

REQUESTED BY:
LARSON

LAW DEPARTMENT
DRAFT NO. 0137

TITLE

AN ORDINANCE FOR THE PURPOSE OF AUTHORIZING THE MAYOR AND THE DIRECTOR OF PUBLIC SERVICE AND SAFETY, FOR AND ON BEHALF OF THE CITY OF WARREN, TO ENTER INTO AGREEMENT(S) WITH THE MAYOR OF THE VILLAGE OF LORDSTOWN, OHIO AND TO AMEND CURRENT AGREEMENTS TO PROVIDE FOR SEWER SERVICE, AND TO PROVIDE FOR OPERATION AND MAINTENANCE OF THE SEWER SYSTEM FOR THE VILLAGE OF LORDSTOWN SANITARY SEWER DISTRICT'S EAST SIDE SANITARY, PHASE I, AND DECLARING AN EMERGENCY.

ORDINANCE NO. 13026/2021

WHEREAS, on or about October 4, 2007, the City of Warren, Ohio, and the Village of Lordstown, Ohio, entered into an agreement entitled "Agreement Between the City of Warren, Ohio and the Village of Lordstown, Ohio for Sewer Outlet Privileges for the Village of Lordstown Sanitary Sewer District" (hereinafter, "Sewage Treatment Agreement"), for the treatment of sewage flows, with an expiration date of July 2022; and

WHEREAS, on or about March 16, 2016, the City of Warren, Ohio, and the Village of Lordstown, Ohio, entered into an agreement entitled "Agreement Between the City of Warren, Ohio and the Village of Lordstown, Ohio for Treatment of Flow from and Operations and Maintenance of the Sewer System for the Village of Lordstown Sanitary Sewer District's East Side Sanitary, Phase I" (hereinafter, "O&M Agreement") with an expiration date of January 1, 2021; and

WHEREAS, in mid-2019 a dispute arose between the City of Warren, Ohio, and the Village of Lordstown, Ohio, over sewage treatment rates that the City should be charging the Village Board of Public Affairs; NOW THEREFORE

BE IT ORDAINED by the Council of the City of Warren, State of Ohio:

Section 1: That the City of Warren, Ohio and the Village of Lordstown have negotiated a settlement of this dispute whereby (i) the City of Warren, Ohio, and the Village of Lordstown, Ohio, will execute an *Addendum* to the Agreement Between the City of Warren, Ohio and the Village of Lordstown, Ohio for Sewer Outlet Privileges for the Village of Lordstown Sanitary Sewer District (to amend, in part, and restate the October 4, 2007 Sewage Treatment Agreement), copy of which is attached hereto as **Exhibit "A"**, the terms of which are incorporated by reference and made a part of this Ordinance; (ii) the parties will enter into the *new* Agreement between the City of Warren, Ohio and the Village of Lordstown, Ohio for Sewer Outlet Privileges for the Village of Lordstown Sanitary Sewer District for a ten year period commencing January 1, 2022 (Sewage Treatment Agreement), copy of which is attached hereto as **Exhibit "B"**, the terms of which are incorporated by reference and made a part hereof; and (iii) the parties will enter into the *new* Agreement Between the City of Warren, Ohio and the Village of Lordstown, Ohio for Collection System Maintenance Assistance for the Village of Lordstown Sanitary Sewer District's East Side Sanitary, Phase I for a ten year period paralleling the Sewage Treatment Agreement (Collection System Maintenance Assistance Agreement), copy of which is attached hereto as **Exhibit "C"**, the terms of which are incorporated by reference and made a part of this Ordinance.

Section 2: That the Mayor, Director of Public Safety & Service, and the Director of Law are therefore authorized to execute the attached documents in settlement of this dispute and to deliver the same to the Village of Lordstown, Ohio, to-wit: (i) Addendum to Agreement Between the City of Warren, Ohio and the Village of Lordstown, Ohio for Sewer Outlet Privileges for the Village of Lordstown Sanitary Sewer District, **Exhibit "A"**; (ii) the *new* Agreement between the City of Warren, Ohio and the Village of Lordstown, Ohio for Sewer Outlet Privileges for the Village of Lordstown Sanitary Sewer District (Sewage Treatment Agreement), **Exhibit "B"**; (iii) the *new* Agreement Between the City of Warren, Ohio and the Village of Lordstown, Ohio for Collection System Maintenance Assistance for the Village of Lordstown Sanitary Sewer District's East Side Sanitary, Phase I (Collection System Maintenance Assistance Agreement), **Exhibit "C"**; and (iv) "Settlement Agreement and Release", **Exhibit "D"**.

Section 3: That the City of Warren, Ohio will accept payment by the Village of Lordstown Ohio, in the interest of expediting a settlement of this claim and avoiding any potential litigation and further loss, the sum of Twenty-Six Thousand Seven Hundred Ninety-Five and 42/100 Dollars (\$26,795.42) reflecting the True-Up Payments that the City claims the Village owes from 2016 and 2017, subject to the City providing the Lordstown Board of Public Affairs with supporting documentation to verify the accuracy of this amount.

Section 4: That this Ordinance shall be adopted as an emergency measure necessary for the public health, safety and welfare and for the further reason that the (i) Addendum to Agreement Between the City of Warren, Ohio and the Village of Lordstown, Ohio for Sewer Outlet Privileges for the Village of Lordstown Sanitary Sewer District, **Exhibit "A"**; (ii) the *new* Agreement between the City of Warren, Ohio and the Village of Lordstown, Ohio for Sewer Outlet Privileges for the Village of Lordstown Sanitary Sewer District (Sewage Treatment Agreement), **Exhibit "B"**; (iii) the *new* Agreement Between the City of Warren, Ohio and the Village of Lordstown, Ohio for Collection System Maintenance Assistance for the Village of Lordstown Sanitary Sewer District's East Side Sanitary, Phase I (Collection System Maintenance Assistance Agreement), **Exhibit "C"**; and (iv) "Settlement Agreement and Release", **Exhibit "D"** must be executed in a timely manner.

Section 5: That in the event that any section, sentence clause, phrase or portion of this Ordinance is held to be invalid by a court of competent jurisdiction, the remainder of the Ordinance shall continue in full force and effect, to the extent the remainder can be given effect without the invalid portion.

Section 6: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, welfare and safety, and for the further reason that WHEREFORE, this Ordinance shall go into immediate effect.

Passed in Council this ~~9th~~ day of June, 2021.

SIGNED: John R. Bell
PRESIDENT OF COUNCIL

ATTEST: Brenda Smith
CLERK

FILED WITH THE MAYOR: Walt

DATE APPROVED: 6-9-2021

6-9-2021
MAYOR, CITY OF WARREN, OHIO

EXHIBIT "A"
DRAFT NO. 0137

**ADDENDUM TO AGREEMENT BETWEEN THE CITY OF WARREN, OHIO AND
THE VILLAGE OF LORDSTOWN, OHIO FOR SEWER OUTLET PRIVILEGES FOR
THE VILLAGE OF LORDSTOWN SANITARY SEWER DISTRICT**

This Addendum is executed this ___ day of _____ 2021, by and between the City of Warren, Ohio (hereinafter referred to as "the City") and the Village of Lordstown, Ohio (hereinafter referred to as "the Village") and shall amend, in part, and re-state the Agreement Between the City of Warren, Ohio and the Village of Lordstown, Ohio for Sewer Outlet Privileges for the Village of Lordstown Sanitary Sewer District, dated October 4, 2007 ("Agreement"), attached hereto as Exhibit 1-A.

For good and valuable consideration, the Parties agree that Paragraphs 11 - 14 as well as 16 of the Agreement shall be deleted in their entirety and replaced with the following provision:

The billing rate for sewerage service charges (also known as user fees) shall be \$2.61 per 100 cubic feet (\$3.49 per 1,000 gallons), effective January 1, 2021, which is seventy-five percent (75%) of the current Inside City Customer rate of \$3.48 per 100 cubic feet, as identified in Section 925.03(b)(1) of the City's Codified Ordinances. This rate is fixed until this Agreement expires on December 31, 2021 and shall not be subject to additional rate charges or surcharges including, but not limited to, those identified or contemplated in Sections 923.07(c) and 925.03(d) of the City's Codified Ordinances.

For good and valuable consideration, the Parties further agree that the below portion of Paragraph 30 of the Agreement shall be modified as follows:

This Agreement shall remain in force and effect through December 31, 2021.

All other provisions contained in the Agreement that are not otherwise amended or affected by this Addendum shall remain enforceable in accordance with their terms to the extent that those provisions were still in effect as of January 1, 2021.

IN WITNESS WHEREOF, the Parties have signed this Addendum on the dates next to their signatures.

THE VILLAGE OF LORDSTOWN, OHIO

By: 
Mayor

Date: May 17, 2021

By: 
Clerk

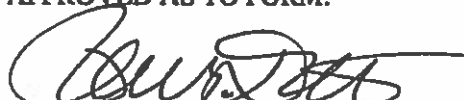
CITY OF WARREN, OHIO

By: _____

Date: _____

Its: _____

APPROVED AS TO FORM:


VILLAGE OF LORDSTOWN SOLICITOR

WARREN CITY LAW DIRECTOR

**ADDENDUM TO AGREEMENT BETWEEN THE CITY OF WARREN, OHIO
AND THE VILLAGE OF LORDSTOWN, OHIO FOR SEWER OUTLET PRIVILEGES
FOR THE VILLAGE OF LORDSTOWN SANITARY SEWER DISTRICT**

Signature Page for the City of Warren, Ohio

By: _____
Title: Mayor

Date: _____

By: _____
Title: Director of Public Service & Safety

Date: _____

Approved as to Form:

By: _____
Title: City Law Director

Date: _____

EXHIBIT 1-A

(00812640-1)

Agreement

**Between the City of Warren, Ohio and the Village of Lordstown, Ohio
For Sewer Outlet privileges for the Village of Lordstown Sanitary Sewer District**

THIS AGREEMENT, made and entered into at Warren, Ohio this 4th day of October, 2007, by and between the City of Warren, Ohio (hereinafter referred to as "the City") and the Village of Lordstown, Ohio (hereinafter referred to as "the Village"), the City being authorized to act by Ordinance No. 12063/07, passed by its Council and signed by its Mayor on 9/26, 2007, and the Village being authorized to act by Ordinance No. 50-2007, passed by its Council and signed by its Mayor on July 11, 2007:

WHEREAS, all sewage flows generated in the Village of Lordstown Sanitary Sewer District as shown on the attached Exhibit "A" are transported in Village-owned, operated and maintained sewer systems until being metered prior to their entry into the sewerage system owned, operated, and maintained by the City; and

WHEREAS, both the Village and the City are desirous of having the sewage flows from said Village of Lordstown Sanitary Sewer District: metered as they enter the sewerage system owned by the City; conveyed to treatment; and treated at the City's Water Pollution Control Center pursuant to standards promulgated by the Ohio Environmental Protection Agency (OEPA) and the United States Environmental Protection Agency (USEPA); and

WHEREAS, the Village and the City, acting pursuant to Article XVIII of the Ohio Constitution, are fully authorized to enter into this Agreement;

NOW THEREFORE, in consideration of the premises and the promises contained herein, it is mutually agreed by and between the City and the Village as follows:

1. This Agreement shall be, and is, effective as of _____, 2007, and shall, and does, apply to all of the area within the limits of the said Village of Lordstown Sanitary Sewer District as shown on the attached Exhibit "A".
2. The City will accept and receive into its sewerage system, and will treat and dispose of the sewage from within said Village of Lordstown Sanitary Sewer District.
3. The City and the Village will equally share the cost of maintaining and/or replacing any necessary or useful metering equipment to measure the volume of sewage discharged into the City's sewerage system by the Village.
4. This Agreement may be extended to other areas presently not defined within the attached Exhibit "A" by an agreement supplemental hereto, or by a new agreement, having terms mutually satisfactory to the Village and the City, including the designation of the point or points at which the particular sanitary sewage and wastes are to be delivered by the Village to the City's sewerage system.
5. The sewage flows generated in the said Village of Lordstown Sanitary Sewer District may be increased, provided both parties agree that existing service is not impaired.
6. The Village may construct, own, operate, maintain, extend, enlarge, or replace any Village facilities to provide sewer service, directly or indirectly, to the Village of Lordstown Sanitary Sewer District. Village shall notify the City in advance

of any action to be taken pursuant to this section, including information on location, route, and impact on the City.

7. It is intended that the sewage to be contributed from said Village of Lordstown Sanitary Sewer District to the City's system shall be sewage from residences, business buildings, institutions and industrial establishments, as ordinarily defined. All sewage discharged to the Village of Lordstown Sanitary Sewer District or such other sewer system, or other sewer systems which ultimately reach the City's sewerage system, shall be in conformance with all then applicable provisions of the City's Codified Ordinances, with particular reference to the City's sewer ordinances.

8. The term "sewage" as used in this Agreement shall be, and is, defined as follows: "'Sewage', means the spent water of a community. From the standpoint of source, it may be a combination of water carried wastes from residences, commercial buildings, institutions and any other industrial establishments, together with such ground water, surface water or storm water that may be present". The Village agrees that only sewage as so defined shall be discharged from its collecting and interceptor sewers, except as otherwise provided within this Agreement. For any lot, parcel of land building or premises in the Village of Lordstown Sanitary Sewer District having or proposing to have any connection with the Village collector or interceptor sewers, and proposing to discharge industrial waste either directly or indirectly to the City's Water Pollution Control Center, a written permit for any such connection and discharge shall first be obtained from the Pretreatment Coordinator of the City of Warren. Such written permit shall be issued only after determination is made by the City that said connection

and discharge comply with the then Codified Ordinances of the City of Warren and all State and Federal EPA pretreatment guidelines.

The Village agrees to immediately establish, enact and enforce standards for permissible wastewater discharge into its sewerage system. Such standards shall be at least as stringent as the standards of the Codified Ordinances of the City of Warren. Authority permitting the City to enforce the City's Pretreatment Program is granted in accordance with Rules and Regulations for the Village of Lordstown Sanitary Sewer District.

The City shall have, and does have, the right and authority to monitor all facilities of any industrial discharger which uses the Village's sewerage system for purposes of determining the volume of wastewater and strength of pollutant load contributed by such industrial discharger. The Village agrees to secure for the City, by legislation or otherwise, complete right of access to such facilities. The City shall, and does, retain specific and total authority for the enforcement of pretreatment guidelines of all industrial/commercial contributors.

The volume of wastewater and strength of pollutant of any industrial discharger will be established by the City. If an industrial flow monitoring station is necessary, the cost of constructing, operating and maintaining such a station shall be paid for by the discharger or dischargers which it serves.

The Village shall comply with all applicable requirements of the City's current NPDES Permit, any successive NPDES Permits which the City obtains, and any other permits of whatever nature which the City may now have or hereafter obtain relative to

water pollution control or affecting the operation of the City's sewerage system. The City shall also comply with, and promptly notify the Village of, such requirements.

The Village shall also comply with those requirements in effect within the City which are necessary to prevent the City from violating the terms of any applicable NPDES permit. In the event the Village and/or a Village industrial discharger fails to so comply, the City shall be, and is, permitted to apply any enforcement procedures expressed, addressed or implied in this Agreement, including, but not limited to, the following procedure: The City, upon such failure, may forward a certified letter demanding commencement or compliance within thirty (30) days after receipt of said letter; if default continues beyond said initial thirty (30) day period, the City may issue a public release calling for compliance within thirty (30) days after the public release; continued default thereafter will permit the City to take action to do whatever is necessary to achieve compliance, all at the cost to the party or parties in default. For purposes of this paragraph, the word "commencement" shall, and does, mean the submission to the City of a written proposal for correction of noncompliance, the commencement of the preparation of construction plans and specifications for the corrective measures (if necessary), and the submission to the City of a timetable for completion of corrective measures within a reasonable time.

9. The City shall indemnify and hold harmless the Village from and upon any claim, cost, loss or damage (including, but not limited to, fines, assessments or judgments) resulting or arising from any breach by the City of a duty or responsibility assumed by, or imposed upon, the City per this Agreement, and from any negligent or wrongful act or omission committed by the City relative to this Agreement.

The Village shall indemnify and hold harmless the City from and upon any claim, cost, loss or damage (including, but not limited to, fines, assessments or judgments) resulting or arising from any breach by the Village per this Agreement, and from any negligent or wrongful act or omission committed by the Village relative to this Agreement.

To the extent that a party has actual knowledge, reasonable written notice of any such aforementioned claim, cost, loss or damage shall be promptly given to the other party.

Despite the provisions of this section 9., however, either party may, at its own cost, avail itself of any or all review or appeal processes available to it relative to the matters addressed within this section 9.

10. The parties hereto shall cooperate in enforcing: the terms and provisions of this Agreement; U.S. Public Law; all other laws relating to the control of pollutants; all relevant Ohio laws; and all relevant federal and state rules and regulations.

11. The City of Warren User Charge System is hereby established as a system for calculating charges as shown in the attached "Exhibit B and B-1" or "Exhibit C" for the cost of treatment for the said Village of Lordstown Sanitary Sewer District. Said attached "Exhibit B and B-1" (consisting of two (2) pages) and said attached "Exhibit C" (consisting of nine (9) pages) are hereby incorporated herein, for all purposes, as if fully rewritten herein. It is agreed that the City has updated and will continue to annually update the Warren User Charge System in accordance with the attached "Exhibit B and B-1" and the attached "Exhibit C", and OEPA and USEPA.

regulations. Adjustments may be made in accordance with OEPA and USEPA regulations.

12. It is further agreed that the City shall notify the Village by March 1st of each year of the rates which will be in effect in that calendar year. At that time, the City shall also provide a summary of the calculations upon which said rates are based. The City will determine said rates by calculating the average cost per million gallons for the previous two (2) calendar years and applying that rate as previously discussed. The City will make available to the Village the summary of the calculations for each year, and the City will cooperate with the Village in reviewing and discussing such rates.

13. Any adjustments to the actual annual cost of treatment (cost per million gallons) not equaling the previous year's cost shall be made as part of the March invoicing as a credit or additional charge. All documentation for the above-mentioned adjustments shall be submitted with the March invoice.

14. Any objection(s) on the part of the Village as to any rates, credits and/or additional charges levied by the City shall be brought to the City's attention, in writing, within thirty (30) days after the Village is notified of said rates, credits and/or additional charges. Any such objection(s) must, in sufficient detail, set forth the nature and basis of the objection(s). The parties shall immediately begin to attempt to resolve said objection(s) and any dispute(s) arising therefrom. If a resolution between the parties cannot be attained within two (2) months thereafter, the objection(s) and dispute(s) shall immediately be submitted to final and binding arbitration through the American Arbitration Association. The decision of that arbitration shall constitute final decision and action on the rates, credits and/or additional charges involved. The decision of that

arbitration will be reflected in the first payment following that decision. Costs associated with such arbitration will be borne by the parties equally. Each party, however, shall be responsible for paying its own attorneys or representatives associated with the arbitration.

15. The City shall bill the Village on a monthly basis for the operations, maintenance and repair of the Water Pollution Control Center of the City based on the established cost per million gallons. The entire sum invoiced to the Village by the City shall be due and payable within forty-five (45) days after the statement is rendered to the Village. Failure to pay within said forty-five days shall result in a late charge of one percent (1%) per month on the unpaid balance being charged to the account beginning on the first day of the week following the termination of the forty-five (45) days payment period. This late charge shall not be levied in cases of disputed billings or readings as addressed previously in section 14. of this Agreement.

16. The City shall provide all annual reports and audits of the City's Water Pollution Control Department to the Village as soon as possible after their review by the Mayor and Warren City Council. All annual reports shall clearly denote the revenue and expenses associated with the operation, maintenance and replacement (OM&R) of the City's sewerage facilities. The Village of Lordstown Sanitary Sewer District rates have been, and will continue to be, calculated in such a manner that OM&R expenses are distributed equitably and proportionately in accordance with the attached "Exhibit B and B-1" and "Exhibit C". Any excess OM&R funds shown in an annual report or audit of the City's Water Pollution Control Department shall, at the option of the City, either be held by the City for use in meeting future OM&R expenses or shall be

assigned to fund, or partially fund, capital improvement projects which will benefit all users of the City's sewerage system. In either case, the Village will be informed on an annual basis as to the disposition of excess OM&R funds.

For purposes of this Agreement, the word "expenses" for the said Village of Lordstown Sanitary Sewer District shall mean, and does mean: all OM&R expenses (except those specifically excluded by this Agreement and as noted in the attached "Exhibit B and B-1"), plus one and one half times the debt payment due on the OWDA debt payment due on all wastewater treatment facilities under loan number 0708SW dated March 8, 1984.

17. For purposes of this section 17., the phrase "operating and maintenance expense" shall mean, and does mean, those expenses required to maintain an existing state or to efficiently preserve from failure or decline the existing state and all agreed upon administration and engineering expenses attributable to operation and maintenance, but excluding debt service, and further excluding capital improvements as provided for from the Capital Asset Replacement Fund. If the Village is to hereafter participate in the cost of the Capital Asset Replacement Fund, it shall do so upon such terms as are mutually agreed upon and incorporated, if so determined to be necessary or desirable, in an agreement supplemental hereto. The operating and maintenance expense of the City's collection system shall not be borne by the Village.

18. OM&R expenses shall include all costs necessary for operation as defined in attached "Exhibit C", maintenance and replacement of the City's sewerage system as agreed, including the fractions of elected officials; salaries and department costs as shown in attached "Exhibit C".

19. The component of the rates associated with OWDA debt payment for the facilities constructed as part of a federal grant will expire on December 31, 2012.

20. The Village shall have the right at all reasonable times to inspect and audit the books and records of the City relative to sewer service charges.

21. The City agrees to make available to the Village its said Village of Lordstown Sanitary Sewer District's meter readings.

22. Any projects involving the addition to, or capital expansion of, the existing treatment works which provide additional benefit to sewer users will be reviewed to determine that portion of costs (OM&R) that will be borne by the Village. If such costs cannot be mutually agreed upon within a three-month period after conclusion of such review, the disputed amount(s) will be submitted to final and binding arbitration through the American Arbitration Association. The finding of such arbitration will immediately take effect in the next payment after said arbitration decision.

23. All meters used in determining flow rates from the Village to the City's Water Pollution Control Center will be calibrated every six (6) months. Representatives from both parties will be present for such calibrations. Any failure in the proper operation of meters as determined by either party will immediately be brought to the attention of the other party.

24. If a meter is mutually determined by and between the parties to be non-functional, or out of calibration, and such condition(s) exists for less than six (6) months, then that time period will be billed by calculating the average flow over the six-

month period previous to the beginning of the non-functioning or incorrect calibration, and applying costs per million gallons.

If a meter is mutually determined by and between the parties to be non-functional or out of calibration, and such condition(s) exists for six months or more, then that time period will be billed by calculating the average flow over the comparable period of time previous to the beginning of the non-functioning or incorrect calibration and applying costs per million gallons.

25. The charge herein established for treatment and disposal of sewage flows from said Village of Lordstown Sanitary Sewer District is solely a service charge and does not imply, and shall not imply, ownership, interest or management by the Village in or of the sewerage system, the sewerage treatment facilities, or the sludge disposal facilities of the City.

26. The City shall: continue to operate and maintain the sewage system owned and served by the City in accordance with the requirements of the OEPA and the USEPA; receive acceptable wastes discharged from the sewerage systems in said Village of Lordstown Sanitary Sewer District; and treat such wastes to the degree of treatment required by the OEPA and the USEPA.

27. It is understood, acknowledged and agreed that should any covenant or provision herein contained be held invalid by a court of competent jurisdiction, the same shall not be held to affect any other covenant or provision herein contained.

28. It is understood, acknowledged and agreed that a waiver by the City or the Village of a breach of any condition or covenant contained herein by the other party shall not be deemed to be a continuous waiver. Such waiver shall not operate to bar or

prevent the City or the Village from declaring a forfeiture or penalty for a successive breach of either the same or any other condition or covenant.

29. If any portion of this Agreement is unacceptable to the OEPA or the USEPA then that portion shall be renegotiated.

30. Neither the City nor the Village shall assign its rights or duties under this Agreement without the written consent of the other party.

This Agreement shall remain in force and effect thru July, 2022, but shall be subject to review of its terms and conditions by the parties at such times as either the City or the Village shall request. There shall, however, be no more than one such review every two (2) calendar years.

A Capital Assets Replacement Fund shall be established for the purpose of: replacing major items of more than Fifty Thousand Dollars (\$50,000.00) at the City's Water Pollution Control Center; assuring the useful life of that facility; and/or obtaining and installing buildings, equipment, accessories or appurtenances which are necessary to maintain or expand the capacity and performance of such works in order to meet the Ohio Environmental Protection Agency's NPDES requirements. A sum shall be determined by the OEPA and placed in the fund each year. Each party shall contribute to the fund in proportion to its flow into the City's Water Pollution Control Center.

IN WITNESS WHEREOF, the City and the Village have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the day and year first above mentioned.

WITNESSES:

CITY OF WARREN, OHIO
("the City")

Rachel J. Ferris
(as to both signators)

by: Mark J. Don
Mayor

James E. Fabian and
(as to both signators)

by: William D. Frankl
Director of Public Service and Safety

VILLAGE OF LORDSTOWN, OHIO
("the Village")

D. L. [Signature]
(as to both signators)

by: [Signature]
Michael A. Chaffee
Mayor

[Signature]
(as to both signators)

by: Judith A. Hall
Judith A. Hall,
Clerk

APPROVED:

[Signature]
VILLAGE OF LORDSTOWN SOLICITOR

[Signature]
WARREN CITY LAW DIRECTOR

[Signature]
WARREN CITY AUDITOR

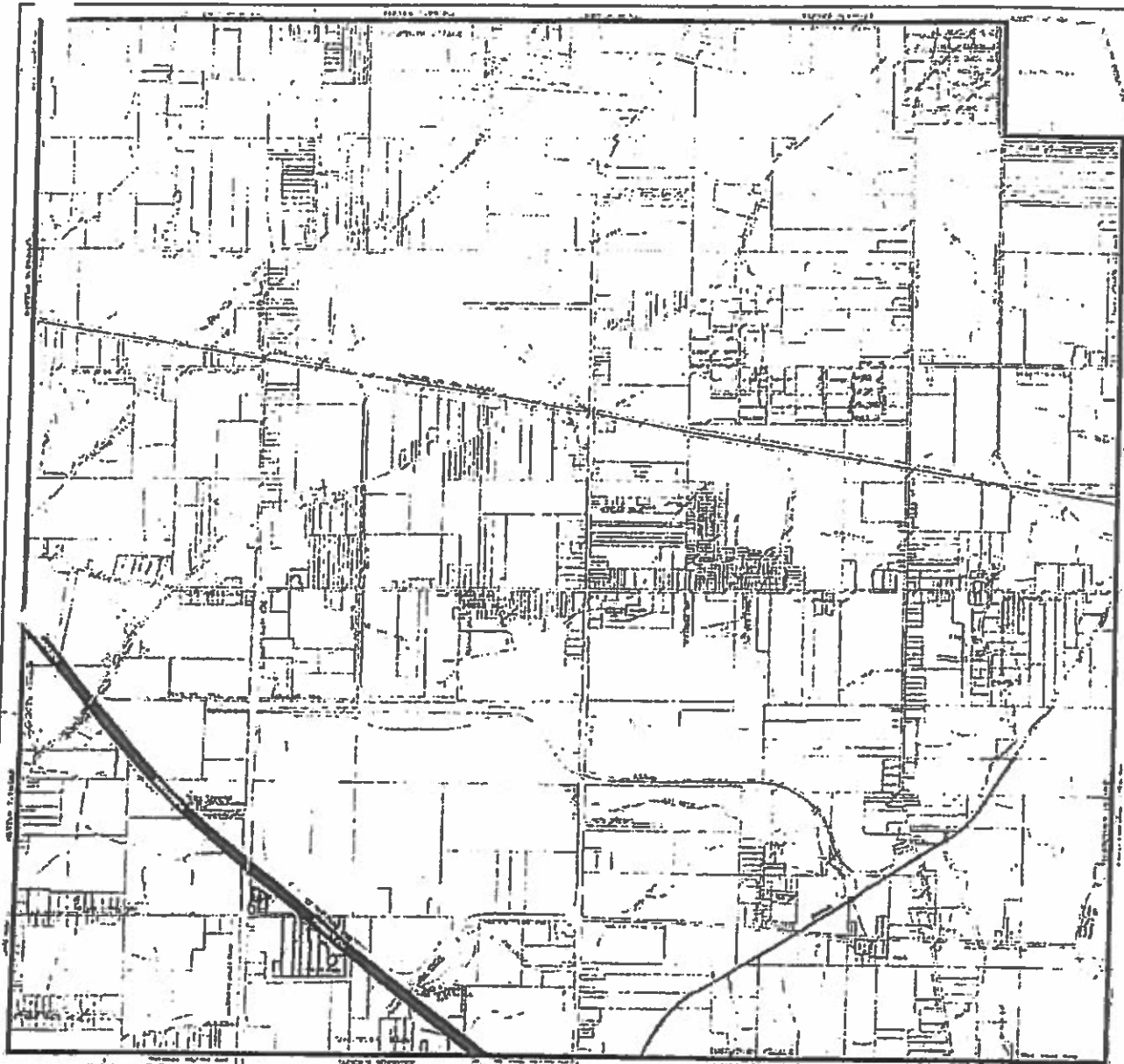


EXHIBIT A

**VILLAGE OF LORDSTOWN
SANITARY SEWER DISTRICT
TRUMBULL COUNTY, OHIO**

SEWER DISTRICT

EXHIBIT B

Calculation Block Detail

The calculation block is an actual line item description and value that allows the City of Warren and the Village of Lordstown Sanitary Sewer District (Lordstown SSD) to mathematically formulate the expense associated with treating flow for the Lordstown area. All flow is referred to in Million Gallons (MG). The Lordstown Sanitary Sewer District flows are derived from a series of calculations based mainly on Operation, Maintenance, and Replacement (OM&R), flows, and Debt Service (bond/loan payments). This section shall define the line items in textual form to clarify the calculations.

By contract, OM&R shall specifically exclude utility billing, sewer rental, the original OWDA Loan obligation. Further, the City and the Village have agreed on additional deductions referred to as "Negotiated Deductions" (see page 2).

1. **Lordstown SSD OM&R** – This item is calculated by using the year-end budgetary expense figure derived from the City auditor's office. All accounts from Fund 450 703 and part of Fund 450 704 are totaled to come up with a total OM&R. Next, the contractual items are deducted (utility billing, sewer rental, OWDA). Next, the Negotiated Deductions are backed out.
2. **Plant Flow (MG)** – This item is derived from plant reports (daily and monthly) and are included in all annual reports.
3. **Lordstown SSD OM&R Increment (MG)** – The Source Description on the Calculation Block describes the calculation as taking Line 1 (Lordstown SSD OM&R) and dividing this amount by Line 2 (Plant Flow).
4. **OWDA Loan Payments** – This item is an actual amount derived from the amortization table associated with this loan.
5. **OWDA Increment (MG)** – The Source Description on the Calculation Block describes the calculation as taking Line 4 (OWDA Loan Payments) and dividing this amount by Line 2 (Plant Flow).
6. **Administrative Expense** – This item is an administrative cost determined by the City to be \$133.50 per million gallons.
7. **Lordstown SSD Rate per MG** – The Source Description on the Calculation Block describes the calculation as taking Line 3 (Lordstown OM&R Increment), adding Line 5 (OWDA Increment), and adding line 6 (Administrative Expense). The sum of these three (3) line items is the Rate for Lordstown SSD per million gallons.

EXHIBIT B - 1

*City of Warren/Lordstown SSD
"Negotiated Deductions" Descriptions*

- **Electrical Expense:** The City agrees to deduct electrical expenses for remote pump stations (Parkman Road, Youngstown Road, Rio Vista, Brookside, Sferra Blvd., and South Leavitt) from the total Operation, Maintenance and Replacement (OM&R) amount.
- **Consultant Fees:** The City agrees to deduct consultant fees associated with the remote pump stations as referenced above.
- **Administrative Services:** The City agrees to deduct the Water Pollution Control Departments obligation for the following line items for Administrative Service - Mayor's Office, Civil Service, Administrative Support and 50% of Engineering Fees.
- **Pretreatment Lab Fees:** The City agrees to deduct all Pretreatment Lab Fees.
- **Equipment Maintenance and Purchase:** The City agrees to deduct Equipment Maintenance and Purchase for the remote pump stations as referenced hereinbefore.
- **Wage, Fringe and Supply:** The City agrees to deduct Wage, Fringe and Supply costs as they relate to the remote pump stations as referenced hereinbefore.
- **Sewer Maintenance:** The City agrees to deduct all Sewer Maintenance costs for City-owned Sewers..
- **Septage Haulers Sludge:** The City agrees to deduct all costs associated with Septage Haulers Sludge.
- **Equalization:** The City agrees to deduct all costs associated with Equalization.

REQUESTED BY:
FLASK

LAW DEPARTMENT
DRAFT NO. 2719

TITLE

AN ORDINANCE FOR THE PURPOSE OF
AUTHORIZING THE MAYOR AND THE DIRECTOR
OF PUBLIC SERVICE AND SAFETY, FOR AND ON
BEHALF OF THE CITY OF WARREN, TO ENTER
INTO AGREEMENT(S) WITH THE MAYOR OF THE
VILLAGE OF LORDSTOWN, OHIO TO PROVIDE
SEWER SERVICE, AND DECLARING AN
EMERGENCY.

ORDINANCE NO. 12063/07

WHEREAS, sewage flows generated in the Lordstown Eastside Sewer District are transported in Village-owned, operated and maintained sewer systems until being metered prior to their entry into the sewerage system owned, operated, and maintained by the City of Warren; and

WHEREAS, both the Village of Lordstown and the City of Warren are desirous of having the sewage flows from said Lordstown Eastside Sewer District : metered as they enter the sewerage system owned by the City; conveyed to treatment; and treated at the City of Warren Water Pollution Control Center pursuant to standards promulgated by the Ohio Environmental Protection Agency (OEPA) and the United States Environmental Protection Agency (USEPA); NOW THEREFORE

BE IT ORDAINED by the Council of the City of Warren, State of Ohio:

Section 1: That the Mayor and Director of Public Service and Safety be, and hereby are, authorized, for and on behalf of the City of Warren, to enter into a written agreement(s) with the Village of Lordstown, Ohio, to provide sewer service to the Village of Lordstown.

Section 2: That any such agreement(s) as provided for in Section 1 of this Ordinance shall be in substantial compliance and conformity with the "AGREEMENT" which is attached hereto as Exhibit "A", and the terms and conditions of said attached "AGREEMENT" being hereby approved and authorized by this Council. Said Exhibit "A" is hereby incorporated herein, for all purposes, as if fully rewritten herein.

Section 3: That the agreement(s) shall first be approved by the Law Director, and the City Auditor be, and hereby is, authorized to disburse said funds upon receipt of proper vouchers, signed by the proper persons, for the stated purpose and for no other purpose.

Section 4: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, welfare and safety, and for the further reason that WHEREFORE, this Ordinance shall go into immediate effect.

Passed in Council this 26th day of SEPT., 2007.

SIGNED: Alford L. Mank ATTEST: Barla K. Neugebauer
PRO-TEM PRESIDENT OF COUNCIL CLERK C.M.C.

FILED WITH THE MAYOR: 9-26-07

DATE APPROVED: 9-26-07

Robert A. Marchese
ACTING MAYOR, CITY OF WARREN, OHIO

EXHIBIT "B"
DRAFT NO. 0137

**Agreement Between the City of Warren, Ohio and the Village of Lordstown, Ohio for
Sewer Outlet privileges for the Village of Lordstown Sanitary Sewer District**

THIS AGREEMENT, made and entered into at Warren, Ohio this ____ day of _____, 2021, by and between the City of Warren, Ohio (hereinafter referred to as "City") and the Village of Lordstown, Ohio (hereinafter referred to as "Village"), the City being authorized to act by Ordinance No. _____, passed by its Council and signed by its Mayor on _____, and the Village being authorized to act by Ordinance No. _____, passed by its Council and signed by its Mayor on _____:

WHEREAS, all sewage flows generated in the Village of Lordstown Sanitary Sewer District as shown on the attached Exhibit "2-A" are transported in Village-owned, operated and maintained sewer systems until being metered prior to their entry into the sewerage system owned, operated, and maintained by the City; and

WHEREAS, both the Village and the City are desirous of having the sewage flows from said Village of Lordstown Sanitary Sewer District: metered as they enter the sewerage system owned by the City; conveyed to treatment; and treated at the City's Water Pollution Control Center pursuant to standards promulgated by the Ohio Environmental Protection Agency (OEPA) and the United States Environmental Protection Agency (USEPA); and

WHEREAS, the Village and the City, acting pursuant to Article XVIII of the Ohio Constitution, are fully authorized to enter into this Agreement;

NOW THEREFORE, in consideration of the premises and the promises contained herein, it is mutually agreed by and between the City and the Village as follows:

1. This Agreement shall be, and is, effective as of January 1, 2022, and shall, and does, apply to all of the area within the limits of the said Village of Lordstown Sanitary Sewer District as shown on the attached Exhibit "2-A".
2. The City will accept and receive into its sewerage system and will treat and dispose of the sewage from within said Village of Lordstown Sanitary Sewer District.
3. The City and the Village will equally share the cost of maintaining and/or replacing any necessary or useful metering equipment to measure the volume of sewage discharge into the City's sewerage system by the Village.
4. This Agreement may be extended to other areas presently not defined within the attached Exhibit "2-A" by an agreement supplemental hereto, or by a new agreement, having terms mutually satisfactory to the Village and the City, including the designation of the point or points at which the particular sanitary sewage and wastes are to be delivered by the Village to the City's sewerage system.

5. The sewage flows generated in the Village of Lordstown Sanitary Sewer District may be increased.

6. The Village may construct, own, operate, maintain, extend, enlarge, or replace any Village facilities to provide sewer service, directly or indirectly, to the Village of Lordstown Sanitary Sewer District. The Village shall notify the City in advance of any action to be taken pursuant to this section, including information on location, route, and impact on the City.

7. It is intended that the sewage to be contributed from said Village of Lordstown Sanitary Sewer District to the City's system shall be sewage from residences, business buildings, institutions, and industrial establishments, as ordinarily defined. All sewage discharged to the Village of Lordstown Sanitary District or such other sewer system, or other sewer systems which ultimately reach the City's sewerage system, or other sewer systems which ultimately reach the City's sewerage system, shall be in conformance with all then applicable provisions of the City's Codified Ordinances, with particular reference to the City's sewer ordinances.

8. The term "sewage" as used in this Agreement shall be, and is, defined as follows: "Sewage" means the spent water of a community. From the standpoint of source, it may be a combination of water carried wastes from residences, commercial buildings, institutions, and any other industrial establishments, together with such ground water, surface water or storm water that may be present". The Village agrees that only sewage as so defined shall be discharged from its collecting and interceptor sewers, except as otherwise provided within this Agreement. For any new lot, parcel of land building or premises in the Village of Lordstown Sanitary Sewer District having or proposing to have any connection with the Village collector or interceptor sewers, and proposing to discharge industrial waste either directly or indirectly to the City's Water Pollution Control Center, a written permit for any such connection and discharge shall first be obtained from the Pretreatment Coordinator of the City of Warren. Such written permit shall be issued only after determination is made by the City that said connection and discharge comply with the then Codified Ordinances of the City of Warren and all State and Federal EPA pretreatment guidelines.

The Village has established, enacted, and enforces standards for permissible wastewater discharge into its sewerage system. Such standards are at least as stringent as the standards of the Codified Ordinances of the City of Warren. Authority permitting the City to enforce the City's Pretreatment Program is granted in accordance with Rules and Regulations for the Village of Lordstown Sanitary Sewer District.

The City shall have, and does have, the right and authority to monitor all facilities or any industrial discharger which uses the Village's sewerage system for purposes of determining the volume of wastewater and strength of pollutant load contributed by such industrial discharger. The Village agrees to secure for the City, by legislation or otherwise, complete right of access to

such facilities. The City shall, and does, retain specific and total authority for the enforcement of pretreatment guidelines of all industrial/commercial contributors.

The volume of wastewater and strength of pollutant of any industrial discharger will be established by the City. For any necessary industrial flow monitoring station, the cost of constructing, operating, and maintaining such a station shall be paid for by the discharger or dischargers which it serves.

The Village shall comply with all applicable requirements of the City's current NPDES Permit, any successive NPDES Permits which the City obtains, and any other permits of whatever nature which the City may now have or hereafter obtain relative to water pollution control or affecting the operation of the City's sewerage system. The City shall also comply with, and promptly notify the Village of, such requirements.

The Village shall also comply with those requirements in effect within the City which are necessary to prevent the City from violating the terms of any applicable NPDES permit. In the event the Village and/or a Village industrial discharger fails to so comply, the City shall be, and is, permitted to apply any enforceable procedures expressed, addressed, or implied in this Agreement, including, but not limited to, the following procedure: The City, upon such failure, may forward a certified letter demanding commencement or compliance within thirty (30) days after receipt of said letter; if default continues beyond said initial thirty (30) day period, the City may issue a public release calling for compliance within thirty (30) days after the public release; continued default thereafter will permit the City to take action to do whatever is necessary to achieve compliance, all at the cost to the party or parties in default. For purposes of this paragraph, the word "commencement" shall, and does, mean the submission to the City of a written proposal for correction of noncompliance, the commencement of the preparation of construction plans and specifications for the corrective measures (if necessary), and the submission to the City of a timetable for completion of corrective measures within a reasonable time.

9. The City shall indemnify and hold harmless the Village from and upon any claim, cost, loss or damage (including, but not limited to, fines, assessments or judgments) resulting or arising from any breach by the City of a duty or responsibility assumed by, or imposed upon, the City per this Agreement and/or from any negligent or wrongful act or omission committed by the City relative to this Agreement.

The Village shall indemnify and hold harmless the City from and upon any claim, cost, loss or damage (including, but not limited to, fines, assessments or judgments) resulting or arising from any breach by the Village per this Agreement and/or from any negligent or wrongful act or omission committed by the Village relative to this Agreement.

To the extent that a party has actual knowledge, reasonable written notices of any such aforementioned claim, cost, loss or damage shall be promptly given to the other party.

{00812640-1}

Despite the provisions of this Section 9, however, either party may, at its own cost, avail itself of any or all review or appeal processes available to it relative to the matters addressed within this Section 9.

10. The parties hereto shall cooperate in enforcing: the terms and provisions of this Agreement; U.S. Public Law; all other laws relating to the control of pollutants; all relevant Ohio laws; and all relevant federal and state rules and regulations.

11. The Term of this Agreement shall be for a period of One-Hundred-and-Twenty (120) months from the effective date of January 1, 2022 until December 31, 2031.

12. The billing rate for sewerage service charges (also known as user fees) for the Term shall be as follows¹:

- Year 1 (2022): \$2.78 per 100 cubic feet (\$3.72 per 1,000 gallons);
- Year 2 (2023): \$2.78 per 100 cubic feet (\$3.72 per 1,000 gallons);
- Year 3 (2024): \$2.96 per 100 cubic feet (\$3.96 per 1,000 gallons);
- Year 4 (2025): \$2.96 per 100 cubic feet (\$3.96 per 1,000 gallons);
- Year 5 (2026): \$3.13 per 100 cubic feet (\$4.18 per 1,000 gallons);
- Year 6 (2027): 90% of the Inside City Customer Rate;
- Year 7 (2028): 95% of the Inside City Customer Rate;
- Year 8 (2029): 95% of the Inside City Customer Rate;
- Year 9 (2030): 100% of the Inside City Customer Rate; and
- Year 10 (2031): 100% of the Inside City Customer Rate.

The "Inside City Customer Rate" shall be defined as the current inside rate being charged, for that applicable year, for meter users within the City as determined by the City's Codified Ordinances, which is presently founded in Section 925.03(b)(1).

¹ For purposes of clarity, the Parties agree that the rates for Years 1 – 5 were calculated based on percentages of \$3.48 per 100 cubic feet (the now current Inside City Customer rate for the City of Warren). Years 1 – 2 are 80% of that amount; Years 3 – 4 are 85% of that amount; and Year 5 is 90% of that amount.
(00812640-1)

The aforementioned rates shall not be subject to additional rate charges or surcharges including, but not limited to, those identified or contemplated in Sections 923.07(c) and 925.03(d) of the City's Codified Ordinances.

13. The Parties stipulate and agree that, after December 31, 2026, the Village shall have the option to terminate this Agreement, with or without cause and without incurring any penalty, at any time, upon giving written notice to the City at least twelve (12) months in advance of the effective date of the termination. Upon giving such notice of termination, this Agreement will remain in full force and effect for the immediately subsequent twelve (12)-month period and shall then terminate with the Village having no further obligations under this Agreement.

14. The City shall bill the Village on a monthly basis on a per thousand gallon basis. The entire sum invoiced to the Village by the City shall be due and payable within forty-five (45) days after the statement is rendered to the Village. Failure to pay within said forty-five days shall result in a late charge of one percent (1%) per month on the unpaid balance being charged to the account beginning on the first day of the week following the termination of the forty-five (45) days payment period. This late charge shall not be levied in cases of disputed billings or disputed readings.

16. The City agrees to make available to the Village its Village of Lordstown Sanitary Sewer District's meter readings.

17. All meters used in determining flow rates from the Village to the City's Water Pollution Control Center will be calibrated every six (6) months. Representatives from both parties will be present for such calibrations. Any failure in the proper operation of meters as determined by either party will immediately be brought to the attention of the other party.

18. If a meter is mutually determined by and between the parties to be non-functional, or out of calibration, then that time period will be billed by calculating the average flow over the same time period from the previous year, and applying costs per thousand gallons.

19. The charge herein established for treatment and disposal of sewage flows from said Village of Lordstown Sanitary Sewer District is solely a service charge and does not imply, and shall not imply, ownership, interest, or management by the Village in or of the sewerage system, the sewerage treatment facilities, or the sludge disposal facilities of the City.

20. The City shall: continue to operate and maintain the sewage system owned and served by the City in accordance with the requirements of the OEPA and the USEPA; receive acceptable wastes discharged from the sewerage systems in said Village of Lordstown Sanitary Sewer District; and treat such wastes to the degree of treatment required by the OEPA and the USEPA.

21. It is understood, acknowledged and agreed that should any covenant or provision herein contained be held invalid by a court of competent jurisdiction, the same shall not be held to affect any other covenant or provision herein contained.

22. It is understood, acknowledged and agreed that a waiver by the City or the Village of a breach of any condition or covenant contained herein by the other party shall not be deemed to be a continuous wavier. Such waiver shall not operate to bar or prevent the City or the Village from declaring a forfeiture or penalty for a successive breach of either the same or any other condition or covenant.

23. If any portion of this Agreement is unacceptable to the OEPA or the USEPA then that portion shall be renegotiated.

24. Neither the City nor the Village shall assign its rights or duties under this Agreement without the written consent of the other party.

IN WITNESS WHEREOF, the City and the Village have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the day and year first above mentioned.

THE VILLAGE OF LORDSTOWN, OHIO

By: 
Mayor

Date: May 17, 2021

By: 
Clerk

CITY OF WARREN, OHIO

By: _____

Date: _____

Its: _____

APPROVED AS TO FORM:



VILLAGE OF LORDSTOWN SOLICITOR

WARREN CITY LAW DIRECTOR

**AGREEMENT BETWEEN THE CITY OF WARREN, OHIO
AND THE VILLAGE OF LORDSTOWN, OHIO FOR SEWER OUTLET PRIVILEGES
FOR THE VILLAGE OF LORDSTOWN SANITARY SEWER DISTRICT**

Signature Page for the City of Warren, Ohio

By: _____
Title: Mayor

Date: _____

By: _____
Title: Director of Public Service & Safety

Date: _____

Approved as to Form:

By: _____
Title: City Law Director

Date: _____

EXHIBIT 2-A

(00812640-1)

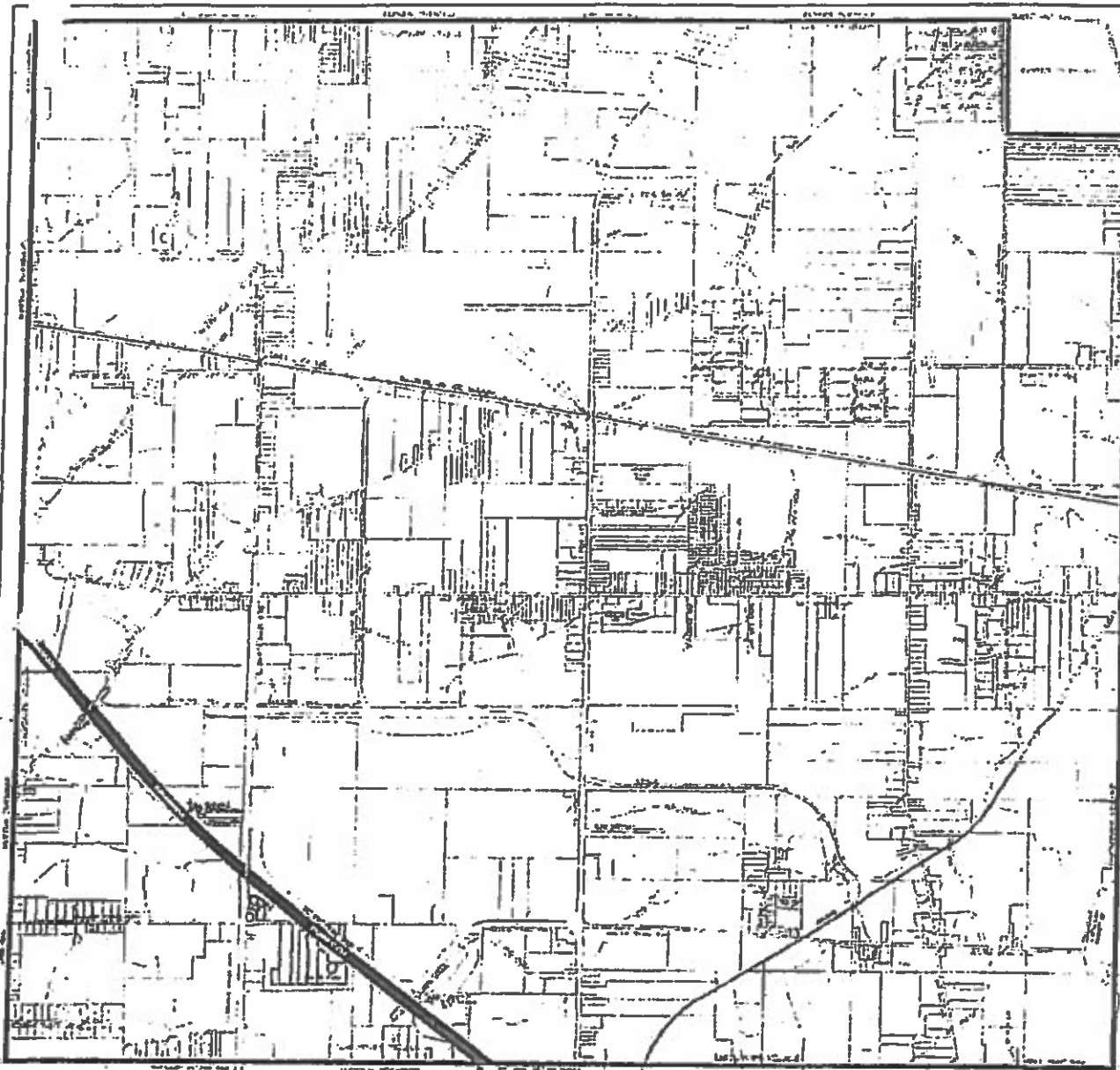


EXHIBIT A

**VILLAGE OF LORDSTOWN
SANITARY SEWER DISTRICT
TRUMBULL COUNTY, OHIO**

LEGEND
——— SEWER DISTRICT

EXHIBIT "C"
DRAFT NO. 0137

Agreement

**Between the City of Warren, Ohio and the Village of Lordstown, Ohio
For Collection System Maintenance Assistance for the Village of Lordstown
Sanitary Sewer District's East Side Sanitary, Phase I**

THIS AGREEMENT, made and entered into at Warren, Ohio, this _____ day of _____, 2021, by and between the City of Warren, Ohio, (hereinafter referred to as "City") and the Village of Lordstown, Ohio, (hereinafter referred to as "Owner"), the City being authorized to act by Ordinance No. _____, passed by its Council and signed by its Mayor on _____, 2021, and the Owner being authorized to act by Ordinance _____, passed by its Council and signed by its Mayor on _____, 2021:

WHEREAS, all sewage flows generated in the Village of Lordstown Sanitary Sewer District's East Side Sanitary, Phase I as shown on the attached Exhibit "3-A" are transported in Village-owned, and currently Village-operated and maintained sewer systems until being metered prior to their entry into the sewerage system owned, operated, and maintained by the City; and

WHEREAS, the sewage flows from said East Side Sanitary, Phase I are metered as they enter the sewerage system owned by the City; conveyed to treatment; and treated at the City's Water Pollution Control Center pursuant to standards promulgated by the Ohio Environmental Protection Agency (OEPA) and the United States Environmental Protection Agency (USEPA); and

WHEREAS, both the Owner and the City are desirous of having the City operate and maintain the facilities for the collection, pumping, and transport of domestic, commercial, and industrial sewage (hereinafter referred to as the "Sewer System") from sewer portions of the Village of Lordstown Sanitary Sewer District's East Side Sanitary, Phase I.

WHEREAS, the Owner and the City, acting pursuant to Article XVIII of the Ohio Constitution, are fully authorized to enter into this Agreement.

NOW, THEREFORE, in consideration of the premises and the promises contained herein, it is mutually agreed by and between the City and the Village as follows:

1. This Agreement shall be, and is, effective as of _____, 2021, and shall, and does, apply to all of the area within the limits of the said Village of Lordstown Sanitary Sewer District's East Side Sanitary, Phase I as described above and shown on the attached Exhibit "3-A".

2. The City will assist in the maintenance of the Sewer System within said Village of Lordstown Sanitary Sewer District's East Side Sanitary, Phase I. The Sewer System shall be defined as the sanitary sewer mains, manholes, force mains, and lift stations and appurtenances. The Sewer System shall also include the grinder pumps, controller, and basin with appurtenances contained there within, and immediate connections to the grinder basin. Work outside the sewer mains and public right-of-way will be limited to grinder pumps under the jurisdiction of the Owner. The maintenance of the grounds upon which the Sewer System is located shall remain the responsibility of the Owner.

3. The City shall provide O&M service to the Village within a reasonable period of time given the following severity of circumstances:

Response Category 1 – Pump Station, Forcemain, Gravity Sewer O&M – Alarm received by Village and then sent to Warren WPCF staff. On pump station power failure, pump station high water alarm, or possible break in forcemain or gravity sewer; Village staff will first identify problem and then inform City and significant connected industries connected to the East Side Sanitary Sewer of what the problem is. This category of alarm also includes a forcemain or gravity sewer alarm for breaks in forcemains or gravity sewer lines. This alarm also includes a pump station alarm for total loss of normal utility power to pumping systems. The improved pumping systems at each of the three Village wastewater pump stations will be equipped with a fueled auto-start motor connected directly to each pumps rotating assembly thereby negating: a secondary electric power source, a third bypass pump and related suction and discharge hoses, and an emergency connection to the forcemain. Therefore, City staff would be called upon by the Village when such an alarm arises to assist in the operation of the second pump while it is being powered by the auto-start motor. If Category 1 alarm escalates to the point that the both pumps do not operate or cannot operate beyond the pumping capabilities of both pumps under the power of the auto-start motors, then Village is to immediately notify significant connected industries connected to the East Side Sanitary Sewer to cease discharge of wastewater flows until Village return calls said industries to inform them alarm has been addressed.

Response Category 2 – Pump Station O&M Lead Pump Failure Alarm – Alarm received by Village and then sent to Warren WPCF staff. Lag pump will automatically be placed into service when lead pump is out of service.

Response Category 3 – Pump Station, Forcemain, Gravity Sanitary Sewer O&M Alarm – Alarm received by Village and then sent to Warren WPCF staff.

Response Category 4 – Pump Station, Forcemain, Gravity Sanitary Sewer O&M Alarm – This alarm is for pump station, forcemain, or gravity sanitary sewer operation and maintenance items identified by Village that have the ability to be scheduled.

4. The Owner shall maintain and make available to the City a complete and up-to-date set of as-builts or record drawings of the Sewer System to be operated and maintained by the City. The Owner shall also maintain and make available a complete and up-to-date set of operations and maintenance manuals for the Owner's facilities to be operated and maintained by the City.

5. Operation and maintenance assistance shall be performed by the City when requested by the Owner on a reimbursement basis. The City shall be reimbursed for labor costs as a burdened rate calculated per Federal Emergency Management Agency, (FEMA), guidelines based upon the current applicable union contract wage and benefit structure. Equipment shall be reimbursed per FEMA schedules as shown on the agency's website at <https://www.fema.gov/schedule-equipment-rates>. Burdened hourly rates and equipment rates will be charged at 100% of the then-current FEMA hourly and equipment rates.

6. This Agreement may be extended to other areas presently not defined within the attached Exhibit "3-A" by an agreement supplemental hereto, or by a new agreement, having terms mutually satisfactory to the Owner and the City.

7. The Sewer System in the said East Side Sanitary, Phase I may be expanded, provided both parties agree that existing service is not impaired.

8. The Owner may construct, own, operate, maintain, extend, enlarge, or replace any of its facilities to provide sewer service, directly or indirectly, to the East Side Sanitary, Phase I. Owner shall

notify the City in advance of any action to be taken pursuant to this section, including information on location, route, and impact on the City.

9. The Owner may request the City to perform physical improvements to its existing Sewer System. Such improvements must be within the current limits and rights-of-way of the Sewer System and are above and beyond the scope of this Agreement and shall be performed for a negotiated amount which is mutually agreeable.

10. The Owner shall be responsible for obtaining all necessary permits and licenses, the design, construction, operation and management of any and all capital projects necessary for the improvement or expansion of the Sewer System in said East Side Sanitary, Phase I.

11. The City shall indemnify and hold harmless the Owner from and upon any claim, cost, loss or damage (including, but not limited to, fines, assessments or judgments) resulting or arising from any breach by the City of a duty or responsibility assumed by, or imposed upon, the City per this Agreement, and from any negligent or wrongful act or omission committed by the City relative to this Agreement.

The Owner shall indemnify and hold harmless the City from and upon any claim, cost, loss or damage (including, but not limited to, fines, assessments or judgments) resulting or arising from any breach by the Owner of a duty or responsibility assumed by, or imposed upon, the Owner, per this Agreement, and from any negligent or wrongful act or omission committed by the Owner relative to this Agreement.

To the extent that a party has actual knowledge, reasonable written notice of any such aforementioned claim, cost, loss or damage shall be promptly given to the other party.

Despite the provisions of this Section, however, either party may, at its own cost, avail itself of any or all review or appeal processes available to it relative to the matters addressed within this section

12. The parties hereto shall cooperate in enforcing: the terms and provisions of this Agreement; U.S. Public Law; all other laws relating to the control of pollutants; all relevant Ohio laws; and all relevant federal and state rules and regulations.

(00812640-1)

13. The cost to purchase and/or replace any necessary equipment or material which is or will be owned by the Owner will be paid by the Owner at the recommendation of the City and upon review by the Owner or its representative. Equipment or material purchased by the Owner will become property of the Owner. Equipment or material to be purchased by the Owner may include, but it not limited to, residential grinder pumps, lift station pumps and replacement parts and fittings, valves, meters, diesel fuel for generators, and manhole castings and lids.

14. The City shall prepare all annual reports as required by the U.S. and Ohio Environmental Protection Agencies. The City shall submit all annual reports to the appropriate regulatory agencies. Copies of these reports shall be provided to the Village of Lordstown Board of Trustees of Public Affairs. The City shall make available to the Owner copies of all work orders documenting maintenance to the Sewer System.

15. It is understood, acknowledged and agreed that should any covenant or provision herein contained be held invalid by a court of competent jurisdiction, the same shall not be held to affect any other covenant or provision herein contained.

16. It is understood, acknowledged and agreed that a waiver by the City or the Owner of a breach of any condition or covenant contained herein by the other party shall not be deemed to be a continuous waiver. Such waiver shall not operate to bar or prevent the City or the Owner from declaring a forfeiture or penalty for a successive breach of either the same or any other condition or covenant.

17. If any portion of this Agreement is unacceptable to the OEPA or the USEPA then that portion shall be renegotiated.

18. Neither the City nor the Owner shall assign its rights or duties under this Agreement without the written consent of the other party.

19. This Agreement shall remain in full force and effect as long as there exists an agreement in place between the Village and the City for sewer outlet privileges / treatment of sewage flows for the Village of Lordstown Sanitary Sewer District – the termination of which shall correspondingly terminate this Agreement.


(00812640-1)

IN WITNESS WHEREOF, the City and the Owner have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the day and year first above mentioned.

THE VILLAGE OF LORDSTOWN, OHIO

By: 
Mayor

Date: May 17, 2021

By: 
Clerk

CITY OF WARREN, OHIO

By: _____

Date: _____

Its: _____

APPROVED AS TO FORM:


VILLAGE OF LORDSTOWN SOLICITOR

WARREN CITY LAW DIRECTOR

**AGREEMENT BETWEEN THE CITY OF WARREN, OHIO
AND THE VILLAGE OF LORDSTOWN, OHIO FOR COLLECTION SYSTEM
MAINTENANCE ASSISTANCE FOR THE VILLAGE OF LORDSTOWN SANITARY
SEWER DISTRICT'S EAST SIDE SANITARY, PHASE I**

Signature Page for the City of Warren, Ohio

By: _____
Title: Mayor

Date: _____

By: _____
Title: Director of Public Service & Safety

Date: _____

Approved as to Form:

By: _____
Title: City Law Director

Date: _____

EXHIBIT 3-A

{00812640-1}

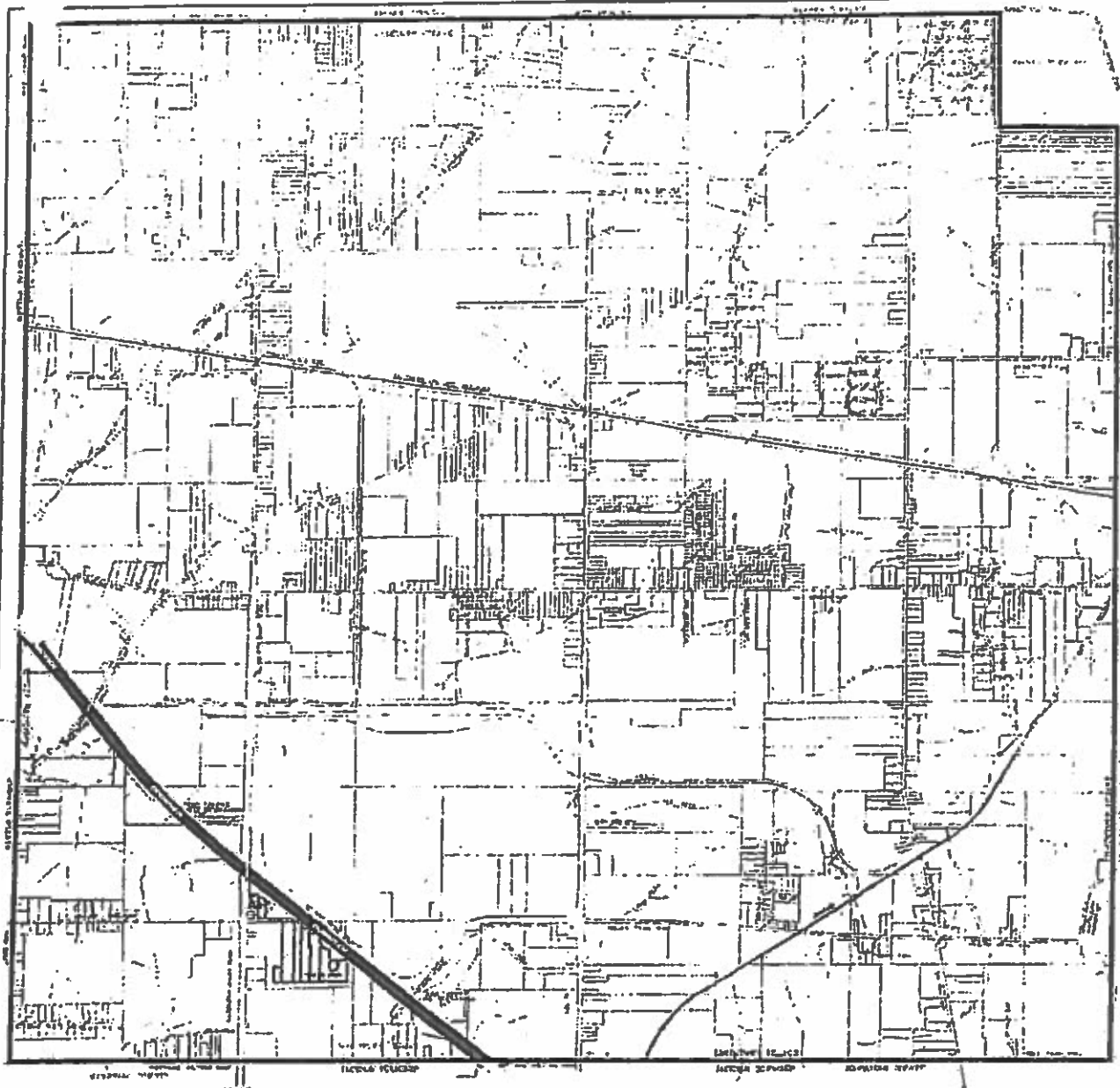


EXHIBIT A

**VILLAGE OF LORDSTOWN
SANITARY SEWER DISTRICT
TRUMBULL COUNTY, OHIO**

LEGEND
 [Symbol] SEWER DISTRICT

EXHIBIT "D"
DRAFT NO. 0137

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is entered into by and between the City of Warren, Ohio (hereinafter, "City" or "Warren"), an Ohio municipal corporation, and the Village of Lordstown, Ohio, (hereinafter, "Village" or "Lordstown"), also an Ohio municipal corporation, (collectively, "Parties"), effective as of the execution date below.

WITNESSETH:

WHEREAS, the Village owns, operates, and maintains sanitary sewers in its East Side Sanitary Sewer District that transport sewage flows for treatment at the City's Water Pollution Control Center;

WHEREAS, on or about October 4, 2007, the Parties entered into an agreement titled "Agreement Between the City of Warren, Ohio and the Village of Lordstown, Ohio for Sewer Outlet Privileges for the Village of Lordstown Sanitary Sewer District" (hereinafter, "Sewage Treatment Agreement"), for the treatment of sewage flows, with an expiration date of July 2022;

WHEREAS, pursuant to the Sewage Treatment Agreement, the City billed the Village at sewage treatment rates based on a cost-of-treatment calculation detailed in the Sewage Treatment Agreement;

WHEREAS, on or about March 16, 2016, the Parties entered into an agreement titled "Agreement Between the City of Warren, Ohio and the Village of Lordstown, Ohio for Treatment of Flow from and Operations and Maintenance of the Sewer System for the Village of Lordstown Sanitary Sewer District's East Side Sanitary, Phase I" (hereinafter, "O&M Agreement") with an expiration date of January 1, 2021;

WHEREAS, in mid-2019, a dispute arose between the Parties over the appropriate sewage treatment rate that the City should be charging the Village;

WHEREAS, the City's position was that the O&M Agreement replaced the Sewage Treatment Agreement and dictated the rate calculation;

WHEREAS, the Village's position was that the Sewage Treatment Agreement and O&M Agreement were separate contracts and the Sewage Treatment Agreement continued to govern the rate calculation using the cost-of-treatment formula;

WHEREAS, in connection with this dispute, the City increased the Village's sewage treatment rate to \$2.61 per 100 cubic feet, applied the increased rate retroactively from January 2018 to August 2019 ("Retroactive Amounts"), and charged True-Up Payments for 2016 and 2017, along with interest;

WHEREAS, the Village began paying at the rate of \$2.61 per 100 cubic feet, with objection and under protest, as of August 2019;

WHEREAS, the O&M Agreement terminated on January 1, 2021, and the Village increased the sewage treatment rate to \$4.89 per 100 cubic feet and issued an invoice to the Village for the Retroactive Amounts, True-Up Payments, and interest;

WHEREAS, the Village denies that these monies are owed to the City and contends that it has overpaid the City for sewage treatment since August 2019 on the grounds that the treatment rate must be calculated using the cost-of-treatment formula in the Sewage Treatment Agreement until July 2022;

WHEREAS, the Parties desire to settle and resolve this dispute in an effort to avoid litigation and conserve their financial resources; and

WHEREAS, the Village and the City, acting pursuant to Article XVIII of the Ohio Constitution, are fully authorized to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the adequacy of which is hereby acknowledged, the Parties agree as follows:

1. The Parties will enter into the Addendum to amend, in part, and re-state the Sewage Treatment Agreement, attached hereto as Exhibit 1, in which said Agreement shall terminate on December 31, 2021 and the sewage treatment rate shall be \$2.61 per 100 cubic feet (\$3.49 per 1,000 gallons) from January 1, 2021 through December 31, 2021.

2. The Parties will enter into a *new* sewage treatment agreement, attached hereto as Exhibit 2, with an effective date of January 1, 2022 and which, by its terms, will expire no later than December 31, 2031.

3. The Parties will also enter into a *new* collection system maintenance assistance agreement, attached hereto as Exhibit 3, with an effective date of January 1, 2021 and which, by its terms, will expire no later than December 31, 2031.

4. The Village will pay to the City, within sixty (60) days of the Effective Date of this Agreement, \$26,795.42, reflecting the True-Up Payments that the City claims the Village owes from 2016 and 2017, subject to the City's provision of adequate supporting documentation for the Village to verify the accuracy of this amount.

5. The City hereby releases any and all claims, demands, or rights to the Retroactive Amounts and/or any other amounts that may be owed for the provision of sewer treatment services to the Village, including any interest associated with the Retroactive Amounts, True-Up Payments, and any other amounts that the City claims may be owed. By executing this Agreement, the City fully releases and forever discharges the Village from any and all claims, demands, actions, and causes of action of any nature related to the Sewage Treatment Agreement, O&M Agreement, and/or the treatment of sewage flows from the Village's East Side Sanitary Sewer District. For avoidance of doubt, the City expressly waives the right to any additional monies for the treatment of sewage flows from the Village's East Side Sanitary Sewer

District, other than the \$26,795.42 in True-Up Payments from 2016 and 2017 and any amounts that may be due for 2021 pursuant to the Addendum.

6. Execution of this Settlement Agreement and Release and the payment of said sums are not, and shall not be construed as, an admission by the Parties with respect to any claims made in this dispute. The Parties understand that each Party denies any wrongdoing or liability with respect to any claim, and that the foregoing sum is paid in settlement of disputed claims for the purpose of resolving any and all disputes among the Parties and does not constitute any admission of wrongdoing or liability by either Party.

7. The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall nevertheless remain in force and effect.

8. This Settlement Agreement and Release may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

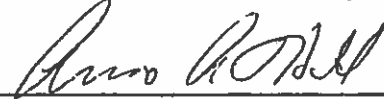
9. This Settlement Agreement and Release shall become effective following approval by Lordstown Village Council, Village of Lordstown Board of Trustees of Public Affairs, Warren City Council, and execution by the Parties ("Effective Date"). The recitals herein are hereby incorporated by reference and form a material part of the Settlement Agreement.

10. The Parties agree that no interest shall accrue on the payment set forth herein, provided that the payment is made in accordance with Paragraph 4 above.

11. This Settlement Agreement and Release shall be construed and interpreted in accordance with the laws of the State of Ohio.

The Parties have hereunto affixed their signatures effective as of the day and year first written below.

THE VILLAGE OF LORDSTOWN, OHIO

By: 
Mayor

Date: May 17, 2021

By: 
Clerk

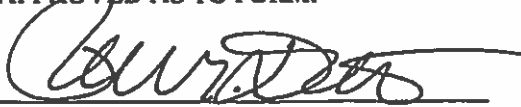
CITY OF WARREN, OHIO

By: _____

Date: _____

Its: _____

APPROVED AS TO FORM:



VILLAGE OF LORDSTOWN SOLICITOR

WARREN CITY LAW DIRECTOR

SETTLEMENT AGREEMENT AND RELEASE

Signature Page for the City of Warren, Ohio

By: _____
Title: Mayor

Date: _____

By: _____
Title: Director of Public Service & Safety

Date: _____

Approved as to Form:

By: _____
Title: City Law Director

Date: _____