

Village of Mantua, Ohio
ORDINANCE 2021-17

AN ORDINANCE AUTHORIZING THE MAYOR OF THE VILLAGE OF MANTUA TO EXECUTE A FIRST AMENDMENT TO THE “MANTUA VILLAGE, COUNTY OF PORTAGE WATER AND SANITARY SEWER SYSTEMS TRANSFER AGREEMENT”, AND DECLARING AN EMERGENCY.

WHEREAS, Portage County and the Village of Mantua have entered the “Mantua Village, County of Portage Water and Sanitary Sewer Systems Transfer Agreement” (“the Agreement”), as authorized by the Council of the Village of Mantua Ordinances 2019-49 and 2020-54, and by Portage County Board of Commissioners Resolution 20-0809; and

WHEREAS, Section 13.5 of the Agreement permits the Agreement to be modified in writing signed by both parties; and

WHEREAS, the parties agree that certain amendments are necessary to carry out the obligations set forth in the Agreement, particularly in relation to the initial bill for service to be produced by Portage County.

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

SECTION 1. This Council hereby accepts the First Amendment to the “Mantua Village, County of Portage Water and Sanitary Sewer Systems Transfer Agreement” between the Portage County Board of Commissioners and the Village of Mantua as set forth in “Exhibit A”, attached hereto and incorporated herein by reference, and authorizes the Mayor of the Village of Mantua to execute the same.

SECTION 2. 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 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 3. This Ordinance is hereby declared an emergency measure in order to permit execution of the herein described Amendment at the earliest possible time and allowing the County to delay producing its initial utility bill to customers served by the Mantua systems, and shall become effective immediately upon its passage by Council and approval by the Mayor, and to further ensure the health, safety and morals of the Village of Mantua.

PASSED IN COUNCIL this 9th day of February, 2021.

ATTEST:

Linda Clark, Mayor

Jenny August, Clerk-Treasurer

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I hereby certify that the above Ordinance was posted in the five (5) public notice locations in the Village of Mantua, Ohio on the _____ day of February, 2021.

Jenny August, Clerk-Treasurer

Approved as to Form:

Michele Stuck, Solicitor

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“Exhibit A”

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

This Amendment is entered into by and between the Village of Mantua by its Mayor, duly authorized by the Mantua Village Council by Ordinance No. _____ adopted on the ____ day of _____, 2021, hereinafter referred to as the "Village" and the County of Portage, State of Ohio, duly authorized by its Board of County Commissioners Resolution No. _____ adopted on the ____ day of _____, 2021, hereinafter referred to as the "County" and collectively referred to as the “Parties”.

WITNESSETH:

WHEREAS, the County and the Village entered the Mantua Village, County of Portage Water and Sanitary Sewer Systems Transfer Agreement, (“Agreement”), as authorized by the Council of the Village of Mantua Ordinances 2019-49 and 2020-54, and by Portage County Board of Commissioners Resolution 20-0809; and

WHEREAS, it has become necessary to amend the Agreement; and

WHEREAS, Section 13.5 of the Agreement allows the Agreement to be modified in writing signed by the Parties; and

WHEREAS, the parties agree that the within amendment(s) are necessary changes to carry out the promises agreed to in the Agreement, are in the mutual interest of the parties, and therefore constitute adequate consideration for this First Amendment.

NOW, THEREFORE, the parties mutually agree as follows:

I. Addition to Section 13.8

The following paragraph is added to Section 13.8 of the Agreement:

Certain elements of formatting of the Agreement are used for convenience of reference only and shall not be deemed to affect the meaning or construction of any of the provisions hereof, including without limitation, i) accuracy of an “Agreement Index” and/or table of contents, ii) presence or absence of the header “Exhibit A” used for legislative purposes, iii) presence or absence of underlining of text in Section 1; iv) presence or absence of underlining of Section headings; v) page numbers and the specific page on which Agreement text may fall; vi) presence or absence of the following text, “~~12. EMPLOYEE RETENTION – SECTION REMOVED BALANCE RENUMBERED~~”, and vii) presence or absence of a duplicate indefinite article “A” beginning Section 6.3.2. Differences between counterparts of the nature described in this paragraph shall not affect the validity or execution of this Agreement.

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II. Addition to Section 6.1

The following paragraph is added to Section 6.1 of the Agreement:

Notwithstanding anything to the contrary contained in this Section, the first bill to be issued following the Closing Date to any new, existing or former customer or account of water and/or sewer service within the Village Service Area, and to any new customer or account of water and/or sewer service outside the Village Service Area receiving said service primarily from the Mantua System(s) as identified in Section 5.3 and Section 6.4, may be for such period as the County determines necessary, including a period longer than one month. If such bill covers a period of time prior to the Closing Date, charges for the period of time prior to the Closing Date shall be for estimated consumption billed at the then-applicable rates of the Village of Mantua. The County in its discretion may elect to commence the Surcharge Fee charge described in Section 6.3, and its Subsections, on the bill following the first bill issued after the Closing Date.

In the event that the County elects to produce an initial bill for a period longer than one month, the County agrees that late fees will not be applied to any customer's unpaid balance on such initial bill until at least three months after the due date of the bill.

III. Other Terms to Remain in Force

All other terms of the Agreement between the Parties shall remain in force and in effect unless otherwise agreed to in this First Amendment. To the extent that any provisions of this First Amendment are inconsistent with any of the provisions set forth in the Agreement, the provisions of this First Amendment shall govern and control.

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IN WITNESS WHEREOF, the County and Village have caused this First Amendment to be executed in their respective names by their duly authorized officers.

VILLAGE OF MANTUA

PORTAGE COUNTY COMMISSIONERS

Linda Clark, Mayor

Sabrina Christian-Bennett, President

Witness

Anthony J. Badalamenti, Vice President

Vicki A. Kline, Board Member

APPROVED AS TO FORM

Village Solicitor

Assistant Prosecuting Attorney