

AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE CUYAHOGA COUNTY BOARD OF HEALTH AND THE CITY OF ROCKY RIVER FOR PHASE II STORMWATER SERVICES IN 2017-2018, ATTACHED HERETO AS SUBSTITUTED EXHIBIT "A"

WHEREAS: the Cuyahoga County Board of Health is committed to improving the water quality in Cuyahoga and protecting the health of residents within its jurisdiction; (this ordinance is amended for the first time to accommodate an agreement replacing the previous MOU in the exhibit); and

WHEREAS: in response to the implementation of the US EPA's Phase II Stormwater Regulations (updated on March 10, 2013), the Cuyahoga County Board of Health has developed its Stormwater Management Program to assist municipalities in Cuyahoga County and Northeast Ohio in creating their storm water management plans and meeting their required stormwater management goals; and

WHEREAS: each municipality within Northeast Ohio has been issued a Municipal Separate Storm Sewer Systems (MS4) permit by the Ohio EPA which requires each municipality to perform specific functions related to inspecting and monitoring stormwater within the municipality; and

WHEREAS: the Board of Health will continue to provide communities Phase II stormwater services in support of the community's compliance with the Ohio EPA NPDES General Permit for Municipal Separate Storm Sewer Systems (MS4); and

WHEREAS: the Cuyahoga County Board of Health will provided services to the City for two years (2017-2018) at a cost to the City not to exceed \$5,064.00, payable annually.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROCKY RIVER, COUNTY OF CUYAHOGA, STATE OF OHIO:

SECTION 1. - That the Mayor is hereby authorized to enter into an agreement between the Cuyahoga County Board of Health and the City of Rocky River for services as further described in Exhibit "A".

SECTION 2. - That the \$5,064.00 shall be paid from the Health Department account in the General Fund.

SECTION 3. - That this Ordinance is hereby declared to be an emergency measure, necessary for the immediate preservation of public peace, health and safety, and for the further reason that the agreement must be returned to the Cuyahoga County Board of Health in a timely manner for dry weather sampling to begin, and provided it receives the affirmative vote of two-thirds (2/3) of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

APPROVED: June 26th, 2017
JAMES W. MORAN
President of Council
PRESENTED
COUNCIL CLERK: June 26th, 2017
APPROVED: June 26th, 2017
SAN G. PEASE
COUNCIL CLERK
PAMELA E BOBST
Mayor
I hereby certify that the amount required to meet the contract, agreement, obligation, payment or expenditure for the attached has been lawfully appropriated or authorized or directed for such purpose and the treasury or in process of collection to the credit of the Fund described above free from any obligation or certification now outstanding.
MICHAEL A. THOMAS, CPA
Director of Finance

the _____ day of _____, 20____, I, the undersigned clerk of council of the city of Rocky River, State of Ohio, do hereby certify that publication of the foregoing ordinance was duly made by posting a true copy thereof in the lobby of the Rocky River City Hall, in accordance with the charter of Rocky River, commencing on _____ day of _____, 20____.

Clerk of Council of the City of Rocky River, Ohio

Maureen H. Glass
CLERK OF COUNCIL OF THE CITY OF ROCKY RIVER, OHIO

City of Rocky River } ss
County of Cuyahoga }

THE UNDERSIGNED CLERK OF THE COUNCIL OF THE CITY OF ROCKY RIVER, OHIO DOES HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 36-17 ADOPTED BY THE COUNCIL OF SAID CITY ON THE 26th DAY OF March, 2017 THAT THE PUBLICATION OF SUCH ORDINANCE HAS BEEN MADE AND CERTIFIED OF RECORD ACCORDING TO LAW; THAT NO PROCEEDINGS LOOKING TO A REFERENDUM UPON SUCH ORDINANCE HAVE BEEN TAKEN; THAT SUCH ORDINANCE AND THE CERTIFICATE OF PUBLICATION THEREOF, ARE OF RECORD IN ORDINANCE RECORD NO. 36-17

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME AND AFFIXED MY OFFICIAL SEAL THIS 26th DAY OF March, 2017.

**AGREEMENT FOR AUTHORITY AND CONSENT FOR THE CUYAHOGA COUNTY
BOARD OF HEALTH TO PROVIDE PHASE II STORMWATER SERVICES IN THE
CITY/TOWNSHIP/VILLAGE OF ROCKY RIVER IN 2017 - 2018**

This Agreement is entered into by and between The Cuyahoga County Board of Health ("The Board") and The Community of Rocky River ("Community"), both separate political subdivisions of the State of Ohio.

WHEREAS: The Cuyahoga County Board of Health is committed to improving the water quality in Cuyahoga County and protecting the health of the residents within its jurisdiction; and

WHEREAS: In response to the implementation of the US EPA's Phase II Stormwater Regulations on March 10, 2003, the Board has developed its Stormwater Management Program to assist municipalities in Cuyahoga County and Northeast Ohio in creating their stormwater management plans and meeting their required stormwater management goals; and

WHEREAS: Each municipality within Northeast Ohio has been issued a Municipal Separate Storm Sewer Systems (MS4) permit by the Ohio EPA which requires each municipality to perform specific functions related to inspecting and monitoring stormwater within the municipality; and

WHEREAS: The Board will continue to provide communities Phase II Stormwater services in support of the community's compliance with the Ohio EPA NPDES General Permit for Municipal Separate Storm Sewer Systems (MS4); and

WHEREAS: The Board will continue to provide Phase II Stormwater services to communities whose service areas are located partially or completely outside of the Northeast Ohio Regional Sewer Districts ("District") Regional Stormwater Management Program area in support of Ohio EPA's General Permit for Municipal Separate Storm Sewer Systems for Minimum Control Measures (MCMs) #3: Illicit Discharge Detection and Elimination (IDDE) programming and MCM #6: Pollution Prevention/Good Housekeeping for Municipal Operations; and

WHEREAS: Communities have the authority to grant consent and authority to the Board for the purposes of performing the services outlined herein; and

WHEREAS: Both parties desire to enter this Memorandum of Understanding Agreement for the purposes outlined herein.

Now therefore, in consideration of the mutual promises and conditions set forth herein, the BOARD and the COMMUNITY (each, a "Party" and collectively, the "Parties") agree as follows:

A. PROJECT DESCRIPTION

The Board and the Community have identified the need for the following described project:

- The implementation of Minimum Control Measures (MCM) #3: Illicit Discharge Detection and Elimination (IDDE) programming;

B. SCOPE OF WORK

1. The Board will need to verify the Community's previously identified Municipal Separate Stormwater System outfall locations and update any outfall information that has changed, during the 2017 and 2018 report period.
2. The Board will monitor the Community's designated Municipal Separate Stormwater System outfall locations during a dry weather period (a minimum of 72 hours with no rain event) and sample all of the flowing outfall locations that are outside of the Northeast Ohio Regional Sewer District's Regional Stormwater Management Program area during the 2017 and 2018 report period. The samples collected will be analyzed for the presence of E. coli bacteria.
3. The Board will provide the Community an annual summary of the work performed as it relates to Minimum Control Measures (MCM) #3: Illicit Discharge Detection and Elimination, which can then be included in the Community's Phase II Stormwater Annual Report to the Ohio EPA.
4. The Board may request the Community to provide assistance in gaining access to and opening storm sewer manholes where and when deemed necessary for the purpose of sample collections.

C. CONSENT STATEMENT

Being in the public interest, The Community of Rocky River hereby grants consent and authority to the Board to complete the above described project.

D. COOPERATION STATEMENT

The Community of Rocky River shall cooperate with the Board in the above described project as follows:

1. Provide the Board any maps, assistance, and/or direction to aid in obtaining access and/or collecting samples for testing purposes;
2. Provide the Board aid in accessing and opening storm sewer manholes where and when needed.

E. COMPENSATION

The Community shall compensate the Board for any and all services performed as described in the Scope of Work (Section B) a total of \$5,064.00, payable annually in two equal payments of \$2,532.00. The Board shall submit an invoice to the Community for the payment due hereunder.

F. INDEPENDENT CONTRACTOR

The Board is performing its duties and obligations under this Agreement as an independent contractor and is not an agent or employee of the Community. The Board shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, or directors, to the extent allowable by law.

G. TERM AND TERMINATION

The term of this Agreement shall begin on _____ and shall end on December 31, 2018, unless extended by the parties by Agreement in writing. Either party may cancel this Agreement, for cause, with sixty (60) days written notice to the other party of such intent, when either the progress or results achieved under this Agreement is unacceptable to either party. Prior to cancellation of this Agreement, a meeting will be held by the parties to discuss issues of concern and seek resolution. If this Agreement is canceled by the parties prior to completion, the Board, within twenty (20) days, shall submit a certified final progress report if a percentage of work is completed by the date of cancellation. The Community will pay the Board for the work completed as certified in this statement, subject to the provisions of this Agreement.

H. MISCELLANEOUS TERMS

- a. Waivers and Amendments. The waiver by either Party of any provision of this Agreement on any occasion and upon any particular circumstance shall not operate as a waiver of such provision of this Agreement on any other occasion or upon any other circumstance. This Agreement may be modified or amended only via a writing signed by both Parties.
- b. Assignment. Neither Party shall have the right to assign this Agreement to any third party. Any such attempted assignment will be null and void.
- c. Complete Agreement; Integration. This Agreement contains the complete understanding of the Parties with respect to the subject matter hereof and supersedes all other Agreements, understandings, communications and promises of any kind, whether oral or written, between the Parties with respect to such subject matter.
- d. Compliance with Laws. The Parties will comply with all applicable laws and regulations in performing their obligations hereunder. When taking actions (or failing to act) in any way relating to this Agreement, neither Party shall unlawfully discriminate on the basis of race, sex, pregnancy, religion, disability, age, national origin, or color.
- e. No Third Party Beneficiaries. This Agreement does not and is not intended to confer any rights or remedies upon any party other than the Community and the Board.
- f. Notices. All notices required or permitted under this Agreement shall be given in writing by courier or reputable overnight delivery services, or by certified mail, return receipt requested.

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IN WITNESS WHEREOF, authorized representatives of the parties to this Agreement, indicating their party's approval of the terms herein, have signed as of the dates set forth below.

FOR THE BOARD:

Approved as to form.

Terrence Allan
Health Commissioner

Thomas P. O'Donnell
CCBH General Counsel

Date: _____

Date: _____

FOR THE COMMUNITY OF ROCKY RIVER:

Approved as to form.

_____, Esq.
Law Director

Date: _____

Date: _____