

COUNCIL CHAMBER

City of Berea, Ohio

Ordinance No. 2021-59

By Nick Skoczen Sponsored By Mayor Cyril M. Kleem

AN ORDINANCE

AUTHORIZING THE MAYOR OF THE CITY OF BEREAL TO ENTER INTO A CONTRACT WITH THE GENERAL HEALTH DISTRICT OF CUYAHOGA COUNTY, OHIO, PROVIDING FOR HEALTH SERVICES FOR THE CITY OF BEREAL FOR YEARS 2022 AND 2023, AND DECLARING AN EMERGENCY.

WHEREAS, a proposed contract between the General Health District of Cuyahoga County, Ohio, and the City of Berea, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, has been presented to the Council providing for health services for the City of Berea for the Year 2022 and 2023; and

WHEREAS, by the provisions of said contract, the General Health District of Cuyahoga County agrees to provide through the District Board of Health of Cuyahoga County, all necessary medical, nursing, sanitary, laboratory and such other health services as are required by the Statutes of the State of Ohio; and

WHEREAS, according to the terms of said contract, the City of Berea agrees, in return for the health services which will be provided by the District Board of Health of Cuyahoga County for the Year 2022, to pay the said District the sum of One Hundred Eleven Thousand and Two Hundred and Seventy Dollars (\$111,270) in equal semi-annual installments of Fifty-Five Thousand Six- Hundred Thirty-Five Dollars (\$55,635.00) from the regular tax settlement to be made for said City of Berea for the Year 2022; and

WHEREAS, according to the terms of said contract, the City of Berea agrees, in return for the health services which will be provided by the District Board of Health of Cuyahoga County for the Year 2023, to pay the said District the sum of One-Hundred Twenty-Two Thousand Three-Hundred Ninety-Seven Dollars (\$122,397.00) in equal semi-annual installments of Sixty-One Thousand One-Hundred Ninety-Eight Dollars and Fifty Cents (\$61,198.50) from the regular tax settlement to be made for the City of Berea for the Year 2023.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, State of Ohio:

SECTION 1. That the Mayor of the City of Berea, Ohio, be and hereby is authorized and directed to enter into a contract with the General Health District of Cuyahoga County for health services for the City of Berea for the Year 2022 and Year 2023 in the form attached hereto as Exhibit "A" and incorporated herein by reference.

SECTION 2. That the Director of Finance be, and hereby is authorized and directed to pay out the contract sum of One Hundred Eleven Thousand and Two Hundred and Seventy Dollars (\$111,270) in equal semi-annual installments of Fifty-Five Thousand Six- Hundred Thirty-Five Dollars (\$55,635.00) from the regular tax settlement to be made for said City of Berea for the Year 2022 and the sum of One-Hundred Twenty-Two Thousand Three-Hundred Ninety-Seven Dollars (\$122,397.00) in equal semi-annual installments of Sixty-One Thousand One-Hundred Ninety-Eight Dollars and Fifty Cents (\$61,198.50) from the regular tax settlement to be made for said City of Berea for the Year 2023, and to charge the same to, and the funds therefor are hereby appropriated from the General Fund, designated for accounting purposes as Fund No. 100 for the purposes as set forth in Section 1 above.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

COUNCIL CHAMBER

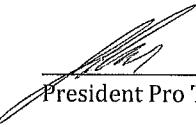
City of Berea, Ohio

Ordinance No. 2021-59

By Skoczen Sponsored By Mayor Kleem

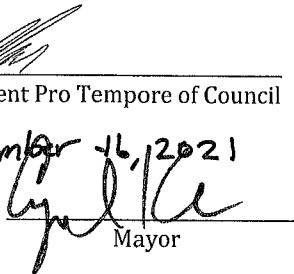
SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare or providing for the usual daily operation of a municipal department, and for the further reason that the contract must be in place before January 1, 2022. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: November 15, 2021


President Pro Tempore of Council

ATTEST: Aly S.
Clerk of Council

APPROVED: November 16, 2021


Mayor

Approved as to Form:


Director of Law

PUBLIC HEALTH SERVICES AGREEMENT

(City with a General Health District - Authority--Sec. 3709.08 O.R.C.)

This Agreement is entered into on the **1st day of January, 2022** ("Effective Date") by and between the **Cuyahoga County Board of Health** (the "Board"), a separate political subdivision of the State of Ohio organized under the Constitution and Laws of the State of Ohio, and the **City of Berea**, a political subdivision, with its principal office located at 11 Berea Commons, Berea, Ohio 44017 (the "City"), for and in consideration of the promises, covenants, and conditions hereinafter set forth.

WHEREAS, Cuyahoga County General Health District is a general health district as defined under Ohio Revised Code (ORC) Section 3709.01 and is endowed with all of the statutory and other authority granted to it by reason of the Ohio Statutes as amended from time to time by the State Legislature; and

WHEREAS, the City has continued to have a city public health district as required by Ohio law; and

WHEREAS, pursuant to ORC Section 3709.01, each city in the State constitutes a health district and each county is a "general health district," and as provided for in ORC Sections 3709.051, 3709.07, and 3709.10, there may be a union of a general health district and a city health district; and

WHEREAS, ORC Section 3709.08 authorizes cities and villages in Cuyahoga County to enter into an Agreement with the Cuyahoga County General Health District on certain terms and conditions; and

WHEREAS, the District Advisory Council of the Cuyahoga County General Health District, created by ORC 3709.03, after giving due notice by publication as required by law, held a public meeting on March 9, 2021 at which by a majority vote of members representing the townships and villages of said county, did vote affirmatively on the question of providing public health services to the cities in Cuyahoga County, and did authorize the Chairman of the District Advisory Council to enter into an Agreement with the Mayor of the City for providing public health services therein; and

WHEREAS, the Board is engaged in the governance of providing public health services as described in this Agreement, has the knowledge, skill, and resources to provide such services, and desires to perform such services for or on behalf of the Board for City; and

WHEREAS, the City is willing to enter into an Agreement with the Board to provide such services in accordance with the terms and conditions of Ohio law and this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

1. EFFECTIVE DATE, TERM AND TERMINATION.

- (a) **Effective Date, Term.** This Agreement shall commence on the Effective Date first stated above and shall continue through **December 31, 2023**, unless earlier terminated pursuant to Section 1(b).
- (b) **Termination.** This Agreement may be terminated upon the occurrence of one of the following events:
 - (i) Failure for any reason of the either party to fulfill its obligations under this Agreement, after written notice is provided by the non-breaching party of such failure providing at least ninety (90) days for the breaching party to correct any such failure, and if such failure is not corrected within said period, the non-breaching party may give written notice of immediate termination;

(ii) Upon nine (9) months written notice, or on or before April 1 of the year prior to termination by either party for any reason.

2. THE SERVICES.

- (a) **Scope of Services.** Subject to the terms and conditions contained in this Agreement and its exhibits, the Board will provide to the City and, as applicable, to all persons receiving the direct services provided for herein, the Services that are set forth and described in the Scope of Work (SOW) attached as **Exhibit A**, which Exhibit is incorporated herein.
- (b) Unless otherwise agreed by the Parties in writing, all transactions for Services through Board will be provided in accordance with the provisions of Ohio law and/or this Agreement, including any revisions of the same, as both Parties may from time to time execute to document the addition, revision, or enhancement of Services.
- (c) **Standard of Performance of Services.** The Board will devote such time and will use its best efforts as necessary to perform the Services in a professional manner that: (i) is consistent with the standards of its industry and in a good and workmanlike manner, and (ii) utilizes the care, skill, and diligence normally applied by other similar boards of health in the performance of services similar to the Services.
- (d) The City shall provide suitable space for the Board employees who make regular visits to the City on a daily or weekly basis.

3. PAYMENT.

- (a) **Compensation.** Compensation is based on the ten (10) year census population estimate for the City and a per capita rate established by the Board. The per capita rate is the same rate applied to all Villages, Townships in the general health district as well as for all cities that enter into a Public Health Services Agreement with the Board. The most recent ten (10) year census for population in the City dated September, 2021 is 18,545 residents. The current per capita rate established by the Board is \$6.00 per capita for calendar year 2022 and \$6.60 per capita for calendar year 2023. The total amount due based on the per capita rate will be One Hundred Eleven Thousand Two Hundred Seventy Dollars and No Cents (\$111,270.00) for calendar year 2022 and be One Hundred Twenty Two Thousand Three Hundred Ninety Seven Dollars and No Cents (\$122,397.00) for calendar year 2023. The Board reserves the right to change its per capita rate, as considered on an annual basis, based on current economic conditions and public health needs. In the event that the Board votes to make a change in the per capita rate, said change shall be limited to annual rates effective on January 1 for the following calendar year. The Board shall provide notice of the change in the per capita rate for the coming calendar year on or before October 31st of the current calendar year.
- (b) In consideration for the health services described in Exhibit A, which will be provided by the Board to and within the City, the City shall pay to the Board the total annual sum of One Hundred Eleven Thousand Two Hundred Seventy Dollars and No Cents (**\$111,270.00**) for calendar year 2022 and the total annual sum of One Hundred Twenty Two Thousand Three Hundred Ninety Seven Dollars and No Cents (**\$122,397.00**) for calendar year 2023. The City hereby directs the Fiscal Officer of Cuyahoga County to place to the credit of the Board and the Fiscal Office of Cuyahoga County is hereby authorized and directed to deduct the sum stated above in equal, semi-annual installments of Fifty Five Thousand Six Hundred Thirty Five Dollars and No Cents (**\$55,635.00**) from the regular property tax settlement to be made for said City for calendar year 2022 and Sixty One Thousand One Hundred Ninety Eight Dollars and Fifty Cents (**\$61,198.50**) from the regular property tax settlement to be made for said City for calendar year 2023.

4. RECORDS.

- (a) The Board shall maintain copies of all records created or received by the Board in the performance of the work under this Agreement as required by Ohio's public records law. Any records created or received as a part of this Agreement shall be made available to the City upon request subject to exceptions listed below.
- (b) Any non-private health information in confidential records or information in the records created by the Board or that come into the possession of the Board under this Agreement shall, if provided to the City, be kept confidential by the City.
- (c) The Board is prohibited by State and Federal law from sharing protected health information and said records will not be shared with the City unless there is compliance with the proper method for release of said information.

5. REPORTS.

The Board shall provide semi-annual written reports to the City regarding the work conducted and services provided on behalf of the City under this Agreement. Such Reports shall be in a form as is provided to all political subdivisions for which the Board provides Agreement services.

6. NO ASSIGNMENT, TRANSFER, OR SUBAGREEMENT.

In performing the services specified under the terms of this Agreement, the Board shall not assign, transfer, or delegate any of the work or services, nor subcontract the work out to any other entity, nor shall any subcontractor commence performance of any part of the work or services included in this Agreement, unless such subcontracting is specified in this Agreement or its Exhibits, or unless prior written consent is provided by the City.

7. INDEPENDENT AGREEMENTOR.

- (a) The Board hereby acknowledges that it is an independent contractor and neither it nor its employees or agents are employees of the City. The Board shall be responsible for the payment or withholding of any federal, state or local taxes, including, but not limited to, income, unemployment, and workers' compensation for its employees, and the City will not provide, or contribute to any plan which provides for benefits, including but not limited to unemployment insurance, workers' compensation, retirement benefits, liability insurance or health insurance. All individuals employed by the Board provide personal services to the City are not public employees of the City under Ohio state law.
- (b) No agency, employment, joint venture or partnership has been or will be created between the parties pursuant to the terms and conditions of this Agreement. Inasmuch as the City is interested in the Board's end product, the City does not control the manner in which the Board performs this Agreement.

8. NOTICES.

All notices, invoices and correspondence which may be necessary or proper for either party shall be addressed as follows:

TO THE BOARD:

Cuyahoga County Board of Health
Attention: Terry Allan, Health Commissioner
5550 Venture Drive
Parma Ohio 44130

TO THE CITY:

City of Berea
Attention: Mayor Cyril Kleem
11 Berea Commons
Berea, Ohio 44017

And

City of Berea
Attention: Director of Law
11 Berea Commons
Berea, Ohio 44017

9. EFFECT OF ELECTRONIC SIGNATURE

By entering into this Agreement, the parties agree that this transaction may be conducted by electronic means, including, without limitation, that all documents requiring signatures by the parties may be executed by electronic means, and that the electronic signatures affixed by the authorized representatives of the parties shall have the same legal effect as if the signatures were manually affixed to a paper version of the documents. The parties also agree to be bound by the provisions of Chapter 1306 of the Ohio Revised Code as it pertains to electronic transactions.

10. APPLICABLE LAW AND VENUE

Any and all matters of dispute between the Parties to this Agreement whether arising from the Agreement itself or arising from alleged extra contractual facts prior to, during, or subsequent to the Agreement, including without limitation, fraud, misrepresentation, negligence, or any other alleged tort or violation of the Agreement, will be governed by, construed, and enforced in accordance with the Laws of the State of Ohio, without regard to the conflict of laws or the legal theory upon which such matter is asserted.

11. SEVERABILITY.

If any provision hereof shall be determined to be invalid or unenforceable, such determination shall not affect the validity of the other provisions of this Agreement. Moreover, any provisions that should survive the expiration or termination will survive the expiration or termination of this Agreement.

12. AMENDMENT

This Agreement shall not be modified except by the express written consent by both parties hereto.

13. WAIVER.

Waiver by either party or the failure by either party to claim a breach of any provision of this Agreement shall not be deemed to constitute a waiver or estoppel with respect to any subsequent breach of any provision hereof.

14. FORCE MAJEURE.

Neither party shall be liable for any delay or failure to perform any duty or obligation it may have pursuant to this Agreement where such delay or failure has been occasioned by any act of God, fire, strike, inevitable accident, war or any cause outside the party's reasonable control.

15. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one Agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

16. ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement of the parties with respect to its subject matter, and supersedes all prior and contemporaneous agreements, representations or understandings, whether written or oral, as to the same.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representative to be effective as of the Effective Date as specified in Section 1 of this Agreement.

FOR THE BOARD:

Mayor David Smith, President District
Advisory Council

Date: _____

Approved as to form.
Cuyahoga County Board of Health
Office of General Counsel

By: _____

Date: _____

FOR THE CITY:

Mayor Cyril Kleem

Date: 11-16-21

Approved as to form.

By: Barbara D
Director of Law

Date: 11/18/21

EXHIBIT A

SCOPE OF WORK

The General Health District of Cuyahoga County, Ohio, hereby agrees to provide health services for the **City of Berea** for the calendar years 2022 and 2023 as set forth below (“Services”).

- The Board shall have full authority to be and act as the public health authority for the City.
- The Services described in the schedule listed below in this Exhibit will be provided by the District Board of Health of Cuyahoga County (“Board”) to the City.
- The Services will include all necessary medical, nursing, sanitary, laboratory and such other health services as are required by the Statutes of the State of Ohio.
- Air pollution enforcement services, as described in Chapter 3704 of the Ohio Revised Code (“ORC”), will be conducted through the designated agent, the Cleveland Division of Air Pollution Control, not by the Board. This authorization is contingent upon renewal of the Agreement between the Ohio EPA and the City of Cleveland and satisfactory performance of the Agreement terms and conditions regarding air pollution control in Cuyahoga County. The Board of Health reserves the right to alter, modify or amend this Agreement provision with notice to the City.
- The following specific services shall be a part of the Services provided under this Agreement:

List of Functions, Programs and Services

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| Animal Control and Shelter: |
| Rabies Surveillance – Animal bite follow up |
| Environmental Health - State Programs: |
| Food Service Operation Licensing/ Inspection/Education |
| Retail Food Establishment Licensing & Inspection. |
| School Facilities Inspection |
| Smoke Free Workplace Enforcement |
| Public Swimming Pool & Spa Licensing & Inspection |
| Tattoo & Body Piercing Enforcement |
| Temporary Park Camp Licensing/Inspection/Enforcement |
| Clean Indoor Air Regulation - complaint based response |
| Home Day Care Inspections - USDA Inspections Only/Fee for Service |
| Nuisance & Vector Control |
| Residential Housing/Commercial Building Inspection - complaint based response |
| Solid Waste Enforcement |
| West Nile Virus Prevention/Mosquito Control |
| Animal Venue Licensing/Inspection/Enforcement |
| Emergency Preparedness: |
| Public Health Emergency Preparedness (PHEP) |
| Planning and Cities' Readiness Initiative activities |
| Emergency Management Committee - participation |

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| Development of Local Emergency Response Plan - participation |
| Community Outreach and Education |
| Northeast Ohio Regional Public Health Partnership - participation |
| Epidemiology, Surveillance, Investigation Services: |
| Reportable Infectious Disease investigation and follow-up (excluding HIV/AIDS; STD; TB) |
| Disease Outbreak Management |
| Regional Infection Control Committee – participation |
| NEO Regional Epidemiology Response Team – participation |
| Nursing Services: |
| Health Promotion: |
| First Aid/Communicable disease classes – fee for service |
| Cleveland Safe Kids Coalition - participation |
| Immunization Program: |
| Childhood and Adult Vaccine Administration Services - Fee for Service. Most insurance accepted, by appointment. Charges may be waived for inability to pay. |
| Seasonal Influenza vaccine clinics - Fee for Service, most insurance accepted. |
| Immunize Ohio- participation |
| Jail Inmate Health Services: |
| Jail Inspection - provided once annually |
| Lead Poisoning Prevention: |
| Pediatric blood lead testing - Fee for Service. Charges may be waived for inability to pay |
| Case management |
| Environmental Assessment - Limited fee for service |
| Community Education and Outreach |
| Greater Cleveland Healthy Homes Advisory Council |
| Occupational Health: |
| Immunizations and Tuberculosis screenings - Fee for Service |
| Bureau for Children with Medical Handicaps (BCMH) Public Health Nursing Services |
| Administrative Services: |
| Administration |
| Grant Writing & Management |
| Budget |
| Records Management |
| Accounts Payable, Accounts Receivable |
| Data Entry & Program Management |
| Reports - Financial & Statistical |
| Payroll |

The Board maintains a range of grant funded programs for citizens throughout the County who are income qualified.

THE BOARD RESERVES THE RIGHT TO AMEND THIS EXHIBIT AT ANYTIME PRIOR TO AUTHORIZATION OF THE CITY COUNCIL AND THE BOARD OF HEALTH ANNUALLY.