

fully executed

ORDINANCE NO. 160-14

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH MEDINA COUNTY FOR STAND-BY EMERGENCY WATER SERVICE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That the Mayor is hereby authorized and directed to execute an Agreement with Medina County for Stand-By Emergency Water Service.

SEC. 2: That a copy of the Agreement is marked Exhibit A, attached hereto and incorporated herein.

SEC. 3: That it is found and determined that all formal actions of this Council concerning and relating to the passage 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 the law.

SEC. 4: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: September 22, 2014 **SIGNED:** James A. Shields
President of Council Pro-Tem

ATTEST: Kathy Patton **APPROVED:** September 22, 2014
Clerk of Council

SIGNED: John M. Coyne, III
Acting Mayor

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AGREEMENT

By and Between

MEDINA COUNTY

And

THE CITY OF MEDINA

For

STAND-BY EMERGENCY WATER SERVICE

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By and Between

MEDINA COUNTY

And

THE CITY OF MEDINA

For

STAND-BY EMERGENCY WATER SERVICE

THIS AGREEMENT is made as of the 22nd day of September, 2014, by and between Medina County ("County") acting by and through its Board of County Commissioners pursuant to Section 6103.02 of the Ohio Revised Code and by the authority of Resolution No. _____, passed on the _____ day of _____, 2014, and the City of Medina ("City"), acting by and through its Mayor pursuant to authority of Ordinance No. 160-14, passed September 22, 2014.

WHEREAS, the County owns and operates a waterworks system under the management and control of its Sanitary Engineer pursuant to Chapter 6103 of the Ohio Revised Code; and

WHEREAS, the County under authority of Chapter 6103 of the Ohio Revised Code is empowered to sell and deliver water to other political subdivisions; and

WHEREAS, the City owns, controls, and operates a water distribution system within a district established pursuant to law; and

WHEREAS, the City desires to enhance the reliability of its service to its own customers by establishing a backup source of water supply to be utilized in case of failure of its plant or raw water source; and

WHEREAS, the County is willing to contract with the City to supply water on an emergency basis to its distribution system according to the terms, covenants, and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the County and the City agree as follows:

ARTICLE I. INTERCONNECTIONS

- A. The City shall design and construct connections from the County's water distribution system subject to the approval of the Medina County Sanitary Engineer.
 - 1. A gravity connection shall be established at 4169 E. Smith Road, limited to a maximum flow rate of 500 gpm and at 5951 Lake Road limited to a maximum flow rate of 1,500 gpm.
 - 2. In addition, a connection requiring a pumping system shall be constructed at 4281 Pearl Road, or another location agreed upon by the parties hereto, limited to a maximum flow rate of 1,000 gpm.
- B. Once constructed, the ownership of the connection shall be turned over to the County, who shall be responsible for their operation and maintenance.
- C. The County shall submit the project to OEPA for approval under its self-certified water authority. The City shall pay all OEPA review fees.
- D. Interconnection components and water meter(s) shall at all times be under the exclusive control of the County. Operation of the interconnection valves to supply water to the City's water distribution system shall only be by County employees and only during Emergency Periods designated by the City, as defined by Article II of this Agreement. However, the City at its own expense shall have the right to inspect the

interconnection(s) upon request and reasonable notice, and shall also be entitled to verify meter readings.

ARTICLE II. OBLIGATION TO SERVE; LIMITATION OF LIABILITY

- A. The County shall be capable on a 24-hour basis of receiving the City's request to operate any interconnection valves to supply the City's water distribution system with emergency water service. The titles and 24-hour telephone numbers of the persons designated to give and receive such requests are provided in Exhibit "A" hereto.
- B. As soon as is practicable after receiving a request for emergency service, but no later than eight (8) hours thereafter, the County shall dispatch employees to open interconnection valves to supply water to the City. Upon notification that the emergency has ceased, the County shall, within eight (8) hours, close and lock all interconnection valves.
- C. While the County will use its best efforts to meet the City's emergency needs, it does not guarantee any level of flow, volume, or pressure at the interconnection, and the County shall not be required to deliver to the City any volume of water in excess of what the County, in its sole discretion, determines to be available. The County expressly reserves the right to limit or terminate emergency service provided under this Agreement when the County determines that its water system or service to its regular customers would be adversely affected thereby.
- D. The City agrees it shall bring no action against the County, and its officers, agents, and employees for any claim for damages to the City's water plant or distribution system in any way arising out of or related to emergency water service performed under this Agreement. Nothing in this Agreement shall be construed to create any

duty upon the County to maintain any flow, volume, pressure or quality of water to any part of the City's water distribution system necessary for fire protection, human consumption, commercial use, or any other purpose, or to create any consequential liability against the County for the failure of any such flow, volume, pressure or quality. The City agrees to defend the County, its officers, agents and employees for and against any claims, lawsuits, losses, costs, damages, and judgments caused by, arising out of or in any way related to the water supplied, or the emergency service performed or not performed by the County under this Agreement.

ARTICLE III. PAYMENTS

For services provided by the County under this Agreement, to the City agrees to pay the County as follows:

- A. For the standby emergency service to be provided herein, the City shall pay upon invoice each year an annual lump sum fee of \$1,500.00 payable, 60 days from date of invoice. The first payment for the service to be provided shall be adjusted by deduction of \$125.00 for each month, in the first year of operation, that the service is not available.
- B. In addition, for water actually provided by the County to the City under the emergency agreement, the City shall pay a sum determined by adding to the rate paid by the County to its providers for said water a surcharge of 20% on the water used, to cover material and services during normal operating hours necessary for Medina County Sanitary Engineer personnel to operate the emergency connection plus any additional expenses incurred during non business hours, and the cost of any material acquired, necessary to keep the emergency connection operating. The City shall pay

for water supplied within thirty (30) days of receipt of a verified invoice from the County. Invoices presented by the County pursuant to this section shall document consumption with actual meter readings and the dates thereof. The City shall have the right to verify any meter reading. The County shall invoice the City within thirty (30) days of termination of the Emergency Period or, if the duration of the emergency is longer than thirty (30) days, in thirty (30) day intervals.

ARTICLE IV. TERM

- A. The term of this Agreement shall commence on the date first above written with the annual payment to commence on the turnover of any operating interconnection.
- B. The term of this Agreement shall continue until the end of the year, after the date first above written, and shall automatically continue in effect from year to year thereafter upon the annual lump sum payment provided for herein.
- C. This Agreement may be cancelled by the County for nonpayment of any installment of the annual fee provided for in Section A of Article III hereof, for non-payment of any invoice tendered under Sections B of Article III hereof, or by either party hereto giving written notice to the other party at least ninety (90) days prior to the effective date of termination.

ARTICLE V. MISCELLANEOUS

- A. Notices to the County required to be given under this Agreement shall be delivered to the following address:

Board of Medina County Commissioners
144 N. Broadway
Medina, Ohio 44256

A copy of any such notice shall be delivered to the following address:

Medina County
Sanitary Engineer
Medina County Engineering Center
791 W. Smith Road
Medina, Ohio 44256

Notices to the City to be given under this Agreement shall be delivered to the following address:

Office of the Mayor
City of Medina
132 N. Elmwood Avenue
Medina, Ohio 44256

Invoices to be presented to the City under this Agreement shall be delivered to the following address:

Finance Director
City of Medina
132 N. Elmwood Avenue
Medina, Ohio 44256

IN WITNESS WHEREOF, the parties have caused this instrument to be executed
as of the day and year first above written.

In the presence of:

Kathy Patton

CITY OF MEDINA

By:

[Signature]
Dennis Hanwell - John M. Coyne - Acting Mayor

Pamela Vereb
Peggy Folk
Jamie Sanford

MEDINA COUNTY

By:

[Signature]
Commissioner

[Signature]
Commissioner

[Signature]
Commissioner

The legal form and correctness
of the within-instrument is hereby approved

[Signature]
Greg Huber, Law Director
Medina City

Date 9/30/14

By: [Signature]
Assistant County Prosecutor
Medina County Prosecutor's Office

Date 10/23/14