

## ORDINANCE NO. 23-112

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A FOURTH AMENDMENT TO THE SEWER SERVICES AGREEMENT WITH ERIE COUNTY AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, on January 22, 2007, the City and County entered into a Sewer Services Agreement for the collection and treatment by the City of wastewater originating outside the City corporate limits in the County Sewer District Service Area which was approved by City Commission by Ordinance No. 06-130, passed on December 21, 2006; and

**WHEREAS**, the City Commission authorized an Amendment to the Sewer Services Agreement between Erie County and the City of Sandusky to allow for a new connection to the City's sewage system to service the Village of Bay View by Ordinance No. 12-097, passed on September 24, 2012; and

**WHEREAS**, the City Commission authorized a Second Amendment to the Sewer Services Agreement between Erie County and the City of Sandusky to extend the effective period of the agreement to December 31, 2058, by Ordinance No. 14-132, passed on November 24, 2014; and

**WHEREAS**, this City Commission authorized a Third Amendment to the Sewer Services Agreement between Erie County and the City of Sandusky to amend the Dispute Resolution provisions in Section 15 of the agreement as part of a settlement agreement between the parties by Ordinance No. 22-155, passed on August 8, 2022; and

**WHEREAS**, the City and the County have agreed to settle the County's financial obligations under Section 11 of the Agreement for two (2) capital cost projects referred to as the Mills Street High-Rate Treatment Project and Ultraviolet (UV) Disinfection Refurbishment Project and desire to document the agreement in this proposed Fourth Amendment; and

**WHEREAS**, this City Commission approved a modified Water Pollution Control Loan Fund (WPCLF) Agreement between the City, the Ohio Environmental Protection Agency (EPA), and the Ohio Water Development Authority (OWDA) to finance the cost of the design, construction, and inspection of the Mills Street High-Rate Treatment Project and the Ultraviolet (UV) Disinfection Refurbishment Project by Ordinance No. 23-092, passed on April 10, 2023, to include financing for Erie County's portions of the projects; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to immediately execute the Fourth Amendment to the Sewer Services Agreement providing for repayment of the County's share of the WPCLF loan and loan fees due; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of

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the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is hereby authorized and directed to execute the Fourth Amendment to the Sewer Services Agreement on behalf of the City with Erie County, substantially in the same form as contained in Exhibit "1", which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the terms of this Ordinance.

Section 2. The City Manager, Finance Director, and Law Director are authorized and directed to take such other actions and measures as are incident to and reasonably necessary to carry out the requirements of this Ordinance and the terms of the Fourth Amendment to the Sewer Services Agreement.

Section 3. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.



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RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION



ATTEST: 

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CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: May 22, 2023

**AMENDMENT NO. 4**  
**SEWER SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the County of Erie, a political subdivision existing under the Constitution and laws of the State of Ohio (hereinafter called “County”), pursuant to a Resolution adopted by the Board of County Commissioners on the \_\_\_\_ day of \_\_\_\_\_, 2023, and the City of Sandusky, a municipal corporation organized and existing under the Constitution and laws of the State of Ohio (hereinafter called “City”), duly authorized by Ordinance No. \_\_\_\_\_ passed by its City Commission on the \_\_\_\_ day of \_\_\_\_\_, 2023.

WITNESSTH:

WHEREAS, on January 22, 2007, the City and County entered into a Sewer Services Agreement (referred to collectively with each amendment thereto as the “SSA”) for the collection and treatment by the City of wastewater originating outside the City corporate limits in the County Sewer District Service Area; and

WHEREAS, on October 4, 2012, the City and County entered into Amendment No. 1, agreeing to add an additional connection point for the Village of Bay View wastewater; and

WHEREAS, on December 3, 2014, the City and County entered into Amendment No. 2, agreeing to extend the effective period of the SSA until December 31, 2058;

WHEREAS, on August 12, 2022, the City and County entered into Amendment No. 3, agreeing to amend the Dispute Resolution provisions in Section 15 of the SSA as part of a settlement agreement between the parties; and

WHEREAS, the City and County have agreed to (i) settle the County’s financial obligations under Section 11 of the SSA for two Capital Cost projects at Shared Facilities on the City’s Sewage System, and (ii) amend the SSA in manner limited to those two projects in order to document the settlement;

NOW THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth, and of good and valuable consideration, the City and County hereby agree to amend the SSA as follows:

The following shall be added in its entirety as Addendum A to the SSA (this “Addendum”):

1. The County hereby agrees that the Mills Street High Rate Treatment (“HRT”) project is a Capital Cost under section 11.5 of the SSA and that the County shall for its share of the Capital Costs shall pay 13.9% of the total costs of the HRT project, including but not limited to, construction costs, loan fees, interest, closing costs, construction management, engineering, and inspection, design costs and other costs the City has not financed through the WPCLF loan, and additions to and deductions from the project costs.

2. The County hereby agrees that the Ultraviolet Disinfection (“UV”) project is a Capital Cost under section 11.5 of the SSA and that the County shall pay 46.18% of the total costs of the UV project, including but not limited to, construction costs, loan fees, interest, closing costs, construction management, engineering, and inspection, design costs and other costs the City has not financed through the WPCLF loan, and additions to and deductions from the project costs.
3. The City agrees to include in its financing through the Water Pollution Control Loan Fund (WPCLF) from the Ohio Water Development Authority and the Ohio Environmental Protection Agency for the HRT and UV projects the County’s share of the eligible costs for the HRT and UV projects in accordance with Paragraphs 1–2 of this Addendum.
4. The City agrees to allow the County to receive credit for its proportionate share of the loan forgiveness for the HRT project. The County shall receive credit for five hundred and sixty two thousand nine hundred and fifty dollars (\$562,950) towards its share of the total Capital Costs for the HRT project, which is 13.9% of the total loan forgiveness of four million and fifty thousand dollars (\$4,050,000).
5. Loan Origination Fee. The County shall pay \$23,477.42 within 30 days of receipt of an invoice from the City for its share of the loan origination fee for the WPCLF loan.
6. Payment Schedule. Upon receipt of the total project costs and amortization schedule from the ODWA for the WPCLF loan the City shall promptly prepare a payment schedule for the County’s share of the total Capital Costs of the HRT and UV projects. The payment schedule shall break down the County’s share of the total Capital Costs of the HRT and UV projects into 360 equal monthly payments. The County shall make a payment equaling six months of payments, within thirty (30) days of receipt of the payment schedule from the City. Thereafter, the County shall make 354 successive monthly payments in accordance with the agreed upon payment schedule.

It is further covenanted and agreed that the aforesaid SSA, as pre-dating this Agreement, shall continue in full force and effect. Except for applicability to the HRT and UV projects, this Addendum shall not amend the SSA. The County’s reimbursement obligations under Section 11 of the SSA, without regard for this Addendum, shall continue to apply to all future projects on the Shared Facilities, including future projects on the HRT and UV facilities. The City shall have no obligation to extend its financing or loan forgiveness for any future projects.

[SIGNATURE PAGE FOLLOWS]

**AMENDMENT NO. 4  
SEWER SERVICES AGREEMENT  
SIGNATURE PAGE**

IN WITNESS WHEREOF, the parties have executed this instrument in duplicate on the date and year first mentioned above.

SIGNED IN THE PRESENCE OF:

BOARD OF COUNTY COMMISSIONERS  
OF ERIE COUNTY, OHIO

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SIGNED IN THE PRESENCE OF:

CITY OF SANDUSKY, OHIO

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\_\_\_\_\_  
City Manager

APPROVED AS TO CONTENT:

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Erie County Utilities Director

\_\_\_\_\_  
Erie County Assistant Prosecuting Attorney

\_\_\_\_\_  
Director, City of Sandusky Public Works

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Law Director, City of Sandusky