

Water Contract 2012

Resolution / 13-23

Amending Contract

Indian Hill / Madeira



C O N T R A C T

THIS AGREEMENT made and entered into this 30th day of April, 2012, by and between INDIAN HILL (City of) hereinafter called "Indian Hill", by its Manager thereunto duly authorized by Ordinance No. 04-12 of the Council of Indian Hill and the CITY OF MADEIRA, hereinafter called "Madeira", by its Manager, thereunto duly authorized by Ordinance No. 12-06 of the Council of Madeira to provide for the sale of water by Indian Hill to Madeira and its residents:

WHEREAS, the Council of Indian Hill has constructed a water works system for the supply of water to its residents, and others within the area of its distribution system upon proper contact thereof; and

WHEREAS, Madeira desires to contract with Indian Hill for the supply of water to it and a portion of its residents and Indian Hill has consented to do so; and

WHEREAS, the Constitution of Ohio and the Ohio Revised Code authorizes municipalities to contract with each other for such purposes, and Indian Hill and Madeira desire to set forth the terms and conditions of said contract;

NOW, THEREFORE, Indian Hill, by its Manager, and Madeira, for itself, and for and on behalf of its residents, being duly authorized by Ordinances of their respective Councils, as aforesaid, agree as follows:

(1) Indian Hill agrees to supply Madeira, for its public uses, and to the residents of Madeira, for their private uses, potable water of approximately eight to ten (8-10) grains per gallon hardness, in quantities required by Madeira and its residents, and at rates hereinafter specified.

(2) Madeira agrees to pay for water supplied hereunder, and for the servicing involved in distributing said water and for water for fire fighting purposes, the sum of Two Thousand Dollars (\$2,000.00) per year for the term of this contract, payable as follows: One Thousand Dollars (\$1,000.00) on March 1, 2012 and One thousand Dollars (\$1,000.00) on September 1, 2012 and One thousand Dollars (\$1,000.00) on the 1st days of March and September of each successive year during the term of this contract.

(3) Madeira agrees to comply with all applicable provisions of the Indian Hill Operating code titled, "Operating Code of the Department of Water Works of Indian Hill" passed June 1st, 1949 as amended (hereafter called "Operating Code"). Madeira also agrees to comply at all times, with the "Engineering and Plumbing Requirements" of the Water Works Department of Indian Hill, as promulgated by the Superintendent of the Water Works Department of Indian Hill, and as said Requirements may be amended from time to time.

(4) Madeira agrees that all additions to its general distribution system and to the system of each user, and all other installations of new fire hydrants, shall be constructed, installed and caused to be paid for in accordance with the applicable provisions of the aforementioned Operating Code, and also in accordance with the said Engineering and Plumbing Requirements and as said Requirements may be amended from time to time.

All such installations shall be subject to inspection and shall be approved by Indian Hill prior to any use thereof.

A plan of the existing distribution system of Madeira is attached hereto, marked "Exhibit A", and made a part hereof.

Indian Hill shall not be obligated to supply water beyond the limits of the distribution system set forth in Exhibit A to areas annexed by Madeira in 1969 or 1970 or thereafter.

(5) Ordinary repairs and minor replacements to the general distribution system of Madeira shall be performed and paid for by Indian Hill. Major repairs and major replacements, including the replacement of existing fire hydrants, shall be performed by Indian Hill but shall be paid for by Madeira.

(6) Indian Hill shall read all meters, prepare and mail bills to the users, and shall collect bills. All bills for water used shall be due and payable on or before the date noted on the bills and, in case of failure to pay bills, Indian Hill may act in accordance with the procedure set up in the said applicable provisions of the Operating Code.

(7) The Council of Indian Hill shall from time to time fix by ordinance the charges for water supplied to consumers in the Madeira Service Area. In no event shall any such charges and rates increase by more than the charges and rates to consumers within Indian Hill for comparable service, except as consistent with the following:

A. In the Madeira Service area, for any period during the term of this contract when the balance in the Madeira Capital Fund is less than \$500,000, the rates shall be 1.25 times the rates charged to consumers within Indian Hill.

B. In the Madeira Service area for any period during the term of this contract when the balance in the Madeira Capital Fund is greater than \$500,000, the rates shall be 1.00 times the rates charged to consumers within Indian Hill.

All monies collected by Indian Hill from the Madeira Service Area customers which are the result of the above rate differentials shall be placed in a separate water works account, "Madeira Capital Fund", created by Madeira and shall be reserved exclusively for improvements to the Madeira distribution mains serving customers in the Madeira Service Area for the provision of adequate water supply to Madeira Service Area customers. Indian Hill shall collect any surcharge amounts as specified under Section 7 (A) above and remit any such sums collected to Madeira at the close of each Madeira billing cycle. Madeira shall separately account for said funds and furnish a report as to the amount and status of such fund to Indian Hill at least annually. Before amounts may be expended from the Madeira Capital Fund, both Indian Hill and Madeira must approve the expenditure.

In the event that any agreed to expenditure for capital improvements related to provision of adequate water supply to Madeira exceeds the amount available in the Madeira Capital Fund, Indian Hill and Madeira will utilize best efforts to work in good faith towards a resolution of the shortfall, but in no event shall Indian Hill be deemed responsible for funding any such shortfall from the Water Works Operating Fund, Water Works Capital Reserve Fund, or the Indian Hill General Fund.

C. The City of Madeira shall retain ownership of the distribution system for the duration of this agreement.

(8) Madeira agrees that, in case of breaks in mains, damage to the wells or water treatment plant, or pumping facilities, or in case of fires by reason of which abnormal quantities of water are used, or in case of strikes, floods or other emergencies or necessities beyond the reasonable control of Indian Hill, the water may be shut off temporarily, without notice. Failure to furnish water in such instances shall not render Indian Hill, or its agents or employees, liable in damages to Madeira or its residents; provided Indian Hill shall make every reasonable effort to provide an interconnection with some other adjacent system which may be used in the event of such temporary shut-offs.

Madeira further agrees that, in the event of an emergency or catastrophe in Madeira, by reason of which abnormal quantities of water are used over and above

reasonable and contemplated demands, Indian Hill will not be held liable for the failure to furnish water beyond such reasonable and contemplated demands, and that Madeira will save Indian Hill harmless in the event Indian Hill is held liable by any third person who is supplied water from the Madeira distribution system for failure to give an adequate supply of water.

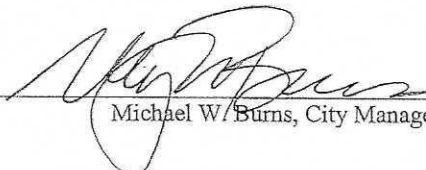
(9) Indian Hill agrees not to jeopardize the water supply of Madeira by any extensions of its system to other territories.

(10) Madeira agrees, for itself and its residents, that there be collected, and hereby authorizes Indian Hill to collect each year, a yearly per customer charge of not more than \$.50 per year, to defray the cost of standby service by the City of Cincinnati from the connection heretofore made between the Indian Hill system and the City of Cincinnati system; provided however, if Indian Hill is compelled to pay the City of Cincinnati more than the \$1,000.00 per year for such standby service, said customer fee charge may be raised to defray said increased cost.

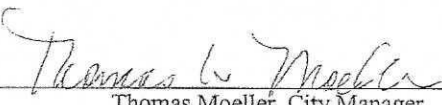
(11) This contract shall commence upon the execution thereof and shall continue for a period of 20 years, provided however, that either party may cancel this Agreement upon the default of the other party in its obligations hereunder, and provided further that either party may cancel this Agreement for reasonable cause upon two years written notice to the other party.

IN WITNESS WHEREOF, Indian Hill, acting by and through its Manager as aforesaid, and the City of Madeira, acting by and through its Manager as aforesaid, have caused their names and corporate seals to be hereunto affixed the day and year first above written.

VILLAGE OF INDIAN HILL, OHIO (City of)

By 
Michael W. Burns, City Manager

CITY OF MADEIRA, OHIO

By 
Thomas Moeller, City Manager

ATTEST:


Paul C. Riordan, Clerk

APPROVED AS TO FORM:


Donald L. Crain, Solicitor

Water Contract 2012

Resolution / 13-23

Amending Contract

Indian Hill / Madeira

RESOLUTION NO. 13-23

RESOLUTION TO AMEND THE CONTRACT BETWEEN THE CITY OF MADEIRA AND THE CITY OF THE VILLAGE OF INDIAN HILL, OHIO

WHEREAS, This First Amendment is made and entered into by and between the City of Madeira, an Ohio Municipal Corporation, ("Madeira") and the City of the Village of Indian Hill ("Indian Hill") (collectively referred to as "the Parties")

WHEREAS, the Parties entered into a Water Service Contract which was executed on April 30, 2012 ("Contract")

WHEREAS, the Parties have since agreed upon certain changes related to water service which necessitates an amendment to the Contract.

**NOW, THEREFORE, BE IT RESOLVED
BY THE COUNCIL OF THE CITY OF
THE VILLAGE OF INDIAN HILL, STATE
OF OHIO:**

In consideration of the mutual promises, covenants, and agreements contained here, the Parties agree to amend the Contract in the following respects:

Section (5) Ordinary repairs and minor replacements to the general distribution system of Madeira shall be performed and paid for by Indian Hill. Major repairs and major replacements, including the replacement of existing fire hydrants, shall be performed by Indian Hill but shall be paid for by Madeira.

Section (6) Indian Hill shall read all meters, prepare and mail bills to the users, and shall collect bills. All bills for water used shall be due and payable on or before the date noted on the bills and, in case of failure to pay bills, Indian Hill may act in accordance with the procedure set up in the said applicable provisions of the Operating Code.

Section (7) The Council of Indian Hill shall from time to time fix by ordinance the charges for water supplied to consumers in the Madeira Service Area. In no event shall any such charges and rates increase by more than the charges and rates to consumers within Indian Hill for comparable service, except as consistent with the following:

A. In the Madeira Service area, for any period during the term of this contract, the rates shall be 1.25 times the rates charged to consumers within Indian Hill through January 31, 2024 and 1.41 times the rates charged to consumers within Indian Hill beginning February 1, 2024.

B. All monies collected by Indian Hill from the Madeira Service Area customers which are the result of the above rate differentials shall be placed in a separate water works account, "Madeira Capital Fund", created by Madeira and shall be reserved exclusively for improvements to the Madeira distribution mains serving customers in the Madeira Service Area for the provision of adequate water supply to Madeira Service Area customers. Indian Hill shall collect any surcharge amounts as specified under Section 7 (A) above and remit any such sums collected to Madeira at the close of each Madeira billing cycle. Madeira shall separately account for said funds and furnish a report as to the amount and status of such fund to Indian Hill at least annually. Before amounts may be expended from the Madeira Capital Fund, both Indian Hill and Madeira must approve the expenditure.

In the event that any agreed to expenditure for capital improvements related to provision of adequate water supply to Madeira exceeds the amount available in the Madeira Capital Fund, Indian Hill and Madeira will utilize best efforts to work in good faith towards a resolution of the shortfall, but in no event shall Indian Hill be deemed responsible for funding any such shortfall from the Water Works Operating Fund, Water Works Capital Reserve Fund, or the Indian Hill General Fund.

C. The City of Madeira shall retain ownership of the distribution system for the duration of this agreement.

Section (8) Madeira agrees that, in case of breaks in mains, damage to the wells or water treatment plant, or pumping facilities, or in case of fires by reason of which abnormal quantities of water are used, or in case of strikes, floods or other emergencies or necessities beyond the reasonable control of Indian Hill, the water may be shut off temporarily, without notice. Failure to furnish water in such instances shall not render Indian Hill, or its agents or employees, liable in damages to Madeira or its residents; provided Indian Hill shall make every reasonable effort to provide an interconnection with some other adjacent system which may be used in the event of such temporary shut-offs.

Madiera further agrees that, in the event of an emergency or catastrophe in Madeira, by reason of which abnormal quantities of water are used over and above reasonable and contemplated demands, Indian Hill will not be held liable for the failure to furnish water beyond such reasonable and contemplated demands, and that Madeira will save Indian Hill harmless in the event Indian Hill is held liable by any third person who is supplied water from the Madeira distribution system for failure to give an adequate supply of water.

Section (9) Indian Hill agrees not to jeopardize the water supply of Madeira by any extensions of its system to other territories.

Section (10) Madeira agrees, for itself and its residents, that there be collected, and hereby authorizes Indian Hill to collect each year, a yearly per customer charge of not more than \$.50 per year, to defray the cost of standby service by the City of Cincinnati from the connection heretofore made between the Indian Hill system and the City of Cincinnati system; provided however, if Indian Hill is compelled to pay the City of Cincinnati more than the \$1,000.00 per year for such standby service, said customer fee charge may be raised to defray said increased cost.

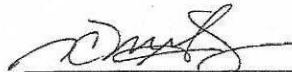
Section (11) This contract shall commence upon the execution thereof and shall continue for a period of 20 years, provided however, that either party may cancel this Agreement upon the default of the other party in its obligations hereunder, and provided further that either party may cancel this Agreement for reasonable cause upon two years written notice to the other party.

Section (12) Madeira and Indian Hill agree to meet on a regular basis and to negotiate in good faith the transfer of water mains owned by Madeira to Indian Hill.

Section (13) This First Amendment shall be effective when executed by both Parties.

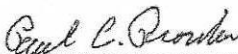
All previously agreed upon terms contained in the Contract are to remain in effect.

Passed: October 16, 2023



Donald C. McGraw, Mayor

ATTEST:



Paul C. Riordan, Clerk

EXHIBIT A
Resolution No. 68-23

All monies collected by Indian Hill from the Madeira Service Area customers which are the result of the above rate differentials shall be placed in a separate water works account, "Madeira Capital Fund", created by Madeira and shall be reserved exclusively for improvements to the Madeira distribution mains serving customers in the Madeira Service Area for the provision of adequate water supply to Madeira Service Area customers. Indian Hill shall collect any surcharge amounts as specified under Section 7 (A) above and remit any such sums collected to Madeira at the close of each Madeira billing cycle. Madeira shall separately account for said funds and furnish a report as to the amount and status of such fund to Indian Hill at least annually. Before amounts may be expended from the Madeira Capital Fund, both Indian Hill and Madeira must approve the expenditure.

In the event that any agreed to expenditure for capital improvements related to provision of adequate water supply to Madeira exceeds the amount available in the Madeira Capital Fund, Indian Hill and Madeira will utilize best efforts to work in good faith towards a resolution of the shortfall, but in no event shall Indian Hill be deemed responsible for funding any such shortfall from the Water Works Operating Fund, Water Works Capital Reserve Fund, or the Indian Hill General Fund.

C. The City of Madeira shall retain ownership of the distribution system for the duration of this agreement.

(8) Madeira agrees that, in case of breaks in mains, damage to the wells or water treatment plant, or pumping facilities, or in case of fires by reason of which abnormal quantities of water are used, or in case of strikes, floods or other emergencies or necessities beyond the reasonable control of Indian Hill, the water may be shut off temporarily, without notice. Failure to furnish water in such instances shall not render Indian Hill, or its agents or employees, liable in damages to Madeira or its residents; provided Indian Hill shall make every reasonable effort to provide an interconnection with some other adjacent system which may be used in the event of such temporary shut-offs.

Madeira further agrees that, in the event of an emergency or catastrophe in Madeira, by reason of which abnormal quantities of water are used over and above reasonable and contemplated demands, Indian Hill will not be held liable for the failure to furnish water beyond such reasonable and contemplated demands, and that Madeira will save Indian Hill harmless in the event Indian Hill is held liable by any third person who is supplied water from the Madeira distribution system for failure to give an adequate supply of water.

(9) Indian Hill agrees not to jeopardize the water supply of Madeira by any extensions of its system to other territories.

(10) Madeira agrees, for itself and its residents, that there be collected, and hereby authorizes Indian Hill to collect each year, a yearly per customer charge of not more than \$.50 per year, to defray the cost of standby service by the City of Cincinnati from the connection heretofore made between the Indian Hill system and the City of Cincinnati

EXHIBIT A
Resolution No. 68-23

system; provided however, if Indian Hill is compelled to pay the City of Cincinnati more than the \$1,000.00 per year for such standby service, said customer fee charge may be raised to defray said increased cost.

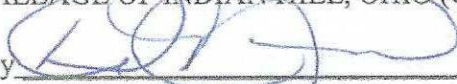
(11) This contract shall commence upon the execution thereof and shall continue for a period of 20 years, provided however, that either party may cancel this Agreement upon the default of the other party in its obligations hereunder, and provided further that either party may cancel this Agreement for reasonable cause upon two years written notice to the other party.

(12) Madeira and Indian Hill agree to meet on a regular basis and to negotiate in good faith the transfer of water mains owned by Madeira to Indian Hill.

(13) This First Amendment shall be effective when executed by both Parties.

All previously agreed upon terms contained in the Contract are to remain in effect.

VILLAGE OF INDIAN HILL, OHIO (City of)

By  12/5/2023
Dina C. Minneci, City Manager

CITY OF MADEIRA, OHIO

By 
Michael Norton-Smith, City Manager

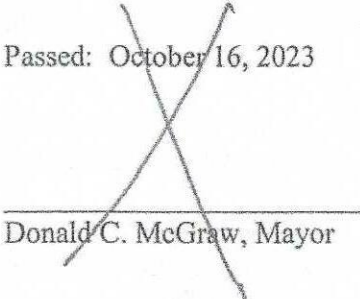
ATTEST: APPROVED AS TO FORM:

Paul C. Riordan, Clerk


Scott D. Phillips, Solicitor


Brian A. Fox, Law Director

Passed: ~~October 16, 2023~~

~~
Donald C. McGraw, Mayor~~

ATTEST:

