



West Michigan Regional Water Authority

4814 Henry Street

Norton Shores, MI 49441

Meeting Agenda

February 18, 2020 – 1:30 p.m.

Location: City Hall – City of Norton Shores

- A) Call to Order by Chair
- B) Adoption of Agenda
- C) Adoption of minutes from the Meeting of October 15, 2019
- D) Public forum/Public input
- E) Committee Reports
- F) Treasurer's Report
- G) Old/New Business
 - 1. Water Interconnection Contract - Action
 - 2. Assignment and Assumption Agreement - Action
 - 3. Budget for FY- 2021 - Action
 - 4. Broadway Avenue Phase II Water Main Replacement Cost – Information
 - 5. Draft Coastal Protection Strategy Evaluation – Beach Street Shoreline – Information
 - 6. FY- 2019 Audit - Transmittal
- H) Comments from the Board
- I) Adjournment

**MINUTES OF
OCTOBER 15, 2019
MEETING**

WEST MICHIGAN REGIONAL WATER AUTHORITY
Minutes of October 15, 2019 Board Meeting

A regular meeting of the West Michigan Regional Water Authority was called to order on Tuesday, October 15, 2019 at 1:34 p.m. in the Small Conference Room, Norton Shores City Hall, 4814 Henry Street.

Members Present: Board Members Jerry Bartoszek, Mike Huston, Steve Biesiada and Heidi Tice

Members Absent:

Other Attendees: Mark Meyers, Norton Shores City Administrator

Adoption of Agenda

The adoption of the agenda was accepted by consensus.

Adoption of Minutes

Vice Chair Heidi Tice moved to adopt the minutes from the annual organizational meeting of July 10, 2019. The motion was seconded by Secretary Steve Biesiada. The motion was carried unanimously.

Old/New Business:

1. Water Main Break – Henry Street @ Seminole Road - -Emergency Repair Approval

Treasurer Mike Huston moved to approve payment for the emergency repair of the Henry Street water main break at Seminole Road in the amount of \$56,052.35. Vice Chair Heidi Tice seconded the motion. The motion was carried unanimously.

2. Airline Road Water Tank – Replacement of Expansion Joint Information: Project Cost and Update

Chair Jerry Bartoszek informed the board of the quote received for the replacement of the expansion joint for the Airline Road water tank, which totaled \$16,800 by Ray's Welding. Secretary Biesiada informed the board that the work was scheduled to begin the following week with the draining of the water tank. Included in the replacement of the expansion joint the tank will also be cleaned and inspected while out of service. The total cost for everything will come to around \$25,400. Chair Jerry Bartoszek makes a motion to move forward with the replacement of the expansion joint. The motion was carried unanimously.

3. Update: Chlorine Residual levels in Fruitport – Conversion of Altitude Valves

Secretary Biesiada updated the board on the chlorine residual levels, which continue not to be good. He discussed shutting down the Smiley water tank for two weeks to see if that helps the levels at all. That if it does not help, then they should move forward with the conversion of the altitude valve. The tentative quote for the valve with labor is \$25,650. This quote does not include the amount it will cost to bring electricity to it, or what Tetra Tech needs to do to get it communicating with the water plant. Vice Chair Heidi Tice moved to move forward with the conversion of the altitude valves. Chair Jerry Bartoszek seconded the motion. The motion was carried unanimously.

4. Update: System controls - SCADA

Secretary Biesiada informs the board that the SCADA system should tentatively be hooked up on November 6th.

5. Discussion: Protection of water transmission main on Beach Street

The board discussed the protection that is already in place on Beach Street to protect the water transmission line and that the cement barriers seem to be working to protect the line from further erosion. Mark Meyers discussed the 30-day deadline that the Michigan Department of Environment, Great Lakes and Energy had imposed, but that further discussion would be needed to come to a solution for the transmission line.

6. Discussion: Payoff of County held Regional Bonds

Chair Jerry Bartoszek informed the board that the Regional Bonds held by Muskegon County will be paid off May 1, 2020. This will remove the County from any ownership on the system and move it back to the Water Authority.

Comments from the Board

Chair Jerry Bartoszek informed the board that he had received information from the City of Muskegon regarding tentative amounts owed to them based on the water rate increases. The tentative amount owed to the City of Muskegon as of now is \$294,000.

The meeting adjourned at 1:58 p.m.

Steve Biesiada, Secretary

**WATER
INTERCONNECTION
CONTRACT**

**ASSIGNMENT &
ASSUMPTION
AGREEMENT**

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (the "Agreement") is entered into effective as of _____, 2020 (the "Effective Date") by and between the **City of Norton Shores**, a Michigan municipal corporation with its principal offices at 4814 Henry Street, Norton Shores, Michigan 49441 (the "City"), **Fruitport Charter Township**, a Michigan charter township with its principal offices at 5865 Airline Road, Fruitport, Michigan 49415 (the "Township"), and the **County of Muskegon**, a Michigan county with its principal offices at 990 Terrace Street, Muskegon, Michigan 49442 (the "County") (together, the City, the Township, and the County are referred to throughout this Agreement as the "Assignors"), and the **West Michigan Regional Water Authority**, a Michigan statutorily authorized metropolitan area council with its principal offices at 4814 Henry Street, Norton Shores, Michigan 49441 (the "Authority," and also referred to throughout this Agreement as the "Assignee"). Additionally, each of the Assignors and the Assignee are also referred to throughout this Agreement individually as a "Party" and collectively as the "Parties."

Background

A. In January 2014, the City and the Township incorporated the Authority in accordance with the Michigan Metropolitan Councils Act (Act 292 of 1989) for the purpose of financing, issuing bonds for, improving, constructing, and contracting for water and sewer public improvements and services.

B. Before the City and the Township formed the Authority, in 2010, they participated in bond financing to cover the costs of various project components and construction related to their joint water supply system (referred to as the "Water Supply Infrastructure"), which bonds are set to be repaid in full as of May 1, 2020 (referred to as the "Bond Financing").

C. The City and the Township issued the bonds in 2010 through the County per Act 185 of 1957, as amended, and therefore the County assumed an ownership interest in the Water Supply Infrastructure as long as the bonds remain outstanding.

D. As an additional revenue stream, the City and the Township, entered into three separate cellular telephone antenna lease agreements, each titled "Site Lease Agreement Regarding the Use of the Fruitport Water Tank" (referred to collectively as the "Lease Agreements"). The County participated in these Lease Agreements by virtue of the Bond Financing. Thus, each of the Lease Agreements was entered into among the City, the Township, the County, and the following three cellular telephone service providers on the following dates: (i) New Cingular Wireless PCS, LLC, a Delaware limited liability company, on August 24, 2005 (attached as *Exhibit A*); (ii) iPCS Wireless, Inc., a Delaware corporation, on August 30, 2008 (attached as *Exhibit B*); and (iii) MetroPCS Michigan, Inc., a Delaware corporation, on May 14, 2009 (attached as *Exhibit C*).

E. Following the retirement of the Bond Financing, the City, the Township, and the County, as the "Assignors," have agreed to transfer, convey, and assign all of their rights, title, interests, and obligations in, to, and under the Water Supply Infrastructure and the Lease

Agreements to the Authority, and the Authority has agreed to accept such assignment and assume all of the rights and obligations of the Assignors. The Assignors do not assign the Bond Financing to the Authority, because the Assignors shall perform all obligations under the Bond Financing.

F. The Parties now wish to memorialize the terms and conditions of the Assignors' transfer and assignment, and the Assignee's acceptance and assumption, of such interests as set forth below in this Agreement.

Agreement

1. Incorporation of Recitals and Effective Date. The above recitals are made a part of this Agreement. The Effective Date shall be immediately after all of the Parties have approved and executed this Agreement, and the Bond Financing has been completed by the payment in full of the bonds.

2. Incorporation of Exhibits. The following exhibits are made a part of this Assignment: (i) *Exhibit A, B, and C* – copies of each of the Lease Agreements; (ii) *Exhibit D* – the City's duly authorized resolutions to make the assignment referenced in this Agreement to the Authority; (iii) *Exhibit E* – the Township's duly authorized resolutions to make the assignment referenced in this Agreement to the Authority; (iv) *Exhibit F* – the County's duly authorized resolutions to make the assignment referenced in this Agreement to the Authority; and (v) *Exhibit G* – the Authority's duly authorized resolutions to accept the assignment referenced in this Agreement from the City, the Township, and the County.

3. Assignment. As of the Effective Date, the Assignors transfer and assign to the Assignee all of the Assignors' rights, title, interests, and obligations in, to, and under the Water Supply Infrastructure and the Lease Agreements. Additionally, for purposes of clarification, it is the intent of the Parties that the rights, title, and interests of the Assignors to all account balances related to funds received under the Lease Agreements are also being transferred and assigned to Assignee as of the Effective Date. The Assignors do not assign the Bond Financing to the Assignee, but rather are obligated to perform all obligations to retire the Bond Financing.

4. Acceptance and Assumption. As of the Effective Date, the Assignee accepts the transfer and assignment made by the Assignors, and agrees: (i) to assume all obligations and responsibility of the Assignors for the Water Supply Infrastructure, as may be required by applicable law and governed by any contracts separate from this Agreement; and (ii) to assume all obligations of the Assignors as to the performance of all of the terms, covenants, and conditions of the Lease Agreements. The Assignee assumes no compliance obligations of the Assignors with respect to any remaining requirements or liabilities related to the Bond Financing; rather, the Assignors are obligated to perform all duties to terminate the Bond Financing.

5. Further Assurances and Cooperation. The Parties agree to execute and deliver such further instruments as any of the Assignors or the Assignee may reasonably require from time to time to effectuate the transfer and assignment accomplished by this Agreement; provided, however, that if a Party requests another Party to execute and deliver any further instrument(s),

then the Party to whom the request is made will have the right to reasonably approve the form and substance of such instrument(s) before being required to sign the same.

6. Indemnifications.

(a) *The Assignors.* Each of the Assignors agrees to indemnify and hold the Assignee harmless from and against all liabilities, costs, or damages arising under the Water Supply Infrastructure, the Lease Agreements, and the Bond Financing by reason of the failure of any of the Assignors, before the Effective Date, to fully comply with any and all of its duties, covenants, and obligations, as applicable, as to the Water Supply Infrastructure, the Lease Agreements, and the Bond Financing. For purposes of clarification, the Assignors are not agreeing to be jointly and severally liable for each other's liabilities, costs, or damages arising under the Water Supply Infrastructure, the Lease Agreements, and the Bond Financing, as each of the Assignors was subject to different duties, covenants, and obligations prior to the Effective Date.

(b) *The Assignee.* The Assignee agrees to indemnify and hold each of the Assignors harmless from and against any liabilities, costs, or damages arising under the Water Supply Infrastructure and the Lease Agreements by reason of the Assignee's failure, after the Effective Date, to fully comply with any and all of its duties, covenants, and obligations as to the Water Supply Infrastructure and the Lease Agreements. The Assignee accepts no responsibility or obligations with regard to the Bond Financing.

7. The Assignors' Representations and Warranties. Each of the Assignors separately represents and warrants for itself (and itself only) to the Assignee as follows:

(a) The Assignor has taken all necessary action to duly approve and authorize this Agreement, and the Assignor has the right to make the transfer and assignment provided in this Agreement.

(b) There are no claims pending or threatened before any tribunal or administrative or regulatory authority that would materially impair the Assignor's right to make the transfer and assignment provided in this Agreement.

(c) Any and all material liabilities of any nature, whether accrued, absolute, contingent or otherwise, relating to the Water Supply Infrastructure, the Lease Agreements, and the Bond Financing, have been previously disclosed to the Assignee and are referenced on the attachment to this Agreement at *Exhibit H*.

8. The Assignee's Representations and Warranties. The Assignee represents and warrants as follows:

(a) The Assignee has taken all necessary action to duly approve and authorize this Agreement, and the Assignee has the right to accept the transfer and assignment provided in this Agreement.

(b) There are no claims pending or threatened before any tribunal or administrative or regulatory authority, except those that have been previously disclosed separate from this Agreement to the Assignors, that would materially impair the Assignee's right to accept the transfer and assignment provided in this Agreement.

9. Notices. All notices or other communications to be given under this Agreement shall be deemed as sent when dispatched by regular, registered, or certified mail, postage prepaid, or by hand delivery addressed or delivered to the address as follows:

If to the City:
Attn: City Administrator
4814 Henry Street
Norton Shores, Michigan 49441

If to the Township:
Attn: Township Supervisor
5865 Airline Road
Fruitport, Michigan 49415

If to the County:
Attn: Administrator
990 Terrace Street
Muskegon, Michigan 49442

If to the Authority:
Attn: Chairperson
4814 Henry Street
Norton Shores, Michigan 49441

The Parties may, by notice given under this Agreement, designate any further or different address to which subsequent notices or other communications may be sent.

10. Assignment. This Agreement is not assignable by any Party, and each Party acknowledges and agrees that such Party will not assign or transfer its rights under the Agreement without the prior written consent from each of the other Parties.

11. Legally Binding. All of the covenants, terms, and conditions contained in this Agreement will be binding upon and inure to the benefit of the Parties' successors, assigns, and legal representatives.

12. No Third Parties. Nothing in this Agreement, expressed or implied, is intended to confer upon any person, other than the Parties and their respective successors or permitted assigns, any rights or remedies whatsoever.

13. Construction. The Parties acknowledge and agree that each of them participated equally in the drafting of this Assignment. Any rule to the effect that the Assignment is to be construed more strictly against one Party than another is not applicable.

14. Governing Law. This Agreement will be construed in all respects in accordance with the laws of the State of Michigan.

15. Captions and Headings. The captions or headings of this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provision of this Agreement.

16. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and there are no other representations, warranties, promises, guarantees, or agreements, oral or written, expressed or implied, between the Parties with respect to this Agreement.

17. Amendments. This Agreement may not be amended, changed, modified, or altered without the express written consent of each Party.

18. Severability. In the event any provisions 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 of this Agreement.

19. Waiver. No waiver of any of the provisions of this Agreement will be deemed or constitute a waiver of any other provision, whether or not similar, nor will any waiver be a continuing waiver. No waiver will be binding unless executed in writing by the Party giving the waiver.

20. Counterparts. This Agreement may be simultaneously executed in counterparts, each of which will be an original and all of which will constitute one and the same instrument.

[Signatures on following page]

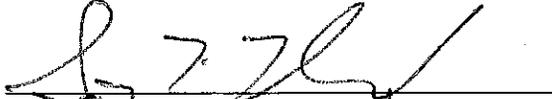
Signature Page

**Assignment and Assumption Agreement among
the City of Norton Shores, Fruitport Charter Township, the County of Muskegon, and the
West Michigan Regional Water Authority**

Each of the Parties have authorized the signing of this Agreement by their respective duly authorized officers all effective as of the Effective Date.

THE CITY

City of Norton Shores


By: _____
Its: Gary L. Nelson
Mayor

Date Signed: 2/7/20

THE TOWNSHIP

Fruitport Charter Township

By:
Its:

Date Signed: _____

THE COUNTY

County of Muskegon

By:
Its:

Date Signed: _____

THE AUTHORITY

West Michigan Regional Water Authority

By:
Its:

Date Signed: _____

EXHIBIT A

Copy of the Lease Agreement for New Cingular Wireless PCS, LLC

Ald

**SITE LEASE AGREEMENT
REGARDING THE USE OF THE
FRUITPORT WATER TANK**

- A. **Owners** – The Owners, for the purpose of this Lease, will be Township of Fruitport, City of Norton Shores and County of Muskegon. Owner's representative for all contact and access shall be Mr. Bob Alder, Fruitport Public Works Director. Mr. Alder may be contacted at (231) 865-3151 or faxed at (231) 865-3118.

- B. **Lessee** – The Lessee shall be New Cingular Wireless PCS, LLC, A Delaware limited liability company, having a mailing address of 6100 Atlantic Boulevard, Norcross, GA 30071. The Lessee's designated representative shall be Nick Dooley who can be contacted at (248) 613-0017 or faxed at (248) 356-4151. The designated representative shall be the person authorized to request access to the Site and be the person contacted for communication purposes.

- C. **Communication** – Communication between the Owners and NEW CINGULAR WIRELESS shall be performed through their respective representatives listed above. This will prevent unauthorized entrance to the Site and will minimize the chances for miscommunication between the parties.
 - 1. **Leased Site** – NEW CINGULAR WIRELESS will be allowed a 200 square foot area (10 feet x 20 feet) outside of the tower base but close to it for the purpose of locating electrical cabinet and equipment including electrical service and telephone service.
 - 2. **Term** – The initial term ("Initial Term") of this Lease shall be for a period of five (5) years commencing on the date the Lease is executed on behalf of NEW CINGULAR WIRELESS (the "Commencement Date").
 - 3. **Rental** – initial rent for use of the Site shall be \$500/month per antenna as per print submitted for the first year with a 3% increase per year for the remaining period of the Lease. Rent payment for each month shall be due on the fifth day of that month. Rental payments shall commence beginning with the month that the Antenna Facility is put into service. Rent payment for the first month shall be prorated for the amount of days the Antenna Facility is in service, and payment for the first month is due no later than one week after the Antenna Facility is placed into service. Rental payments received after the fifth of the month shall be assessed a 10% penalty. Rental payments shall be sent to:

Muskegon County Department of Public Works
131 E. Apple Avenue, 4th floor
Muskegon, MI 49442

Rental payments shall be deposited in the Fruitport-Norton Shores regional Water Fund with Muskegon County.

The Muskegon County Department of Public Works should be contacted at the above address by the Lessee with any rental payment questions or concerns.

For any rental payment questions or concerns such as late payments Muskegon County Department of Public Works should contact:

New Cingular Wireless PCS, LLC at
Attn: Wireless Asset Management
Re: Cell Site #GRANMI4663; Cell Site Name: Fruitport WT
P. O. Box 2088
Rancho Cordova, CA 95741-2088

4. **Renewal Option** – the term of this lease may be extended by NEW CINGULAR WIRELESS for three additional five year periods provided that NEW CINGULAR WIRELESS gives the Owner notice of its intention to extend the term of this lease at least ninety days prior to the expiration of the current term. Owner has the option of renegotiating terms of the lease for each extension beyond the original lease period. Lease period shall be extended only with Owner approval. Owner approval shall not be unreasonably withheld such that NEW CINGULAR WIRELESS' service would be disrupted. Monetary compensation for use of the facilities shall remain as stated in paragraph #3 of this lease unless one of the following occur:
 - A. Number of antennae or appurtenances on tower has increased during previous lease period or type of antennae or appurtenances has changed.
 - B. Rate of inflation during the final two years of the previous lease period has averaged an increase equal to or greater than 3 percent.
5. **Possession** – NEW CINGULAR WIRELESS shall be allowed use of the Site beginning on the Commencement Date.
6. **Use of Premises** –
 - A. NEW CINGULAR WIRELESS may use the property for the installation, operation and maintenance of its Antenna Facilities for the transmission, reception and operation of a communications system and uses incidental thereto in accordance with the terms of this lease, and for the storage of related equipment provided that such equipment be contained within the ground area provided for in section 1 of this agreement. The Owner may permit others to use portions of the water tower. NEW CINGULAR WIRELESS' installation of all such antenna facilities shall be done according to the plans and specifications

approved by the Owner. Plans and specifications for any installation or maintenance of a structural nature shall be reviewed by the Owner's engineer. Owner's engineer shall be selected by the Owner and paid for by NEW CINGULAR WIRELESS for work associated with the review of plans and inspection of work performed on the NEW CINGULAR WIRELESS system. NEW CINGULAR WIRELESS shall be strictly liable for any contamination caused to the water in the tower or damage done to the water tower and/or the site during installation and/or during operations by NEW CINGULAR WIRELESS or any of its contractors or suppliers. Any contamination caused to the water in the tower or in the system by NEW CINGULAR WIRELESS or any of its subcontractors or employees shall be remedied by the Owner at the sole cost of NEW CINGULAR WIRELESS. Any event which may be the cause of a contamination problem shall be reported to the Owner immediately upon its occurrence. Any damage caused to the tank or the site during installation or operations of the Antenna Facility shall be repaired or replaced at the Owner's discretion and at the expense of NEW CINGULAR WIRELESS to the Owner's sole satisfaction.

- B. NEW CINGULAR WIRELESS shall, at its expense, comply with all present and future federal, state and local laws, ordinances, rules and regulations (including, but not limited to, laws relating to health, radio frequency emissions, other radiation, safety, OSHA and MIOSHA), where applicable, in connection with the use, operation, construction, maintenance and/or installation of the Antenna Facilities and/or premises. Owner agrees to reasonably cooperate with NEW CINGULAR WIRELESS in obtaining any federal licenses and permits required for or substantially required by NEW CINGULAR WIRELESS' use of the premises and all costs incurred by the Owner to aid NEW CINGULAR WIRELESS shall be reimbursed by NEW CINGULAR WIRELESS to the Owner, including postage, shipping, labor, costs of reproduction or any other costs which can be attributed to the securing of the permits.
- C. Upon termination of this lease, if requested by the Owner to do so, NEW CINGULAR WIRELESS shall remove the Antenna Facilities and all supporting structures and related hardware and equipment which are not shared or used by another user of the water tower. Such removal shall be in a workmanlike and careful manner and without interference or damage to the water tower, the water in the tower or system, or any other equipment, structures or operations on the site, including use of the site by the Owner or any of the Owner's assignees or lessees. Removal shall be completed within 30 calendar days of the day NEW CINGULAR WIRELESS receives the notification to remove the antenna facilities. Owner's engineer shall observe all removal and shall inspect for damage, the Owner's site, water tower and all other facilities associated with

NEW CINGULAR WIRELESS' use of the water tank. Engineer shall make a report to the Owner of any damage and recommended repairs. Repairs shall be made by the Owner or a contractor hired by the Owner, and all costs of repairs and the costs of the engineer shall be paid for by NEW CINGULAR WIRELESS.

- D. The Owner reserves the right to install additional bracketing material or similar structural supports to allow for the co-location of other lessees' antenna or similar radiating or broadcasting equipment. The Owner agrees that, should the Owner desire to allow co-location on its water tower, reasonable and necessary assurances will be made to NEW CINGULAR WIRELESS that such co-location will not cause harm to NEW CINGULAR WIRELESS' antenna or radiating equipment.
- E. Permission shall be secured from the Owner any time that NEW CINGULAR WIRELESS personnel or personnel of any contractor or supplier employed by NEW CINGULAR WIRELESS desires to enter the tank structure. NEW CINGULAR WIRELESS may place their own padlock in tandem with Fruitport Township's lock on the gates to the site, thereby allowing NEW CINGULAR WIRELESS or its designated personnel 24 hour per day/7 day per week access to the site. Should emergency access to the tower structure be required, the following contact persons/numbers shall be used:

- | | | | |
|----|---------------|----------------|-------|
| 1. | Bob Alder | (231) 865-3158 | work |
| | | (231) 773-0307 | home |
| | | (231) 397-1716 | pager |
| 2. | Dale Hilliard | (231) 865-3158 | work |
| | | (231) 788-2396 | home |
| | | (231) 351-0694 | pager |

7. **Antenna Replacement** – NEW CINGULAR WIRELESS may update or replace the Antenna Facilities from time to time with the prior written approval of the Owner, provided that the replacement facilities are not greater in number or size than the existing facilities and that any change in their location on the tower is satisfactory to the Owner. Owner shall have a period of 90 days to grant approval, during which time, Owner may employ an engineer to review plans and specifications for NEW CINGULAR WIRELESS' proposed modifications. Engineer shall also inspect tank and site prior to installation of modifications, perform inspection of the installation of the modifications and perform an inspection after installation of the modifications and submit a report to the Owner. Engineer services shall be secured by the Owner and paid for by NEW CINGULAR WIRELESS.

8. **Maintenance** –

- A. NEW CINGULAR WIRELESS shall, at its own expense, maintain any antenna facilities on or attached to the premises in a safe condition, in good repair and in a manner suitable to the Owner so as not to conflict with the use of, or other leasing of the tower by the Owner. In carrying out its maintenance responsibilities, NEW CINGULAR WIRELESS shall not in any way interfere with the use or operations of the water tower, the premises, related facilities and/or any other property or equipment owned by other tenants or the Owner.
 - B. NEW CINGULAR WIRELESS shall have sole responsibility for the maintenance, repair and security of its equipment, personal property, Antenna Facilities and leasehold improvements and shall keep the same in good repair and condition for the life of this Lease.
 - C. NEW CINGULAR WIRELESS shall keep the premises free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or interference.
9. **Utilities** – Owner agrees to cooperate with NEW CINGULAR WIRELESS in NEW CINGULAR WIRELESS' efforts to obtain electric and other utilities from any location provided by the servicing utility. NEW CINGULAR WIRELESS shall contract directly with the necessary utility companies to provide service to NEW CINGULAR WIRELESS' facilities. Accounts shall be in the name of NEW CINGULAR WIRELESS and shall in no way involve the Owner. All charges for monthly service, installation or de-installation costs shall be the sole responsibility of NEW CINGULAR WIRELESS and shall be billed directly to NEW CINGULAR WIRELESS by the utility. Owner shall provide an acceptable easement for utilities to run their lines from the property line to NEW CINGULAR WIRELESS' facilities.
10. **Taxes** – NEW CINGULAR WIRELESS shall be responsible for paying all personal property taxes assessed directly upon and arising solely from its own use of the Antenna Facilities on the site during the term of this lease.
11. **Use of Technicians/Inspectors** – Notwithstanding anything contained herein to the contrary, in order to protect the health, welfare and safety of its residents, the Owner shall have the right to have a technician and/or inspector witness all work done at the site by NEW CINGULAR WIRELESS or its contractors. Accordingly, NEW CINGULAR WIRELESS shall give the Owner advanced notice of all non-emergency work to be performed on the site. For emergency work, NEW CINGULAR WIRELESS shall give the Owner as much advanced notice as reasonably practicable. In any case NEW CINGULAR WIRELESS shall obtain keys to the facility from the Owner each time access is required and shall promptly return keys to the Owner upon completion of the work.
12. **Interference** – NEW CINGULAR WIRELESS' installation, operation and maintenance of its transmission facilities shall not damage or interfere in any way

with the Owner's water tower operations including repairs or maintenance to the water tower or with the activities of any other tenants of the water tower. Owner, at all times during the life of this lease, reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter or improve the premises in connection with the water tower operations as may be necessary, including leasing parts of the water tower and surrounding ground space to others.

If the Owner receives a request for co-location on the water tower from any third-party, it shall submit a proposal complete with all technical specifications reasonably requested by NEW CINGULAR WIRELESS to NEW CINGULAR WIRELESS for review for non-interference; however, Owner shall not be required to provide NEW CINGULAR WIRELESS with any specifications or information claimed to be of a proprietary nature by the third party. The third party shall be responsible for preparing technical specifications for its proposed transmission facility. NEW CINGULAR WIRELESS shall have thirty (30) calendar days following receipt of said proposal to make any objections thereto, and failure to make any objection within said thirty (30) day period shall be deemed consent by NEW CINGULAR WIRELESS to the installation of antennae or transmission facilities pursuant to said proposal. If NEW CINGULAR WIRELESS gives notice of objection due to interference during such thirty(30) day period and NEW CINGULAR WIRELESS' objections are verified by the Owner to be valid, then the Owner shall not proceed with the proposal. NEW CINGULAR WIRELESS shall furnish the Owner with all required technical specifications reasonably requested in order that Owner may be able to verify any objection raised by NEW CINGULAR WIRELESS. Failure or refusal on the part of NEW CINGULAR WIRELESS to provide the required technical specifications within a reasonable time as set forth at the time of Owner's request, shall render NEW CINGULAR WIRELESS' objection void and Owner may proceed with third party leasing.

13. **Insurance** – NEW CINGULAR WIRELESS shall maintain, at its sole expense during the Term of this Lease commercial general liability insurance insuring NEW CINGULAR WIRELESS against liability for personal injury, death or damage to personal property arising out of the use of the site by NEW CINGULAR WIRELESS. Such insurances shall be in the amount not less than \$1,000,000.00 (\$1 million) per occurrence for each personal injury, death and property damage. NEW CINGULAR WIRELESS shall carry an excess umbrella liability policy in the amount not less than \$2,000,000.00 (\$2 million), which shall not exclude the payment of all costs incurred to remedy a contamination event to the public water system caused by NEW CINGULAR WIRELESS or any of its contractors or suppliers per occurrence. NEW CINGULAR WIRELESS shall carry all proper insurances, and in amounts as prescribed by law, on its employees and contractors including, but not limited to, unemployment and workers compensation insurance. NEW CINGULAR WIRELESS shall provide the Owner with valid certificates of all required insurances and in the required amounts, prior to being allowed to enter the site. Insurance carrier's certificate shall show evidence that it has insured NEW CINGULAR WIRELESS for all liabilities under this Lease and that it will not cancel nor change any policy of

insurance issued to NEW CINGULAR WIRELESS except for after thirty (30) days notice in writing has been supplied to the Owner. Owner(s) shall be added to the policy as additional insured. The fact that NEW CINGULAR WIRELESS is required to furnish insurance in accordance with this paragraph or the fact that such insurance is furnished does not and shall not relieve NEW CINGULAR WIRELESS from its obligations to Owner under the provisions of Paragraph 17 of this Lease for any deficiency, amount of which NEW CINGULAR WIRELESS is responsible to the Owner. Owner shall insure the property and building of which the site is part thereof, as the case may be, against loss or damage under a policy or policies of fire and extended coverage. All of Owner's and NEW CINGULAR WIRELESS' policies of insurance shall include a standard waiver of subrogation clause or endorsement. Owner and NEW CINGULAR WIRELESS each hereby waive all right of recovery against the other for losses covered by insurance.

All contractors employed by NEW CINGULAR WIRELESS and all subcontractors or any persons authorized by NEW CINGULAR WIRELESS to enter the site shall furnish to Owner, prior to Owner's permission to enter the site, certificates made out to Owner evidencing insurances in the same amounts as those required by NEW CINGULAR WIRELESS and under the same terms and conditions above required for NEW CINGULAR WIRELESS' insurance. Owner(s) shall be named insured on each of these policies. Alternatively, NEW CINGULAR WIRELESS may cover each or any of their contractors or suppliers on NEW CINGULAR WIRELESS' insurance policy, all limits to be the same as NEW CINGULAR WIRELESS' own coverage. Certificates showing covered contractors or suppliers as additional insured shall be forwarded to the Owner(s) prior to such contractors or suppliers being allowed to enter the site.

14. **NEW CINGULAR WIRELESS' Property** – All Antenna Facilities installed by NEW CINGULAR WIRELESS at the site shall remain the property of NEW CINGULAR WIRELESS and shall not be subject to any lien or encumbrance of Owner or any third party acting pursuant to an agreement with the Owner.
15. **Damage to Owner's Facilities** – NEW CINGULAR WIRELESS shall exercise all necessary precautions to avoid damage to the water tower, including contamination caused to the water supply and subject to the waivers contained in this Lease, hereby assumes all responsibility for any and all loss or damage to such facilities caused by NEW CINGULAR WIRELESS or any person or company authorized by NEW CINGULAR WIRELESS to perform work of any kind on the site. NEW CINGULAR WIRELESS shall report any damage caused by NEW CINGULAR WIRELESS, or any person or company authorized by NEW CINGULAR WIRELESS to work on the site, to the Owner immediately. NEW CINGULAR WIRELESS shall reimburse Owner for all costs of repairs including the costs for any required engineering and the costs for inspection of the damage before repair and after repair by the engineer and a report by the engineer to the Owner certifying that all repairs have been made properly.

16. **Water Tower Maintenance** – The Owner shall maintain in good order and repair the water tower so that it will adequately support all of NEW CINGULAR WIRELESS' Antenna Facilities. Owner shall not be responsible for making any structural changes to the water tower to facilitate the placement of NEW CINGULAR WIRELESS' Antenna Facilities, nor for making any modifications to the water tower to facilitate any changes of or modifications to NEW CINGULAR WIRELESS' Antenna Facilities.

When maintenance to the outside coating on the water tower is required, NEW CINGULAR WIRELESS shall do one of the following two options: NEW CINGULAR WIRELESS shall, at NEW CINGULAR WIRELESS' sole expense, temporarily relocate their antennae on a separate tower to be temporarily erected by NEW CINGULAR WIRELESS adjacent to the water tower, same to be removed immediately upon completion of water tower maintenance and site restored to original conditions, **OR**, NEW CINGULAR WIRELESS shall pay to Owner, in one lump sum payment, at the time the maintenance is performed, the difference in cost between what the maintenance operations would cost the Owner with the antennae and without the antennae on the water tower. Contractor to perform the maintenance shall be of the Owner's choosing. Owner shall provide NEW CINGULAR WIRELESS with copies of the quotation for maintenance both with NEW CINGULAR WIRELESS' equipment located on the water tower and without NEW CINGULAR WIRELESS' equipment located on the water tower.

Owner shall not make any guarantee to NEW CINGULAR WIRELESS that service will remain completely uninterrupted. Should it become necessary, for the safety of the water, the water system or the water tank, to perform an operation which requires the disconnection of the Antenna Facilities, Owner shall make a disconnection of the Antenna Facilities. Owner will notify NEW CINGULAR WIRELESS as soon as practicably possible of such disconnection and shall take reasonable care in the handling of the equipment to avoid damage to the extent reasonably possible. Owner shall not disrupt NEW CINGULAR WIRELESS' service except in cases of extreme emergency, as defined by Owner at time of incident, including, but not necessarily limited to, threats to public health, imminent structural failure, threats to the water system in general or rescue operations. Owner shall give NEW CINGULAR WIRELESS as much advanced notice of the intent to disrupt service as reasonably possible prior to commencing the disruption. NEW CINGULAR WIRELESS shall be allowed, if time allows under the circumstances, to make such disconnections or to witness the disconnection.

17. **Indemnity** – NEW CINGULAR WIRELESS agrees to indemnify, defend, and save harmless the Owner, its agents and employees, from and against all loss or expense (including costs and attorney fees) by reason of liability imposed by law upon the Owner for damages because of bodily injury, including death at any time resulting there from, sustained by any person or persons or on account of damage to property, including loss of use thereof, arising out of or in the consequence of the use of the site, whether such injuries to person or damage to property is due to the negligence of

NEW CINGULAR WIRELESS, its contractors or any person or company authorized by NEW CINGULAR WIRELESS to be on the site or the Owner. This indemnity shall extend to any liability of loss arising from contamination of the water system or the site or the environment as provided for in Paragraph 18 below. This indemnity shall not apply to intentional misconduct by the Owner.

Owner shall indemnify and hold harmless NEW CINGULAR WIRELESS from any and all costs (including, but not limited to reasonable attorney's fees and court costs) and claims of liability or loss which arise out of the use and/or occupancy of the site by NEW CINGULAR WIRELESS due solely to acts of intentional misconduct by the Owner.

18. **Hazardous Substances** – Owner represents that it has no knowledge, nor should it have any knowledge, of any substance, chemical or waste (collectively, "Substance") on the site which is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. NEW CINGULAR WIRELESS agrees not to introduce or use any Substance on the site in violation of any applicable law. Any chemicals of any kind, including solvents, cleaning solutions, paints and thinners or any chemical of any type not already present on the site, brought in by NEW CINGULAR WIRELESS or its contractors or any person or company authorized by NEW CINGULAR WIRELESS to be on the site shall be declared to the Owner in advance and the Material Safety Data Sheet (MSDS sheet) shall be furnished to the Owner prior to permission being given to NEW CINGULAR WIRELESS by the Owner for use of the chemical on the site.

Owner reserves the right to introduce onto the site at any time any Substance as defined above, which in the opinion of the Owner is applicable to the treatment of potable water or as necessary to be used in the course of maintenance of the water tower or site. Such materials may be stored by Owner on the site. Owner shall furnish NEW CINGULAR WIRELESS with MSDS sheets for any such Substance brought onto the site which NEW CINGULAR WIRELESS personnel, its contractors or any person or company authorized by NEW CINGULAR WIRELESS to be on the site may come into contact with during reasonable course of required activity on the site.

19. **Assignment** – This Lease may be freely assigned by NEW CINGULAR WIRELESS provided that no assignment shall relieve NEW CINGULAR WIRELESS of any of its obligations under this Lease, and provided further, that no assignee may use the water tower for other than a PCS communications system without the express written consent of the Owner. Upon such consent, any assignee assumes all applicable rights and obligations of this Lease. Any assignee to which this Lease may be assigned without Owners consent shall be bound by all terms and conditions of this Lease, especially those terms regarding insurance, liability and safety in the use of the site.
20. **Condemnation** – If all or substantially all of Owner's property upon which the site is located is condemned by an authorized governmental or quasi-governmental

authority, this Lease shall terminate upon the date of taking and each party shall have the right to maintain their own respective actions against the condemning authority for their respective damages and neither party shall have any interest in any award granted to the other. If a taking occurs, the rent shall be prorated to the date of the taking, and any excess prepaid rent shall be promptly repaid to NEW CINGULAR WIRELESS.

21. **Termination** – NEW CINGULAR WIRELESS shall have the right to terminate this Lease at any time if (i) NEW CINGULAR WIRELESS cannot obtain all certificates, permits, licenses or other approvals (collectively, “Approvals”) required from any governmental authority and/or easements required from any third party to operate its communications facility; (ii) such Approvals are canceled, expire, lapse, withdrawn or terminated; (iii) Owner fails to hold legal title to the property on which the site is located; (iv) Owner does not have the legal right to enter into this Lease; or (v) for any other reason, NEW CINGULAR WIRELESS, in its sole discretion, determines that it will be unable to use the site for the use intended by this Lease. However, should NEW CINGULAR WIRELESS elect to terminate this Lease for any of the above reasons, NEW CINGULAR WIRELESS shall still be liable to Owner for any costs, charges or other fees which the Owner contracted for or has already paid out as required by any section of this Lease prior to the date Owner receives notification from NEW CINGULAR WIRELESS of intent to terminate.

Owner may terminate this Lease if NEW CINGULAR WIRELESS ceases operations at the site continuously for more than one (1) year. Owner may also terminate this Lease if NEW CINGULAR WIRELESS reneges on any payments due the Owner, becomes 90 days in arrears on rent payments or other payments due Owner, threatens the water supply by its actions or those of its contractors, threatens the structural integrity of the water tower or installs or operates the Antenna Facility which in any way impedes the operation of the water tower or threatens the safety of water system personnel.

Upon termination of this Lease, NEW CINGULAR WIRELESS shall remove all equipment including, but not limited to, antennae, cables, supports and electrical equipment. This shall be accomplished within a period of 60 calendar days upon termination. NEW CINGULAR WIRELESS shall be liable, upon removal of equipment, for the cost of Owner to have engineer certify that removal of the equipment has not damaged the water tower or other or the Owner’s facilities located on the site.

22. **Notices** – All notices shall be in writing and shall be sent by U.S. certified mail, return receipt requested, or by overnight express delivery to the address of the party set forth above or as otherwise directed in writing by such party of as provided under applicable state law. Notice is deemed as of the date of delivery as shown on the return receipt of on the date of delivery of an express delivery as evidenced by the signature of the receiving party.

If to Lessee:
New Cingular Wireless PCS, LLC
Attn: Wireless Asset Management
Re: Cell Site #GRANMI4663; Cell Site Name: Fruitport WT
P. O. Box 2088
Rancho Cordova, CA 95741-2088

AND

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #GRANMI4663; Cell Site Name: Fruitport WT
6100 Atlantic Boulevard
Norcross, GA 30071

With a copy to:
New Cingular Wireless PCS, LLC
Attn: Legal Department
Re: Cell Site #GRANMI4663; Cell Site Name: Fruitport WT
15 E. Midland Avenue
Paramus, NJ 07652

If to Owners:
Muskegon County Department of Public Works
131 E. Apple Avenue, 4th Floor
Muskegon, MI 49442

23. **Compliance with Laws** – Owner represents that Owner's property (including, without limitation, the site) and all improvements thereto, are in compliance with all building life/safety, disability and other laws, codes and regulations of any governmental or quasi-governmental authority. NEW CINGULAR WIRELESS agrees that, subject to Owner's compliance with the terms of this paragraph, any improvements constructed by NEW CINGULAR WIRELESS on the site and all operations of NEW CINGULAR WIRELESS within the site shall be in compliance with all applicable laws, codes and regulations.

24. **Miscellaneous** –

- A. Owner represents and warrants that Owner has full authority to enter into and sign this Lease.
- B. The terms and conditions of the Lease shall extend to and bind the heirs, personal representatives, successors and assigns of Owner and NEW CINGULAR WIRELESS.

- C. The prevailing party in any action or proceeding in court to enforce the terms of this Lease shall be entitled to receive its reasonable attorney fees and other reasonable enforcement costs and expenses from the non-prevailing party.
- D. This Lease shall be construed pursuant to the laws of the State of Michigan.
- E. This site Lease may not be amended or modified unless the Owner and NEW CINGULAR WIRELESS consent in writing to the amendment or modification.
- F. This Lease contains all agreements, promises and understandings between Owner and NEW CINGULAR WIRELESS. All exhibits are incorporated by reference.
- G. No signs may be installed on the site by NEW CINGULAR WIRELESS with the exception of warning labels required on certain electrical equipment or other warning labels required by OSHA or MIOSHA regulations.

IN WITNESS WHEREOF, this Fruitport Township/City of Norton Shores water tank usage lease has been duly executed as of the dates set forth in the notarial acknowledgements below, to be effective for all purposes as of the date first above written.

WITNESS:

Robert Alder
ROBERT ALDER
Lela S. Miller
LELA S. MILLER

Pat Westjohn
PAT WESTJOHN

Constance W. Waldo
CONSTANCE W. WALDO

TOWNSHIP OF FRUITPORT
By: [Signature]
Supervisor / RON W. COOPER
Date: 9/7/05
By: Carol Hulka
Clerk / CAROL HULKA
Date: September 13 2005

CITY OF NORTON SHORES
By: Nancy Crandall
Mayor / NANCY CRANDALL
Date: September 7, 2005

By: [Signature]
City Clerk / LYNNIE A. FULLER
Date: September 7, 2005

J. K. Warner

JOHN K. WARNER

Karen Fisher

Karen Fisher

Suzann Wilson

Suzann Wilson

Mark St. Cyr

MARK ST. CYR

COUNTY OF MUSKEGON

BOARD OF PUBLIC WORKS

By: 21 SEPTEMBER 2005

Date:

Julie McMuray

Julie McMuray, Chair, Board of Public Works

NEW CINGULAR WIRELESS PCS, LLC

By:

Daniel Toth

Daniel Toth, Karen Dickson

Its: Real Estate and Construction Manager

Date: 8/24/05

EXHIBIT B

Copy of the Lease Agreement for iPCS Wireleses, Inc.

**SITE LEASE AGREEMENT
REGARDING THE USE OF THE
FRUITPORT WATER TANK**

- A. **Owners** – The Owners, for the purpose of this Lease, will be the Charter Township of Fruitport, City of Norton Shores and County of Muskegon. Owner's representative for all contact and access shall be Mr. Dale Lee, Fruitport Charter Township Interim Utility Director. Mr. Lee may be contacted at (231) 865-3158 or faxed at (231) 865-3118.
- B. **Lessee** – The Lessee shall be iPCS Wireless, Inc. (iPCS) a Delaware corporation having a mailing address of 648 N. Chicago St., Geneseo, IL 61254. The Lessee's designated representative shall be Nathan Olson, Property Manager who can be contacted at (616) 656-5161 or faxed at (616) 554-6484. The designated representative shall be the person authorized to request access to the Site and be the person contacted for communication purposes.
- C. **Communication** – Communication between the Owners and iPCS shall be performed through their respective representatives listed above. This will prevent unauthorized entrance to the Site and will minimize the chances for miscommunication between the parties.
1. **Leased Site** iPCS will be allowed a 200 square foot area (10 feet x 20 feet) outside of the tower base but close to it for the purpose of locating electrical cabinet and equipment including electrical service and telephone service.
 2. **Term** – The initial term ("Initial Term") of this Lease shall be for a period of five (5) years commencing on the date the Lease is executed on behalf of iPCS (the "Commencement Date").
 3. **Rental** – initial rent for use of the Site shall be \$650.00/month per send and receive (pair) antenna installation as per print submitted for the first year with a 3% increase per year for the remaining period of the Lease. Rent payment for each month shall be due on the fifth day of that month. Rental payments shall commence beginning with the month that the Antenna Facility is put into service. Rent payment for the first month shall be prorated for the amount of days the Antenna Facility is in service, and payment for the first month is due no later than one week after the Antenna Facility is placed into service. Rental payments received after the (5TH) fifth of the month shall be assessed a 10% penalty. Rental payments shall be sent to:

Muskegon County Department of Public Works
131 E. Apple Avenue, 4th floor
Muskegon, MI 49442

Rental payments shall be deposited in the Fruitport-Norton Shores regional Water Fund with Muskegon County.

The Muskegon County Department of Public Works should be contacted at the above address by the Lessee with any rental payment questions or concerns.

For any rental payment questions or concerns such as late payments Muskegon County Department of Public Works should contact:

iPCS Wireless, Inc.
648 N. Chicago St.
Geneseo, IL 61254
Attn: Lease Management

4. **Renewal Option** – the term of this lease may be extended by iPCS for three additional five year periods provided that iPCS gives the Owner notice of its intention to extend the term of this lease at least ninety days prior to the expiration of the current term. Owner has the option of renegotiating terms of the lease for each extension beyond the original lease period. Lease period shall be extended only with Owner approval. Owner approval shall not be unreasonably withheld such that iPCS' service would be disrupted. Monetary compensation for use of the facilities shall remain as stated in paragraph #3 of this lease unless one of the following occur:
 - A. Number of antennae or appurtenances on tower has increased during previous lease period or type of antennae or appurtenances has changed.
 - B. Rate of inflation during the final two years of the previous lease period has averaged an increase equal to or greater than 3 percent.
5. **Possession** – iPCS shall be allowed use of the Site beginning on the Commencement Date.
6. **Use of Premises** –
 - A. iPCS may use the property for the installation, operation and maintenance of its Antenna Facilities for the transmission, reception and operation of a communications system and uses incidental thereto in accordance with the terms of this lease, and for the storage of related equipment provided that such equipment be contained within the ground area provided for in section 1 of this agreement. The Owner may permit others to use portions of the water tower. iPCS' installation of all such antenna facilities shall be done according to the plans and specifications approved by the Owner. Plans and specifications for any installation or maintenance of a structural nature shall be reviewed by the Owner's

engineer. Owner's engineer shall be selected by the Owner and paid for by iPCS for work associated with the review of plans and inspection of work performed on the iPCS system. iPCS shall be strictly liable for any contamination caused to the water in the tower or damage done to the water tower and/or the site during installation and/or during operations by iPCS or any of its contractors or suppliers. Any contamination caused to the water in the tower or in the system by iPCS or any of its subcontractors or employees shall be remedied by the Owner at the sole cost of iPCS. Any event which may be the cause of a contamination problem shall be reported to the Owner immediately upon its occurrence. Any damage caused to the tank or the site during installation or operations of the Antenna Facility shall be repaired or replaced at the Owner's discretion and at the expense of iPCS to the Owner's sole satisfaction.

- B. iPCS shall, at its expense, comply with all present and future federal, state and local laws, ordinances, rules and regulations (including, but not limited to, laws relating to health, radio frequency emissions, other radiation, safety, OSHA and MIOSHA), where applicable, in connection with the use, operation, construction, maintenance and/or installation of the Antenna Facilities and/or premises. Owner agrees to reasonably cooperate with iPCS in obtaining any federal licenses and permits required for or substantially required by iPCS' use of the premises and all costs incurred by the Owner to aid iPCS shall be reimbursed by iPCS to the Owner, including postage, shipping, labor, costs of reproduction or any other costs which can be attributed to the securing of the permits.
- C. Upon termination of this lease, if requested by the Owner to do so, iPCS shall remove the Antenna Facilities and all supporting structures and related hardware and equipment which are not shared or used by another user of the water tower. Such removal shall be in a workmanlike and careful manner and without interference or damage to the water tower, the water in the tower or system, or any other equipment, structures or operations on the site, including use of the site by the Owner or any of the Owner's assignees or lessees. Removal shall be completed within 30 calendar days of the day iPCS receives the notification to remove the antenna facilities. Owner's engineer shall observe all removal and shall inspect for damage, the Owner's site, water tower and all other facilities associated with iPCS' use of the water tank. Engineer shall make a report to the Owner of any damage and recommended repairs. Repairs shall be made by the Owner or a contractor hired by the Owner, and all costs of repairs and the costs of the engineer shall be paid for by iPCS.
- D. The Owner reserves the right to install additional bracketing material or similar structural supports to allow for the co-location of other lessees' antenna or similar radiating or broadcasting equipment. The Owner

agrees that, should the Owner desire to allow co-location on its water tower, reasonable and necessary assurances will be made to iPCS that such co-location will not cause harm to iPCS' antenna or radiating equipment.

E. Permission shall be secured from the Owner any time that iPCS personnel or personnel of any contractor or supplier employed by iPCS desires to enter the tank structure. iPCS may place their own padlock in tandem with Fruitport Township's lock on the gates to the site, thereby allowing iPCS or its designated personnel 24 hour per day/7 day per week access to the site. Should emergency access to the tower structure be required, the following contact persons/numbers shall be used:

- | | | | |
|----|---------------|----------------|-------|
| 1. | Dale Lee | (231) 865-3158 | work |
| | | (231) 777-3732 | home |
| | | (231) 339-0996 | pager |
| 2. | Dale Hilliard | (231) 865-3158 | work |
| | | (231) 788-2396 | home |
| | | (231) 339-0774 | pager |

7. **Antenna Replacement** – iPCS may update or replace the Antenna Facilities from time to time with the prior written approval of the Owner, provided that the replacement facilities are not greater in number or size than the existing facilities and that any change in their location on the tower is satisfactory to the Owner. Owner shall have a period of 90 days to grant approval, during which time, Owner may employ an engineer to review plans and specifications for iPCS' proposed modifications. Engineer shall also inspect tank and site prior to installation of modifications, perform inspection of the installation of the modifications and perform an inspection after installation of the modifications and submit a report to the Owner. Engineer services shall be secured by the Owner and paid for by iPCS.

8. **Maintenance** –

- A. iPCS shall, at its own expense, maintain any antenna facilities on or attached to the premises in a safe condition, in good repair and in a manner suitable to the Owner so as not to conflict with the use of, or other leasing of the tower by the Owner. In carrying out its maintenance responsibilities, iPCS shall not in any way interfere with the use or operations of the water tower, the premises, related facilities and/or any other property or equipment owned by other tenants or the Owner.
- B. iPCS shall have sole responsibility for the maintenance, repair and security of its equipment, personal property, Antenna Facilities and leasehold improvements and shall keep the same in good repair and condition for the life of this Lease.

- C. iPCS shall keep the premises free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or interference.
9. **Utilities** – Owner agrees to cooperate with iPCS in iPCS' efforts to obtain electric and other utilities from any location provided by the servicing utility. iPCS shall contract directly with the necessary utility companies to provide service to iPCS' facilities. Accounts shall be in the name of iPCS and shall in no way involve the Owner. All charges for monthly service, installation or de-installation costs shall be the sole responsibility of iPCS and shall be billed directly to iPCS by the utility. Owner shall provide an acceptable easement for utilities to run their lines from the property line to iPCS' facilities.
10. **Taxes** – iPCS shall be responsible for paying all personal property taxes assessed directly upon and arising solely from its own use of the Antenna Facilities on the site during the term of this lease.
11. **Use of Technicians/Inspectors** – Notwithstanding anything contained herein to the contrary, in order to protect the health, welfare and safety of its residents, the Owner shall have the right to have a technician and/or inspector witness all work done at the site by iPCS or its contractors. Accordingly, iPCS shall give the Owner advanced notice of all non-emergency work to be performed on the site. For emergency work, - iPCS shall give the Owner as much advanced notice as reasonably practicable. In any case iPCS shall obtain keys to the facility from the Owner each time access is required and shall promptly return keys to the Owner upon completion of the work.
12. **Interference** – iPCS' installation, operation and maintenance of its transmission facilities shall not damage or interfere in any way with the Owner's water tower operations including repairs or maintenance to the water tower or with the activities of any other tenants of the water tower. Owner, at all times during the life of this lease, reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter or improve the premises in connection with the water tower operations as may be necessary, including leasing parts of the water tower and surrounding ground space to others.

If the Owner receives a request for co-location on the water tower from any third-party, it shall submit a proposal complete with all technical specifications reasonably requested by iPCS to iPCS for review for non-interference; however, Owner shall not be required to provide iPCS with any specifications or information claimed to be of a proprietary nature by the third party. The third party shall be responsible for preparing technical specifications for its proposed transmission facility. iPCS shall have thirty (30) calendar days following receipt of said proposal to make any objections thereto, and failure to make any objection within said thirty (30) day period shall be deemed consent by iPCS to the installation of antennae or transmission facilities pursuant to said proposal. If iPCS gives notice of objection

due to interference during such thirty (30) day period and iPCS' objections are verified by the Owner to be valid, then the Owner shall not proceed with the proposal. iPCS shall furnish the Owner with all required technical specifications reasonably requested in order that Owner may be able to verify any objection raised by iPCS. Failure or refusal on the part of iPCS to provide the required technical specifications within a reasonable time as set forth at the time of Owner's request, shall render iPCS' objection void and Owner may proceed with third party leasing.

13. **Insurance** – iPCS shall maintain, at its sole expense during the Term of this Lease commercial general liability insurance insuring iPCS against liability for personal injury, death or damage to personal property arising out of the use of the site by iPCS. Such insurances shall be in the amount not less than \$1,000,000.00 (\$1 million) per occurrence for each personal injury, death and property damage. iPCS shall carry an excess umbrella liability policy in the amount not less than \$2,000,000.00 (\$2 million), which shall not exclude the payment of all costs incurred to remedy a contamination event to the public water system caused by iPCS or any of its contractors or suppliers per occurrence. iPCS shall carry all proper insurances, and in amounts as prescribed by law, on its employees and contractors including, but not limited to, unemployment and workers compensation insurance. iPCS shall provide the Owner with valid certificates of all required insurances and in the required amounts, prior to being allowed to enter the site. Insurance carrier's certificate shall show evidence that it has insured iPCS for all liabilities under this Lease and that it will not cancel nor change any policy of insurance issued to iPCS except for after thirty (30) days notice in writing has been supplied to the Owner. Owner(s) shall be added to the policy as additional insured. The fact that iPCS is required to furnish insurance in accordance with this paragraph or the fact that such insurance is furnished does not and shall not relieve iPCS from its obligations to Owner under the provisions of Paragraph 17 of this Lease for any deficiency, amount of which iPCS is responsible to the Owner. Owner shall insure the property and building of which the site is part thereof, as the case may be, against loss or damage under a policy or policies of fire and extended coverage. All of Owner's and iPCS policies of insurance shall include a standard waiver of subrogation clause or endorsement. Owner and iPCS each hereby waive all right of recovery against the other for losses covered by insurance.

All contractors employed by iPCS and all subcontractors or any persons authorized by iPCS to enter the site shall furnish to Owner, prior to Owner's permission to enter the site, certificates made out to Owner evidencing insurances in the same amounts as those required by iPCS and under the same terms and conditions above required for -- iPCS' insurance. Owner(s) shall be named insured on each of these policies. Alternatively, iPCS may cover each or any of their contractors or suppliers on iPCS' insurance policy, all limits to be the same as iPCS' own coverage. Certificates showing covered contractors or suppliers as additional insured shall be forwarded to the Owner(s) prior to such contractors or suppliers being allowed to enter the site.

14. **iPCS' Property** – All Antenna Facilities installed by iPCS at the site shall remain the property of iPCS and shall not be subject to any lien or encumbrance of Owner or any third party acting pursuant to an agreement with the Owner.
15. **Damage to Owner's Facilities** – iPCS shall exercise all necessary precautions to avoid damage to the water tower, including contamination caused to the water supply and subject to the waivers contained in this Lease, hereby assumes all responsibility for any and all loss or damage to such facilities caused by iPCS or any person or company authorized by iPCS to perform work of any kind on the site. iPCS shall report any damage caused by iPCS, or any person or company authorized by iPCS to work on the site, to the Owner immediately. iPCS shall reimburse Owner for all costs of repairs including the costs for any required engineering and the costs for inspection of the damage before repair and after repair by the engineer and a report by the engineer to the Owner certifying that all repairs have been made properly.
16. **Water Tower Maintenance** – The Owner shall maintain in good order and repair the water tower so that it will adequately support all of iPCS' Antenna Facilities. Owner shall not be responsible for making any structural changes to the water tower to facilitate the placement of iPCS' Antenna Facilities, nor for making any modifications to the water tower to facilitate any changes of or modifications to iPCS' Antenna Facilities.

When maintenance to the outside coating on the water tower is required, iPCS shall do one of the following two options: iPCS shall, at iPCS' sole expense, temporarily relocate their antennae on a separate tower to be temporarily erected by iPCS adjacent to the water tower, same to be removed immediately upon completion of water tower maintenance and site restored to original conditions, **OR**, iPCS shall pay to Owner, in one lump sum payment, at the time the maintenance is performed, the difference in cost between what the maintenance operations would cost the Owner with the antennae and without the antennae on the water tower. Contractor to perform the maintenance shall be of the Owner's choosing. Owner shall provide iPCS with copies of the quotation for maintenance both with iPCS' equipment located on the water tower and without iPCS' equipment located on the water tower.

Owner shall not make any guarantee to iPCS that service will remain completely uninterrupted. Should it become necessary, for the safety of the water, the water system or the water tank, to perform an operation which requires the disconnection of the Antenna Facilities, Owner shall make a disconnection of the Antenna Facilities. Owner will notify iPCS as soon as practicably possible of such disconnection and shall take reasonable care in the handling of the equipment to avoid damage to the extent reasonably possible. Owner shall not disrupt iPCS' service except in cases of extreme emergency, as defined by Owner at time of incident, including, but not necessarily limited to, threats to public health, imminent structural failure, threats to the water system in general or rescue operations. Owner shall give iPCS as much advanced notice of the intent to disrupt service as reasonably possible prior to

commencing the disruption. iPCS shall be allowed, if time allows under the circumstances, to make such disconnections or to witness the disconnection.

17. **Indemnity** – iPCS agrees to indemnify, defend, and save harmless the Owner, its agents and employees, from and against all loss or expense (including costs and attorney fees) by reason of liability imposed by law upon the Owner for damages because of bodily injury, including death at any time resulting there from, sustained by any person or persons or on account of damage to property, including loss of use thereof, arising out of or in the consequence of the use of the site, whether such injuries to person or damage to property is due to the negligence of iPCS, its contractors or any person or company authorized by iPCS to be on the site or the Owner. This indemnity shall extend to any liability of loss arising from contamination of the water system or the site or the environment as provided for in Paragraph 18 below. This indemnity shall not apply to intentional misconduct by the Owner.

Owner shall indemnify and hold harmless iPCS from any and all costs (including, but not limited to reasonable attorney's fees and court costs) and claims of liability or loss which arise out of the use and/or occupancy of the site by iPCS due solely to acts of intentional misconduct by the Owner.

18. **Hazardous Substances** – Owner represents that it has no knowledge, nor should it have any knowledge, of any substance, chemical or waste (collectively, "Substance") on the site which is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. iPCS agrees not to introduce or use any Substance on the site in violation of any applicable law. Any chemicals of any kind, including solvents, cleaning solutions, paints and thinners or any chemical of any type not already present on the site, brought in by iPCS or its contractors or any person or company authorized by iPCS to be on the site shall be declared to the Owner in advance and the Material Safety Data Sheet (MSDS sheet) shall be furnished to the Owner prior to permission being given to iPCS by the Owner for use of the chemical on the site.

Owner reserves the right to introduce onto the site at any time any Substance as defined above, which in the opinion of the Owner is applicable to the treatment of potable water or as necessary to be used in the course of maintenance of the water tower or site. Such materials may be stored by Owner on the site. Owner shall furnish iPCS with MSDS sheets for any such Substance brought onto the site which iPCS personnel, its contractors or any person or company authorized by iPCS to be on the site may come into contact with during reasonable course of required activity on the site.

19. **Assignment** – This Lease may be freely assigned by iPCS provided that no assignment shall relieve iPCS of any of its obligations under this Lease, and provided further, that no assignee may use the water tower for other than a PCS communications system without the express written consent of the Owner. Upon such consent, any assignee assumes all applicable rights and obligations of this Lease.

Any assignee to which this Lease may be assigned without Owners consent shall be bound by all terms and conditions of this Lease, especially those terms regarding insurance, liability and safety in the use of the site.

20. **Condemnation** – If all or substantially all of Owner's property upon which the site is located is condemned by an authorized governmental or quasi-governmental authority, this Lease shall terminate upon the date of taking and each party shall have the right to maintain their own respective actions against the condemning authority for their respective damages and neither party shall have any interest in any award granted to the other. If a taking occurs, the rent shall be prorated to the date of the taking, and any excess prepaid rent shall be promptly repaid to iPCS.

21. **Termination** – iPCS shall have the right to terminate this Lease at any time if (i) iPCS cannot obtain all certificates, permits, licenses or other approvals (collectively, "Approvals") required from any governmental authority and/or easements required from any third party to operate its communications facility; (ii) such Approvals are canceled, expire, lapse, withdrawn or terminated; (iii) Owner fails to hold legal title to the property on which the site is located; (iv) Owner does not have the legal right to enter into this Lease; or (v) for any other reason, iPCS, in its sole discretion, determines that it will be unable to use the site for the use intended by this Lease. However, should iPCS elect to terminate this Lease for any of the above reasons, iPCS shall still be liable to Owner for any costs, charges or other fees which the Owner contracted for or has already paid out as required by any section of this Lease prior to the date Owner receives notification from iPCS of intent to terminate.

Owner may terminate this Lease if iPCS ceases operations at the site continuously for more than one (1) year. Owner may also terminate this Lease if iPCS reneges on any payments due the Owner, becomes 90 days in arrears on rent payments or other payments due Owner, threatens the water supply by its actions or those of its contractors, threatens the structural integrity of the water tower or installs or operates the Antenna Facility which in any way impedes the operation of the water tower or threatens the safety of water system personnel.

Upon termination of this Lease, iPCS shall remove all equipment including, but not limited to, antennae, cables, supports and electrical equipment. This shall be accomplished within a period of 60 calendar days upon termination. iPCS shall be liable, upon removal of equipment, for the cost of Owner to have engineer certify that removal of the equipment has not damaged the water tower or other or the Owner's facilities located on the site.

22. **Notices** – All notices shall be in writing and shall be sent by U.S. certified mail, return receipt requested, or by overnight express delivery to the address of the party set forth above or as otherwise directed in writing by such party or as provided under applicable state law. Notice is deemed as of the date of delivery as shown on the return receipt or on the date of delivery of an express delivery as evidenced by the signature of the receiving party.

If to Lessee:
iPCS Wireless
648 N. Chicago St.
Geneseo, IL 61254
Attn: Lease Management

With a copy to:

iPCS Wireless
4717 Broadmoor Ave. SE
Suite G
Kentwood, MI 49512
Attn: Lease Management

Re: Cell Site AW 310321; Cell Site Name: Fruitport WT

AND

If to Owners:
Muskegon County Department of Public Works
131 E. Apple Avenue, 4th Floor
Muskegon, MI 49442

23. **Compliance with Laws** – Owner represents that Owner's property (including, without limitation, the site) and all improvements thereto, are in compliance with all building life/safety, disability and other laws, codes and regulations of any governmental or quasi-governmental authority. iPCS agrees that, subject to Owner's compliance with the terms of this paragraph, any improvements constructed by iPCS on the site and all operations of iPCS within the site shall be in compliance with all applicable laws, codes and regulations.

24. **Miscellaneous** –

- A. Owner represents and warrants that Owner has full authority to enter into and sign this Lease.
- B. The terms and conditions of the Lease shall extend to and bind the heirs, personal representatives, successors and assigns of Owner and iPCS.
- C. The prevailing party in any action or proceeding in court to enforce the terms of this Lease shall be entitled to receive its reasonable attorney fees

and other reasonable enforcement costs and expenses from the non-prevailing party.

- D. This Lease shall be construed pursuant to the laws of the State of Michigan.
- E. This site Lease may not be amended or modified unless the Owner and iPCS consent in writing to the amendment or modification.
- F. This Lease contains all agreements, promises and understandings between Owner and iPCS. All exhibits are incorporated by reference.
- G. No signs may be installed on the site by iPCS with the exception of warning labels required on certain electrical equipment or other warning labels required by OSHA or MIOSHA regulations.

IN WITNESS WHEREOF, this Fruitport Township/City of Norton Shores water tank usage lease has been duly executed as of the dates set forth in the notarial acknowledgements below, to be effective for all purposes as of the date first above written.

WITNESS:

Joan Stark

Robert Paslucha

Herald A. Bantorget

Pat Westjohn

TOWNSHIP OF FRUITPORT

By: [Signature]

Date: 9/7/08

By: Carol Huebka

Date: 9-4-08

CITY OF NORTON SHORES

By: [Signature]

Date: 9/8/08

By: [Signature]

Date: 9-8-08

COUNTY OF MUSKEGON

Karen Fisher

Karen Fisher

John Warner

John K. Warner

John Moore

Kristin Dedmon

By: Louis McMurray
Louis McMurray

Date: 10-9-08

IPCS WIRELESS

By: David L. Zylka

David L. Zylka
~~Craig Kinley~~, Sr. VP of Engineering and
Operations

Date: 10/30/2008

EXHIBIT C

Copy of the Lease Agreement for MetroPCS Michigan, Inc.

T-Mobile

**SITE LEASE AGREEMENT
REGARDING THE USE OF THE
FRUITPORT WATER TANK**

- A. **Owners** – The Owners, for the purpose of this Lease, will be Township of Fruitport, City of Norton Shores and County of Muskegon. Owner's representative for all contact and access shall be Mr. Matt Farrar , Fruitport Public Works Director. Mr. Farrar may be contacted at (231) 865-3151 or faxed at (231) 865-3118.

- B. **Lessee** – The Lessee shall be **MetroPCS Michigan, Inc.** a Delaware Corporation, having a mailing address of 28505 Schoolcraft Rd, Building 6, Livonia, MI 48150, hereafter referred to as "MetroPCS". The Lessee's designated representative shall be Tom McMahon who can be contacted at (734) 444-0041 or faxed at (734)444-0503. The designated representative shall be the person authorized to request access to the Site and be the person contacted for communication purposes.

- C. **Communication** – Communication between the Owners and MetroPCS shall be performed through their respective representatives listed above. This will prevent unauthorized entrance to the Site and will minimize the chances for miscommunication between the parties.
 - 1. **Leased Site** –MetroPCS will be allowed a 240 square-foot-area (12 feet x 20 feet) outside of the tower base but close to it for the purpose of locating electrical cabinet and equipment including electrical service and telephone service.

 - 2. **Term** – The initial term ("**Initial Term**") of this Lease shall be for a period of five (5) years commencing on the date the Lease is executed on behalf of MetroPCS (the "**Commencement Date**").

 - 3. **Rental** – initial rent for use of the Site shall be **\$650.00/month per send and receive (pair) antenna** as per print submitted for the first year with a 3% increase per year for the remaining period of the Lease. Rent payment for each month shall be due on the fifth day of that month. Rental payments shall commence beginning with the month that the Antenna Facility is put into service. Rent payment for the first month shall be prorated for the amount of days the Antenna Facility is in service, and payment for the first month is due no later than one week after the Antenna Facility is placed into service. Rental payments received after the (5TH) fifth of the month shall be assessed a 10% penalty. Rental payments shall be sent to:

Muskegon County Department of Public Works
131 E. Apple Avenue, 4th floor
Muskegon, MI 49442

Rental payments shall be deposited in the Fruitport-Norton Shores regional Water Fund with Muskegon County.

The Muskegon County Department of Public Works should be contacted at the above address by the Lessee with any rental payment questions or concerns.

For any rental payment questions or concerns such as late payments Muskegon County Department of Public Works should contact:

<u>MetroPCS Michigan, Inc.</u>	Phone: 734-444-0100
<u>28505 Schoolcraft Rd. Bldg. 6</u>	Fax: 734-444-0503
<u>Livonia, MI 48150</u>	

4. **Renewal Option** – the term of this lease may be extended by MetroPCS for three additional five year periods provided that MetroPCS gives the Owner notice of its intention to extend the term of this lease at least ninety days prior to the expiration of the current term. Owner has the option of renegotiating terms of the lease for each extension beyond the original lease period. Lease period shall be extended only with Owner approval. Owner approval shall not be unreasonably withheld such that MetroPCS' service would be disrupted. Monetary compensation for use of the facilities shall remain as stated in paragraph #3 of this lease unless one of the following occur:
 - A. Number of antennae or appurtenances on tower has increased during previous lease period or type of antennae or appurtenances has changed.
 - B. Rate of inflation during the final two years of the previous lease period has averaged an increase equal to or greater than 3 percent.
5. **Possession** – MetroPCS shall be allowed use of the Site beginning on the Commencement Date.
6. **Use of Premises** –
 - A. MetroPCS may use the property for the installation, operation and maintenance of its Antenna Facilities for the transmission, reception and operation of a communications system and uses incidental thereto in accordance with the terms of this lease, and for the storage of related equipment provided that such equipment be contained within the ground area provided for in section 1 of this agreement. The Owner may permit others to use portions of the water tower. MetroPCS' installation of all such antenna facilities shall be done according to the plans and specifications approved by the Owner. Plans and specifications for any installation or maintenance of a structural nature shall be reviewed by the Owner's engineer. Owner's engineer shall be selected by the Owner and paid for by MetroPCS for work associated with the review of plans and inspection of work performed on the MetroPCS system. MetroPCS

shall be strictly liable for any contamination caused to the water in the tower or damage done to the water tower and/or the site during installation and/or during operations by MetroPCS or any of its contractors or suppliers. Any contamination caused to the water in the tower or in the system by MetroPCS or any of its subcontractors or employees shall be remedied by the Owner at the sole cost of MetroPCS. Any event which may be the cause of a contamination problem shall be reported to the Owner immediately upon its occurrence. Any damage caused to the tank or the site during installation or operations of the Antenna Facility shall be repaired or replaced at the Owner's discretion and at the expense of MetroPCS to the Owner's sole satisfaction.

- B. MetroPCS shall, at its expense, comply with all present and future federal, state and local laws, ordinances, rules and regulations (including, but not limited to, laws relating to health, radio frequency emissions, other radiation, safety, OSHA and MIOSHA), where applicable, in connection with the use, operation, construction, maintenance and/or installation of the Antenna Facilities and/or premises. Owner agrees to reasonably cooperate with MetroPCS in obtaining any federal licenses and permits required for or substantially required by MetroPCS' use of the premises and all costs incurred by the Owner to aid MetroPCS shall be reimbursed by MetroPCS to the Owner, including postage, shipping, labor, costs of reproduction or any other costs which can be attributed to the securing of the permits.
- C. Upon termination of this lease, if requested by the Owner to do so, MetroPCS shall remove the Antenna Facilities and all supporting structures and related hardware and equipment which are not shared or used by another user of the water tower. Such removal shall be in a workmanlike and careful manner and without interference or damage to the water tower, the water in the tower or system, or any other equipment, structures or operations on the site, including use of the site by the Owner or any of the Owner's assignees or lessees. Removal shall be completed within 30 calendar days of the day MetroPCS receives the notification to remove the antenna facilities. Owner's engineer shall observe all removal and shall inspect for damage, the Owner's site, water tower and all other facilities associated with MetroPCS' use of the water tank. Engineer shall make a report to the Owner of any damage and recommended repairs. Repairs shall be made by the Owner or a contractor hired by the Owner, and all costs of repairs and the costs of the engineer shall be paid for by MetroPCS.
- D. The Owner reserves the right to install additional bracketing material or similar structural supports to allow for the co-location of other lessees' antenna or similar radiating or broadcasting equipment. The Owner agrees that, should the Owner desire to allow co-location on its water tower, reasonable and necessary assurances will be made to MetroPCS

that such co-location will not cause harm to MetroPCS' antenna or radiating equipment.

- E. Permission shall be secured from the Owner any time that MetroPCS personnel or personnel of any contractor or supplier employed by MetroPCS desires to enter the tank structure. MetroPCS may place their own padlock in tandem with Fruitport Township's lock on the gates to the site, thereby allowing MetroPCS or its designated personnel 24 hour per day/7 day per week access to the site. Should emergency access to the tower structure be required, the following contact persons/numbers shall be used:

1. Matthew Farrar	(231) 865-3158	work
	(231) 865-7667	home
	(231) 339-0662	pager
2. Dale Hilliard	(231) 865-3158	work
	(231) 788-2396	home
	(231) 339-0774	pager

- 7. **Antenna Replacement** – MetroPCS may update or replace the Antenna Facilities from time to time with the prior written approval of the Owner, provided that the replacement facilities are not greater in number or size than the existing facilities and that any change in their location on the tower is satisfactory to the Owner. Owner shall have a period of 90 days to grant approval, during which time, Owner may employ an engineer to review plans and specifications for MetroPCS' proposed modifications. Engineer shall also inspect tank and site prior to installation of modifications, perform inspection of the installation of the modifications and perform an inspection after installation of the modifications and submit a report to the Owner. Engineer services shall be secured by the Owner and paid for by MetroPCS.

8. **Maintenance** –

- A. MetroPCS shall, at its own expense, maintain any antenna facilities on or attached to the premises in a safe condition, in good repair and in a manner suitable to the Owner so as not to conflict with the use of, or other leasing of the tower by the Owner. In carrying out its maintenance responsibilities, MetroPCS shall not in any way interfere with the use or operations of the water tower, the premises, related facilities and/or any other property or equipment owned by other tenants or the Owner.
- B. MetroPCS shall have sole responsibility for the maintenance, repair and security of its equipment, personal property, Antenna Facilities and leasehold improvements and shall keep the same in good repair and condition for the life of this Lease.

C. MetroPCS shall keep the premises free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or interference.

9. **Utilities** – Owner agrees to cooperate with MetroPCS in MetroPCS' efforts to obtain electric and other utilities from any location provided by the servicing utility. MetroPCS shall contract directly with the necessary utility companies to provide service to MetroPCS' facilities. Accounts shall be in the name of MetroPCS and shall in no way involve the Owner. All charges for monthly service, installation or de-installation costs shall be the sole responsibility of MetroPCS and shall be billed directly to MetroPCS by the utility. Owner shall provide an acceptable easement for utilities to run their lines from the property line to MetroPCS' facilities.
10. **Taxes** – MetroPCS shall be responsible for paying all personal property taxes assessed directly upon and arising solely from its own use of the Antenna Facilities on the site during the term of this lease.
11. **Use of Technicians/Inspectors** – Notwithstanding anything contained herein to the contrary, in order to protect the health, welfare and safety of its residents, the Owner shall have the right to have a technician and/or inspector witness all work done at the site by MetroPCS or its contractors. Accordingly, MetroPCS shall give the Owner advanced notice of all non-emergency work to be performed on the site. For emergency work, MetroPCS shall give the Owner as much advanced notice as reasonably practicable. In any case MetroPCS shall obtain keys to the facility from the Owner each time access is required and shall promptly return keys to the Owner upon completion of the work.
12. **Interference** – MetroPCS' installation, operation and maintenance of its transmission facilities shall not damage or interfere in any way with the Owner's water tower operations including repairs or maintenance to the water tower or with the activities of any other tenants of the water tower. Owner, at all times during the life of this lease, reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter or improve the premises in connection with the water tower operations as may be necessary, including leasing parts of the water tower and surrounding ground space to others.

If the Owner receives a request for co-location on the water tower from any third-party, it shall submit a proposal complete with all technical specifications reasonably requested by ----- to MetroPCS for review for non-interference; however, Owner shall not be required to provide MetroPCS with any specifications or information claimed to be of a proprietary nature by the third party. The third party shall be responsible for preparing technical specifications for its proposed transmission facility. MetroPCS shall have thirty (30) calendar days following receipt of said proposal to make any objections thereto, and failure to make any objection within said thirty (30) day period shall be deemed consent by MetroPCS to the installation of antennae or transmission facilities pursuant to said proposal. If MetroPCS gives notice of objection due to interference during such

thirty(30) day period and MetroPCS' objections are verified by the Owner to be valid, then the Owner shall not proceed with the proposal. MetroPCS shall furnish the Owner with all required technical specifications reasonably requested in order that Owner may be able to verify any objection raised by MetroPCS. Failure or refusal on the part of MetroPCS to provide the required technical specifications within a reasonable time as set forth at the time of Owner's request, shall render MetroPCS' objection void and Owner may proceed with third party leasing.

13. **Insurance** – MetroPCS shall maintain, at its sole expense during the Term of this Lease commercial general liability insurance insuring MetroPCS against liability for personal injury, death or damage to personal property arising out of the use of the site by MetroPCS. Such insurances shall be in the amount not less than \$1,000,000.00 (\$1 million) per occurrence for each personal injury, death and property damage; MetroPCS shall carry an excess umbrella liability policy in the amount not less than \$2,000,000.00 (\$2 million), which shall not exclude the payment of all costs incurred to remedy a contamination event to the public water system caused by MetroPCS or any of its contractors or suppliers per occurrence. MetroPCS shall carry all proper insurances, and in amounts as prescribed by law, on its employees and contractors including, but not limited to, unemployment and workers compensation insurance. MetroPCS shall provide the Owner with valid certificates of all required insurances and in the required amounts, prior to being allowed to enter the site. Insurance carrier's certificate shall show evidence that it has insured MetroPCS for all liabilities under this Lease and that it will not cancel nor change any policy of insurance issued to MetroPCS except for after thirty (30) days notice in writing has been supplied to the Owner. Owner(s) shall be added to the policy as additional insured. The fact that MetroPCS is required to furnish insurance in accordance with this paragraph or the fact that such insurance is furnished does not and shall not relieve MetroPCS from its obligations to Owner under the provisions of Paragraph 17 of this Lease for any deficiency, amount of which MetroPCS is responsible to the Owner. Owner shall insure the property and building of which the site is part thereof, as the case may be, against loss or damage under a policy or policies of fire and extended coverage. All of Owner's and MetroPCS' policies of insurance shall include a standard waiver of subrogation clause or endorsement. Owner and MetroPCS each hereby waive all right of recovery against the other for losses covered by insurance.

All contractors employed by MetroPCS and all subcontractors or any persons authorized by MetroPCS to enter the site shall furnish to Owner, prior to Owner's permission to enter the site, certificates made out to Owner evidencing insurances in the same amounts as those required by MetroPCS and under the same terms and conditions above required for MetroPCS' insurance. Owner(s) shall be named insured on each of these policies. Alternatively, MetroPCS may cover each or any of their contractors or suppliers on MetroPCS' insurance policy, all limits to be the same as MetroPCS' own coverage. Certificates showing covered contractors or suppliers as additional insured shall be forwarded to the Owner(s) prior to such contractors or suppliers being allowed to enter the site.

14. **MetroPCS' Property** – All Antenna Facilities installed by MetroPCS at the site shall remain the property of MetroPCS and shall not be subject to any lien or encumbrance of Owner or any third party acting pursuant to an agreement with the Owner.

15. **Damage to Owner's Facilities** – MetroPCS shall exercise all necessary precautions to avoid damage to the water tower, including contamination caused to the water supply and subject to the waivers contained in this Lease, hereby assumes all responsibility for any and all loss or damage to such facilities caused by MetroPCS or any person or company authorized by MetroPCS to perform work of any kind on the site. MetroPCS shall report any damage caused by MetroPCS, or any person or company authorized by MetroPCS to work on the site, to the Owner immediately. MetroPCS shall reimburse Owner for all costs of repairs including the costs for any required engineering and the costs for inspection of the damage before repair and after repair by the engineer and a report by the engineer to the Owner certifying that all repairs have been made properly.

16. **Water Tower Maintenance** – The Owner shall maintain in good order and repair the water tower so that it will adequately support all of MetroPCS' Antenna Facilities. Owner shall not be responsible for making any structural changes to the water tower to facilitate the placement of MetroPCS' Antenna Facilities, nor for making any modifications to the water tower to facilitate any changes of or modifications to MetroPCS' Antenna Facilities.

When maintenance to the outside coating on the water tower is required, MetroPCS shall do one of the following two options: MetroPCS shall, at MetroPCS' sole expense, temporarily relocate their antennae on a separate tower to be temporarily erected by MetroPCS adjacent to the water tower, same to be removed immediately upon completion of water tower maintenance and site restored to original conditions, **OR**, MetroPCS shall pay to Owner, in one lump sum payment, at the time the maintenance is performed, the difference in cost between what the maintenance operations would cost the Owner with the antennae and without the antennae on the water tower. Contractor to perform the maintenance shall be of the Owner's choosing. Owner shall provide MetroPCS with copies of the quotation for maintenance both with MetroPCS' equipment located on the water tower and without MetroPCS' equipment located on the water tower.

Owner shall not make any guarantee to MetroPCS that service will remain completely uninterrupted. Should it become necessary, for the safety of the water, the water system or the water tank, to perform an operation which requires the disconnection of the Antenna Facilities, Owner shall make a disconnection of the Antenna Facilities. Owner will notify MetroPCS as soon as practicably possible of such disconnection and shall take reasonable care in the handling of the equipment to avoid damage to the extent reasonably possible. Owner shall not disrupt MetroPCS' service except in cases of extreme emergency, as defined by Owner at time of incident, including, but not necessarily limited to, threats to public health, imminent structural failure, threats to the water system in general or rescue operations. Owner shall give MetroPCS as much advanced notice of the intent to disrupt service as

reasonably possible prior to commencing the disruption. MetroPCS shall be allowed, if time allows under the circumstances, to make such disconnections or to witness the disconnection.

17. **Indemnity** – MetroPCS agrees to indemnify, defend, and save harmless the Owner, its agents and employees, from and against all loss or expense (including costs and attorney fees) by reason of liability imposed by law upon the Owner for damages because of bodily injury, including death at any time resulting there from, sustained by any person or persons or on account of damage to property, including loss of use thereof, arising out of or in the consequence of the use of the site, whether such injuries to person or damage to property is due to the negligence of MetroPCS, its contractors or any person or company authorized by MetroPCS to be on the site or the Owner. This indemnity shall extend to any liability of loss arising from contamination of the water system or the site or the environment as provided for in Paragraph 18 below. This indemnity shall not apply to intentional misconduct by the Owner.

Owner shall indemnify and hold harmless - MetroPCS from any and all costs (including, but not limited to reasonable attorney's fees and court costs) and claims of liability or loss which arise out of the use and/or occupancy of the site by MetroPCS due solely to acts of intentional misconduct by the Owner.

18. **Hazardous Substances** – Owner represents that it has no knowledge, nor should it have any knowledge, of any substance, chemical or waste (collectively, "Substance") on the site which is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. MetroPCS agrees not to introduce or use any Substance on the site in violation of any applicable law. Any chemicals of any kind, including solvents, cleaning solutions, paints and thinners or any chemical of any type not already present on the site, brought in by MetroPCS or its contractors or any person or company authorized by MetroPCS to be on the site shall be declared to the Owner in advance and the Material Safety Data Sheet (MSDS sheet) shall be furnished to the Owner prior to permission being given to MetroPCS by the Owner for use of the chemical on the site.

Owner reserves the right to introduce onto the site at any time any Substance as defined above, which in the opinion of the Owner is applicable to the treatment of potable water or as necessary to be used in the course of maintenance of the water tower or site. Such materials may be stored by Owner on the site. Owner shall furnish MetroPCS with MSDS sheets for any such Substance brought onto the site which MetroPCS personnel, its contractors or any person or company authorized by MetroPCS to be on the site may come into contact with during reasonable course of required activity on the site.

19. **Assignment** – This Lease may be freely assigned by MetroPCS provided that no assignment shall relieve MetroPCS of any of its obligations under this Lease, and provided further, that no assignee may use the water tower for other than a PCS communications system without the express written consent of the Owner. Upon

such consent, any assignee assumes all applicable rights and obligations of this Lease. Any assignee to which this Lease may be assigned without Owners consent shall be bound by all terms and conditions of this Lease, especially those terms regarding insurance, liability and safety in the use of the site.

20. **Condemnation** – If all or substantially all of Owner's property upon which the site is located is condemned by an authorized governmental or quasi-governmental authority, this Lease shall terminate upon the date of taking and each party shall have the right to maintain their own respective actions against the condemning authority for their respective damages and neither party shall have any interest in any award granted to the other. If a taking occurs, the rent shall be prorated to the date of the taking, and any excess prepaid rent shall be promptly repaid to MetroPCS.

21. **Termination** – MetroPCS shall have the right to terminate this Lease at any time if (i) MetroPCS cannot obtain all certificates, permits, licenses or other approvals (collectively, "Approvals") required from any governmental authority and/or easements required from any third party to operate its communications facility; (ii) such Approvals are canceled, expire, lapse, withdrawn or terminated; (iii) Owner fails to hold legal title to the property on which the site is located; (iv) Owner does not have the legal right to enter into this Lease; or (v) for any other reason, MetroPCS, in its sole discretion, determines that it will be unable to use the site for the use intended by this Lease. However, should MetroPCS elect to terminate this Lease for any of the above reasons, MetroPCS shall still be liable to Owner for any costs, charges or other fees which the Owner contracted for or has already paid out as required by any section of this Lease prior to the date Owner receives notification from MetroPCS of intent to terminate.

Owner may terminate this Lease if MetroPCS ceases operations at the site continuously for more than one (1) year. Owner may also terminate this Lease if MetroPCS reneges on any payments due the Owner, becomes 90 days in arrears on rent payments or other payments due Owner, threatens the water supply by its actions or those of its contractors, threatens the structural integrity of the water tower or installs or operates the Antenna Facility which in any way impedes the operation of the water tower or threatens the safety of water system personnel.

Upon termination of this Lease, MetroPCS shall remove all equipment including, but not limited to, antennae, cables, supports and electrical equipment. This shall be accomplished within a period of 60 calendar days upon termination. MetroPCS shall be liable, upon removal of equipment, for the cost of Owner to have engineer certify that removal of the equipment has not damaged the water tower or other or the Owner's facilities located on the site.

22. **Notices** – All notices shall be in writing and shall be sent by U.S. certified mail, return receipt requested, or by overnight express delivery to the address of the party set forth above or as otherwise directed in writing by such party or as provided under applicable state law. Notice is deemed as of the date of delivery as shown on the

return receipt of on the date of delivery of an express delivery as evidenced by the signature of the receiving party.

If to Lessee:

MetroPCS Texas, LLC
2250 Lakeside Blvd.
Richardson, TX 75082
Attn: Property Manager
Cell Site: MUS2830C Site Name: Fruitport WT

With a copy to:

MetroPCS Michigan, Inc
28505 Schoolcraft Rd Bldg 6
Livonia, MI 48150

AND

If to Owners:

Muskegon County Department of Public Works
131 E. Apple Avenue, 4th Floor
Muskegon, MI 49442

23. **Compliance with Laws** – Owner represents that Owner's property (including, without limitation, the site) and all improvements thereto, are in compliance with all building life/safety, disability and other laws, codes and regulations of any governmental or quasi-governmental authority. MetroPCS agrees that, subject to Owner's compliance with the terms of this paragraph, any improvements constructed by MetroPCS on the site and all operations of MetroPCS within the site shall be in compliance with all applicable laws, codes and regulations.

24. **Miscellaneous** –

- A. Owner represents and warrants that Owner has full authority to enter into and sign this Lease.
- B. The terms and conditions of the Lease shall extend to and bind the heirs, personal representatives, successors and assigns of Owner and MetroPCS.
- C. The prevailing party in any action or proceeding in court to enforce the terms of this Lease shall be entitled to receive its reasonable attorney fees and other reasonable enforcement costs and expenses from the non-prevailing party.
- D. This Lease shall be construed pursuant to the laws of the State of Michigan.
- E. This site Lease may not be amended or modified unless the Owner and MetroPCS consent in writing to the amendment or modification.

- F. This Lease contains all agreements, promises and understandings between Owner and MetroPCS. All exhibits are incorporated by reference.
- G. No signs may be installed on the site by MetroPCS with the exception of warning labels required on certain electrical equipment or other warning labels required by OSHA or MIOSHA regulations.

IN WITNESS WHEREOF, this Fruitport Township/City of Norton Shores water tank usage lease has been duly executed as of the dates set forth in the notarial acknowledgements below, to be effective for all purposes as of the date first above written.

WITNESS:

~~Sharon K. Lordani~~
Patricia M. Nichols

~~Sharon K. Lordani~~
Patricia M. Nichols

M. O. Stebitz
Susan McShannock
M. O. Stebitz
Susan McShannock

Karen Fisher
DeWanna

Kim Stude

TOWNSHIP OF FRUITPORT

By: ~~_____~~

Date: 6/9/09

By: Carol Huebka

Date: 6-9-09

CITY OF NORTON SHORES

By: Henry Waldo

Date: 6/2/09

By: Oprie Fuller

Date: 6/2/09

COUNTY OF MUSKEGON

By: Marne Lyle

Date: 11 JUNE 2009

By: _____

Date: _____

METROPCS MICHIGAN, INC.

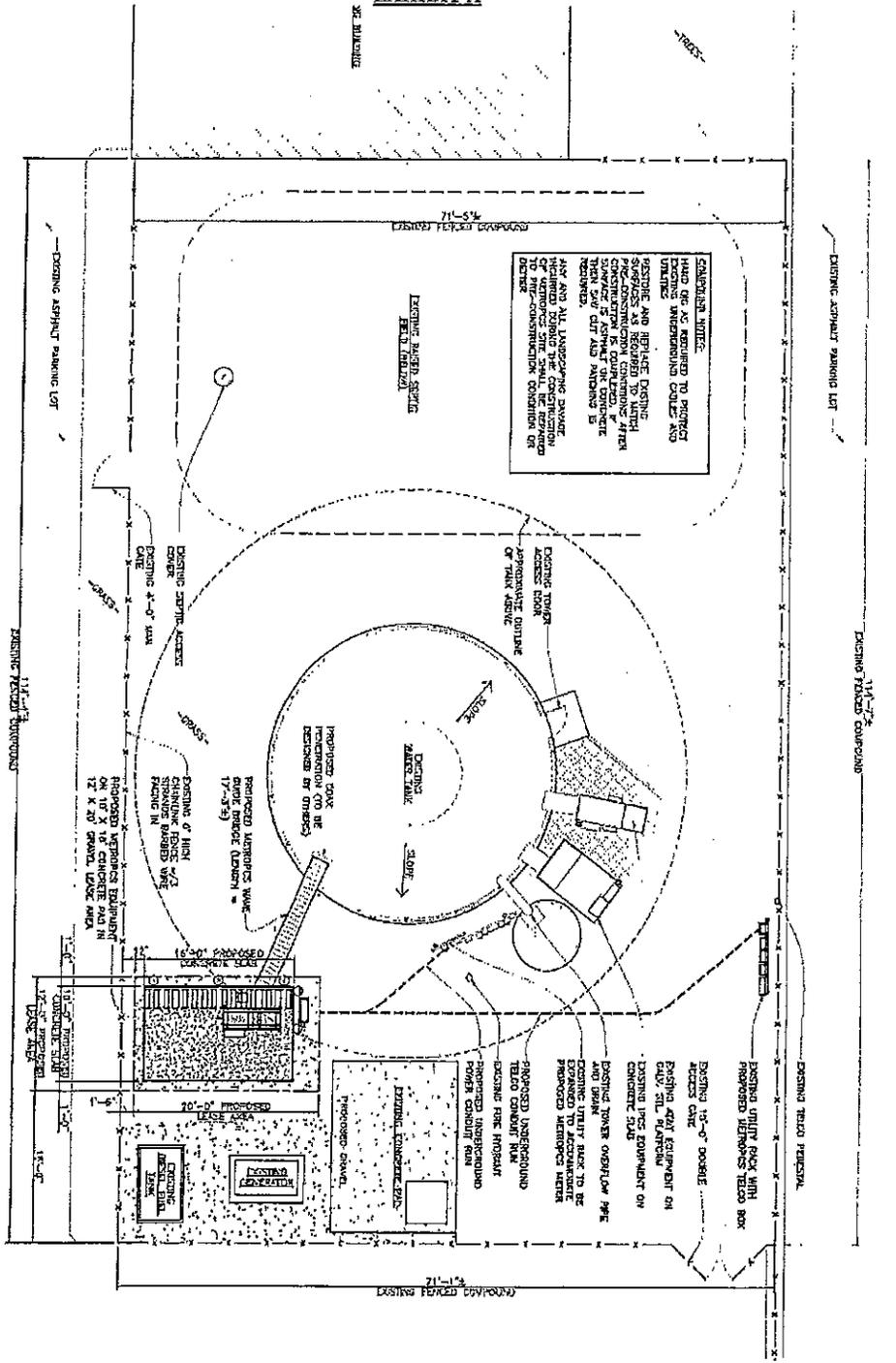
By: ~~_____~~

Date: 5-14-09

Glen W. Flowers
VP & General Manager

EXHIBIT A

1 ENLARGED PARTIAL SITE PLAN



CONSTRUCTION NOTES:
 HARD OR SO REQUIRED TO PROTECT EXISTING UNDERGROUND CABLES AND UTILITIES.
 EXISTING AND REPAIRED EXISTING PAVED DRIVEWAY IS TO BE REPAIRED AFTER CONSTRUCTION IS COMPLETED. THE EXISTING DRIVEWAY SHALL BE REPAIRED THEN CUT AND PATCHED AS REQUIRED.
 ALL AND ALL LANDSCAPING SWAGE REQUIRED DURING THE CONSTRUCTION TO THE CONSTRUCTION COMPLETION OF THE CONSTRUCTION COMPLETION OF THE DRIVEWAY.

0' 2'-0" 5'-0" 10'-0" 15'

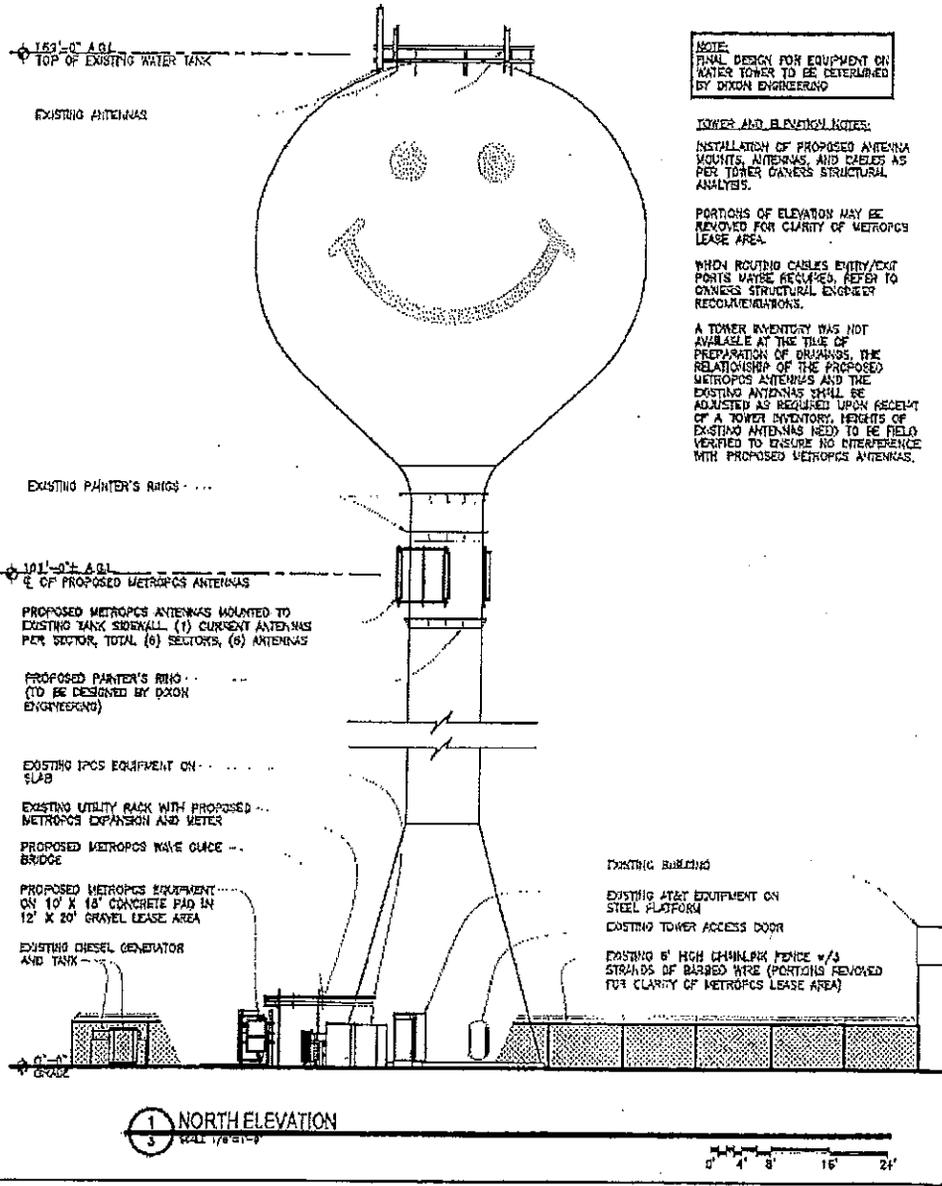


EXHIBIT D

The City's Authorizing Resolutions

EXHIBIT D
CITY OF NORTON SHORES

RESOLUTION

WHEREAS, the West Michigan Regional Water Authority (the "Authority") was formed by the City of Norton Shores (the "City") and Fruitport Charter Township (the "Township") in January 2014 for the purpose of financing, issuing bonds for, improving, constructing, contracting for, and operating public water improvements and services;

WHEREAS, as part of their statutorily prescribed powers, the City and the Township participated in bond financing with the County of Muskegon (the "County") to cover the costs of various project components and construction related to the joint water supply system operated by the City and the Township, which bonds are set to be repaid in full as of May 1, 2020;

WHEREAS, following the retirement of the bond financing referenced above, the City, the Township, and the County have agreed to transfer, convey, and assign all of their rights, title, interests, and obligations in, to, and under the related water supply infrastructure and certain lease agreements for cellular telephone antennas attached to such water supply infrastructure to the Authority, and the Authority has agreed to accept such assignment and assume all of the rights and obligations;

WHEREAS, the City, the Township, the County, and the Authority have memorialized the terms and conditions of the assignment to and assumption by the Authority of the rights and obligations referenced above in the proposed Assignment and Assumption Agreement to which this Resolution is attached as *Exhibit D* (the "Agreement"); and

WHEREAS, the Council of the City is being asked to authorize and approve the execution of the Agreement.

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

1. The Council of the City adopts and approves the Agreement to which this Resolution is attached as *Exhibit D* in all respects.
2. Mayor Nelund is authorized to sign the Agreement on behalf of the City and take any and all other necessary action to put the Agreement into full force and effect.
3. All resolutions in conflict in whole or in part are revoked to the extent of such conflict.

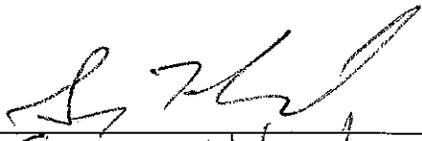
Draft Date
01/02/20

YES: 8

NO: 0

RESOLUTION DECLARED ADOPTED.

Dated: 02/04/2020

/s/ 
By: Gary L. Nelson
Its: Mayor

RESOLUTION

WHEREAS, an Assignment and Assumption agreement has been prepared to release interest in the regional system to the WMRWA, and

NOW, THEREFORE, BE IT RESOLVED that the Mayor is authorized to sign the agreement and resolution in Exhibit D on behalf of the City.

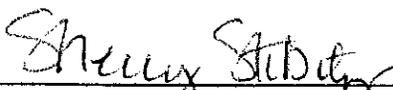
At a regular meeting of the City Council of the City of Norton Shores, held at the Norton Shores Branch Library, 705 Seminole Road, on the 4th day of February, 2020, the foregoing resolution was moved for adoption by Council Member Jurkas. The motion was supported by Council Member Moulatsiotis.

Ayes: Council Members Beecham, Flanders, Hylland, Jurkas, Morgenstern, Moulatsiotis, Olson and Mayor Nelund

Nays: None

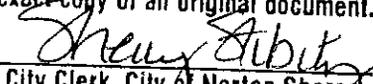
Absent: Council Member Sladick

Resolution declared adopted.



Shelly Stibitz, City Clerk

I hereby certify this to be a true and exact copy of an original document.



City Clerk, City of Norton Shores

EXHIBIT E

The Township's Authorizing Resolutions

EXHIBIT F

The County's Authorizing Resolutions

EXHIBIT G

The Authority's Authorizing Resolutions

EXHIBIT G
WEST MICHIGAN REGIONAL WATER AUTHORITY

RESOLUTION

WHEREAS, the West Michigan Regional Water Authority (the "Authority") was formed by the City of Norton Shores (the "City") and Fruitport Charter Township (the "Township") in January 2014 for the purpose of financing, issuing bonds for, improving, constructing, contracting for, and operating public water improvements and services;

WHEREAS, as part of their statutorily prescribed powers, the City and the Township participated in bond financing with the County of Muskegon (the "County") to cover the costs of various project components and construction related to the joint water supply system operated by the City and the Township, which bonds are set to be repaid in full as of May 1, 2020;

WHEREAS, following the retirement of the bond financing referenced above, the City, the Township, and the County have agreed to transfer, convey, and assign all of their rights, title, interests, and obligations in, to, and under the related water supply infrastructure and certain lease agreements for cellular telephone antennas attached to such water supply infrastructure to the Authority, and the Authority has agreed to accept such assignment and assume all of the rights and obligations;

WHEREAS, the City, the Township, the County, and the Authority have memorialized the terms and conditions of the assignment to and assumption by the Authority of the rights and obligations referenced above in the proposed Assignment and Assumption Agreement to which this Resolution is attached as *Exhibit G* (the "Agreement"); and

WHEREAS, the Board of the Authority is being asked to authorize and approve the execution of the Agreement.

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

1. The Board of the Authority adopts and approves the Agreement to which this Resolution is attached as *Exhibit G* in all respects.
2. _____ is authorized to sign the Agreement on behalf of the Authority and take any and all other necessary action to put the Agreement into full force and effect.
3. All resolutions in conflict in whole or in part are revoked to the extent of such conflict.

Draft Date
01/02/20

EXHIBIT H

List of Material Liabilities

There are no such material liabilities.

**FY – 2021
BUDGET**

**WEST MICHIGAN REGIONAL WATER AUTHORITY
BUDGET**

FY-2020 - APPROVED (July '19 - June '20)		FY-2020 REVISED	FY-2021 PROPOSED	
Revenues				
1	Water Sales **	\$3,094,000.00	\$2,873,000.00	\$3,226,500.00
2	Adjustment to Water Sales	\$0.00	\$293,776.00	\$0.00
3	Rate Smoothing **	\$518,000.00	\$481,000.00	\$283,500.00
4	Cell Antenna Lease Revenue	\$0.00	\$10,126.00	\$125,162.00
5	Interest Income	\$500.00	\$200.00	\$300.00
	Total Revenues	\$3,612,500.00	\$3,658,102.00	\$3,635,462.00
Expenses				
1	Combined Gas & Electricity for Booster Station, Towers, Master Meters	\$7,800.00	\$7,200.00	\$7,400.00
2	Master Meter Testing	\$1,200.00	\$1,200.00	\$1,200.00
3	Combined Supplies & Materials for Booster Station, Towers, Master Meter maintenance	\$3,000.00	\$3,000.00	\$3,000.00
4	Special Projects FY-19 Altitude Valve, check valve if needed, SCADA; Miscellaneous - throttle valve FY-20 Smiley Tank Wash, Miscellaneous	\$20,000.00	\$85,000.00	\$100,000.00
5	Emergency Repair	\$15,000.00	\$65,000.00	\$25,000.00
6	Misc	\$3,000.00	\$3,000.00	\$3,000.00
7	Auditing	\$4,000.00	\$4,025.00	\$4,200.00
8	Insurance	\$9,800.00	\$10,224.00	\$10,500.00
9	Bond Payment Interest 10-1-19 (2020) Principal 4-1-20 (2020) Interest 4-1-20 (2020) Paying Agent	\$259,500.00 \$400,000.00 \$259,500.00 \$500.00	\$259,500.00 \$400,000.00 \$259,500.00 \$500.00	\$251,500.00 \$400,000.00 \$251,500.00 \$500.00
10	Water Purchases at calculated rate	\$2,366,000.00	\$2,023,706.00	\$2,223,000.00
10a	Water Rate adjustment per contract	\$0.00	\$293,776.00	\$0.00
11	Legal	\$2,500.00	\$5,500.00	\$3,000.00
12	Capital Contribution to FB	-\$94,300.00	-\$136,433.00	-\$1,891.00
13	Depreciation *	\$355,000.00	\$353,553.00	\$353,553.00
	Total	\$3,612,500.00	\$3,638,251.00	\$3,635,462.00

Billable Gallons	1,400,000	1,300,000	1,350,000
Rate per 1,000 gallons	\$2.58	\$2.80	\$2.69

* CAPITAL IMPROVEMENT PROJECTS
FY-2019/20 Broadway, Getty to Bailey Water Main \$337,000
FY-2020/21 Seminole, Henry to Park Water Main \$160,000

** \$0.17/1,000 gallons will be added to the Muskegon's rate calculated without the Capital Improvement component to cover major Capital Imps from 2019 to 2024. This addition will be for 15 years or until 2034

BROADWAY PHASE II WATER COSTS

Project: Broadway Reconstruction, Phase 2

Federal % = 42%

Pay Item	Payment Request	Total Items	Total Cost	IMDOT Quantity	% Cos Share	MDOT Share	Local Share
10 Mobilization, Max \$167,600	\$ 63,475.00	1.00	\$ 63,475.00	\$ 63,475.00	42%	\$ 26,900.71	\$ 36,574.29
570 Barricade, Type III, High Intensity, Double Sided, Lighted, Furn	\$ 76.40	25.00	\$ 1,910.00	\$ 1,910.00	42%	\$ 809.46	\$ 1,100.54
580 Barricade, Type III, High Intensity, Double Sided, Lighted, Oper	\$ 5.45	25.00	\$ 136.25	\$ 136.25	42%	\$ 57.74	\$ 78.51
590 Pedestrian Type II Barricade, Temp	\$ 81.90	22.00	\$ 1,801.80	\$ 1,801.80	42%	\$ 763.60	\$ 1,038.20
600 Minor Traf Devices	\$ 14,820.00	1.00	\$ 14,820.00	\$ 14,820.00	42%	\$ 6,280.72	\$ 8,539.28
620 Plastic Drum, High Intensity, Furn	\$ 20.70	90.00	\$ 1,863.00	\$ 1,863.00	42%	\$ 789.54	\$ 1,073.46
630 Plastic Drum, High Intensity, Oper	\$ 1.10	90.00	\$ 99.00	\$ 99.00	42%	\$ 41.96	\$ 57.04
640 Sign, Type B, Temp, Prismatic, Furn	\$ 4.35	517.00	\$ 2,248.95	\$ 2,248.95	42%	\$ 953.11	\$ 1,295.84
650 Sign, Type B, Temp, Prismatic, Oper	\$ 1.10	517.00	\$ 568.70	\$ 568.70	42%	\$ 241.02	\$ 327.68
660 Sign, Type B, Temp, Prismatic, Special, Furn	\$ 8.75	80.00	\$ 700.00	\$ 700.00	42%	\$ 296.66	\$ 403.34
670 Sign, Type B, Temp, Prismatic, Special, Oper	\$ 1.10	88.00	\$ 88.00	\$ 88.00	42%	\$ 37.29	\$ 50.71
740 Gate Valve and Box, 16 inch	\$ 7,527.00	7.00	\$ 52,689.00	\$ 52,689.00	42%	\$ -	\$ 52,689.00
790 Water Main, D/I, 16 inch, Tr Det G	\$ 96.10	2,375.00	\$ 228,237.50	\$ 228,237.50	42%	\$ -	\$ 228,237.50
870 Water Main, Cross, 16 inch x 16 inch x 12 inch x 12 inch	\$ 3,232.00	1.00	\$ 3,232.00	\$ 3,232.00	42%	\$ -	\$ 3,232.00
880 Water Main, Cross, 16 inch x 16 inch x 8 inch x 8 inch	\$ 2,389.00	1.00	\$ 2,389.00	\$ 2,389.00	42%	\$ -	\$ 2,389.00
900 Water Main, Reducer, 16 inch x 12 inch	\$ 1,275.00	1.00	\$ 1,275.00	\$ 1,275.00	42%	\$ -	\$ 1,275.00
930 Water Main, Sleeve, 16 inch	\$ 1,866.00	2.00	\$ 3,732.00	\$ 3,732.00	42%	\$ -	\$ 3,732.00
960 Water Main, Tee, 16 inch x 16 inch x 16 inch	\$ 2,687.00	1.00	\$ 2,687.00	\$ 2,687.00	42%	\$ -	\$ 2,687.00
970 Water Main, Tee, 16 inch x 16 inch x 6 inch	\$ 1,896.00	1.00	\$ 1,896.00	\$ 1,896.00	42%	\$ -	\$ 1,896.00
980 Water Main, Tee, 16 inch x 16 inch x 8 inch	\$ 1,985.00	5.00	\$ 9,925.00	\$ 9,925.00	42%	\$ -	\$ 9,925.00
1000 Water Main Tee, 16 inch x 16 inch x 12 inch	\$ 2,500.00	1.00	\$ 2,500.00	\$ 2,500.00	42%	\$ 1,059.50	\$ 1,440.50
Engineering	\$ 118,221.00	1.00	\$ 118,221.00	\$ 118,221.00	42%	\$ 50,102.07	\$ 68,118.93
Permits	\$ 225.00	1.00	\$ 225.00	\$ 225.00	42%	\$ 95.36	\$ 129.64
Totals	\$ 1,560,571.55	\$ 1,087,209.25	\$ 1,087,209.25	\$ 1,087,209.25	42%	\$ 460,759.34	\$ 1,099,812.21

Total Contract= \$ 1,675,407.05
 Federal Part= \$ 1,179,801.65
 Total Grant= \$ 500,000.00
 Federal % = 42%
 Difference (Check) \$ 122,930.97

Original Contract:	\$ 1,675,407.05
Contract Mods	\$ -
Adjust Contract:	\$ 1,675,407.05
Payment #1	\$ 219,325.32
Payment #2	\$ 79,582.20
Payment #3	\$ 30,474.40
Payment #4	\$ 224,193.45
Payment #5	\$ 111,853.50
Payment #6	\$ 611,797.30
Payment #7	\$ 108,437.78
Payment #8	\$ 30,388.05
Payment #9	\$ 111,187.08
Payment #10	\$ (111,187.08)
Payment #11	\$ 21,588.58
Payment #12	\$ -
Remaining	\$ 237,766.47

\$ 1,130,653.29
 \$ 430,653.29
 \$ 200,000.00
 \$ 500,000.00

\$ 338,988.11
\$ 205,201.11
\$ 554,990.46
\$ 564.54
\$ 1,099,744.22
\$ 1,099,812.21

Adjusted
 \$ 338,988.11
 \$ 205,201.11
 \$ 1,130,653.29
 \$ 564.54
 \$ 1,675,407.05
 \$ 1,675,407.05

Cost Split
 100% WMRWA \$ 302,375.00
 100% NS Water \$ 183,037.95
 100% Streets \$ 495,047.57
 100% Sanitary \$ 564.21
 Split Costs \$ 118,787.48
 Totals \$ 1,099,812.21
 Check \$ 1,099,812.21
 Split Costs Per %
 WMRWA \$ 981,024.73 31%
 NS Water \$ 36,613.11 19%
 Streets \$ 22,163.17 50%
 Sanitary \$ 59,942.89 0%
 Total \$ 118,719.49 1
 Check => \$ 118,787.48

**DRAFT COASTAL
PROTECTION STRATEGY
EVALUATION**

January 22, 2020

Attn: Mr. Leo Evans, P.E.
City of Muskegon
1350 E. Keating Ave.
Muskegon, MI 49442
Leo.evans@shorelinecity.com

**Re: Coastal Protection Strategy Evaluation [DRAFT]
Beach Street Shoreline**

Dear Mr. Evans,

This letter is intended to provide evaluation of potential coastal protection strategies along the Beach Street shoreline, south of the City's water filtration plant.

I. PURPOSE/NEED

Coastal erosion is occurring along approximately 2,200 feet of Beach Street. The erosion may soon threaten the roadway and the water main owned by the West Michigan Regional Water Authority (WMRWA) which serves Norton Shores and Fruitport Township. Damage to these components could have health and safety impacts and therefore the City intends to take short-term preventative actions and eventually long-term preventative actions.

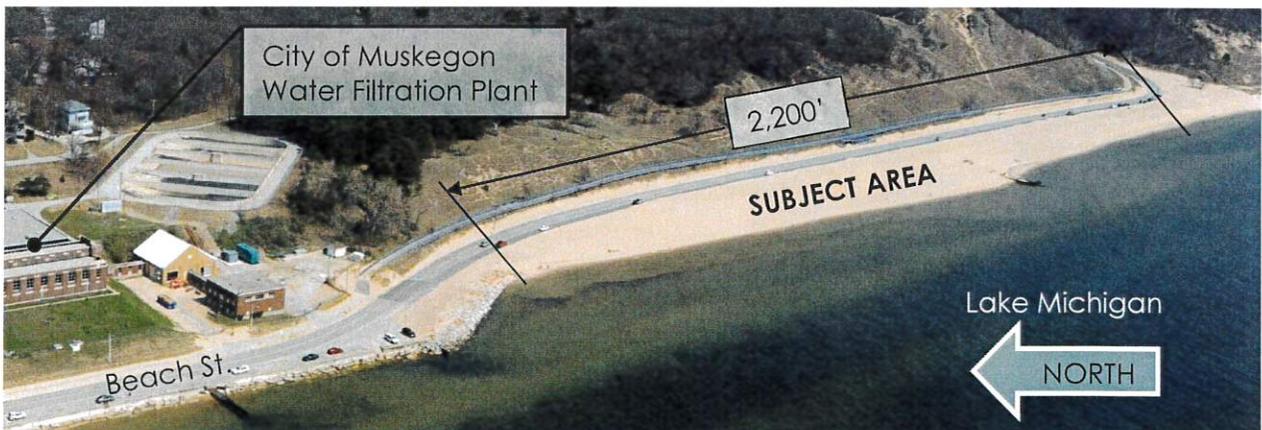


Figure 1: 2015 Shoreviewer Oblique Aerial with labels added

II. BACKGROUND DATA

A. Record Documents

The WMRWA provided record plan sheets 14-17 from record plans entitled “Plan and Profile, Beach Street (Upper),” by URS Corporation. The drawings depict the location of the 36-inch ductile iron water main which supplies WMRWA with potable water. The water main is located near the west edge of pavement along Beach Street, between the filtration plant and approximate station 124+00, where Beach Street turns inland.

B. Coastal Conditions

Water Level

Lake Michigan basin water levels are currently elevated near record high levels. NOAA Station 9087031 in Holland, Michigan indicated the water level elevation on January 10, 2020 ranged from 581.6 feet to 581.9 feet (IGLD 85 Datum). The Lake Michigan record high monthly mean water level is approximately 582.4 feet (October 1986). In 2019, the high monthly mean water level occurred in July, when the reported monthly mean reached approximately 582.0 feet, according to the attached USACE chart.

According to the attached U.S. Army Corps of Engineers (USACE) Release No. 01102020-01 (January 10, 2020), “...lakes Michigan and Huron are forecasted to reach record high levels this year.” The release also urges those impacted by high water levels in 2019 to prepare for similar levels again in 2020. Erosion along Beach Street is likely to progress during the projected sustained high water conditions.

Short-term rises in water levels also occur during storm events and can result in a localized lake level rise of several feet. Wave runup, the uprush of waves upon the shoreline, allows water to reach greater elevations and further inland.

According to record plans, the centerline of Beach Street in the subject area is at or below elevation 590.0 feet, only approximately 8 feet higher than the still water elevation of Lake Michigan. Short-term water level rises and wave runup can reach elevations greater than 8 feet, although a runup analysis has not been completed for the subject area.

Wind and Wave Data

A wind rose, wave rose, and extreme event plot from the USACE Wave Information Studies (WIS) are attached. The extreme event plot indicates the deep water significant wave height for a 50-year event is approximately 23 feet and the height for a 100-year event is approximately 24.6 feet.



Nearshore Bathymetry

No study of nearshore bathymetry has been completed in this evaluation as recent data is not available.

C. Regulatory Designations

Part 325, Great Lakes Submerged Lands

Michigan's Great Lakes bottomlands and shorelines are regulated by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) under Part 325 of the Natural Resources and Environmental Protection Act (NREPA). Typically, the jurisdiction extends to the Ordinary High Water Mark (OHWM). An elevation-based OHWM is commonly used to delineate jurisdictions of regulatory agencies. EGLE uses elevation 580.5 feet (IGLD 85 Datum) for an elevation-based OHWM.

Section 10 of the Rivers and Harbors Act & Section 404 of the Clean Water Act

The USACE regulates work waterward of the OHWM in the Great Lakes, as well under the Rivers and Harbors Act and the Clean Water Act. The USACE commonly uses elevation 581.5 (IGLD 85 Datum) as its elevation-based OHWM, however it is not uncommon for the USACE's jurisdiction to extend landward of the elevation-based OHWM when there is physical evidence of higher water levels or when the USACE feels the proposed actions may impact the navigational capacity of the lake.

Part 353, Sand Dunes Protection and Management

EGLE regulates work within designated Critical Dune Areas (CDAs) under Part 353 of the NREPA. The subject site is located within a CDA per the attached Muskegon/Laketon Township Critical Dune Area map. While not uncommon, most coastal protection measures located in a CDA must undergo a special exception process during EGLE permitting. The City of Muskegon self-administers the CDA program within the City limits, with assistance from Prism Science and Technology, LLC.

Part 323, High Risk Erosion Area

EGLE regulates activities in high risk erosion areas (HREAs), as well, under Part 323 of the NREPA. The southern half of the subject area is located with a HREA per the attached HREA Map for the Cities of Muskegon and Norton Shores. The map indicates a 30-year projected recession distance of 60 feet and a 60-year projected recession distance of 105 feet.



D. Site Conditions

Abonmarche observed site conditions on November 26, 2019. Photos taken during the site visit are attached. During the site visit, the following were observed:

- Beach width tapers from north to south; minimal dry beach at south end
- Broken concrete rip rap is visible along southern portions of the reach within approximately 10 to 15 feet of the west pavement edge
- Water main is marked with blue paint line, just east of west edge of pavement
- Apparent gentle slope in nearshore, based upon observations of wave behavior
- Only sand is observed at surface; dunes present on east side of Beach Street

III. SHORT-TERM STRATEGIES

The following short-term strategies represent options for minimizing and decelerating the progression of erosion until long-term plans are developed and implemented.

A. Do Nothing

A 'do nothing' approach will likely result in continuing erosion that will eventually reach the roadway and the water main. Once undermined, the roadway and water main will become unstable, requiring closure of the roadway and potential leaks or failure of the water main. Given the projected sustained water levels and potential risks to public health and safety, this approach is not recommended.



Figure 2: Erosion of a sandy bluff, St. Joseph



- Regulatory: Not applicable
- Feasible implementation schedule: Not applicable
- Material availability, quality, survivability: Not applicable
- Cost: None
- Risk: Advancing erosion could result in damage to the water main and roadway, creating potential health and safety risks.
- Benefits: The beach will continue to evolve in a natural condition, except for previously armored areas.
- Potential long-term impacts: Damage to the water main and roadway could result in the need for more impactful repairs and removals.

B. Beach Nourishment

Beach nourishment is typically completed in partnership with dredging operations. However, the City could consider importing sand from an inland/upland source. Sand placed along a shoreline should be considered sacrificial, as it will be eroded by coastal forces. However, as it erodes, it will continue to feed the nearshore littoral system, potentially contributing to a gently sloping nearshore lake bottom.

As a long-term solution, the reclamation of sand from deep water could be considered. More information regarding this approach is provided below in Section IV.D.



Figure 3: Beach nourishment; area lakeward of table and volleyball net recently placed



- Regulatory: Requires State and Federal permits, depending upon location of nourishment relative to CDAs and relative to OHWM
- Feasible implementation schedule:
 - Short-term nourishment from upland source: 0-6 months
- Material availability, quality, survivability: Further study is needed, but sand will be sacrificial and will feed the nearshore littoral system.
- Cost: Placement and grading of sand on the beach will cost approximately \$8 to \$12 per cubic yard. Placement over an area 4 feet deep by 50 feet wide by 500 feet long (3,700 cubic yards) would therefore cost \$30,000 to \$45,000. Further analysis is needed to identify volume needed and placement area.
- Risk: Newly placed sand may be completely eroded away in a single storm event and therefore, there is risk that the dollars spent on this approach may only provide minimal protection for an extremely short period of time.
- Benefits: Any sand placed, which is eroded will help to nourish the nearshore littoral system. It may also help to provide useable beach area during summer months.
- Potential long-term impacts: Depending upon grain size placed and coastal conditions, the sand may contribute to the health of the beach in the long-term. Improvements to the health of the system will only result if regular nourishment is completed over a long period of time.

C. Place Interim Stone

The placement of interim stone is a common approach to minimize erosion in the short-term. Typically placement is informal and without an engineered, layered cross section. The slope of the stone surface and the roughness of the revetment face will absorb wave energy and slow erosion by acting as a partial barrier. Interim stone should be of a quality suitable for use in the long-term protection scheme to maximize cost efficiency. Natural stone is recommended for this reason and as a regulatory consideration.





Figure 4: Interim armor stone placed along failed seawall; long-term construction to begin in spring due to weather conditions

- Regulatory: State and Federal permits will be required. A Joint Permit Application (JPA) would be prepared and submitted outlining the project intent and fill volumes. Due to the CDA designation, a Special Exception will likely be required.
- Feasible implementation schedule: 0-2 months, dependent upon contractor and material availability; regulatory agencies are aware of coastal erosion threats and have been accelerating permit issuance when health and safety are threatened.
- Material availability, quality, survivability: Various options may exist, however the use of natural armor stone or smaller bedding stone is recommended, depending upon availability and delivery schedule. Materials selected should be of suitable quality for use in the eventual long-term approach.

For armor stone, Abonmarche typically recommends quarried stone from sources approved by the USACE. To qualify for use in USACE projects, armor stone quality must be reviewed every five years. Quarries known to Abonmarche to produce USACE-approved stone are located in Wisconsin. Loads of



approximately 2,500 tons are regularly barged from Wisconsin ports to Michigan ports.



Figure 5: Quartzite armor stone at Waterloo Quarry, Waterloo, WI

- Cost: The cost will be dependent upon the type and quantity of stone needed.
 - Interim Armor Stone: If armor stone is used, approximate costs of \$750 – \$1,250 per linear foot are likely.
 - Interim Bedding Stone: If a smaller bedding stone (size ranges between 8" and 24" diameters) is used, costs will likely be closer to \$200 – \$1,000 per linear foot. The lower end of the range would represent application of minimal stone volumes over existing rip rap, while the higher end of the range would represent placement of stone where none currently exists.
- Risk: This approach will not retain sand if regularly exposed to waves, so some sand loss should be expected. Informally placed stone will also shift and move over time, creating potential safety hazards. Preventative measures should be placed to prevent people from climbing on the rocks.
- Benefits: Wave energy will be dissipated and the rate of erosion will be reduced. Once water levels return to low conditions and when sand accretion resumes,



the gentle rock slope and rough surface will accommodate the process. Over time, wind-blown sand may bury the rocks and restore the natural appearance of the sandy reach of shoreline.

- Potential long-term impacts: Minimal long-term impacts should be expected since portions of the shoreline are already partially armored by broken concrete rip-rap. The stone would likely provide some level of protection during future high water level cycles, as well.

If high water conditions and erosive storms persist, public access across the lakeward face of the structure could be limited.

D. Steel Sheet Piling System

A steel sheet pile system could be constructed just lakeward of the pavement and water main. Sheet piling could be driven from land-based equipment and would provide both lateral support to the road and water main and a 'firewall' to limit the progression of erosion. Abonmarche notes that a vertical wall is not recommended as a standalone coastal protection measure and that an armor stone revetment must be constructed lakeward of the wall to absorb wave energy. Without a revetment or beach, a vertical seawall will accelerate scour and erosion at the lakeward wall face.

Sheet piling may not be possible in short term due to the site's CDA designation and likely need for a special exception process.



Figure 6: New steel sheet pile wall with interim armor stone toe, early winter; long-term armor stone revetment was completed the following spring



- Regulatory: State and Federal permits will be required. A JPA would be prepared and submitted outlining the project intent and fill volumes. Due to the CDA designation, a Special Exception will likely be required. At minimum, toe stone would be required at the lakeward face of the wall to minimize scour and impacts to adjacent areas.
- Feasible implementation schedule: 1-4 months, dependent upon contractor and material availability; regulatory agencies are aware of coastal erosion threats and have been accelerating permit issuance when health and safety are threatened.
- Material availability, quality, survivability: The availability of steel sheet piling will depend upon the designed/specified section and will ultimately represent the critical path to beginning work, once permits are issued. See above III.C for stone material information.
- Cost: Sheet piling with minimal toe stone will cost approximately \$900 - \$1,500 per linear foot, depending upon quantity, design section, and contractor availability. A wall and full revetment combination will cost approximately \$2,500 - \$4,000 per linear foot if work can be conducted from shore.
- Risk: Vibrations from installation of the sheet piling may cause damage to the roadway and/or water main. If any underground obstructions are encountered, additional work may be needed to remove or to brace the wall in localized areas.
- Benefits: A steel sheet pile wall will retain sand and will provide a barrier to erosion as both a short-term and long-term approach.
- Potential long-term impacts: If only minimal toe stone is placed, the wall may accelerate erosion of the beach in the long-term. Wave reflection and scour will occur if the vertical face of the wall is left exposed to wave energy, impacting the natural shoreline in this reach. These impacts can be mitigated/minimized if a sloped revetment is combined with the wall.

Access from the roadway to the beach will be impacted, so measures for pedestrian access will likely need to be evaluated and included.

If high water conditions and erosive storms persist, public access across the lakeward face of the structure could be limited.



IV. LONG-TERM STRATEGIES

The following strategies represent potential means for protection of the roadway and water main over the long-term. Long-term strategies should also consider the preservation of the natural shoreline, public access and use of the shoreline, and protective function.

A. Steel Sheet Pile & Armor Stone Revetment

This approach offers both lateral retaining support and wave absorption. Section III.D above provides discussion of this approach. As a long-term strategy, a sheet pile & armor stone revetment combination could be constructed in phases, given available materials, contractors, and conditions. For instance, the wall could be constructed in winter, but nearshore ice would make construction of the armor stone revetment difficult. The armor stone portion could be completed in spring or summer as a second phase.



Figure 7: Steel sheet pile wall and armor stone revetment combination; note armor stone height is less than typically recommended full height due to budgetary restrictions

- Regulatory: As mentioned above, State and Federal permits will be required. A JPA would be prepared and submitted outlining the project intent and fill volumes. Due to the CDA designation, a Special Exception will likely be required.



- Feasible implementation schedule: 4-12 months, dependent upon permitting, contractor and material availability; regulatory agencies are aware of coastal erosion threats and have been accelerating permit issuance when health and safety are threatened.
- Material availability, quality, survivability: See above Section III.D for sheet pile information and III.C for stone material information.
- Cost: A wall and full revetment combination will cost approximately \$2,500 - \$4,000 per linear foot if work can be conducted from shore.
- Risk: During construction of the sheet piling, vibrations could damage the roadway and water main. If any underground obstructions are encountered, additional work may be needed to remove or to brace the wall in localized areas.
- Benefits: The steel sheet pile wall will retain sand and provide lateral support to the water main and roadway. It will also minimize the risk that erosion will advance inland. The armor stone revetment will absorb wave energy and allow eventual accretion to occur, while minimizing wave reflection and scour.
- Potential long-term impacts: Access to the beach level from roadway level will need to be accommodated, likely via pile-supported stairways or ramps. If high water conditions and erosive storms persist, public access across the lakeward face of the structure could be limited.



B. Armor Stone Revetment

This approach involves the development and construction of an engineered section, typically including proper toe design, multiple stone layers, sufficient crest width, and other critical components.



Figure 8: Armor stone revetment with steel beach access piles

- Regulatory: As mentioned above, State and Federal permits will be required. A joint permit application would be prepared and submitted outlining the project intent and fill volumes. Due to the CDA designation, a Special Exception will likely be required.
- Feasible implementation schedule: 4-12 months, dependent upon permitting, contractor and material availability; regulatory agencies are aware of coastal erosion threats and have been accelerating permit issuance when health and safety are threatened.
- Material availability, quality, survivability: See above Section III.C for stone material information.
- Cost: An armor stone revetment will cost approximately \$1,500 - \$4,000 per linear foot if work can be conducted from shore.
- Risk: An armor stone revetment is an unsafe location for people, so preventative measures should be placed to prevent people from climbing on the rocks.



- Benefits: Like III.C above, wave energy will be dissipated by the revetment and the rate of erosion will be reduced. Once water levels return to low conditions and when sand accretion resumes, the gentle rock slope and rough surface will accommodate the process. Over time, wind-blown sand may bury the rocks and restore the natural appearance of the sandy reach of shoreline. An engineered section will retain sand better than the interim stone described above in III.C.
- Potential long-term impacts: Minimal long-term impacts should be expected since portions of the shoreline are already partially armored by broken concrete rip-rap. An engineered revetment will require a larger footprint than the existing broken concrete armoring.

During future high water level cycles, the revetment would provide some level of protection, as well.

If high water conditions and erosive storms persist, public access across the lakeward face of the structure could be limited.

C. Relocate Water Main

Relocation of the water main to the east side of the roadway would minimize the near-term risk to the water main, but erosional threat to the roadway itself would remain.

- Regulatory: A State of Michigan Water Supply permit will be required and a CDA permit would also likely be needed.
- Feasible implementation schedule: 3-6 months, dependent upon permitting, contractor and material availability.
- Material availability, quality, survivability: See above Section III.C for stone material information.
- Cost: New 36" ductile iron water main will cost between \$250 and \$350 per linear foot, including minimal peripheral items. It may be feasible to relocate only a portion of the 2,000-foot length where coastal conditions are most likely to threaten the water main. Assuming a length of 1,000 linear feet, the approximate cost would be \$250,000 to \$350,000.
- Risk: If only the water main is relocated, the roadway would remain at risk from erosion, creating circulation issues for residents, beach-goers, and for first responders. Over the long-term, erosion could eventually reach the relocated portions of the water main again.



- Benefits: This approach protects the water main and leaves the beach and shoreline in its existing state.
- Potential long-term impacts: If erosion continues to advance, the roadway may require protection and the relocated water main may require protection.

D. Beach Nourishment Program

As a supplement to the above, the City could consider a beach nourishment (maintenance) program. The regulatory process for sand reclamation from Lake Michigan is likely to take years. However, once obtained, the City could nourish the beach on a regular basis with sand, resulting in the most natural form of coastal protection, a gently sloping beach with a shallow nearshore.

This approach would involve reclamation (dredging) of sand from beyond the depth of closure. The depth of closure is the water depth at which the lake bottom is no longer impacted by waves, likely 25 to 30 feet or deeper. This type of reclamation is likely to require a long regulatory process and several special studies to confirm feasibility. While sand reclamation is utilized along the U.S. Atlantic coastlines, it has not been applied in the Great Lakes. Opportunities for annual funding (local, State, Federal) could be explored so that reclamation cycles would already be funded during the periods in which they are needed.



Figure 9: Beach nourishment operation, St. Joseph; note hydraulic dredge upper right



- Regulatory: Requires State and Federal permits
 - Reclamation from deep water would likely require several special studies, including, but not limited to, State Historic Preservation Office reviews, Michigan DNR Fisheries, Threatened and Endangered Species, littoral drift study, shipwrecks/underwater preserves, and grain size analysis.
- Feasible implementation schedule:
 - Long-term reclamation from deep water: 3-5 years+ for initial cycle, however this approach requires regular nourishment over a long period of time to be effective
- Material availability, quality, survivability: Further study is needed, but sand will be sacrificial and will feed the nearshore littoral system.
- Cost: The cost for nourishment will depend upon volume, mobilization costs, and methods. Note that pre-project cost for special studies, planning, testing, engineering, and permitting will add significant cost to this approach.
- Risk: Sand reclamation from deep water may not ultimately be permitted. Therefore, the risk exists that pre-project costs may not result in a feasible solution. Other communities are evaluating this option and cooperative efforts may help to mitigate the risk and improve the likelihood of permit issuance.
- Benefits: This approach would seek to restore beaches to near-natural conditions prior to shoreline recession processes. It would nourish the littoral sand supply and provide protection in a natural-occurring way. Additional benefits would be identified in the pre-project phases.
- Potential long-term impacts: The long-term impacts of sand reclamation from deep water are not yet known, although pre-project studies would identify long-term impacts.



V. RECOMMENDATIONS

A. Short-term

Placement of interim stone is recommended for short-term protection. The scope (length, thickness, elevation, etc.) and type of stone would be confirmed during preliminary engineering prior to the submittal of a JPA.

B. Long-term

For the long-term protection of the water main and roadway, a steel sheet pile wall and revetment combination is recommended. This approach should be constructed only where needed to minimize impacts to the beach. Concurrently, pursuit of the sand reclamation approach should be begun, to allow long-term maintenance of the beach and nearshore area.

C. Data collection

Prior to preliminary engineering, a topographic survey should be completed to identify key design components such as limits of concrete riprap, roadway edges, and the location of OHWM. If feasible, a basic bathymetric survey should be collected to allow the calculation of wave runup elevations.

E. Funding Opportunities

Further research is needed to identify opportunities, however the following may fund portions of the project, especially due to the potential risks to health and safety.

- Coastal Zone Management Grant (CZM) – This grant may help fund study of long-term sand reclamation efforts. A joint application could be coordinated with other communities who are pursuing this approach, such as St. Joseph, New Buffalo, and South Haven.
- Drinking Water State Revolving Fund (DWRF)
- Emergency Funding – New declarations of emergency status and disaster status are in the news often lately. If the subject area qualifies, emergency funding may be obtainable. Further research is needed.
- Emergency Streambank and Shoreline Protection (Section 14) – From the website <https://www.nae.usace.army.mil/Missions/Public-Services/Continuing-Authorities-Program/Section-14/> :

“Section 14 of the 1946 Flood Control Act provides the Corps of Engineers authority to construct emergency shoreline and streambank protection works to protect public facilities, such as bridges, roads, public buildings, sewage



treatment plants, water wells, and non-profit public facilities, such as churches, hospitals, and schools. The maximum Federal expenditure at any one site is \$5 million and each project must be economically justified and environmentally sound.

Cost Sharing Requirements. Projects are undertaken on a cost shared basis. The Feasibility Study is 100 percent federally funded up to \$100,000. The local sponsor is required to cost-share equally the cost of the Feasibility Study that exceeds \$100,000. The local sponsor is also required to provide 35 percent of the implementation costs of developing plans and specifications and construction. The non-federal share of project implementation costs may include credit for lands, easements, rights-of-way, relocations, and disposal areas (LERRD) necessary for the project, plus a cash contribution of 5 percent of the total project implementation costs. In the event that the value of LERRD, plus 5 percent, does not equal at least 35 percent of the total project implementation cost, the non-federal sponsor must contribute additional cash to equal 35 percent.

Project Process. The Corps conducts an initial appraisal early in the Feasibility Study to determine whether the project meets program criteria and provides a basis for determining scope and cost of an entire feasibility study. The solution must be economically feasible and environmentally acceptable. If an acceptable alternative is identified in the feasibility study, the Corps prepares plans and specifications, then manages construction of the project."

Study Cost. The Feasibility Study is 100 percent federally funded up to \$100,000. Costs over the \$100,000 are shared 50/50 with the non-federal sponsor.

Project Cost. Design and construction costs are 65 percent Federal / 35 percent non-Federal.

How to Request Assistance. Requests for assistance should be in the form of a letter (see sample provided below) describing the location and nature of the problem and requesting assistance under the program. The request should be submitted by a state or local government agency to Mr. John Kennelly, Chief, Planning Division, U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord, MA 01742-2751. For more information call Christopher Hatfield of the Plan Formulation Branch at 978-318-8520."



Abonmarche looks forward to the opportunity to assist you in implementing protective measures. If you have any questions or need further clarification, please feel free to contact me.

Sincerely,
Abonmarche Consultants, Inc.

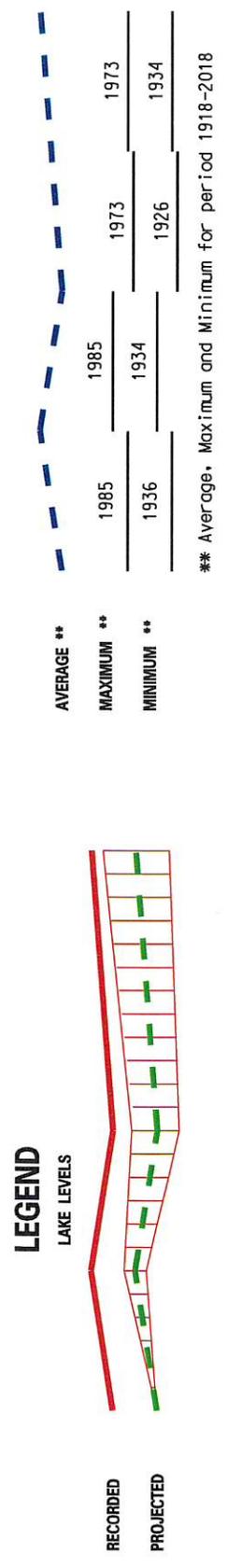
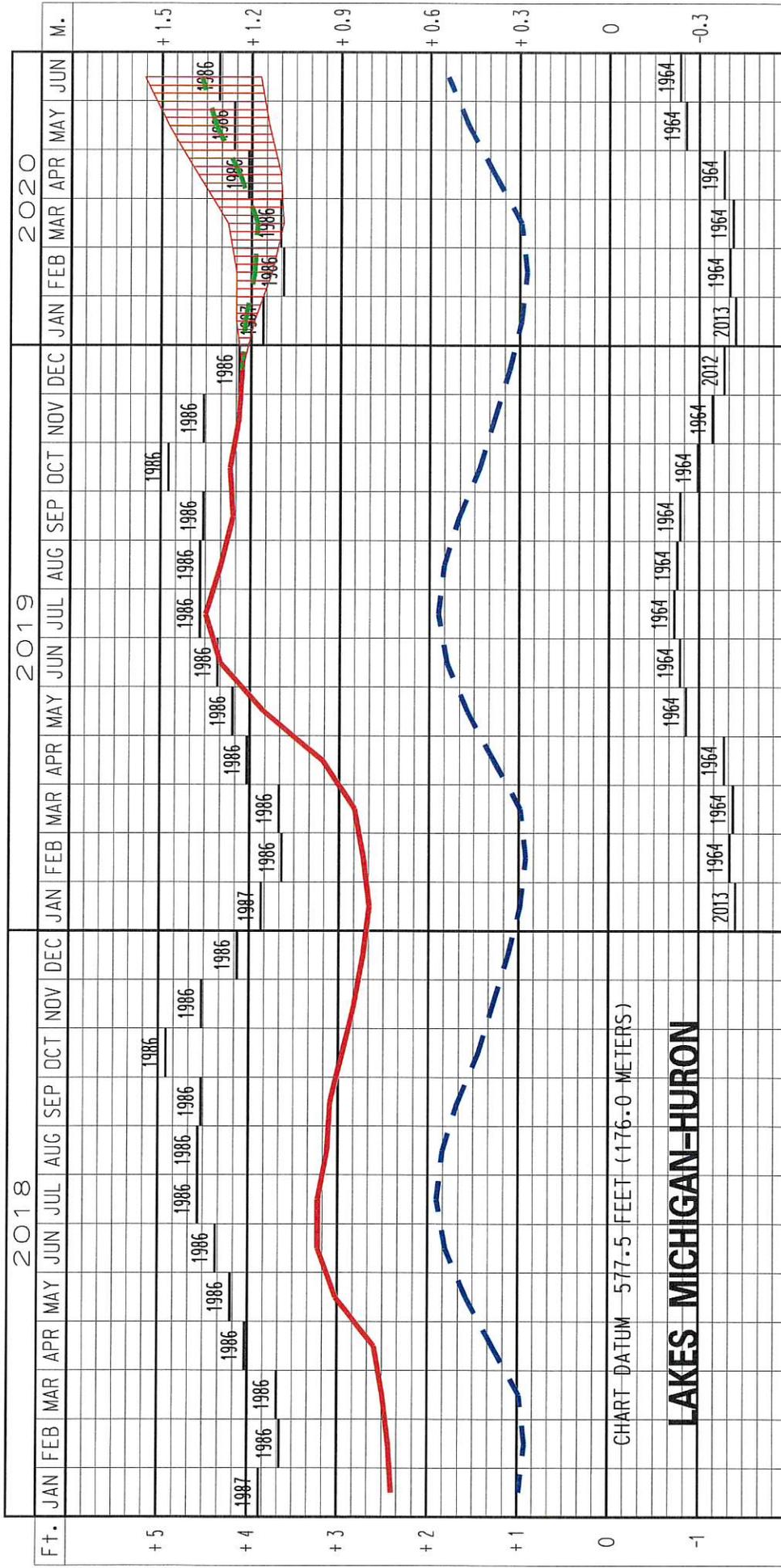
Michael Morphey, PE, LEED AP
Senior Project Manager

cc: Anne Smith, Coastal Engineer
Timothy R. Drews, PE, PTOE

Attachments: USACE January 2020 Water Level Chart
USACE Wave Information Studies – Extreme Event Plot
USACE Wave Information Studies – Wind Rose
USACE Wave Information Studies – Wave Rose
USACE Release No. 01102020-01 (January 10, 2020)
Critical Dunes Map
High Risk Erosion Area Map
Site Images, November 26, 2019

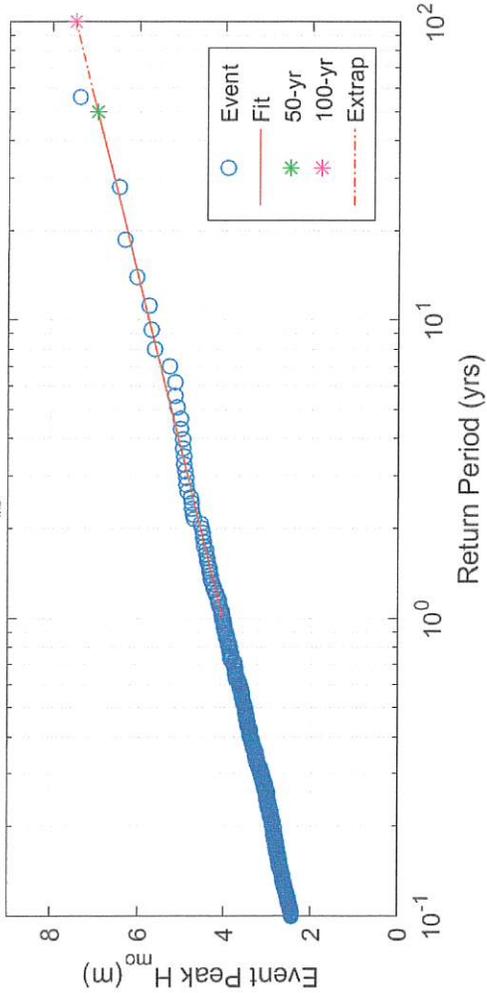


LAKES MICHIGAN-HURON WATER LEVELS - JANUARY 2020





Storm Event Return Period of 55-yr (1960-2014) Wave Hindcast
 Lake Michigan Station 94411 : Lat: 43.160° Lon: -86.400° Depth: 40m
 Linear Fit to top 55 events: $H_{mp} = 4.0326 + 0.74703 \cdot \ln[\text{Return Period}(\text{yrs})]$



Top 10 events based on Peak H_{mp}

Event	Date/Time(UTC)	H_{mp}	T_p	θ_{mean}	Event	Date/Time(UTC)	H_{mp}	T_p	θ_{mean}
1	1975/01/11 15:00	7.37	10.21	227.0	6	1971/01/26 15:00	5.70	9.22	317.0
2	1998/11/11 04:00	6.46	10.25	223.0	7	1970/11/22 21:00	5.61	8.95	280.0
3	1972/01/25 10:00	6.32	9.43	292.0	8	1979/04/06 04:00	5.29	9.34	281.0
4	1978/01/26 21:00	6.05	9.70	326.0	9	1971/02/05 16:00	5.16	9.18	230.0
5	1982/04/03 21:00	5.75	9.39	260.0	10	2012/12/21 15:00	5.15	9.56	326.0

An event is defined as any period when $H_{mp} > 2.00m$
 θ_{mean} is direction that waves are arriving from

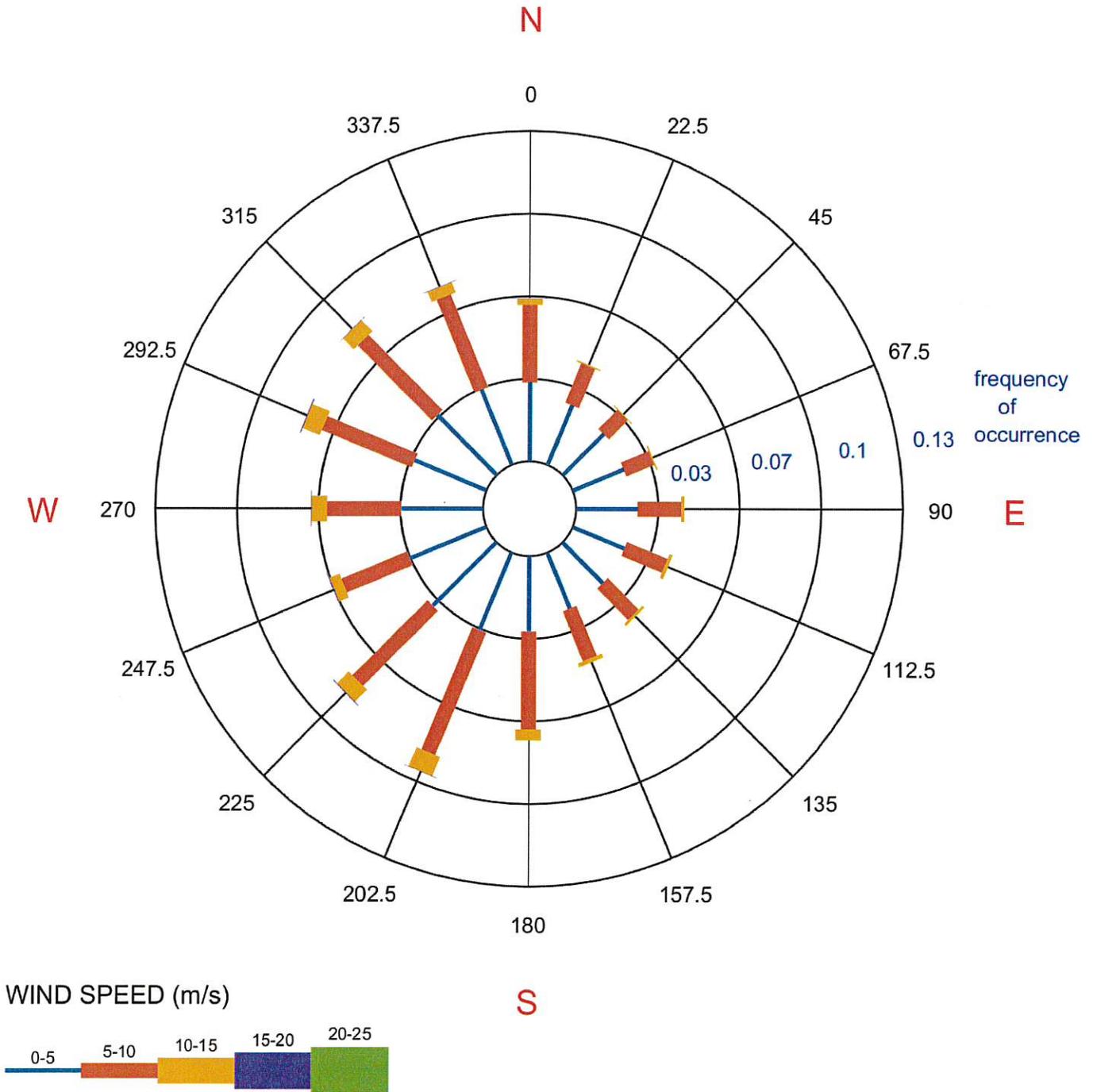
US Army Engineer Research & Development Center

STP94411



Lake Michigan WIS Station 94411
01-Jan-1979 thru 31-Dec-2014
Long: -86.4° Lat: 43.16° Depth: 40 m
Total Obs : 315573

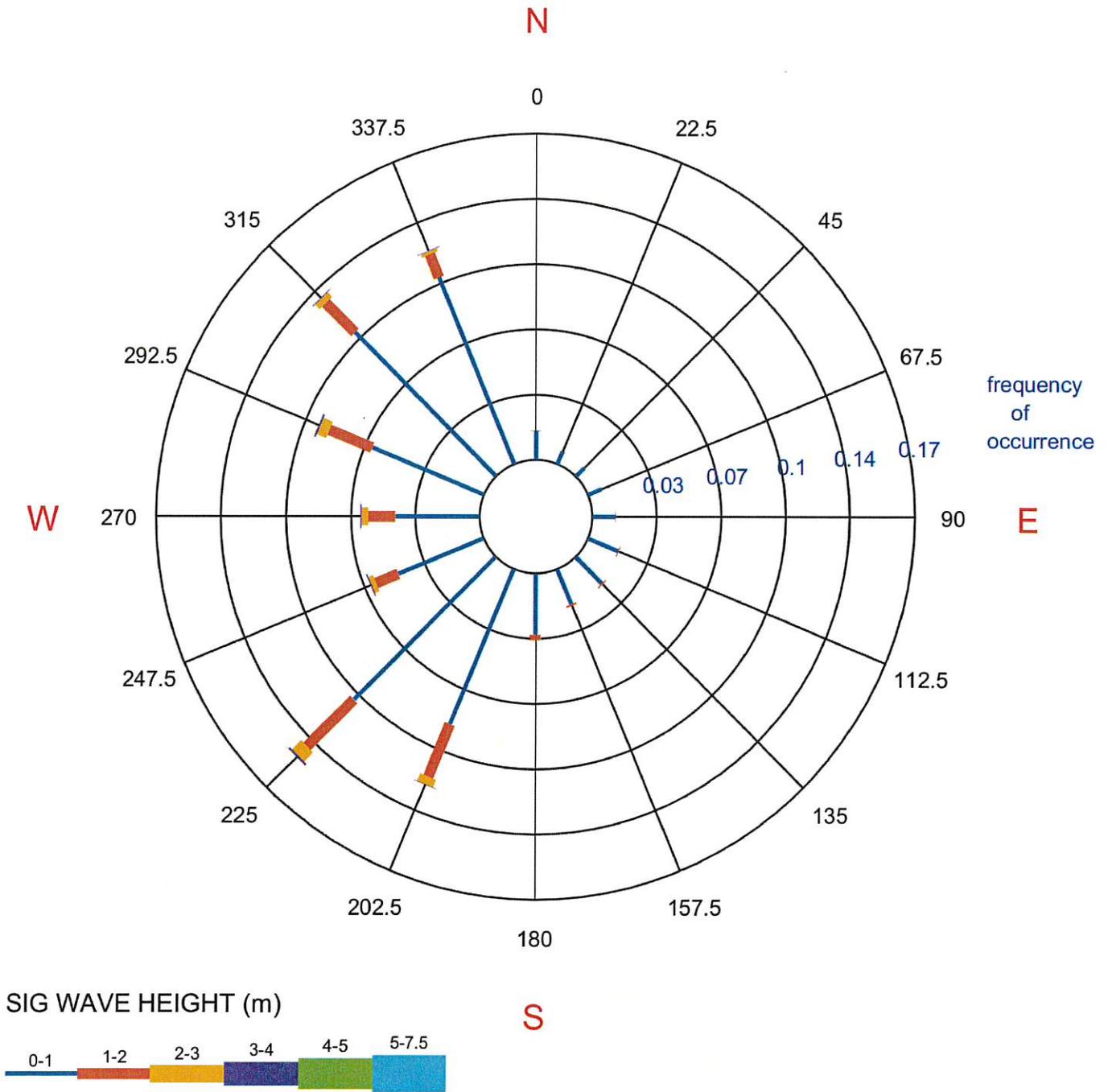
WIND ROSE





Lake Michigan WIS Station 94411
01-Jan-1979 thru 31-Dec-2014
Long: -86.4° Lat: 43.16° Depth: 40 m
Total Obs / Total Ice : 315573 / 8448

WAVE ROSE





NEWS RELEASE

U.S. ARMY CORPS OF ENGINEERS

For Immediate Release:
January 10, 2020
Release No. 01102020-01

BUILDING STRONG®

Contact:
Lynn Rose, Public Affairs Director
313-226-4680;
313-300-0662 (cell)
Lynn.m.rose@usace.army.mil

Great Lakes water levels higher than last year at this time

DETROIT- The U.S. Army Corps of Engineers, Detroit District, announces that water levels on each of the Great Lakes started 2020 higher than they started 2019, a year where many record high water levels were set across the lakes.

The U.S. Army Corps of Engineers urges those impacted by the high water levels of 2019 to prepare for similar levels again in 2020. The most recent six-month forecast of Great Lakes water levels shows water levels continuing to be well above average over this period. Unlike last year, lakes Michigan and Huron are forecasted to reach record high levels this year.

“It is likely that water levels on lakes Michigan and Huron will set new monthly mean record high levels over the next couple of months,” said John Allis, chief of the Great Lakes Hydraulics and Hydrology Office, Detroit District. “This sets the stage for coastal impacts and damages in 2020 similar to, or worse than, what was experienced last year.”

The Detroit District monitors and forecasts Great Lakes’ water levels and provides the data and analysis on their Website www.lre.usace.army.mil.

Several natural factors contribute to the record lake levels. Persistent wet conditions across the Great Lakes basin continue to drive high water levels. Many cities across the basin set records in 2019 for the wettest period on record. The warmer than average temperatures in December led to greater runoff due to snow pack melting, especially on lakes Superior, Michigan and Huron, leading to more water supply. The warm air also caused less evaporation off the lakes’ surface, which leads to more water in the system.

-more-

U.S. ARMY CORPS OF ENGINEERS – DETROIT DISTRICT

477 Michigan Avenue
Detroit, MI 48226
www.lre.usace.army.mil

The water levels of each lake peaked during this past summer or fall and since then have been in a seasonal decline, however, significant erosion continues in many locations as water levels remain extremely high. Strong storm systems and resulting large waves have led to substantial erosion along much of the Great Lakes coastline.

To find more information about Great Lakes high water visit this link:

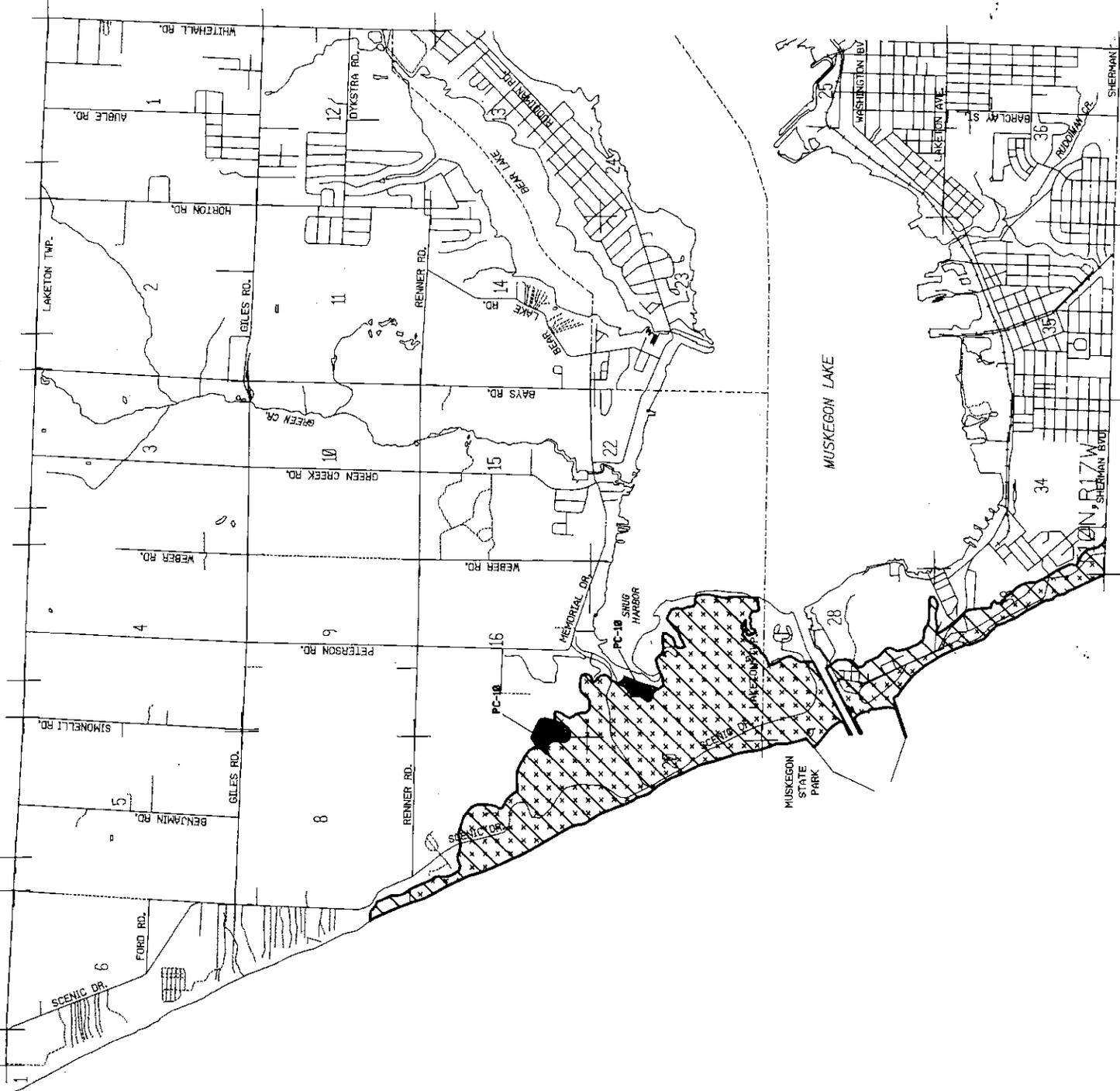
<https://www.lre.usace.army.mil/About/Great-Lakes-High-Water/> which includes information about how to protect property and investments along the coast and related Corps programs and authorities.

-30-

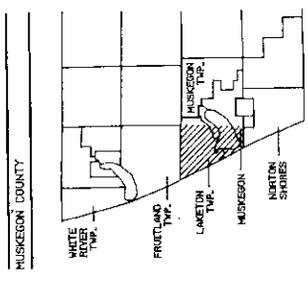
U.S. ARMY CORPS OF ENGINEERS – DETROIT DISTRICT

477 Michigan Avenue
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PC-10 - Intermittent Wetland, Michigan Natural Features Inventory



MUSKEGON LAKETON TOWNSHIP CRITICAL DUNE AREAS



LEGEND

POLITICAL JURISDICTIONS
BOUNDARIES OF COUNTIES, TOWNSHIPS,
AND INCORPORATED CITIES AND
VILLAGES AS OF 1987.

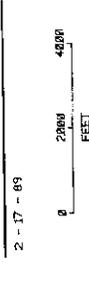
PUBLIC LANDS
STATE AND FEDERAL LANDS AND
NATION LOCAL PARKS AND OTHER PUBLIC
LANDS AS OF 1986.

PROPOSED CRITICAL DUNE AREAS

- BARRIER DUNES
- BARRIER DUNE FORMATIONS DESIGNATED PURSUANT TO 1976 PA 252
- AREAS NOT INCLUDED IN DESIGNATED BARRIER DUNE FORMATIONS THAT ARE COMPOSED PRIMARILY OF SAND AND GRAVEL WITH VARYING VEGETATION CHARACTERISTICS.
- ESSENTIAL DUNE ASSOCIATED PLANT COMMUNITIES AND OTHER NATURAL DUNE FORMATIONS DESIGNATED PURSUANT TO 1976 PA 252. DUNE FORMATIONS DESIGNATED PURSUANT TO 1976 PA 252. DUNE FORMATIONS DESIGNATED PURSUANT TO 1976 PA 252. DUNE FORMATIONS DESIGNATED PURSUANT TO 1976 PA 252.

INFORMATION
MICHIGAN DEPARTMENT OF NATURAL RESOURCES
LAND AND WATER MANAGEMENT DIVISION
1000 W. WASHINGTON AVENUE
LANSING, MI 48999
(517) 373-1178

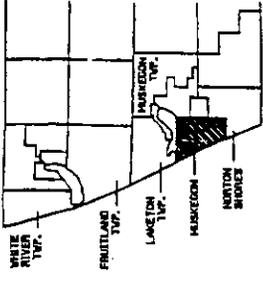
GIS
MICHIGAN DEPARTMENT OF NATURAL RESOURCES
LAND AND WATER MANAGEMENT DIVISION



2-17-89

CITIES OF MUSKOGON AND NORTON SHORES
HIGH RISK EROSION AREAS & CRITICAL DUNE AREAS

MUSKOGON COUNTY
 T-1, 18, 19, 17, 14



HIGH RISK EROSION AREAS

THE NUMBER REPRESENTS, IN FEET, THE 24 YEAR PROJECTED RECESSED DISTANCE. THE NUMBER REPRESENTS, IN FEET, THE 60 YEAR PROJECTED RECESSED DISTANCE.

THESE AREAS ARE LEGALLY DEEMED BY THE STATE OF MICHIGAN TO BE AT RISK OF EROSION AND ARE SUBJECT TO THE MICHIGAN COASTAL ZONE MANAGEMENT ACT. THESE AREAS SHOULD BE PROTECTED BY DUNE LINES AND SHOULD BE DEVELOPED TO MAINTAIN AN AVERAGE OF ONE FOOT OR MORE PER YEAR.

CRITICAL DUNE AREAS

THESE AREAS ARE LEGALLY DEEMED BY THE STATE OF MICHIGAN TO BE AT RISK OF EROSION AND ARE SUBJECT TO THE MICHIGAN COASTAL ZONE MANAGEMENT ACT. THESE AREAS SHOULD BE PROTECTED BY DUNE LINES AND SHOULD BE DEVELOPED TO MAINTAIN AN AVERAGE OF ONE FOOT OR MORE PER YEAR.

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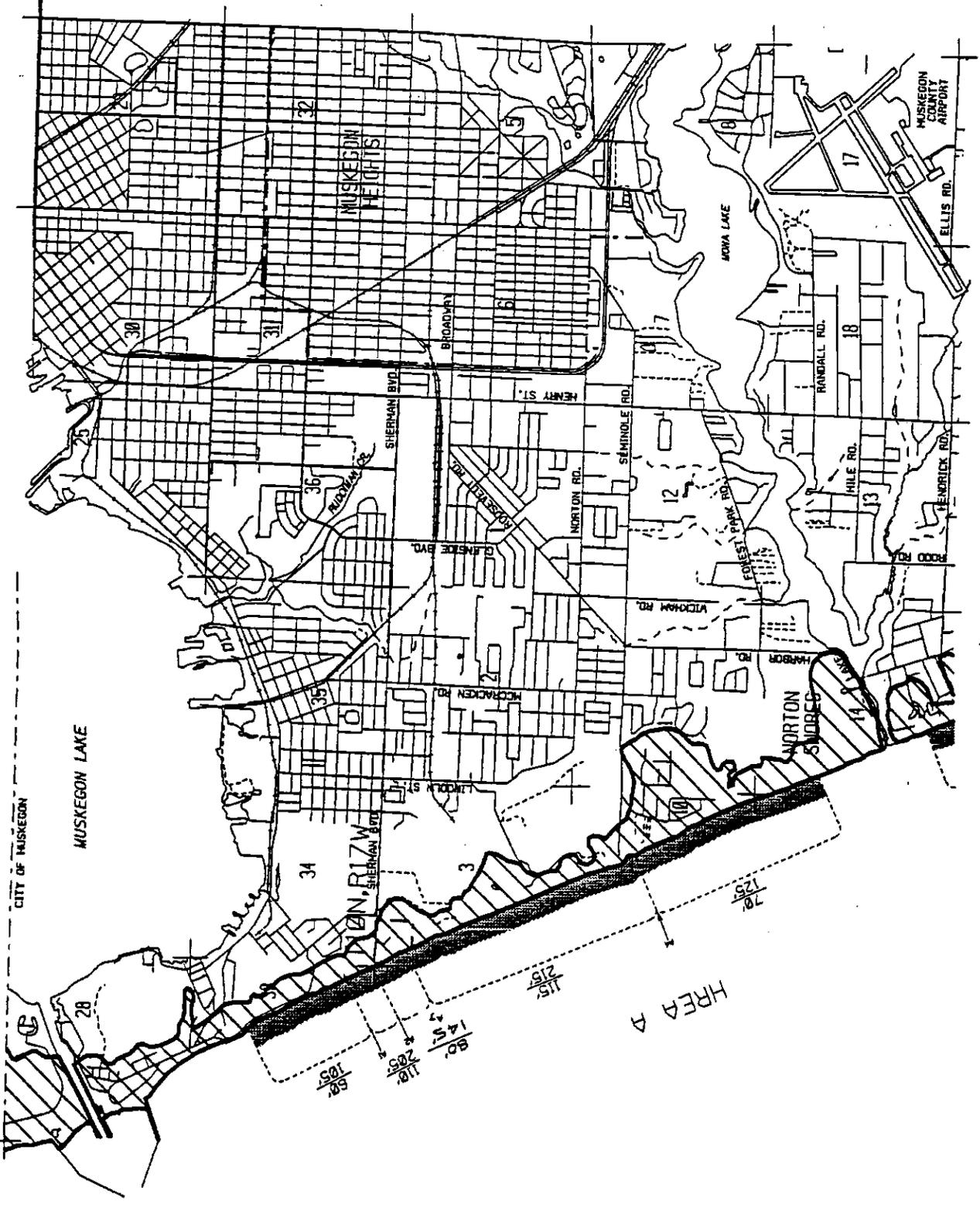
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May 3, 2017

Parcels in High Risk Erosion Areas of City of Muskegon, Muskegon County

HREAs identified North to South Date of Designation: December 20, 1993

HREA*	Sequence No.	Parcel Identification Number	Rate (feet/year)	30 yr PRD*	60 yr PRD*
A1	1	61-24-205-716-0001-00 Pumping station	1.5	60	105
A1	2	61-24-205-714-0001-00 Lake Michigan Park	1.5	60	105
A1	3	61-24-205-713-0001-00 Lake Michigan Park	1.5	60	105
A1	4.1	61-24-205-712-0001-00 northern 450 ft	1.5	60	105
A2	4.11	61-24-205-712-0001-00 central 900 ft	3.2	110	205
A3	4.12	61-24-205-712-0001-00 southern 100 ft	2.2	80	145
A3	5	61-24-003-100-0001-00 northern 980 ft, Norman F. Kruse Park	2.2	80	145
A4	5.1	61-24-003-100-0001-00 southern 420 ft, Norman F. Kruse Park	3.3	115	215

HREA* - Some parcels may be in multiple HREAs due to their large size.

30 yr PRD* is the Projected Recession Distance (feet) landward from the Erosion Hazard Line for readily moveable structures including those structures 3,500 square feet or less and built on a basement, crawlspace or pilings. Additional restrictions may apply per Administrative Rules 281.21-22.

60 yr PRD* is the Projected Recession Distance (feet) landward from the Erosion Hazard Line for non-readily moveable structures such as large structures and septic systems.

Designation runs with the land including subsequent splits. Absence of a property number does not guarantee the property is located outside of an HREA. Contact the Great Lakes Shorelands Unit, Water Resources Division, DEQ in Lansing or the local DEQ field office for assistance.



Figure 1: Looking north; Note location of water main indicated by blue paint mark



Figure 2: Looking south at southernmost reach



Figure 3: Looking south at southernmost reach, aligned with concrete rip rap



Figure 4: Looking south at southernmost reach from beach level



FY – 2019
AUDIT



Vredeveld Haefner LLC

CPAs and Consultants
10302 20th Avenue
Grand Rapids, MI 49534
Fax (616) 828-0307

Douglas J. Vredeveld, CPA
(616) 446-7474
Peter S. Haefner, CPA
(616) 460-9388

November 12, 2019

To the Board of Directors
West Michigan Regional Water Authority
Muskegon County, Michigan

We have audited the financial statements of the West Michigan Regional Water Authority (the Authority) for the year ended June 30, 2019. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated July 12, 2019. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Results

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Authority are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during the year. We noted no transactions entered into by the governmental unit during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected.

The financial statement disclosures are neutral, consistent, and clear.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. In addition, none of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to each opinion unit's financial statements taken as a whole.

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated November 12, 2019.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the governmental unit's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the governmental unit's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Other Matters

We applied certain limited procedures to the required supplementary information (RSI), as itemized in the table of contents, that supplements the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

Restriction on Use

This information is intended solely for the use of the Board and management of the Authority and is not intended to be and should not be used by anyone other than these specified parties.

Sincerely,

Wendell Haefner LLC



West Michigan Regional Water Authority

4814 Henry Street

Norton Shores, MI 49441

WEST MICHIGAN REGIONAL WATER AUTHORITY

Muskegon County, Michigan

FINANCIAL STATEMENTS

FOR THE YEAR ENDED JUNE 30, 2019



Vredeveld Haefner LLC

CPAs and Consultants

WEST MICHIGAN REGIONAL WATER AUTHORITY

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INDEPENDENT AUDITORS' REPORT

November 12, 2019

West Michigan Regional Water Authority
Muskegon County, Michigan

We have audited the accompanying financial statements of the West Michigan Regional Water Authority (the Authority), Muskegon County, Michigan as of and for the year ended June 30, 2019, and the related notes to the financial statements, which collectively comprise the Authority's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the West Michigan Regional Water Authority, as of June 30, 2019, and the respective changes in financial position and cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 3 through 5 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Orlandoold Haefner LLC

MANAGEMENT'S DISCUSSION AND ANALYSIS

WEST MICHIGAN REGIONAL WATER AUTHORITY

Management's Discussion and Analysis

As management of the West Michigan Regional Water Authority (the Authority), we offer readers of the Authority's financial statements this narrative overview and analysis of the financial activities of the Authority for the year ended June 30, 2019. We encourage readers to consider the information presented here in conjunction with additional information that is furnished in the financial statements and notes to the financial statements.

The West Michigan Regional Water Authority was formed by the participating municipalities (City of Norton Shores and Fruitport Charter Township) during 2014 pursuant to Act 233, Public Acts of Michigan, 1955, as amended, to acquire, own, and operate a water supply system to be utilized by the participating municipalities.

Financial Highlights

- Phase I of the E. Broadway Street water main replacement was near completion.
- Began Phase II of the Broadway Street watermain project.

Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to the Authority's financial statements. The Authority's basic financial statements consist of a statement of net position, a statement of revenues, expenses and changes in net position and a statement of cash flows and are accompanied by notes to the financial statements. The activities of the Authority are presented as an enterprise fund of a governmental entity using the full accrual basis of accounting.

The *statement of net position* presents information on all of the Authority's assets and liabilities, with the difference between the two reported as *net position*. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the Authority is improving or deteriorating.

The *statement of revenues, expenses and changes in net position* presents information showing how the Authority's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs.

The *notes to the financial statements* provide additional information that is essential to a full understanding of the data provided in the basic financial statements.

Financial Analysis

As noted earlier, net position may serve over time as a useful indicator of a government's financial position. In the case of the Authority, assets exceeded liabilities by \$1,046,900 at the close of the most recent fiscal year.

A portion of the Authority's net position reflects investment in capital assets (e.g., land, and infrastructure), less any related debt used to acquire those assets that is still outstanding plus any unspent proceeds from the debt. The investment in capital assets is in a negative position due to the assets being depreciated faster than the debt is being paid. The Authority uses these capital assets to provide services to joint venture participants; consequently, these assets are *not* available for future spending. Although the Authority investment in its capital assets is reported net of related debt, it should be noted that the resources needed to repay this debt must be provided from other sources since the capital assets themselves cannot be used to liquidate these liabilities.

The following table represents condensed information about the Authority's financial position:

	<u>2019</u>	<u>2018</u>
Assets		
Current and other assets	\$ 1,973,396	\$ 1,832,910
Capital assets	14,625,171	14,978,725
Total assets	<u>16,598,567</u>	<u>16,811,635</u>
Liabilities		
Current liabilities	601,667	425,178
Noncurrent liabilities	14,950,000	15,300,000
Total liabilities	<u>15,551,667</u>	<u>15,725,178</u>
Net position		
Net investment in capital assets	(197,922)	(188,022)
Unrestricted	1,244,822	1,274,479
Total net position	<u>\$ 1,046,900</u>	<u>\$ 1,086,457</u>

Net position of the Authority decreased by \$39,557 during 2019. The decrease in net position is primarily the result of an increase in purchased water rates. A summary of operating and non-operating revenues and expenses is presented below.

	<u>2019</u>	<u>2018</u>
Revenue		
Operating	\$3,296,126	\$2,700,644
Nonoperating	833	759,522
Total revenue	<u>3,296,959</u>	<u>3,460,166</u>
Expenses		
Operating	2,799,402	1,974,936
Nonoperating	537,114	545,846
Total expenses	<u>3,336,516</u>	<u>2,520,782</u>
Change in net position	(39,557)	939,384
Net position, beginning of year	<u>1,086,457</u>	<u>147,073</u>
Net position, end of year	<u>\$1,046,900</u>	<u>\$1,086,457</u>

Capital Asset and Debt Administration

Capital assets

The Authority's investment in capital assets, net of accumulated depreciation, was \$14,625,171 as of June 30, 2019. The Authority did not have any significant capital asset additions in the current year.

Additional information on the Authority's capital assets can be found in Note 3 of this report.

Debt

The Authority had debt outstanding of \$14,950,000 at June 30, 2019.

Additional information on the Authority's debt can be found in Note 4 of this report.

Economic Factors and Future Projections

During 2019-20, the Authority will complete phase I of the E. Broadway Street water main replacement and begin phase II.

Requests for Information

This financial report is designed to provide a general overview of the Authority's finances for all those with an interest. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the Treasurer, c/o City of Norton Shores, 4814 Henry Street, Norton Shores, MI 49441.

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BASIC FINANCIAL STATEMENTS

WEST MICHIGAN REGIONAL WATER AUTHORITY

STATEMENT OF NET POSITION

JUNE 30, 2019

Assets	
Cash and cash equivalents	\$ 1,064,531
Accounts receivable	781,958
Noncurrent assets	
Bond discount	126,907
Capital assets	
Depreciable capital assets, net	<u>14,625,171</u>
Total assets	<u>16,598,567</u>
Liabilities and net position	
Liabilities	
Accounts payable	321,917
Accrued interest payable	129,750
Due to other governmental units	150,000
Noncurrent liabilities	
Due within one year	400,000
Due in more than one year	<u>14,550,000</u>
Total liabilities	<u>15,551,667</u>
Net position	
Net investment in capital assets	(197,922)
Unrestricted	<u>1,244,822</u>
Total net position	<u>\$ 1,046,900</u>

The accompanying notes are an integral part of these financial statements.

WEST MICHIGAN REGIONAL WATER AUTHORITY
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
FOR THE YEAR ENDED JUNE 30, 2019

Operating revenue	
Sales and charges for services	\$ 3,293,576
Miscellaneous	<u>2,550</u>
Total operating revenue	<u>3,296,126</u>
Operating expenses	
Water purchases	2,314,400
Utilities	9,654
Repairs	64,618
Administrative	57,177
Depreciation	<u>353,553</u>
Total operating expenses	<u>2,799,402</u>
Operating income (loss)	<u>496,724</u>
Nonoperating revenue (expense)	
Interest income	833
Bond fee	(500)
Interest expense	<u>(536,614)</u>
Total nonoperating revenue (expense)	<u>(536,281)</u>
Change in net position	(39,557)
Net position, beginning of year	<u>1,086,457</u>
Net position, end of year	<u>\$ 1,046,900</u>

The accompanying notes are an integral part of these financial statements.

WEST MICHIGAN REGIONAL WATER AUTHORITY

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED JUNE 30, 2019

Cash flows from operating activities	
Receipts from customers	\$ 3,002,262
Payments to suppliers	<u>(2,265,860)</u>
Net cash provided by operating activities	<u>736,402</u>
Cash flows from capital and related financing activities	
Bond fee	(500)
Interest paid	(533,768)
Principal payments on long-term debt	<u>(350,000)</u>
Net cash provided by (used in) capital and related financing activities	<u>(884,268)</u>
Cash flows from investing activities	
Interest income	<u>834</u>
Net increase (decrease) in cash and cash equivalents	<u>(147,032)</u>
Cash and cash equivalents, beginning of year	<u>1,211,563</u>
Cash and cash equivalents, end of year	<u>\$ 1,064,531</u>
Reconciliation of operating income to cash flows from operating activities	
Operating income (loss)	\$ 496,724
Adjustments to reconcile operating income (loss) to net cash provided by (used in) operating activities	
Depreciation	353,553
Changes in operating assets and liabilities which provided (used) cash	
Accounts receivable	(293,864)
Accounts payable	<u>179,989</u>
Net cash provided by (used in) operating activities	<u>\$ 736,402</u>

The accompanying notes are an integral part of these financial statements.

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WEST MICHIGAN REGIONAL WATER AUTHORITY

NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED JUNE 30, 2019

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The accounting policies of the West Michigan Regional Water Authority (the Authority) conform to generally accepted accounting principles as applicable to governments. The following is a summary of the significant policies.

Reporting Entity

The West Michigan Regional Water Authority (a joint venture) was formed by participating municipalities (City of Norton Shores and Fruitport Charter Township) during 2014 pursuant to Act 233, Public Acts of Michigan, 1955, as amended, to acquire, own and operate a water supply system to be utilized by the participating municipalities.

Participating municipalities purchase water from the Authority based on their exclusive water system usage.

Measurement Focus and Basis of Accounting

The financial statements are reported using the *economic resources measurement focus* and the *accrual basis of accounting*. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows.

Basis of accounting refers to when revenues and expenses are recognized in the accounts and reported in the financial statements. Basis of accounting relates to the timing of the measurements made regardless of the measurement focus applied.

Operating revenues and expenses generally result from providing services in connection with the Authority's principal ongoing operations. The principal operating revenues of the Authority are contractual payments from members of the joint venture. Operating expenses of the Authority include the cost of operations, administrative expenses, and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

When both restricted and unrestricted resources are available for use, it is the Authority's policy to use restricted resources first, then unrestricted resources as they are needed.

Cash and Cash Equivalents

For the purpose of the statement of cash flows, the Authority considers all highly liquid investments with an original maturity of three months or less to be cash equivalents.

Michigan law and Authority policy authorizes the Authority to invest in:

- a. Bond, securities, other obligations and repurchase agreements of the United States, or an agency or instrumentality of the United States.
- b. Certificates of deposit, savings accounts, deposit accounts or depository receipts of a qualified financial institution.
- c. Commercial paper rated at the time of purchase within the three highest classifications established by not less than two standard rating services and that matures not more than 270 days after the date of purchase.

WEST MICHIGAN REGIONAL WATER AUTHORITY

NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED JUNE 30, 2019

- d. Bankers' acceptances of United States banks.
- e. Obligations of the State of Michigan and its political subdivisions that, at the time of purchase are rated as investment grade by at least one standard rating service.
- f. Mutual funds composed of investment vehicles, which are legal for direct investment by local units of government in Michigan.

Capital Assets

Capital assets, which include the water system and related equipment, are reported in the statement of net position.

Capital assets are defined by the government as assets with an initial, individual cost of more than \$5,000 and an estimated useful life in excess of two years. Such assets are valued at cost where historical records are available and at estimated historical cost where no historical records exist.

The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend asset lives are not capitalized. Improvements are capitalized and depreciated over the remaining useful lives of the related capital assets, as applicable.

Depreciation on capital assets is computed using the straight-line method over the following estimated useful lives:

	<u>Years</u>
Water system and improvements	50
Machinery and equipment	7-30

Bond Discount

Bond discounts are deferred and amortized over the life of the bonds using the effective interest method.

Net Position

Restricted net position (if any) represents those portions of net position not appropriate for expenditure or legally segregated for a specific future use.

2. CASH AND CASH EQUIVALENTS

The balance on the financial statements of cash and cash equivalents is \$1,064,531.

These balances are in a financial institution located in Michigan. State policy limits the Authority's investing options to financial institutions located in Michigan. All accounts are in the name of the Authority and are recorded in Authority records at fair value.

Deposit Risk

Custodial Credit Risk - Deposits. Custodial credit risk is the risk that in the event of a bank failure, the Authority's deposits may not be returned. As of year-end \$1,184,981 of the Authority's bank balance of \$1,434,981 was exposed to custodial credit risk because the balance was uninsured and uncollateralized.

WEST MICHIGAN REGIONAL WATER AUTHORITY

NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED JUNE 30, 2019

3. CAPITAL ASSETS

Capital asset activity for the year was as follows:

	Balance July 1, 2018	Additions	Deletions	Balance June 30, 2019
Capital assets, being depreciated				
Water system and improvements	\$15,563,585	\$ -	\$ -	\$15,563,585
Machinery and equipment	472,988	-	-	472,988
Total capital assets being depreciated	<u>16,036,573</u>	<u>-</u>	<u>-</u>	<u>16,036,573</u>
Less accumulated depreciation for				
Water system and improvements	933,189	311,273	-	1,244,462
Machinery and equipment	124,659	42,281	-	166,940
Total accumulated depreciation	<u>1,057,848</u>	<u>353,554</u>	<u>-</u>	<u>1,411,402</u>
Capital assets, net	<u>\$14,978,725</u>	<u>\$(353,554)</u>	<u>\$ -</u>	<u>\$14,625,171</u>

4. LONG-TERM DEBT

The following is a summary of debt transactions of the Authority for the year ended June 30, 2019:

	Balance July 1, 2018	Additions	Deletions	Balance June 30, 2019	Due Within One Year
2014 Water Supply System Bonds Series 2014A (LTGO), due in annual installments of \$100,000 to \$1,200,000 through April 1, 2039; interest at 2.0% to 5.0%.	\$15,300,000	\$ -	\$350,000	\$14,950,000	\$400,000
Bond discount	(133,253)	-	(6,346)	(126,907)	-
Total	<u>\$15,166,747</u>	<u>\$ -</u>	<u>\$ 343,654</u>	<u>\$14,823,093</u>	<u>\$400,000</u>

All of the City's outstanding debt is considered private placement debt.

WEST MICHIGAN REGIONAL WATER AUTHORITY

NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED JUNE 30, 2019

The annual requirements to amortize all debt outstanding as of June 30, 2019 are as follows:

<u>Year Ending</u> <u>June 30</u>	<u>Principal</u>	<u>Interest</u>
2020	\$ 400,000	\$ 519,000
2021	400,000	503,000
2022	450,000	487,000
2023	500,000	478,000
2024	500,000	466,750
2025-2029	2,900,000	2,042,250
2030-2034	4,300,000	1,466,250
2035-2039	5,500,000	631,625
Total	\$14,950,000	\$6,593,875

5. RISK MANAGEMENT

The Authority participates in the Michigan Municipal Liability and Property Pool, with other municipalities for property, liability, bonding, and casualty losses. The pool is organized under Public Act 138 of 1982, as amended. In the event the pool's claims and expenses for a policy year exceed the normal annual premiums for the applicable years, all members of the Pool's policy year may be subject to specific assessment to make up the deficiency. The Authority has not been informed of any special assessments being required.

6. RELATED PARTY TRANSACTIONS

The following balances are attributable to participating municipalities as follows:

	<u>Water</u> <u>Sales</u>	<u>Accounts</u> <u>Receivable</u>
City of Norton Shores	\$2,319,029	\$550,091
Fruitport Charter Township	931,951	231,867
Total	\$3,250,980	\$781,958

7. CONTINGENT LIABILITY

Phase I of the Broadway Street project was completed subsequent to year end. The Authority has agreed to pay for the water main portion of the project in the estimated amount of approximately \$620,000. Once the project is closed out and the exact amount is known, the City of Norton Shores will bill the Authority for the water portion of the project.

Phase II of the Broadway Street project is expected to start during the 2019-20 fiscal year. The Authority has agreed to pay the City of Norton Shores for the water main portion of the project which is estimated to be approximately \$345,000.