professionals retained by the Authority, including but not limited to engineering firms, accounting firms and law firms, however any member of the Board of the Authority may, at any regular Board meeting, present a motion to direct staff of the Authority to bid professional services. This motion, if supported, can be approved by a vote of the majority of the members of the Board of the Authority.

ARTICLE VI RATES AND FEES FOR THE SYSTEM

Section 6.1 Rates and Fees for Operation and Maintenance. The Board of the Authority shall establish rates and fees for operation of the System. At a minimum the rates shall include a “Readiness to Serve Charge” for each customer connected to the System and a per 1,000 gallon “consumption charge”. These rates and fees shall be reviewed not less than annually by the Authority, typically in August of each year, and new rates shall be effective for the fiscal year beginning October 1. The rates and charges established by the Board of the Authority shall be sufficient to pay for the Authority’s annual operating and maintenance costs.

Section 6.2 Imposition of Additional Charges by Townships. In addition to the rates and fees set by the Authority, each Township shall be allowed to impose a surcharge, capital improvement charge, or connection charge for users that connect to the System within its boundaries. Such supplemental charges shall be retained by or returned to the respective Township.

Section 6.3 Additional Charges that may be Imposed by the Authority. The parties agree that the Board of the Authority shall be allowed to impose a surcharge, capital improvement charge, fine, turn on/off fee, or other charges or fees established by the Board of the Authority. Such supplemental charges shall be retained by or returned to the Authority. The Board of the Authority is not permitted to charge connection fees that are additional to the connection fees established by the Townships.

Section 6.4 Ownership, Maintenance and Reading of Meters. The Authority shall be responsible for owning, maintaining, and reading the usage of the meters in the System. The Authority shall make reasonable attempts to estimate usage when meter reading devices do not function. Usage shall not be estimated for more than a calendar year without efforts made to correct the meter reading devices. The Authority shall maintain records of each user of the System for regulatory and usage requirements.

Section 6.5 Billing and Collections. The quarterly billing and collection for the System services shall be the responsibility of the Authority. Quarterly bills are mailed to customers on or about the 15th of January, April, July, and October of each year.

The Authority is responsible for sending a quarterly bill, either to the individual customers within a Township or directly to the Township as the aggregate of the individual water consumption within the boundaries of the Township.

The parties hereby acknowledge that Howell Township is responsible for mailing the bills and collecting the funds for the users of the System in the jurisdiction of Howell Township. A copy of the Agreement between the Authority and Howell Township regarding the billing and collection procedures is attached in Schedule 6.4.

Section 6.6 Delinquent Water Invoices Being Added to Property Taxes. To the extent that a User is delinquent in paying an invoice that has been sent to the User by or on behalf of the Authority, the Authority shall be entitled to exercise any remedies available to the Authority under applicable law. Such remedies shall include, but not be limited to, submitting the delinquent invoice to the Township in which the User is located, and such Township shall then add the delinquent invoice to the respective User's property taxes. At such time that such property taxes are paid, whether by or on behalf of the User or through the County's delinquent tax revolving fund program, the Township shall in turn promptly pay the amount of the delinquent invoice to the Authority.

ARTICLE VII CAPACITY

Section 7.1 Allocation of Capacity. Each Township has previously made equivalent contributions of cash or assets to the Authority which have been used to generate the water capacity that is available from the System. Accordingly, each Township shall be entitled to have the end users of the System located in each respective Township use in the aggregate up to an equal one-fourth share of the firm water production capacity (the "Allocated Share") of the System. Each Township may use its Allocated Share as it determines appropriate and necessary, provided that such use is consistent with the terms of Section 7.3 below. To the extent that the Authority's Common Elements do not have sufficient capacity to be able to deliver to a Township the Township's Allocated Share of the System's water production capacity, then the Authority shall upgrade and finance the Common Elements in accordance with the procedures

set forth in this Agreement in order allow the Township to utilize its Allocated Share of the System's water production capacity.

Section 7.2 Future Capacity. If the System's current water production capacity is increased after the date of this Agreement, and provided that each Township, on its own or through the end users of the System located in such respective Township, has paid for its share of the cost of increasing such firm water production capacity, then each Township shall be allocated and have full access to a one-fourth share of the firm future capacity (the "Future Allocated Share"), provided that each Township has fulfilled all of its obligations under agreements with the Authority. Notwithstanding the foregoing, a Township may elect not to participate in the cost of expanding the capacity of the System in the future and in such event the Board of the Authority shall amend this section to reallocate the Future Allocated Share of capacity on an equitable basis, as determined by the Board of the Authority. In the event a Township shall desire an increase in capacity above its Allocated Share, then the Township shall first solicit excess capacity from other participating Townships prior to the Authority proceeding with an expansion to the System.

Section 7.3 Sale of Allocated Shares of Capacity. If any Township does not use or intend to use a portion of its Allocated Share, or Future Allocated Share, it may allocate any portion of its Allocated Share or Future Allocated Share to one or more of the other Townships, on a temporary or permanent basis, on any conditions acceptable by the Township providing the allocation and the Township or Townships receiving such allocation, and provided that the terms (excluding financial and payment terms which shall not be subject to review by the Authority) of such transfer must be presented to, and approved by, the Board of the Authority.

ARTICLE VIII
FINANCING POWERS OF THE AUTHORITY

Section 8.1 **Issuance of Bonds.** The Authority shall have all powers granted to it by Act 233 to finance expansions or additions to the System, including the issuance of Authority bonds as provided in Act 233 on the terms and conditions determined by the Board of the Authority.

ARTICLE IX
CHANGES IN TERRITORY

Section 9.1 **Change in Territory.** No change in the jurisdiction over territory in any of the Townships shall in any manner impair the obligations of this Agreement. In the event all or any part of the territory of any of the Townships is incorporated as a new city or is annexed to or becomes a part of the territory of another municipality, the municipality into which such territory is incorporated or to which such territory is annexed shall assume the proper proportionate share of the obligations of such Township(s) and right to capacity in the System of such Township(s) from which such territory is taken in accordance with law.

ARTICLE X
TERMINATION

Section 10.1 **Termination.** This Agreement shall remain in full force and effect until the Agreement is terminated upon the mutual agreement of all parties.

ARTICLE XI
MISCELLANEOUS

Section 11.1 Bylaws. The Authority hereby acknowledges that Bylaws for the Authority have not been adopted, however, the Board of the Authority shall have Bylaws prepared and adopted within two years of the effective date of this Agreement.

Section 11.2 Review of Master Operating Agreement. It is the intent of the Board of the Authority that this Master Operating Agreement shall be reviewed and modified from time to time as may be necessary to assist the Authority in operating the System. Accordingly, the Board of the Authority shall have the Master Operating Agreement reviewed, and amended to the extent necessary, no less frequently than every four years, provided that the Board of the Authority may, with a unanimous vote, determine that there is not an immediate need for an amendment or review, in which case a one time extension of two years may be provided for the four year review.

Section 11.3 Miscellaneous.

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

b. **No Third-Party Beneficiaries.** Except as expressly provided herein, this Agreement does not create, and is not intended to create, by implication or otherwise, any direct or indirect obligation, duty, promise, benefit or any other right in favor of any person other than the parties.

c. Entire Agreement. This Agreement sets forth the entire agreement between the Authority and the Townships with respect to the subject matter of this Agreement.

d. Amendment. The unanimous vote of all members of the Board of the Authority who are present at a regularly scheduled meeting shall be required to amend Sections 3.2, 3.3, 5.3, 6.2, 6.6, 7.1, 7.2, 7.3, 9.1, 10.1 and 11.3(d) of this Agreement. Other sections of this Agreement may be amended, modified or supplemented by a majority vote of the members of the Board of the Authority at a regularly scheduled meeting.

e. Assignment. This Agreement shall not be assignable by any party except upon mutual agreement of all parties. This prohibition on assignment without prior consent is not intended to limit the requirement of a municipality to assume a proportionate share of the contractual obligations hereunder in the event of an annexation or incorporation as set forth in this Agreement.

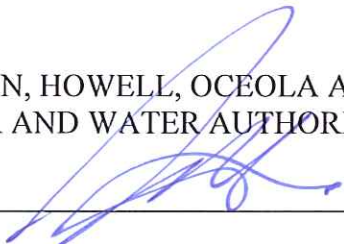
f. Governing Law. This Agreement shall be interpreted under the laws of the State of Michigan.

g. Counterparts. This Agreement may be executed in several counterparts each of which shall be deemed one and the same agreement. It shall be binding upon and inure to the benefit of the parties to it and their respective successors and assigns.

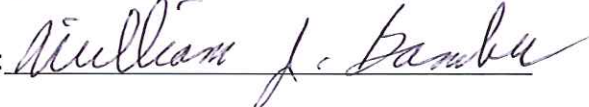
h. Captions and Bylines. The captions and bylines used in this Agreement are for the convenience of reference only and in no way define, limit or describe the scope of intent of any provision of this Agreement.

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

MARION, HOWELL, OCEOLA AND GENOA
SEWER AND WATER AUTHORITY

By:  _____

Its: Chairman

By:  _____

Its: Secretary