

**WATER SERVICE AGREEMENT BETWEEN
THE CITY OF CINCINNATI AND THE VILLAGE OF CLEVES**

This *Water Service Agreement* (“Agreement”) is made and entered into effective as of January 1, 2025, between the CITY OF CINCINNATI, an Ohio municipal corporation, the address of which for the purposes of this Agreement is 4747 Spring Grove Avenue, Cincinnati, Ohio 45232 (“Cincinnati”) and the VILLAGE of CLEVES, an Ohio municipal corporation, the address of which is 101 North Miami Avenue, Cleves, Ohio 45002 (“Cleves”).

RECITALS

- A. Cincinnati owns and operates the Greater Cincinnati Water Works (“GCWW”), a municipal water utility that supplies water to its inhabitants, and is empowered pursuant to Ohio Constitution Article XVIII, Section 6 and Cincinnati City Charter Article IV, Section 9 to sell and deliver surplus water outside of the Cincinnati city limits as may be authorized by Cincinnati City Council.
- B. Cleves owns and operates the Cleves Waterworks, a municipal water utility that supplies water to its inhabitants and is empowered pursuant to Ohio Constitution Article XVIII, Section 4 to contract to purchase water for supply to its inhabitants.
- C. Cincinnati has provided standby emergency surplus water to Cleves, pursuant to a *Water Service Agreement* between the parties dated June 14, 1999 (“**1999 Agreement**”), which will expire December 31, 2024.
- D. The parties desire to enter into this new Agreement for Cincinnati to continue to provide standby emergency surplus water to Cleves on the terms and conditions provided herein.
- E. This Agreement is authorized by Cleves Village Ordinance No. 13-2024, adopted on November 13, 2024, and Cincinnati City Council Ordinance No. _____, adopted on _____.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and agreements contained herein, Cincinnati and Cleves do hereby agree as follows:

1. **TERM.** The term (“Term”) of this Agreement shall commence on January 1, 2025 and continue until December 31, 2050. This Agreement may be terminated by either party upon on one hundred and eighty (180) days prior written notice to the other party. The 1999 Agreement shall terminate pursuant to its terms.

2. **DEFINITIONS.** Except as otherwise expressly indicated in this Agreement, the terms herein shall have the meaning defined in this Section 2.

A. Cincinnati Water System shall mean the water supply, production, treatment, transmission, storage, distribution, and related facilities owned and/or operated by Cincinnati for itself, its inhabitants, and for all other areas served by Cincinnati, in accordance with powers conferred upon municipalities by the Constitution and the laws of the State of Ohio.

B. Cleves Water System shall mean the water supply, production, treatment, transmission, storage, distribution, and related facilities owned and/or operated by Cleves for itself, its inhabitants, and for all other areas served by Cleves, in accordance with powers conferred upon municipalities by the Constitution and the laws of the State of Ohio.

C. Cincinnati Rules and Regulations shall mean the ordinances (including relevant portions of the Cincinnati Municipal Code), laws, standards, specifications, rules, and regulations governing the Greater Cincinnati Water Works.

3. **SURPLUS WATER.** The parties agreement Cincinnati shall supply surplus water service to Cleves only when Cincinnati has available surplus water beyond the water service needs of customers within the City of Cincinnati. Cincinnati shall have the right to prioritize water service to the residents of the City of Cincinnati over all other customers. Cincinnati shall have sole discretion to adjust the prioritization and allocation of water service among non-Cincinnati customers. Cincinnati does not guarantee the ability, and shall not be liable for failure, to furnish water or minimum pressure to Cleves. Cleves shall not supply the surplus water herein to properties outside of the corporate boundaries of the Village of Cleves (as may be modified from time to time), which are shown on Exhibit A.

4. **APPLICABLE LAWS.** Except as otherwise expressly provided herein, the parties agree that the Cincinnati Rules and regulations (as may be modified by Cincinnati from time to time) shall apply to and be enforceable as to all aspects of Cincinnati's water service to Cleves under this Agreement, including but not limited to billing and ownership and maintenance of facilities and appurtenances to the water system. Cincinnati shall apply the Cincinnati Rules and Regulations no differently as to Cleves as to within the City of Cincinnati, except as expressly provided herein. The Cincinnati Water System is subject to strict federal, state and local regulation regarding water quality and water treatment practices. Cincinnati is ultimately responsible for water quality of and shall have sole discretion to manage the Cincinnati Water system to ensure compliance with these requirements, and to protect health, lives, and property including, but not limited to, decisions as to capital improvements and their replacement associated with the quality of water, water production, treatment techniques, and water quality analysis equipment and facilities.

5. **STANDBY WATER SERVICE.**

A. Standby Service. Provided that the Cincinnati Water System has available surplus water as provided in Section 3 hereof, following Cleves' prior notification to Cincinnati as provided

below, Cincinnati will make best efforts to furnish standby water service to Cleves on a temporary basis through the Connections (as defined herein) for the following needs and no others:

- i. Emergency Use. Cleves shall obtain prior verbal approval from GCWW Distribution Dispatch at (513) 591-7700 (24 hours) to operate the Connections to access emergency standby water. Within 24 hours of verbal approval, Cleves shall provide written notice to the GCWW Director of the reason for and extent of use of emergency standby water. For purposes of this section, an “Emergency” shall be defined as any situation arising from fire, flood, storm, water main break or other malfunction or breakdown of a water system or unpotable condition of water in a water system, or a similar emergency condition causing an immediate threat to the life, health, property or normal business of the customers served by the water system experiencing the emergency. The parties agree that inadequate water supply due to inadequate facilities and/or high seasonal demand shall not be considered an emergency.
 - ii. Non-Emergency Use. Cleves may request to purchase surplus water for non-emergency purposes, such as system maintenance, which shall only be accessed with the prior written approval of GCWW.
- B. Connections. There are two existing connections for surplus water delivery between the Cincinnati Water System and the Cleves Water System located at Bridgetown Road, Miami Township, Hamilton County, Ohio and another near the intersection of Interstate 74 and State Route 128 in Whitewater Township, Hamilton County, Ohio (including any connections installed in the future, the “**Connections**”).

Cincinnati shall be responsible for maintaining and replacing the existing master meters at the Connections. Other than the master meters, Cleves shall own and be responsible for the maintaining, repairing, operating, replacing and testing of the water facilities comprising the Connections, including the pressure regulator valves, meter pits, backflow preventers, and other related appurtenances, in accordance with GCWW Rules and Regulations as well as any applicable state and federal regulations. Cleves may add or upgrade the Connections at its own cost and in accordance with plans approved by Cincinnati. Upon termination or expiration of this Agreement, Cleves shall remove and plug the Connections subject to the inspection and approval of GCWW. Any and all work performed by Cleves pursuant to this Agreement shall conform in all respects to the standards, ordinances, laws, rules and regulations of Cincinnati, as described in Chapter 401 of the Cincinnati Municipal Code, and will be subject to GCWW inspection and approval.
- C. Notwithstanding anything to the contrary in this Agreement, Cincinnati shall be excused from providing standby water if it is experiencing an exigency or emergency such as in the case of main breaks, serious damage to reservoirs or pumping equipment, or other emergencies or necessities (in which case the water may be shut off without notice). Cleves further agrees and understands that since the location of Cleves’ connections to the Cincinnati Water System are not within the corporate limits of Cincinnati, that service to

Cleves, or any other areas on a standby or emergency basis, is at all times dependent upon the availability of sufficient surplus water to Cleves' connection.

6. **COMPENSATION.** From time to time, Cincinnati City Council shall fix by ordinance the charges for water supplied to political jurisdictions. Nothing in this Agreement shall limit in any way Cincinnati's right to establish rates for water supplied to customers in Cincinnati. During the Term, the rates for service under this Agreement shall be as follows:

A. Standby Water. Cleves shall pay for emergency and non-emergency standby water at rates fixed from time to time by ordinance of the Council of Cincinnati for water used by political subdivisions (currently Cincinnati Municipal Code §401-81). The "Charges to Political Subdivisions" rates for 2025 are:

Period	Political Subdivision Rate
Jan 1-April 30, 2025	\$3.84/ccf
Nov. 1 – Dec. 31, 2025	
May 1 – Oct. 31, 2025	\$4.58/ccf

Payment for standby water furnished shall be made within thirty (30) days after billing by Cincinnati. Payment is agreed to be for the purchase of water and water service and shall not be interpreted to be for the purchase of any portion of the Cincinnati Water System or other Cincinnati-owned property used in providing water and/or water service.

8. **RIGHT TO USE.** Cincinnati Water Systems, its successors and assigns as to the ownership of the Cincinnati Water System, shall have the right to use all existing easements and rights-of-way within the Village of Cleves for construction, operation, maintenance, repair and replacement of existing GCWW water mains and other appurtenances (including public water service branches), which right shall not be terminated as long as Cincinnati, its successors or assigns are furnishing water to Cleves or through Cleves to other areas of the GCWW Water System. Notwithstanding the foregoing, nothing in this Agreement shall be construed to waive any rights of Cincinnati may have to lay water mains in the streets of the Village of Cleves without Cleves' consent, for the purpose of furnishing water to consumers in the GCWW Water System.

9. **FURNISHING OF DETAILED DRAWINGS.** Cleves shall furnish to Cincinnati reproducible, detailed drawings showing the location of all pipes, special castings, valves and fire hydrants installed under their responsibility in connection with this Agreement.

10. **CONSTRUCTION AND RESTORATION.** Following construction, reconstruction, maintenance, repair, laying, relaying or replacement of water mains in the streets of Cleves, Cincinnati shall restore such streets to their original condition to the satisfaction of Cleves; however, Cincinnati shall not be required to repave or resurface any part of any street not opened by it in connection with such work. Cincinnati shall make best efforts to complete all water main work in the Village of Cleves within a reasonable amount of time following commencement.

11. **NOTICES.** All legal notices required under this Agreement shall be personally served or sent by first class U.S. mail, postage prepaid, addressed to the parties as follows, or to such other addresses as a party may designate in writing for such purpose:

To Cincinnati:

City of Cincinnati
Greater Cincinnati Water Works
Attention: Office of the Executive Director
4747 Spring Grove Avenue
Cincinnati OH 45232

To Cleves:

Village of Cleves
Mayor's Office
101 North Miami Avenue
Cleves OH 45002

However, if Cleves sends a notice to Cincinnati alleging that it is in default under this Agreement or that Cleves desires to terminate or not renew the Agreement, it shall simultaneously send a copy of such notice by U.S. certified mail to: City Solicitor, City of Cincinnati, 801 Plum Street, Room 214, Cincinnati OH 45202.

12. **EXCLUSIONS OF DAMAGES; LIMITATIONS OF LIABILITY.** Except with respect to (i) a breach or inaccuracy of any representations or warranties hereunder; (ii) a breach of obligations to follow applicable laws and regulations; or (iii) a party's gross negligence, willful misconduct or fraud, neither party shall be liable for any damages. Notwithstanding the foregoing: (x) neither party shall be liable, for any indirect, incidental, special or consequential damages suffered by the other party hereto as a result of any breach of this Agreement, even if the other party has been advised of the possibility of such damages; (y) nothing in this Agreement shall be construed to make Cincinnati in any way responsible for the Cleves Water System, including but not limited to its improvement, maintenance, repair or the quality of the water beyond the connection; and (z) Cincinnati shall not have any liability for damages regarding supply of water or minimum pressure.

13. **GENERAL PROVISIONS.**

- i. No Third-Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than Cincinnati or Cleves.
- ii. Waiver. This Agreement shall be construed in such a manner that a waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision.


- iii. Entirety; Conflict. This Agreement and any documents, laws, codes, regulations, or written policies specifically identified herein and in the Exhibits contain the entire contract between the parties as to the matters contained herein. Any oral representations or modifications concerning this Agreement shall be of no force and effect.
- iv. Severability. In the event that any provision of this Agreement is declared to be unlawful, invalid, or unconstitutional, such declaration shall not affect, in any manner, the legality of the remaining provisions. Each provision of this Agreement will be and is deemed to be separate and separable from each other provision.
- v. Choice of Law; Joint Preparation. This Agreement is entered into and is to be performed in the State of Ohio. Cincinnati and Cleves agree that the laws of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties under and related to this Agreement and shall govern the interpretation of this Agreement without regard to choice of law and conflicts of law principles. This Agreement has been jointly prepared by the parties hereto and shall not be construed more strictly against either party.
- vi. Forum Selection. The parties, their successors, and assigns acknowledge and agree that all state courts of record sitting in Hamilton County, Ohio shall be the exclusive forum for the filing, initiation, and prosecution of any suit or proceedings arising from, or out of, or relating to, this Agreement, or any amendment or attachment thereto, including any duty owed by Cincinnati to Cleves in connection therewith. However, in the event that any claim arising from, related, or in connection with this Agreement must be litigated in federal court, the parties agree that the exclusive venue for such lawsuit shall be in the United States District Court of United States Bankruptcy Court for the Southern District of Ohio.
- vii. Electronic, Counterpart and PDF Signatures. This Agreement may be executed in counterparts, and an electronic, facsimile or PDF signature shall be deemed to be, and shall have the same force and effect as, an original signature.
- viii. Official Capacity. None of those representations, warranties, covenants, agreements or obligations shall be deemed to be a representation, warranty, covenant, agreement or obligation of any present or future officer, agent, employee or attorney of Cincinnati in other than his or her official capacity.
- ix. Amendment. This Agreement may be modified or amended only by a written instrument duly executed by the parties hereto.

14. **EXHIBITS.** The following exhibits are attached hereto and incorporated herein by reference.

Exhibit A – Map of Service Area (on January 1, 2025)

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates reflected below.

VILLAGE OF CLEVES

By: 
Justin Habig, Administrator

Printed Name: JUSTIN HABIG

Date: 11/20, 2024

By: 
Penny Williams, Village Clerk

Date: November 13, 2024

APPROVED AS TO FORM:


Rob Merkle, Village Solicitor

[CITY OF CINCINNATI SIGNATURE PAGE FOLLOWS]

CITY OF CINCINNATI

By: _____
Sheryl M.M. Long, City Manager

Date: _____, 2024

RECOMMENDED BY:

Cathy B. Bailey, Executive Director
Greater Cincinnati Water Works

**EXHIBIT A
MAP OF CLEVES SERVICE AREA**

