

15-520

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (this "Memorandum") is entered into this \_\_\_ day of November, 2015 between the Village of Clinton, Ohio (the "Village") and the County of Summit, Ohio (the "County") under the circumstances summarized in the following recitals:

A. The Ohio Environmental Protection Agency and the Summit County Health District have determined that high levels of pollution from leaking septic systems exist in certain parts of the Village of Clinton, particularly in the areas known as Downtown and Luna Lake; and

B. The Village of Clinton is currently within the Summit County Metropolitan Sewer District; and

C. The County of Summit, through its Department of Environmental Services has caused certain studies and engineering design solutions to be prepared to resolve the pollution problems in the Village; and

D. The Village of Clinton, wishing the County to assist it in remediating its pollution problems, wishes to nominate the County as its sanitary sewer provider; and

E. The Village and the County wish to cooperate to minimize the financial impact of remediating the Village's pollution problems, and yet choose the best solution to solve those pollution problems;

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Village and the County hereby agree as follows:

### I. Sanitary Sewer Provider

The Village agrees to nominate, and the County agrees to become, the Village's sole provider of sanitary sewer services, and to allow the County to construct Sanitary Sewer Facilities within its corporate boundaries. A copy of the Village's ordinance or resolution of this nomination is attached as Exhibit A to this MOU.

### II. Choice of Design of Sanitary Sewer Facilities and Assessment Methodology

A. At the Village's recommendation, the County commits to retain OHM Advisors, with David Krock of that firm acting as the lead design engineer ("OHM") to perform the following tasks, in order to choose the best design alternative and best control the financial impact of remediating the Village's pollution problems:

1. Review the current design alternatives produced by the County and its design engineering firm Arcadis ("Arcadis") to provide sanitary sewer facilities in the Village. OHM, may at its discretion, revise and/or propose alternate design solutions. OHM shall then recommend its design solution to the County.

2. Review the assessment methodology prepared by the County and Arcadis, intended to be used to pay for the costs of any projects to construct Sanitary Sewer Facilities in the Village. OHM may, at its discretion, revise and/or propose alternate assessment methodologies. OHM shall then recommend to the County its preferred assessment methodology.

B. For purposes of this MOU, "Sanitary Sewer Facilities" includes any variety of facilities that are intended to solve the Village's pollution problems, including but not limited to: gravity systems, step systems, vacuum systems, low pressure force main, hybrid and/or other systems.

C. The County shall have the final authority to accept or reject the final design and assessment methodology recommended by OHM as described in Section II(A) above, but commits in good faith to consider and shall not unreasonably fail to employ those recommendations.

### III. Limitations on Assessments/Other Assistance

The County commits in good faith to seek limitations or caps on the assessments of costs of any projects to construct Sanitary Sewer Facilities in the Village, in order to minimize the financial impact to residents of the Village. Contingent on the availability of funds, the County shall consider a variety of options to limit assessments by methods, including but not limited to: not-to-exceed caps on assessments to individual parcels, buying off of a portion of the total project costs, and/or consideration of low income. The County also commits in good faith to seek grants and other funds for the installation of pumps or hook-ups, as may develop.

### IV. Miscellaneous.

A. Extent of Covenants; No Personal Liability. All covenants, obligations and agreements contained in this Memorandum shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, official, officer, agent or employee of the Village or the County in other than his official capacity.

B. Amendments and Supplements. This Memorandum may not be effectively amended, changed, modified, altered or terminated except in a writing signed by the Village and the County.

C. Execution Counterparts. This Memorandum may be executed in counterpart and in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

D. Severability. If any provision of this Memorandum, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed

to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

E. Governing Law. This Memorandum shall be deemed to be a contract made under the laws of the State of Ohio and for all purposes shall be governed by and construed in accordance with the laws of the State of Ohio.

IN WITNESS WHEREOF, the County and the Village have caused this Memorandum to be duly executed in their respective names, all as of the date first written above.

COUNTY OF SUMMIT, OHIO

By: \_\_\_\_\_  
Russell M. Pry, County Executive

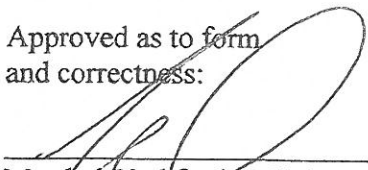
Approved as to form  
and correctness:

\_\_\_\_\_  
Deborah S. Matz  
Director, Department of Law, Insurance  
And Risk Management  
Summit County, Ohio

VILLAGE OF CLINTON, OHIO

By: Al Knack  
Al Knack, Mayor

Approved as to form  
and correctness:

  
\_\_\_\_\_  
Marshal Pitchford, Solicitor  
Village of Clinton, Ohio