

FIRST READING: 12.9.19

SECOND READING: 12.16.19

THIRD READING: 1.13.20

ORDINANCE NO. 103-19

BY: DAVID W. FURRY

AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BETWEEN THE CUYAHOGA SOIL AND WATER CONSERVATION DISTRICT AND THE CITY OF ROCKY RIVER REGARDING STORM WATER POLLUTION PREVENTION TECHNICAL ASSISTANCE, ATTACHED HERETO AS EXHIBIT A

WHEREAS: cooperation between the City of Rocky River and the Cuyahoga Soil and Water Conservation District will facilitate solutions to problems encountered by the City during development/redevelopment and conservation of the environment including water quality improvements; and

WHEREAS: an agreement regarding responsibilities related to the Municipal Separate Storm Sewer Systems' (MS4) Minimum Control Measures 4 & 5 Storm Water Phase II permit requirements to be executed between the City and Cuyahoga Soil and Water Conservation District; and

WHEREAS: the Cuyahoga Solid and Water Conservation District will provide technical assistance and expertise to the City for best management practices for conservation of soil and water resources at a cost to the City of Eleven Thousand Dollars (\$11,330.00) for a twelve (12) month term which may be renewable upon agreement of the parties.

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 be and she is hereby authorized to enter into a Memorandum of Understanding between the Cuyahoga Soil and Water Conservation District and the City of Rocky River for services and technical assistance related to storm water pollution prevention on construction sites disturbing one or more acres of total land, including the entire area disturbed in the larger common plan of development or sale (>1 acre) as required under the MS4 requirements. Construction activities (including riparian and wetland variance requests) disturbing less than one acre and not part of a larger common plan of development or sale of total land (<1 acre), and not covered under the NPDES General Construction Permit, will be reviewed by the District as requested by the City.

SECTION 2. That funds for the services listed in the attached Memorandum shall not exceed Eleven Thousand Dollars (\$11,330.00) and shall be paid from the General Fund – Building Department Budget.

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 it is necessary to proceed immediately because of the ongoing nature of technical assistance provided that is essential 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.

PASSED January 13th, 2020

James W. Moran
JAMES W. MORAN
President of Council

PRESENTED

TO MAYOR: January 13th, 2020

APPROVED: January 13th, 2020

ATTEST:

Susan G. Pease
SUSAN G. PEASE
Clerk of Council

Pamela E. Bobst
PAMELA E. BOBST
Mayor

It is hereby certified that the amount required for the execution of this Ordinance has been lawfully appropriated or authorized or directed for such purpose and is in the treasury or in the process of collection to the credit of the fund described herein free from any obligation or certification now outstanding.

Michael Thomas
MICHAEL THOMAS, CPA
Director of Finance

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 the 13th day of JANUARY, 2020.

Susan G. Pease

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. 103-19 ADOPTED BY THE COUNCIL OF SAID CITY
ON THE 13th DAY OF JANUARY, 2020 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. 103-19

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED
MY NAME AND AFFIXED MY OFFICIAL SEAL THIS 13th DAY OF
JANUARY, 2020.

Amanda L. O'Neil
CLERK OF COUNCIL OF THE CITY OF ROCKY RIVER, OHIO

MEMORANDUM OF UNDERSTANDING

Between the Cuyahoga Soil and Water Conservation District and the City of Rocky River

This Memorandum of Understanding ("MOU") is made this ____ day of _____, 2020 ("Effective Date"), between the Cuyahoga Soil and Water Conservation District (SWCD) and City of Rocky River ("City"), for providing assistance with technical assistance in implementing soil and water conservation measures.

Purpose – Implementation of a conservation program that promotes best practices for pollution prevention and corresponds with the City's Municipal Separate Storm Sewer System permit, Minimum Control Measures (MCM) 4 & 5..

Recognizing the need for effective collaboration in protecting soil and water resources and in carrying out its mandated responsibilities, especially related to the National Pollutant Discharge Elimination System (NPDES) Storm Water Permit, the City and the Cuyahoga SWCD accept this agreement as the document which describes the process for exchange. Cooperation between these two units of government facilitates solutions to problems encountered by the City as it plans for the development/redevelopment and conservation of its environment, as well as, water quality improvements. The Ohio Revised Code, Chapter 940, describes the Cuyahoga SWCD's authority for engaging in this Mutual Agreement.

NOW, THEREFORE, the parties' understanding is as follows:

Project Tasks

The Cuyahoga SWCD and the City have mutually agreed to the scope of technical assistance related to pollution prevention on disturbed sites, including construction sites disturbing one or more acres of total land, including the entire area disturbed in the larger common plan of development or sale (≥ 1 acre) as required under the NPDES rules. Construction activities disturbing less than one acre and not part of a larger common plan of development or sale of total land (< 1 acre), and not covered under the NPDES rules, will be reviewed by the Cuyahoga SWCD as requested by the City.

The Cuyahoga SWCD will: (i) perform storm water pollution prevention plan (SWP3) reviews for proposed development, redevelopment and infrastructure renovation projects; (ii) perform abbreviated construction plan reviews, as requested by the City; (iii) perform field reviews of active construction projects; (iv) perform long-term maintenance field reviews of post-construction water quality facilities; and (vii) provide written technical advisory reports detailing plan review recommendations, site conditions, and recommendations for compliance and/or maintenance activities needed.

NPDES, Minimum Control Measure 4 – Stormwater Pollution Prevention/Erosion & Sediment Control

1. The Cuyahoga SWCD will provide technical assistance, related to storm water pollution prevention and stormwater quality management, as requested, including:

Preliminary site planning meetings or conference calls

- a. Review of development, redevelopment, and infrastructure renovation plans for compliance with NPDES rules (Ohio Revised Code 3745 39-04 (B) (1) through (6)) and the current edition of Ohio's Rainwater and Land Development standard guidance manual;
- b. Provide rapid field assessment of soils and soil quality; and
- c. Provide an annual report of all activities undertaken (including copies of any other data collected).

2. The annual conservation program will include technical assistance related to NPDES covered construction activities of an estimated of:

- a. 5-7 active construction sites (≥ 1 acre);
 - b. Initial SWP3 reviews, as received (≥ 1 acre);
 - c. Subsequent SWP3 review, *as needed* (≥ 1 acre);
 - d. Technical advisory inspections (field reviews) and reporting (12 per year per site) once construction begins;
 - e. Plan reviews for abbreviated construction plans will be performed by request of the City.
3. Construction site activities \$9,080.00

NPDES, Minimum Control Measure 5 – Post Construction Stormwater Management

1. As required under the MS4 Permit, the Cuyahoga SWCD will also provide annual inspections of all post construction stormwater control measures (water quality and water quantity basins):
 - a. Transition meetings will be held with SWCD staff, city personnel and site personnel to review long-term operations and maintenance needs, and reporting requirements;
 - b. 15-17 water quality stormwater control measures, annual long-term maintenance field reviews, including rapid field assessment, of post- construction water quality facilities;
 - c. Technical advisory inspection and reporting to the City and landowners with SCMs on their properties;
 - d. Project file management
 - e. Mapping of facility locations;
 - f. Maintenance program fact sheets, individual site assessments and training, when needed
2. Post-Construction Program-\$2,250.00

The Cuyahoga SWCD will also provide technical advice on planning issues, including:

- a. Technical assistance on local legislation if the City pursues universal application of accepted best management practices at construction sites;
- b. Sound *storm water* management;
- c. Protection of sensitive natural areas;
- d. General evaluation of sensitive areas such as creeks, floodplains, soils, slopes, wetlands, watersheds, woodlands or other unique areas that are planned for development;
- e. Recommendations for stream bank and wetlands restoration, slope erosion control; and
- f. Small drainage systems and wildlife habitat enhancements.
- g. .

City's Role Related to Storm Water Pollution Prevention Activities

1. The City will designate someone to serve as the City's liaison for the storm water pollution prevention program.
2. The City will recognize the environmental and economic functions of naturally-vegetated open spaces, such as wetlands, stream corridors, ravines, woodlands and fields as worthy of the City's protection as open space.
3. The City will utilize the Cuyahoga SWCD's technical assistance including plan reviews, project inventories, evaluations, and inspections of planned construction sites, water quality and water quantity basins or sensitive natural areas of concern.

4. The City will direct builders, developers and consultants to the Cuyahoga SWCD for assistance on planning and conservation early in the concept planning stage of the construction planning cycle.
5. The City will adopt, apply and enforce Cuyahoga SWCD recommendations by not authorizing commencement and/or issuing work stoppage and other remedies.
6. The City will provide the Cuyahoga SWCD with field surveys, proposed layouts, designs or meeting notices needed for adequate technical assistance in a timely manner.
7. The City recognizes that the Cuyahoga SWCD has no regulatory authority to enforce NPDES rules.

Agreed Procedures

- The City agrees to grant an annual conservation appropriation to the SWCD, not to exceed \$11,330 per twelve-month period following the Effective Date and the Cuyahoga SWCD agrees to use the grant funds to provide a conservation program for the City.
- The City and the SWCD will determine the most effective manner to appropriate the funds.
- The City will provide a resolution to the SWCD that acknowledges this working agreement and provides documentation to facilitate dispersal of funds to the SWCD on an annual basis.
- That the Cuyahoga SWCD is not granted regulatory authority in the Ohio Revised Code.
- That the Cuyahoga SWCD and the City will meet at least once a year to coordinate a work plan and exchange information.
- The Cuyahoga SWCD will provide the City with a written annual summary, relevant to its role, as outlined in this MOU.
- The *NPDES rules*, current edition of Ohio's Rainwater and Land Development standard guidance manual, and standards of the USDA, Natural Resources Conservation Service will be used in planning and application of conservation measures.
- That both parties will review quality of assistance and address concerns as they arise.
- All assistance provided by the Cuyahoga SWCD is offered on a non-discriminatory basis without regard to race, age, marital status, handicap or political persuasion.
- The City recognizes the Cuyahoga SWCD's obligation to make its reports and other written materials available to the public on request in accordance with the Ohio Public Records Act.

Term, Renewal, Termination

The term of this MOU shall commence on the date (the "Initial Effective Date") SWCD receives written notice from the City, in a form approved by SWCD and in accordance with Sections 5705.41 and 5705.44 of the Ohio Revised Code, as applicable, indicating that the City has agreed to provide funds, in an amount agreed to by the parties, to support SWCD's general operations for the following 12-month period (the "Initial City Notice"). The parties acknowledge, understand, and agree that any such funding shall be for the purposes of the District's general operations for a period of *12 calendar* months following the Initial Effective Date (the "Initial MOU Term") and that this MOU shall terminate on the 12-month anniversary of the Initial Effective Date in the event the City does not renew this MOU as set forth herein.

This MOU may be renewed by City for any 12-month period following the Initial MOU Term (a "Subsequent MOU Term") provided that the SWCD receives written notice, as described above (a "Subsequent City Notice"), not less than 30 days prior to expiration of the Initial MOU Term (the date the District receives a Subsequent City Notice, a "Subsequent Effective Date"), and shall continue to renew for any 12-month period provided that the SWCD receives a Subsequent City Notice not less than 30 days prior to expiration of any Subsequent MOU Term then in effect.

This MOU may be amended or terminated at any time by mutual consent of both parties, or the agreement may be terminated by either party giving thirty (30) day's advance written notice to the other.

In witness thereof, the Memorandum executed and agreed to on the latest day, month and year written below:

Cuyahoga Soil & Water
Conservation District

City of Rocky River

By: _____
Chair
Date: _____

By: Hon. Pamela E. Bobst
Mayor
Date: _____