RESOLUTION OF THE GOVERNING BOARD
OF THE
NORTHEAST OHIO AREAWIDE COORDINATING AGENCY

WHEREAS, the Northeast Ohio Areawide Coordinating Agency (NOACA) is the Metropolitan Planning Organization (MPO) for the counties of Cuyahoga, Geauga, Lake, Lorain, and Medina, and the area-wide water quality planning agency for the same region; and

WHEREAS, Clean Water 2000, the current update to the NOACA Section 208 Water Quality Management Plan, was adopted by the NOACA Governing Board, certified by the Governor of Ohio, and approved by the United States Environmental Protection Agency; and

WHEREAS, Clean Water 2000 provides for modifications to wastewater treatment facility planning area (FPA) boundaries, subject to review by the NOACA staff and the NOACA Water Quality Advisory Committee; and

WHEREAS, NOACA has received a request from the Lake County Commissioners, as the Designated Management Agency of the Lake County Madison FPA, to remove parcel 01-A-008-0-00-050-0 and transfer it to the Village of Madison FPA subject to agreements in Attachment A; and

WHEREAS, the Village of Madison is in agreement with the proposed FPA boundary modification; and

WHEREAS, the NOACA Water Quality Advisory Committee has reviewed this request and recommends the Governing Board approve the boundary changes as agreed to by the affected parties.

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Northeast Ohio Areawide Coordinating Agency, consisting of forty-four principal officials serving general purpose local governments throughout and within the counties of Cuyahoga, Geauga, Lake, Lorain, and Medina that:

Section 1. NOACA's Clean Water 2000 Plan is amended to include the area delineated in Attachment A as part of the Village of Madison Facility Planning Area as agreed upon by the Designated Management Agencies.
**Section 2.** The Executive Director is authorized to transmit certified copies of this resolution to appropriate federal, state, and local agencies.

Certified to be a true copy of a Resolution of the Governing Board of the Northeast Ohio Areawide Coordinating Agency adopted this 14th day of September 2012.

Secretary: 

Date Signed: 9-14-12
The Board of County Commissioners, in and for Lake County, Ohio, met this day in regular session with the following members present:
Commissioners: Aufuldish, Sines and Troy
Commissioner Troy presented the following resolution and moved its adoption.

RESOLUTION AUTHORIZING EXECUTION OF A MEMORANDUM OF UNDERSTANDING AMONG THE VILLAGE OF MADISON, SARAH AND JAMES C. POWELL, AND BOARD OF LAKE COUNTY COMMISSIONERS

WHEREAS, the Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this resolution were taken in an open meeting of this Board of County Commissioners, and that all the deliberations of this Board of County Commissioners and of its committees, if any, which resulted in the adoption, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Revised Code, and

WHEREAS, it is the recommendation of the Lake County Sanitary Engineer that the Board of Lake County Commissioners authorize execution of a Memorandum of Understanding among the Village of Madison, Sarah and James C. Powell, and the Board of Lake County Commissioners regarding sanitary sewer service to Permanent Parcel Number 01-A-008-0-00-050-0; said Memorandum incorporated herein by reference as Exhibit I.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners, in and for Lake County, Ohio, hereby authorizes execution of a Memorandum of Understanding among the Village of Madison, Sarah and James C. Powell, and the Board of Lake County Commissioners regarding sanitary sewer service to Permanent Parcel Number 01-A-008-0-00-050-0; said Memorandum incorporated herein by reference as Exhibit I.

BE IT FURTHER RESOLVED, that the Clerk of the Board is hereby directed to forward certified copies of this resolution to the Lake County Auditor, Lake County Sanitary Engineer, to Mayor Sam Britton, Jr., P.O. Box 7, Madison, Ohio 44057; and to Sarah and James C. Powell, 3770 Dayton Road, Madison, Ohio 44057.

Commissioner Aufuldish seconded the resolution and the roll being called upon its adoption, the vote resulted as follows:
"AYES": Commissioners: Aufuldish, Sines and Troy
"NAYS": None

Resolution adopted,
Amy Elszasz, Clerk

CLERK'S CERTIFICATION
I, Amy Elszasz, duly appointed Clerk of the Board of County Commissioners, do hereby certify that this is a true and accurate copy of a resolution adopted by said Board on July 26, 2012, and recorded in the Water and Sewer Journal, Volume 2012.

WITNESS my hand this twenty-sixth day of July 2012, in Painesville, Ohio.

Amy Elszasz, Clerk
Board of Commissioners, in and for Lake County, Ohio

cc: Al, Denis, Jolene
MEMORANDUM OF UNDERSTANDING

Among the Village of Madison, the Owners of P.P. No. 01-A-008-0-00-050-0 and the Board of Lake County Commissioners

This Memorandum of Understanding (MOU) is entered into this 25th day of June, 2012, by and among the Village of Madison (“VILLAGE”), Owners of P.P. No. 01-A-008-0-00-050-0 (OWNERS), and the Board of Lake County Commissioners (“COUNTY”).

Section A

The purpose of this MOU is to set forth certain duties to be undertaken by the VILLAGE, OWNERS, and the COUNTY to effect modification of the boundaries of the Lake County Department of Utilities (formerly Lake County Regional Sewer and Water District) so as to temporarily exclude therefrom certain lands located in the Township of Madison and further described in Exhibit “A” as P.P. No. 01-A-008-0-00-050-0, attached hereto and made part hereof. These certain lands are designated as the SERVICE AREA for the purposes of this MOU.

Section B

Upon execution of this MOU, the VILLAGE shall:

1. Provide a map that includes the parcel number(s) of relevant property to the COUNTY of the proposed SERVICE AREA.
2. Upon authorization by Madison Village Council, direct a request to the COUNTY as follows: that the Village of Madison Sewer District be permitted temporarily to accept sewage that is designated by the Ohio EPA 208 Plan to be serviced by the Lake County Department of Utilities (LCDU).
3. Apply jointly with the COUNTY to change the Ohio EPA 208 Plan temporarily to include the SERVICE AREA in the Village of Madison Sewer District.

Section C

Upon modification of the LCDU to exclude temporarily the SERVICE AREA, the VILLAGE shall provide typical services to the SERVICE AREA in the same manner as provided to all other areas in the VILLAGE, including but not limited to:

1. Make all modifications/upgrades to the VILLAGE’s sanitary collection system and treatment plant in accordance with all Ohio EPA directives.
2. Administer the billing and collection of charges and user fees.
3. Such other services as are provided to other areas receiving service from the VILLAGE.
Section D

VILLAGE, OWNERS, and COUNTY jointly further agree as follows:

1. The OWNERS shall bear the costs of construction of all proposed sanitary sewers to be serviced temporarily by the VILLAGE.
2. The OWNERS shall execute the attached “Waiver of Objection to Future Tap-In Charges or Assessments”.

Section E

In the event that a LCDU sanitary sewer abuts the OWNERS’ property as shown on the SERVICE AREA map:

1. In accordance with the attached “Waiver of Objection to Future Tap-In Charges or Assessments”, the OWNERS may connect to LCDU for sanitary-sewer services and shall pay all associated fees in accordance with the then-current Lake County Rules and Regulations. Whether or not the OWNERS choose to connect to LCDU for sanitary-sewer services, the OWNERS shall pay all assessment charges that would be payable by the OWNERS for construction of the sanitary sewer.
2. In accordance with the attached “Waiver of Objection to Future Tap-In Charges or Assessments”, in the event that a private enterprise described in or authorized by R.C. 307.73 constructs the sewer adjacent to the SERVICE AREA, the OWNERS agree to pay all applicable construction costs and tap-in fee reimbursement amounts chargeable to the OWNERS pursuant to R.C. 307.73, but only at such time as the OWNER connects to the sewer.
3. Should the OWNERS choose to connect to LCDU for sanitary-sewer services, the COUNTY and the VILLAGE shall apply jointly to amend the Ohio EPA 208 Plan to include the SERVICE AREA in the LCDU.
4. Should the OWNERS choose to connect to LCDU for sanitary-sewer services, the COUNTY will resume typical services to the SERVICE AREA in the same manner as provided to all other areas in the LCDU.

Section F

The agreement may be modified or amended with the written consent of all three parties to any such modification or amendment.
Section G

This memorandum and the understandings and undertakings contained herein are hereby agreed to by the VILLAGE, the OWNERS, and the COUNTY, and shall take effect upon approval of the last of the resolutions to be enacted by the Madison Village Council and the Board of Lake County Commissioners.

Village of Madison

Mayor Sam Britton, Jr.

President, Lake County Commissioners

Raymond E. Sines

OWNERS

James C. Powell
Sarah Powell

Print Name(s)

APPROVED AS TO FORM:
CHARLES E. COULSON, PROSECUTING ATTORNEY

By: Joshua S. Horacek
Assistant Prosecuting Attorney
WAIVER OF OBJECTION TO TAP-IN CHARGES OR ASSESSMENTS

WHEREAS, James and Sarah Powell (OWNERS) are the owners of the real property (PROPERTY) located at 370 Dayton Rd., Madison, Ohio 44057 situated in the Madison Township, County of Lake, State of Ohio, and knowing as being permanent parcel number 01-A-008-0-00-050-0; and

WHEREAS, this PROPERTY is or will be contained within the Ohio EPA 208 Plan to be serviced by the Lake County Department of Utilities (LCDU) for sanitary-sewer purposes; and

WHEREAS, the OWNERS have requested that the LCDU permit the PROPERTY to be connected to the Village of Madison Sewer District;

NOW, THEREFORE, in consideration for the OWNERS being permitted to connect to the Village of Madison Sewer District, the OWNERS agree as follows:

1. In the event that the LCDU constructs a sanitary-sewer (IMPROVEMENT) through or adjacent to the PROPERTY, the OWNERS hereby waive any statutory objections it may have pursuant to R.C. 6117.09(A), R.C. 6117.09(B) or R.C. 6117.09(C) and any successors or revisions thereto, to the actions of the Board of Lake County Commissioners in determining to proceed with the IMPROVEMENT and further waives any objection it may have to the costs of the IMPROVEMENT and/or the rates, tap-in charges and assessments authorized by the Board of Lake County Commissioners and/or to any other provision of the Ohio Revised Code that may be applicable to the construction of the IMPROVEMENT.

2. In the event that the LCDU constructs the IMPROVEMENT adjacent to the PROPERTY, the OWNERS agree to pay all assessment charges that would be payable by the OWNERS for construction of the IMPROVEMENT, whether or not the OWNERS connect to the IMPROVEMENT. In addition, OWNERS agree to pay all applicable tap-in charges, but only at such time as the OWNERS connect to the IMPROVEMENT. All such assessments and charges are payable whether or not the PROPERTY is split or configured in such a way that frontage no longer exists or never existed on the IMPROVEMENT.

3. In the event that a private enterprise described in or authorized by R.C. 307.73 constructs the IMPROVEMENT adjacent to the PROPERTY, the OWNERS agree to pay all applicable construction costs and tap-in fee reimbursement amounts chargeable to the OWNERS pursuant to R.C. 307.73, but only at such time as the OWNERS connect to the IMPROVEMENT. All such assessments and charges are payable whether or not the PROPERTY is split or configured in such a way that frontage no longer exists or never existed on the IMPROVEMENT.

4. This WAIVER shall be binding upon any successors or assigns of the OWNERS.
5. In consideration of this WAIVER, LCDU hereby consents to the connection of the PROPERTY to the Village of Madison Sewer District as contained in the Memorandum of Understanding executed among the Village of Madison, the OWNERS, and the Board of Lake County Commissioners to which this Waiver is attached and of which this Waiver is a part.

6. This WAIVER has been adopted and performance is in compliance with all applicable federal, state and local laws, regulations, circulars, rules, and ordinances, including the requirements of the Ohio Open Meetings Act and the OWNERS represent that it has taken such actions as are required to effectuate this Waiver in accordance with applicable laws.

IN WITNESS WHEREOF, as listed below has hereto affixed their hands and seals in LAKE COUNTY, Ohio, this 26th day of July, 2012.

President, Lake County Commissioners

[Signature]
Raymond E. Sines

APPROVED AS TO FORM:
CHARLES E. COULSON, PROSECUTING ATTORNEY

By: [Signature]
Joshua S. Horacek
Assistant Prosecuting Attorney

OWNERS

[Signature]
Sarah Powell

Print Name(s)

James C. Powell
Sarah Powell
Property lines are graphic representations and are NOT survey accurate.
208 Consistency Review
Lake County FPA Transfer to Village of Madison FPA

Date received: July 30, 2012

Project Applicant: Village of Madison
Project Title: FPA Boundary Change Lake County, Madison

- Applicant is the Designated Management Agency for all of the affected area.
- Applicant is not the Designated Management Agency for all or part of the affected area, but has secured the approval of the entity or entities that are.
- Applicant is not the Designated Management Agency for all or part of the affected area, but has not secured the approval of the entity or entities that are.

- The applicant does not propose the extension of any sewer service.
  - The proposed project is limited to sewer system rehabilitation work.
  - The proposed project is limited to a plant expansion or modification to better handle wet weather flow volumes.

- The applicant does propose the extension of sewer service to the additional FPA area
  - The proposed extension is consistent with the current Community Plans for Wastewater Treatment for the affected area. (Subject to conditions identified by Ohio EPA)
  - The proposed extension is not consistent with the current Community Plans for Wastewater Treatment for the affected area.

- The application involves a plant capacity expansion that is consistent with extant population projections included in the Clean Water 2000 Plan as most recently updated.
- The application involves a plant capacity expansion that is not consistent with extant population projections included in the Clean Water 2000 Plan as most recently updated.
  - The applicant has provided information that has sufficiently resolved any population project discrepancy.
  - The applicant has not provided information that sufficiently resolved the population projection discrepancy.

**Staff Comments:** This Facility Planning Area Boundary Change shown in the attachment reflects an agreement between Lake County and the Village of Madison

**Staff Disposition:** Staff recommends that the Water Quality Advisory Committee forward this request to the NOACA Board with a notation of support for the boundary change.

**Committee Disposition:** Approved 8/15/2012

**Board Disposition:**