

BY-LAWS
FOR THE
DOWNRIVER UTILITY WASTEWATER AUTHORITY

APPROVED ON: JUNE 14, 2018

ARTICLE I
General Powers and Duties

Section 1. The Downriver Utility Wastewater Authority (DUWA) shall be a public body corporate with the power to sue and be sued in its own name. DUWA shall possess all powers now or later granted by the Act 233 of 1955, the State of Michigan Constitution, as may be amended, and by any other applicable statute or law and by the Articles of Incorporation. The powers granted to DUWA include those powers incident to the enumerated powers as well those powers necessary to carry out its purposes and all powers incident thereto. These powers include, but are not limited to: entering into such contracts, to make such purchases of goods and services, to obtain financing, and to hire, maintain and develop human resources as it may deem necessary or appropriate in order to conduct the business of DUWA; establishing such rules, regulations, ordinances, policies and procedures as shall be necessary to conduct its business; and periodically establishing and fixing a schedule of rates, fees and other charges for use of, or services provided with respect to, any sewage disposal system, including a storm water collection and treatment system or a combination of such systems, operated by DUWA and providing for the collection and enforcement of those rates, fees or other charges.

Section 2. DUWA shall not have the power to impose or levy a tax.

ARTICLE II
Principal Address

Section 1. The principal address of DUWA shall be 25605 Northline Road, Taylor, MI 48180.

Section 2. The principal address of DUWA may be changed by a vote of the Board of Commissioners.

ARTICLE III
Appointment Qualifications, Compensation, and Tenure

Section 1. The members of the Board of Commissioners (hereinafter "Board") shall be appointed in the manner set forth in DUWA Articles of Incorporation.

Section 2. Any vacancy in office shall be filled by the respective appointing authority for the remainder of the unexpired term, pursuant to the Articles.

Section 3. Board members may be reimbursed for actual and necessary expenses incurred while attending Board meetings or performing other authorized official business of DUWA.

ARTICLE IV
Officers

The Board shall elect from among its members officers as provided in the Articles.

ARTICLE V
Staffing

Section 1: The Board shall appoint and fix the compensation for the System Manager of DUWA. The System Manager may be an individual or a group, company or other entity.

Section 2. The System Manager shall supervise and be responsible for the operation of DUWA, including the control, supervision, management, and oversight of a sewage disposal system (including a storm water collection and treatment system, or a combination of such systems), the issuance of bonds, notes and other evidence of indebtedness approved by the Board, the negotiation and establishment of compensation and other terms and conditions of employment for any employees of DUWA, the negotiation, supervision, and enforcement of contracts entered into by DUWA and approved by the Board, and the supervision of contractors of DUWA in the performance of their duties. The Board may delegate to the System Manager of DUWA the power and responsibility to execute and deliver, and sign for, contracts, leases, obligations, and other instruments as have been approved by the Board.

Section 3. The System Manager of DUWA shall have all powers as are incident to the performance of his or her duties that are prescribed by the Act, the Articles of Incorporation, these By-laws, or by the Board. All actions of the System Manager shall be in accordance with policies adopted by the Board and in compliance with applicable law.

Section 4. The System Manager cannot do any of the following:

- (a) Appoint a successor;
- (b) Approve a contract in excess of \$10,000 unless authorized by the Board;
- (c) Appoint or hire legal counsel for the Board without Board approval; or
- (d) Prescribe ethical standards for the Board or DUWA's employees without Board approval.
- (e) Approve a collective bargaining agreement without Board approval.

Section 5. The Board may require the System Manager and the Treasurer of DUWA to post a suitable bond of not less than \$50,000.00 issued by a responsible bonding entity, with the cost of the premium of the bond paid by DUWA.

ARTICLE VI
Duties of Board Members

Section 1: With respect to the management of the affairs of DUWA, a Board member shall exercise the duties of a fiduciary toward DUWA and shall discharge the duties of his or her position in a nonpartisan manner, in good faith, and with the degree of diligence, care and skill

that an ordinarily prudent person would exercise under similar circumstances in a like position.

Section 2. In discharging his or her duties, a Board member, when acting in good faith, may rely upon the opinion of counsel for DUWA and other experts or advisors retained by DUWA, the report of an independent appraiser selected by the Board, financial statements of DUWA represented to the Board member to be correct by the person having charge of DUWA's books of account or stated in a written report by a certified public accountant or a firm of certified accountants, to reflect the financial condition of DUWA.

ARTICLE VII **Meetings and Voting**

Section 1. The Board shall conduct regular meetings as needed and shall meet not less than once during each quarter of the year. The business of the Board shall be conducted at a public meeting of the Board held in compliance with the Michigan Open Meetings Act.

Section 2. The Board shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time, no later than January tenth of each calendar year.

Section 3. Special meetings may be called by the Chairperson of the Board or by any five Board members. Notice of a special meeting shall be given in the manner required by the Open Meetings Act.

Section 4. When a quorum is present, a majority of all members of the board shall decide any question brought before such a meeting unless a super-majority vote is required, consistent with the Act, the Articles of Incorporation, these by-laws, the Service Agreement or other applicable law. To the extent permitted by law, a member may be deemed present for a meeting if participating by conference call, video-conference, or other electronic means whereby the member can hear the proceedings and participate in the deliberations and votes. Participation in a meeting in this manner constitutes presence in person at the meeting for all purpose including determination of a quorum.

Section 5. The following actions may not be approved by the Board unless adopted by a super-majority affirmative vote of at least 66% of the weighted voting as provided in the Articles:

- a. Amendment of the Bylaws or Rules and Regulations of the Authority.
- b. Retention of independent contractors, management personnel, consultants, and/or professionals, including accountants, attorneys and engineers.
- c. Issuance of bonds.
- d. Approval of services to non-constituent municipalities.
- e. Execution of any contract wherein contractual payments are to be pledged as security for bonds.
- f. Assumption of any financial obligations of any constituent municipality.
- g. Approval of any contract for construction or repair of capital improvements which exceeds Five Hundred Thousand (\$500,000) Dollars.
- h. Cost allocation for any communities for capital improvement.

- i. Rate and charge setting for system services.
- j. Sewer Use Regulations and Amendments.

Section 6. Beginning with Fiscal Year 2020, the Board shall formally adopt a two year operating budget and capital budget.

Section 7. The Board shall provide for a public comment period at its meetings, consistent with the requirements of the Open Meetings Act. The Board may adopt a policy to implement this subsection of the By-laws.

ARTICLE VIII **Committees**

Section 1. The Board may appoint such advisory committees as it may deem expedient for the purposes of conducting Board business. Either the Board or the System Manager may refer an item to a committee for its review and/or recommendation.

Section 2. Any item referred to a Board committee shall be returned to the Board within thirty days of that referral with one of the following statements: "recommended for approval", "not recommended for approval", or "returned without recommendation".

Section 3. A committee of the Board shall not have any authority to bind the Board or DUWA with respect to any matter brought before that committee.

ARTICLE IX **Records and Reports**

Section 1. The Board shall keep a written record of its proceedings and shall make those records available to the public in a manner that is consistent with the Michigan Freedom of Information Act, the Act, and the Articles of Incorporation.

Section 2. The Board shall obtain an annual audit of DUWA's Financial Statements by an independent certified public accountant and report on the audit and auditing procedures in accordance with state law and generally accepted auditing standards, as well as federal grant compliance audit requirements, if any. The Board shall furnish a copy of the annual audit to each Member. The audited financial statements shall be posted on DUWA's website. In addition, the audited financial statements shall be filed with the Michigan Department of Treasury upon approval of DUWA Board.

Section 3. The System Manager shall present to the Board year-to-date budget reports on no less than a quarterly basis, including explanations for significant variances in the budget.

ARTICLE X
Board Policies

Section 1. The Board shall adopt such other policies as it deems necessary for the operation of the Authority that are not inconsistent with the Articles of Incorporation.

Section 2. The Board shall adopt a Procurement Policy, consistent with the requirements of the Articles and these By-Laws.

Section 3. The Board shall appoint a FOIA officer and adopt FOIA policies for DUWA.

ARTICLE XI
Amendments

Section 1. These By-Laws may be amended by majority vote of the Members, provided the Members receive at least twenty-four (24) hours advance notice of the language proposed to be amended within the By-Laws and the intent to vote on such an amendment.

ARTICLE XII
Governance and Rules of Procedure

Section 1. The Board shall be governed by the Act, the Articles of Incorporation and these By-Laws.

Section 2. The Board may adopt rules of procedure with respect to the conduct of its meetings as well as the meetings of its committees. In the absence of its own rules of procedure, the rules of Parliamentary Procedure comprised in the then current version of "Robert's Rules of Order Newly Revised" shall govern the Board.

ARTICLE XIII
Immunity and Indemnification

Section 1. A Board Member or an officer, appointee, or employee of DUWA shall not be subject to personal liability when acting in good faith within the scope of his or her authority or on account of the liability of DUWA.

Section 2. Unless otherwise specified by contract or other written document, DUWA shall indemnify and defend or may procure insurance indemnifying and/or providing for the defense of DUWA officers, appointees, employees, and Board Members from personal loss or accountability, for liability (including but not limited to judgments, attorney fees, penalties, fines and amounts paid in settlement) asserted by a person with regard to bonds or other obligations of DUWA, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations of DUWA or by reason of any other action taken or the failure to act by DUWA.

Section 3. The indemnity and defense described in Section 2, above, shall continue as to an

individual who has ceased to be a Board Member or an officer, appointee, or employee of DUWA and shall inure to the benefit of such indemnitee's heirs, executors and administrators. Unless otherwise waived as a part of a written contract or agreement, the right to indemnification conferred under this Section 3 shall be a contract right.

Adopted by DUWA Board June 14, 2018

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