



CITY of NOVI CITY COUNCIL

Agenda Item H
June 6, 2016

SUBJECT: Approval of a Municipal Vactor Dumping and Removal Agreement with the Oakland County Water Resources Commissioner to allow the ability to unload sanitary sewage collected by the City's vactor equipment.

SUBMITTING DEPARTMENT: Department of Public Services, Water and Sewer Division *ZIC RA*

CITY MANAGER APPROVAL: *SPH*

BACKGROUND INFORMATION:

The Department of Public Services' Water and Sewer Division routinely uses its vactor truck to clean and maintain the City's sanitary sewer system (e.g. lift stations and manholes). Until recently, the waste collected was disposed of at a local landfill facility. However, the landfill facility has informed the City that they will no longer be able to accept the waste due to the amount of liquid it contains.

Through a partnership with the Oakland County Water Resources Commissioner (OCWRC), the Water and Sewer Division has worked out an alternative plan to utilize an area at the Walled Lake-Novı waste water treatment facility located in Section 9 adjacent to Lakeshore Park. Although this facility will meet most of the waste disposal needs, there are some limitations. Due to these limitations, a secondary means of disposal was sought, should the need arise. OCWRC has another facility in Pontiac, the Clinton-Oakland Sewage Disposal System, which is capable of accepting the City's vactor waste. OCWRC has agreed to allow the City of Novi to use their Pontiac facility on an as-needed basis following the execution of the attached agreement.

The City Attorney's office has reviewed the Agreement and has no objection to the City entering into the Agreement (see attached May 17, 2016 letter from Beth Saarela). As required by the Agreement, a Resolution has been developed for the execution of the Agreement.

RECOMMENDED ACTION: Approval of a Municipal Vactor Dumping and Removal Agreement with the Oakland County Water Resources Commissioner to allow the ability to unload sanitary sewage collected by the City's vactor equipment.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Burke				
Council Member Casey				

	1	2	Y	N
Council Member Markham				
Council Member Mutch				
Council Member Wrobel				

**OAKLAND COUNTY WATER RESOURCES COMMISSIONER
CLINTON-OAKLAND SEWAGE DISPOSAL SYSTEM
SEPTAGE UNLOADING FACILITY
1235 Cesar E. Chavez, Pontiac, Michigan 48340**

MUNICIPAL VACTOR DUMPING AND REMOVAL AGREEMENT

This Agreement is made and entered into between the **COUNTY OF OAKLAND**, a Michigan Constitutional and Municipal Corporation by and through its Water Resources Commissioner in his capacity as the County Agency for the Clinton-Oakland Sewage Disposal System, whose address is One Public Works Drive, Building 95 West, Waterford, Michigan, 48328 ("County"), and the City of Novi, with its address at 45175 Ten Mile Road, Novi, Michigan 48375 ("Municipality").

WITNESSETH:

WHEREAS, the County Agency operates and maintains a sewage collection system commonly known as the Clinton-Oakland Sewage Disposal System (COSDS) that collects sanitary sewage from certain Oakland County communities for transportation to and treatment by the City of Pontiac Wastewater Treatment Facility Drainage District's wastewater treatment plant, (Pontiac WWTP) alone or contemporaneously with the Detroit Water and Sewer Department's wastewater treatment plant (DWSD WWTP);

WHEREAS, the County Agency operates and maintains a septage unloading facility located at 1235 Cesar E. Chavez, Pontiac, Michigan 48340, which is an extension of the COSDS, used to collect and transport sanitary sewage for treatment at the Pontiac WWTP or the DWSD WWTP;

WHEREAS, the Municipality desires to utilize the septage unloading facility to unload sanitary sewage collected by its vactor services, and has agreed in return to reimburse the County for costs as provided for in this Agreement;

NOW, THEREFORE in consideration of these premises and the mutual promises, representations, and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the County and the Municipality mutually agree as follows:

1. The Municipality is authorized to unload sanitary sewer material at the Clinton-Oakland Septage Unloading Facility located at 1235 Cesar E. Chavez, Pontiac, Michigan 48340 subject to the terms and conditions set forth in this Agreement.
2. The Municipality will reimburse the County for the sanitary sewer material unloaded, including its costs and overhead of county employees and agents in accordance with the attached "Municipal Vactor Dumping and Removal Analysis (Sanitary Sewer Material Only)." The term "costs" is defined as the labor, including statutory and customary fringe benefits, overtime, material and supplies, vehicle/equipment rental and subcontractor services devoted specifically to the services provided. The term "overhead" is defined to include the following: all allocation of the labor cost, including statutory and customary fringe benefits, of personnel responsible for administering this Agreement or supervising the work performed in connection with this Agreement; an allocation of expenses of the Oakland County Water Resources Commissioner's office (OCWRC); and an allocation of the indirect cost of Oakland County charged to the OCWRC for support services, such as (but not limited to) legal, personnel, accounting, computer support, and insurance/risk management.

3. An OCWRC attendant will oversee each vector unloading at the facility. The Municipality agrees to provide 24-hour notice to the OCWRC's Sewer/Drain Maintenance Unit at 248-858-1127 to ensure an OCWRC attendant is present. No unloading shall be permitted unless an OCWRC attendant is present. "OCWRC attendant" is defined as the designated site operator. The Municipal vector operator shall abide by the requirements of the OCWRC attendant.
4. An OCWRC attendant will provide the Municipality's vector operator with a manifest to complete. The Municipal vector operator must document each use and the associated fee. The current minimum charge is four hundred fifty-two (\$452) dollars and is based on a 3-yard unloading of material, and is subject to change upon notice as provided in this Agreement.
5. The County Agency reserves the unrestricted rights to:
 - a. Observe unloading, hauling and unloading of vehicles.
 - b. Obtain representative samples of the vehicles contents at the unloading site prior to and during the unloading activity.
 - c. Question the Municipal vector operator at the unloading site as to the origin and quantity of the material in the vehicle.

The Municipal vector operator shall furnish the above information upon request and assist the County Agency in obtaining representative samples.

6. The County Agency will provide thirty (30) days' notice of any change in the rates as set forth in the "Municipal Vector Dumping and Removal Analysis (Sanitary Sewer Material Only)."
7. The Municipality, including its officials, officers, employees and agents, shall be liable for all costs and overhead or other expenses arising from its misuse of the septage unloading facility. Misuse of the facility includes, but is not limited to, dumping or unloading prohibited or illegal material, using the facility in any manner inconsistent with this Agreement or violations of federal, state or local law or regulations. In the event there is a misuse of the facility by the Municipality, the Municipality agrees to pay the County Agency, upon invoice, for all costs and expenses related to rectifying or mitigating the misuse. Invoices shall be paid within thirty (30) calendar days. The County Agency reserves the right to immediately terminate the Municipality's use of the facility upon non-payment of an invoice.
8. INDEMNIFICATION.
 - a. To the extent permitted under Michigan law, the Municipality will indemnify, defend and save harmless, the County, its officers, boards, employees and agents from and against any and all claims by reason of any act or omission of the Municipality, its personnel, employees, agents, or subcontractors, in the performance of this Agreement.
 - b. To the extent permitted under Michigan law, the County will indemnify, defend and save harmless, the Municipality, its officers, boards, employees and agents from and against any and all claims by reason of any act or omission of the County, its personnel, employees, agents, or subcontractors, in the performance of this contract.
 - c. "Claim(s)" shall be defined to include but not limited to alleged losses, claims, complaints, demands for relief or damages, suits, causes of action, proceedings, judgments, deficiencies, liability, penalties, fines, litigation costs and expenses,

reimbursement for reasonable attorney fees, witness fees, court costs, investigation and/or litigation expenses, any amounts paid in settlement, and/or any other amounts, liabilities which are imposed on, incurred by, or asserted against either party to this contract by a third party whether direct, indirect or consequential, whether based upon any alleged violation of the constitution (Federal or State), any permit, any statute, rule, regulation or the common law, whether in law or equity, tort, contract, or otherwise, and/or whether commenced or threatened and arising out of this Agreement.

- d. It is the intent of the parties that the parties shall have and retain governmental immunity as a governmental agency, and shall have and receive any immunity conferred by statute.
9. The Municipality understands and agrees that if there is any amount due and owing to the County under this Agreement, which is still unpaid at the time the County distributes funds to the Municipality from the Delinquent Tax Revolving Fund (DTRF), the County shall be entitled to reduce, set-off, and permanently retain any amount due to the municipality from the DTRF by any such amount then still due and owing the County pursuant to this Agreement.
10. Other conditions:
 - a. The sources of sanitary sewage material are limited to the lateral sewage collection system, owned by the Municipality.
 - b. Sanitary sewage material from septic tanks, cesspools, seepage pits, portable toilets, grease trap wastes, industrial and commercial process waste shall not be allowed.
 - c. This Agreement is only effective when all other federal, state or local permits or licenses required for transporting sanitary sewage material are valid and current.
11. This Agreement shall become effective upon duly executed signatures and approval by resolution of the Municipality. With the exception of modifications to the rates charged under this Agreement, which may be unilaterally modified by the County Agency with 30 calendar days' notice to the Municipality, all other amendments to the Agreement shall be approved in the same manner as the original Agreement. The approval and terms of this Agreement, and/or any possible subsequent amendments thereto, shall be entered in the official minutes and proceedings of the Municipality.
12. This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan. The language of all parts of this Agreement is intended to and, in all cases, shall be construed as a whole according to its fair meaning, and not construed strictly for or against any party. As used in this Agreement, the singular or plural number, possessive or non-possessive shall be deemed to include the other whenever the context so suggests or requires.
13. Any and all correspondence, invoices, and/or any other written notices required, permitted or provided for under this Agreement to be delivered to either party shall be sent to that party by first-class mail. All such written notices, including any notice canceling or terminating this Agreement as provided for herein, shall be sent to the other party's signatory to this Agreement, or that signatory's successor in office, at the addresses shown in this Agreement. All correspondence or written notices shall be considered delivered to a party as of the date that such notice is deposited with sufficient postage with the U.S. Postal Service.

14. This Agreement together with attached "Municipal Vactor Dumping and Removal Analysis (Sanitary Sewer Material Only)," which is incorporated herein by reference, sets forth the entire agreement between the County and the Municipality and fully supersedes any and all prior agreements or understandings between them in any way related to this subject matter. It is further understood and agreed that the terms and conditions herein are contractual and are not a mere recital and that there are no other agreements, understandings, contracts, or representations between the County and the Municipality in any way related to this subject matter, except as expressly stated herein. This Agreement shall not be changed or supplemented orally and may be amended only as otherwise provided herein.

15. Either party, upon a minimum of thirty (30) calendar days' written notice to the other party, may cancel and/or completely terminate this Agreement for any reason, including convenience, without incurring any penalty, expense, or liability to the other party, except for costs and overhead associated with facility use and/or misuse prior to the effective date of the termination. The effective date for any such termination is to be clearly stated in the notice.

FOR AND IN CONSIDERATION of the mutual assurances, promises, acknowledgments, warrants, representations, and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the undersigned hereby execute this Agreement on behalf of the parties, and by doing so legally obligate and bind the parties to the terms and conditions of this Agreement.

CITY OF NOVI

 NAME: _____
 TITLE: _____
 DATE: _____

Approved by Resolution No. _____ dated _____, 2016.

COUNTY OF OAKLAND

By: _____
 Jim Nash, Oakland County Water Resources Commissioner
 County Agency for the Clinton-Oakland Sewage Disposal System

Prepared by:

Kelsey Cooke (P73242)
 WRC Senior Attorney
 Oakland County Water Resources Commissioner's Office
 One Public Works Drive, Building 95 West
 Waterford, Michigan 48328-1907
 (248) 452-2013

Oakland County Water Resources Commissioner
 Clinton-Oakland Septage Unloading Facility
 1235 Cesar E. Chavez, Pontiac, Michigan 48340

Municipal Vactor Dumping and Removal Analysis (Sanitary Sewer Material Only)
 Fee Basis
 Municipally Own Vehicles Only
 Prepared February 2016

Contracted services for removal

Bedrock Express, Ltd., Hauling to Eagle Valley (per yard)	\$	6.74
Oakland Height Fee (CY =1.25 x \$25.00 per ton)	\$	31.25
Total per yard:	\$	<u>37.99</u>

Assumed 2 cleaning cycles for 90 yards. This takes about 4 hours of labor and equipment to complete (ST).

2 Maintenance Mechanic I	\$	49.78 hr.	\$	398.24
1 Laborer	\$	41.58 hr.	\$	166.32
1 Vactor	\$	69.00 hr.	\$	276.00
1 Skid Loader	\$	27.15 hr.	\$	<u>108.60</u>
Total:				\$ 949.16
Total for 2 cycles:				\$ 1,898.32
Total per yard:				\$ 21.09

Material is removed from the pad when approximately 90 yards have accumulated. It takes approximately 8 hours of labor and equipment to load the hauler (ST).

1 Maintenance Mechanic II	\$	53.80 hr.	\$	430.40
1 1/2 Ton Pick-up	\$	7.85 hr.	\$	62.80
1 Back hoe	\$	50.00 hr.	\$	<u>400.00</u>
Total per 90 yards:				\$ 893.20
Total per yard:				\$ 9.92

The dumpsite is cleaned when all material on the pad has been hauled away. This is typically done when approximately 90 yards have accumulated. The cleaning effort includes the pad, grit chambers and sump. The work is done on Sunday when septic haulers will not be inconvenienced and takes approximately 8 hours (OT).

2 Vactor	\$	69.00 hr.	\$	1,104.00
1 Maintenance Mechanic I	\$	76.66 hr.	\$	613.28
1 Maintenance Mechanic II	\$	70.81 hr.	\$	566.48
4 Laborer	\$	60.54 hr.	\$	1,937.28
1 2 1/2 Ton Pick-up	\$	11.00 hr.	\$	88.00
1 SMU Supervisor I	\$	100.46 hr.	\$	<u>803.68</u>
Total per 90 yards:				\$ 5,112.72
Total per yard:				\$ 56.81

Fee Schedule (3 yards minimum)						
Cubic yards	3	4	5	6	7	8
Oakland Heights Fee (plus 15% G/A)	\$ 435.00	\$ 580.00	\$ 725.00	\$ 870.00	\$ 1,015.00	\$ 1,155.00

NOTE: All labor rates include fringes, a non-productive factor and longevity. Since there are currently no laborers with longevity this has not been factored into the respective rate.

Approved: _____
 Tim Prince, Manager

Date: _____

Clinton-Oakland Septage Unloading Facility
 1235 Cesar E. Chavez, Pontiac, Michigan 48340

Vactor Dump Manifest
For Municipally Owned Vehicles Dumping Sanitary Sewer Material Only

To be completed by municipal vactor operator:

Check the appropriate box:

- City of Auburn Hills
- City of the Village of Clarkston
- Charter Township of Independence
- City of Lake Angelus
- City of Novi
- Village of Lake Orion
- Charter Township of Oakland
- Charter Township of Orion
- Charter Township of Oxford
- Village of Oxford
- City of Rochester Hills
- City of Rochester
- Charter Township of Springfield
- Charter Township of Waterford
- Charter Township of West Bloomfield

Municipal billing address:

Attn. _____

Date: _____

Time: _____

Vactor ID No. _____

Amount Dumped (approx): _____ **cu yds**
 (minimum charge corresponds to a 3-yd dump)

By signing this form the vactor operator affirms that the material hauled and dumped was extracted from the sewage disposal system of the indicated community.

Vactor Operator Signature: _____
 (Print name under signature)

To be completed by WRC staff

Fee Schedule (minimum charge corresponds to a 3-yd dump)						
Cubic yards	3 (min)	4	5	6	7	8
Fee (plus 15% G/A)	\$435	\$580	\$725	\$870	\$1,015	\$1,155

Revenue ID	Fund	Dept	Program	Account
	58600	6010101	149665	630686

Total amount to be billed \$ _____

WRC Attendant Signature _____
 (Print name under signature)

I/O cc: _____
 K. Jager (develop and send invoice) G. Stepp
 R. Cook

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

RESOLUTION NO. _____

At a meeting of the City Council of the City of Novi, Oakland County, Michigan, held on June __, 2016, at the City Hall, 45175 Ten Mile Road, Novi, Michigan 48375-3024.

The following Resolution was offered by Councilmember _____ and supported by Councilmember _____.

WHEREAS, the rules governing the disposal of liquid wastes have been modified to limit the dumping of liquid waste in landfills, so the City has sought an alternate facility to dispose of liquid waste from its vactor trucks;

WHEREAS, the Oakland County Water Resource Commissioner operates the Clinton-Oakland Sewage Disposal System facility within the City of Pontiac that accepts municipal liquid waste for disposal for a standard fee;

WHEREAS, the Municipal Vactor Dumping and Removal Agreement with attached Fee Schedule, to which this Resolution is attached, between the City of Novi and the Oakland County Water Resource Commissioner's Office as the County Agency for the Clinton-Oakland Sewage Disposal System, was presented to the City Council of the City of Novi for approval on June __, 2016; and

NOW THEREFORE, IT IS THEREFORE RESOLVED:

To approve the Vactor Dumping and Removal Agreement with attached Fee Schedule, between the City and the Oakland County Water Resource Commissioner, to which this Resolution is attached, and authorize the City Manager to sign and submit it to the County on behalf of the City of Novi.

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

Maryanne Cornelius, City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this ___th day of June, 2016, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

Maryanne Cornelius, City Clerk



JOHNSON ROSATI SCHULTZ JOPPICH PC

27555 Executive Drive Suite 250 ~ Farmington Hills, Michigan 48331

Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.jrsjlaw.com

May 17, 2016

Benjamin Croy, Water & Sewer Senior Manager
CITY OF NOVI
Department of Public Services
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

RE: Clinton-Oakland Sewage Disposal System Vector Dumping and Removal Agreement

Dear Mr. Croy:

We have received and reviewed the revised Vector Dumping and Removal Agreement with attached Fee Schedule that has been prepared by the Water Resource Commissioner's Office to authorize the City to dispose of the contents of its vector trucks at the Clinton-Oakland Sewage Disposal Facility operated by the Water Resource Commissioner in the City of Pontiac. All comments in our November 3, 2015 correspondence have been addressed.

The terms of the Agreement appear to be acceptable and are standard for County Agreements. Although the Agreement requires the City and the County to indemnify each other for the acts or omissions of its own personnel, employees and officials, the Agreement indicates that the provisions are not intended to waive any governmental immunity the parties may be entitled to. The Agreement contains a fee schedule that is subject to change upon notice to the City, for fees per cubic yard of waste disposed of at the facility. The Agreement is for an indefinite term and is terminable at the will of either party with 30 days' written notice. The Agreement requires the passage of a Resolution by City Council for approval.

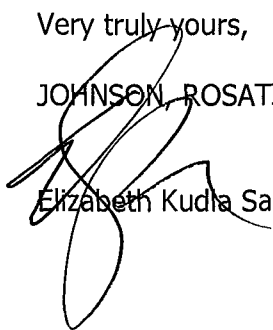
We see no legal impediment to entering into the proposed Vector Dumping and Removal Agreement in its current format.

Please feel free to contact me with any questions or concerns in regard to this matter.

Benjamin Croy, Water and Sewer Senior Manager
May 17, 2016
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Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Elizabeth Kudva Saarela

EKS

C: Maryanne Cornelius, Clerk
Rob Hayes, Public Services Director
Thomas R. Schultz, Esquire