

Village of Mantua, Ohio
ORDINANCE 2019-49
(amended)

AN ORDINANCE DECLARING PORTAGE COUNTY THE MOST QUALIFIED AND RESPONSIVE BIDDER IN RESPONSE TO THE VILLAGE OF MANTUA'S REQUEST FOR QUALIFICATIONS AND PROPOSALS RELATIVE TO THE TRANSFER OF ITS WATER AND WASTEWATER SYSTEMS AND AUTHORIZING AN AGREEMENT TO TRANSFER THE OWNERSHIP AND OPERATION OF SAID UTILITIES TO PORTAGE COUNTY, OHIO.

WHEREAS, pursuant to Sections 3 and 4 of Article XVIII of the Ohio State Constitution as well as relevant provisions of the Ohio Revised Code, the Village of Mantua, Ohio owns and operates the Village of Mantua Water Treatment Plant and Distribution System with all associated appurtenances and the Village of Mantua Wastewater Treatment Plant and Collection System with all associated appurtenances (“the Utilities”); and

WHEREAS, for a number of years, the revenue generated by the Utilities has been insufficient to support their operation and maintenance, resulting in recurrent advances and transfers from the Village General Fund, deferred maintenance of the Utilities, and sharp rate increases for the customers of the Utilities; and

WHEREAS, the Village has solicited reports on the current condition and future needs of the Utilities from Village Engineer CT Consultants and the Portage County Water Resources Department; and

WHEREAS, these facts and circumstances have led this Council to conclude that the Village's continued ownership and operation of the Utilities has become financially untenable; and

WHEREAS, Sections 3 and 4 of Article XVIII of the Ohio State Constitution authorize Municipalities to exercise all powers of local self-government and to adopt and enforce within their limits local police, sanitary and other similar regulations not in conflict with general laws, and to acquire, construct, own, lease and operate any public utility within or without its corporate limits; and

WHEREAS, these powers explicitly and implicitly include the power and authority to decide whether to acquire, own and operate, or to discontinue the operation of and sell, a public utility; and

WHEREAS, So long as the municipality operates a public utility, the physical property employed to that end is needed for that municipal purpose; but if the municipality decides otherwise, then the property is no longer needed for any municipal purpose; and

WHEREAS, when a municipality determines that property is no longer needed for any municipal purpose, it may determine that it is in the best interest of the municipality and its inhabitants that the property shall be sold pursuant to the competitive bidding requirements of the Ohio Revised Code; and

WHEREAS, pursuant to Sections 721.03, 721.15 and other relevant sections of the Ohio Revised Code, and as authorized by Ordinance Numbers 2018-56 and 2018-57, the Village of Mantua initiated a competitive bid process, and issued a formal Request for Qualifications and Request for Proposal (“RFQ/RFP”), for the sale of the Utilities; and

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WHEREAS, on April 9, 2019, Portage County (“the County”) submitted a Proposal and Statement of Qualifications for the purpose of merging the Village’s Water and Wastewater Utilities into the County Water and Wastewater Utilities; and

WHEREAS, the County's proposal was the only proposal received which was responsive to the Village's RFQ/RFP; and

WHEREAS, since submission of the County's proposal, representatives of the Village and the County have engaged in extensive discussions regarding the details of a merger; and

WHEREAS, a proposed “MANTUA VILLAGE, COUNTY OF PORTAGE WATER AND SANITARY SEWER SYSTEMS TRANSFER AGREEMENT” has been developed; and

WHEREAS, the Mantua Village Service Committee has reviewed the proposed Transfer Agreement and has forwarded it to this Council for consideration.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Mantua, Portage County, Ohio, two-thirds or more of the members elected thereto concurring, that:

SECTION 1: It is hereby found that the Village of Mantua's continued ownership and operation of its Water Treatment Plant and Distribution System with all associated appurtenances and its Wastewater Treatment Plant and Collection System with all associated appurtenances (“the Utilities”), has become financially untenable and such Utilities are no longer needed for any municipal purpose.

SECTION 2: It is hereby found that the competitive bid process, comprised of a formal Request for Qualifications and Request for Proposal, for the transfer of the Utilities to the most qualified and responsive bidder, was duly authorized by Ordinances 2018-56 and 2018-57 and conducted in compliance with the competitive bidding laws of the State of Ohio, including Ohio Revised Code Sections 721.03 and 721.15.

SECTION 3: On April 9, 2019 at 4:00 p.m., the two sealed proposals received, submitted by the Portage County Water Resources Department and CWM Environmental of Kittanning, PA, were publicly opened and read in Council's Chambers.

SECTION 4: The proposal submitted by CWM Environmental of Kittanning, PA was only for the operation, and not ownership, of the Utilities and therefore this Council hereby rejects said proposal as non-responsive to the RFQ/RFP.

SECTION 5: This Council hereby finds and determines that the proposal for ownership and operation of the Utilities submitted by Portage County Water Resources, on behalf of Portage County Ohio, is the best and most responsive to the Village of Mantua's RFQ/RFP, and further that Portage County is the best and most qualified entity to carry out the terms of the RFQ/RFP.

SECTION 7: Subsequent to the submission of the County's proposal, representatives of both entities have developed the document entitled “MANTUA VILLAGE, COUNTY OF PORTAGE

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WATER AND SANITARY SEWER SYSTEMS TRANSFER AGREEMENT”, attached hereto as “Exhibit A” and incorporated herein by reference.

SECTION 8: This Council, has reviewed the terms of the attached “Exhibit A” and all Appendices thereto, and finds that its adoption and execution would be in the best interests if the inhabitants of the Village of Mantua.

SECTION 9: It is understood that Appendices E, G, and P to “Exhibit A” cannot be finalized prior to December 31, 2019, and will be approved by supplemental legislation after January 1, 2020.

SECTION 10: This Council hereby authorizes and directs the Mayor, on behalf of this Council and the Village of Mantua, to execute the “MANTUA VILLAGE, COUNTY OF PORTAGE WATER AND SANITARY SEWER SYSTEMS TRANSFER AGREEMENT”, attached hereto as “Exhibit A” and incorporated herein by reference.

SECTION 11: This Council further authorizes and directs the Mayor, the Village Administrator, the Clerk-Treasurer, the Village Engineer and the Village Solicitor to take all steps necessary to carry out any and all terms and conditions set forth in the Transfer Agreement, “Exhibit A”, and all Appendices thereto, in order to effect the transfer of ownership and operation of the Utilities to Portage County.

SECTION 12: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with Section 121.22 of the Ohio Revised Code.

SECTION 13: This Ordinance shall become effective after passage by at least two thirds of the members elected to the Mantua Village Council, at the earliest period allowed by law.

PASSED IN COUNCIL this 19th day of November, 2019.

ATTEST:

Linda Clark, Mayor

Jenny August, Clerk-Treasurer

1st Reading: October 15, 2019

2nd Reading: October 22, 2019

3rd Reading: November 19, 2019

Effective: December 19, 2019

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APPROVED per Ohio Revised Code 721.03 and 721.15

John Trew, Village Administrator

I hereby certify the above Ordinance was posted at the five (5) public notice locations in the Village of Mantua, Ohio, on the ____ day of _____, 20__.

Jenny August, Clerk-Treasurer

Approved as to Legal Form:

Michele Stuck, Solicitor

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“EXHIBIT A”**

**MANTUA VILLAGE, COUNTY OF PORTAGE
WATER AND SANITARY SEWER SYSTEMS
TRANSFER AGREEMENT**

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1. GOVERNING ORDINANCE AND RESOLUTION

This Agreement is made and entered into on this ____ day of _____, 2019, with a closing date of _____ (hereafter, the "Closing Date"), by and between the Village of Mantua, Ohio, hereinafter referred to as the "Village," acting by and through its Village Council pursuant to Ordinances _____, and the County of Portage, Ohio, hereinafter referred to as the "County," acting by and through the Board of County Commissioners, pursuant to County Resolution _____.

2. WITNESSETH THAT:

WHEREAS, there are located inside and outside of the Village Corporation Limits, certain Village public water and sanitary sewer systems, which are owned and operated by the Village and are comprised of potable water and sanitary sewer facilities and real property which are further described below (hereafter, collectively referred to as the "Village Systems"); and

WHEREAS, the Village of Mantua has advertised a Request for Qualifications & Proposal for the Ownership, Operation & Maintenance of said Village Systems see Appendix A; and

WHEREAS, the County submitted Qualifications and a Proposal, see Appendix B, to the Village; and

WHEREAS, the County's submission was the only proposal received which was responsive to the Village's Request for Qualifications & Proposal; and

WHEREAS, the Village desires to transfer and the County desires to receive ownership of the Village Systems in order to continue to provide quality drinking water and sanitary sewer services to customers of both the County and the Village; and

WHEREAS, the Village has determined that it no longer needs or desires to own said Village Systems, and that it will be a cost saving to both the water and sewer customers of the Village, and to the Council of Mantua Village so as to no longer needing to subsidize the Village Systems, if such facilities are so transferred; and

WHEREAS, the Village has authority to enter into this Agreement pursuant Ohio Revised Code Sections 721.03 and 721.15; and,

WHEREAS, the County has authority to enter into this Agreement pursuant to Revised Code Sections 6103.03 and 6117.04.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth in this Agreement, for which there is full and adequate consideration, the County and Village agree and bind themselves, their agents, employees, and successors, as follows:

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3. TRANSFER OF VILLAGE SYSTEMS TO THE COUNTY

3.1. The Village and the County hereby agree to the transfer of the Village Systems as described herein. Through this Agreement, the Village hereby transfers, conveys, assigns, delivers, and grants all ownership, rights of use, and all right, title and interest, as well as the administration, operation, maintenance, improvement, replacement, and repair obligations of the Village to the County for the following systems:

3.1.1. The Village of Mantua Water System, and all associated distribution lines, facilities, appurtenances and personal property (hereinafter referred to as the "Water System"), including all real property, right-of-way rights and easements needed, which are further described and listed in Appendix C, attached hereto.

3.1.2. The Village of Mantua Sewer System, and all associated collection lines, facilities, appurtenances and personal property (hereinafter referred to as the "Sewer System"), including all real property, right-of-way rights and easements needed, which are further described and listed in Appendix D, attached hereto.

3.1.3. The above referenced systems shall hereinafter collectively be referred to as the "Village Systems."

3.1.4. Any transferable work product, created by a third party, which is permissible by law to be transferred to the County shall be transferred as part of this Agreement.

3.2. The transfer shall be made between the Village and the County with specific agreement as to which items of liability, obligation, lien and encumbrance are included in the transfer, as further described and listed in Appendix E, attached hereto. The transfer shall be made free and clear of all liabilities, obligations, liens and encumbrances, unless otherwise specified in this Transfer Agreement executed between the Village and the County and list in Appendix E.

3.3. The transfer from the Village to the County of the Village Systems shall occur upon the Closing Date of the Agreement, as provided for in Section 1 of this Agreement. The County shall assume complete responsibility for operation, maintenance, improvement, replacement, and repair of the Village System upon the Closing Date of this Agreement.

3.4. With respect to all utilities [i.e., gas, electricity, telephone, internet] serving the Village Water and Wastewater Systems, prior to the Closing Date, Village shall arrange for final meter readings, billing statements and transfer into Portage County's name; Portage County shall pay all costs accrued prior to Closing Date pursuant to section 5.1. County shall arrange for all such utilities to be billed in its name on and after the Closing Date and shall pay all fees due therefor on and after the Closing Date.

3.5. The Village Systems shall be transferred "as is", and the Village makes no representations or warranties as to the condition of the Village Systems. Further, the County shall be obligated to provide services to all customers currently connected to and using services from the Village Systems so long as the customer maintains good standing with the

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County Rules and Regulations governing the connection and use of the Water and Wastewater Systems and remains current in payment of their utility bill including all surcharges. Further, the County has inspected the Village Systems and has “Identified Needs” that require repair, which will be a factor in the County’s rate structure as further described herein.

3.6. In the event that the County determines that there has not been transferred or conveyed any line, appurtenance, facility or property owned by the Village which the County requires to operate, maintain, improve, repair or replace the Village Systems being transferred herein, the Village shall promptly, upon request of the County, transfer, convey or provide the same to the County for no further consideration.

3.7. It is the intention of the parties that the County shall succeed to all rights of access or entry which the Village possesses to operate, maintain, improve, repair, or replace any of the Village Systems being transferred which lay within the right-of-way of any State, County or Village owned highway, and the Village hereby designates the County as its successor and agent to accomplish any such entry or access which may be necessary. Further, the Village shall provide easements suitable for the intended purpose of operating the Village System for all locations where the Village System extends onto Private Property.

3.8. The Village agrees to bear responsibility for all actionable claims or suits made against it by reason of any incident arising from, concerning, or in any way connected with the design, construction, implementation, use, maintenance, or operation of the Village Systems, and shall hold harmless the County with respect to the same prior to the Closing Date of this Agreement.

3.9. The County agrees to bear responsibility for all actionable claims or suits made against it by reason of any incident arising from, concerning, or in any way connected with the design, construction, implementation, use, maintenance, or operation of the Village Systems, and shall hold harmless the Village with respect to the same as of the Closing Date of this Agreement.

4. REAL PROPERTY ASSETS

4.1. Land easements and right of ways, properties, licenses, land titles, and miscellaneous land agreements, and improvements thereon including but not limited to access ways and bridges, are specifically described as "Real Property Assets" and inventoried in the document attached hereto as Appendix F. Real property improvements that are considered components of the Village Systems, including without limitation buildings and fixtures, are described and inventoried in Appendices C and D, hereinbefore referenced in Section 3.1.1 and 3.1.2.

4.2. The Village hereby waives the requirement set forth in its Request for Qualifications and Proposals that it would retain real property rights and shall transfer to the County all such real property rights free of any liabilities, obligations, liens and encumbrances.

4.3. All such Real Property Assets are hereby assigned, conveyed and transferred with all right, title and interest to the County. Further, the Village shall obtain as necessary and grant

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easement(s) as may be necessary to the County over any other real property owned by the Village as may be needed to operate and maintain said Village Systems. Further, the Village shall provide easements, suitable for the intended purpose of operating the Village System, as found to be on real property owned by the Village after the Closing Date of this Agreement.

4.4. Transfer of Real Property Assets as described and inventoried in Appendix F shall include transfer of all deeds to the County and all transfers under this section shall be free and clear of all liens and encumbrances.

4.5. In the event that the County becomes aware that any deed, easement, right-of-way or instrument of conveyance was not received or recorded or that there is any other condition, restriction of record or title defect with respect to the said Real Property Assets or Village Systems, either on Village property or on non-Village property, the Village shall cooperate with the County to promptly remedy and prepare and execute all documents necessary to accomplish such transfer or correct said defect, for no further consideration, except as provided herein. The Village, for the first five years after the Closing Date of this Agreement, shall pay all costs associated if the County becomes aware that any deed, easement, right-of-way or instrument of conveyance was not received or recorded or that there is any other condition, restriction of record or title defect with respect to the said Real Property Assets or Systems associated with the operation of the Village Systems.

4.6. In the event that the County would no longer continue to operate Water and/or Wastewater utilities on any real property interest transferred as a result of this Agreement, or would no longer have a need for such to carry out the efficient operation and/or maintenance of said Water and/or Wastewater utilities, then ownership of such real property interest would revert to the Village. This restraint shall be included on all deeds, easements, rights-of-way and instruments of conveyance, and the County shall adopt all such resolutions as may be considered necessary to effectuate such reversion, for no further consideration.

5. FINANCIAL ASSETS

5.1. On the Closing Date, all Financial obligations owed by, or to, the Village Systems shall transfer to the County, and become obligations of or to the County. This includes, but not limited to, all liabilities, debt as identified in Appendices N and O, outstanding encumbrances, unpaid invoices as well as all receivables, including outstanding balances owed to the Village Systems for services rendered prior to the transfer and insurance payments. The Village will retain the cash balance in its sewer and water funds until the payroll associated with work performed by the Village System’s employee(s) up to the date/time of the transfer are paid by the Village, then the remaining cash balance shall be transferred to the County. Only the liabilities covering the Village’s time as owner of the Village Systems shall be paid from these funds up to the Closing Date, except for payroll as provided for above. All outstanding and delinquent account balances set forth in Appendix P will become obligations owed to the County. All delinquent account balances greater than 60-days old, when collected, shall be credited as revenues received toward the retirement of the Surcharge minus any applicable legal fees associated with collection. Any balances

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deemed uncollectable by the County and removed as a pending receivable shall not be counted toward the Surcharge balance.

5.2. The Village, to the best of its ability will provide a list of all outstanding encumbrances, with obligations against them, to the County within seven (7) days after the Closing Date. The Village will make every effort to pay all invoices it has received before the Closing Date but shall provide to the County any outstanding invoices not yet paid as of the Closing Date. The Village shall provide, to the best of its ability, a list of potential liabilities which may manifest after the transfer including but not limited to pending worker’s comp claims, property damage claims, or potential litigation, which it may be aware of.

5.3. The Village shall provide, within a week prior to the Closing Date, a listing of its existing customers, preferably in excel form, that includes all relevant billing data the Village possess, including but not limited to: account balances, last meter reads, customers currently shut off, and customer contact/billing information. The County and Village shall meet prior to the transfer to determine what data fields the Village maintains, and what formats for the download are available. The Village shall provide a separate list of any other receivables owed to the village system that is not tracked via its billing software.

5.4. The Village shall, within thirty (30) days following the Closing Date, provide a listing of the current value of all assets transferred to the County. Such value shall be calculated, including depreciation, to reflect the value at the date of the transfer. This listing should be as detailed as possible, and should contain at minimum those items identified in Appendices C and D.

6. BILLING AND RATES

6.1. Village customers shall become County customers, subject to all the County’s rates, policies and the County’s Rules and Regulations, then in effect and as may be changed from time to time as it considers advisable. It is also understood that the existing Village water and/or sewer customers, as identified at the time of the transfer, will be subject to an additional Surcharge Rate related to the Identified Needs list for the Capital Improvement Plan. It is agreed that the County will bill those customers, subject to the Surcharge Rate, on a monthly basis, so long as the Surcharge Rate exceeds 25% of the County’s minimum bill. If the Surcharge Rate falls below or is equal to 25% of the County’s minimum bill the County may elect to switch to quarterly billing.

6.2. As the outcome of the CT Consultants and County’s inspection of the Village Systems the following reports were prepared:

6.2.1. CT Consultants prepared the Village of Mantua Water & Wastewater Systems Schematic Analysis of Revenue Requirements For System Replacement/Rehabilitation (November 2016) attached Appendix H which provided both long term and imminent repair or replacement needs in the Village Systems.

6.2.2. The County prepared the Village of Mantua Draft Water and Wastewater Treatment Plant Facilities Plan Appendix I which provided for a List of Identified Needs

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for those items requiring imminent repair or replacement in the Village Systems, planned for the next five years following the Closing Date. The County and the Village have worked out an Identified Needs list for the Capital Improvement Plan projects, for the Water System and Sewer System, as listed in Appendix J.

6.3. The projects in Appendices I and J, along with the debt identified in Appendices N and O, shall be used to calculate an expenditure balance unique to the Mantua Village Service Area. This balance forms the basis for a Surcharge Rate to be placed on the accounts of the existing water and/or sewer customers of the Village Systems as identified in Section 5.3. and Section 6.4.

6.3.1. A Surcharge Cap, in relation to the items listed in 6.3., shall be the amount which the Surcharge Rate, applicable to each and every account within the Mantua Village Service Area, shall not exceed when charged. It is agreed that the first year Surcharge Cap shall be \$86.79. The Surcharge Cap shall be adjusted once each calendar year using the previous year Surcharge Cap increased by either the Base Interest Rate of 3-percent or the prior year annual Construction Price Index average, whichever is greater (non-additive), the resultant being the new year Surcharge Cap which shall remain in effect until changed. The Surcharge Cap in effect is not applicable to and shall not limit the ability of the County to collect past-due, delinquent and/or unpaid amounts on customer accounts.

6.3.2. The Surcharge Rate is the amount charged monthly to each account inside of the Mantua Village Service Area in relation to the items listed in 6.3. The Surcharge Rate will consist of a proportionate water component, a proportionate sewer component, or both combined in relation to the items listed in 6.3. It is agreed the starting monthly Surcharge Rate shall be \$50.19 for water only customers, \$36.60 for sewer only customers and \$86.79 for sewer and water customers see Appendix R. The Surcharge Rate will be added to customers' User Fees and included on their monthly utility bills.

6.3.3. The identified dollar amount, and length of time over which the Surcharge Rate is to be collected, will be determined by the Portage County Board of Commissioners per Ohio Revised Code 6103 and 6117. Surcharge Rates shall be reviewed at least once each calendar year, and if found justified by the Portage County Board of Commissioners Surcharge Rates may be adjusted. Further the parties understand that all adjustments to the Surcharge Rate shall be completed in open public sessions with the Portage County Board of Commissioners (see Appendix S for supporting methodology for Sections 6.3.3., 6.3.4. and 6.3.5.).

6.3.4. Accounting justification for Surcharge Rate adjustments shall be based on currently known financial factors. Financial factors to be considered but not limited to, surcharge payments received and held as cash on hand, payments made to reduce current or future debt, payments made for work completed, grant funding or loan forgiveness, work remaining to be completed, current and future debt to be paid, funds to be repaid to Portage County as advanced to pay for work completed or debt payments, work remaining to be completed, tap-in fees collected as determined under Section 6.4., debt

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collected for the Village of Mantua as provided for in Section 5.1 and Appendix P; and may be adjusted in accordance with Section 6.1.. It is agreed by the parties that a complete list of financial factors is unknown on the Closing Date of this Agreement and additions and/or deletions of financial factors shall occur as determined appropriate.

6.3.5. Surcharges will continue to be collected until such time as the Portage County Commissioners declare respectively for each of the water component and the sewer component, or for both, that sufficient revenues collected have offset the costs of the Identified Needs and debt.

6.4. The boundaries of the existing Village Water Service area as set forth in Mantua Resolution 2002-36 and Portage County Resolution 02-922, and the existing Village Sanitary Sewer Service Area as identified by Village of Mantua Resolution 2002-45 and Portage County Resolution 02-1054-1, are attached to this Agreement as Appendices L and M to be used for reference purposes only. The County and Village agree that the County prepared parcel level accurate Mantua Service Area Map Appendix Q accurately represents those parcels and customers to be considered as Village customers as of the Closing Date of this Agreement. The County agrees to treat any customers wishing to tap into service for water or sewer, from within the parcel level accurate Mantua Service Area Map Appendix Q in the following manner: The County shall charge them any and all connection fees owed under County policy, prior to the connection as it would any other customer at that time, and shall charge them the current rates in place at that time, including the Surcharge Rate identified in Section 6.3. The value of the tap-in fees and Surcharges collected from such customers, located within the parcel level accurate Mantua Service Area Map Appendix Q, shall be credited as revenues received toward the retirement of the Surcharge identified in Section 6.3.

6.5. The County also agrees that any grants, loan deferments, or other non rate revenues, collected specifically for any of the Identified Needs list for the Capital Improvement Plan projects identified in Appendix J will also be credited as revenues received toward the retirement of the Surcharge Rate identified in Section 6.3.

7. VILLAGE SYSTEM DOCUMENTS

7.1. All documents relative to the ownership, operation, maintenance, improvement, administration and management of the Village Systems being transferred are described in Appendix G.

7.2. All documents, including, but not limited to, Village water and sewer user contracts, correspondence, invoices and bills of sale, fiscal records, warranties, customer meter readings and billings, records of revenue received, regulatory agency reports, operating permits, original construction documents for the Village Systems being transferred, and any other records maintained specifically by the Village for the Village Systems' administration, operation and management as listed in Appendix G are hereby transferred on the Closing Date of this Agreement to the County whether held by the Village or produced for the Village and held by another entity.

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7.3. When requested by the County, the Village shall provide copies of any specific documents related to the Village Systems to the County prior to the transfer of the Village Systems.

7.4. The Village shall assist the County in becoming familiar with the Village’s methods and system of records retention. The Village shall amend its pertinent records retention schedule(s) to require that, prior to destroying any public records relative to the ownership, operation, maintenance, improvement, administration and management of the Village Systems, whether known prior to the Closing Date or discovered after that date, it will notify the County of its intention to do so, and give reasonable opportunity for the County to take custody of the same or copies thereof where permitted by law.

8. PERMITS

8.1. The Village currently operates the Public Water System under Ohio EPA Water Identification System Number OH6702212; and, operates the Wastewater Treatment Plant under Ohio EPA NPDES Permit Number OH0022063. The Village shall take all steps necessary to accomplish transfer of these permits to the County for the continued operation of the Village Systems.

8.2. The County shall thereafter be responsible for obtaining and maintaining all federal, state and local permits and licenses that may be required for the continued Installation, Operation, Maintenance, Repair and Replacement of the Village Systems. If required, the Village shall use best efforts to assist the County to obtain the same for no further consideration.

9. THE WASTEWATER FLOW AGREEMENT

9.1. The Village and County entered into a Wastewater Flow Agreement on September 12, 2000 (hereafter, the "Wastewater Flow Agreement" attached Appendix K) in which the Village agreed to collect, receive and treat wastewater from certain County systems. In exchange for said services, the County agreed to pay the Village sums representing a proportional share of the cost of the operation, maintenance and repair of the Village's wastewater collection system and treatment facilities.

9.2. The parties agree that the Wastewater Flow Agreement, attached hereto as Appendix K, between the County and Village, and including any and all amendments thereto, whether or not affixed hereto by Appendix, shall terminate on the Closing Date of this Transfer Agreement. At the Closing Date, any outstanding obligations there under shall be resolved in accordance with this Agreement.

10. THE WATER AND SANITARY SERVICE AREA AGREEMENTS

10.1. In November of 2002, the County and the Village entered into a Water Service Area Agreement and a Sanitary Service Area Agreement whereby the Village agreed to be the sole provider of water and sanitary sewer service to the owners or tenants of real property within the Mantua Service Area as defined in those Agreements (“Service Area”). Appendix L the

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Water Service Area Agreement and Appendix M the Sanitary Service Area Agreement. The Village and the County agree to abandon the Service Area Agreements from the Closing Date of this Agreement and agree to use the parcel level accurate Mantua Service Area Map as provided in Appendix Q, for the purposes described in Section 6.4, and for so long as is necessary to accomplish the purposes described herein.

10.2. The Village hereby authorizes that the Board of County Commissioners may by resolution lay out, establish, maintain, consolidate or otherwise modify the boundary of one or more sewer districts within the County to include a part or all of the territory within Mantua Village as the whole or a part of such district, in such Board's discretion at any time and from time to time. The Village further agrees that if at any time in the future the Village corporation boundary expands, that any such expansion shall include the ability of the County to include the new territory as part of such sewer district or districts. It is the intention of the Village that the approval and execution of this Agreement, when authorized by Village Ordinance or Resolution, shall constitute specific authorization of this Section 10.2, for purposes of compliance with Ohio Revised Code Section 6117.03.

10.3. The Village hereby further authorizes that the Board of County Commissioners may acquire, construct, maintain, operate, remove and replace Water and Wastewater Systems in the territory of the Village to include the Village Systems and such further acquisition, construction, maintenance and operation of facilities as is to be deemed necessary in the discretion of the County, at any time and from time to time. It is the intention of the Village that the approval and execution of this Agreement, when authorized by Village Ordinance or Resolution, shall constitute specific authorization of this Section 10.3, for purposes of compliance with Ohio Revised Code Sections 6103.03 and 6117.04.

10.4. The Village is not approved to make use of facilities after the Closing Date, unless specifically authorized in a subsequent, separate written agreement with the County subject to Rules and Regulations established by the Board.

11. VILLAGE OPWC AND OWDA DEBT

11.1. The Village has current debt obligations associated with the water and sewer funds with the Ohio Public Works Commission (OPWC) and the Ohio Water Development Authority (OWDA) as set forth in Appendices N and O.

11.2. The County agrees to assume the OPWC and OWDA Loans listed in Appendices N and O on the Closing Date of this Agreement and shall be responsible for payment of all such debt upon the terms and conditions applicable to the same, and the Village shall be removed as the obligor on such Loans.

11.3. In the event that the County is unable, on or after the Closing Date, to assume any or all such loan(s) listed in Appendices N and O, it shall pay off such debt, in full accordance with the existing amortization schedule(s) and rate(s), or subsequently renegotiated schedule(s) and/or rate(s) agreeable to the County, and hold harmless the Village with relation thereto after the Closing Date of this Transfer Agreement.

VILLAGE OF MANTUA, OHIO
ORDINANCE 2019-49
“EXHIBIT A”

11.4. The Village shall not default on any such loan listed in Appendices N and O, prior to the Closing Date, nor shall it renegotiate any amortization schedule(s) and/or rate(s) without the consent of the County.

12. EMPLOYEE RETENTION

One (1) current full-time employee administering the Village’s billing system whose current hourly rate is \$12.25 per hour plus benefits will be retained by the County upon the effective date of this Agreement. The County will provide the employee a credit for the length of their service to the Village to the extent as provided for by County policy. This employee will be subject to a 120 day probationary period, during which continued employment will be based on County policy and practices.

13. FUTURE DEVELOPMENT AND EXTENSION OF VILLAGE FACILITIES

The County shall have the right to determine whether to extend services from the Village Systems to areas within or outside the boundaries of the Village and the County. The County shall have jurisdiction to extend services, provide services, extend utilities, and otherwise exercise all rights and duties for sanitary sewer and water services as provided by law.

14. GENERAL PROVISIONS

14.1. Governing Law. This Agreement shall in all respects be interpreted, construed, and governed by and in accordance with the laws of the State of Ohio. The parties submit to the jurisdiction of the state and federal courts for Portage County, Ohio.

14.2. EPA Regulation. The County shall operate and maintain all Village Systems in accordance with the Ohio Environmental Protection Agency's requirements in place as of the Closing Date of this Agreement and any future regulatory changes made by the Ohio Environmental Protection Agency as they may relate to the operation of the Village Systems.

14.3. Severability. If any portion of this Agreement proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other portion of this Agreement unless it clearly appears that such other portion is wholly or necessarily dependent for its operation upon the portion so held invalid or unconstitutional.

14.4. Waiver. The waiver by either 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.

14.5. Entire Agreement; Amendment. This Agreement contains the entire agreement of the parties, and may not be modified orally, but only by agreement in writing signed by both parties.

14.6. Assignment. Neither party shall have the right to assign this Agreement to a nonaffiliated third party without the prior written consent of the other party.

VILLAGE OF MANTUA, OHIO
ORDINANCE 2019-49
“EXHIBIT A”

14.7. Further Assurances. The parties agree without expense to the other party (a) to furnish upon request to each other such further information, (b) to execute and deliver to each other such other documents, and (c) to do such other acts and things, all as the other party may reasonably request for the purpose of carrying out the intent of this Agreement and the documents referred to in this Agreement.

14.8. Rights of Third Parties. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the parties to it and their respective successors and permitted assigns. Nor is anything in this Agreement intended to release or discharge the obligation or liability of any third persons to any party to this Agreement.

14.9. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement.

14.10. Authority Under Ohio Law. Nothing contained in this Agreement may be construed so as to limit the authority of either the Village or the County under Ohio law.

14.11. Term. This Agreement shall remain in full force and effect as long as the County shall own or operate any Water or Sewer utility within the Village of Mantua or the Mantua Service Area Map.

14.12. Word Usage. “Wastewater,” “Sanitary sewage,” “Sewage,” and variants thereof, and the terms “Wastewater System,” “Sanitary Sewer System,” “Sewer System,” and variants thereof, are used interchangeably in this document, for reasons including, without limitation, to be in keeping with prior usage of the terms and usage of the terms in referenced documents. “Water,” “Public Water,” “Potable Water,” and variants thereof, and the terms “Water System,” “Water Distribution System,” “Distribution Systems,” and variants thereof, are used interchangeably in this document, for reasons including, without limitation, to be in keeping with prior usage of the terms and usage of the terms in referenced documents.

14.13. Specific Performance. The Village and the County agree that money damages may not adequately compensate a party for any failure to perform any obligations set forth in this Agreement, and that accordingly the terms of this Agreement shall be specifically enforceable, but that such a right shall not limit or affect any other rights or remedies the parties may have at law or in equity.

**VILLAGE OF MANTUA, OHIO
ORDINANCE 2019-49
“EXHIBIT A”**

IN WITNESS WHEREOF, the County and the Village have caused this Agreement to be executed by their respective officers duly authorized as of the date first set forth above.

VILLAGE OF MANTUA

PORTAGE COUNTY COMMISSIONERS

Linda Clark, Mayor

Vicki Kline

Witness

Sabrina Christian-Bennett

Kathleen Clyde

PORTAGE COUNTY WATER
RESOURCES

Eugene K. Roberts P.E., Director

APPROVED AS TO FORM

APPROVED AS TO FORM

Village Solicitor

Assistant Prosecuting Attorney

[Certificates of Fiscal Officer]

APPENDIX A – REQUEST FOR QUALIFICATIONS & PROPOSAL OWNERSHIP

1st ADVERTISED 03/06/19

This Appendix is Referenced in (2nd whereas) 1 of this Agreement
Document Provided for Inclusion in this Agreement by Village of Mantua

7 Pages Insert to Follow

APPENDIX B – PORTAGE COUNTY WATER RESOURCES PROPOSAL AND
QUALIFICATIONS

Letter of Introduction, Proposal and Qualifications as Submitted by Portage County to the
Village of Mantua on April 9, 2019

This Appendix is Referenced in (3rd whereas) of this Agreement

Document Provided for Inclusion in this Agreement by Portage County

95 Pages Insert to Follow

APPENDIX C – VILLAGE OF MANTUA WATER SYSTEM

8-1/2 x 11 Low Resolution Map of Village of Mantua Water Distribution System as Developed
by CT Consultants, Inc. Based on Village of Mantua Records

This Appendix is Referenced in Sections 3.1.1., 4.1. and 5.4. of this Agreement

Document Provided for Inclusion in this Agreement by Portage County

1 Page Insert to Follow

APPENDIX D – VILLAGE OF MANTUA WASTEWATER SYSTEM

8-1/2 x 11 Low Resolution Map of Village of Mantua Wastewater Collection System as
Developed by CT Consultants, Inc.

This Appendix is Referenced in Sections 3.1.2., 4.1. and 5.4. of this Agreement

Document Provided for Inclusion in this Agreement by Portage County

1 Page Insert to Follow

APPENDIX E – LIST OF LIABILITIES, OBLIGATIONS, LIENS AND ENCUMBRANCES

The Village of Mantua Prepared the Following Pages Accounting For the Financial Records Held by the Village Representing Their Water and Sewer Accounting Records Including the Current Asset Value as of the Closing Date.

This Document is Recognized as Not Being Complete on the Closing Date as both Parties Understand That There Will Be Financial Obligations Such as Invoices Received by The Village After the Closing Date.

This Appendix is Referenced in Section 3.2 of this Agreement

Document Provided for Inclusion in this Agreement by Village of Mantua

1 Page Insert to Follow

APPENDIX F – REAL PROPERTY ASSETS

The Village of Mantua Water and Sewer Utilities Real Properties Required for Operation and Ownership Transferred on Closing Date to Portage County.

This Appendix is Referenced in Section 4.1. and 4.4. of this Agreement

14 Page Insert to Follow

Document Provided for Inclusion in this Agreement by Village of Mantua

APPENDIX G – VILLAGE SYSTEM DOCUMENTS

A List of Documents of Record defining the Village of Mantua Water System and Wastewater System as prepared for the Village of Mantua by CT Consultants, Inc. Including Such Things but Not Limited to Drawings, Submittals, Studies, Models, Operation and Maintenance Manual, EPA Reports, Basis of Design Reports, Permits, etc. Used in the Operation, Maintenance, Repair, Replacement or Removal of the Village of Mantua Water System and Wastewater Systems Transferred to Portage County on the Closing Date.

This Appendix is Referenced in Section 7.1. and 7.2. of this Agreement

XX Page Insert to Follow

List of Documents Provided for Inclusion in this Agreement by Village of Mantua

APPENDIX H – CT CONSULTANTS SCHEMATIC ANALYSIS OF REVENUE

Report Prepared by CT Consultants, Inc. in November 2016 for the Village of Mantua
Reviewing the Village of Mantua's Water and Wastewater Utilities in Which is Reported
Information on the Operation, Maintenance, Repair and Replacement Costs Typical of
the Public Utility Industry.

This Appendix is Referenced in Section 6.2.1. of this Agreement

8 Page Insert to Follow

Document Provided for Inclusion in this Agreement by Village of Mantua

APPENDIX I – VILLAGE OF MANTUA DRAFT WATER AND WASTEWATER
TREATMENT PLANT FACILITIES PLAN

Report Prepared by Portage County Water Resource and Presented to the Village of Mantua Council Officials and Residents in August 2018 Providing a Condition and Facility Inventories of the Village of Mantua's Water and Wastewater Utilities and a List of Identified Capital Needs Including Estimated Costs for Repair, Replacement and/or Rehabilitation.

This Appendix is Referenced in Section 6.2.2. and 6.3. of this Agreement

Document Provided for Inclusion in this Agreement by Portage County

206 Page Insert to Follow

APPENDIX J – IDENTIFIED NEEDS IN THE CAPITAL IMPROVEMENT PLAN

Document Prepared by Portage County for both the Water and Wastewater Facilities Based on the Report Prepared by Portage County Water Resource and Presented to the Village of Mantua Council Officials and Residents in August 2018 Listing the Identified Capital Needs Including Estimated Costs for Repair, Replacement and/or Rehabilitation and Modified as Agreed by the Village of Mantua and Portage County.

This Appendix is Referenced in Section 6.2.2, 6.3. and 6.5. of this Agreement

2 Page Insert to Follow

Document Provided for Inclusion in this Agreement by Portage County

APPENDIX K – WASTEWATER FLOW AGREEMENT

2000 Wastewater Flow Agreement and 2010 Amendment to the 2000 Wastewater Flow Agreement as Agreed to by Village of Mantua Council and Portage County Board of Commissioners.

This Appendix is Referenced in Section 9.1. and 9.2. of this Agreement

Document Provided for Inclusion in this Agreement by Portage County

17 Page Insert to Follow

APPENDIX L – WATER SERVICE AREA AGREEMENT

2002 Water Service Area Agreement as Agreed to by Village of Mantua Council and Portage County Board of Commissioners.

This Appendix is Referenced in Sections 6.4. and 10.1. of this Agreement

Document Provided for Inclusion in this Agreement by Portage County

10 Page Insert to Follow

APPENDIX M – SANITARY SERVICE AREA AGREEMENT

2002 Sanitary Service Area Agreement as Agreed to by Village of Mantua Council and Portage County Board of Commissioners.

This Appendix is Referenced in Sections 6.4. and 10.1. of this Agreement

Document Provided for Inclusion in this Agreement by Portage County

8 Page Insert to Follow

APPENDIX N – OHIO PUBLIC WORKS COMMISSION DEBT AGREEMENTS

Two Loan Agreements between Ohio Public Works Commission and the Village of Mantua.
2000 OPWC “CG36D” for Wastewater Treatment Plant Expansion. 2017 OPWC
“CG33S” for Water Treatment Plant and Wastewater Treatment Plant System Upgrade.

This Appendix is Referenced in Sections 5.1., 6.3., 11.1., 11.2., 11.3. and 11.4. of this
Agreement

Document Provided for Inclusion in this Agreement by Village of Mantua

20 Page Insert to Follow

APPENDIX O – OHIO WATER DEVELOPMENT AUTHORITY DEBT AGREEMENTS

Two Loan Agreements between Ohio Water Development Authority and the Village of Mantua.
2002 OWDA “CS391994-03” for Wastewater Treatment Plant Expansion. 2001 OWDA
“FS390071-01” for Waterline Loops and Booster Station.

This Appendix is Referenced in Sections 5.1., 6.3., 11.1., 11.2., 11.3. and 11.4. of this
Agreement

Document Provided for Inclusion in this Agreement by Village of Mantua

58 Page Insert to Follow

APPENDIX P – DEBT OWED THE VILLAGE OF MANTUA

The Village of Mantua Prepared the Following List of Accounts from Their Financial Records Representing Customers with Past Due Amounts Older than Sixty Days as of the Closing Date of This Agreement.

This Document is Recognized as Not Being Complete on the Closing Date as both Parties Understand That Accounts are Ever Changing and as Such The Village Shall Prepare the Debt Owed the Village of Mantua within Thirty Days After the Closing Date.

This Appendix is Referenced in Section 5.1. of this Agreement

Document Provided for Inclusion in this Agreement by Village of Mantua

11 Page Insert to Follow

APPENDIX Q – PARCEL LEVEL ACCURATE MANTUA SERVICE AREA MAP

8-1/2 x 11 Low Resolution Map of Village of Mantua Service Area Map as Developed by Portage County GIS Based on Existing Water and Sanitary Service Area Agreements and Updated to Portage County Parcel Data and Reviewed and Agreed to by the Parties to This Agreement.

This Appendix is Referenced in Section 6.4. and 10.1. of this Agreement

Document Provided for Inclusion in this Agreement by Portage County

1 Page Insert to Follow

APPENDIX R – CALCULATION OF INITIAL SURCHARGE RATE

A table to show the basis of the calculation of the Surcharge Rate Developed by Village of Mantua and Agreed to by the Parties to This Agreement.

This Appendix is Referenced in Section 6.3.2. of this Agreement

Document Provided for Inclusion in this Agreement by Village of Mantua

1 Page Insert to Follow

APPENDIX R – CALCULATION OF INITIAL SURCHARGE RATE

WATER
INFRASTRUCTURE

Identified Needs	Appendices I & J	\$ 6,829,809		
Debt	Appendices N & O	\$ 180,345	\$ 7,010,154	57.8%

SEWER
INFRASTRUCTURE

Identified Needs	Appendices I & J	\$ 3,992,739		
Debt	Appendices N & O	\$ 1,119,739	\$ 5,112,478	42.2%

Initial Expenditure Balance
Unique to Mantua Village
Service Area

\$12,122,632

Payment per Month Total*

\$ 43,397.14

Number of Customers

Sections 5.3 & 6.4

500

Initial Total Surcharge Rate

(\$43,397.14 / 500)

\$ 86.79

Water Portion

\$ 50.19

57.8%

Sewer Portion

\$ 36.60

42.2%

*The Payment per Month Total was determined utilizing a **Standard Debt Amortization Calculator** for a debt amount of \$12,122,632 to be amortized over a 40 year period at an annual interest rate of 3%.

APPENDIX S – PORTAGE COUNTY BOARD OF COMMISSIONERS ANNUAL OPEN
SURCHARGE RATE REVIEW

A document to show the basis of how the Surcharge Rate will be evaluated by the Portage
County Board of Commissioners Developed by Village of Mantua and Agreed to by the
Parties to This Agreement.

This Appendix is Referenced in Section 6.3.3. of this Agreement

Document Provided for Inclusion in this Agreement by Village of Mantua

1 Page Insert to Follow

APPENDIX S
PORTAGE COUNTY BOARD OF COMMISSIONERS ANNUAL OPEN SURCHARGE
RATE REVIEW

Expenditure Balance Unique to Village of Mantua Service Area (Reference Appendices I, J, N &O)

= Identified Costs to Date
+ Remaining Project Budget Balances

Adjustments to remaining Expenditure Balance including but not limited to:

- Debt Reduction (original 6.3)
- Surcharge Revenues from Village of Mantua Service Area customers (original 6.3)
- Tap-In Fees for new customers (original 6.4)
- Collection of Delinquent Account Balances (Section 5.1)
- Loan Deferments (original 6.5)
- Non rate revenues collected specifically for any of the Identified Needs (original 6.5)
- Grants Received and applied toward specific projects (original 6.5)
- State and Federal Funds received and applied to specific projects

Adjusted Year End Expenditure Balance = Identified Costs + Remaining Budget Balances -
Adjustments

Each year the Commissioners will use the Adjusted Year End Expenditure Balance (above) along with the remaining time and number of current customers to review the existing Surcharge Rate.