

THIRD SUPPLEMENTAL AGREEMENT OF  
THE SUMMIT / STARK COUNTY  
SANITARY SEWER SERVICE AGREEMENT  
UPPER TUSCARAWAS WASTEWATER  
TREATMENT PLANT #36 RBC PROJECT (Q-959)

THIS THIRD SUPPLEMENTAL AGREEMENT of the Summit/Stark County Sanitary Sewer Service Agreement ("Agreement") dated September 3, 1993, is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between the Board of County Commissioners of Stark County ("Stark") and the County of Summit ("Summit") pursuant to Stark County Resolution \_\_\_\_\_ adopted 12-27-2018 and County of Summit Resolution \_\_\_\_\_.

WITNESSETH:

WHEREAS, the parties have previously entered into the Agreement, which relates to the Upper Tuscarawas Wastewater Treatment Plant ("Upper Tusc") on September 3, 1993, pursuant to Summit Resolution 93-36 adopted January 19, 1993, and a resolution adopted by the Board of Commissioners of Stark on August 12, 1993; and

WHEREAS, the parties entered into a First Amendment to the Summit/Stark County Sanitary Sewer Service Agreement Upper Tuscarawas Waste Water Treatment Plant Improvement on October 8, 2004 to provide for capital contributions to the Upper Tuscarawas Waste Water Treatment Plant Improvement (Q-908 Phase 1 and 2); and

WHEREAS, the parties entered into a second supplemental agreement to the Summit/Stark County Sanitary Sewer Service Agreement Upper Tuscarawas Waste Water Treatment Plant Improvement on February 13, 2017 to provide for capital contributions to the Upper Tuscarawas Waste Water Treatment Plant Improvement Project (Q-949); and

WHEREAS; pursuant to Section 1.05 of the Agreement, the parties desire to supplement the Agreement in order to pay for the construction of a biological nutrient reduction system known as the Upper Tuscarawas Wastewater Treatment Plant #36 RBC Project (Q-959) ("Project Q-959"); and

WHEREAS, Summit has authorized its County Executive to execute the aforementioned amendment by Resolution \_\_\_\_\_, adopted \_\_\_\_\_ and Stark has authorized the execution of the aforementioned amended by Resolution \_\_\_\_\_ adopted 12-27-2018; and

WHEREAS, Summit has requested approval from the Ohio Environmental Protection Agency for Project Q-959; and

WHEREAS, the upgrades, replacements and repairs of the Project are necessary to provide for proper treatment of sanitary waste water, and

WHEREAS, Stark has currently secured 1.00 million gallons per day ("mgd") of capacity at Upper Tusc; and

WHEREAS, in accordance with the Agreement, Stark herein agrees to contribute financially to the Project Q-959 costs in an amount equal to its proportionate share of its current capacity; and

WHEREAS, Summit has determined to finance its Upper Tuscarawas Wastewater Treatment Plant Improvement (Q-959) through a loan from the Ohio Water Pollution Control Loan Fund ("WPCLF"), and Stark has determined to pay its allocated share of construction costs in full from existing revenues of its Metropolitan Sewer District;

NOW, THEREFORE, in consideration of the mutual promises and covenants of the parties, the Agreement is hereby amended as follows:

#### ARTICLE I

1.01 The Upper Tuscarawas Wastewater Treatment Plant is being improved by the project entitled the Upper Tuscarawas Wastewater Treatment Plant #36 RBC Project (Q-959). The project consists of the construction of a new Biological Nutrient Removal (BNR) system to replace the existing Rotating Biological Contactor (RBC) system. The RBC system's capacity was 4.0 MGD; whereas the new BNR system will allow for 5.0 MGD capacity. The additional 1.0 MGD capacity will be designated for future growth of Summit County customers. A new operations building will include chemical feed systems, aeration blowers, electrical room and control room. Equipment for the BNR system will provide mixing, recirculation, and aeration in each zone of the BNR tankage. The existing primary clarifiers and chemical clarifiers will be converted to equalization basins. The existing RBC equipment will be removed and the building will be converted to a storage facility. A new waste receiving station will be constructed. Site grading, site improvements, paving and yard piping are integral to the project. Electrical, instrumentation, heating and plumbing work are included in the project.

1.02 Construction costs are only those costs for which Summit has contracted to build Project Q-959 and do not include costs attributable to planning, design, or other non-construction costs. The tentative construction costs for Project Q-959 is \$19,047,628.00, which is subject to change based upon the final certification and construction costs for Project Q-959. Kenmore Construction Co., will construct the new BNR system in an amount not to exceed \$17,643,750.00, and H.R. Gray will perform construction management services for an amount not to exceed \$1,403,878.00. Stark hereby agrees to pay Twenty percent (20%) of the finalized construction costs based upon its commitment to contribute to the improvements to the Upper Tuscarawas Wastewater Treatment Plant. Stark will, in addition, pay Twenty percent (20%) of change orders approved by Summit, provided that change orders do not, in the aggregate, exceed ten percent (10%) of the estimated total cost of construction set forth herein. Change orders which cause the construction costs to exceed, in the aggregate, ten percent (10%) of the estimated total cost set forth herein, must be agreed to in writing by Stark and Summit prior to invoicing Stark for said change orders.

ARTICLE II

2.01 Stark hereby agrees to pay its Twenty percent (20%) share of construction costs in full, upon submission of estimates for progress payments, which are to be approved by Summit.

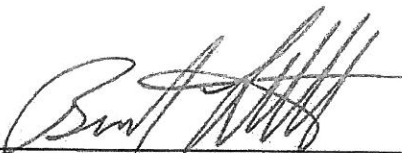
2.02 Stark shall not be liable for any financing of Summit's share of the construction costs, or any other costs, for Project Q-959.

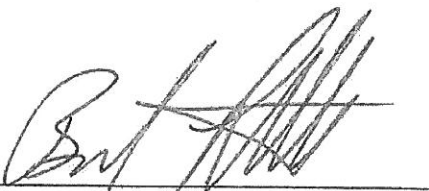
2.03 Summit agrees that all arrangements made by Summit for the financing of Project Q-959 through the Ohio Water Pollution Control Loan Fund shall be the sole responsibility of Summit.

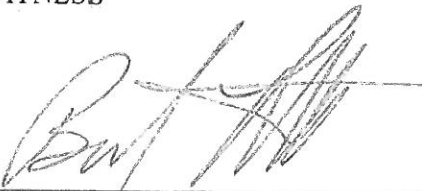
IN WITNESS WHEREOF, the parties hereto have affixed their hands, Stark by the signature of its duly authorized officials and Summit by the signatures of the County Executive and the Director of Sanitary Sewer Services.

IN WITNESS WHEREOF, the parties have hereunto set their hands:

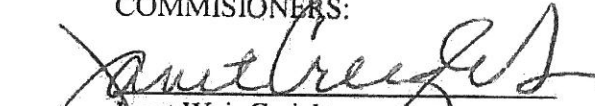
SIGNED AND ACKNOWLEDGED:


  
WITNESS

  
WITNESS


  
WITNESS

STARK COUNTY BOARD OF  
COMMISSIONERS:

  
Janet Weir Creighton  
Date: 12/31/18


  
Richard Regula

Date: 12-31-18

  
Bill Smith

Date: 12-31-18

APPROVED AS TO FORM:

  
John D. Ferrero  
Prosecutor, Stark County

Date: 12/31/18

SIGNED AND ACKNOWLEDGED:

COUNTY OF SUMMIT:

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
Ilene Shapiro, Executive

Date: \_\_\_\_\_

Authorized by Resolution \_\_\_\_\_

Approved:

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
Michael Weant, Director,  
Department of Sanitary Sewer Services

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Deborah S. Matz, Director Department  
of Law, Insurance and Risk Management

Date: \_\_\_\_\_