

**Miami Valley Regional Planning Commission  
Areawide Water Quality Management Plan  
Proposed SFY 2010 Amendment**

<b>Date received:</b>	July 2009
<b>Amendment Applicant:</b>	Miami County and Tri-Cities Wastewater Authority
<b>Amendment Title:</b>	Southwest Bethel Township Service Area

**Amendment Description: Facility Plan update.** This update amends the facility plan for the Tri-Cities Wastewater Authority's facility planning area to reflect the Wastewater Facilities Agreement for Planning (the WFA) concluded between Miami County and the Tri-Cities Wastewater Authority. The WFA grants lead planning responsibility to Miami County for the portion of the Tri-Cities FPA in the unincorporated area of Bethel Township, Miami County, recognizing the county's authorities and responsibilities under their ORC Section 6117 sewer district.

The WFA allows for the County to proceed with planning, design, permitting, financing and construction of wastewater collection and treatment for the Phoneton and Wiley Industrial Park areas in Bethel Township. These two areas are identified in the MVRPC AWQMP as areas of concern for underperforming on-site wastewater treatment systems.

The Southwest Bethel Township Service Area is depicted on the WFA map (Exhibit A). The service area is defined in the WFA (also attached). The Service Area constitutes a sub-area within the Tri-Cities FPA.

**Staff Comments:**

- The establishment of a sub-area within an FPA is a first for the MVRPC AWQMP.
- The balance of the initial Miami County request for a new FPA will be included in the comprehensive update to the AWQMP, underway under a separate contract with Ohio EPA.

**Committee History:** no comments were received at the Areawide Facility Planning Subcommittee meetings. The MVRPC Technical Advisory Committee forwarded the amendment to the MVRPC Board of Directors, recommending its adoption. The MVRPC Board of Directors approved the amendment on September 2, 2010.

**Attachments:**

1. Wastewater Facilities Agreement for Planning, including supporting resolutions passed by Miami County, Tipp City, Vandalia, and Huber Heights.
2. WFA Exhibit A – Southwest Bethel Township Service Area map.
3. MVRPC Board of Directors Resolution – September 2, 2010.



3777 Old Needmore Road  
Dayton, OH 45424  
(937) 236-6558  
Fax (937) 236-6581

August 11, 2010

MVRPC Board of Directors  
**MIAMI VALLEY REGIONAL PLANNING COMMISSION**  
One Dayton Centre  
1 South Main Street, Suite 260  
Dayton, OH 45402

Re: Joint Request to take formal action approving WFA as an addendum to the AWQMP

Dear Board of Directors,

On behalf of the Miami County Commissioners, the Tri-Cities North Regional Wastewater Authority (TCA) and its member cities of Huber Heights, Vandalia and the City of Tipp City, we jointly request that you take formal action approving the attached Wastewater Facilities Agreement (WFA) dated July 14, 2010 between the aforementioned entities as an addendum to the AWQMP.

Sincerely,

For: TCA and its member cities

For: Miami County

By:

A blue ink signature of David J. Heckler, written over a horizontal line.

David J. Heckler, TCA Gen Mgr

By:

A blue ink signature of Pat Turnbull, written over a horizontal line.

Pat Turnbull, Miami County Sanitary Engineer

Attachment

cc Don Spang, MVRPC Executive Director  
Matt Lindsay, MVRPC Environmental Planning Manager  
TCA Member Cities Huber Heights, Vandalia and Tipp City  
Miami County Board of Commissioners  
Gary Nasal, Esq., Miami County Prosecutor  
Jim Simpson, OEPA, SWDO  
Joe Reynolds, OEPA, SWDO  
Joe Miller, OEPA, SWDO

*On behalf of Huber Heights, Vandalia and Tipp City*

**WASTEWATER FACILITIES AGREEMENT FOR PLANNING AND  
CONSTRUCTION OF WASTEWATER FACILITIES FOR THE WESTERN  
PORTION OF  
BETHEL TOWNSHIP, MIAMI COUNTY, OHIO**

This Wastewater Facilities Agreement (WFA), effective this 14<sup>th</sup> day of JULY 2010 2010, is entered into between THE CITY OF VANDALIA, an Ohio municipal corporation ("Vandalia"), THE CITY OF TIPP CITY, an Ohio municipal corporation ("Tipp City"), THE CITY OF HUBER HEIGHTS, an Ohio municipal corporation ("Huber Heights"), TRI-CITIES NORTH REGIONAL WASTEWATER AUTHORITY an Ohio Public Utility per ORC Section 715.02 ("TCA"), and the BOARD OF COMMISSIONERS FOR MIAMI COUNTY, OHIO ("Miami County"), as duly authorized to act on behalf of Miami County, a political subdivision of the State of Ohio, for the purpose of planning and constructing wastewater facilities for the western portion of Bethel Township described herein and collectively referred to as the parties.

WITNESSETH

WHEREAS, the residents and businesses located in the Hamlet of Phoneton, Bethel Township, Ohio, are currently served by individual private sewage disposal systems;

WHEREAS, Ohio EPA has documented unsanitary conditions in and around the vicinity of the Hamlet of Phoneton, due allegedly to poorly operated, constructed and/or designed private sewage disposal systems;

WHEREAS, Ohio EPA has requested that Miami County take steps to plan for, and eventually construct, public improvements to provide for adequate wastewater collection and treatment for the Hamlet of Phoneton, and Miami County has agreed to take said steps;

WHEREAS, Miami County has established a statutory sewer district under ORC Chapter 6117 that includes the Hamlet of Phoneton, the formation of which district vests Miami County with certain statutory rights over the planning, construction, and operation of public wastewater collection and treatment facilities ("Wastewater Facilities ") in said district;

WHEREAS, Vandalia, Tipp City and Huber Heights (the "TCA Member Communities ") and Miami County are participating members in the Miami Valley Regional Planning Commission (MVRPC), a voluntary association of numerous local governments and nongovernmental organizations surrounding Dayton, Ohio;

WHEREAS, one of the MVRPC's functions is to serve as the designated water quality planning agency under Section 1288 of the Federal Water Pollution Control Act (FWPCA), 33 U.S.c. §§ 1251 et seq, for the 5 county (Montgomery, Greene, Miami, Darke and Preble) Miami Valley Region, pursuant to which the MVRPC prepared and maintains, the Areawide Water Quality Management Plan (AWQMP) for the Miami Valley Region;

WHEREAS, major elements of the A WQMP include (i) designation of management agencies (DMAs) in the Miami Valley Region with authority over planning for public wastewater facilities in specified areas of the Miami Valley Region (ii) geographical facility planning areas (FPAs) served by those plans, and (iii) individual wastewater treatment facility plans developed and maintained by wastewater treatment providers in the Miami Valley Region.;

WHEREAS, Sections 1288(d) and 1288(e) of the FWPCA and Section 6111.03(J)(2)(b) of the Ohio Revised Code bar U.S, EPA and Ohio EPA, respectively, from issuing permits for the discharge of sewage, industrial wastes or other wastes, and for the installation and modification of wastewater disposal systems, if such actions would conflict with an approved AWQMP;

WHEREAS, the TCA Member Communities have entered into an Intergovernmental Joint Venture Agreement establishing the Tri-Cities North Regional Wastewater Authority ("TCA "), for the purpose of jointly acquiring, owning, operating, and maintaining the North Regional Wastewater Treatment Facility and other related facilities and properties;

WHEREAS, under the approved AWQMP developed and maintained by the MVRPC, the western portion of Bethel Township, including the Hamlet of Phoneton, is currently designated by MVRPC as inside the FPA for the North Regional Wastewater Treatment Facility, as depicted on the FPA boundary map prepared and maintained by the MVRPC, a copy of which is attached to this WFA as Exhibit A (hereinafter "the Exhibit A area");;

WHEREAS, there is a dispute between the parties regarding which party or parties may serve as DMA(s) under the approved AWQMP developed and maintained by the MVRPC for purposes of planning and constructing public wastewater collection and treatment facilities for the Exhibit A area;

WHEREAS, Miami County desires to clarify Miami County's status as the primary DMA for the Southwest Bethel Township Service area shown on Exhibit A, with TCA's status clarified as the secondary DMA for said Exhibit A area, which clarification is agreeable to TCA and to the TCA Member Communities, and the meaning of said clarification to be established by the parties under this WFA;

WHEREAS, Miami County submitted a request to the MVRPC asking, among other things, that the MVRPC approve alternative FPA boundaries for the Exhibit A area and clarify that the County is the DMA for said area ("the FP A modification request");

WHEREAS, Vandalia, Tipp City, Huber Heights, and TCA have opposed the FPA modification request; and

WHEREAS, representatives for Huber Heights and Miami County met in an effort to resolve the dispute thru execution of a satellite sewer agreement, but to date have been unable to reach agreement over the terms thereof, and

WHEREAS, Ohio EPA has indicated to the parties hereto that this WFA is an acceptable means of allocating planning authority within the Exhibit A area for purposes including, but not limited to, determining whether proposed Wastewater Facilities are consistent with MVRPC's AWQMP;

NOW, THEREFORE, in the interest of resolving the parties' dispute without the need for the MVRPC to decide the FPA modification request, and in the interest of avoiding further expense and potential litigation between the parties, and in consideration of the promises and mutual Covenants herein set forth, the parties hereto agree as follows:

1. The parties agree that Miami County shall have the status as primary DMA for the Southwest Bethel Township Service Area shown on the attached Exhibit A, and that TCA shall have the status as secondary DMA for the Southwest Bethel Township Service Area on Exhibit A, and the parties will jointly sponsor a request to the Board of MVRPC to take formal action approving the WFA as an addendum to the AWQMP.

2. The parties agree that said clarification means that, for purposes of planning, funding, and constructing sewers to the serve the Exhibit A area, Miami County shall have the primary authority to implement these functions, and that TCA's authority is limited solely to those functions delegated by agreement between the parties, or assumed by TCA if Miami County should abandon plans to construct and, if necessary, operate necessary Wastewater Facilities in the Exhibit A area.

3. TCA and TCA Member Communities further agree that said clarification means that TCA and TCA Member Communities will not attempt to challenge, or otherwise dispute, the issuance by U.S. EPA and/or Ohio EPA of permits or other authorizations to install, construct or operate public wastewater collection and/or treatment facilities to serve the Exhibit A area in the future.

4. TCA and TCA Member Communities agree to provide relevant documents and, if requested, reasonable engineering and financial advice, by and through TCA, to Miami

County, at no cost to Miami County, so that Miami County can explore and develop engineering alternatives and cost estimates for Wastewater Facilities for the Exhibit A area, but that said assistance does not obligate Miami County to select a particular means for Wastewater Management for any portion of the Exhibit A area.

5. In exchange for TCA's agreements stated herein, Miami County agrees to withdraw the portion of the FPA modification request from the MVRPC pertaining to the Exhibit A area.


6. Finally, Miami County agrees that if a property owner(s) in the Exhibit A area submit(s) a petition to be annexed into TCA member cities Huber Heights, Vandalia or Tipp City in the future, Miami County will not use this WFA as a basis to oppose said petition, and that nothing in this WFA limits, or in any way alters, modifies or adversely affects, the statutory annexation rights and interests of TCA's member cities Huber Heights, Vandalia, and Tipp City.

7. By their signatures below, the signatories hereto hereby certify that they have received the necessary authorization, via duly prepared and executed resolution, in order to sign this WFA on behalf of their respective party and to bind their respective party to the terms hereof.

IN WITNESS WHEREOF, this WFA is executed on the date, month and year above written.

**CITY OF HUBER HEIGHTS**

**BOARD OF COMMISSIONERS FOR  
MIAMI COUNTY, OHIO**

  
\_\_\_\_\_  
Signatory

  
\_\_\_\_\_  
Signatory

Eileen Wilson Bansen  
Print Name

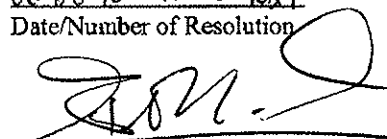
John W. O'Brien, Ron Widener,  
Print Name John F. Evans

City Manager  
Title

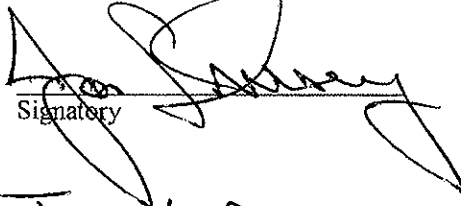
Commissioners  
Title

7/14/10 #2010-0-1834  
Date/Number of Resolution

08-03-10 10-08-1029  
Date/Number of Resolution

4   
Miami Co. Prosecutor  
Approved as to form

**CITY OF TIPP CITY**

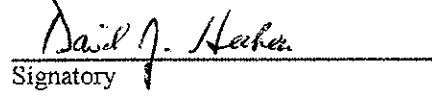
  
\_\_\_\_\_  
Signatory

Jon S. Crusey  
Print Name

City Manager  
Title

7/25/10 Res 31-10  
Date/Number of Resolution

**TRI-CITIES NORTH REGIONAL  
WASTEWATER AUTHORITY**

  
\_\_\_\_\_  
Signatory

DAVID J. HECKLER  
Print Name

GENERAL MANAGER  
Title

4/22/10 #10-001  
Date/Number of Resolution

**CITY OF VANDALIA**

  
\_\_\_\_\_  
Signatory

JEFFREY C. Hougland  
Print Name

City Manager  
Title

7-12-10 10-R-39  
Date/Number of Resolution

RESOLUTION NO. 10-08-1029

RESOLUTION ADOPTING THE WASTEWATER FACILITIES AGREEMENT FOR  
PLANNING AND CONSTRUCTION OF WASTEWATER FACILITIES FOR THE  
WESTERN PORTION OF BETHEL TOWNSHIP

SANITARY ENGINEERING

Mr. Widener introduced the following resolution and moved it be adopted:

WHEREAS, Miami County has established the Miami County Sewer District which encompasses and includes the unincorporated areas of Miami County, Ohio; and

WHEREAS, in the interest of health and safety, the Miami County Commissioners have previously authorized the Miami County Sanitary Engineer to prepare plans and specifications for the purposes of addressing the numerous failed on-site septic systems in the Phoneton Area, located in the western portion of Bethel Township, through the extension of public sewers; and

WHEREAS, the adoption of the attached Wastewater Facilities Agreement, will give Miami County the legal standing necessary to gain regulatory approval of important sewer projects in the proposed Phoneton Sewer service area.

Now, therefore be it

RESOLVED, that the Board of Miami County Commissioners, hereby adopt the attached Wastewater Facilities Agreement for the planning and Construction of Wastewater Facilities for the Western Portion of Bethel Township.


Mr. Evans seconded the motion and the Board voted as follows upon roll call:

Mr. Widener, Yea;                      Mr. Evans, Yea;                      Mr. O'Brien, Yea;

DATED: August 3, 2010

CERTIFICATION

I, Leigh M. Williams, Clerk to the Board of Miami County Commissioners, do hereby certify that this is a true and correct transcript of action taken by the board under the date of August 3, 2010.

  
Leigh M. Williams, Clerk

Cc:    Journal  
      Files  
      Sanitary Engineering – Patrick Turnbull



CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2010-O-1834

REAFFIRMING THE PASSAGE OF ORDINANCE 96-O-887 AND AUTHORIZING THE CITY MANAGER TO ACT ON THE CITY'S BEHALF IN ALL MATTERS RELATED TO THE TRI-CITIES NORTH REGIONAL WASTEWATER AUTHORITY (TCA), AND DECLARING AN EMERGENCY.

WHEREAS, the Huber Heights City Council unanimously passed Ordinance No 96-0-887 on May 13, 1996 which approved the formation of the Joint Venture Agreement among Huber Heights, Vandalia and Tipp City, known as the Tri-Cities North Regional Wastewater Authority (TCA), and related matters; and

WHEREAS, said Ordinance authorizes and directs the City Manager or designee to act on the City's behalf in all matters related to TCA; and

WHEREAS, the City Council wishes to reaffirm all of the conditions contained in the said Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. That Ordinance No. 96-0-887, passed unanimously on May 13, 1996, remains in full effect as originally passed.

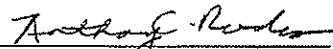
Section 2. The City Manager is hereby authorized and directed to act on the City's behalf in all matters related to TCA; to include the execution of the attached agreement in Exhibit A.

Section 3. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and to allow for the execution of TCA agreements necessary to allow for proper and timely planning and construction of wastewater and sanitary facilities; therefore this Ordinance shall take full force and effect immediately upon its adoption by Council.

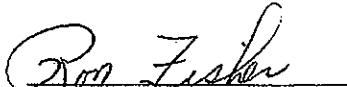
Passed by Council on the 12<sup>th</sup> day of July, 2010;  
6 Years; 0 Days.

Effective Date: July 12, 2010

AUTHENTICATION:

  
Clerk of Council

7-12-10  
Date

  
Mayor

7-14-10  
Date

CITY OF VANDALIA  
MONTGOMERY COUNTY, OHIO  
RESOLUTION NO. 10-R-39

**A RESOLUTION REAFFIRMING THE PASSAGE OF ORDINANCE 96-07 AND AUTHORIZING THE CITY TO MANAGER TO ACT ON THE CITY'S BEHALF ON ALL MATTERS RELATED TO THE TRI-CITIES NORTH REGIONAL WASTEWATER AUTHORITY (TCA) INCLUDING BUT NOT LIMITED TO CONCURRING WITH A WASTEWATER FACILITIES AGREEMENT FOR PLANNING AND CONSTRUCTION OF WASTEWATER FACILITIES FOR THE WESTERN PORTION OF BETHEL TOWNSHIP, MIAMI COUNTY**

**WHEREAS**, the Council of the City of Vandalia passed Ordinance No 96-07 which approved the formation of the Joint Venture among Huber Heights, Vandalia and Tipp City, known as the Tri-Cities North Regional Wastewater Authority (TCA), and related matters; and

**WHEREAS**, said ordinance authorizes and directs the Vandalia city manager or designee to act on the city's behalf in all matters related to TCA; and

**WHEREAS**, the City of Vandalia is also in concurrence with a Wastewater Facilities Agreement (WFA) for planning and construction of wastewater facilities for the western portion of Bethel Township, Miami County, Ohio with the Board of Commissioners for Miami County, Ohio; and

**WHEREAS**, the Council of the City of Vandalia wishes to reaffirm all conditions contained in said ordinance.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF VANDALIA, MONTGOMERY COUNTY, OHIO THAT:**

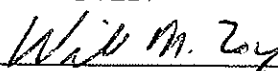
**Section 1.** Ordinance No. 96-07, passed on May 6, 1996, remains in full effect as originally passed.

**Section 2.** The City Council reaffirms that the city manager is authorized and directed to act on the City's behalf in all matters related to TCA including but not limited to concurring with a Wastewater Facilities Agreement for planning and construction of wastewater facilities for the western portion of Bethel Township, Miami County, Ohio with the Board of Commissioners for Miami County, Ohio


**Section 3.** This resolution shall become effective immediately upon its passage.

Passed this 12th day of July, 2010.

APPROVED:

  
\_\_\_\_\_  
William M. Loy, Mayor

ATTEST:

  
\_\_\_\_\_  
Jeffrey C. Hoagland  
Clerk of Council

RESOLUTION 31-10

BY: Mr. Gibson

**REAFFIRMING THE PASSAGE OF ORDINANCE 14-96 AND AUTHORIZING THE CITY MANAGER TO ACT ON THE CITY'S BEHALF ON ALL MATTERS RELATED TO THE TRI-CITIES NORTH REGIONAL WASTEWATER AUTHORITY (TCA)**

**WHEREAS**, the Tipp City City Council unanimously passed Ordinance No 14-96 on May 6, 1996 which approved the formation of the Joint Venture Agreement among the cities of Tipp City, Vandalia and Huber Heights, known as the Tri-Cities North Regional Wastewater Authority (TCA), and related matters; and

**WHEREAS**, said Ordinance authorizes and directs the City Manager or designee to act on the City's behalf in all matters related to TCA; and

**WHEREAS**, the City Council wishes to reaffirm all of the conditions contained in the said Ordinance; and

**WHEREAS**, the City Council is also in concurrence with the Wastewater Facilities Agreement (WFA) for planning and construction of wastewater facilities for the western portion of Bethel Township, Miami County, Ohio with the Board of Commissioners for Miami County, Ohio.

**NOW THEREFORE, THE MUNICIPALITY OF TIPP CITY HEREBY RESOLVES:**

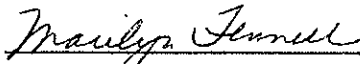
**SECTION 1.** That Ordinance No. 14-96, passed on May 6, 1996, remains in full effect as originally passed.


**SECTION 2.** The City Manager is hereby authorized and directed to act on the City's behalf in all matters related to TCA; to include the execution of the Wastewater Facilities Agreement (WFA) for planning and construction of wastewater facilities for the western portion of Bethel Township, Miami County, Ohio with the Board of Commissioners for Miami County, Ohio attached as Exhibit A.

**SECTION 3.** That this Resolution shall be in full force and effect at the earliest period allowed by law.

PASSED: July 19, 2010

  
\_\_\_\_\_  
President of Council

ATTEST:   
\_\_\_\_\_  
Acting Clerk of Council

APPROVED:   
\_\_\_\_\_  
Law Director

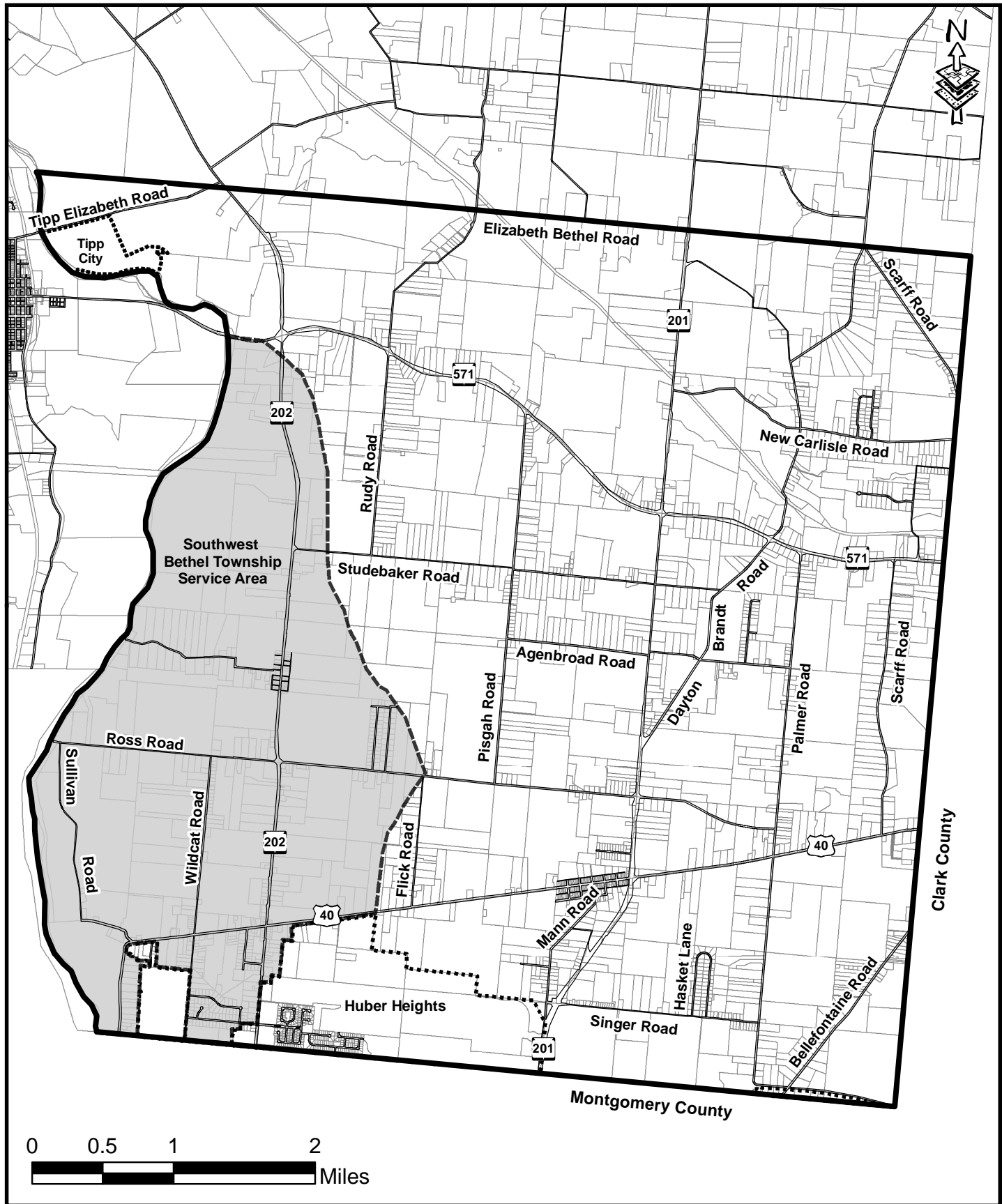
**TRI-CITIES NORTH REGIONAL WASTEWATER AUTHORITY**

BOARD RESOLUTION NO. 10-001


IN THE INTEREST OF REGIONAL COOPERATION, AND TO ASSIST MIAMI COUNTY IN ITS EFFORTS TO PLAN, FUND AND CONSTRUCT SEWERS TO SERVE AREAS INSIDE BETHEL TOWNSHIP, the Board of Directors for the TRI-CITIES NORTH REGIONAL WASTEWATER AUTHORITY (TCA) hereby authorizes TCA's General Manager to execute on behalf of TCA and its joint venture members, Cities of Huber Heights, Vandalia and Tipp City, the enclosed Satellite Sewer Agreement with the terms provided therein, or with modified terms that maintain the same substantive intent and meaning.

**SO APPROVED**

Date: APRIL 22, 2010



October 2009



LJB Inc. • 3100 Research Blvd. • P.O. Box 20246  
 Dayton, OH 45420-0246  
 (937) 259-5000 tel • (937) 259-5100 fax • ljbinc.com

Exhibit A  
 Miami County Service Area Map  
 Southwest Bethel Township Service Area



One South Main Street  
Suite 260  
Dayton, OH 45402  
Tel: (937)223-6323  
Fax: (937)223-9750  
TTY/TDD 800-759-0750  
[www.mvrpc.org](http://www.mvrpc.org)

**A RESOLUTION  
TO ADOPT THE 2010 AMENDMENT TO THE AREAWIDE WATER QUALITY  
MANAGEMENT PLAN FOR THE MIAMI VALLEY REGION**

**WHEREAS**, the Miami Valley Regional Planning Commission is the Designated Planning Agency (DPA) for Water Quality Management Planning within the Miami Valley Region pursuant to Section 208 of the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) and 1977 (P.L. 95-217); and

**WHEREAS**, in fulfillment of its responsibilities as the DPA, MVRPC has prepared the 208 Areawide Water Quality Management Plan, and administers said Plan within its designated five-county water planning jurisdiction, including Greene, Montgomery, Miami Preble and Darke Counties, Ohio; and

**WHEREAS**, it is periodically necessary to amend said Plan to incorporate pertinent and appropriate modifications; and

**WHEREAS**, the following individual amendment, herein known as the 2010 Amendment, has been proposed for the Areawide Water Quality Management Plan:

1. Wastewater Facilities Agreement for Planning and Construction of Wastewater Facilities for the Western Portion of Bethel Township, Miami County

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the Miami Valley Regional Planning Commission hereby adopts the above-referenced 2010 Amendment to the Areawide Water Quality Management Plan and recommends its certification by the State of Ohio.

Donald R. Spang  
Executive Director

September 2, 2010

Donald Patterson  
Chair

MIAMI VALLEY REGIONAL  
PLANNING COMMISSION