



## CITY OF PATASKALA

### RESOLUTION 2020-033

Passed April 6, 2020

**A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ADMINISTRATOR TO EXECUTE A WATER SERVICE CONTRACT AND A SANITARY SEWER SERVICE CONTRACT WITH THE SOUTHWEST LICKING COMMUNITY WATER AND SEWER DISTRICT**

***WHEREAS***, the City of Pataskala Utility Department operates and maintains a water distribution system as well as a sanitary sewer collection system; and

***WHEREAS***, the Southwest Licking Water and Sewer District also operates and maintains a water distribution system and a sanitary sewer collection system; and

***WHEREAS***, the City of Pataskala and the Southwest Licking Water and Sewer District currently operate under separate water and sewer service contracts. While these are separate contracts, they are inherently connected; and

***WHEREAS***, with Resolution 2019-059, adopted on September 6, 2019 after months of discussions with the Southwest Licking Water and Sewer District, Council for the City of Pataskala approved an amended water service contract and an amended sanitary sewer service contract, with the Southwest Licking Community Water and Sewer District. However, the District never approved these amended contracts; and

***WHEREAS***, the City Administration recently learned the Southwest Licking Water and Sewer District made some changes to the service contracts; and

***WHEREAS***, the City Administration reviewed these newly proposed changes and believe they are acceptable; and

***WHEREAS***, while Council for the City of Pataskala is frustrated the District did not approve the amended water service contract and the amended sanitary sewer service contract, which were negotiated last year, Council believes the changes recently proposed still share on common goal – better service for water and sewer customers as the need for these services increases; and

***WHEREAS***, Council for the City of Pataskala would like to take this opportunity to rescind and replace the current water service contract and sanitary sewer contract with Exhibit A and Exhibit B incorporated herein.

**NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PATASKALA, COUNTY OF LICKING, STATE OF OHIO, A MAJORITY OF MEMBERS PRESENT CONCURRING THAT:**

**Section 1:** Council for the City of Pataskala hereby authorizes and directs the City Administrator to execute a water service contract and a sanitary sewer service contract, with the Southwest Licking Community Water and Sewer District, copies of which are attached hereto as Exhibit A and Exhibit B and incorporated herein by reference.

**Section 2:** It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of Council and that all deliberations of the Council and any of the decision-making bodies of the City of Pataskala which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the State of Ohio.

**Section 3:** All prior legislation and/or any parts thereof and/or any attachments thereto, which is/are inconsistent with this Resolution is/are hereby repealed as to the inconsistent parts thereof

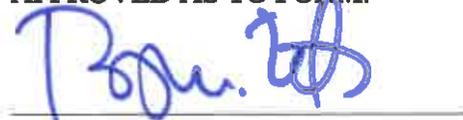
**Section 4:** This Resolution shall take effect at the earliest time allowed by the Charter of the City of Pataskala.

ATTEST:

  
Kathy M. Hoskinson, Clerk

  
Michael W. Compton, Mayor

APPROVED AS TO FORM:

  
Brian M. Zets, Law Director

## **Resolution 2020-033 Exhibit A**

WATER SERVICE CONTRACT  
BETWEEN  
THE CITY OF PATASKALA, OHIO  
AND  
SOUTHWEST LICKING COMMUNITY  
WATER AND SEWER DISTRICT

THIS CONTRACT, made and entered on the date last executed below, by and between the City of Pataskala, an Ohio municipal corporation (the "City"), pursuant to the authority granted under Resolution No. \_\_\_\_\_ by the Council for the City of Pataskala, and Southwest Licking Community Water and Sewer District (the "District"), a political subdivision established pursuant to R.C. Chapter 6119, pursuant to Resolution No. \_\_\_\_\_ by the District Board of Trustees. City and District are individually referred to as "Party" and collectively referred to as the "Parties."

**WITNESSETH:**

WHEREAS, the City and District previously entered into a Water Service Contract on or about September 1, 2004 (the "Original Contract"); and

WHEREAS, the City and District now desire to rescind and replace the Original Contract with this Contract providing for Water Services within the corporate limits of the City and areas within the District, which overlap such corporate limits; as well as setting forth their respective obligations regarding Service Areas designated herein, and the construction of an Interconnect facility.

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and agreements set forth herein, the City and District agree as follows:

1. **Definition of "Project"**. The term "Project" as used hereinafter shall have the same definition as the term "water resource project" defined in R.C. 6119.011(G).

2. **Designation of Service Areas.** The City and District agree that the Service Areas described herein on Exhibit A, attached hereto and incorporated herein by reference, designates the Service Area of each Party. This Contract shall not be construed to limit either party's right to provide service outside of the Service Areas defined herein. In the event that parcel descriptions and listings in Exhibit C are inaccurate in any respect, the Map of such area shall prevail.
3. **Provision of Services.** Except as provided herein, the Parties agree that only the Party in whose Service Area a property is located will be permitted to provide service to that property, except those properties already receiving service from either Party on the date of the execution of this Contract.
4. **Bases for Designated Service Areas.**
  - A. The Parties specifically acknowledge and agree the Service Areas delineated herein are based upon sound engineering principles, existing infrastructure, future raw water resources, pressure zone capabilities, as well as the ability to provide service.
  - B. The Parties further agree the Service Areas designated in Exhibit A have been developed utilizing sound engineering practices and principles, and therefore meet the requirements of the "feasible and economical" language contained in the merger document approved by the City and Lima Township voters at the time a vote on the merger of the two entities occurred.
5. **Definition of Operational Support Interconnect.** An Operational Support Interconnect ("the Interconnect") is an interconnection that may be utilized to assist in, or avoid difficulties with, operational aspects of either Parties' treatment and/or distribution systems, or due to any situation arising from fire, flood, drought, storm, interruption of power supply, breakdown of a water system, or other unforeseen natural or man-made circumstance that

causes, or will likely cause a loss of potable condition of water in all or part of a party's water system.

6. **Denial of Service.** The Parties agree that either Party may deny service, on a case by case basis, to a potential user in its own Service Area for any reason, then offer the right to the other Party to provide such services, provided that the denying Party has supplied such denial and subsequent offered assignment in written form. The receiving Party must provide to the offering Party a decision in written form on their desire to accept or deny the opportunity to service the denied area within 60 days of the offering Party's written denial of service. Once this assignment is effective, Exhibit A will be amended to show an accurate depiction of the service area.
7. **Inquiry Regarding Service.** If an inquiry regarding service is received by the Party in whose Service Area the property requesting service is not located, that Party shall promptly refer the inquiries to the other Party.
8. **Watkins Road Wellfield.** The Parties agree the City may extend services from the Watkins Road wellfield operated by the City to unincorporated areas only if there is documented dewatering of adjacent wells as a direct and actual result of the Watkins Road wellfield activity.
9. **Meter Readings.** Each Party shall share with the other, at no cost, on a monthly basis water consumption reading for their water-only customers to whom the other Party is providing sewer services. The Parties agree to cooperate in analyzing their own and the other's billing systems to determine the most efficient method of transferring data. Transfer of data may be by electronic or paper transfer.
10. **Fannin and Deagle Properties.** Notwithstanding anything in the Contract to the contrary, the rights to provide water service to the Fannin and Deagle Properties, identified in Exhibit

C, will belong to the City at the effective date of this Contract.

11. **Columbia Road Properties.** Notwithstanding anything in the Contract to the contrary, the rights to provide water service to the Columbia Road Properties, identified in Exhibit C, will belong to the District at the effective date of this Contract.

12. **Scotland Ridge Properties.** Notwithstanding anything in this Contract to the contrary, as soon as the Scotland Ridge Phase 2 begins to develop, the District shall collect all new tap fees, have ownership of, and be solely responsible for maintaining all infrastructure and/or facilities related to Scotland Ridge Phase 2. However, the City shall provide water service through its infrastructure to Scotland Ridge Phase 2 from the date such service is requested until the District has installed a service line at the boundary of Scotland Ridge Phase 2 and can begin providing service to such Phase 2 Area. The District will provide meter readings to the City pursuant to section 9 above, so that the City may bill the customers in Scotland Ridge Phase 2 for the water consumption.

Once the District begins servicing Scotland Ridge Phase 2:

- (1) ownership of all the public water service improvements, infrastructure, and/or facilities for all phases of Scotland Ridge, identified in Exhibit C, shall be transferred and conveyed from the City to the District, including transfer of easements and facilities by duly executed Bills of Sale, as well as transfer and assignment of any applicable warranties, guarantees, bonds, or agreements related thereto; and
- (2) the City will retain the tap fees it collected from Phase 1 of Scotland Ridge prior to commencement of services by the District to Phase 2, provided, however, that the City shall not accept prepayment of tap fees but only upon commencement of construction of each home or other improvement; and

- (3) upon commencement of the provision of services by the District to Phase 2, the City will thereafter no longer have a duty to repair, replace, or otherwise maintain any improvements, infrastructure, and/or facilities for all phases of Scotland Ridge, and the District shall thereafter have responsibility for the same; and
- (4) the City shall discontinue providing water services to any customers located in any phase of Scotland Ridge and thereafter will cease and desist from invoicing these customers, which such customers shall thereupon become customers of the District.

13. **Highland Estates and State Route 310 Properties.** Notwithstanding anything to the contrary in this Contract, once the District has installed a service line at or near the boundary of Scotland Ridge, Phase 2 and can begin providing service, the District shall provide service to the Highland Estates and State Route 310 Properties, identified in Exhibit C. Once the District begins servicing the Highland Estates and State Route 310 Properties:

- (1) ownership of all the public water service improvements, infrastructure, and/or facilities, located on these parcels, shall be transferred and conveyed from the City to the District, including transfer of easements and facilities by duly executed Bills of Sale, as well as transfer an assignment of any applicable warranties, guarantees, bonds, or agreements related thereto; and
- (2) the City will retain the existing tap fees it collected for these properties prior to the commencement of service by the District, provided, however, that the City shall not accept prepayment of tap fees but only upon commencement of construction of each home or other improvement; and
- (3) upon commencement of the provision of services by the District, the City will thereafter no longer have a duty to repair, replace, or otherwise maintain such improvements, infrastructure, and/or facilities, and the District shall thereafter have responsibility for the

same; and

- (4) the City shall discontinue providing water services to any customers located in the Highland Estates and State Route 310 Properties and will cease and desist from invoicing these customers, which such customers shall thereupon become customers of the District.

**14. State Route 310 Interconnection.**

- A. Once the District starts servicing Scotland Ridge Phase 2 and the Highland Estates and State Route 310 Properties, the previously existing City infrastructure between the Highland Hills and Beechwood Trails subdivisions will serve as a location for interconnection between the District and the City Infrastructure, which such location shall be determined by the Utility Director of Pataskala and the General Manager of the District within the area designated in Exhibit A for the location of the Interconnection. Within three (3) months of receiving notice in written form that the District is able to provide water service to the Scotland Ridge Phase 2, Highland Estates and State Route 310 Properties, the engineering of the State Route 310 Interconnection will commence in accordance with subsection B of this section. Construction of the State Route 310 interconnection will be completed within 6 months following the approval of the engineering plan, barring conditions outside of the control of the Parties, including but not limited to, strikes, war, riot, weather conditions, or acts of God.
- B. The City and District shall work cooperatively and shall equally split all engineering and construction costs associated with designing and constructing the Interconnect. The City shall engage the services of a professional design engineer to perform an engineering evaluation to determine the exact requirements, specifications, and available service for the Interconnect. The selected professional design engineer must be acceptable to the

District. The cost of the design engineering will be paid by the City, with 50% of the cost being reimbursed by the District. The Interconnect shall contain a meter from each party, a directional check valve from each Party, two gate valves from each Party and a bypass gate valve as shown on the concept schematic that is attached hereto as Exhibit B and incorporated herein by reference. Thereafter, upon approval by both Parties of such design plan, the City shall commission the construction of such Interconnect, with 50% of the cost being reimbursed by the District.

- C. The Parties shall act cooperatively and devote best efforts to support all aspects of project development and construction, including, but not limited to, the selection of a design engineer, the development of design plans and construction specifications, the solicitation of competitive bids, and the construction of the Interconnect.
- D. Any repairs required to the meter pit, bypass line, bypass valve, fittings, pipe or any other shared infrastructure included with the Interconnect shall be equally split between the Parties.
- E. Each Party agrees to have the water meter on their side of the Interconnect inspected and calibrated by an independent professional consultant at the request of the other Party. If the meter is found to be within the accuracy range specified by the manufacturer, all costs incurred for the calibration process will be the responsibility of the requesting Party.
- F. Water usage by the Party receiving water service thru the Interconnect shall be determined based upon the providing Party's meter. The rate used will be the lowest of the two Parties' at the time the Interconnect is utilized, unless the Interconnect is being activated under subsection I of this section. Each Party shall be responsible for reading the meter on its side of the meter pit. Neither Party shall charge the other a surcharge or minimum fee

for water used. During the next standard billing cycle following the date on which the meters are read, the providing Party shall invoice the receiving Party for the amount of water used. The Party receiving such invoice shall pay the amount shown within thirty (30) days of receipt, provided, however, that the rate for such services shall be the lowest rate as set forth above.

- G. In the event of a billing dispute, the receiving Party agrees to pay the undisputed amount billed until such time as the dispute is resolved. The receiving Party also will pay into an escrow account the disputed amount, where it will remain until the dispute is settled or resolved. Resolution of any such dispute shall be accomplished through the use of a third-party engineer, agreed to by both Parties. If after thirty (30) days, the Parties cannot agree on an engineer, the receiving Party shall choose the engineer. The engineer's decision shall be final. In the event of a faulty meter, the Parties agree to use an estimate based on the difference between the providing Party's daily production average for the previous 30 days and the production for the days that the Interconnect was in use.
- H. If the Parties agree to utilize the State Route 310 Interconnection as an Operational Support Interconnect, the District shall contact the City's Utilities Director or other authorized representative and the City shall contact the District's General Manager or other authorized representative prior to services being utilized.
- I. If the Parties agree to utilize the State Route 310 Interconnection for the sale and purchase of bulk water to be used for any purpose, approval must be authorized by legislation from both the Council for the City of Pataskala and the Southwest Licking Community Water and Sewer District. This legislation must outline the timeframe, amount of bulk water, and the rate being charged for the bulk water. If the Parties cannot agree on the timeframe, amount of bulk water, and/or the rate being charged for the bulk water, the Interconnect will not be used for the sale and purchase of bulk water. The Parties' failure to agree on the

timeframe, amount of bulk water, and/or the rate being charged for the bulk water shall not be considered a dispute, and therefore will not be subject to the Resolution of Disputes procedure defined in Section 15.

- J. If the providing Party determines in its own discretion that it does not have excess capacity during the use of the Interconnect, it may refuse or restrict the supply to the receiving Party without prior notice. Notice shall be given to the receiving Party as soon as practically possible.
- K. The receiving Party is to use water received through the Interconnect ONLY for supplying water to its current customers, not to any other water utility company or non-customer user, unless the Interconnect is used for bulk water sales as set forth in subsection I of this section.
- L. The providing Party agrees to provide potable water at the point of the Interconnect's master meter which complies with all applicable federal and state regulations. The Parties are not responsible for the quality of water provided after the Interconnects meter to respective customers. Each Party reserves the right to add or delete any chemicals in its own production and distribution system which it believes are necessary or appropriate to provide safe, potable water.
- M. The Parties in good faith believe that the sum of One Hundred Thousand Dollars (\$100,000.00) will be sufficient to cover the cost of constructing the Interconnection. Each Party shall deposit the sum of Fifty Thousand Dollars (\$50,000.00) in escrow with an escrow agent to be selected by agreement of the Parties on or before May 31, 2020, to cover the cost of construction of the Interconnection. If the Interconnection does not cost One Hundred Thousand Dollars (\$100,000.00) to construct any remaining balance in escrow shall be equally divided and refunded to the Parties. If the cost of construction of the Interconnection exceeds One Hundred Thousand Dollars (\$100,000.00), the parties

shall fund the extra costs equally.

**15. Termination/Resolution of Disputes.**

A. If either Party is unable to obtain the necessary permits and approvals for any construction activity required by this Contract, or the Parties cannot complete such construction activity due to shortage of labor or materials, strikes, war, riot, weather conditions, governmental rules, regulations or orders, including orders, judgments of any court, arbitration panel, tribunal, or administrative agency, acts of God, or conditions beyond the control of either Party, the Party which cannot perform shall notify the other Party immediately upon learning it cannot perform according to the terms of this Contract. The Party receiving notice shall then be entitled at its own discretion to terminate this Contract or attempt to renegotiate the terms of the Contract.

B. If a dispute arises under this Contract, the Parties shall first attempt to resolve the dispute through mediation. Each Party shall bear its own cost/expense of mediation, including its proportionate share of the compensation and administrative expenses required by the mediator. The mediator shall be selected by the agreement of the Parties. If after 30 days, the Parties cannot agree on a mediator, the Party who is requesting mediation shall choose the mediator. If the dispute is not resolved in mediation, a Party may commence a lawsuit seeking specific performance of this Contract, civil damages, costs, expenses, and any other relief and/or remedy available in law and/or equity.

16. **Term of Agreement/Renewal.** This Contract is effective on the date last executed below and will continue for a twenty-five (25) year term, subject to an automatic renewal for an additional twenty-five (25) years, unless written notice is given by one Party to the other, on or before two (2) years prior to the end of the initial twenty-five (25) year term.

17. **Review of Contract.** This Contract shall be reviewed by the Parties jointly as often as the Parties deem necessary during the term of the Contract and any renewal term for the sole

purpose of reviewing, revising, amending, or modifying current and future service areas in addition to review and confirmation of the District's infrastructure improvements within the corporate limits of the City. Both Parties recommend a joint review of this Contract be conducted every five (5) years for the same stated purpose.

18. **Notices.** All notices, requests, and other communications ("Notice") to be given under this Contract shall be in written form and shall be deemed to have been given, served, or made if transmitted by: certified mail, return receipt requested; common overnight carrier with delivery confirmation; facsimile with delivery conformation; or via email with delivery confirmation to the party to be notified as follows:

If to City: Pataskala Utilities Director

With copy to: City Administrator and Law Director

If to District: District General Manager

With copy to: District Board and District Attorney

19. **Entire Contract/Modification.** This Contract contains the entire agreement of the Parties with respect to this subject matter, and no amendment, modification, or waiver of any provision shall be valid unless in writing and signed by the Parties. The Parties may agree, in writing, to terminate this Amended Contract. This Contract supersedes all prior discussions, agreements and undertakings of any kind between the Parties with respect to the subject matter of this Contract, or any particular contained therein.
20. **Assignment.** This Contract is not assignable or transferable without the express written consent of the Parties.
21. **Binding Effect.** This Contract shall be binding on, and inure to the benefit of, the Parties and their heirs, personal representatives, successors, and assigns, except as otherwise provided in this Contract.

22. **Governing Law.** This Contract and the legal relations between the Parties shall be governed by and construed in accordance with the laws of the State of Ohio.
23. **Waiver.** The waiver by any Party to this Contract of a breach of any provision of this Contract shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other duty provision of this Contract.
24. **Counterparts.** This Contract may be executed by facsimile or email and in multiple counterparts by the Parties, and the counterparts shall collectively constitute a single, original, document, notwithstanding the fact that the signatures may not appear on the same page.
25. **Invalidity.** Should any provision of this Contract be declared or determined to be null, void, inoperative, illegal, or invalid for any reason, the validity of the remaining parts, terms, or provisions shall not be affected thereby and they shall retain their full force and effect, and said null, void, inoperative, illegal or invalid part, term, or provision shall be deemed not to be a part of this Contract.
26. **Recession of Original Contract.** Upon the execution of this Contract by both Parties, the Original Contract is rescinded.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers on the dates appearing below.

**CITY OF PATASKALA**

**SOUTHWEST LICKING COMMUNITY  
WATER AND SEWER DISTRICT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_

\_\_\_\_\_

Brian M. Zets, Law Director

John B. Albers II, District Attorney

**FISCAL OFFICER CERTIFICATE**

The undersigned, Fiscal Officer of the Southwest Licking Community Water and Sewer District (“District”) under the foregoing Amended Water Service Contract, hereby certifies that the moneys required to meet the obligations of the District during the year 2020 have been lawfully appropriated, or will be appropriated by the District for such purposes, and are in the treasury of the District, or are in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Fiscal Officer, Southwest Licking Community Water and Sewer District

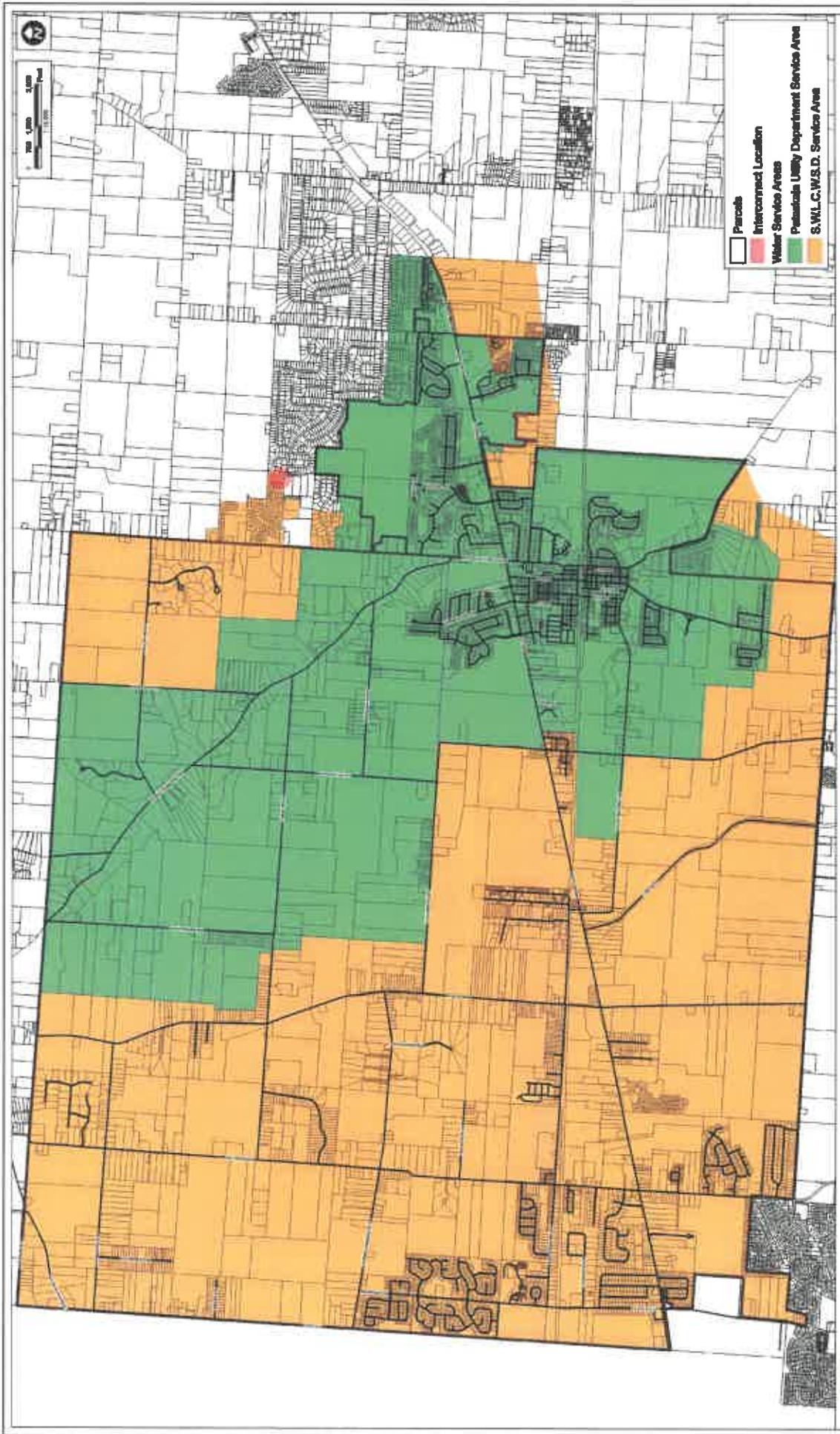
**FISCAL OFFICER CERTIFICATE**

The undersigned, Fiscal Officer of the City of Pataskala (“City”) under the foregoing Amended Water Service Contract, hereby certifies that the moneys required to meet the obligations of the City during the year 2020 have been lawfully appropriated, or will be appropriated by the City for such purposes, and are in the treasury of the City, or are in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

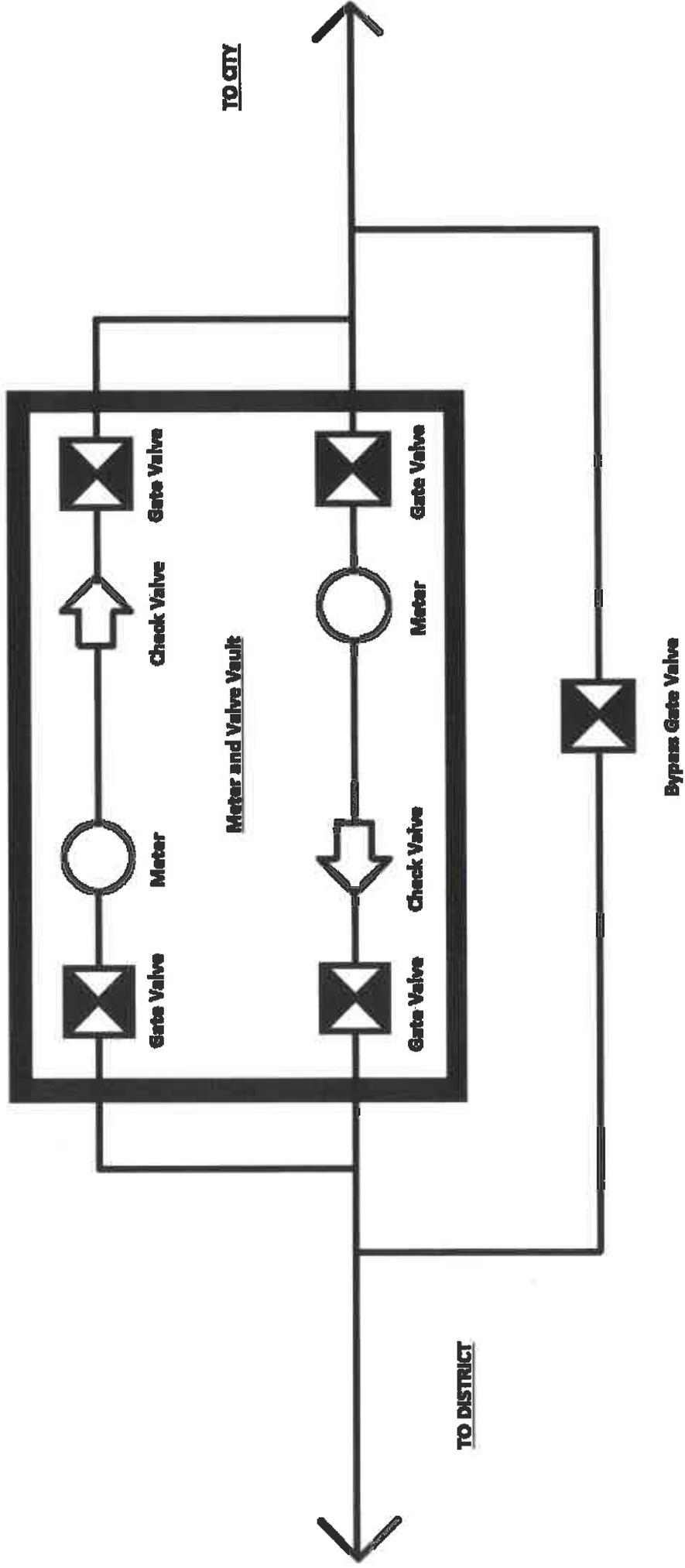
Fiscal Officer, City of Pataskala



# Exhibit A - Water Service Areas Map

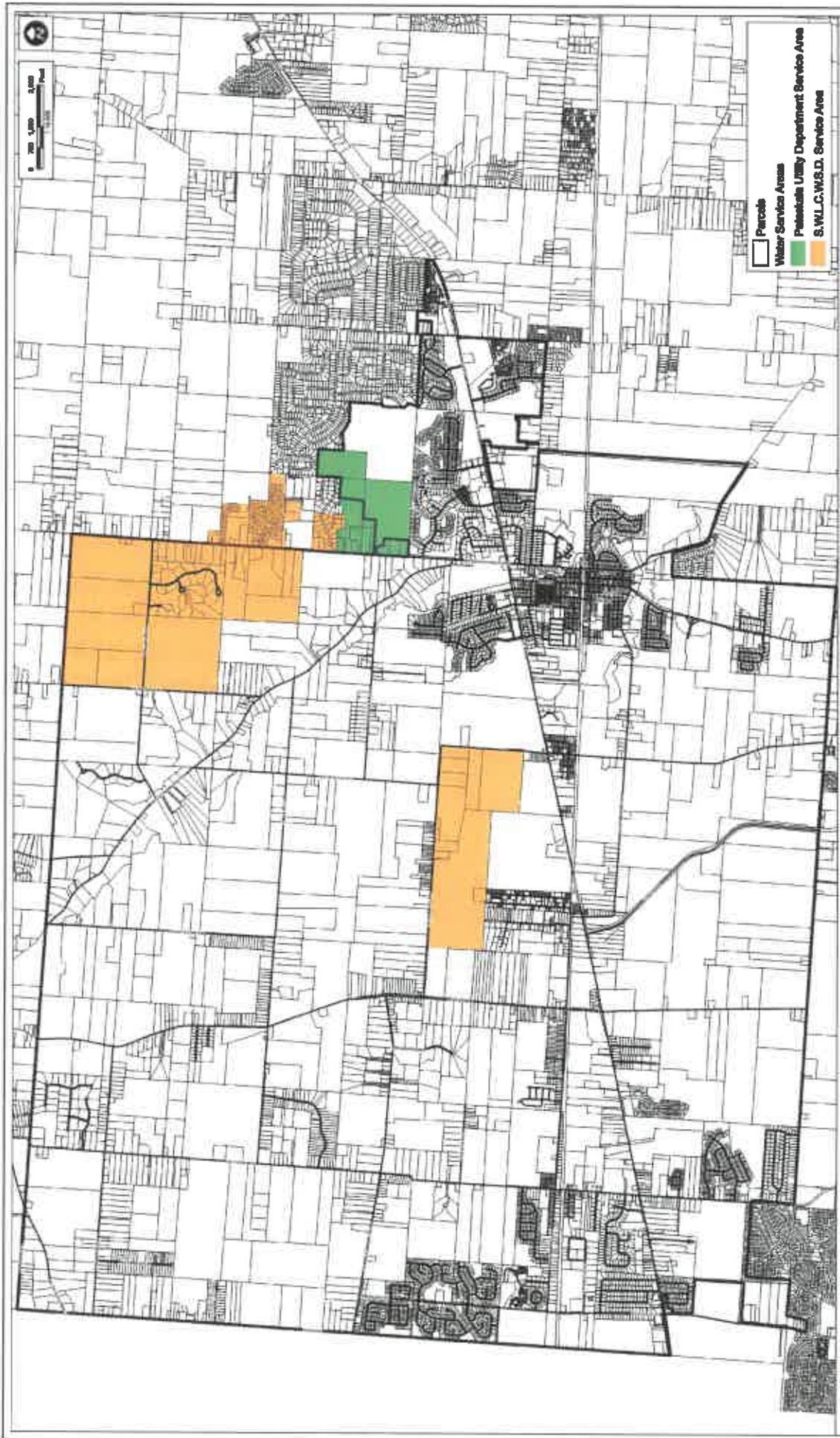
City of Pataskala





**EXHIBIT B**

**Concept Schematic for Interconnect Between  
the City of Pataskala and the District**



# Exhibit C

## Water Service Area Changes

### Parcel number list

#### **Fanin and Deagle Properties:**

025-069066-00.001, 025-069066-00.004, 025-069066-00.000, 025-069066-00.002,  
025-069078-00.000, 025-067746-02.000, 025-067746-01.000, 025-079170-00.000,  
025-070356-00.000, 255-067746-00.000, 255-069066-00.005, 255-069072-00.000

#### **Columbia Road Properties:**

063-140586-00.000, 063-140598-00.001, 063-140598-01.000, 063-141774-00.000,  
063-143034-00.000, 063-143034-00.001, 063-140586-00.001, 063-141264-00.000,  
063-140874-00.002, 063-140874-00.001, 063-140874-00.000, 063-140772-00.000,  
063-141444-00.000, 063-143136-00.000, 063-143142-00.000, 063-150072-00.000,  
063-146136-00.000, 063-146142-00.000, 063-150246-00.000, 063-144720-00.000,  
063-147030-00.000, 063-150390-00.000, 063-150804-00.000, 063-150054-00.000,  
063-142020-00.000

#### **Scotland Ridge Properties:**

025-068514-00.004, 025-068514-00.005, 025-068514-00.006, 025-068514-00.045,  
025-068514-00.007, 025-068514-00.008, 025-068514-00.009, 025-068514-00.010,  
025-068514-00.011, 025-068514-00.012, 025-068514-00.013, 025-068514-00.047,  
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025-068514-00.035, 025-068514-00.046, 025-072348-00.000

#### **Highland Estates and State Route 310 Properties:**

025-068676-41.000, 025-068676-48.000, 025-068676-49.000, 025-068676-29.000,  
025-068676-30.000, 025-068676-30.001, 025-068676-31.000, 025-068676-32.000,  
025-068676-33.000, 025-068676-34.000, 025-068676-35.000, 025-068676-36.000,  
025-076230-00.000, 025-068676-40.000, 025-068676-39.000, 025-068676-38.000,  
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064-152802-00.000, 064-152796-00.000, 064-152796-00.001, 025-072348-00.000,  
025-068202-00.002, 025-068202-00.000

## **Resolution 2020-033 Exhibit B**

**SANITARY SEWER SERVICE CONTRACT  
BETWEEN  
THE CITY OF PATASKALA, OHIO  
AND  
SOUTHWEST LICKING COMMUNITY  
WATER AND SEWER DISTRICT**

THIS CONTRACT, made and entered on the date last executed below, by and between the City of Pataskala, an Ohio municipal corporation (the "City"), pursuant to the authority granted under Resolution No. \_\_\_\_\_ by the Council for the City of Pataskala, and Southwest Licking Community Water and Sewer District (the "District"), a political subdivision established pursuant to R.C. Chapter 6119, pursuant to Resolution No. \_\_\_\_\_ by the District Board of Trustees. City and District are individually referred to as "Party" and collectively referred to as the "Parties."

**WITNESSETH:**

WHEREAS, the City and District previously entered into a Sanitary Sewer Service Contract on or about September 1, 2004 (the "Original Contract"); and

WHEREAS, the City and District now desire to rescind and replace the "Original Contract" with this Contract providing for Sanitary Sewer Services within the corporate limits of the City and areas within the District, which overlap such corporate limits; as well as setting forth their respective obligations regarding Service Areas.

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and agreements set forth herein, the City and District agree as follows:

1. **Definition of "Project"**. The term "Project" as used hereinafter shall have the same definition as the term "water resource project" defined in R.C. 6119.011(G).

2. **Designation of Service Areas.** The City and District agree that the Service Areas described herein on Exhibit A, attached hereto and incorporated herein by reference, designates the Service Area of each Party. This Contract shall not be construed to limit either party's right to provide service outside of the Service Areas defined herein. .In the event that parcel descriptions and listings in Exhibit C are inaccurate in any respect, the Map of such area shall prevail.
3. **Provision of Services.** Except as provided herein, the Parties agree that only the Party in whose Service Area a property is located will be permitted to provide service to that property, except those properties already receiving service from either Party on the date of the execution of this Contract.
4. **Bases for Designated Service Areas.**
  - A. The Parties specifically acknowledge and agree the Service Areas delineated herein are based upon sound engineering principles, existing infrastructure, tributary areas, system capabilities, future development patterns, as well as the ability to provide service.
  - B. The Parties further agree the Service Areas designated in Exhibit A have been developed utilizing sound engineering practices and principles, and therefore meet the requirements of the "feasible and economical" language contained in the merger document approved by the City and Lima Township voters at the time a vote on the merger of the two entities occurred.
5. **Denial of Service.** The Parties agree that either Party may deny service, on a case by case basis, to a potential user in its own Service Area for any reason, then offer the right to the other Party to provide such services, provided that the denying Party has supplied such

denial and subsequent offered assignment in written form. The receiving Party must provide to the offering Party a decision in written form on their desire to accept or deny the opportunity to service the denied area within 60 days of the offering Party's written denial of service. Once this assignment is effective, Exhibit A will be amended to show an accurate depiction of the service area.

6. **Inquiry Regarding Service.** If an inquiry regarding service is received by the Party in whose Service Area the property requesting service is not located, that Party shall promptly refer the inquiries to the other Party.
7. **Fanin and Deagle Properties.** Notwithstanding anything in the Contract to the contrary, the rights to provide sanitary service to the Fanin and Deagle Properties, identified in Exhibit B, will belong to the City at the effective date of this Contract.
8. **Columbia Road Properties.** Notwithstanding anything in the Contract to the contrary, the rights to provide sanitary service to the Columbia Road Properties, identified in Exhibit B, will belong to the District at the effective date of this Contract.
9. **Highland Estates and State Route 310 Properties.** Notwithstanding anything to the contrary in this Contract, once the District has installed a water service line at or near the boundary of Scotland Ridge Phase 2 and can begin providing water service, the rights to provide sanitary sewer service to the Highland Estates and State Route 310 Properties not currently serviced by the District, identified in Exhibit B, shall belong to the District.
10. **Termination/Resolution of Disputes.**
  - A. If either Party is unable to obtain the necessary permits and approvals for any construction activity required by this Contract, or the Parties cannot complete such construction activity due to shortage of labor or materials, strikes, war, riot, weather

conditions, governmental rules, regulations or orders, including orders, judgments of any court, arbitration panel, tribunal, or administrative agency, acts of God, or conditions beyond the control of either Party, the Party which cannot perform shall notify the other Party immediately upon learning it cannot perform according to the terms of this Contract. The Party receiving notice shall then be entitled at its own discretion to terminate this Contract or attempt to renegotiate the terms of the Contract.

B. If a dispute arises under this Contract, the Parties shall first attempt to resolve the dispute through mediation. Each Party shall bear its own cost/expense of mediation, including its proportionate share of the compensation and administrative expenses required by the mediator. The mediator shall be selected by the agreement of the Parties. If after 30 days, the Parties cannot agree on a mediator, the Party who is requesting mediation shall choose the mediator. If, the dispute is not resolved in mediation, a Party may commence a lawsuit seeking specific performance of this Contract, civil damages, costs, expenses, and any other relief and/or remedy available in law and/or equity.

11. **Term of Agreement/Renewal.** This Contract is effective on the date last executed below and will continue for a twenty five (25) year term, subject to an automatic renewal for an additional twenty five (25) years, unless written notice is given by one Party to the other, on or before two (2) years prior to the end of the initial twenty five (25) year term.

12. **Review of Contract.** This Contract shall be reviewed by the Parties jointly as often as the Parties deem necessary, during the term of the Contract and any renewal term for the sole purpose of reviewing, revising, amending, or modifying current and future service areas in

addition to review and confirmation of the District's infrastructure improvements within the corporate limits of the City. Both Parties recommend a joint review of this Contract be conducted every five (5) years for the same stated purpose.

13. **Notices.** All notices, requests, and other communications ("Notice") to be given under this Contract shall be in written form and shall be deemed to have been given, served, or made if transmitted by: certified mail, return receipt requested; common overnight carrier with delivery confirmation; facsimile with delivery conformation; or via email with delivery confirmation to the party to be notified as follows:

If to City: Pataskala Utilities Director

With copy to: City Administrator and Law Director

If to District: District General Manager

With copy to: District Board and District Attorney

14. **Entire Contract/Modification.** This Contract contains the entire agreement of the Parties with respect to this subject matter, and no amendment, modification, or waiver of any provision shall be valid unless in writing and signed by the Parties. The Parties may agree, in writing, to terminate this Contract. This Contract supersedes all prior discussions, agreements and undertakings of any kind between the Parties with respect to the subject matter of this Contract, or any particular contained therein.
15. **Assignment.** This Contract is not assignable or transferable without the express written consent of the Parties.
16. **Binding Effect.** This Contract shall be binding on, and insure to the benefit of, the Parties and their heirs, personal representatives, successors, and assigns, except as otherwise provided in this Contract.

17. **Governing Law.** This Contract and the legal relations between the Parties shall be governed by and construed in accordance with the laws of the State of Ohio.
18. **Waiver.** The waiver by any Party to this Contract of a breach of any provision of this Contract shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other duty provision of this Contract.
19. **Counterparts.** This Contract may be executed by facsimile or email and in multiple counterparts by the Parties, and the counterparts shall collectively constitute a single, original, document, notwithstanding the fact that the signatures may not appear on the same page.
20. **Invalidity.** Should any provision of this Contract be declared or determined to be null, void, inoperative, illegal, or invalid for any reason, the validity of the remaining parts, terms, or provisions shall not be affected thereby and they shall retain their full force and effect, and said null, void, inoperative, illegal or invalid part, term, or provision shall be deemed not to be a part of this Contract.
21. **Rescission of Original Contract.** Upon the execution of this Contract by both Parties, the Original Contract is rescinded

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers on the dates appearing below.

**CITY OF PATASKALA**

**SOUTHWEST LICKING COMMUNITY  
WATER AND SEWER DISTRICT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Brian M. Zets, Law Director**

\_\_\_\_\_  
**John B. Albers, District Attorney**

**FISCAL OFFICER CERTIFICATE**

The undersigned, Fiscal Officer of the Southwest Licking Community Water and Sewer District (“District”) under the foregoing Amended Water Service Contract, hereby certifies that the moneys required to meet the obligations of the District during the year 2020, being none, have been lawfully appropriated, or will be appropriated by the District for such purposes, and are in the treasury of the District, or are in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

\_\_\_\_\_  
Date

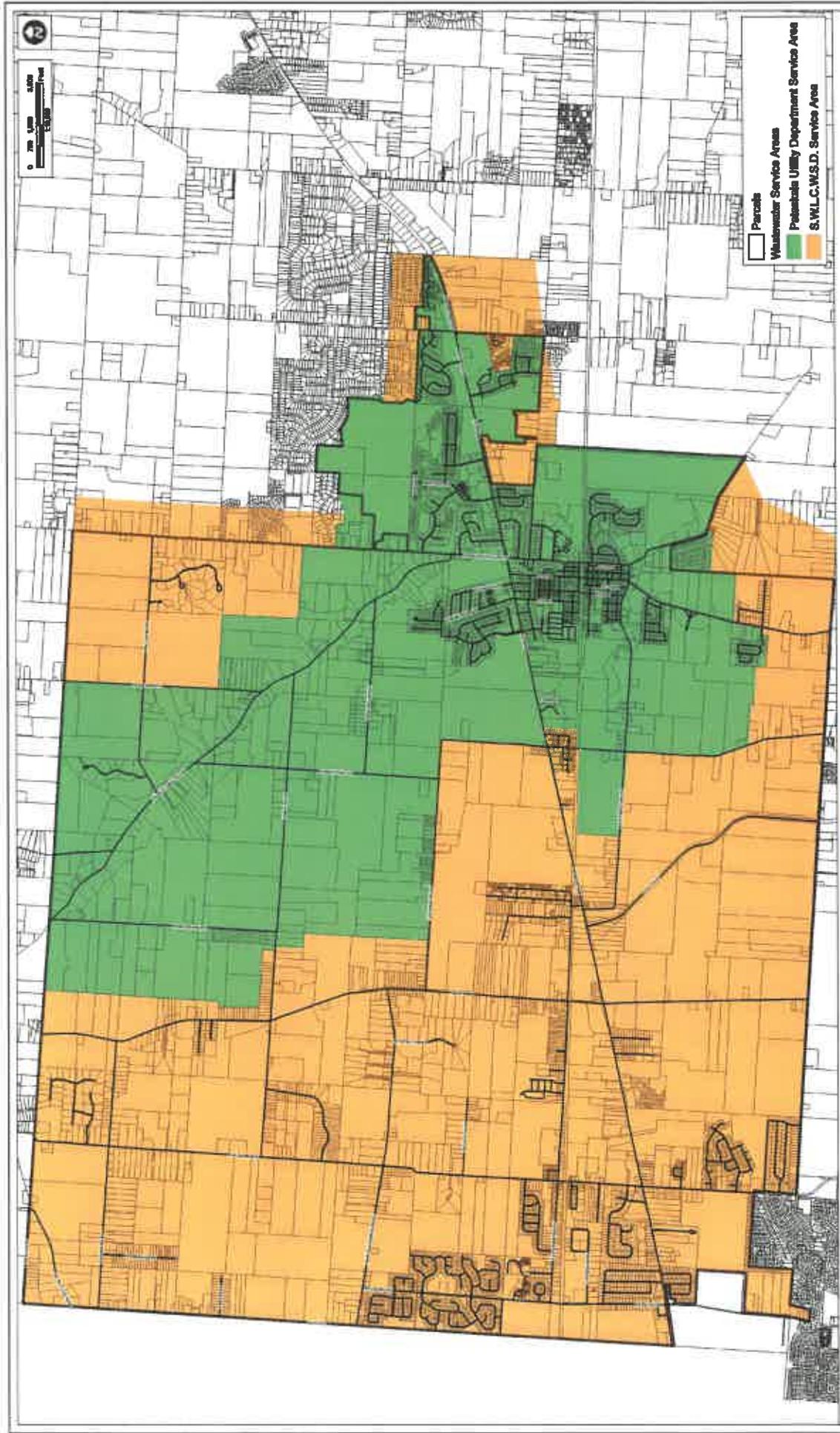
\_\_\_\_\_  
Fiscal Officer, Southwest Licking Community  
Water and Sewer District

**FISCAL OFFICER CERTIFICATE**

The undersigned, Fiscal Officer of the City of Pataskala ("City") under the foregoing Amended Water Service Contract, hereby certifies that the moneys required to meet the obligations of the City during the year 2020, being none, have been lawfully appropriated, or will be appropriated by the City for such purposes, and are in the treasury of the City, or are in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

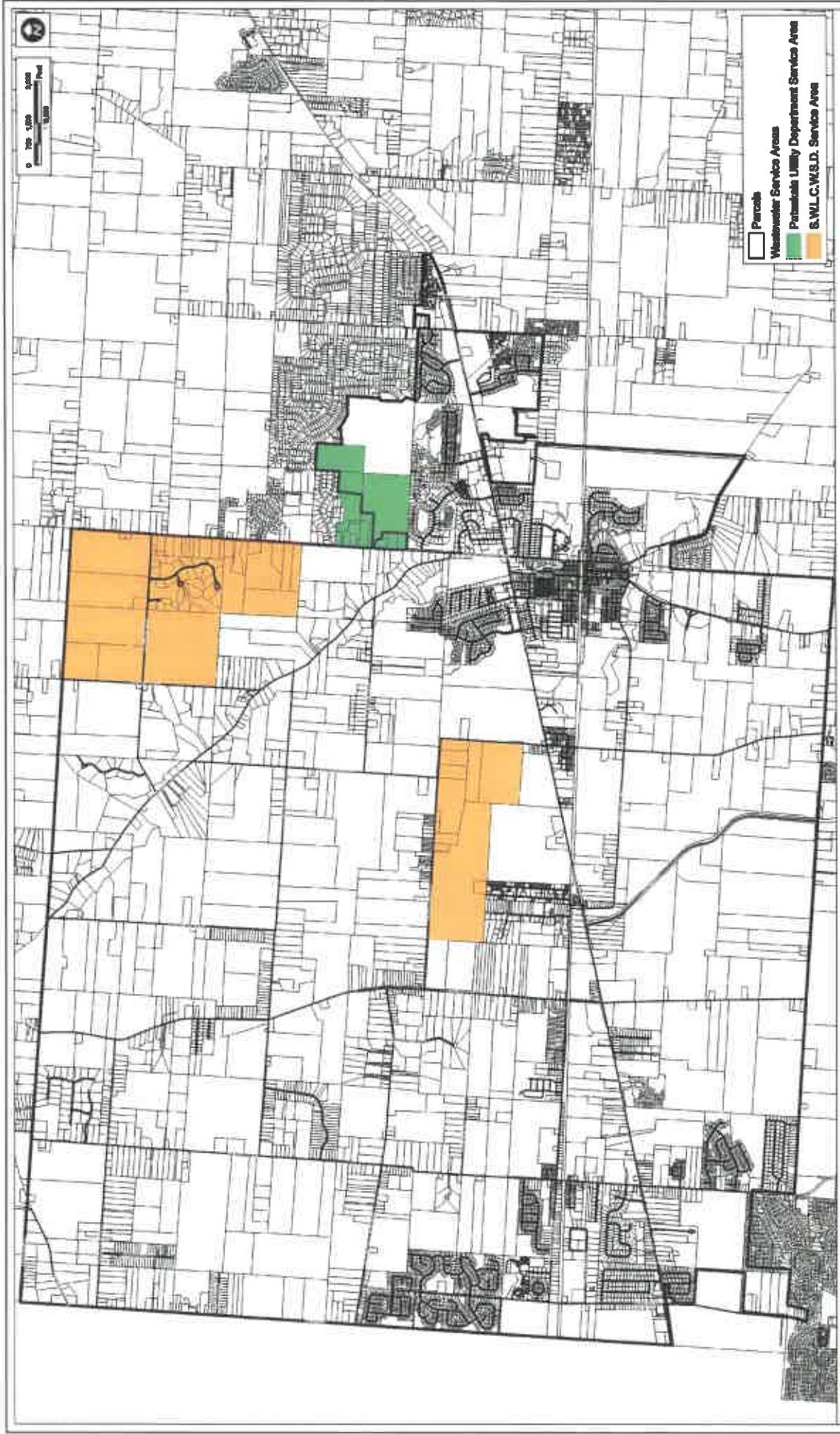
\_\_\_\_\_  
Date

\_\_\_\_\_  
Fiscal Officer, City of Pataskala



City of Pataskala

# Exhibit A - Wastewater Service Areas Map



City of Pataskala

# Wastewater Service Area Changes Map

DATE: 08/14/2014 10:58:11 AM

# Exhibit B

## Sewer Service Area Changes

### Parcel number list

#### **Fanin and Deagle Properties:**

025-069066-00.001, 025-069066-00.004, 025-069066-00.000, 025-069066-00.002,  
025-069078-00.000, 025-067746-02.000, 025-067746-01.000, 025-079170-00.000,  
025-070356-00.000, 255-067746-00.000, 255-069066-00.005, 255-069072-00.000

#### **Columbia Road Properties:**

063-140586-00.000, 063-140598-00.001, 063-140598-01.000, 063-141774-00.000,  
063-143034-00.000, 063-143034-00.001, 063-140586-00.001, 063-141264-00.000,  
063-140874-00.002, 063-140874-00.001, 063-140874-00.000, 063-140772-00.000,  
063-141444-00.000, 063-143136-00.000, 063-143142-00.000, 063-150072-00.000,  
063-146136-00.000, 063-146142-00.000, 063-150246-00.000, 063-144720-00.000,  
063-147030-00.000, 063-150390-00.000, 063-150804-00.000, 063-150054-00.000,  
063-142020-00.000

#### **Highland Estates and State Route 310 Properties:**

063-141864-00.001, 063-141864-00.000, 063-141858-00.000, 064-152982-00.000,  
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063-141936-00.000, 064-152976-00.026, 064-152976-00.025, 064-152976-00.024,  
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