

RESOLUTION NO. 013-21

A RESOLUTION AUTHORIZING A CONTRACT WITH THE VILLAGE OF FLORIDA FOR THE PURPOSE OF OPERATING A WATER SUPPLY DISTRIBUTION SYSTEM; AND DECLARING AN EMERGENCY

WHEREAS, the Village of Florida of Henry County, Ohio, desires to enter into a contract with the City for water distribution services; and,

WHEREAS, the City, a municipal corporation duly organized and existing under the laws of the State of Ohio, now owns and operates a water system, including water mains, water intake facilities, and a water treatment plant, together with related appurtenances; and,

WHEREAS, the Village of Florida can be served by the current water system; and,

WHEREAS, the City has determined to provide the service of water supply distribution to the Village of Florida as identified in an Agreement and upon the terms and conditions contained in said Agreement; **Now Therefore**,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. That, the City Manager is authorized to enter a contract with the Village of Florida, Henry County, Ohio, for water distribution services, including billing services related thereto; the terms and conditions having been approved by this Council in the form as currently on file in the office of the City Finance Director. The City Manager is authorized to make non-material changes to the contracts as deemed appropriate by the City Manager and approved as to form and correctness by the City Law Director; further, the contracts shall be effective April 1, 2021.

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon, Ohio.

Section 3. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.


Section 4. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow for emergency services to be rendered in a timely manner, emergency services also utilized by the City inhabitants when needed outside the City's jurisdictional boundaries; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Further, it is necessary that this contract with the Village of Florida be in force in a timely manner, and for further reasons as stated in the Preamble hereof.

Passed: May 3, 2021



Joseph D. Bialorucki, Council President Pro-tem

Approved: May 3, 2021


Jason P. Maassel, Mayor

VOTE ON PASSAGE 6 Yea 0 Nay 0 Abstain

Attest:


Roxanne Dietrich, Clerk of Council

I, Roxanne Dietrich, Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Resolution No. 013-21 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the 4th day of May, 2021; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.


Roxanne Dietrich, Clerk of Council

WATER PURCHASE CONTRACT

This contract for the sale and purchase of water is entered into as of the _____ day of _____, 2021, "Effective Date" between the CITY OF NAPOLEON, OHIO, 255 W. Riverview Avenue, Napoleon, Ohio 43545, hereinafter referred to as the "Seller" and the VILLAGE OF FLORIDA, OHIO, 206 E. High St., Napoleon, Ohio 43545, hereinafter referred to as the "Purchaser". When referencing both the Seller and the Purchaser together, they shall be referred to as the "Parties".

WITNESSETH:

Whereas, the Purchaser is organized and established under the provisions of the Ohio Revised Code, for the purpose of constructing and operating a water supply distribution system serving water users within the area described in plans now on file in the Office of the Purchaser and to accomplish this purpose, the Purchaser will require a supply of treated water; and,

Whereas, the Seller owns and operates a water supply distribution system with a capacity currently capable of serving the present customers of the Seller's system and the estimated number of water users to be served by the said Purchaser as shown in the plans of the system now on file in the Office of the Purchaser; and,

Whereas, Ordinance No. _____ was enacted on the ____ day of _____, 2021, by the Seller for the sale of water to the Purchaser in accordance with the provisions of this Agreement; and,

Whereas, Ordinance No. _____ was enacted on the ____ day of _____, 2021, by the Purchaser for the purchase of water from the Seller in accordance with the provisions of this Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth,

A. Representations of the Seller:

1. Quality and Quantity: To furnish the Purchaser at the point of delivery hereinafter specified, during the term of this contract or any renewal or extension thereof, potable treated water meeting applicable quality standards of the Ohio Department of Health and The Ohio Environmental Protection Agency in such quantity as may be required by the Purchaser not to exceed 300,000 cubic feet per month.

2. Pressure: That water will be furnished at a reasonably constant pressure calculated at no less than 35 lbs./sq. inch from an existing six- inch main supply at a point located at the west corporate limit of the City of Napoleon on County Road 424. If a greater pressure than that normally available at the point of delivery is required by the Purchaser, the cost of providing such greater pressure shall be borne

by the Purchaser. Emergency failures of pressure of supply due to main supply line breaks, power failure, flood, fire and use of water to fight fire, earthquake or other catastrophe shall excuse the Seller from this provision for such reasonable period of time as may be necessary to restore service. Initially the Purchaser will use the available pressure from the Seller's water system to supply their distribution system; however, the Purchaser has the right to install a booster pump station whenever the Seller's water system is unable to supply sufficient pressure.

3. Point of Delivery: Seller shall furnish, install, operate and maintain the necessary metering equipment at the point of delivery for properly measuring the quantity of water delivered to the Purchaser and to calibrate such metering equipment as needed, but not including the meter pit. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous reading of any meter disclosed by test to be inaccurate shall be corrected for the six months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless Seller and Purchaser shall agree upon a different amount. The metering equipment shall be read monthly. An appropriate official of the Purchaser at all reasonable times shall have access to the meter for the purpose of verifying its readings.

4. Billing Procedure: Seller to furnish the Purchaser at the above address not later than the 10th day of each month, with an itemized statement of the water furnished the Purchaser during the preceding month, unless unforeseen circumstances occur that would prohibit the ability to provide a timely statement.

B. Representations of the Purchaser:

1. Water Purchasing: To purchase water solely from the Seller so long as there is sufficient amount available for its needs.

2. Water Payment: (a) To pay the rate of \$7.77/1,000 gallons of water, subject to increases reviewed by the Water Rate Review Commission and City of Napoleon Council approval and subject to increases already approved by the Napoleon City Council.

(b) There shall be a monthly minimal charge which shall be computed by using as a base a minimum usage of 30,000 cubic feet and multiplying this base by the charges as shown in 2 (a).

(c) Prior to any use of water line(s) constructed and installed by it, Purchaser will pass a resolution to adopt or approve rules and regulations governing the use and control of such line(s) which shall be substantially identical in substance, form, intent, and purpose to those passed by or amended by the Seller.

(d) The Purchaser shall not add any one user as a customer who will use over 20,000 cu. ft. per month, without prior approval of the Seller. The Purchaser and Seller agree that this provision is intended to provide a review process solely for the purpose of determining whether the Seller's water system can physically support the additional demand without adversely affecting pressures or flows in the Seller's system.

The Seller reserves the right to refuse the additional request or service only in the event that:

- i) There would be an adverse impact on the Seller's water system, including, but not limited to, pressure, flow, quality, necessity for reconfiguration of water delivery point, increased meter size and testing.
- ii) The Purchaser cannot or will not provide additional measures or compensation to fully mitigate the adverse impact.

3. Point of Delivery: To furnish, install, operate and maintain at its own expense at point of delivery, the necessary materials and equipment, including a meter house or pit, valves and required devices of standard type for properly operating metering equipment. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous reading of any meter disclosed by test to be inaccurate shall be corrected for the six months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless Seller and Purchaser shall agree upon a different amount. The metering equipment shall be read on the 1st day of each month. An appropriate official of the Seller at all reasonable times shall have access to the meter for the purpose of verifying its readings.

C. Representations of the Parties:

1. **Term of Contract:** That this contract shall end on July 1st of the year 2049, which is when the debt for the rehabilitation of the Water Treatment Plant is scheduled to be paid in full.
2. **Water Rate Review Commission:** Within one hundred eighty (180) days from the execution of this contract, the Seller agrees to establish a Water Rate Review Commission as a standing body that will review water rates on an as needed basis and make recommendations to City Council related to the review and establishment of water rates. The Commission shall meet with the Napoleon Board of Public Affairs and the City Council Water, Sewer, Refuse, Recycling and Litter Committee at the designated times to review items that could impact water rates. The Commission will consist of at least two (2) members from Napoleon, appointed by City Council and one (1) member of any community that is party to a contract with the City of Napoleon for purchasing water. The Commission shall also review contracts for any communities that would enter into

contracts with the City of Napoleon Water System and would have a seat on the Commission to ensure that the terms and conditions of the contracts are congruent with this contract.

3. **Failure to Deliver Water:** That the Seller will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with quantities of water required by the Purchaser. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the Seller is otherwise diminished over an extended period of the time, the supply of water to Purchaser's consumers shall be reduced or diminished in the same ratio or proportion as the supply to Seller's consumers is reduced or diminished.
4. **Modification of Contract:** That the provision of this contract pertaining to the schedule of rates to be paid by the Purchaser for water delivered are subject to Section B of this agreement. Other provisions to this contract may be modified or altered by written mutual agreement.
5. **Regulatory Agencies:** That this contract is subject to such rules, regulations, or laws as may be applicable to similar agreements in this State and the Seller and purchaser will collaborate in obtaining such permits, certificates, or the like as may be required to comply therewith.
6. **Miscellaneous:** That the construction of the water supply distribution system by the Purchaser may be financed by a loan made or insured by, and/or a grant from the United States of America, acting through the Farmers Home Administration of the United State Department of Agriculture, and the provisions hereof a Home Administration of the United States, and the provisions hereof pertaining to the undertakings of the Purchaser are conditioned upon the approval, in writing of the State Director of the Financing. If the Purchaser obtains alternate financing, the Purchaser certifies that it will do all necessary undertakings required by alternate lender.
7. **Successor to the Purchaser:** That in the event any occurrence rendering the Purchaser incapable of performing under this contract, any successor of the Purchaser, whether the result of legal process, rights of assignment, or otherwise, shall succeed to the rights of the purchaser hereunder.
8. **Operations and Maintenance Agreement:** The Parties may agree in a separate Operations and Maintenance Agreement for the Seller to take responsibility for the Operations and Maintenance of the Purchaser's water system, which may include, but is not limited to, billing, leak detection, hydrant flushing, operating a backflow program, providing a certified Operator of Record, valve exercising, asset management, Meter reading, tower inspections and maintenance, hydrant maintenance, capital improvement planning, adopting an asset management plan and contingency plans, maintaining parts inventory for inevitable repairs and maintenance, and incorporating the water system into

a GIS program. The Operations and Maintenance Agreement will detail the costs associated with operating and maintaining the Purchaser's water system.

9. **Purchaser Termination:** The Purchaser may opt out at its discretion prior to construction of the new water line. Purchaser shall promptly notify the Seller of this decision. Purchaser shall pay a fee in the amount equal to the previous 24 months of water purchases if the Purchaser decides to terminate the contract prior to the contract expiration date. The fee is justified to maintain the long-term financial stability of the water system. If Purchaser does not commence construction within two years of execution of this contract, Seller may, by Ordinance, declare this contract null and void. Seller would promptly notify Purchaser of this action. In either eventuality listed above, the Purchaser agrees to pay the full cost of all engineering work done by the Purchaser's engineer for the project.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this contract to be duly executed in four counterparts, each of which shall constitute an original.

SELLER:

THE CITY OF NAPOLEON, OHIO

By: _____
Joel L. Mazur, City Manager

Attest:

Roxanne Dietrich, Clerk of Council

Approved as to Form:

Billy Harmon, Law Director

PURCHASER:

THE VILLAGE OF FLORIDA,
OHIO

By: _____
Jeff Nulton, Mayor

Attest:

Clerk

Approved as to Form:

Village Solicitor

STATE OF OHIO
COUNTY OF HENRY

Sally Heaston, being first duly sworn, states that she is the General Manager of The Bryan Publishing Company, owner of The Northwest Signal, a daily newspaper, published and of general circulation in the county of Henry aforesaid, and that the annexed notice was published in one issue in said paper, on the 6 day of May, 2021.

Sally Heaston
Sally Heaston

Subscribed and sworn to before me this

13 day of May, 2021

Kristi Clark
Kristi Clark
Notary Public,
State of Ohio
My Commission
Expires October 25, 2025



KRISTI L. CLARK
Notary Public
State of Ohio
My Comm. Expires
October 23, 2025

Printer's Fee: \$ 125⁰⁰
Notary Fee: \$ 3⁰⁰

Summary of Resolution No.013-21

(PURSUANT TO ARTICLE II, SECTION 2.15 OF THE CITY CHARTER, CHAPTER 121 OF THE CODE OF ORDINANCES AND COUNCIL RULE 6.2.4.1, AS WELL AS APPLICABLE PROVISIONS OF ORC CHAPTER 731)

NOTICE

A copy of the complete text of the above named Ordinance(s) and Resolution(s) are on file in the office of the City Finance Director and may be viewed or obtained during business hours of 7:30 AM to 4:00 PM, Monday through Friday, at the office of the Finance Director, the location being 255 West Riverview Avenue, Napoleon, Ohio. A copy of all or part of the above named Ordinances and Resolutions, or any item mentioned in this notice, may be obtained from the City Finance Director upon the payment of a reasonable fee therefore.

Resolution No. 013-21

A RESOLUTION AUTHORIZING A CONTRACT WITH THE VILLAGE OF FLORIDA FOR THE PURPOSE OF OPERATING A WATER SUPPLY DISTRIBUTION SYSTEM; AND DECLARING AN EMERGENCY

In this legislation, the City of Napoleon authorized entering into a contract with the Village of Florida for operating a water supply distribution system.

The above summaries are approved as to form and correctness by Billy D. Harmon, City Law Director