

Village of Mantua, Ohio
ORDINANCE 2018-56

AN ORDINANCE DECLARING IT NECESSARY TO RELINQUISH THE OWNERSHIP AND OPERATION OF THE VILLAGE OF MANTUA WATER TREATMENT PLANT AND DISTRIBUTION SYSTEM WITH ALL ASSOCIATED APPURTENANCES, FINDING THAT THIS UTILITY IS NO LONGER NEEDED FOR A MUNICIPAL PURPOSE, AND AUTHORIZING THE SALE OF SAID UTILITY TO THE HIGHEST AND MOST QUALIFIED BIDDER THROUGH A COMPETITIVE BIDDING PROCESS PURSUANT TO LAW, AND DECLARING AN EMERGENCY.

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 (“the Water Utility”); and

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

WHEREAS, the Village has solicited reports on the current condition and future needs of the Water Utility 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 Water Utility 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, this Council, pursuant to Ohio Revised Code Sections 721.03 and 721.15, desires to sell the Water Utility to the highest and best bidder, after advertisement once a week for five (5) consecutive weeks in a newspaper of general circulation within the Village of Mantua, Ohio.

Village of Mantua, Ohio
ORDINANCE 2018-56

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 Utility known as the Village of Mantua Water Treatment Plant and Distribution System with all associated appurtenances (“the Water Utility”), the assets of which are more thoroughly enumerated in CT Consultants “Water & Wastewater Systems – Schematic Analysis of Revenue Requirements for System Replacement/Rehabilitation”, dated November 2016, incorporated herein as “Exhibit A”, currently owned by the Village of Mantua, is no longer needed for any municipal purpose.

SECTION 2: Mantua Village Engineer CT Consultants is hereby authorized to prepare all necessary bid documents in order to solicit bids for the sale and relinquishment of the ownership and operation of the Water Utility as provided by law.

SECTION 3: The solicitation for bids shall include (but not be limited to) requirements related to the following:

1. A thorough statement of the bidder's qualifications to operate, manage and maintain the Water Utility, and continue to provide adequate, safe and reliable service to the existing customers of the Water Utility;
2. A plan to address the capital improvements and deficiencies to equipment and critical infrastructure as set forth in the reports generated by CT Consultants and the Portage County Water Resources Department from 2016 to the present as well as any outstanding orders of the Ohio Environmental Protection Agency;
3. A plan for near-term and long-term stabilization of the rates charged to customers of the Water Utility;
4. Assumption of all outstanding and imminent indebtedness of the Village related to the Water Utility;
5. Assumption of all obligations of the Village under any existing contractual agreements relating to the Water Utility;
6. Consummation of the contract with the successful bidder will vest ownership of the real property (buildings and other attachments) and personal property of the Water Utility in the successful bidder, and a leasehold interest in the land occupied by such real and personal property.

SECTION 4: The Village Council shall approve the bid packet by Ordinance prior to advertisement for bids.

SECTION 5: The Village Administrator, as the municipal officer having supervision and management of the Water Utility, in cooperation with the Clerk-Treasurer, is hereby authorized and directed to advertise for bids for the sale of the Water Utility as required by law and in conformity with Ohio Revised Code Section 721.03 and 721.15 by publication for five (5) consecutive weeks in a newspaper of general circulation within the Village of Mantua, Ohio.

SECTION 6: The Council of the Village of Mantua reserves the right to reject any and all bids found to be non-responsive, deficient or otherwise unsatisfactory.

Village of Mantua, Ohio
ORDINANCE 2018-56

SECTION 7: The Village shall take all steps necessary to obtain the consent of the Portage County Board of Commissioners which is necessary for the Village to transfer its rights and obligations under the existing Water Service Area agreement with Portage County.

SECTION 8: Following the bidding procedure, the Council of the Village of Mantua may pass an Ordinance by no less than two-thirds of the members elected thereto, pursuant to Ohio Revised Code Section 721.03, authorizing and directing the Mayor and the Village Administrator to execute all documents necessary, and incorporating the terms of the bid proposal, to convey the Water Utility to the successful bidder if the bid is awarded.

SECTION 9: 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 this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 10: This Ordinance is hereby declared to be an emergency measure, necessary to preserve the full faith and credit of the Village of Mantua, Ohio, to guarantee the continued reliable and efficient provision of this essential service to the customers served by the Water Utility, and for the further reason that time is of the essence in preparing and offering bid documents, completing details of sale and arranging for an orderly transfer of the Village's Water Utility system to the successful bidder, and shall take effect immediately upon the affirmative vote of two-thirds of the members of the Mantua Village Council, and to further ensure the health, safety, and morals of the Village of Mantua.

PASSED in Council this 23rd day of October, 2018.

ATTEST:

Linda Clark, Mayor

Jenny August, Clerk of Council

APPROVED per Ohio Revised Code 721.03 and 721.15

John Trew, Village Administrator

Village of Mantua, Ohio
ORDINANCE 2018-56

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 _____, 2018.

Jenny August, Clerk of Council

Approved as to Legal Form:

Michele Stuck, Solicitor