

ORDINANCE NO. 35 - 2023

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE AGREEMENTS WITH THE BOARD OF LAKE COUNTY COMMISSIONERS FOR THE TRANSFER OF THE VILLAGE MUNICIPAL WATER WORKS AND SANITARY SEWAGE SYSTEM TO THE LAKE COUNTY DEPARTMENT OF UTILITIES; AND DECLARING AN EMERGENCY.

WHEREAS, on February 7, 2018, the Village and Board of Lake County, Ohio Commissioners entered into an agreement for the transfer of the Village water works and franchise (the "Water Transfer Agreement") and a related agreement for the transfer of the Village sanitary sewer system and franchise (the "Sanitary Transfer Agreement"); and

WHEREAS, the Agreements each contain a five-year sunset date (§ 19.9 of the Water Transfer Agreement and § 17.9 of the Sanitary Transfer Agreement); and

WHEREAS, delays occurred in constructing necessary sanitary sewer infrastructure, inclusive of permitting and issues caused by the COVID-19 pandemic, such that construction would not be completed by the original sunset date(s); and

WHEREAS, the Village and County on or about January 9, 2023, entered into an amendment to both Agreements extending the sunset dates an additional year; and

WHEREAS, due to additional delays in constructing necessary sanitary sewer infrastructure, it is unlikely that construction will be completed by the current 2024 sunset date(s); and

WHEREAS, the Village now desires to further extend the sunset date(s) for an additional year to 2025 and to enter into an amendment to each of the Agreements to effect this extension.

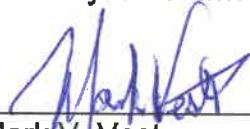
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MADISON, COUNTY OF LAKE, STATE OF OHIO, THAT:

SECTION 1. The "Second Amendments" to the Water Transfer Agreement and Sanitary Transfer Agreement as said instrument appears attached hereto as Exhibit "1" is hereby approved and accepted and the Mayor is hereby authorized to execute it on behalf of the Village.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including § 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and welfare of the inhabitants of the Village of Madison, and, for the further reason that immediate passage is necessary to meet critical contract deadlines it shall, therefore, take effect and be in full force from and upon its adoption if adopted by the affirmative vote of at least four members of Council and otherwise at the earliest time provided by Ohio law.


PASSED:



Mark V. Vest,
President of Council

1st Reading: October 23, 2023


Attested:



Kristie M. Crockett,
Fiscal Officer / Clerk of Council

Approved:

Date: October 23, 2023



Sam Britton, Jr.,
Mayor

I hereby certify that this ordinance/resolution was duly published pursuant to law.

Publication: 5:12 PM / PNO
On: November 13, 2023
X Kristie M. Crockett Fiscal Officer

**SECOND
AMENDMENTS TO:**

AN AGREEMENT BETWEEN THE VILLAGE OF MADISON, OHIO AND THE BOARD OF LAKE COUNTY COMMISSIONERS FOR THE TRANSFER OF THE VILLAGE MUNICIPAL WATER WORKS TO THE LAKE COUNTY DEPARTMENT OF UTILITIES WATER DIVISION AND FOR THE ASSUMPTION BY THE LAKE COUNTY DEPARTMENT OF UTILITIES AN EXCLUSIVE FRANCHISE WITHIN THE VILLAGE OF MADISON

AND

AN AGREEMENT BETWEEN THE VILLAGE OF MADISON, OHIO AND THE BOARD OF LAKE COUNTY COMMISSIONERS FOR THE TRANSFER OF THE VILLAGE MUNICIPAL SANITARY SEWER SYSTEM TO THE LAKE COUNTY DEPARTMENT OF UTILITIES AND FOR THE ASSUMPTION BY THE LAKE COUNTY DEPARTMENT OF UTILITIES AN EXCLUSIVE FRANCHISE WITHIN THE VILLAGE OF MADISON

THESE SECOND AMENDMENTS to an agreement for the transfer of a water works and franchise (the "Water Transfer Agreement") and an agreement for the transfer of a sanitary sewer system and franchise (the "Sanitary Transfer Agreement"), both made and entered into on the 7th day of February, 2018, as amended, is on this 23rd day of October, 2023 entered into by and between the VILLAGE OF MADISON, an Ohio chartered municipal corporation, having an address for purposes hereof at 126 West Main Street, Madison, Ohio 44057 (the "Village"); and the BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, OHIO, an Ohio political subdivision, having an address for purposes hereof at 105 E. Main St., Painesville, Ohio 44077 (the "County").

WHEREAS, the Village and County entered into plans for the transfer of Village Water Works and Sanitary Sewer System customers and territory to the County, same being the "Water Transfer Agreement" and "Sanitary Transfer Agreement;" and

WHEREAS, the Agreements each contain a five-year sunset date (§ 19.9 of the Water Transfer Agreement and § 17.9 of the Sanitary Transfer Agreement); and

WHEREAS, delays occurred in constructing necessary sanitary sewer infrastructure, inclusive of permitting and issues caused by the COVID-19 pandemic, such that construction will not be completed by the sunset date(s); and

WHEREAS, by first Amendment effective on or about January 9, 2023, the Village and County extended the sunset date(s) as follows:

§ 19.9 of the Water Transfer Agreement and § 17.9 of the Sanitary Transfer Agreement are each amended such that the 5-year sunset date stated therein is and shall be amended to a 6-year sunset date.


WHEREAS, due to further delays in constructing necessary sanitary sewer infrastructure, the Village and County desire to further extend the sunset date(s) as follows:

¶ 19.9 of the Water Transfer Agreement and ¶ 17.9 of the Sanitary Transfer Agreement, as amended, are each further amended such that the 6-year sunset date is and shall be amended to a sunset date of: February 7, 2025.

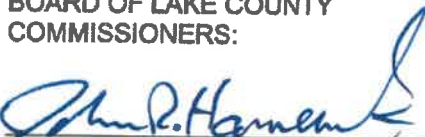
Except as explicitly modified in this Amendment, the Water Transfer Agreement and Sanitary Transfer Agreement are and remain in full force and effect.

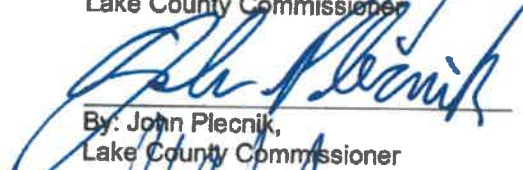
IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date and year first above written.

VILLAGE OF MADISON:


By: Sam Britton, Jr, its Mayor
as authorized by Ordinance No.
35 -2023, eff. 10/23/2023

BOARD OF LAKE COUNTY
COMMISSIONERS:


By: John R. Hamercheck, Board President
Lake County Commissioner



By: John Plecnik,
Lake County Commissioner


By: Richard J. Regovich
Lake County Commissioner

as authorized by Resolution No.
2023/130/03, eff. 11/30/2023

REVIEWED AND APPROVED
AS TO FORM:


Joseph P. Szeman,
Law Director of the Village of Madison


Charles E. Coulson,
Lake County Prosecutor
By: Kelly A. Echols,
Assistant Lake County Prosecutor

SECOND
AMENDMENTS TO:

AN AGREEMENT BETWEEN THE VILLAGE OF MADISON, OHIO AND THE BOARD OF LAKE COUNTY COMMISSIONERS FOR THE TRANSFER OF THE VILLAGE MUNICIPAL WATER WORKS TO THE LAKE COUNTY DEPARTMENT OF UTILITIES WATER DIVISION AND FOR THE ASSUMPTION BY THE LAKE COUNTY DEPARTMENT OF UTILITIES AN EXCLUSIVE FRANCHISE WITHIN THE VILLAGE OF MADISON

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WHEREAS, the Village and County entered into plans for the transfer of Village Water Works and Sanitary Sewer System customers and territory to the County, same being the "Water Transfer Agreement" and "Sanitary Transfer Agreement;" and

WHEREAS, the Agreements each contain a five-year sunset date (§ 19.9 of the Water Transfer Agreement and § 17.9 of the Sanitary Transfer Agreement); and

WHEREAS, delays occurred in constructing necessary sanitary sewer infrastructure, inclusive of permitting and issues caused by the COVID-19 pandemic, such that construction will not be completed by the sunset date(s); and

WHEREAS, by first Amendment effective on or about January 9, 2023, the Village and County extended the sunset date(s) as follows:

§ 19.9 of the Water Transfer Agreement and § 17.9 of the Sanitary Transfer Agreement are each amended such that the 5-year sunset date stated therein is and shall be amended to a 6-year sunset date.

WHEREAS, due to further delays in constructing necessary sanitary sewer infrastructure, the Village and County desire to further extend the sunset date(s) as follows:


¶ 19.9 of the Water Transfer Agreement and ¶ 17.9 of the Sanitary Transfer Agreement, as amended, are each further amended such that the 6-year sunset date is and shall be amended to a sunset date of: February 7, 2025.

Except as explicitly modified in this Amendment, the Water Transfer Agreement and Sanitary Transfer Agreement are and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date and year first above written.

VILLAGE OF MADISON:

BOARD OF LAKE COUNTY
COMMISSIONERS:


By: Sam Britton, Jr, its Mayor
as authorized by Ordinance No.
35-2023, eff. 10/23/2023

By: John R. Hamercheck, Board President
Lake County Commissioner

By: John Plecnik,
Lake County Commissioner

By: Richard J. Regovich
Lake County Commissioner

as authorized by Resolution No.
_____, eff. __/__/2023

REVIEWED AND APPROVED
AS TO FORM:


Joseph P. Szeman,
Law Director of the Village of Madison

Charles E. Coulson,
Lake County Prosecutor
By: _____,
Assistant Lake County Prosecutor

RECEIVED

DEC 15 2023

Commissioners' Office, Lake County
Painesville, OH, , November 30, 2023

The Board of County Commissioners, in and for Lake County, Ohio, met this day in regular session with the following members present:

Commissioners: Regovich, Plecnik and Hamercheck

Commissioner Regovich presented the following resolution and moved its adoption.

RESOLUTION AUTHORIZING EXECUTION OF A SECOND AMENDMENT TO THE WATER SUPPLY AGREEMENT AND THE SANITARY SEWAGE SYSTEM AGREEMENT WITH THE VILLAGE OF MADISON RELATED TO THE TRANSFER OF THE VILLAGE MUNICIPAL WATER WORKS AND SANITARY SEWAGE SYSTEM TO THE LAKE COUNTY DEPARTMENT OF UTILITIES WATER AND SEWER DIVISIONS AND FOR THE ASSUMPTION BY THE LAKE COUNTY DEPARTMENT OF UTILITIES AN EXCLUSIVE FRANCHISE WITHIN THE VILLAGE OF MADISON

WHEREAS, the Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this resolution were taken in an open meeting of this Board of County Commissioners, and that all the deliberations of this Board of County Commissioners and of its committees, if any, which resulted in formal actions, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Revised Code; and

WHEREAS, it is the recommendation of the Sanitary Engineer of the Lake County Department of Utilities, and the Lake County Prosecutor's Office that this Board of Lake County Commissioners authorizes execution of a "Second Amendment to Water Supply Agreement and Sanitary Sewage System Agreement" with the Village of Madison related to the transfer of the Village Municipal Water Works and Sanitary Sewage System to the Lake County Department of Utilities Water and Sewer Divisions and for the Assumption by the Lake County Department of Utilities an exclusive franchise within the Village of Madison; a copy of the "First Amendment to Water and Supply and Sanitary Sewage System Agreement" is attached hereto as Exhibit 1.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners, in and for Lake County, Ohio, that this Board enters into a "Second Amendment to Water Supply and Sanitary Sewage System Agreement" with the Village of Madison related to the transfer of the Village Municipal Water Works and Sanitary Sewage System to the Lake County Department of Utilities Water Division and Sewer Division and for the Assumption by the Lake County Department of Utilities an exclusive franchise within the Village of Madison; a copy of the "First Amendment to Water Supply Agreement" is attached hereto as Exhibit 1.

BE IT FURTHER RESOLVED, that the Clerk of the Board is hereby directed to forward certified copies of this resolution to the Lake County Auditor; Department of Utilities Executive Director; Lake County Sanitary Engineer; Lake County Prosecutor's Office; and to the Village of Madison, 126 West Main Street, P.O. Box 7, Madison, Ohio, 44057-007.

Commissioner Plecnik seconded the resolution and the roll being called upon its adoption, the vote resulted as follows:

"AYES": Commissioners: Regovich, Plecnik and Hamercheck

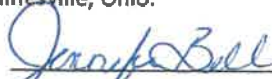
"NAYS": None.

Resolution adopted,
Jennifer Bell, Clerk

CLERK'S CERTIFICATION

I, Jennifer Bell, duly appointed Clerk of the Board of County Commissioners, do hereby certify that this is a true and accurate copy of a resolution adopted by said Board on November 30, 2023, and recorded in the Commissioners and Water and Sewer Journal, Volume 2023.

WITNESS my hand this thirtieth day of November, 2023, in Painesville, Ohio.



Jennifer Bell, Clerk
Board of Commissioners, in and
For Lake County, Ohio