

**SUPERIOR CHARTER TOWNSHIP BOARD
REGULAR MEETING
APRIL 3, 2006
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1. CALL TO ORDER

The regular meeting of the Superior Charter Township Board was called to order by the Supervisor at 7:30 p.m. on April 3, 2006, at the Superior Township Hall, 3040 North Prospect, Ypsilanti, Michigan.

2. PLEDGE OF ALLEGIANCE

The Supervisor led the assembly in the pledge of allegiance to the flag.

3. ROLL CALL

The members present were William McFarlane, Kay Williams, Lisa Lewis, and David Phillips.

4. ADOPTION OF AGENDA

It was moved by Williams, supported by Phillips, to adopt the agenda as presented.

The motion carried.

5. APPROVAL OF MINUTES

A. REGULAR MEETING OF MARCH 20, 2006

It was moved by Williams, supported by Phillips, to approve the minutes of the regular Board meeting of March 20, 2006, as presented.

The motion carried.

6. CITIZEN PARTICIPATION

A. GARVIN SMITH APPRECIATION DAY – APRIL 8, 2006

Fire Chief Garvin Smith has been a member of the Fire Department for over 50 years. A dinner will be held at the Ypsilanti Fire Museum honoring him on April 8.

Garvin Smith was present at the meeting to receive the framed Resolution. He said that being on the Fire Department was a “labor of love”. Even after 50 years it is a thrill to jump in a fire truck and help someone in need. He commended the past and present fire fighters as highly skilled and trained men who are an asset to their community. He also complimented the Board and community for being supportive of the Department.

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It was moved by Williams, supported by Lewis, that the Superior Charter Township Board adopt the following Resolution:

**SUPERIOR CHARTER TOWNSHIP
WASHTENAW COUNTY, MICHIGAN**

APRIL 3, 2006

A RESOLUTION HONORING FIRE CHIEF GARVIN SMITH

WHEREAS Garvin Smith has served our community as a member of the Fire Department for over 50 years; and

WHEREAS he was appointed Fire Chief on October 8, 1985; and

WHEREAS under his leadership the Department has grown to a nine full-time firefighter plus six paid-on-call department; and

WHEREAS he was influential in the planning and oversight of the building of the new Fire Station at Ford and Prospect; and

WHEREAS Chief Smith's leadership was instrumental in bringing recognition as being one of the best fire departments in Southeast Michigan;

NOW, THEREFORE, BE IT RESOLVED that the Superior Charter Township Board wishes to thank Fire Chief Garvin Smith for his dedication to our community and his expertise in the execution of his duties as Fire Chief;

AND BE IT FURTHER RESOLVED that April 8, 2006, is hereby declared

GARVIN SMITH APPRECIATION DAY.

Roll call vote:

Ayes: McFarlane, Williams, Lewis, Phillips

Nays: None

Absent: McKinney, Caviston, Green

The motion carried.

B. TOM FREEMAN – NATURAL AREAS PRESERVATION PROGRAM

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Tom Freeman, Superintendent of Park Planning for Washtenaw County Parks Department and in charge of the Natural Areas Preservation Program, was present to discuss areas in Superior Charter Township that might be available for the program. The acquisition of land for the program must come from nominations by the land owner. The Program is only for preservation of open space and passive recreation.

Freeman discussed the proposed land acquisition at the southeast corner of Prospect and Ford. It is a high-quality site with woods, wetlands and farmland and is adjacent to the Spring Hill Preserve. The Program is currently negotiating with the owners. If purchased, a six-space parking lot would be built near the road and trails would be established and maintained. Seven per cent of the funds have been designated for maintenance.

McFarlane asked about land south of Geddes that might be acquired for active recreation. Freeman said that the Park Department is considering it.

C. JACK CEO – 800MHZ PRESENTATION

Jack Ceo, Deputy Chief of Saline Police Department, gave a presentation to the Board in support of the ballot proposal on the May 2 Election ballot for the 800 megahertz radio system and the needs of the system as a whole. He said the present system is outdated and the police and fire departments of several communities cannot communicate with the rest of the County. If the new system was in place, all departments could talk to departments throughout the entire State. The millage is for 0.2 mills for 10 years.

7. REPORTS

A. SUPERVISOR

The Supervisor reported on six items:

1. On April 4 an information meeting will be held at 7:00 p.m. at the Township Hall to give interested citizens the known facts about the rash of animal killings in the Township.
2. McFarlane will convene a Blue Ribbon Committee to do fact-finding on the future police services in the Township. He will have the charge ready for Board approval at the next meeting.
3. The sewage lift station at the Township Hall failed last week and the pump had to be replaced.

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4. The Annual Road Commission Meeting will be at the regular meeting of the Board on April 17.
5. T-mobile is interested in placing a tower at the Utility Maintenance Building site.
6. The Auditors will give the 2005 Audit Report on May 1.

B. DEPARTMENT REPORTS: PLANNING COMMISSION COORDINATOR, PARK COMMISSION MINUTES

It was moved by Williams, supported by Phillips, that the Planning Commission Coordinator Report dated March 29, 2006, and the Park Commission Minutes for February 27, 2006, be received.

The motion carried.

C. JANUARY 2006 FINANCIAL STATEMENTS - ALL FUNDS

It was moved by Williams, supported by Phillips, that the Superior Charter Township Board receive the January 2006 Financial Statements for all funds: General, Fire, Law Enforcement, Parks and Recreation, Streetlights, Payroll, Trust and Agency, Utilities, Building, Side Street Maintenance, Fire Reserve Fund, and Fire Construction Bond Fund.

The motion carried.

8. COMMUNICATIONS

A. UTILITY DEPARTMENT OFFICE BUILDING NEEDS ASSESSMENT STUDY

In January, 2006, the Utility Department received approval from the Board to have a facility needs assessment for the Utility Department Administrative Building. The assessment, which was performed by Fry and Partners Architecture, focused on three major areas, as follows:

Reopening a lobby area to our residents,
Addressing both current and future staffing/equipment needs,
Maintaining as much of the existing interior design as possible in order to reduce costs

The total estimated price to remodel the interior of the building so

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that it meets the parameters listed above is \$315,500.00.

In the next few weeks, the Utility Department will be providing an update to the Board of the Capital Improvements Program. Included in this presentation will be a list of all major capital projects that will be needed over the next few years as well as a funding plan for these projects. The renovations to the Utility Department Administrative Building will be included in this presentation.

It was moved by Williams, supported by Lewis, that the Superior Charter Township Board receive the Utility Department Office Building Needs Assessment Study.

The motion carried.

B. CITY OF YPSILANTI – RESOLUTION ON INCREASING REVENUE SHARING

The City of Ypsilanti sent a Resolution to the Superior Charter Township Board urging the Governor and Legislature of the State of Michigan to increase local revenues collected by the State and distributed under the Revenue Sharing Act. Ann Arbor City has adopted a similar resolution.

It was moved by Williams, supported by Lewis, that the Superior Charter Township Board receive the Resolution adopted by the City of Ypsilanti regarding increasing State Revenue Sharing to local units of government.

The motion carried.

9. UNFINISHED BUSINESS

A. REQUEST TO EXCEED MAINTENANCE LIMIT ON N. BRANCH #2 KIMMEL DRAIN

Flooding is occurring along side and washing over Jordan Road (private) and along Cherry Hill Road in Section 15 just east of the Township Hall. It appears that several large blow holes in the 15 inch tile line are obstructing the drain and causing a safety hazard. The cost to fix the problem is approximately \$10,000.00. The annual allowable maintenance limit for this drain is \$2,500 per year as set by the Michigan Drain Commission unless a resolution by the Board authorizes the Drain Commission to exceed the maintenance limit.

This matter was tabled at the March 20 Board meeting as several questions were raised by Board members and citizens in the audience. Dennis

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Wojcik from the Drain Commission was present to address those concerns. Mr. Wojcik said that the current drain, which was put in in 1921, was a safety hazard as some of the broken pipe exposed holes five feet deep. The flooding problem was not caused by the meets and bounds subdivision which has been built on the land to the north.

While Mr. Wojcik was speaking, McFarlane left the meeting to deal with a family emergency.

After Mr. Wojcik had answered all the questions on the matter, the Board took a short break. During that break, Nancy Caviston, who was recovering from oral surgery, came to the meeting to insure that there was a quorum. Phillips chaired the meeting as Chair Pro Tem.

It was moved by Williams, supported by Caviston, that the Superior Charter Township Board adopt the following Resolution:

**SUPERIOR CHARTER TOWNSHIP
WASHTENAW COUNTY, MICHIGAN**

APRIL 3, 2006

**A Resolution Authorizing the Drain Commissioner to Exceed the Statutory
Spending and Assessment Limit of \$2,500 Per Year for the Maintenance And
Repair of the N. Br. #2 Kimmel Drain**

WHEREAS, the N. Br. #2 Kimmel Drain is a drain located in the Superior Township which drain was constructed in accordance with the Drain Code of 1956; and

WHEREAS, the Drain Commissioner of Washtenaw County is entrusted with the responsibility of ensuring proper maintenance and repairs are made to said drain; and

WHEREAS, the Drain Commissioner, pursuant to statute, has inspected the N. Br. #2 Kimmel Drain, which inspection revealed that repair work is necessary inasmuch as said inspection "*revealed broken and collapsing tile with surface blowholes both north and south of Cherry Hill Road, and flooding occurring both on Jordan Road and Cherry Hill Road*"; and

WHEREAS, the Drain Commissioner of Washtenaw County has estimated that the further repair of the N. Sr. #2 Kimmel Drain will be approximately \$7,500; and

WHEREAS pursuant to the Drain Code of 1956, the Drain Commissioner cannot exceed the expenditure of \$2,500 for the maintenance and repair of the N. Br. #2 Kimmel Drain unless approved by resolution of the Township Board; and

WHEREAS, the Drain Commissioner has requested the Township Board to pass such a resolution authorizing the Office of the Drain Commissioner to exceed the statutory spending

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limit allowed on the N. Br. #2 Kimmel Drain, to wit: \$2,500 per year so as to allow repair of said drain;

NOW THEREFORE, BE IT RESOLVED that the Township Board for Superior Charter Township hereby approves and authorizes the Office of the Drain Commissioner to exceed the statutory spending assessment limit of \$2,500 per year for the repair of the N. Br. #2 Kimmel Drain in the exceeded amount of \$7,500.

I, Kay Williams, Clerk of Superior Township, Washtenaw County, Michigan, hereby certify the approval of Resolution by Superior Township Board at a regular meeting held April 3, 2006,

Roll call vote:

Ayes: Williams, Caviston, Lewis, Phillips

Nays: None

Absent: McFarlane, McKinney, Green

The motion carried.

**B. PRIVATE COMMUNITY WASTEWATER SYSTEMS
ORDINANCE NO. 166 – FINAL READING**

Minor changes have been made from first reading that did not substantially alter any meaning of any section. Some discussion concerning salts in water softeners ensued, and the Township Engineer agreed that salts constituted a problem that would need to be dealt with if a community wastewater system was built in the Township.

It was moved by Williams, supported by Caviston, that the Superior Charter Township Board adopt the following Ordinance for final reading:

PRIVATE COMMUNITY WASTEWATER SYSTEMS

SUPERIOR CHARTER TOWNSHIP, MICHIGAN

Ordinance No. 166

SECTION I - GENERAL

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Section 1.1 - Intent and Purpose.

The Township provides public wastewater disposal services within designated sewer service areas under a contract with the Ypsilanti Community Utilities Authority and the Township of Ann Arbor. Those areas outside the public sewer service area are generally to be served by individual septic systems. However, in certain cases, in order to accommodate clustering of development and to preserve significant agricultural areas or open space areas, private community wastewater disposal systems ("PCWS") may be deemed necessary by the State, the County or the township.

Pursuant to Part 41 of Act No. 451 of the Public Acts of 1994, as amended, the Michigan Department of Environmental Quality ("MDEQ") is authorized to issue permits for private community on-site wastewater disposal systems that serve more than one property (referred to as a "private community wastewater system" or "PCWS"). While the Township recognizes that a private community wastewater system may be in the best interests of the health, safety, and welfare of the Township and the residents in some limited circumstances, the Township requires assurance that, should an Act 451 permit be issued, the Township shall be indemnified from any costs or liability in connection with the design, construction, operation, maintenance, repair and/or replacement of that PCWS. The Township also recognizes that should the services of a PCWS fail or improperly function, the extension of public sewer systems may not be possible under contracts with the Township of Ann Arbor and the Ypsilanti Community Utilities Authority (YCUA) and in such event an adequate replacement reserve for the PCWS is essential. Accordingly, no building or zoning permits shall be issued for any developments for which an Act 451 permit is required and/or has been issued unless the proposed PCWS also complies with the requirements of this Ordinance. For these purposes, this ordinance is intended to regulate PCWS within the Township.

SECTION II - DEFINITIONS

Section 2.1 - Definitions

- A.** ACT 451 means Act. No. 451 MCL 324.4101 to 324.4111) of the Michigan Public Acts of 1994, as amended.
- B.** ACT 98 PERMIT means a permit issued in accordance with the provisions of Act. 98.
- C.** APPLICANT means a person or entity having an ownership or other contractual interest in land who proposes to construct a PCWS or expand a PCWS on the land.

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- D. ASSOCIATION**, for a condominium development, shall have the same meaning as "association of co-owners" found in Act No. 59 of the Michigan Public Acts of 1978, as amended. For a subdivision or other development, association shall mean an association of homeowners or property owners organized as a non-profit corporation, organized as an LLC, PLC, or PC, as defined in HB 4860 and authorized pursuant to deed restrictions and/or restrictive covenants in a particular development to govern the affairs of the subdivision or other development.
- E. BEST MANAGEMENT PRACTICES** means programs, practices, procedures or other directed efforts, initiated and implemented by a user, which can or does lead to the reduction, conservation or minimization of pollutants being introduced into the ecosystem. BMPs include, but are not limited to, equipment technology modifications, process or procedure modifications, reformulation or redesign or products, substitution of raw materials and improvements in housekeeping, maintenance, training, or inventory control and may include technical and economic considerations.
- F. CERTIFIED OPERATOR** means a contractor or employee licensed by the MDEQ to operate and maintain wastewater systems.
- G. COMMUNITY WASTEWATER SYSTEM OR SYSTEMS OR PCWS** means a facility for the transportation, collection, processing or treatment of sanitary sewage, which is owned by a non-governmental entity and which is proposed to service more than one structure. The PCWS shall be deemed to include any individual septic tanks, pumps, lines and appurtenances serving each residence, in addition to the community drainfield and treatment system.
- H. DEVELOPMENT** shall include a subdivision as defined by Act No. 288 of the Public Acts of 1967, as amended, a condominium pursuant to the provisions of Act No. 59 of the Public Acts of 1978, as amended, or any group of dwellings or structures that are proposed to be served by a PCWS.
- I. DEVELOPMENT DOCUMENT** means (a) for a condominium project. The master deed and bylaws provided by Act No. 59 of the Public Acts of 1978, as amended; and (b) for a subdivision or other development, deed restrictions and/or restrictive covenants.
- J. EXPANSION** shall mean any activity whereby additional structures or users shall be added to an existing system.
- K. MDEQ** means the Michigan Department of Environmental Quality, or its successors.
- L. OWNER** shall mean the owner of a fee simple interest or a land contract

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- purchaser of property that is served or is proposed to be served by a PCWS.
- M. OPEN SPACE** is defined as the land area that shall remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenants, or other legal means that runs with the land. It shall not include land that is already prevented from development such as, but not limited to wetlands. It shall not include land encumbered by other rights or easements such as, but not limited to utility easements.
- N. PCWS DEVELOPMENT AGREEMENT** means the agreement described in Section 3.2.C.4 below.
- O. PUBLIC SANITARY SEWER SYSTEM** means a publicly-owned sanitary sewer system.
- P. PUBLIC SANITARY SEWER SERVICE AREA** means the area designated for public sanitary sewer service by the Township, as defined in the Growth Management Plans as an “Urban Service Area” or through a contract between the Township and its service providers.
- Q. SANITARY SEWER SYSTEM** means a facility for transportation, collection, processing, or treatment or sanitary sewage.
- R. TOWNSHIP** means the Superior Charter Township, Washtenaw County, Michigan, acting through its duly elected Township Board.

SECTION III - REGULATIONS

Section 3.1 - Regulations

- A.** Any development of land that is proposed to be serviced by a PCWS must comply with the provisions of the Ordinance before any building and/or zoning permits may be issued for the development. Except as provided in this Ordinance, a development of land to be served by a PCWS shall not be commenced, and it shall be unlawful to construct, install, or operate a PCWS within the Township in conjunction with any such development unless in conformance with this Ordinance.
- B.** A PCWS shall only be allowed in areas of the Township outside of the Public Sanitary Sewer Service Area, or “Urban Service Area”, as defined in the Growth Management Plan.
- C.** A PCWS shall only be allowed as part of a Planned Community (PC) development subject to all of the requirements of Section 4.22 of the Superior

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Township Zoning Ordinance. The PC development shall be a single land use type as categorized by the Washtenaw County Health Department. Mixed land uses on a single PCWS are prohibited.

- D.** The primary purpose for and use of a PCWS in the Township shall be to enhance and enable significant clustering of residences and other development alteration to land and to preserve significant wetlands, natural features, open spaces or agricultural lands. A minimum of 50% of the land proposed for the development shall be preserved as agricultural land or as open space as defined in Section 2.1.N.
- E.** The treated effluent from PCWS shall not be discharged into any surface water.

Section 3.2 - Requirements for approval

- A.** Any PCWS shall comply with the terms of this Ordinance and applicable requirements of the Superior Township Zoning Ordinance, applicable standards of the Michigan Department of Environmental Quality ("MDEQ"), the Michigan Department of Public Health, the Washtenaw County Health Department ("WCHD"), the Michigan Public Service Commission, the Michigan Occupational Safety and Health Administration, and any other applicable laws and regulations of the federal government, State of Michigan, Washtenaw County, and the Township.
- B.** No new PCWS or expansion of an existing PCWS shall be constructed, installed, or operated within the Township unless the plans for the installation and system design have been approved by the Township, the WCHD, the Michigan Department of Public Health, the MDEQ, the Michigan Public Service Commission and any other governmental authority having jurisdiction.
- C.** The applicant shall provide the following to the Township before approval of a PCWS may be granted:
 - 1. A valid permit for installation of a PCWS issued by the applicable regulatory agency.
 - 2. A certification from the PCWS design engineer indicating that the PCWS as designed and constructed will adequately process sanitary sewage and waste as required by applicable laws and regulations of the federal government, State of Michigan, County of Washtenaw, and the Township. The Township engineer shall review and make a recommendation regarding the adequacy of such certification. The Township Engineer's review shall include review of plans and documents for compliance with Township Ordinances, Engineering Standards, general engineering practices and best management practices.

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3. An executed PCWS Maintenance Agreement among the applicant, the owner, the association, the Township and all other appropriate regulatory agencies, and the properly certified operator possessing the required ability to operate, inspect, monitor, maintain, repair, replace and manage the PCWS. The agreement shall contain provisions for: (i) inspection, monitoring, operation, maintenance, repair and replacement of the PCWS; (ii) collection of charges for connection to, use and replacement of the PCWS; (iii) compliance with all applicable governmental laws, ordinances, regulations, Township zoning, and agreements regarding the PCWS. The agreement shall provide that it may not be terminated or amended without Township approval. The language of the agreement shall be reviewed and approved by the Township attorney and Township engineer prior to granting of approval of the PCWS by the Township Board. Any amendments, renewals, revisions or substitutions of the agreement shall require prior written approval of the Township.
4. An executed PCWS Development Agreement among the applicant, owner, the association, and the Township in a form acceptable to the Township specifying:
 - a. The party or parties responsible for inspection, monitoring, repairing, replacing, operating and maintaining the PCWS.
 - b. Standards for inspection, monitoring, operation, maintenance, repair and replacement of the PCWS in accordance with guidelines recommended by the Design Engineer, PCWS equipment manufacturer, the certified operator, the MDEQ, the WCHD, Best Management Practices, and other applicable governmental authorities, including the Township. The applicant shall provide the proposed standards to the Township for review and approval and such standards shall be included in the PCWS Development documents. Standards shall include periodic reports to the Township and the right of the Township to inspect and compel remediation if these standards are not met.
 - c. Indemnification of the Township by the applicant, owners and association, jointly and severally, from any and all loss, liability, costs and expense incurred by the Township with respect to inspection, monitoring, operation, maintenance, repair and replacement of the PCWS.
 - d. A statement that the applicant, owner and association shall maintain a policy of casualty insurance for the replacement value of the insurable components of the PCWS and a policy of comprehensive general liability insurance with limits acceptable to the Township, naming the Township as an additional insured.

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- e. A statement that the Township shall have the option in its sole discretion to require that PCWS be abandoned and all properties in the development be connected to any public sanitary sewer system or publicly-owned community sewer system which may be constructed in the future and accessible to the development at the expense of the owners. If a PCWS is required to be abandoned, the costs of environmental remediation are to be borne by the Association.
 - f. A statement acknowledging that the Township shall have the option to purchase for the sum of \$1.00 (1) marketable title to the PCWS and any lands required to be titled in the name of the Township by governmental or regulatory requirements, or (2) easements reasonably deemed by the Township to be necessary in conjunction with the PCWS or future publicly owned community wastewater system.
 - g. A requirement that a special assessment district to be established as described in Section 3.2(I) below.
 - h. An Operations and Maintenance (O/M) Manual shall be provided prior to final approval of the PCWS. The O/M manual shall include any such items specified in the current Township Engineering standards, standard maintenance requirements and frequency, worksheets for replacement costs and 5 year O/M costs prepared in a format similar to worksheets required for those purposes by the MDEQ Policy for PCWS permitting. All maintenance records and analysis results shall be maintained on site for a minimum of three years.
5. The provisions of the PCWS Development Agreement described above and other obligations of the association set forth in this Ordinance shall be included in a separate disclosure document and the development documents in the form approved by the Township Attorney and shall be delivered to the prospective purchaser of a unit, lot or parcel served by a PCWS prior to the execution of a purchase agreement.
6. Documentation to verify the following conditions shall be submitted:
- a. Each PCWS shall be included in the general common elements of a condominium in which it is located, and included in the common areas of any other development, and the PCWS shall be inspected, monitored, operated, maintained, repaired and replaced by the

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Association with the right of the association to assess owners for all such costs including the cost of the annual Township review.

- b. Each Association shall hire a certified operator approved by the MDEQ, the WCHD, the Township and other applicable governmental authorities to perform such inspection, monitoring, operation, maintenance, repair and replacement at the expense of the Association, and the Association shall provide the Township annually with copies of the signed agreements with the certified operators.
- c. Each Association shall maintain a financial reserve sufficient for five (5) years of monitoring, inspection, operation, maintenance and repair of the PCWS and an adequate replacement reserve in the amounts certified by a design engineer or the certified operator and required by applicable governmental authorities and shall be subject to Township review and approval. The certified operator and the Association shall provide the Township with evidence of such reserves annually.
- d. The developer shall provide proposed rates for the first five (5) years of operations based on the above and any other appropriate costs typically included in utility fee calculations. A projected cash flow analysis showing the assumption of number of connections shall be included, along with anticipated escrow replenishments needed by the developer or the Association to balance the expenses vs. revenues before all lots are on-line, or to maintain the required maintenance and replacement escrows if necessary.

7. A permanent and irrevocable easement, in recordable form, shall be granted by the applicant, owner and Association to the Township and its employees, agents, and assigns authorizing the Township to enter on the development upon which the PCWS is located for the purpose of inspections and other purposes set forth in this ordinance, and the PCWS shall be maintained so as to be accessible at all times by the Township. No structures or landscaping within the access area shall be allowed that would unreasonably interfere with such access.

- D.** No building permit shall be issued for any structure or development proposed to be served by a PCWS until the Township has approved the PCWS in accordance with terms and provision of this ordinance and Section 4.22 of the Zoning Ordinance regarding Planned Community developments.
- E.** The PCWS shall be inspected during construction by an independent engineer or consultant hired by the Township at the applicant's expense to ensure proper system construction and installation, and after construction to certify annually system capacity and function. In no case shall any underground installation that is backfilled prior to inspection, as-built measurement and documentation (and

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- written approval) be accepted. Due to the sensitive nature of soil disturbance and placement for maximum percolation and service life, the Township reserves the right to require a new field to be constructed in another location if backfill occurs prior to the above acceptance requirements.
- F.** Anything in this ordinance to contrary notwithstanding, the Township shall not be responsible for or obligated to perform any needed or desired repairs, maintenance, improvement, and/or replacement of the PCWS or any portion thereof.
- G.** At any time approval for a PCWS is granted, the Township may condition such approval upon the applicant and current and future owners of property proposed to be served by the PCWS and the association, to adhere to the operational and maintenance requirements of this Ordinance. The certified operator and the association shall furnish annual operating and maintenance reports in accordance with the applicable operation and maintenance requirements. All such requirements shall be made a part of the PCWS Development Agreement and development documents.
- H.** The PCWS Development Agreement and the development documents shall be recorded at the office of the Washtenaw County Register of Deeds after approval by the Township. The development documents, as they pertain to the PCWS, shall not be changed without Township approval and shall contain language to that effect.
- I.** Prior to recording the development documents and sale of any unit, lot or parcel served by a PCWS, applicant and owner shall establish a special assessment district for the development, the purpose of which shall be to provide for assessment of the units, lots or parcels in each development by the Township for the costs of inspection, monitoring, maintenance, repair, operation or replacement of the PCWS in the event the association shall fail to properly perform such work or in the event the Township takes control of the PCWS.
- J.** The operator, the applicant, the association and the individual owners and users of the PCWS shall be responsible for all costs associated with the installation, operation, monitoring, inspection, maintenance, repair, replacement of the PCWS and all liability associated with the PCWS. The Township may, at its option, elect to collect all costs it may incur in connection with the PCWS pursuant to the provisions of this ordinance by a special assessment described above, and by direct court action against the applicant, the operator, the association, owners, and/or users of the PCWS.
- K.** For the privilege of using PCWS the developer shall preserve a minimum of 50% of the property in the proposed development for agricultural use or open space as

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defined in Section 2.1.M.

- L.** Under no circumstances shall the Association accept responsibility for operation and maintenance of the system until such time as 80% of the proposed dwelling units in the project are occupied. Prior to that time the owner of the development shall assume full responsibility for the operation and maintenance of system.
- M.** A complete copy of the as-built drawings and documents, as defined by the Township's Engineering Standards, including electric, water, chemical, and physical systems, drain fields and final topography, shall be provided to the Township upon completion of the PCWS, and before it is approved for operation.

SECTION IV - SITE PLAN STANDARDS

The PCWS development project shall comply with all of the Area Plan and Site Plan requirements in Sections 4.22, 10.03 and other applicable sections of the Zoning Ordinance. In addition, the applicant shall submit the following information:

- A.** Adequate buffering, as determined by the Township, from residential uses and adjacent properties to minimize process machinery noise level, minimize light intrusion, maximize odor dispersal and to ensure adequate isolation distances so that drinking water wells are not adversely affected by the PCWS.
- B.** Adequate fencing and landscaping, as determined by the Township, to protect and screen the drainfield, reserve field and treatment system from adjacent uses.
- C.** A general location map showing the proposed treatment system and the development in relationship to prominent geographical features such as roads, rivers, streams, lakes, individual homes and other subdivisions or villages. The map shall show the all above features within a mile of the proposed treatment system. The PCWS shall be sited in such a way to generally discourage foot traffic, park use, future illegal landscaping, fill by adjacent residents, or other uses. An important secondary consideration in siting shall be minimizing impact to existing and future homes.
- D.** An accurate legal description of the boundaries of the development and the treatment system site. The entire development and treatment system site must be topographically mapped with a maximum contour interval of two feet. The legal description and topographic map must be prepared under the direction of a licensed professional surveyor. The drawing must be accurate and to a scale of no more than 100 feet to one inch.
- E.** The location of soil borings or test pits and attached soil boring logs and results. Indicate the general nature of subsurface soils in the development and treatment

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system areas, including depth to groundwater, permeable strata, and confining layers.

- F. The major components of the proposed PCWS on the drawing, including pump stations, tanks, treatment units, drainfields, buildings and other significant items.
- G. The means of vehicle access to the PCWS. Provide at least one paved access drive at least 10 feet wide for year round access. Provide paved parking and turnaround area adequate for maintenance vehicles. Keep buried utilities a minimum of 10 feet from the edge of pavement.
- H. Sufficient details on the drawing to illustrate the method of stormwater management; show general flow arrows for the direction of stormwater runoff, and the points of discharge from the development. The drain field and reserve field shall be crowned and shall not receive any drainage runoff or be used for collection. If detention or other runoff storage is proposed nearby either one, the Township may require calculations sealed by a licensed professional engineer specializing in groundwater modeling and/or soils transmissivity, demonstrating that there will be no impact within the underground absorption area.
- I. The locations of and distances from nearby wells, existing and future structures, drains, water mains, or other utilities. In general, the preferred buffer from any off-site dwelling to the wastewater treatment component is 300 feet to 500 feet. On-site dwellings shall be buffered from any portion of the PCWS, disposal area or pump station by a minimum distance of isolation of 100 feet, or such distance as required by the appropriate regulatory agency. The PCWS must be located on a parcel of land not counted as an undevelopable area or an area encumbered by other easements.
- J. The placement of the adequate buffer space designed to decrease process machinery noise levels and light emission levels and maximize odor dispersal and a description of how placement of the PCWS will minimize odor concerns with neighboring properties.
- K. The locations of and distances to nearby surface water, wetlands, or floodplain. A minimum isolation of 100 feet from the established Wetland buffer is required. No PCWS may be located within the 100-year floodplain or wetlands. If the flood plain of the nearby water body or watercourse has not been established and there is reasonable doubt about potential conflict, the developer's engineer shall provide a hydraulic analysis establishing the 100-year flood elevations subject to the review and approval of the Township and Washtenaw County Drain Commissioner.

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- L. Details of the screening to be provided around the PCWS, such as beams, trees, shrubs, fences, etc. Fencing shall be required (e.g. a 3 rail split rail fence on the parcel line of the drain field and reserve field.) All screening shall be reviewed and approved by the Planning Commission as part of the site plan review process.
- M. Show the source of water supply and its isolation from the proposed treatment and disposal system. Indicate the general direction of groundwater flow.

SECTION V - SELECTION OF TREATMENT SYSTEM

Section 5.1 - The PCWS must be capable of achieving consistent levels of secondary treatment. Secondary treatment objectives include the following parameters, measured at the point of discharge of treated effluent:

BOD	20 mg/l or less	(30 day average)
TSS	20 mg/l or less	(30 day average)
Total N	25 mg/l or less	(30 day average)
Total P	25 mg/l or less	(30 day average)
Mercury	not detectable	(not averaged)
PCB	not detectable	(not averaged)
PH	6-8	(30 day average)

Section 5.2 - Design the PCWS with ease of access, maintenance and operation in mind. The Township reserves the right to retain a qualified wastewater system operator at the applicant's expense to review the plans and suggest modifications to the design, layout, or operation of the system.

Section 5.3 - The general concepts of wastewater pretreatment currently accepted by the Township are listed below:

- A. The concept of an "Advantex" system has been reviewed. This system, and/or any additional advanced treatment processes, will be considered for approval on a case by case basis. Refer to Township's Engineering Standards for additional details and requirements.
- B. Additional concepts and/or designs may be submitted to the Township for review. All review procedures will incorporate input from the MDEQ and

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the Township.

SECTION VI - BASIC DESIGN CRITERIA

Section 6.1 - Design of the PCWS shall be performed under the direct supervision of a qualified professional engineer licensed to practice in the State of Michigan. The engineer shall have experience in the design of a PCWS. Upon request of the Township, the engineer shall provide a list of similar projects with location, size, construction cost, contact names and telephone numbers designed by the engineer.

Section 6.2 - A PCWS designed under these guidelines is meant only for wastewater characteristics of residential users. Typical values of raw wastewater to be used for calculating loads for treatment processes include the following:

BOD	250 mg/l + or -
TSS	210 mg/l + or -
Ammonia	25 mg/l + or -
Total N	50 mg/l + or -
Total Phosphorus	7 mg/l + or -
Oil & Grease	90 mg/l + or -
PH	6 to 8

Section 6.3 - In the absence of actual flow data, the design shall be based upon the definition of one Residential Equivalent Unit (REU) equaling a minimum of 350 gallons per day.

Section 6.4 -- Design of the PCWS shall be limited to a maximum of 20,000 gallons per day.

Section 6.5 - PCWS shall include the following general components:

- A.** Septic tanks with effluent filters.
- B.** Recirculation and/or surge tanks.
- C.** Options to by-pass certain components in order to accommodate the daily flows under conditions requiring service and/or repair.
- D.** Piping

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- E. All pumps including, if non-gravity systems are proposed, individual residential pumps.

Section 6.6 - Design the PCWS for a service life of at least 20 years.

Section 6.7 - Design the PCWS for expansion with a minimum of interruption of normal operation.

Section 6.8 – Design of the PCWS shall permit ease of expansion and ultimate connection to a public sanitary sewer. Measures to accomplish this may include blind tees, plugs, stubs, and sleeves placed strategically to allow for future connection to a public system.

Section 6.9 - In order to keep the PCWS operational during times of routine maintenance and/or repair, whenever possible, the treatment components shall be compartmentalized so as to allow for manual alternation of the components.

Section 6.10 - All units within a proposed development containing a PCWS shall be connected to the PCWS.

Section 6.11 - The minimum number of homes connected to a PCWS shall be 20.

Section 6.12 - Prepare a basis of design showing flow calculations, dosing rates, pump and tank sizing, timer settings, and other key parameters. Include an estimate of the time available for operator response under high water alarm conditions.

Section 6.13 - Design piping to allow for flushing, draining, repairing, and other maintenance activities.

Section 6.14 - Provide adequate lifting and handling devices for heavy or awkward components of the system.

Section 6.15 - Provide gasketed aluminum access hatches to control odors.

Section 6.16 - Gravity flow piping in and around tanks, up to the distribution piping at the drainfield, shall be PVC Schedule 80 with solvent weld connections. Glued connections shall not be permitted. All fittings shall be PVC Schedule 80.

Section 6.17 - Subsequent to a review of the overall data submitted, the Township may require the installation of groundwater observation wells around the disposal area. If the wells are required, the following criteria shall apply:

- A. A minimum of three (3) wells shall be triangulated around the final disposal area with the exact locations jointly determined by the design

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engineer and the Township.

- B.** The wells shall be a minimum of 2" diameter and properly screened at the depth of the receiving aquifer.
- C.** Each well shall be equipped with a latchable cap.
- D.** The Township shall establish sampling frequency and parameters on a case by case basis.

Section 6.18 - Slope paved surfaces a minimum of 1 % and a maximum of 3%.

Section 6.19 - Landscaped or grassed areas that require periodic mowing may be sloped up to a maximum of 1 vertical to 4 horizontal.

Section 6.20 - All elevations within the area of any component of the wastewater system shall be graded so as to promote runoff away from the system to a designated drainage area.

Section 6.21 - At the discretion of the Township, the reserve area may be required to be prepared in full or in a portion thereof. The extent of preparation shall be subject to the following items:

- A.** Future availability of public sewer.
- B.** Overall site grading and/or clearing.
- C.** Depth and accessibility of proposed excavation.
- D.** Conditions observed during construction, inspection, or other field investigation that vary from design assumptions, such as lack of uniform subsurface soil conditions, location of groundwater, percolation, construction methods especially those resulting in "smearing", or any other conditions or factors that are suspected to impact the optimal performance of the design, as described in the Michigan Criteria for Subsurface Sewage Disposal, or other generally accepted publications regarding field conditions or other factors that may affect performance or service life.

Section 6.22 - Install, inspect, and maintain all soil erosion and sedimentation control measures as required by the Township and any other regulatory agency with jurisdiction.

Section 6.23 - The reserve tile field area shall be graded so as to provide for no more than

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a 1 on 4 slope within the defined boundary.

Section 6.24 - Recharge water from residential water softeners shall not be discharged into the PCWS. Other sources of salt or other chemical compounds such as pavement de-icing runoff or other sources shall not be directed toward the surface or subsurface of the drain field, reserve field, or PCWS system components.

Section 6.25 - Where topographical constraints do not allow for all-gravity collection systems, the Township's goal is to maximize gravity systems. Therefore, systems reliant on pumps at each home will not generally be permitted. Collection systems that require pumping shall create the least number of pumping or lift stations feasible, even if there are initial installation costs. Any request to install more pumps than deemed reasonable by the Township Engineer shall be accompanied by a detailed analysis of costs for the entire service life of the collection system, demonstrating no appreciable increase in cost to the user for the entire service life.

Section 6.26 - The PCWS shall have an emergency generator, capable of operating the entire system in such a manner that no untreated material shall be discharged.

Section 6.27 - No user of a PCWS shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation or performance of the PCWS. A user may not contribute to the PCWS any of the substances identified in the Superior Township Utility Ordinance under Section 193 "Prohibited Discharges."

SECTION VII - FEES, PENALTIES AND ENFORCEMENT

Section 7.1- Fees

- A.** Applications. Applications for a development which includes a PCWS under this Ordinance shall be accompanied by a non-refundable administrative application fee in addition to any other required fees and in an amount specified from time to time by resolution of the Township Board. In addition, an applicant shall pay an additional escrow fee in an amount determined by resolution of the Township Board for the estimated cost of outside consultant(s) who may be retained by the Township in connection with the Township's review of materials and documents related to the proposed PCWS. In the event the cost of the services of the consultant(s) is less than the escrow fee, the applicant shall be refunded the balance. In the event the cost of the services of the consultant(s) exceeds the amount of the escrow fee, the applicant shall pay the deficiency to the Township prior to the approval of the development or issuance of any building or zoning permits. A denial of an application for a permit shall not affect the applicant's obligation to pay the application or escrow fee provided for in this Section. In addition, all fees associated with the Area Plan and Planned Community (PC)

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zoning, and site plan review applications shall apply.

- B.** Inspections. An escrow account shall be established to cover the cost of the regular inspections of the PCWS performed by Township Utility Department or its designees. The amount of the escrow account shall be established by resolution of the Township Board.

Section 7.2 – Penalties, Enforcement, and Notice

- A.** Enforcement. The Superior Township Ordinance Officer or his/her agent, officer or employee shall have authority under this Ordinance to enter upon privately-owned land for the purpose of performing the Township's duties under this ordinance and may take or cause to be made such examinations, surveys or samplings as are deemed necessary.

- B.** Civil remedies. The provisions of this division shall be enforceable through any and all remedies at law or in equity in any court of competent jurisdiction.

1. Penalties. In addition to the rights and remedies herein provided to the Township, a violation of this ordinance shall be a civil infraction and subject to fines set forth in the Township ordinances. Each day such violation is continued or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

2. Injunction. Any activity conducted in violation of this Ordinance, MDEQ regulations and requirements, Washtenaw County Health Department regulations, or that is contrary to any permit issued by MDEQ and/or the Washtenaw County Health Department is declared to be a nuisance per se, and the Township may commence a civil suit in any court of competent jurisdiction for an order abating or enjoining the violation, and/or requiring restoration of the property as nearly as possible to its condition before the violation.

3. Stop-Work Order. The Township may also issue a stop-work order or withhold issuance of a Certificate of Occupancy, permits or inspection until the provisions of this ordinance, including any conditions attached to a permit, have been fully met. Failure to obey a stop-work order shall constitute a violation of this ordinance.

4. Appearance Tickets. In all prosecutions for violation of this Ordinance, appearance tickets and the appropriate procedures set forth in Act 147, Michigan Public Acts of 1968, as amended, may be used.

- C.** In the event of a malfunction of the PCWS such that untreated or excess water is discharged, the operator shall notify the Township Utility Department

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immediately.

D. In the event of a malfunction of the PCWS such that untreated or excess water is discharged, the operator shall notify the Township Utility Department immediately.

SECTION VIII - ORDINANCE CONFLICT

Nothing in this Ordinance shall be interpreted to conflict with present or future state statutes in the same subject matter; conflicting provisions of this Ordinance shall be abrogated to, but only to, the extent of the conflict. Moreover, the provisions of this Ordinance shall be construed, if possible, to be consistent with relevant state regulations and statutes. If any part of this Ordinance is found to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision. Such holding shall not affect the validity of the remaining portions of this ordinance, which shall remain in force. Rights and duties which have matured, penalties which have been incurred, proceedings which have begun and prosecutions for violations of law occurring before the effective date of this Ordinance are not affected or abated by this Ordinance. This ordinance supercedes the Zoning Ordinance Section 3.15 (B) and the Growth Management Plan references to private community wastewater systems prohibitions.

SECTION IX - EFFECTIVE DATE

This Ordinance shall take full force and effect upon following final publication of said ordinance.

SECTION X - CERTIFICATION

I, Kay Williams, Clerk of Superior Charter Township, do hereby certify that the foregoing is a true and correct copy of an ordinance adopted for final reading by the Superior Charter Township Board at a regular meeting on April 4, 2006.

William McFarlane, Supervisor
April 3, 2006

Kay Williams, Clerk

Roll call vote:

Ayes: Williams, Caviston, Lewis, Phillips

Nays: None

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Absent: McFarlane, McKinney, Green

The motion carried.

10. NEW BUSINESS

A. WIRELESS WASHTENAW

The contract for Wireless Washtenaw has been reviewed by the Township staff, the Township Attorney, and the Washtenaw County Attorney and is ready to be approved by the Township Board. Uma Harithsa, representing the County IT Department was present to answer questions. She said that the County had received four bids and planned to award the bid the end of April and send it to the Washtenaw County Commission in May. They hope to have the pilot program in place by September, and the system to be County-wide by the end of 2007.

It was moved by Lewis, supported by Williams, that the Superior Charter Township Board authorize the Supervisor to sign the Wireless Washtenaw Master Participation Agreement:

Master Participation Agreement

Parties; Effective Date.

This Master Participation Agreement (“Agreement”) is between Washtenaw County, a Michigan municipal corporation (the “County”) and the undersigned entity (the “Participant”). This Agreement is effective on the date last signed by the parties (the “Effective Date”).

Nature and Purpose of Agreement.

County and others have launched an initiative called “Wireless Washtenaw” (the “Initiative”), with the goal of providing a wireless broadband network for the urban, suburban and rural settings throughout Washtenaw County (the “Network”). The Initiative and Network are more fully described in Schedule 1 to this Agreement.

In connection with the Initiative, the County and various governmental entities and others within Washtenaw County have committed to provide access to and/or use of certain of their parcels of land, buildings, structures, rights of way and other assets to the County. In order to facilitate progress of the Initiative and assist County in encouraging one or more wireless broadband providers (the “Providers”) to provide the Network and associated wireless Internet service on beneficial terms, each participant has or will execute a Master Participation Agreement with the County under which each participant will grant the County all necessary leases, authorizations, licenses, rights and authority to permit the County to enter into licensing and/or franchise agreements with one or more

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Providers to construct, operate and maintain the Network and provide the associated wireless Internet service.

Participant is also a Michigan municipal entity with certain constitutional and statutory powers and authority within its boundaries to franchise or license telecommunication services, such as the Network and associated wireless Internet service, and to regulate the use of buildings, structures, public lands and rights of way which may be necessary in connection with the Initiative. Participant has been asked to participate in the Initiative and to permit certain rights, access and authority in connection with the construction, operation and maintenance of the Network, and provision of the associated wireless Internet service, within the boundaries of Participant in exchange for free wireless Internet service to every person, business, and public or private entity within Participant's boundaries, as more fully described in Schedule 1.

Public Act 7 of 1967, as amended, authorizes the parties to enter into an inter-local agreement for the purpose of jointly exercising any power, privilege or authority for the joint administration of a public function. Pursuant to Public Acts 7 of 1967, as amended, the County and Participant enter into this Agreement for the purpose of delineating the relationship and responsibilities between the County and the Participant regarding the Initiative, the Network and the associated wireless Internet service. Neither the County nor the Participant will own or operate the Network and/or the associated wireless Internet service of the Initiative. Instead, the County will collect and pool public and private assets throughout Washtenaw County, as described above, and then enter into licensing and/or franchise agreements with one or more Providers for the construction, operation and maintenance of the Network and the provision of the associated wireless Internet service through the Network. The parties understand and agree that County may enter into agreements with private individuals, businesses, universities or other entities for such individuals or entities to provide access to and/or use of certain of their parcels of land, buildings, structures, rights of way and other assets to the County for the purposes of the Initiative.

Participant Assets and Grant of Rights. Participant is the owner of certain parcels of land, buildings, structures, and other public assets described in Schedule 2 to this Agreement. Participant also has control over the use of certain streets, alleys, and other public rights of way within its boundaries. The streets, alleys and other public rights of way, along with the land, buildings, structures and other public assets described in Schedule 2, shall be referred to herein collectively as the "Assets". Additional Participant Assets may be added to this Agreement by written amendment to Schedule 2 agreed to between Participant and County. In addition, after the Network is fully operational throughout Washtenaw County, Participant may remove Assets from Schedule 2 if they are not being utilized for the Initiative, provided that: (a) Participant gives County not less than ninety (90) days prior written notice of its intent to remove such Assets; and (b) Participant reasonably considers any request by County to have such Assets remain on Schedule 2 if County perceives the need for such Assets.

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Subject to the terms and restrictions of Schedule 2 and this Agreement, and subject to any other restrictions imposed by law, Participant hereby grants to County the rights, licenses, permissions, privileges, powers and authority necessary and appropriate to permit County to enter into Provider franchise or license agreements, and to license, lease and/or otherwise permit access to and use of the Assets by one (1) or more Providers for the installation, operation and maintenance of radio communications facilities, including without limitation utility lines, transmission lines, electronic equipment, radio transmitting and receiving antennas and supporting equipment and structures thereto (collectively, the "Facilities"), for use in the provision of wireless radio frequency communications services for the Initiative. In addition, Participant grants to County, for the benefit of Providers, and their agents, employees, contractors, guests and invitees, such non-exclusive rights for pedestrian and vehicular ingress and egress and parking across that portion of the Assets described in Schedule 2 as is reasonably necessary to facilitate said installation, operation and maintenance of the Facilities.

Subject to the terms and restrictions of Schedule 2 and this Agreement, the rights granted in this Section 3 include, without limitation, the right for the County to grant to Providers reasonable rights to do the following:

(a) to enter upon and/or review and inspect the Assets for the purpose of making appropriate engineering and boundary surveys, inspections, soil test borings and other reasonably necessary tests;

(b) to enter upon the Assets for the purposes of constructing, operating and maintaining the Facilities; and

© to do all work necessary to prepare, maintain and alter the Assets for the Providers' business operations and to install transmission lines connecting the antennas to the transmitters and receivers.

The rights granted County in this Section 3 to permit a Provider the use of Assets listed on Schedule 2 are exclusive (excluding public rights of way) so long as the Network and associated wireless Internet service for the Initiative meet the minimum criteria set forth in Schedule 1. As such, Participant shall not franchise, license, lease or otherwise permit access to and/or use of any of the Assets listed in Schedule 2 for wireless broadband services during the Term of this Agreement, including all Renewal Terms (defined below). Notwithstanding the foregoing, the restrictions of this Section 3.4 shall not apply to (a) any use of the Assets for wireless broadband services which pre-dates the Effective Date of this Agreement; and/or (b) any use of the Assets by Participant to establish a wireless broadband network for its own purposes.

Prior to permitting any Provider access to and use of Participant's Assets, County shall enter into written agreements with each Provider on the Initiative (each a "Provider Agreement"), and County will make each Provider Agreement available to Participant for review after it is signed. A Provider Agreement that grants access to and use of Participant's Assets must be consistent with the terms of this agreement, must contain

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requirements on the Provider which are at least as stringent as those contained in this Agreement, and shall contain, at minimum, the following provisions:

- (a) that Participant is an express third party beneficiary of the Provider Agreement;
- (b) that Provider is an express third party beneficiary of this Agreement;
- (c) that Provider will use Participant's Assets only for the purposes of the Initiative;
- (d) that Provider will defend, protect, indemnify and hold Participant harmless from and against any and all Claims arising out of and/or resulting from Provider's Facilities and/or Provider's and/or its contractors', agents' or representatives' acts or omissions, or anyone claiming by or through them. For the purpose of this subsection, a Claim means any alleged loss, complaint, demand for relief or damages, cause of action, proceeding, judgment, deficiency, liability, penalty, fine, litigation, costs, and/or expenses, including, but not limited to, reimbursement of attorney fees, witness fees, court costs, investigation expenses, litigation expenses, and amounts paid in settlement, which are imposed on, incurred by, or asserted against Participant, whether such claim is brought in law or equity;
- (e) that Provider acknowledges that all Assets are being provided by Participant in their "as is" physical condition without representations or warranties, express or implied, as to the physical condition thereof;
- (f) that Provider represent and warrant that, to the best of Provider's knowledge, Provider's Facilities and any other equipment used by that Provider does not pose a health risk to the occupants of the Assets or the surrounding community;
- (g) that, in order to further assure Participant that: (i) the Facilities will be properly removed, and that the Assets shall be restored and returned to Participant in accordance with the terms of this Agreement; and (ii) that the Provider pays all costs and expenses of work done or caused to be done by Provider on the Assets (collectively, the "Obligations"), Provider shall deposit with Participant, prior to any work being done for the installation, operation or maintenance of the Facilities within Participant's boundaries, a surety bond in the amount of twenty thousand dollars (\$20,000.00) as security for completion of the Obligations. The bond shall be issued by a surety and in a form acceptable to Participant;
- (h) that all construction and installation work shall be performed at the Providers' sole cost and expense and in a good and workmanlike manner by licensed and bonded contractors; that no work or construction activity shall occur except between the hours of 7 a.m. to 6 p.m., Monday through Friday, unless otherwise agreed by Participant; that County, each Provider and/or their contractors shall timely repair any damage to the Assets caused by testing, installation, construction, and maintenance activities related to

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the Initiative and the Facilities; and that if Provider fails to commence such repairs of any damage within ten (10) days after receipt of written notice from Participant or County, Participant may undertake such repairs and the amount paid for the repairs shall be paid by Provider within ten (10) days after delivery of an invoice for such work;

(i) that Provider shall remove all Facilities at no cost or expense to Participant on or before the expiration or earlier termination of this Agreement; that any damage to the Assets caused by such removal shall be repaired and the Assets restored to the condition that existed prior to installation of the Facilities, reasonable wear and tear excepted; that in the event Provider fails to remove the Facilities within thirty (30) days of the expiration or earlier termination of this Agreement, Participant may remove and store the Facilities and Provider shall be responsible for reimbursing Participant for all such costs and expenses related to Participant's removal and storage thereof; that if Provider or Provider's financing entity fails to claim and remove the Facilities within thirty (30) days following receipt of written notice from either County or Participant, Participant shall have the right to dispose of the Facilities in any manner which it deems fit.

(j) that except for emergency situations, Provider will be permitted to trim and remove trees and branches only upon advanced approval from Participant and in accordance with any standards adopted by Participant; that such tree trimming and removal shall be minimized to what is essential to maintain the integrity of the Facility; and that Provider shall dispose of all trimmed materials at the Provider's sole expense;

(k) that Participant shall have the right to sever, disrupt, or otherwise destroy any portion of the Facility if such action is necessary because of a public emergency or any condition which poses an immediate threat to life, health, or property that is caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, water main breaks, hazardous material spills, terrorism, etc.; and that Provider shall be responsible for repair, at its sole cost and expense, of any damage to the Facility resulting from any action taken by Participant because of such public emergency;

(l) that Provider shall be responsible for obtaining and paying for any required electrical or other energy or utility usage as provided for in Section 5.5 of this Agreement;

(m) that all construction, installation, alterations, and maintenance of the Facilities shall be in accordance with Section 4 of this Agreement;

(n) that any access to the Assets listed in Schedule 2 shall be only pursuant to permission from a Participant, only in accordance with any restrictions set forth in Schedule 2 (or otherwise agreed to by Participant), and at no cost to Participant, with the understanding that Participant shall respond within two (2) days of any request for

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Access from Provider (except in the case of emergencies, when Participant shall permit access to the Assets within twenty-four (24) hours of said request);

(o) that Provider, at its sole cost and expense, shall obtain and maintain in full force, and until the Term of this Agreement has expired or the Agreement is otherwise terminated, all insurance as set forth below, and that Provider shall file certificates evidencing such insurance with Participant and comply with the following:

(1) commercial general liability insurance, including contractual liability, at a combined single limit for bodily injury and property damage of no less than five million dollars (\$5,000,000.00) per occurrence. Provider shall add Participant as an additional insured within the Provider's commercial general liability policy, umbrella policy or excess liability policy;

(2) business auto liability insurance coverage for ownership, maintenance, and use of any vehicle including no-fault and coverage for hired and non-owned vehicles in an amount of not less than \$5,000,000.00 per occurrence;

(3) worker compensation insurance as required by Michigan statutes for injuries to its employees, and employers liability insurance with limits of \$1,000,000.00;

(4) the coverage amounts set forth above may be met by using any combination of automobile liability insurance, general liability insurance and umbrella policies or other form of excess liability coverage so long as in combination the limits equal or exceed those stated;

(5) prior to construction or installation of any Facility, Provider shall provide evidence of the coverage provided for herein by filing a copy of the certificates with Participant, and thereafter, Provider shall annually file renewal certificates with Participant;

(6) all insurance shall be issued by insurance carriers licensed to do business in the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan, and all insurance and surplus line carriers must be rated A or better by A.M. Best Company;

(7) Provider's insurance coverage shall be primary and non-contributory over any other valid insurance or self-insurance of Participant and shall not require participation of Participant or its insurers; and

(8) the Provider insurance coverage shall insure against liability of the Provider and its employees, representatives, and agents arising out of or in connection with the

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Provider's use of the Assets, its construction, operation and maintenance of its Facilities and the Network, and its contractual obligations hereunder and the Provider Agreement.

(p) that Provider will obtain a waiver of subrogation in Participant's favor;

(q) that Provider will at all times:

(1) comply with all applicable laws, ordinances, rules, regulations and all terms of this Agreement applicable to Provider, relating to the use of the Assets;

(2) conduct its business, and its use of the Facilities and the Assets, so as not to create any nuisance, interfere with Participant in its management and use of the Assets and/or interfere with the use of the Assets by other licensees, lessees or other users of the Assets. If Participant reasonably determines that any portion of the Facility constitutes an undue burden or interference with Participant's management and use of the Assets, Provider, at its sole expense, will modify the Facilities or take such other actions as Participant may determine is in the public interest to remove or alleviate the burden, and that Provider will do so within a reasonable time or may permanently remove the Facilities from the Assets, at Provider's election;

(3) install, operate and maintain the Facilities in compliance with all lighting and marking requirements of the Federal Aviation Administration ("FAA"), all Federal Communications Commission ("FCC") requirements and the terms of all FCC licenses;

(4) install, operate and maintain the Facilities in a manner that does not create fire hazards or result in an increased rate of insurance on the Assets or their contents;

(5) maintain Facilities in good repair, and timely repair any damage to the Facilities, subject to the terms of this Agreement and any applicable Provider Agreement;

(6) not use, generate, store or dispose of any Hazardous Material on, under, about or within any Land, except as permitted by law, without Participant's prior written consent. As used in this Section, "Hazardous Material" shall mean petroleum or any petroleum product, asbestos, any substance known by the State of Michigan to cause cancer and/or reproductive toxicity, and/or any substance, chemical or waste that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation; and

(7) comply with all applicable environmental statutes, regulations and rules regarding its use of the Assets and the installation, operation and maintenance of the Facilities, including but not limited to statutes, regulations and rules regarding radiofrequency radiation. Without limiting or modifying the foregoing, Provider shall

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measure baseline radiofrequency radiation before any installation work is started, and shall measure radiofrequency radiation after installation of its Facilities.

No Provider Agreement may create liabilities or responsibilities on behalf of Participant, which are not set forth in this Agreement.

County may only exercise the rights of Section 3 for the purposes of the Initiative, and all rights not granted to County are retained by Participant.

Construction and Maintenance of Facilities.

Participant agrees to cooperate with County and each Provider, at County's and/or a Provider's expense, in making applications for and obtaining all licenses, permits and any and all other necessary approvals that may be required for the intended use of the Assets and/or construction, operation and maintenance of its Facilities and the Network under this Agreement. Plans for installation of the Facilities shall be submitted by County and/or the Providers for Participant's review and approval prior to issuance of any construction permits and prior to installation of any Facilities. However, Participant may, with the consent of the County, designate the County's Building and Planning Department as the reviewing agency for Participant for the purpose of granting approvals and permits. Approval of such plans will not be unreasonably conditioned, delayed or withheld, provided that the construction, installation and use of any Facilities shall conform to requirements in Participant's zoning regulations and the State Construction Code. All normal permit and inspection fees shall be paid by Providers. If any conditions and/or delays are unreasonable, and/or any approvals are unreasonably withheld, or if the Participant merely refuses to approve any plans, then County shall have the right to terminate this Agreement upon written notice to Participant. Nothing in this Section requires Participant to approve any plans.

Title to the Facilities shall be held by Providers and shall remain Providers' personal property, and such Facilities are not fixtures.

Any future changes or alterations of the Facilities (including installation of any antenna or other improvements) shall be subject to the provisions of Section 4.1 of this Agreement. Participant shall use its best efforts to review and either approve or disapprove of any proposed changes or alterations within a reasonable time of the requested change or alteration. If Participant does not grant such approval or disapproval or does not permit the requested changes within a reasonable time period, Participant shall be deemed to have rejected the requested change or alteration. If any conditions and/or delays are unreasonable, and/or any approvals are unreasonably withheld, or if the Participant merely refuses to approve any requested change or alteration, then County shall have the right to terminate this Agreement upon written notice to Participant. Nothing in this Section requires Participant to approve any requested change or alteration to the Facilities of any Provider.

For the exclusive purposes stated in this Agreement, Providers, Providers' employees, agents, subcontractors, lenders and invitees shall have access to the Assets as described

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herein, provided the Providers, Providers' employees, agents, subcontractors, lenders and invitees comply with all requirements and restrictions contained in Schedule 2, the Provider Agreement and this Agreement.

To the extent under the control of Participant: (a) Participant shall maintain all access roadways from the nearest public roadway to the Assets in a manner reasonably sufficient to allow pedestrian and vehicular access under normal weather conditions. County acknowledges that the current access road is adequate for its and all Providers' needs; and (b) Participant shall be responsible for reasonably maintaining and repairing such roadway in roughly the same condition as on the Effective Date of this Agreement at no cost to County and/or any Provider, except for any damage caused by County's and/or Providers' use of such roadways. Notwithstanding the foregoing, Participant shall not be deemed in violation of this Section if any roadway(s) is under construction or otherwise not available for use, in which case Participant shall reasonably cooperate with County and/or each effected Provider to provide access to the Assets.

Unless agreed to in writing by Participant, nothing in this Agreement permits any Provider to store any vehicles and/or other equipment on any Assets, except for the Facilities and any ancillary equipment permitted by Participant as part of the initial installation process.

General Obligations of the Parties.

Any access to the Assets shall be only upon receipt of permission from Participant, and at no cost to Participant, with the understanding that Participant shall respond within two (2) days of said request (except in the case of emergencies, when Participant shall permit access to the Assets within twenty-four (24) hours of said request).

Participant shall at all times maintain the Assets listed in Schedule 2 in good repair so as not to unreasonably prohibit County's and/or any Provider's use of such Assets. Except for any damage caused to the Assets by the activities of Provider or County, neither County nor any Provider shall be required to maintain or make any repairs to Assets.

Participant represents, warrants and agrees: (a) that to the best of Participant's knowledge, Participant has not used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any Hazardous Material on, under, about or within any Land in violation of any law or regulation, and (b) that Participant will not, and will not permit any third party to, use, generate, store or dispose of any Hazardous Material on, under, about or within any Land in violation of any law or regulation.

Upon request, County and/or each Provider shall provide Participant with copies of any test and inspection results related to the Initiative. The results of all tests shall be deemed confidential information of the County and shall not be revealed by County, Providers and/or Participant to any third party, except their contractors, employees and agents,

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unless such County, Providers and/or Participant is required to disclose such test results by law or legal process.

Providers shall be responsible for paying for the electricity consumed by the Providers in their operations. To the extent reasonably practical, County shall require each Provider to obtain, at its sole cost, separate utility service from any utility company that will provide service to the Facilities (including a standby power generator for each Provider's exclusive use) and directly bill Providers for use of the utilities. Participant agrees to sign such documents or easements as may be required by said utility companies to provide such service to the Facilities, including the right of each Provider or applicable servicing utility company, at no cost, to an easement in, over, across or through the Assets as required by such servicing utility company to provide utility services as provided herein. Any such easement shall not interfere with Participant's continued use of the Assets for their intended purpose. Any easement necessary for such power or other utilities will be at a location acceptable to Participant and the servicing utility company, and subject to Participant's approval process for easements. In the event it is not reasonably practical for a Provider to obtain separate utility service from a utility company for one or more Facilities, then Participant agrees to use reasonable efforts to provide such utility service to Provider at a reasonable rate determined by Participant.

Except as otherwise provided herein, subsequent to the installation of the Facilities, Participant and its agents, lessees or licensees shall use best efforts to avoid installation of new equipment on the Assets or property contiguous thereto owned or controlled by Participant that causes, and/or is reasonably likely to cause, interference with a Provider's operations of the Network. Nothing herein shall be interpreted to prevent Participant from making improvements to the Assets and/or installing any materials and equipment necessary or appropriate for any public or governmental purpose. If any interference results from any new equipment installed on the Assets, the parties will reasonably cooperate to determine if there are commercially reasonable alternatives available to avoid the interference. If there are no commercially reasonable alternatives available to avoid the interference, either party may terminate this Agreement as to the affected Facilities and/or Assets upon written notice to the other.

Except for any tax liens that may be levied against the Facilities and/or for any moneys that may become due to Participant from Providers, Participant hereby waives any lien rights it may have concerning the Facilities, which Participant acknowledges are Providers' personal property and not fixtures, and Providers have the right to remove the same subject to the terms of this Agreement and any Provider Agreement with County. At any such time as the Facilities are removed, Providers are liable to Participant for repair and restoration of the Assets as provided for in this Agreement and the Provider Agreement.

Participant shall be responsible for compliance with all marking and lighting requirements of the Federal Aviation Administration ("FAA") resulting from the height and location of any Asset. Should Participant be cited because any Asset is not in compliance, and should Participant fail to cure the conditions of noncompliance within

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sixty (60) days of receipt of written notice of noncompliance from County, County may terminate this Agreement without further liability on thirty (30) days prior written notice. Each Provider shall be responsible for compliance with all marking and lighting requirements of the FAA and the FCC which may be occasioned by the installation or operation of the applicable Facilities on or at the Assets. Should County or a Provider be cited because any Asset is not in compliance as a result of installation, use or maintenance of the Facilities on any Assets, County may terminate this Agreement without further liability on thirty (30) days prior written notice, or cure the noncompliance at County's and/or the applicable Provider's sole expense. Participant shall have the right to approve any required changes or modifications to the Assets, at its sole discretion, within a reasonable time of submission of any plans for such changes or modifications.

County shall not permit any mechanic's liens to be filed against any portion of the Assets for any work performed, materials furnished or obligations incurred by or at the request of County and/or any Provider. If such a lien is filed, then County shall, within thirty (30) days after Participant has delivered notice of the filing to County, either pay the amount of the lien or diligently contest such lien and deliver to Participant a bond or other security reasonably satisfactory to Participant. If County fails to timely take either such action, then Participant may pay the lien claim without inquiry as to the validity thereof, and any amounts so paid, including Participant's reasonable legal fees and other expenses and statutory interest, shall be paid by County to Participant within ten (10) days after Participant has delivered to County an invoice therefor.

Warranty of Title and Quiet Enjoyment. Participant warrants that: (a) Participant owns the Assets listed in Schedule 2 in fee simple and/or otherwise has rights of access thereto sufficient to grant County and Providers the rights set forth herein; (b) Participant has full right to make and perform this Agreement; and (c) Participant covenants that upon County and each applicable Provider observing and performing all the terms, covenants and conditions applicable to them under this Agreement and the Provider Agreement, County and Provider may peacefully and quietly enjoy the Assets.

Destruction or Condemnation. If the Assets or Facilities are damaged, destroyed, condemned or transferred in lieu of condemnation, County may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to Participant no more than forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation.

Closure/Demolition. Participant has the right to close, abandon and/or cease operations at any of the Assets (each a "Closure"). Participant shall notify County in writing at least sixty (60) days prior to any such Closure. After a Closure of any of the Assets, County shall be permitted to continue to access the Assets in accordance with the terms of this Agreement so long as the Asset continues to be owned by Participant and is otherwise structurally sound. However, after a Closure, Participant shall have no obligation to maintain the Assets and shall not be liable to County and/or any Provider for any vandalism or damage to the Facilities. If Participant elects to demolish an Asset, the

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applicable Provider must, at no cost to Participant, remove the Facilities from the Assets as soon as possible, but no later than ninety (90) days after receipt of notice that the Asset will be demolished. In any event, this Agreement shall remain in full force and effect and the applicable Provider shall be permitted to reinstall the Facilities in the new building at a mutually acceptable location and subject to plans and specifications approved by Participant. Further, during the time the new building is being constructed, the applicable Provider shall be permitted to install a temporary cell on wheels ("COW") or other similar facility, including a crank-up (i.e. telescoping) tower at a mutually acceptable location on an Asset listed on Schedule 2 in order to continue its use of the site.

Insurance.

Participant, at Participant's sole cost and expense, shall procure and maintain commercial general liability insurance on an occurrence basis to cover bodily injury and property damage against liability of Participant, its employees and agents arising out of or in connection with Participant's ownership, use, occupancy and maintenance of the Assets (excluding any streets, alleys, and other public rights of way). All or some of such insurance coverage may be through self-insurance and/or municipal pools.

Participant, at Participant's sole cost and expense, shall procure and maintain property insurance on the Assets at the limits and coverages determined by the Participant.

Term and Termination.

The term of this Agreement shall be six (6) years commencing on the Effective Date (the "Term") unless otherwise terminated as provided in this Agreement.

The Parties may extend the Term for one (1) five (5) year period (the "Renewal Term") on the same terms and conditions as set forth herein. This Agreement shall automatically be extended for the Renewal Term unless one of the Parties notifies the other of its intention not to renew prior to commencement of the succeeding Renewal Term.

In addition to the termination rights set forth elsewhere in this Agreement, this Agreement may be terminated in accordance with the following provisions:

(a) each party may terminate this Agreement if the other party commits a material breach of this Agreement and fails to correct such breach within thirty (30) days of its receipt of written notice of the breach from the non-breaching party;

(b) Participant may terminate this Agreement if a Provider commits a material breach of this Agreement or a Provider Agreement and fails to correct such breach within thirty (30) days of written notice of the breach being sent by certified mail from County or Participant. If such notice is from Participant it also must be given to County, and if such notice is from County it must also be given to Participant.

(c) Participant may terminate this Agreement upon written notice to County at the end of the eighteenth (18th) month after the Effective Date of this Agreement if County

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has not (i) entered into any Provider Agreement(s) with any Provider(s) for use of any Assets for the Initiative; and/or (ii) if the Network under the Initiative is not fully operational throughout Washtenaw County;

(d) each party may terminate this Agreement upon written notice to the other party in the event the Initiative and/or the Providers' construction, operation and/or maintenance of their Facilities for the Initiative is rendered illegal by any federal and/or State of Michigan law or regulation;

(e) this Agreement shall automatically terminate as to any Provider if the Provider Agreement between County and such Provider expires without renewal and/or is terminated by either County or Provider; and/or

(f) County may terminate this Agreement without any cause or reason upon ninety (90) days prior written notice to Participant.

Upon termination of this Agreement, the parties will remain responsible for relevant provisions of this Agreement with respect to restoring Assets, removal of the Facility and other such provisions, and the Parties will reasonably cooperate with each other regarding the winding down of their relationship under this Agreement.

Compensation and Taxes.

County shall receive no money, revenue, or in-kind services from any Provider generated from, associated with, or as a result of this Agreement, the Provider Agreement or the Initiative. Participant understands and agrees that, except as expressly provided herein, it is not entitled to, nor shall it receive, any compensation, rent or other remuneration under this Agreement, and that there shall be no fees or assessments charged to County or any Provider for the rights granted herein, except for personal property taxes on Facilities, and except for the payment of normal construction permit fees, if any, for construction and installation of the Facilities. However, once the Network under the Initiative has been activated, Participant and its constituents shall be entitled to receive the benefits of the Network in accordance with the provisions of the Provider Agreement(s) between County and the applicable Provider(s), and specifically including the right to the free wireless Internet service as outlined in Schedule 1. In addition, the County and Providers may provide Participants with discounted and/or free additional services to Participants, although such discounted and/or free additional services shall be provided at the discretion of the County and the Providers and may not be decided upon and/or granted until after the Network under the Initiative has been activated. Participant will also be reimbursed for reasonable out-of-pocket costs and expenses incurred by Participant in connection with providing County and/or Providers access to the Assets.

Participant may assess personal property taxes on a Provider's Facilities if Participant is a unit of government with the legal authority to so assess such taxes. Nothing in this

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Section shall be construed as limiting either party's right to contest, appeal or challenge any tax assessment.

Assignment and Subletting.

Except as expressly provided in Section 3 above, and in Section 12.2 below, County may not assign, sublet (including by way of co-location agreements) or otherwise transfer all or any part of its interest in this Agreement or in the Assets without the prior written consent of Participant; provided, however, that County may permit a Provider to assign its interest in any Provider Agreement with the County to its parent company, any subsidiary or affiliate of it or its parent company, or to any successor-in-interest or entity acquiring fifty-one percent (51%) or more of its stock or assets, subject to any financing entity's interest, if any, in such Provider Agreement. Except as provided herein, Participant may not assign, sublet (including by way of co-location agreements) or otherwise transfer all or any part of its interest in this Agreement or in the Assets without the prior written consent of County. Participant may, without the prior written consent of County: (a) assign or transfer all, but not part, of its interests in an Asset; provided such assignment or transfer is made expressly subject to the terms of this Agreement; and/or (b) assign this Agreement, in whole, but not in part, to any affiliated entity, provided such affiliated entity agrees in writing to be bound by this Agreement.

The parties acknowledge and agree that the use of the County as the initial contracting entity with Participants and Providers is designed to expedite the Initiative, and that the parties desire to have the County subsequently assign this Agreement in whole to a governing authority, consortium or other operating entity (the "Operating Entity"), if permitted by applicable law. County may assign this Agreement, in whole but not in part, without Participant's consent, to any such Operating Entity. Upon the effective date of such assignment, County shall be fully relieved and released of any and all further rights and obligations under this Agreement.

Liability and Indemnity.

Participant acknowledges and agrees that County shall not be liable, accountable or responsible in any way for any acts, omissions and/or breaches of this Agreement by any Provider, including such Provider's employees, agents, representatives and contractors, and that Participant's sole and exclusive remedy in connection therewith will be an action or claim directly against the applicable Provider under this Agreement and/or under the Provider Agreement between County and Provider. However, nothing in this Section 13.1 shall limit Participant's rights to terminate this Agreement as to any Provider in accordance with the provisions of Section 10 above. County acknowledges and agrees that Participant shall not be liable, accountable or responsible in any way for any acts, omissions and/or breaches of County under this Agreement or any Provider Agreement entered into by County. Except as otherwise provided in this Agreement, each party shall be responsible for its own acts and the acts of its employees, agents and representative,

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the costs associated with those acts, and any defense related thereto under this Agreement and any Provider Agreement enter into by County.

Participant shall not be liable to any Provider, the County or those claiming by, through or under either of them for any injury to or death of any person or the damage to or theft, destruction, or loss of use of any property or inconvenience caused by casualty, theft, fire, third parties or any other matter (including losses arising through repair or alteration of any part of the Assets or failure to make repairs, or from any other cause), except to the extent caused by Participant's gross negligence, recklessness and/or intentional misconduct.

To the extent permitted by applicable law, County ("Indemnitor") shall, at its sole expense: (i) defend any third party claim, demand and/or suit ("Claim") against Participant (the "Indemnitee") alleging and/or arising out of the following, and (ii) shall indemnify and hold Indemnitee harmless from and against any and all losses, liabilities, damages, fines, penalties, costs, expenses and/or fees (including reasonable attorney fees) awarded or assessed against Indemnitee in connection with the Claim, or reached through a negotiated settlement of the Claim:

(a) that Indemnitor, its employees, agents, representatives, or contractors was negligent or committed an intentional act that caused injury to a person or damage to property, or failed to comply with any applicable law, statute, regulation or ordinance; and/or

(b) Indemnitor's breach of this Agreement, including, without limitation, any representation or warranty set forth in this Agreement.

In order to receive indemnification under this Section, Indemnitee must give Indemnitor prompt written notice of the Claim; permit Indemnitor to exercise sole control over the defense and/or settlement of the Claim; and cooperate with Indemnitor, at Indemnitor's expense, in the investigation, defense and/or settlement of the Claim. This Section 13 sets forth each party's sole indemnification rights and indemnification remedies in connection with the above described Claims.

Limitations of Liability.

Except as expressly provided herein, in no event shall County be liable to Participant in connection with this Agreement and/or the Initiative, regardless of the form of action or theory of recovery, for any: (a) indirect, special, exemplary, consequential, incidental or punitive damages, even if that party is aware of the possibility of such damages; (b) lost profits, lost revenues, lost business expectancy, business interruption losses and/or benefit of the bargain damages; and/or (c) direct damages in an amount in excess of one hundred thousand dollars (\$100,000).

Except as expressly provided herein, in no event shall Participant be liable to County and/or any Provider in connection with this Agreement and/or the Initiative, regardless of the form of action or theory of recovery, for any: (a) direct, indirect, special, exemplary,

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consequential, incidental or punitive damages, even if that party is aware of the possibility of such damages; and/or (b) lost profits, lost revenues, lost business expectancy, business interruption losses and/or benefit of the bargain damages. County and each Provider's sole remedies against Participant for Participant's breach of this Agreement shall be termination of this Agreement in accordance with the provisions of Section 10 above and/or an action for equitable remedies.

Notwithstanding the foregoing, the limitations of Sections 14.1 and 14.2 shall not apply to County's indemnification obligations under this Agreement and/or either party's gross negligence, recklessness and/or intentional misconduct, except as provided below in Section 14.4.

Notwithstanding any other provisions of this Agreement, including, without limitation, the provisions of Section 13, if Participant and/or County is a unit of government, nothing in this Agreement constitutes a limitation or waiver of any governmental immunity provided by applicable law. All applicable laws related to governmental immunity shall govern over any conflicting or inconsistent term of this Agreement, and any unit of government shall be entitled to the full benefits and protections of such laws.

Miscellaneous.

This Agreement, all Schedules, and any addenda thereto, contain the entire understanding of the parties with respect to the subject matter addressed herein and supersede, replace and merge all prior understandings, promises, representations and agreements, whether written or oral, relating thereto. This Agreement may not be modified except by a writing signed by both parties. Except as expressly provided herein, the remedies accorded the parties under this Agreement are cumulative and in addition to those provided by law, in equity or elsewhere in this Agreement.

Any waiver of a party's right or remedy related to this Agreement must be in writing, signed by that party to be effective. No waiver shall be implied from a failure of either party to exercise a right or remedy. In addition, no waiver of a party's right or remedy will effect the other provisions of this Agreement.

Neither party shall be responsible or liable for any delay or failure in performing its obligations under this Agreement if such delay or failure is the direct result of causes outside of that party's reasonable control, including, without limitation, power outages, accidents, strikes, fires, war or acts of God; provided that such party uses best efforts to resume performance of its obligations as soon as practically possible.

This Agreement shall be governed by the laws of the State of Michigan (exclusive of its choice of law rules), and the federal laws of the U.S. The parties agree that any litigation arising between the parties in relation to this Agreement shall be initiated and maintained in the Circuit Court of the County of Washtenaw, Michigan, or the U.S. District Court for

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the Eastern District of Michigan, Southern Division, and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts.

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such provision will be enforced to the fullest extent that it is valid and enforceable under applicable law. All other provisions of this Agreement shall remain in full force and effect.

All notices must be in writing and sent to the individual who executed this Agreement on the other party's behalf, either by hand delivery; messenger; certified mail, return receipt requested; overnight courier; or by facsimile or by e-mail (with a confirming copy by regular mail) and shall be effective when received by such party at the address listed herein or other address provided in writing.

AGREED AND ACCEPTED:

Washtenaw County

Superior Charter Township

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Printed)

Name: William McFarlane

Title: _____

Title: Supervisor

Date: _____

Date: April 3, 2006

Master Participation Agreement

Schedule 1 – Description of Initiative

This Schedule 1 (“Schedule”) is made pursuant to the terms of the Master Participation Agreement (“Agreement”) between Washtenaw County (the “Governing Entity”) and the undersigned entity (“Participant”). Capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement. The Agreement shall govern any conflict or inconsistency with the terms of this Schedule.

1. **About “Wireless Washtenaw”**

The Wireless Washtenaw initiative (“Initiative”) is intended to facilitate the deployment of a high-speed wireless Internet Network throughout Washtenaw County. Participants in Washtenaw County will allow one or more Providers to place Facilities on various public Assets. These Facilities will transmit digital data wirelessly throughout Washtenaw County, thereby creating the Network. The Network will be owned, operated and maintained entirely by the private sector Providers.

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Through the Network, the Provider(s) can deliver multiple services, including, but not limited to, wireless Internet service, Voice over Internet Protocol (VoIP), and Video-on-Demand (VoD). In exchange for access to the Assets, every resident, school, community organization, business and visitor in Washtenaw County (each a "User") will receive a restricted level of free wireless Internet service. Additional services will be available for-fee. More details on these services are available in Section 3 of this Schedule.

The Goals of the Initiative include the following:

- Blanket Washtenaw County's 720 square miles with wireless Internet service and provide free wireless Internet access to every User. A wireless infrastructure throughout Washtenaw County will provide seamless access to web pages, email, and other Internet services anywhere in Washtenaw County.
- Provide "free" and "for fee" wireless Internet access to every User.
- Address the digital divide in Washtenaw County.
- Enhance the Washtenaw County community by creating public-private partnerships and a new spirit of collaboration to improve the quality of life.

This Initiative was launched by Ann Arbor IT Zone, City of Ann Arbor, Eastern Michigan University, Internet 2, Merit, Michigan Townships Association, State of Michigan, The University of Michigan Washtenaw County, Washtenaw County Local Units of Government, Washtenaw Development Council, Washtenaw County Road Commission, and the Washtenaw Intermediate School District.

Each partner recognizes the potential benefits of a wireless network. These benefits include:

- Improving Washtenaw County's ability to attract and retain businesses.
- Enhancing the residential character of the local communities.
- Allowing for a rapid expansion of the community's growing mobile workforce.
- Reducing the costs, and improving the reliability of mobile computing.
- Supporting further economic development within Washtenaw County.
- Enabling enhanced educational opportunities to students.

2. Governance Structure

Currently the Initiative is guided by the Wireless Washtenaw Advisory Board, with representatives from key stakeholders in the Washtenaw County community. The Advisory Board provides strategic oversight and makes decisions on major project milestones.

Reporting to the Advisory Board is the Steering Committee, which oversees the day-to-day operations of the Initiative. This committee also coordinates with the various subcommittees for the Initiative. Those subcommittees include Business, Governance, Information Technology, and Communications/Marketing. Each subcommittee was given a charter and a set of deliverables to accomplish. Over a five month period these

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subcommittees met regularly and proposed the recommendations that are outlined in this Schedule. These recommendations are designed to make the Initiative and the new governance entity self-sustaining. All recommendations were incorporated into Request for Proposal 6244.

The Wireless Washtenaw Governing Entity originally intended to establish an Advisory Board, Authority or Not for Profit to hold and execute all contracts with Providers. However, Public Act 235 of 2005 gave the Wireless Washtenaw project a new governing direction, as it prohibited a public entity from establishing a board or other entity for the purpose of providing regulation of private providers of telecommunications services. Washtenaw County intends to establish an Advisory Stakeholder Committee to provide recommendations and advice to the Governing Entity, thus giving all Participants that provide Assets a voice in the direction of the Initiative.

3. Business and Technical Requirements for Wireless Washtenaw

The Network developed as a result of the Initiative will be owned and operated by Providers. Providers will be asked to provide a self-sustaining business model as part of the Request for Proposal (“RFP”) requirements. The following paragraphs outline the business and technical recommendations made by the subcommittees.

Free Model: In exchange for rights to select Assets, all potential Users will receive a restricted level of free wireless Internet service. The project team is recommending the following form of free wireless Internet service:

Users will receive a continuous and uninterrupted connection to the Internet. The first five hours of service will be at 384k speeds. Afterwards, the speed will drop to 56k for the remainder of the month.

A Provider may or may not elect to display advertising on the User’s web browser. This type of access would preferably allow for full web browsing of the Internet and other uses.

Associated Wireless Services: Users will have the opportunity to purchase a more robust wireless Internet service with higher performance. This premium service will provide at least 500Kbps actual sustained throughput per device with low latency that is able to provide real time services such as VoIP and low quality digital video service.

Each Provider will be asked to provide a list of services that it envisions offering through the Network. This will most likely include services for businesses and guests, as well as VoIP, VoD, and other unforeseen services.

The full extent of these upgrade packages will not be determined until each Provider’s response to the RFP is returned and evaluated. However, the project team foresees speed and security as being the prime Internet upgrade options.

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Advertising: Advertising will be allowed on the Network access/sign-in pages for free Users as a possible source of revenue for the Providers. There must be no pop-up style advertisements on the Network access/sign-in pages for for-fee Users.

Compatibility: Most important is the use of standard WiFi technologies for the Users of the Network. Specifically, access to the infrastructure must support the use of current “consumer-based” client access technologies including both 802.11b and 802.11g. The ability to upgrade this requirement is imperative as technology standards evolve.

The wireless Internet service must provide access to 802.11b and 802.11g clients including Mac OS, Microsoft Windows, Linux, and other WiFi capable devices such as PDAs, smart phones, and other 802.11b or 802.11g WiFi certified products. Access and performance is to be based on clients typical default hardware such as a 30mW PC card radio with built in antenna. When moving to the WiMax solution, it must need to be compatible and interoperate with all WiMax Forum certified portability and mobility products.

County-Wide Coverage and Standards: It must be the Providers’ responsibility to ensure that the wireless Internet service covers the entire county. All wireless Internet services (free, for-fee, and upgrades) must be equally available to all potential Users.

In urban and suburban areas, the wireless Internet service must be provided on major streets and be available in first floor storefronts and offices directly on those streets. Most building occupants may continue to provide their own wireless Internet service or purchase additional equipment to extend service into their building for a fee. Adding this service can be done by extending the signal or through separate access points and “last mile” wireless backhaul depending on the Providers’ designs. Users in buildings must be able to continue to use their own private WiFi networks.

In some cases the signal might penetrate an entire residential structure. In other cases, the User might have to install additional equipment to extend service into their building. This could result in additional charges for the User, depending on the Provider and the technology chosen.

The initial technology to be deployed will be 802.11g but there will be interference issues to be managed since many technologies share the use of the 2.4 GHz spectrum. Providers must have a process for resolving interference conflicts with businesses and residents using the same wireless frequencies.

In rural areas, basic WiFi technology might not be technologically sufficient to provide complete coverage. Therefore Providers are not required to provide WiFi coverage, however they are required to provide coverage through other wireless technology, such as Pre-WiMax architecture, bridge or mesh network.

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WiMax Service: Once the WiMax (802.16d through 802.16e for mobility and portability) has been ratified, and products are commercially available, each Provider must have a plan for expansion of the service to cover the entire county and include WiMax for workstation mobility. The WiMax service must be deployed within a year of when 50% of the end user equipment providers in the WiMax forum are selling solutions in the US. The selected Providers must maintain the legacy WiFi systems until WiFi use of the system drops below 10% of Users. The WiMax service must be available throughout Washtenaw County, including the interior of all buildings. Devices that have WiMax installed must be able to use this service directly. Some rural residences may require a bridge to be installed that converts the WiMax signal to WiFi for access within the residence. It is assumed that the free service will use the unlicensed bands; however a Provider may license frequencies and use those frequencies to provide fee-based services.

WiMax equipment needed to connect a User to the Network may be sold by Providers or be available through other sources not affiliated with the Initiative.

Seamless Service: Those who purchase broadband service must be able to access the wireless Internet service throughout Washtenaw County without having to purchase it from multiple carriers. Regardless of the solution by any Provider, wireless Internet service must be transferable amongst carriers. Users must not have a need for different accounts, and preferably not have to re-authenticate once connected to the wireless Internet service.

User Accounts: Each Provider will need to provide a system for the creation of User accounts to be used across Washtenaw County. In addition to any requirements a Provider might have for accounting purposes, the Initiative would have the following requirements:

- An account be established for all Users including free accounts
- Identification verification method such as drivers license number, credit card, etc.
- Privacy policy regarding personal information collected as part of the account setup
- Provide authentication across the entire Network

Mobility: Mobility is defined as the ability to utilize and maintain a session such as a VPN session. Each Provider's solution must initially provide a for-fee mobility option, for mobility such a mobile IP. Once technology changes, mobility must be supported with WiMax technology. Mobile coverage will be for the same areas as covered by the stationary service.

Security: The Network shall prohibit one wireless client from seeing another wireless client's computer through use of devices such as wireless portals. The free and for fee services must support the use of VPNs at layer 3 and layer 2 VPN tunnels by stationary clients. Mobile VPN support can be a fee based option. Each Provider must have a system in place to detect jamming and other denial of service events (intentional or not) against the Network. Each Provider must have a process for responding to such incidents. Back end authentication systems must be secured from attack. Any system with usage

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accounting or personal information must need to be secured in accordance with regulatory standards for protecting private information. Each Provider may be required to annually demonstrate that back end systems are secured via a security audit.

Equipment is to be securely installed in a way that resists theft, vandalism, and weather damage.

Authentication: Accounting must be in place to determine when each account is in use for billing if necessary and investigative purposes. The goals for authentication are as follows:

- Identify a User with an account
- Prevent bandwidth theft of the use time of another individual's free account and theft of services from paid accounts
- Assigning features to accounts such as the elimination of filters or for fee features
- Recording when the account is in use and the assigned addresses

The Network must authenticate the User and reliably link them to the correct account using a login and password rather than just a MAC address. Accounting must be in place to determine when each account is in use for billing if necessary and investigative purposes. It must include the account information, time connected, time disconnected, MAC address used, and IP address assigned. The authentication mechanism must be able to meet the aforementioned device compatibility requirements. Records regarding login use of the Network will need to be retained for ninety (90) days. There is no requirement to retain information regarding where Users go on the Internet. If tracking of sites is done, each Provider must provide a copy of the policy regarding tracking of sites accessed and how it will be used.

Performance: Free wireless Internet service must have five (5) hours per month at 384Kbps throughput and drop to 56Kbps throughput for the remainder of the month. For fee upgraded wireless Internet service must minimally deliver 500Kbps of sustained, effective throughput. Throughput is defined as actual data transferred using standard half duplex radios. Each coverage area shall provide access to the Internet 99.9% of the time during any time of the year without reduction of the planned coverage area. The entire Network must be able to remain operational during a power outage of up to one hour, excluding components in individual residence and businesses. Latency for either system from a wireless client to any point on a Provider's network shall not exceed 100 ms.

Note: If a Provider chooses to implement advertising for free Users, additional speed is required to maintain the throughput parameters noted above.

IMPLEMENTATION PLAN: WASHTENAW COUNTY COVERS A DIVERSE GEOGRAPHIC REGION THAT ENCOMPASSES URBAN, SUBURBAN, AND RURAL LANDSCAPES. A KEY ELEMENT OF THE INITIATIVE IS THE ASSURANCE THAT WIRELESS INTERNET ACCESS IS PROVIDED THROUGHOUT ALL OF WASHTENAW

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COUNTY. THE GENERAL DEPLOYMENT TIMELINE HAS BEEN ESTABLISHED AS FOLLOWS:

First Half 2006	Pilot Program
Second Half 2006	Begin County-wide deployment, target approximately one-third of the geographical area of the county
First Half 2007	Continue County-wide deployment, target approximately two-thirds of the geographical area of the county
Second Half 2007	Complete County-wide deployment

4. Pilot

The goal of the pilot will be to verify that the finalist Providers have a viable solution and is capable of performing the implementation. It will be the intent to award Provider Agreements to the finalists, if in the opinion of the selection committee, they have a successful pilot. If any pilot is not successful, the committee may decide to perform pilots with one or more of the other proposed solution Providers.

Each pilot will be conducted for a period of 2 months. Pilots will be conducted at urban, suburban and rural locations; the number of these locations will be determined from the responses to RFP.

The costs associated with the pilot projects are solely that of the Providers, however, if a pilot is successful it is the intention that the pilot would be designed such that it could become part of the final Network. If a pilot is not successful, the Provider conducting the pilot will be responsible for the timely removal of its Facilities and other equipment at no cost to the Participant and/or to the Governing Entity.

5. Projected Timelines

RFP Released	November 29, 2005
Proposal Conference with Providers	December 14, 2005
Deadline for Submitting Questions Regarding RFP	February 28, 2006
RFP Due	March 7, 2006
Master Participation Agreements Due	March/April 2006
Pilot(s)	May – July 2006
Pilot Evaluations Due	August 2006
Provider Agreement(s) Awarded	September 2006

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Implementation Begins

Per RFP response and Provider Agreement

After a Provider Agreement is awarded, the Provider will be expected to roll out the Network in a timely manner. Each Provider will be asked to specify its own rollout time frame in its response to the RFP.

6. Conditions

The information contained within this Schedule is based on recommendations from the Wireless Washtenaw committees. Over a four month period, the committees researched wireless municipal projects, interviewed prospective solution providers, and consulted industry leading experts. This information establishes a framework for the Network in Washtenaw County; however, the precise details are subject to change, pending responses from the solution providers in their RFP bid.

7. Glossary

Channel – The number of access points that can cover the same area without interfering with each other.

WiFi – Wireless Fidelity

Specification	Maximum Speed (shared)	Qty of Channels	Frequency	Coverage (radius)	Status
802.11a	Up to 54Mbps	8	5Ghz	60 foot	Available, limited use
802.11b	Up to 11Mbps	3	2.4Ghz	200 foot	Available, popular
802.11b/g	Up to 54Mbps	3	2.4Ghz	200 foot	Available, popular
802.11n	200Mbps+	23	TBD	200 foot	Expected in 2007

WiMax

802.16d/802.16-2004, fixed service, 70Mbps dedicated to one link

802.16e, mobile service, 280Mbps shared on one antenna

AGREED AND ACCEPTED:

Washtenaw County

Superior Charter Township

**Master Participation Agreement
 Schedule 2 – Asset List**

This Schedule 2 (“Schedule”) is made pursuant to the terms of the Master Participation Agreement (“Agreement”) between Washtenaw County (the “Governing Entity”) and the undersigned entity (“Participant”).

Asset Description: Township Hall

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Asset Location: 3040 N. Prospect; Ypsilanti, MI 48198
Restrictions: Equipment can only be mounted on the radio tower or area and location designated by mutual agreement on north side of the building. Access for maintenance can occur between 7:00 a.m. to 4:00 p.m. Monday through Friday.

Asset Description: Fire Station #1
Asset Location: Corner of Prospect and Ford Roads
Restrictions: Equipment can only be mounted on the hose tower or area and location designated by mutual agreement. Access for maintenance can occur between 7:00 a.m. to 4:00 p.m. Monday through Friday.

Asset Description: Fire Substation
Asset Location: Corner of MacArthur and Harris
Restrictions: Equipment can only be mounted on the north side of the highest point of roof or on the flagpole or area and location designated by mutual agreement. Access for maintenance can occur between 7:00 a.m. to 4:00 p.m. Monday through Friday.

Asset Description: Utility Maintenance Building
Asset Location: Corner of MacArthur and Bazley
Restrictions: Equipment can only be mounted on the north side of the building or area and location designated by mutual agreement. Access for maintenance can occur between 7:00 a.m. to 4:00 p.m. Monday through Friday.

Asset Description: Utility Office Building
Asset Location: 575 East Clark, corner of Clark and Prospect
Restrictions: Equipment can only be mounted on the NE corner of building or on sign or area and location designated by mutual agreement. Access for maintenance can occur between 7:00 a.m. to 4:00 p.m. Monday through Friday.

AGREED AND ACCEPTED:

Washtenaw County

 Superior Charter Township

By: _____
 (Signature)

By: _____
 (Signature)

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Name: _____
(Printed)

Name: William McFarlane

Title: _____

Title: Supervisor

Date: _____

Date: _____

Roll call vote:

Ayes: Williams, Caviston, Lewis, Phillips

Nays: None

Absent: McFarlane, McKinney, Green

The motion carried.

**B. ORDINANCE 134-38 – REZONING – LEFORGE CLARK
ESTATES – R4 & A2 TO PC – FIRST READING**

At the regular meeting of the Superior Charter Township Planning Commission on March 22, the Commission recommended approval of STPC #05-27 LeForge Clark Estates Area Plan dated 3/1/06 and Rezoning from A-2 (Secondary Agriculture) to PC (Planned Community) finding that the petition meets the requirements of Section 4.22 (Planned Community District) and the findings of fact required in Section 14.05 of the Zoning Ordinance, subject to the following conditions:

1. All roads be private, but conform to Washtenaw County Road Commission standards,
2. The Township shall be exempt from and all loss, liability, costs and expenses with respect to complaints related to blanketing interference and reradiation interference and any and all other problems related to the radio transmitter(s) located on the adjacent property,
3. At the present time the Superior Charter Township Utility Department cannot guarantee that adequate sanitary sewer and water service is available to serve the entire site; the petitioner is proceeding at his/her own risk,
4. The petitioner shall provide detailed landscaping plans for the twenty (20) foot buffer which runs along the north, south, and east side of the existing homes which the development surrounds,
5. All other concerns in the Township's Consultant's reports are addressed and resolved prior to final site plan,
6. Prior to the first reading of the Ordinance by the Township Board of Trustees the petitioner shall correct the site plan information on page 1 of the Area Plan

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- so that “less steep slopes (greater than 18%) is corrected to “less steep slopes (greater then 12%), as is required by Sections 4.22, G 2 (c) 4, definition of steep slope; and 10.03 B 2 of the Superior Charter Township Zoning Ordinance,
7. Prior to the first reading of the Ordinance by the Township Board of Trustees all related density calculations shall be corrected,
 8. Prior to the first reading of the Ordinance by the Township Board of Trustees the petitioner shall amend the Area Plan to include the average initial sales price of the dwelling units,
 9. Recommend that the petitioner add some on-site recreation facilities (i.e. tot lots, parks, playscapes).

Conditions 6, 7, and 8 have been met.

It was moved by Williams, supported by Caviston, that the Superior Charter Township Board adopt the following Ordinance:

**SUPERIOR CHARTER TOWNSHIP
WASHTENAW COUNTY, MICHIGAN
ORDINANCE # 134-38
Leforge Clark Estates Area Plan**

The Board of Superior Charter Township of Washtenaw County, Michigan, hereby ordains that Ordinance Number 134, being the Superior Charter Township Zoning Ordinance, adopted August 4, 1997, and effective August 21, 1997, as amended, be amended as follows:

SECTION I

Superior Charter Township Ordinance Number 134, designated Superior Charter Township Zoning Ordinance, adopted August 4, 1997 and effective August 21, 1997, as amended, and the zoning district map attached thereto and made a part thereof, are hereby amended by the approved Area Plan for the following described property in Superior Township, Washtenaw County, Michigan:

Part of the Southwest ¼ of Section 33, T2S, R7E, Superior Township, Washtenaw County, Michigan Beginning at the W ¼ corner of said Section 33; thence N87°41'30"E 2696.01 feet; thence S02°42'00"E 971.99 feet; thence S87°41'30"W 1341.39 feet; thence S03°06'00" E 21.88 feet; thence S87°39'30"W 79.20 feet; thence S03°06'00" E 934.65 feet; thence S87°39.30"W 1255.20 feet' thence N03°30'00" W 922.46 feet; thence N87°41'30"E 358.19 feet; thence N05°21'00 W 100.05 feet; thence S87°50'27" W 35.00 feet; thence N03°30'00" W 65.00 feet; thence N87°41'30" E 32.85 feet; thence N05°21'00"W 530.71 feet; thence S87°41'30" W 335.72 feet; thence N03°30'00" W 312.10 feet to the Point of Beginning. Containing 82.21 acres.

SECTION II

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The Area Plan of Leforge Clark Estates 3-1-06, shall constitute the Approved Area Plan.

SECTION III

This Ordinance shall be published by posting in the Office of the Clerk, 3040 N. Prospect, Ypsilanti, 48198, and on the Township website – www.superior-twp.org – pursuant to Section 8 of the Charter Township Act, being MCL 42.8, 3(b) within thirty (30) days following the final adoption thereof. This Ordinance shall become effective on the eighth day following said publication or such later date as is provided by law. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

CERTIFICATION

I, Kay Williams, Clerk of the Charter Township of Superior, Washtenaw County, Michigan, hereby certify that this is a true copy of an Ordinance adopted by the Superior Charter Township Board for first reading at a regular meeting held on April 3, 2006, and for final reading on April 17, 2006. This Ordinance shall become effective on the eighth day following publication of second and final reading, or such later date as may be provided herein or by law.

William McFarlane, Supervisor

Kay Williams, Clerk

Roll call vote:

Ayes: Williams, Caviston, Lewis, Phillips

Nays: None

Absent: McFarlane, McKinney, Green

The motion carried.

C. ORDINANCE 134-39 – REZONING VILLAS AT HONEY CREEK – A1- TO PC – FIRST READING

At the regular meeting of the Superior Charter Township Planning Commission on February 22, 2006, the Commission recommended approval of STPC #06-01 Villas at Honey Creek Area Plan dated 2-22-06 and Rezoning from A-1 (Primary Agriculture) to PC (Planned Community) finding that the petition meets the requirements of Section 4.22 (Planned Community District) and the findings of fact required in Section 14.05 of the Zoning Ordinance, subject to compliance with the comments made on 2-22-06 from OHM; furthermore, each parcel shall be subject to the requirements of the Zoning Ordinance and the provision of the development agreements. The development consists of 12 lots on 49

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acres with the smallest lot 2.58 acres in size. The PC plan allows the Township oversight of the project for wetlands, trees, and roads.

It was moved by Williams, supported by Lewis, that the Superior Charter Township Board adopt the following Ordinance for first reading:

**SUPERIOR CHARTER TOWNSHIP
WASHTENAW COUNTY, MICHIGAN
ORDINANCE # 134-39**

Villas at Honey Creek Area Plan

The Board of Superior Charter Township of Washtenaw County, Michigan, hereby ordains that Ordinance Number 134, being the Superior Charter Township Zoning Ordinance, adopted August 4, 1997, and effective August 21, 1997, as amended, be amended as follows:

SECTION I

Superior Charter Township Ordinance Number 134, designated Superior Charter Township Zoning Ordinance, adopted August 4, 1997 and effective August 21, 1997, as amended, and the zoning district map attached thereto and made a part thereof, are hereby amended by the approved Area Plan for the following described property in Superior Township, Washtenaw County, Michigan:

Parcel A – Beginning at the Southwest corner of Section 5, T2S, R7E, Superior Township, Washtenaw County, Michigan; said Southwest corner of Section 5 being the PLACE OF BEGINNING; thence N00°13'34" E 871.72 feet along the West Line of Section 5; thence N89°20'28" E 576.67 feet; thence S00°13'25" W 871.71 feet to the South Line of Section 5; thence S89°20'26" W 567.70 feet along the South Line of Section 5 to the PLACE OF BEGINNING. Containing 11.54 acres of land, more or less, subject to easements, conditions, restrictions and exceptions of record, if any.

Parcel B-1 – Commencing at the Southwest corner of Section 5, T2S, R7E, Superior Township, Washtenaw County, Michigan; thence N00°13'34" E 871.72 feet along the West line of Section 5 for a PLACE OF BEGINNING; thence N00°13'34" E 464.89 feet along said West line of Section 5; thence N89°18'22" E 1600.24 feet along the North line of the South ½ of the SW ¼ of Section 5; thence S00°17'22" W 1337.60 feet along the East line of the West 8 acres of the Southeast ¼ of the Southwest ¼ of Section 5, as delineated per a Certificate of Land Survey by Donald W. Ross, Professional Surveyor #19005, Project #88-2198, dated May 24th 1988; thence S89°20'26" W 1022.04 feet along the South Line of Section 5; thence N00°13'25" E 871.71 feet; thence S89°20'28" W 576.67 feet to the PLACE OF BEGINNING. Containing 37.55 acres of land, more or less, subject to easements, conditions, restrictions and exceptions of record, if any.

SECTION II

The Area Plan of Villas at Honey Creek 2-22-06, shall constitute the Approved Area Plan.

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SECTION III

This Ordinance shall be published by posting in the Office of the Clerk, 3040 N. Prospect, Ypsilanti, 48198, and on the Township website – www.superior-twp.org – pursuant to Section 8 of the Charter Township Act, being MCL 42.8, 3(b) within thirty (30) days following the final adoption thereof. This Ordinance shall become effective on the eighth day following said publication or such later date as is provided by law. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

CERTIFICATION

I, Kay Williams, Clerk of the Charter Township of Superior, Washtenaw County, Michigan, hereby certify that this is a true copy of an Ordinance adopted by the Superior Charter Township Board for first reading at a regular meeting held on April 3, 2006, and for final reading on April 17, 2006. This Ordinance shall become effective on the eighth day following publication of second and final reading, or such later date as may be provided herein or by law.

William McFarlane, Supervisor

Kay Williams, Clerk

Roll call vote:

Ayes: Williams, Caviston, Lewis, Phillips

Nays: None

Absent: McFarlane, McKinney, Green

The motion carried.

D. ORDINANCE 134-40 – TEXT AMENDMENTS – FIRST READING

At the regular meeting of the Superior Charter Township Planning Commission on March 22, 2006, the Planning Commission recommended that the Township Board adopt revisions to Sections 4.22(E)(4)(g); 4.22(E)(8)(c); 4.24(G)(2)(b); 7.14(B)(2)(a); and 10.04(G)(1) of the Township Zoning Ordinance.

It was moved by Williams, supported by Caviston, that the Superior Charter Township Board adopt the following Ordinance for first reading:

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**SUPERIOR CHARTER TOWNSHIP
WASHTENAW COUNTY, MICHIGAN**

ORDINANCE # 134-40

The Board of Superior Charter Township of Washtenaw County, Michigan, hereby ordains that Ordinance Number 134, being the Superior Charter Township Zoning Ordinance, adopted August 4, 1997, and effective August 21, 1997, as amended, be amended as follows:

SECTION I

Superior Charter Township Ordinance Number 134, designated Superior Charter Township Zoning Ordinance, adopted August 4, 1997, and effective August 21, 1997, as amended, is hereby amended as follows:

Amend Section 4.22(E)(4)(g) as follows:

The Density and Height Regulations which apply to single family detached dwellings located on individual lots within a PC zoning district shall be based upon the Density and Height Regulations of the zoning district which the Planning Commission determines most nearly reflects the policies of the Growth Management Plan. The Planning Commission may allow modification to the proposed Density and Height Regulations when the Commission deems such modifications as necessary to meet the "Intent" of Section 4.22(A). The area plan and the preliminary and final site plans accompanying the application shall clearly identify the proposed minimum lot area, minimum lot width, maximum ground floor coverage, maximum floor area ratio, minimum yards, maximum height and accessory building regulations. The provisions outlined in this section shall not supersede the "Maximum Net Residential Density" requirements of Section 4.22(E).

Amend Section 4.22(E)(8)(c) as follows:

A single-family dwelling shall be located at least twenty (20) feet from any other single-family dwelling.

Exception: Single-family detached dwellings located on individual lots where minimum yards are regulated by Section 4.22(E)(4)(g).

Amend Section 4.24(G)(2)(b) as follows:

The surface areas of lakes, streams, ponds (natural, man-made, or storm water retention), marsh lands, or similar areas may be included in the acreage used for calculating residential densities-ground floor coverage, and floor area ratios, if fifty (50) percent or

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more of the frontage of such areas are part of lands devoted to parks and open space used for and accessible to employees and occupants within the PM District.

Amend Section 7.14(B)(2)(a) as follows:

A Special Districts final site plan shall expire and be of no effect unless, within three hundred sixty (360) days of the Planning Commissions approval, a fully executed Development Agreement has been recorded and the construction drawings have received detailed engineering final approval.

Amend Section 10.04(G)(1) as follows:

A final site plan shall expire and be of no effect unless, within three hundred sixty (360) days of the Planning Commissions approval, a fully executed Development Agreement has been recorded and the construction drawings have received detailed engineering final approval.

SECTION II

This Ordinance shall be published in a newspaper circulated within the Township of Superior within thirty (30) days following the final adoption thereof. This Ordinance shall become effective on the eighth day following said publication or such later date as is provided by law. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION III

I, Kay Williams, Clerk of the Charter Township of Superior, Washtenaw County, Michigan, hereby certify that this is a true copy of an Ordinance adopted by the Superior Charter Township Board for first reading at a regular meeting held on April 3, 2006 and for final reading on April 17, 2006. This Ordinance shall become effective on the eighth day following publication of second and final reading, or such later date as may be provided herein or by law.

Roll call vote:

Ayes: Williams, Caviston, Lewis, Phillips

Nays: None

Absent: McFarlane, McKinney, Green

The motion carried.

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**E. LAKEVIEW ESTATES CONDOMINIUM ASSOCIATION –
REQUEST TO WAIVE PENALTIES**

After many years of using the same management company, in December, 2005, Lakeview Estates changed management companies but notice of the change did not reach the Utility Department until March 3, 2006. In the meantime the bills were not paid and penalties were assessed to the account. The payments were received on March 13, and the Association requested that the penalties totaling \$413.88 be waived. A precedent is not being set for waiving the fees as no one connected with the Association normally sees the bills and would not be aware that they had not been paid. As soon as the Association discovered the problem that was caused by the change of management, the bills were paid.

It was moved by Caviston, supported by Williams, that the Superior Charter Township Board waive the late fees incurred by Lakeview Estates in the amount of \$413.88 as they have never been late previously and this instance was caused by miscommunications during the change of management companies.

The motion carried.

**F. PROPOSAL TO UPDATE SUPERIOR TOWNSHIP
ENGINEERING STANDARDS**

The Township's current Engineering Standards were adopted January 20, 2004. The Township Engineers, OHM, have proposed to review the engineering standards by redlining a hard copy of the engineering standards and details. They will provide the Township with comments on both the standards and details. They can meet with the Township on two separate occasions to review the comments on the standards and the comments on the details.

The estimated total cost to finalize the Engineering Standards is an hourly to maximum fee of \$10,000.00. This will include the following:

1. Ensure that the Township's standards are up to date with current engineering practice. At a minimum, the following items will be reviewed and revised:
 - a. Onsite Community Septic Standards
 - b. Use of new construction materials including infrashield, and materials for deep sewers.
 - c. Stormwater Management Devices
 - d. Incorporation of latest WCRC design standards (date) for roads and driveways.
 - e. Latest A WW A standards (reference recent changes)
 - f. MDEQ requirements for Sanitary Sewer and Water Main, including recent updates to the "Ten States Standards"

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- g. Revised inspection requirements to be consistent with current Development Agreements
2. Make changes to the standard details, including water main, sanitary sewer, and storm sewer details, as was redlined and clarified at a meeting between OHM and the Township.
3. Provide the Township with 5 CD's where each CD contains the Township Engineering Standards and Standard Detail Sheets.

It was moved by Williams, supported by Lewis, that the Superior Charter Township Board authorize the Supervisor to sign the proposal from OHM to update the Township Engineering Standards for a cost not to exceed \$10,000.00

Roll call vote:

Ayes: Williams, Caviston, Lewis, Phillips

Nays: None

Absent: McFarlane, McKinney, Green

The motion carried.

**G. AMENDMENTS TO GROWTH MANAGEMENT PLAN –
AGRICULTURAL LANDS PRESERVATION**

At their regular meeting of March 22, 2006, the Superior Township Planning Commission reviewed proposed amendments to the Growth Management Plan. The amendments will make certain land eligible for the State Agricultural Lands Preservation program by including them in an overlay category for preservation. The overlay category includes land with the most desirable characteristics for preservation and is outlined on the attached map in green. After the Planning Commission reviewed the amendments, the Commission voted to refer STPC#O6-09 Growth Management Plan Amendments related to eligibility for the State Agricultural Preservation Fund to the Township Board for distribution to adjoining communities as required by the Township Planning Act.

It was moved by Williams, supported by Lewis, that the Superior Charter Township Board receive the proposed amendments to the Growth Management Plan related to eligibility for the State Agricultural Preservation Fund and authorize the Secretary of the Planning Commission to distribute the proposed amendments to adjoining communities as required by the Township Planning Act.

The motion carried.

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**H. WASHTENAW COUNTY SOLID WASTE MANAGEMENT
CONSORTIUM DUES**

It was moved by Caviston, supported by Lewis, that the Superior Charter Township Board pay the 2006 dues for the Washtenaw County Consortium for Solid Waste Management in the amount of \$75.00.

The motion carried.

11. PAYMENT OF BILLS

It was moved by Williams, supported by Lewis, that the bills be paid in the following amounts: General Fund - \$2,495.00 and Utilities Fund - \$32,585.26 for a total of \$35,080.26.

The motion carried.

12. PLEAS AND PETITIONS

There were none.

13. ADJOURNMENT

It was moved by Williams, supported by Caviston, that the meeting adjourn. The motion carried and the meeting adjourned at 9:30 p.m.

Respectfully submitted,

Kay Williams, Clerk

William McFarlane, Supervisor