

COUNTY OF OTTAWA

2002 OTTAWA COUNTY WATER SUPPLY SYSTEM IMPROVEMENTS CONTRACT

THIS CONTRACT, made as of August 1, 2002, by and among the COUNTY OF OTTAWA, a Michigan county corporation (hereinafter called the "County") by and through its Board of County Road Commissioners, the TOWNSHIP OF BLENDON, a Michigan general law township located in the County ("Blendon"), the CHARTER TOWNSHIP OF GEORGETOWN, a Michigan charter township located in the County ("Georgetown"), the CHARTER TOWNSHIP OF HOLLAND, a Michigan charter township located in the County ("Holland"), the TOWNSHIP OF OLIVE, a Michigan general law township located in the County ("Olive"), the TOWNSHIP OF PARK, a Michigan general law township located in the County ("Park"), the CHARTER TOWNSHIP OF ZEELAND, a Michigan charter township located in the County ("Zeeland"), and the CITY OF HUDSONVILLE, a Michigan home rule city located in the County ("Hudsonville") (Blendon, Georgetown, Holland, Olive, Park, Zeeland and Hudsonville are hereinafter sometimes individually referred to as a "Municipality" and collectively as the "Municipalities");

WITNESSETH:

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

WHEREAS, by the terms of Act 342, the County is authorized through its County Agency to acquire a water supply system within the County and to improve, enlarge, extend, operate and maintain the same, and the County and the Municipalities are authorized to enter into a contract for the acquisition, enlargement or extension of such water supply system and for the payment of the cost thereof by the Municipalities, with interest, over a period of not exceeding forty (40) years, and the County is then authorized, pursuant to appropriate action of its Board of Commissioners, to issue its bonds to provide the funds therefor, secured by the full faith and credit contractual obligations of the Municipalities to pay the cost thereof; and

WHEREAS, the County heretofore has acquired for the benefit of the Municipalities, the Charter Township of Jamestown and the Township of Port Sheldon 33% of the production capacity in water supply facilities acquired and constructed by the City of Wyoming to take water from Lake Michigan and to transport the water across the County to the City of Wyoming (said water supply facilities hereinafter referred to as the "Wyoming System"); and

WHEREAS, it is the intent of the County to increase its interest in the production capacity of the Wyoming System as improved and expanded to 43% within two years of the date of this contract; and

WHEREAS, it is proposed that the Wyoming System be improved and expanded by the construction of additional water supply facilities (hereinafter referred to as the "2002 Ottawa County Water Supply System Improvements" or the "Project") and that the County pay 43% of the cost as a first step to increasing its interest in the production capacity of the Wyoming System as improved and expanded to 43%; and

WHEREAS, it is proposed that the County pay 43% of the cost of the Project from available funds from the Wyoming System and from the proceeds of bonds to be issued by the County pursuant to Act 342, the bonds to be secured by the obligations of the Municipalities to

pay their respective shares of the principal of and interest on the bonds as hereinafter provided, and if the bond resolution so provides, by the full faith and credit of the County; and

WHEREAS, in order to provide for the acquisition and construction of the Project, the maintenance of the County's interest in the production capacity of the Wyoming System as improved and expanded to 33% and the eventual increase of the County's interest in such production capacity to 43%, to provide for the issuance of such bonds and to provide for other matters relative to the Wyoming System, it is necessary for the County and the Municipalities enter into this contract; and

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

1. The County and the Municipalities hereby approve and agree to the acquisition and construction of the Project and the payment by the County to the City of Wyoming of 43% of the cost of the Project in order for the County to maintain on behalf of the Municipalities 33% of the production capacity of the Wyoming System as improved and expanded and to eventually expand the County's interest in such production capacity to 43%. A description of the Project is set forth on Exhibit A attached hereto.

2. The County and the Municipalities approve the estimate of cost of the Project as shown on Exhibit B attached hereto and by this reference made a part hereof. The cost of the Project shall include the payments to be made by the County to the City of Wyoming equal to 43% of the cost of acquiring and constructing the Project and all other costs, including the costs of issuing bonds, incurred by the County in connection with the Project.

3. After execution of this contract by the County and the Municipalities, the County Agency shall take such of the following steps as theretofore have not been taken: (a) submit to

the Board of Commissioners of the County such resolutions as may be necessary, duly approved and recommended by the County Agency, providing for the issuance and sale of the County bonds in one or more series (the "Bonds"), in the aggregate principal amount necessary to be borrowed (presently estimated to be \$6,500,000), the Bonds to mature as authorized by law, over a period of not to exceed forty (40) years and to be secured primarily by the obligations of the Municipalities to pay the cost of the Project with interest and secured secondarily, if a majority of the members-elect of the Board of Commissioners affirmatively vote therefor, by the pledge of the full faith and credit of the County; (b) take all steps necessary to secure the adoption of such resolutions by the Board of Commissioners and the approval by the Treasurer of the State of Michigan for the issuance and sale of the Bonds; (c) advertise, sell and deliver the Bonds and apply the proceeds as herein provided; and (d) do all other things required of the County Agency under the provisions of Act 342. It is understood and agreed that the Bonds, if issued, will be supported by the pledge of the full faith and credit of the County and, subject to the provisions of Section 9 hereof, will be payable primarily from moneys received by the County from the Municipalities in performance of their contractual obligations to pay the cost of the Project.

4. The County shall pay \$1,064,030 of the cost of the Project in cash from available funds from the Wyoming System. The remaining cost of the Project shall be paid by the Municipalities and shall be defrayed by the issuance of the Bonds. The principal of and interest on the Bonds shall be allocated among the Municipalities as follows:

<u>Municipality</u>	<u>Allocation</u>
Township of Blendon	0.68%
Charter Township of Georgetown	40.68%
Charter Township of Holland	34.97%
Township of Olive	3.77%
Township of Park	4.16%
Charter Township of Zeeland	10.19%
City of Hudsonville	<u>5.55%</u>
	100.00%

The cost to be paid by the County and the Municipalities shall include all items of cost included in Exhibit B or such items of cost of a similar nature as may be set forth in any revision of Exhibit B agreed to by the parties and incurred by the County in acquiring the Project. Capital return payments attributable to the Bonds issued pursuant to this contract shall be credited to the Municipalities in accordance with the foregoing allocation.

5. Part of the cost of the Project, as provided in Section 4 hereof, will be represented by one or more series of Bonds to be issued by the County in the aggregate principal amount necessary to be borrowed as determined or estimated at the time or times of issuance. In the event it shall become necessary to increase the estimated cost of the Project for any reason, or if the actual cost of the Project shall exceed the estimated cost, the (without execution of any further contract or amendment of this contract) additional Bonds (upon the adoption of an authorizing resolution therefor by the Board of Commissioners) shall be issued to defray such increased or excess cost to the extent that funds therefor are not available from other sources.

6. Each Municipality shall pay to the County its share of the cost of the Project. The cost of the Project will be defrayed by the cash contribution as provided in Section 4 hereof and the issuance of the Bonds as provided in Sections 3, 4 and 5 hereof. The Municipalities covenant and agree to pay their respective share of the principal of and interest on the Bonds and all paying agency and transfer fees and other expenses and charges (including the County Agency's administrative expenses) that are payable on account of the Bonds (such fees, expenses and charges being herein called "bond service charges"). Such payments shall be made to the County in semi-annual installments that shall be due and payable at least thirty days prior to each interest payment date specified in the Bonds. Such semi-annual installments shall commence on the date that interest (other than capitalized interest) first becomes payable on the Bonds, and the aggregate amount of the installments shall be at least sufficient to pay, when due, all principal and interest on the Bonds and all bond service charges then due and payable. The County Agency,

within thirty days after delivery of the Bonds to the purchaser, shall furnish the treasurer of each Municipality with a schedule of the principal of and interest on the Bonds, and the County Agency also, at least thirty days before each payment is due to be made by the Municipalities, shall advise each treasurer of the amount payable to the County on such date. If any Municipality fails to make any payment to the County when due, the same shall be subject to a penalty of 1% thereof for each month or fraction thereof that such amount remains unpaid after due. Failure of the County Agency to furnish the schedule or give the notice as above required shall not excuse a Municipality from the obligation to make payment when due. Payments shall be made by the Municipalities when due whether or not the Project has then been completed or placed in operation. The foregoing obligations shall apply to all Bonds issued by the County to defray part of the cost of the Project.

7. If one or more of the Municipalities shall pay its share of the cost of the Project, or any portion thereof, prior to the issuance of the Bonds, the obligations of such Municipality shall be adjusted accordingly. Any Municipality may pay in advance of maturity all or any part of an annual installment due the County on the Bonds by surrendering to the County bonds issued hereunder of a like principal amount maturing in the same calendar year.

8. The proceeds of sale of the Bonds shall be used solely and only to pay the cost of the Project, and after completion thereof and payment of all costs in connection therewith, any surplus remaining from the sale of the Bonds shall be (1) used to purchase the Bonds on the open market or (2) retained by the County Agency as a reserve for the payment of the Bond principal and interest maturities next falling due, and in such event the contract obligation of each Municipality in respect to the Bonds or such maturities shall be reduced by its percentage (as specified in Section 4) of the principal amount of Bonds so purchased or of said reserve, said reduction, in case of the purchase of Bonds, to be applied as to year in accordance with the year of the maturity of the Bonds so purchased. Any Bonds so purchased shall be canceled. In the

alternative, such surplus may be used, on request of the Municipalities and approval by the County Agency, to extend, enlarge or improve the Wyoming System or to acquire additional production capacity.

9. Each Municipality, pursuant to the authorization of Section 5a of Act 342, hereby pledges its full faith and credit for the prompt and timely payment of its obligations expressed in this contract and, subject to applicable constitutional, statutory and charter tax limitations, each year shall levy a tax in an amount that, taking into consideration estimated delinquencies in tax collections, will be sufficient to pay its obligations under this contract becoming due before the time of the following year's tax collections; provided, however, that the annual tax levy may be reduced by the amount of cash or other funds which the Municipality has on hand (or to its credit in the hands of the County) and available for the payment of such obligations. Such other funds may be raised in any manner permitted by law, and it is recognized that the Municipalities will be credited with their respective shares of the capital return as provided in agreements between the County and the City of Wyoming and the amounts credited shall be applied to reduce the obligations of the Municipalities under this contract. In the event that the capital return payments received in any year shall not be sufficient to pay that year's requirement for the principal of and interest on all bonds of the County (including the Bonds) payable therefrom, the amount received shall first be applied to the payment of the bonds issued prior to 2002.

10. In the event that a Municipality shall fail for any reason to pay to the County Agency at the times herein specified the amounts herein required to be paid, the state treasurer or other official charged with the disbursement of unrestricted state funds returnable to the defaulting Municipality pursuant to the Michigan constitution hereby is authorized to withhold sufficient funds to make up any default or deficiency in funds. In addition to the foregoing, the County shall have all other rights and remedies provided by law to enforce the obligations of each Municipality to make payments in the manner and at the times required by this contract. It is

specifically recognized by the Municipalities that the payments required to be made by them pursuant to the terms of this contract are to be pledged for the payment of the principal of and interest on the Bonds, and each Municipality covenants and agrees that it will make its required payments to the County promptly and at the times herein specified, without regard as to whether the Project herein contemplated is actually completed or placed in operation; provided that nothing herein contained shall limit the obligation of the County to perform in accordance with the covenants contained herein.

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

within any extension thereof by the County Agency, the County Agency may proceed without such recommendation.

12. The County shall not be obligated to acquire or construct any facilities other than the Project. The responsibility for providing any additional water supply facilities as may be needed shall be that of the Municipalities which shall have the right to cause to be constructed and maintained, either directly or through the County, such necessary additional facilities.

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

14. All powers, duties and functions vested by this contract in the County shall be exercised and performed by the County Agency, for and on behalf of the County, unless otherwise provided by law or in this contract. The County Agency, prior to the submission of County financial information to a rating agency, shall consult with the Controller/Administrator and the County Treasurer with respect to the accuracy of such information.

15. In the event that any one or more of the provisions of this contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or

unenforceability shall not affect any other provisions hereof, and this contract shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.

16. The County and the Municipalities recognize that the holders from time to time of the Bonds issued by the County under the provisions of Act 342, and secured by the full faith and credit pledges of the Municipalities to the payment of their respective shares of the principal of and interest on the Bonds as set forth in this contract, will have contractual rights in this contract, and it is covenanted and agreed by each of them that so long as any of the Bonds shall remain outstanding and unpaid, the provisions of this contract shall not be subject to any alteration or revision that would affect adversely either the security for the Bonds or the prompt payment of the principal of or interest on the Bonds. The right to make changes in this contract, by amendment, supplemental contract or otherwise, nevertheless is reserved insofar as the same do not have such adverse affect. The Municipalities and the County Agency further covenant and agree that they will comply with their respective duties and obligations under the terms of this contract promptly, at the times and in the manner herein set forth and will not suffer to be done any act that would in any way impair the Bonds, the security therefor or the prompt payment of the principal thereof and the interest thereon. It is declared that the terms of this contract, insofar as they pertain to the security of any Bonds, shall be deemed to be for the benefit of the holders of the Bonds.

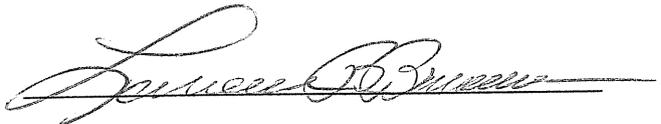
17. This contract shall become effective after approval by the governing bodies of the Municipalities and the Board of Commissioners of the County, execution by the authorized officials of the parties, and the expiration of 45 days after the date of publication of the notice required by Section 5b of Act 342; Provided, however, that if, within the 45-day period, a proper petition is filed with the Clerk of a Municipality in accordance with the provisions of Section 5b of Act 342, this contract shall not become effective until approved by the vote of a majority of the electors of such Municipality qualified to vote and voting thereon at a general or special election.

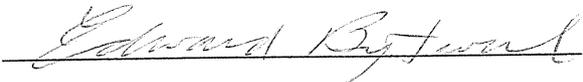
This contract shall terminate forty (40) years from its date or on such earlier date when the Municipalities are not in default hereunder and the principal, interest and bond service charges on the Bonds issued as hereinabove described are fully paid and discharged. This contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Nothing herein contained, however, shall require the County to finance the Project if it is unable to sell the Bonds to finance the same. This contract may be executed in any number of counterparts.

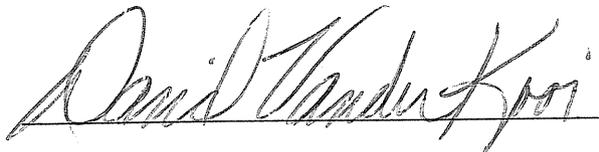
IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed and delivered by their respective duly authorized officers, all as of the day and year first above written.

COUNTY OF OTTAWA

By: Its Board of County Road Commissioners as  
County Agency

By:   
Chairman

And:   
Member

And:   
Member

TOWNSHIP OF BLENDON

By: \_\_\_\_\_  
Supervisor

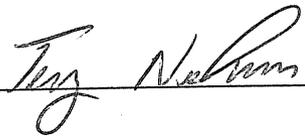
And:   
Township Clerk

CHARTER TOWNSHIP OF GEORGETOWN

By:   
Supervisor

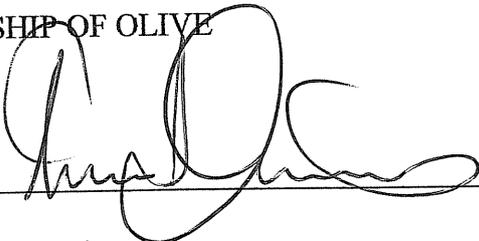
And:   
Township Clerk

CHARTER TOWNSHIP OF HOLLAND

By:   
Supervisor

And:   
Township Clerk

TOWNSHIP OF OLIVE

By:   
Supervisor

And:   
Township Clerk

TOWNSHIP OF PARK

By: *David Vener*

Supervisor

And: *M. W. Beards*

Township Clerk

CHARTER TOWNSHIP OF ZEELAND

By: *[Signature]*

Supervisor

And: *Marilyn Grist*

Township Clerk

CITY OF HUDSONVILLE

By: *James Holthys*

Mayor

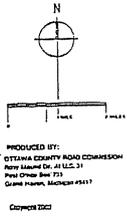
And: *Jan K. Williams*

City Clerk

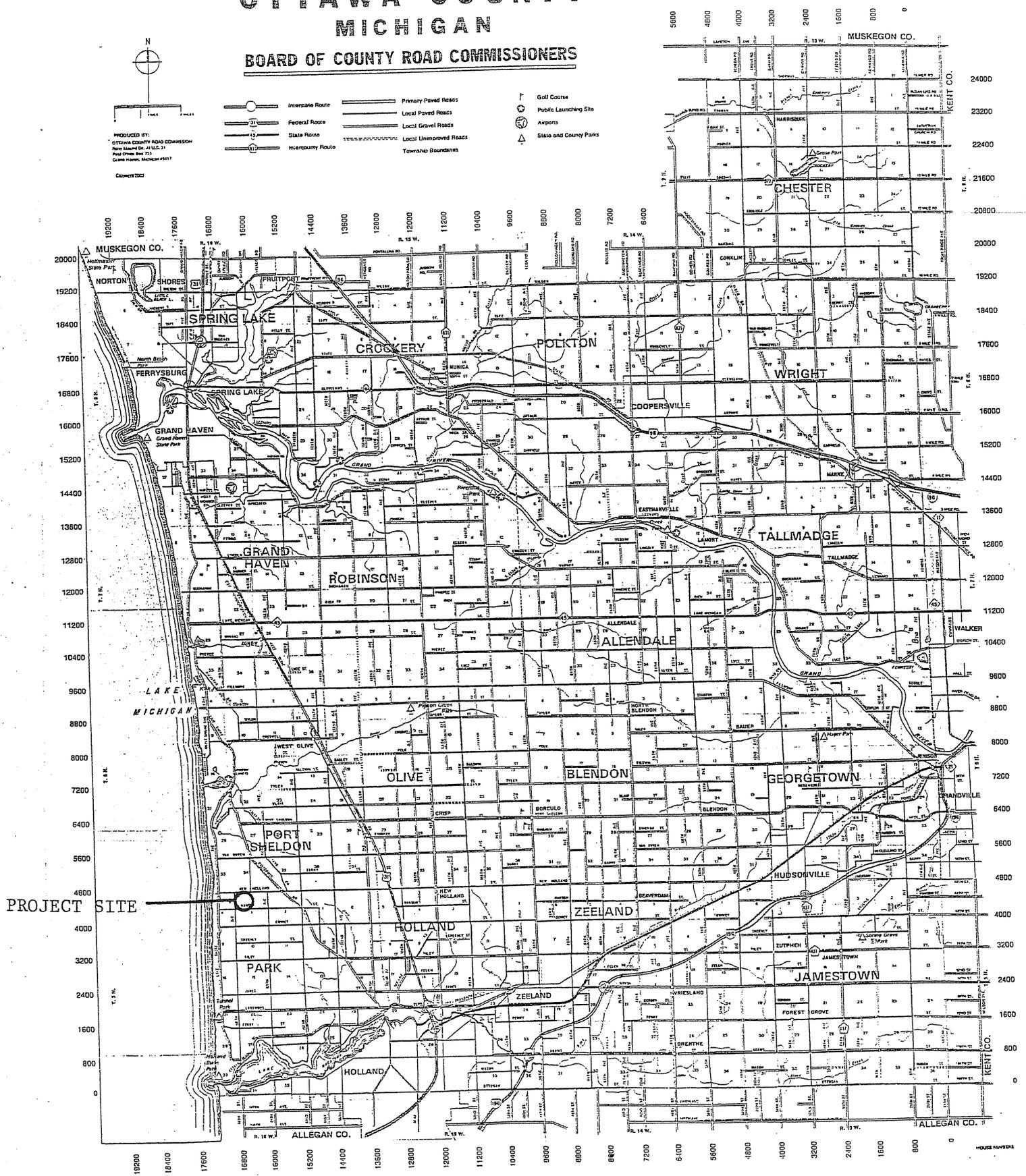
2002 Ottawa County Water Supply System Improvements  
Project Location

**OTTAWA COUNTY**  
**MICHIGAN**

**BOARD OF COUNTY ROAD COMMISSIONERS**



- |  |                   |  |                        |  |                        |
|--|-------------------|--|------------------------|--|------------------------|
|  | Interstate Route  |  | Primary Paved Roads    |  | Golf Course            |
|  | Federal Road      |  | Local Paved Roads      |  | Public Launching Site  |
|  | State Road        |  | Local Gravel Roads     |  | Airports               |
|  | Intracounty Route |  | Local Unimproved Roads |  | State and County Parks |
|  |                   |  | Township Boundaries    |  |                        |



PROJECT SITE

EXHIBIT A-2

2002 Ottawa County Water Supply System Improvements

Project Description

The Project shall consist of the acquisition and construction of improvements to be connected to the Wyoming Water System Water Treatment Plant described generally as follows: 2-5MG water storage tanks, low and high service pump replacement, electrical generator facilities, filter controls, and system electronic control improvements.

EXHIBIT B

2002 Ottawa County Water Supply System Improvements  
Project Cost Estimate

	<u>Total</u>	<u>Wyoming Share (57%)</u>	<u>Ottawa County Share (43%)</u>
<b>A. <u>Construction:</u></b>			
2 – 5 MG Storage Tank	\$ 3,855,780	\$2,197,795	\$1,657,985
Low and High Service Pumps	990,761	564,734	426,027
Filter Controls & Automation Equipment	6,247,349	3,560,989	2,686,360
Specific Telemetry Equipment	750,000	401,500	348,500
Street Improvement	150,000	85,500	64,500
Electrical Substation Improvements	<u>785,000</u>	<u>447,450</u>	<u>337,550</u>
<b>Construction Total</b>	12,778,890	7,257,468	5,520,922
<b>B. <u>Engineering:</u></b>			
Design Engineering	3,145,000	1,792,650	1,352,350
Construction Engineering	<u>477,610</u>	<u>272,238</u>	<u>205,372</u>
<b>Engineering Total</b>	3,622,610	2,064,888	1,557,722
<b>C. <u>Contingency:</u></b>			
<b>Contingency Total</b>	<u>669,735</u>	<u>398,849</u>	<u>300,886</u>
<b>Project Total – Shared Costs</b>	<b>\$17,101,235</b>	<b>\$9,721,705</b>	<b>\$7,379,530</b>
<b>D. <u>Ottawa County Administrative, Legal, &amp; Finance Expense:</u></b>			
Administration			38,000
Finance Advisor			16,500
Bond Counsel			23,000
Legal Expense			20,000
Printing & Advertising			4,000
Official Statement			5,000
Rating Agency Fees			10,000
Underwriters Discount			65,000
Miscellaneous Expense			<u>3,000</u>
<b>Ottawa County Admin., Legal, &amp; Finance Expense Total</b>			<b><u>\$ 184,500</u></b>
<b>Ottawa County Share of Project Cost</b>			<b>\$ 7,564,030</b>
<b>Less Available Funds</b>			<b><u>(\$1,064,030)</u></b>
<b>Amount of Bond Proceeds</b>			<b><u>\$ 6,500,000</u></b>

The estimated useful life of this Project is 20 years and upwards.

