

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

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

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

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

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

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

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