

Ordinance No.607-06

**Council Members Zone and Sweeney
(by departmental request)**

AN EMERGENCY ORDINANCE

Authorizing the Director of Public Utilities to enter into a competitive response water service agreement with Portage County; and authorizing the Director of Finance to enter into an economic development agreement or agreements for the purpose of mitigating economic impacts to Cleveland's General Fund relating to the City's extension of water service to the City of Aurora and other areas within Portage County.

WHEREAS, the City of Aurora solicited competing proposals from the City of Cleveland and Portage County to provide water service to the residents and businesses of Aurora; and

WHEREAS, the parties have agreed in principle to an arrangement where Cleveland will supply water to Portage County under a master meter water service agreement for supply to Aurora and other areas within Portage County; and

WHEREAS, the service area under the Water Service Agreement shall be Portage County within the Great Lakes Watershed; and

WHEREAS, Section 535.08 of the Codified Ordinances of the City of Cleveland, 1976, authorizes the Director of Public Utilities to enter into competitive response water service agreements to meet competition from alternative water suppliers; and

WHEREAS, the City wishes to enter into a competitive response water service agreement to increase its customer base and provide future opportunities for water service to the area surrounding the City of Aurora; and

WHEREAS, retaining existing water customers and adding new customers through the expansion of the Division of Water's service area increases the rate base, promotes rate stability, minimizes the need for future rate increases, and improves the Division of Water's bond credit rating, to the benefit of all Division of Water customers and bondholders; and

WHEREAS, the expansion of water service outside the City creates opportunities for economic development in suburban communities by enabling businesses to locate in that community that might otherwise have chosen to locate within the City; and

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WHEREAS, as a condition of providing water service, the City wishes to enter into an agreement with Portage County and, if appropriate, the City of Aurora to mitigate economic impacts to Cleveland's General Fund from such expansion; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That this Council finds that entering into a competitive response water service agreement for service to Aurora and other areas of Portage County is necessary to meet competition from alternative water sources and is in the best interests of the Division of Water, its customers, and bondholders in that it will preserve and increase the Division of Water's rate base.

Section 2. That the Director of Public Utilities is authorized to enter into a competitive response water service agreement with Portage County and, if appropriate, the City of Aurora, for water service to Aurora and other areas of Portage County under Section 535.08 of the Codified Ordinances of the City of Cleveland.

Section 3. That this Council finds that the expansion of water service outside the City creates opportunities for economic development in the City of Aurora and other areas of Portage County by enabling businesses to locate in that community that might otherwise have chosen to locate within the City.

Section 4. That the Director of Finance is authorized to enter into an economic development agreement or agreements with Portage County and any other necessary public authorities to mitigate economic impacts to Cleveland's General Fund that may result from the extension of water service to the City of Aurora and other areas of Portage County.

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Section 5. That the annual compensation to the General Fund under the economic development agreement shall initially be \$37,500 until a 16" or larger express main along Glenwood Boulevard to a connection point at the Portage County border is operational, at which time the annual compensation shall increase to \$100,000, and will escalate on January 1 of each year based on a published price index to be mutually agreed upon between the parties, up to 5% per year, until such time that 2.5 million gallons per day average annual flow, as calculated over a period of any twelve consecutive months, is drawn from the City. Once such amount is drawn, the annual compensation shall increase by an additional \$100,000, and the total annual compensation shall escalate in accordance with the applicable published price index, as set forth above.

Section 6. That the term of the competitive response water service agreement shall be twenty years with an option to renew for additional twenty-year periods upon mutual agreement of the parties. The term of the economic development agreement shall run concurrently with the term of the competitive response water service agreement, including any extensions, and shall contain such terms and conditions as are acceptable to the Director of Law.

Section 7. That all payments by Portage County under the agreements authorized by Section 5 of this ordinance shall be deposited in the City's General Fund in a specially designated fund or account to be used for economic development purposes.

Section 8. That notwithstanding any Codified Ordinance to the contrary, the rate to be charged to Portage County under the competitive response agreement authorized by this ordinance shall initially be set at \$10.35 per mcf, escalating on January 1 of each year in accordance with the price index established under Section 5

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of this ordinance, up to 5% each year. If the price index for any year exceeds 5%, the rates shall escalate by the greater of 5% or the percentage rate increase charged to customers within the City of Cleveland in that same year.

Section 9. That the rates, rules, and regulations of the Division of Water, Department of Public Utilities, for water service, fixed by the Board of Control by Resolution No. _____, adopted on _____, for the purpose of implementing the competitive response water rate, be and the same are hereby approved.

Section 10. That the Director of Public Utilities and the Director of Finance are authorized to execute on behalf of Cleveland all necessary documents to effectuate the purposes of this ordinance.

Section 11. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Directors of Public Utilities, Finance, Law;
Committees on Public Utilities, Finance.

KN:nl
4-3-06

FOR: Directors Ciaccia and Dumas - R

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REPORT
after second Reading

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READ FIRST TIME

REPORTS

and referred to **Directors of Public Utilities, Finance, Law;
Committees on Public Utilities, Finance.**

by the council **April 3, 2006.**

CITY CLERK

READ SECOND TIME

by the council _____

CITY CLERK

READ THIRD TIME

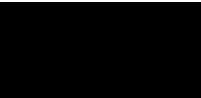
by the council _____

PRESIDENT

CITY CLERK

APPROVED

MAYOR



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