

BY: Demarest

RESOLUTION NO. 2023-38

A RESOLUTION TO AUTHORIZE THE VILLAGE MANAGER TO SIGN A MEMORANDUM OF UNDERSTANDING AND INTERGOVERNMENTAL COOPERATION AGREEMENT AMONG THE CITY OF JOHNSTOWN, THE VILLAGE OF ALEXANDRIA, AND THE VILLAGE OF GRANVILLE, OHIO FOR THE PLANNING, DEVELOPMENT AND PROVISION OF WATER AND WASTEWATER SERVICES

WHEREAS, The Village of Granville, The Village of Alexandria and the City of Johnstown (hereinafter the "Parties") are municipal corporations located in proximity of each other; and,

WHEREAS, the Parties wish to cooperate in improving public health, safety, and welfare by making water and wastewater services more widely available; and

WHEREAS, there are areas proximate to the Parties that are not currently served by a public water supply; and,

WHEREAS, there are areas proximate to the Parties that are experiencing sewage pollution problems due to the absence or inadequacy of existing wastewater services; and

WHEREAS, no centralized wastewater collection or treatment system is currently available to many residents of Liberty, St. Albans, Granville, and Monroe Townships (collectively, the "Townships"); and

WHEREAS, the Parties have consulted with representatives of the Townships, which have expressed an interest in their residents having access to an affordable public water system and centralized wastewater system while preserving the character of the Townships, and intend to respect those interest; and

WHEREAS, the development of a public water system and a centralized wastewater system would allow for the provision of adequate supplies of potable water and the abatement or elimination of sewage pollution problems, and would also serve to stimulate economic development in areas in which such systems are installed or subsequently expanded; and

WHEREAS, the Parties, in pursuing the above-mentioned public purposes, intend to avail themselves of all powers available under the Constitution of the State of Ohio, the laws adopted by the Ohio General Assembly, as well as all municipal powers available to them; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Granville, Ohio in consideration of the foregoing, and in accordance with the requirements of the Ohio Revised Code, The Ohio Constitution, The Granville Village Code and Charter does hereby agree that:

Section I. The Village Manager is hereby authorized to enter into a Memorandum of Understanding with The City of Johnstown, and Village of Alexandria to cooperatively develop a multi-jurisdictional plan designed to facilitate the development and expansion of water and wastewater infrastructure, promote responsible growth, and to create a partnership that recognizes the identity, aspirations, rights, and duties of all jurisdictions and that develops methods of cooperation among the Parties. A copy of the Memorandum of Understanding is attached hereto and marked as Exhibit A.


Section II. This resolution shall take effect immediately upon passage.

Passed this 20th day of September, 2023.




Mayor Melissa Hartfield

ATTEST:



Autumn Klein, Clerk of Council

APPROVED AS TO FORM:



William Mattes, Law Director

MEMORANDUM OF UNDERSTANDING
AND INTERGOVERNMENTAL COOPERATION AGREEMENT
AMONG THE CITY OF JOHNSTOWN, THE VILLAGE OF
ALEXANDRIA, AND THE VILLAGE OF GRANVILLE, OHIO FOR THE
PLANNING, DEVELOPMENT AND PROVISION OF WATER AND
WASTEWATER SERVICES

This Intergovernmental Cooperation Agreement (“ICA”) and Memorandum of Understanding (“MOU”) (collectively, this “Agreement”) is entered into by and between the City of Johnstown (“Johnstown”), the Village of Alexandria (“Alexandria”), and the Village of Granville (“Granville”), Ohio (collectively, the “Parties”).

The Parties to this Agreement, together with (a) any townships in which they are located or are proximate to (collectively, the “Townships”) or (b) other political subdivisions who wish to join and whose participation is approved by the Parties, have entered into it to cooperatively develop a multi-jurisdictional plan designed to facilitate the development and expansion of water and wastewater infrastructure, promote responsible growth, and to create a partnership that recognizes the identity, aspirations, rights, and duties of all jurisdictions and that develops methods of cooperation among the Parties.

This Agreement may be executed in multiple counterparts, each of which shall be considered as part of the original. This Agreement shall be binding on the

signatories hereto. The failure or refusal of any of the Parties to execute this Agreement shall not affect its terms or binding effect as regards the executing Parties.

WHEREAS, the Parties are municipal corporations located in proximity of each other; and

WHEREAS, the Parties wish to cooperate in improving public health, safety, and welfare by making water and wastewater services more widely available; and

WHEREAS, there are areas proximate to the Parties that are not currently served by a public water supply; and

WHEREAS, there are areas proximate to the Parties that are experiencing sewage pollution problems due to the absence or inadequacy of existing wastewater services; and

WHEREAS, no centralized wastewater collection or treatment system is currently available to many residents of Liberty, St. Albans, Granville, and Monroe townships (collectively, the "Townships"); and

WHEREAS, the Parties have consulted with representatives of the Townships, which have expressed an interest in their residents having access to an affordable public water system and centralized wastewater system while preserving the character of the Townships, and intend to respect those interests; and

WHEREAS, the development of a public water system and a centralized wastewater system would allow for the provision of adequate supplies of potable water and the abatement or elimination of sewage pollution problems, and would also serve to stimulate economic development in areas in which such systems are installed or subsequently expanded; and

WHEREAS, the Parties, in pursuing the above-mentioned public purposes, intend to avail themselves of all powers available under the Constitution of the State of Ohio, the laws adopted by the Ohio General Assembly, as well as all municipal powers available to them; and

WHEREAS, the Parties each wish to extend full and good faith cooperation to each other in accomplishing the foregoing objectives; and

NOW, THEREFORE, the Parties agree as follows:

Section 1. The Parties agree to fully and in good faith cooperate with and assist each other in planning, designing, purchasing interests in real property, funding, and installing one or more public water systems and wastewater collection and/or treatment systems and/or enter into contracts with other municipalities to provide service to their residents and residents of the Townships, and such other areas, if any, as the Parties may determine (referred to herein as the "Projects").

Section 2. Full and good faith cooperation means undertaking such actions as may be reasonably requested by the other Parties which will contribute to the

achievement of the purpose of this Agreement and refrain from acts which would be detrimental to the achievement of the purpose of this Agreement and, with the intent not to limit the broad meaning of the foregoing, shall include, but not be limited to the following.

- (A) Vigorously opposing, including participating as a party litigant if necessary or appropriate, any action by any entity that would be detrimental to the achievement of the purposes of this Agreement;
- (B) Pass resolutions or ordinances stating support and cooperation for the Project when requested;
- (C) Pass resolutions or ordinances and take other necessary or appropriate actions to authorize or obtain the use of right-of-ways and easements;
- (D) Pass ordinances as may be necessary to secure funding for the Project and execute applications for grants, loans, and other forms of financial aid;
- (E) Execute contracts and applications for permits, licenses, and approvals;

Section 3. The Parties intend to make decisions called for by this Agreement by consensus and they shall make all reasonable efforts to do so, provided, however, that each Party shall have plenary authority to determine the ways and means by which water and wastewater services will be provided to its respective residents.

Section 4. It is the intent of the Parties to create one or more Joint

Economic Development Districts ("JEDDs") and/or Tax Increment Financing Incentive Districts ("TIFs) singly or in conjunction with one or both other Parties and one or more of the Townships for the purpose of facilitating development within such Districts.

Section 5. The Parties, together with one or more of the Townships and

other political subdivisions, may elect to form an "umbrella" organization, such as a R.C. Chapter 6119 District or Regional Council of Governments to facilitate their activities.

Section 6. Unless otherwise agreed in writing by the Parties, out of pocket costs of planning, designing, constructing, and operating the Projects (excluding attorneys fees) shall be allocated among the Parties as follows: Johnstown – 45%;

Alexandria – 10%; Granville – 45%.

Section 7. A Party may withdraw from this Agreement at any time upon thirty (30) days' notice to the other Parties, provided, however, that the withdrawing Party shall remain liable for its share of all obligations incurred pursuant to this Agreement prior to the date of notice.

Section 8. Legal counsel for one or more of the Parties has previously represented or is currently representing other Parties in connection with other legal matters unrelated to this Agreement. Each Party agrees that such counsel may

continue or undertake to represent the other Parties in other existing or future unrelated matters.

Section 9. Neither this Agreement nor any duties or obligations hereunder shall be assignable by any party without the prior, express written consent of the other Parties. Subject to the foregoing, this Agreement shall be binding upon the successors and assigns of the Parties hereto.

Section 10. In the event that this Agreement, or any of its terms, conditions, or provisions, is challenged by any third party or Parties in a court of law, the Parties agree to cooperate with one another and to use their best efforts in defending this Agreement with the objective of upholding this Agreement. Each party shall bear its own costs in any such proceeding challenging this Agreement or any term or provision thereof.

Section 11. The Parties agree to cooperate with one another and to use their best efforts in the implementation of this Agreement and to sign or cause to be signed, in a timely fashion, all necessary instruments, applications and other documents, and to take such other actions to effectuate the purposes of this Agreement.

Section 12. The Parties agree to cooperate with each other in contributing to the success of applications to obtain grants and loans to perform the Project.

Section 13. In the event the Parties have a dispute as to any of the terms or applicability of this Agreement, the Parties agree to use their best efforts to resolve the dispute through a mutually acceptable mediation process prior to any party filing a lawsuit. Each party participating in mediation shall pay its own costs of mediation, including its proportionate share of the compensation and administrative expenses required by the mediator and by the mediation services provider selected by the Parties. If a mediator has not been agreed to by the Parties within sixty (60) days after one of the Parties has requested that a dispute arising under this Agreement be mediated, then any of the Parties may commence a lawsuit or commence such other method of pursuing its remedies as may be available.

Section 14. A failure to comply with the terms of this Agreement shall constitute a default hereunder. The party in default shall have ninety (90) days after receiving written notice from the other party of the event of default to cure that default. If the default is not cured within that time, the non-defaulting party may institute judicial proceedings for specific performance under this Agreement or for damages or both, or may pursue such other remedies as may be available.

Section 15. By entering into this Agreement, none of the Parties intend to relinquish or waive any of the immunities they now have or may hereafter be accorded under state and/or federal laws including, without limitation, all those

immunities accorded to governmental entities and their officers and employees under Chapter 2744 of the Ohio Revised Code.

Section 16. This Agreement is not intended to be in derogation of the powers granted to municipal corporations by Article XVIII, Ohio Constitution, or any of the provisions of the Ohio Constitution or the Parties' respective municipal charters, municipal codes, or of the Ohio Revised Code.

Section 17. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors. This Agreement shall not inure to the benefit of anyone other than as provided in the immediately preceding sentence. This Agreement is not intended to and does not create rights or benefits of any kind for any persons or entities which are not a party to this Agreement.

Section 18. In the event that any section or provision of this Agreement or any covenant, application, agreement, obligation or action, or part thereof, made, assumed, entered into or taken is held to be illegal or invalid for any reason:

- (A) that illegality or invalidity shall not affect the remainder hereof or thereof, any other section or provision hereof, or any other covenant, application, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein; and

(B) each section, provision, covenant, application, agreement, obligation or action, or part thereof, shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law.

Section 19. The waiver by any party of a breach or violation of any provision of this Agreement shall not operate or be construed to be a waiver of any subsequent breach thereof.

Section 20. Notices required or authorized by this Agreement shall be addressed to:

If to Alexandria: Jim Jasper, Mayor
4 West Main Street
P.O. Box 96
Alexandria, OH 43001

With copy to: David Ball
Rosenberg and Ball Co., LPA
250 West St #500
Columbus, OH 43215

If to Granville: Herb Koehler, City Administrator
141 East Broadway
P.O. Box 514
Granville, OH 43023

With copy to: William Mattes
Dinsmore & Shohl LLP
191 W. Nationwide Blvd., Suite 200
Columbus, OH 43215

If to Johnstown: Sean Staneart, City Manager
599 South Main Street
Johnstown, OH 43031

With copy to: Yazan Ashrawi
Frost Brown Todd
10 West Broad Street, Suite 2300
Columbus, OH 43215

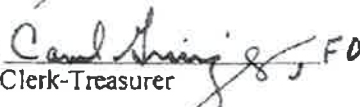
Section 21. Nothing contained in this Agreement shall be construed to limit the authority of the Parties under Ohio law including, but not limited to, the right to levy taxes and assessments, or engage in other forms of financing as each party deems necessary or appropriate.

Section 22. This Agreement contains the entire agreement of the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral. It may not be modified orally, but only by agreement in writing signed by all Parties. This Agreement shall be governed by the law of Ohio.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly signed in their respective names by their duly authorized officers.

VILLAGE OF ALEXANDRIA

By: 
Mayor

Attest:  FD
Clerk-Treasurer

APPROVED AS TO FORM:

[Signature]
Village Solicitor

VILLAGE OF GRANVILLE

By: [Signature]
Mayor Village Manager

Attest: [Signature]
Clerk-Treasurer of Council

APPROVED AS TO FORM:

[Signature]
Village Solicitor

CITY OF JOHNSTOWN

By: [Signature]
Mayor Acting City Manager

Attest: [Signature]
Clerk-Treasurer

APPROVED AS TO FORM:

[Signature]
Law Director