

RESOLUTION NO. R-2010-49

**A RESOLUTION AUTHORIZING AN AGREEMENT WITH PORTAGE COUNTY,
OHIO FOR WATER PURCHASE AND SANITARY SEWER DISCHARGE AND
DECLARING AN EMERGENCY**

WHEREAS, the Village of Windham has previously been approached by Portage County for the purpose of selling potable water to Portage County, and accepting sanitary discharge from Portage County; and

WHEREAS, the Village of Windham water plant has excess ability to provide potable water beyond the demand of the existing customers, and the Village of Windham waste water treatment plant has capacity above that needed to service its existing customer base; and

WHEREAS, the Council of the Village of Windham has determined that it is in the Village's best interest to sell potable water and accept sanitary sewer discharge from Portage County; and

WHEREAS, Portage County and the Village of Windham have reached an accord with respect to the sale of potable water and acceptance of sanitary sewer discharge, and have decided to enter into a written document to set forth that agreement.

NOW THEREFORE BE IT ORDAINED by the Council of the Village of Windham, County of Portage and State of Ohio, two thirds of the members thereto concurring that:

Section 1: That the sale of water to Portage County and the acceptance of sanitary sewer discharge from Portage County upon the terms and conditions in substantial conformity with those set forth the Exhibit attached hereto, marked for identification as Exhibit "A" are hereby approved.

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 accepted 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 Resolution is hereby declared to be an emergency measure, becoming effective immediately on passage by Council and approval by the Mayor, necessary to preserve the health, safety and general welfare of the citizens of the Village of Windham, and so as to have an agreement in place at the time the Portage County Board of Commissioners award a contract to establish the connection between water and waste water customers of Portage County and the Village of Windham infrastructure.

Meeting to take place October 26, 2010

Vote of Council: Ayes: 6
 Nays: 0

Attest:

Approved:

Village Fiscal Officer, Lloyd Billman

Mayor, Robert Donham II

Approved as to Legal Form:

Solicitor, Thomas Reitz

Resolution R-2010-49
Exhibit 'A'

AGREEMENT FOR WATER AND SEWER UTILITIES

WHEREAS, Portage County, Ohio (hereinafter Portage) operates a regional water and sewer district and has customers who desire water and sewer service just outside of the Village of Windham (hereinafter Windham); and

WHEREAS, Windham has a fully functioning, operative and compliant water plant and waste water treatment plant, neither of which are presently used at full capacity; and

WHEREAS, Portage has made an overture to Windham to purchase treated and potable water from Windham and to discharge sanitary sewer water to Windham; and

WHEREAS, the Council of the Village of Windham has decided to sell potable water to Portage and to accept sanitary sewer discharge from Portage; and

WHEREAS, both the Council of the Village of Windham and the Board of Commissioners of Portage County desire to set forth in an Agreement the terms and conditions under which the sale of water and acceptance of sanitary sewer water will take place.

IT IS NOW THEREFORE AGREED between Portage and Windham as follows:

1. Portage agrees to purchase potable water from Windham at the rate periodically established by Windham for customers residing outside the Village corporation limits, no more and no less. This rate is presently set forth in Windham Codified Ordinance 923.03. Portage will install a meter so as to monitor the volume of water sold under this agreement.

2. The tap-in fee for water to be charged to Portage shall be the total tap in fee charged to the Ohio Army National Guard by Portage County Water Resources.

3. In order to discharge sanitary sewer to the Windham wastewater treatment system Portage agrees to pay the sewer rates periodically established by Windham for users residing outside the Village corporation limit, no more and no less. This rate is presently set forth in Windham Codified Ordinance 921.01.

4. The sewer tap-in fee to be charged to Portage shall be the total tap in fee charged to the Ohio Army National Guard by Portage County Water Resources..

5. Windham has disclosed, and Portage acknowledges, understands and agrees, that there is a possible limitation on volume of water available to Portage in the near term, which near term is estimated to be up to three years from the date of this agreement. During this time period on infrequent occasions there is the possibility that Windham will reduce the amount of water available to Portage, but only in the event of extreme demands on Windham's water and sewer systems.

6. Subject to payment of all of the amount set forth above, and also subject to the understanding of availability set forth in paragraph 5. Above, Windham agrees to sell water to and to accept sanitary discharge from Portage.

7. The term of this Agreement shall commence on October 26, 2010, or as soon thereafter as the requisite connections can be made and the demand for water and sanitary sewer from Portage arises.

Attest:

Approved:

Village Fiscal Officer, Lloyd Billman

Mayor, Robert Donham II

PORTAGE COUNTY COMMISSIONERS:

Approved as to Legal Form:

Solicitor, Thomas Reitz