

**THE VILLAGE OF NEW MADISON
DARKE COUNTY, OHIO**

RESOLUTION NO. 23-12

**A RESOLUTION ADOPTING THE
FORT JEFFERSON – NEW MADISON
SANITARY SEWER TREATMENT AGREEMENT
AND DECLARING AN EMERGENCY**

WHEREAS: in order to establish a provide wastewater treatment to the Fort Jefferson,
and

WHEREAS: treatment of the Fort Jefferson wastewater will help preserve the health and
safety of the nearby community of Fort Jefferson and help provide a larger customer base for the
operations of the New Madison Wastewater Treatment Plant and,

WHEREAS, to give the Mayor, the authority to sign any and all documents to adopt the
Sanitary Sewer Agreement with New Madison.

NOW THEREFORE, BE IT RESOLVED, by the Council, a majority of the members
of the Council concurring, as follows:

1. That the Agreement between the Fort Jefferson and New Madison is hereby
adopted as executed by the County Commissioners attached hereto as Exhibit A.

2. Mayor, Monyca Schlechty. shall have the authority to sign any and all documents
to adopt the Sanitary Sewer Treatment Agreement with Fort Jefferson.

3. All formal actions of this Council concerning and relating to the passage of this
Resolution were adopted in an open meeting of the Council, and all deliberations of this Council
and of any of its committees that resulted in such formal action were in meetings open to the public
in compliance with all legal requirements, including R.C. § 121.22.

4. This Resolution is hereby deemed to be an emergency necessary for the health,
safety and welfare of the citizens of the Village and there is an immediate need to adopt this
Agreement in order that the sanitary sewer project can proceed timely.

Voted on and signed this 17th day of July, 2023, in New Madison, Darke County,
Ohio.

THE VILLAGE OF NEW MADISON, DARKE COUNTY, OHIO



MONYCA SCHLECHTY, Mayor



ROBERTA HOCKER, Fiscal Officer

Approved as to form: _____
MICHAEL RIEMAN, Solicitor

Approved as to form: 
MICHAEL RIEMAN, Solicitor



RESOLUTION

The County Commissioners of the County of Darke, Ohio met in Regular Session this date with the following members present:

Commissioner Holmes offered the following Resolution and moved its adoption.

A RESOLUTION (R-202-2023) AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR FUTURE SEWER DEVELOPMENT FOR THE VILLAGE OF FORT JEFFERSON

WHEREAS, the Darke County Board of County Commissioners, is taking actions for a future Sewer District called "Darke County Fort Jefferson Area Sanitary Sewer Sub-District" for the purpose of preserving and promoting public health and welfare, the boundaries thereof, unless otherwise modified by mutual agreement of the Parties of this Agreement, generally being described as the unincorporated area of Fort Jefferson along with the corridor along State Route 121 between Fort Jefferson and New Madison, OH; and

WHEREAS, Darke County has heretofore determined further to assume responsibility to provide conveyance of Darke County sewage to the New Madison sanitary sewer collection system or Wastewater Treatment Plant. This conveyance will be in conjunction with the future Darke County Fort Jefferson Area Sanitary Sewer Sub-District sewage; and

WE DO HEREBY RESOLVE, to enter into a contract with New Madison for the use of the New Madison Sewer Treatment Plant for future development of a sewer system called "Darke County Fort Jefferson Area Sanitary Sewer Sub-District"

Commissioner Combs seconded the motion and all voted as follows:

Matthew W. Aultman (YEA)
Matthew W. Aultman

Larry Holmes YEA
Larry Holmes

Marshall Combs (YEA)
Marshall Combs,
DARKE COUNTY BOARD
OF COMMISSIONERS

Robin Blinn
Robin Blinn, Admin. Clerk/Secretary

ADOPTED this 13th day of July, 2023.
Journal 59 Page _____



THIS AGREEMENT, made and entered into this 13th day of July 2023, by and between the Darke County Board of County Commissioners, Darke County, Ohio (hereinafter referred to as "County"), duly authorized by Resolution No. **R-202-2023**, duly adopted by the County on the 13th day of July 2023, and the Village of New Madison, Ohio (hereinafter referred to as "New Madison") by its Mayor, duly authorized in its behalf by Resolution No. 22-04, passed by its Council on the 17th day of July, 2023.

WHEREAS, Darke County has, by future resolutions will adopt for the establishment of the Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District for the purpose of preserving and promoting public health and welfare, the boundaries thereof, unless otherwise modified by mutual agreement of the Parties of this Agreement, generally being described as the unincorporated area of Fort Jefferson along with the corridor along State Route 121 between Fort Jefferson and New Madison; and

WHEREAS, Darke County recognizes that New Madison has a National Pollutant Discharge Elimination System Permit, hereinafter referred to as NPDES PERMIT, which places on New Madison the responsibility for the quality of the effluent discharged directly or indirectly to East Fork of the Whitewater River located in Darke County, Ohio; and

WHEREAS, Darke County further recognizes that the responsibility of New Madison pursuant to its NPDES PERMIT requires that Darke County and any user of Darke County sewer facilities specifically agree at all times to deliver a quantity and quality of sewage, as in this Agreement, so that New Madison can lawfully discharge effluent which meets New Madison's NPDES PERMIT; and

WHEREAS, Darke County has heretofore determined further to assume responsibility to provide conveyance of Darke County sewage to the New Madison sanitary sewer collection system or Wastewater Treatment Plant. This conveyance will be in conjunction with the Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District sewage. Darke County has heretofore determined to contract with New Madison for the use of the New Madison sewage treatment, including a potentially a portion of the New Madison Wastewater Collection System and the Rush Road Pump Station, on behalf of Darke County to the extent provided for herein; and New Madison, on its part and at the request of Darke County, has determined to provide such services; by reason whereof New Madison and Darke County have found it necessary to enter into this Agreement, Darke County acting under the authority of Article XVIII of the Ohio constitution and Ohio Revised Code Title 7, and New Madison being authorized by Article XVIII of the Ohio constitution and Ohio Revised Code Title 7;

NOW THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth, and of other good and valuable considerations, New Madison and Darke County do hereby promise and agree:

SECTION 1

Subject to the covenants and conditions hereinafter contained, New Madison promises and agrees with Darke County to accept, receive and treat at the point of connection referred to in Section 2 hereof, the sanitary sewage and wastes originating in the Future Darke County Fort

Jefferson Area Sanitary Sewer Sub-District, as hereinafter defined and collected therefrom by means of the sewerage facilities to be provided therefore in accordance with this Agreement, to treat and dispose of such sewage and wastes in the same manner as New Madison treats and disposes of similar sewage and wastes collected within its corporate limits; and New Madison agrees specifically that it will provide the mutually agreed upon sewage plant capacity as referred to in Section 3. The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District, as referred to herein, shall be deemed to mean and include their area; but this Agreement may be extended to other areas beyond The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District, including the designation of the additional point or points at which connection to New Madison treatment plant is to be made, and the subsequent provisions of this Agreement making it applicable to the "The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District" shall be deemed to have reference both to the original limits thereof and to any other areas to which the Agreement is so extended. Within the context of this Section, New Madison and Darke County mutually agree that:

- (1) In the event of an emergency or a violation of New Madison's NPDES PERMIT, the parties will be liable for any fine or monetary charges based on the percentage of use by the parties. If the cause of the emergency or violation can be attributed to either New Madison or Darke County the responsible party will be liable for the entire fine or monetary charges.
- (2) As a master meter customer of New Madison, Darke County will abide by all terms and conditions of the New Madison's Sewer Use Regulations to the same extent as in-New Madison users. It is recognized that Darke County is in compliance with the above referenced Sections, so long as it is in conformance with the parameters established within this Agreement.

SECTION 2

Subject to the provisions of this Agreement, Darke County promises and agrees, in consideration of New Madison's promises set forth in Section I (a) hereof, to the extent that sewerage facilities to be constructed by Darke County for the The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District will so permit, to transport and deliver all sanitary sewage and wastes originating in The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District in accordance with the general plan for The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District, to proceed as soon as is practicable and at its sole expense (except as otherwise provided herein) with the construction of such sewerage facilities for Darke County in conformity with such general plan likewise as soon as practicable and at its sole expense, to connect to such facilities to New Madison's sewerage system at such points of connection. The obligations of Darke County under this Section shall include specifically the provision of improvements and the connection of the same to New Madison's system, and it is expressly understood and agreed that New Madison's obligations to accept, receive and treat the sanitary sewage originating in The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District shall be limited to the single point of connection, herein referred to as the Master Meter.

SECTION 3

To give effect to the common intent of New Madison and Darke County, it is mutually understood and agreed that:

- (A) It is recognized that the connection to New Madison's sewerage system, of certain portions of The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District may require the construction of sanitary sewers and appurtenances to be located within the corporate limits of New Madison. Accordingly, Darke County shall have the right to construct, own, operate and maintain such facilities, to be located within the corporate limits of New Madison, to use the property of New Madison to the extent that it may be necessary for such purpose and to purchase, appropriate, or otherwise acquire any and all other real estate interests in real estate that may be required therefore. Darke County, however, shall following the construction, repair, maintenance or replacement of such facilities, restore, or cause to be restored, all such property to their original condition; shall, in addition, cause such construction to be performed in a safe and careful manner and so as to not interfere unduly or unreasonably with pedestrian and vehicular traffic; shall hold and save harmless New Madison against any and all demands, claims, causes of action, judgments and expenses arising from, or growing out of, the construction of such facilities. Further, Darke County shall, upon completion of the improvements, provide New Madison with a reproducible set of as-built plans, including "Y" measurements, for the facilities so located within the corporate limits of New Madison.
- (B) In consideration of the joint use by Darke County of the New Madison sewerage system, Darke County, upon completion of the The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District sewer piping referred to in Subsection (A) of this Section, shall maintain and repair the piping up to the Master Meter. New Madison shall maintain and repair piping from the Master Meter, including the Master Meter, to the wastewater treatment plant. The Master Meter will be located at a mutually agreeable location. When it is determined that the Master Meter needs replaced, this will be a cost to the Darke County.
- (C) If the Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District connects to the Wayne Lakes Force Main outside of the New Madison sewerage system, then parts (A) and (B) above will not be needed for this agreement.

SECTION 4

It is mutually agreed that:

- (A) Darke County will construct master meter and monitoring equipment to both Parties mutually agreeable specifications, at the points of connection to the Wayne Lakes sewerage system or the New Madison's sewerage system and shall retain ownership to such facilities. Metered flows from such master meters will be the basis for volume charges to Darke County as specified in Schedule "A", attached hereto.
- (B) Flow volumes from Service Area utilized for initial calculations in accordance with the procedures set forth in the attached Schedule "A", will be "start up" design flows, as developed by Darke County. Based on twelve (12) months of monitoring actual flows from The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District, the twelve (12) month time period shall start after 90% of the The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District households are connected to the sanitary sewer system, at this time New Madison will undertake and evaluation of wastewater treatment plant operating costs and a recalculation, in accordance with Schedule "A", to

reflect the actual flow volumes and operating costs, as measured. Future recalculations may occur only as specifically defined in Section 8 of this Agreement. It is understood that the reference in Subsection (B) of this Section to design flows for input to Schedule "A" is to be specifically used to establish volume charges on a per gallon basis. Actual metered flows from The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District multiplied by the volume charges calculated in Schedule "A" will be the basis of payment from Darke County to New Madison. After the twelve (12) month review, if it is determined the currently charged rate per 1000 gallons exceeds the actual operating cost, Darke County will receive a refund or credit for the prior twelve (12) month overcharge.

- (C) In the event that master metering of The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District flows is interrupted due to meter failure, volume charges to Darke County from New Madison for the period impacted by this meter failure shall be estimated utilizing the most appropriate of the methods specified herein:
 - i. Metered flows from the Service Area for the same period of the previous year;
 - ii. Kilowatt hours of electricity utilized at the Wayne Lakes pump station for the period times gallons pumped per kilowatt hour consumed.
- (D) It is recognized that Darke County is subject to the same late payment charges as is enforced by New Madison against in-New Madison users, with the additional consideration that the imposition of the late payment charges by New Madison on Darke County will be effective fifteen (15) days after the close of Darke County normal billing and payment cycle Darke County customers for the period corresponding to New Madison's billing to Darke County. Such Darke County normal billing and payment cycle is contained in the Agreement.

SECTION 5

Darke County agrees further to assume, at its own expense, all administrative costs involved in the billing and collection of charges to all users and potential users on all sewerage collection lines within The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District and all responsibility for such collections.

SECTION 6

Darke County further agrees:

- (A) To provide record books similar to those in use by New Madison for accurately recording "Y" measurements and permits issued to connect to Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District's sewerage system for the service area.
- (B) That the sanitary sewerage system for The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District shall be used for sanitary sewage and wastes only and not for excessive surface water, groundwater and/or foundation drainage and for only such wastes and wastewaters as are permitted under New Madison's Sewer Use Ordinance in effect at the time.

- (C) That the users of the sanitary sewers for The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District shall be governed by the same rules and regulations relating to the use of the sanitary sewers of New Madison as long as The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District sewers continue to discharge into New Madison's sewers, it being expressly understood and agreed that only sanitary sewage and industrial wastes meeting the standards prescribed by New Madison's Sewer Use Ordinance in effect at the time shall be permitted to be discharged in New Madison's and The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District's sewerage system.
- (D) That any industry desiring to use The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District's sanitary sewers for industrial wastes shall apply in writing to the Mayor of New Madison, and that no discharge of any such industrial wastes into The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District's sanitary sewers shall be permitted unless and until all of New Madison's lawful requirements shall first have been met, including, where required, the pre-treatment thereof. As a master meter customer of New Madison, responsibility under this Section will be undertaken by Darke County, as appropriate. Resultant User Charges to an individual customer of Darke County will be under the jurisdiction of Darke County, through its enacted SUO and UCS. Any additional charges payable to New Madison will only be reflected in the form of strength surcharges as specified in this Agreement, and measured at the master meter for total The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District's flow.
- (E) That the materials to be used in the construction of sewers within the corporation limits of New Madison and the methods of construction thereof shall be at least equal to the standards provided in New Madison's standard sewerage improvement specifications in force at the time of submission of the plans, specifications and profiles referred to in this Section.
- (F) That Darke County shall notify the Mayor of New Madison when the initial construction of the Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District project will commence, and the Mayor of New Madison, or an authorized assistant, shall have the right to enter and inspect any The Future Darke County Fort Jefferson Area Sanitary Sewer Sub-District sanitary sewers during the period of initial construction thereof for the purpose of ascertaining compliance with the requirements herein set forth.
- (G) That Darke County agrees that if it exceeds 15,000 gallons per day, Darke County will be charged at the currently charged rate per 1000 gallons treated. Darke County agrees that if after six (6) months Darke County continues to exceed 15,000 gallons per day, Darke County will purchase additional capacity or enter into a mutually agreeable corrective action plan.
- (H) That Darke County shall enact and enforce rules and regulations governing the type of construction of house laterals in the Service Area and the use of the sanitary

sewerage system therefore at least equal to those stipulated in New Madison's Sewer Use Ordinance in effect at the time.

SECTION 7

New Madison further agrees that:

- (A) To provide to Darke County, Wastewater Treatment Plant reports and monthly financial reports as currently provided to the New Madison Village Council.
- (B) That New Madison will notify the Darke County Board of Commissioners of all special council meetings involving the wastewater treatment plant. Notice will be provided by New Madison by leaving a telephone message with the Darke County Board of Commissioners. The message will include time, date and location of the special meeting.

SECTION 8

It is mutually agreed:

- (A) That, with respect to the amounts provided in Section 4 hereof to be paid by Darke County to New Madison as sewer service charges, the same shall continue in force until a twelve (12) month review is completed. Upon the occurrence of this event, New Madison will recalculate such amounts, in accordance with Section 4(B). The results of such recalculation will represent the new amounts to be paid to New Madison by Darke County.
- (B) That New Madison shall submit to the Darke County Commissioners a Notice of Intent to modify rates to Darke County pursuant to Sections 4(A), 4(B) and 8(A); such Notice of Intent shall include the detailed recalculation, in accordance with the procedures set forth in Schedule "A" and sufficient documentation to allow analysis by Darke County of such recalculation. The Darke County Commissioners, within a period of sixty (60) days after submission thereof, may approve such modification or indicate the way in which the same shall be changed for approval.
- (C) That in the event that any controversy or difference shall arise between Darke County and New Madison with respect to Section 8(A), such differences shall be resolved as specified in Section 9 of this Agreement.
- (D) That such rate modifications to Darke County by New Madison shall be effective on the first day of the following normal New Madison billing cycle following agreement on the modified rates.
- (E) That Darke County shall have the right to establish, for its own purposes, rates, charges and fees for the use of the Service Area sanitary sewerage system in addition to those rates provided for in Section 4 and Section 8(A) hereof.

(F) This Agreement constitutes the entire agreement of the parties, and no other statement, written or oral, is a part of this agreement. This agreement may be amended only by written instrument signed by the Mayor of New Madison and the Darke County Commissioners stating that it is an amendment to this Agreement. This Agreement shall be governed by the law of Ohio

SECTION 9

In the event that any controversy or difference shall arise between New Madison and Darke County with respect to the interpretation and effect of this Agreement or their respective rights, obligations or liabilities hereunder or the rates, charges and fees to be made and collected pursuant to the provisions hereof, then such controversy or difference shall be submitted to a board of three arbitrators; one to be chosen by New Madison, one to be chosen by Darke County, and the third to be chosen by the other two, and the decision of any two of such arbitrators shall be final and binding upon New Madison and Darke County.

SECTION 10

This Agreement shall take effect on the date hereof and shall remain in effect for a period of 40 years from the initial date of the Agreement.

SECTION 11

A determination that any part of this Agreement is invalid shall not invalidate or impair the force or effect of any other part thereof, except to the extent that such other part is wholly dependent for its operation upon the part so declared invalid.

SECTION 12

This Agreement, upon execution, hereby supersedes any and all previous contracts, agreements and/or conditions between New Madison and Darke County relative to the conveyance of sewage and wastes to New Madison's waste treatment plant, for the use of such plant, and for the costs of the same.

SECTION 13

This Agreement includes Schedule "A" hereto, all of which are as fully a part of this Agreement as if herein set forth in writing, or if not attached, as if attached.

IN WITNESS WHEREOF, New Madison and Darke County have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

APPROVED AS TO FORM:

VILLAGE OF NEW MADISON, OHIO

Attorney for the Village of New Madison

By: *Morgan L. Schuchter*
Village of New Madison, Mayor

ATTEST:

Roberta Harker

APPROVED AS TO FORM:

BOARD OF COUNTY COMMISSIONERS
DARKE COUNTY, OH

By: *Margaret B. J.*
Prosecuting Attorney
Darke County, OH

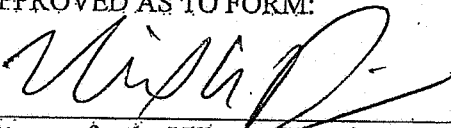
By: *Matthew W. Carr*
Darke County Commissioner

By: *J. H. [unclear]*
Darke County Commissioner

By: *[unclear]*
Darke County Commissioner

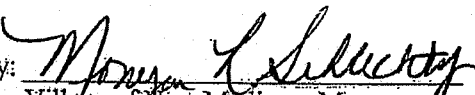
IN WITNESS WHEREOF, New Madison and Darke County have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

APPROVED AS TO FORM:



Attorney for the Village of New Madison

VILLAGE OF NEW MADISON, OHIO


By: 

Village of New Madison, Mayor

ATTEST:

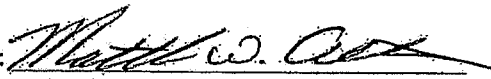


APPROVED AS TO FORM:



Prosecuting Attorney
Darke County, OH

BOARD OF COUNTY COMMISSIONERS
DARKE COUNTY, OH

By: 

Darke County Commissioner

By: 

Darke County Commissioner

By: 

Darke County Commissioner

