

BEREA CITY COUNCIL

City of Berea, Ohio

ORDINANCE NO. 2024-4

By: Councilman Leon R. Dozier, Sr. Sponsor: Mayor Cyril M. Kleem

AN ORDINANCE

AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO AN AGREEMENT WITH CUYAHOGA SOIL AND WATER CONSERVATION DISTRICT TO PROVIDE TECHNICAL ASSISTANCE IN IMPLEMENTING SOIL AND WATER CONSERVATION MEASURES, AND DECLARING AN EMERGENCY.

WHEREAS, it is important that the City implement a conservation program that promotes best practices for pollution prevention consistent with the City's Municipal Separate Storm Sewer System (MS4) permit; and

WHEREAS, the City recognizes the need for collaboration in protecting soil and water resources and in carrying out its mandated responsibilities, especially related to the National Pollutant Discharge Elimination System Storm Water Permit; and

WHEREAS, Ohio Revised Code, Chapter 940, describes the authority for engaging in this Agreement; and

WHEREAS, the Council of the City of Berea previously authorized entering into an Agreement with the Cuyahoga Soil and Water Conservation District in Ordinance 2023-08, which terminates in April 2024; and

WHEREAS, the City wishes to enter into a new Agreement with the Cuyahoga Soil and Water Conservation District to continue to provide these services to the City; and

WHEREAS, the Cuyahoga Soil and Water Conservation District is offering the City the opportunity to extend the 2024 Agreement for one additional year, subject to the same terms and conditions, as set forth in Exhibit "A".

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

SECTION 1. That the Director of Public Service be, and is, authorized to renew an Agreement, in substantially the same form as Exhibit "A", attached hereto and incorporated herein, with the Cuyahoga Soil and Water Conservation District to provide technical assistance in the implementation of soil and water conservation measures.

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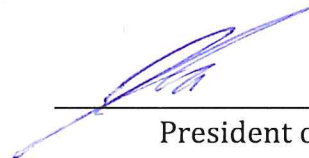
SECTION 2. That this Agreement may be extended for an additional year, subject to the same terms and conditions as stated herein in Exhibit "A", attached hereto and incorporated by reference, provided that the Council of the City of Berea so appropriates the necessary funds.

SECTION 3. That the Director of Finance be, and hereby is, authorized and directed to pay out such agreement sum(s) and charge the same to, and the funds therefor are hereby appropriated from the Sewer Capital Improvement Fund, designated for accounting purposes as Fund No. 420 for the purposes set forth in Section 1 hereinabove.

SECTION 4. That is if 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.

SECTION 5. 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 certain services relative to soil and water conservation within the City will contribute to the safety of the City and its residents. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and by in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: February 20, 2024



President of Council

ATTEST: 

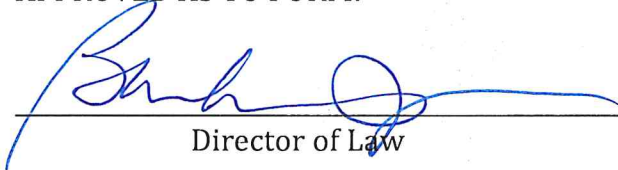
Clerk of Council

APPROVED: February 20, 2024



Mayor

APPROVED AS TO FORM:



Director of Law

MEMORANDUM OF UNDERSTANDING
Between Cuyahoga Soil and Water Conservation District
and the
City of Berea

This Memorandum of Understanding ("MOU") is made this ____ day of _____, 2024 ("Effective Date"), between Cuyahoga Soil and Water Conservation District (SWCD) and City of Berea ("City"), for 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 (MS4) permit.

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) Stormwater Permit, the City and 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 and water quality improvements. The Ohio Revised Code, Chapter 940, describes Cuyahoga SWCD's authority for engaging in this Mutual Agreement.

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

Project Tasks

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 Cuyahoga SWCD as requested by the City.

Cuyahoga SWCD will: (i) perform stormwater 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 (v) 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. Cuyahoga SWCD will provide technical assistance, related to stormwater pollution prevention and stormwater quality management, as requested, including:
 - a. Preliminary site planning meetings or conference calls; and
 - b. Review of erosion and sediment control plans (ESCs) for 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.
2. The annual conservation program will include technical assistance related to NPDES covered construction activities of an estimated of:

- a. Technical advisory inspections (field reviews) and reporting (12 per year per site) of 6-10 active construction sites (≥ 1 acre)
- b. 6-10 initial ESC plan reviews, as received (≥ 1 acre)
- c. Subsequent SWP3 review, *as needed* (≥ 1 acre)
- d. Plan reviews for abbreviated construction plans will be performed at the request of the City.

3. Active construction program **\$7,700.00**

NPDES, Minimum Control Measure 5 – Post Construction Stormwater Management

- 1. Cuyahoga SWCD will provide technical assistance, related to stormwater pollution prevention and stormwater quality management, as requested, including: preliminary discussion, review, and technical assistance for SCM selection, including long term maintenance requirements for property owners; and
 - a. Design review of post-construction stormwater quality control measures (SCMs) for 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. 6-10 initial SCM plan reviews (≥ 1 acre)
 - c. Initial SWP3 reviews, as received (≥ 1 acre)
 - d. Subsequent SWP3 review, *as needed* (≥ 1 acre)
 - e. Installation inspection of select SCMs, including trees and other items as requested.
- 2. As required under the MS4 Permit, Cuyahoga SWCD will also provide annual inspections of 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. 51-100 water quality stormwater control measures, annual long-term maintenance field reviews of post- construction water quality facilities
 - c. Technical advisory inspection and reporting to the City and landowners with SCMs on their properties
 - d. Maintenance program fact sheets, individual site assessments and training, as needed or requested

3. Post-construction program **\$8,750.00**

Additional services Cuyahoga SWCD will provide:

- 1. Planning assistance, technical advice, and landowner follow up, including:
 - a. Technical assistance on local legislation if the City pursues universal application of accepted best management practices at construction sites;
 - b. Sound stormwater 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;
 - f. Enhancement of small drainage systems and wildlife habitat enhancements; and
 - g. Resident and landowner assistance, as requested, to advise on SCM maintenance strategies.
- 2. Cuyahoga SWCD will provide administrative support, including:
 - a. Provide an annual report of all activities undertaken (including copies of any other data collected);
 - b. Project file management;
 - c. Mapping of facility locations;

- d. Documenting LTOM plans and recorded LTMA agreements; and
- e. Data and assistance with MS4 reporting, as requested.

3. Additional services cost **\$1,650.00**

Cuyahoga SWCD's Role and Responsibilities Related to Stormwater Pollution Prevention Activities

1. Annual review of MOU services and portfolio of active and post-construction inspection sites
2. Coordinate a yearly stormwater program kickoff meeting
3. Maintain contact lists.
4. Provide technical assistance as needed.

City's Role and Responsibilities Related to Stormwater Pollution Prevention Activities

1. The City will provide an annual appropriation, not to exceed **\$18,100** for technical assistance related to NPDES covered construction activities. Should additional services be requested outside the scope of this MOU written amendments will be made and additional costs agreed upon by both parties. This memorandum of understanding will be reviewed each year to ensure agreed upon assumptions are still valid.
2. The City will designate one individual to serve as the City's liaison for the stormwater pollution prevention program.
3. 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.
4. The City will utilize 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.
5. The City will direct builders, developers, and consultants to Cuyahoga SWCD for assistance on planning and conservation early in the concept planning stage of the construction planning cycle.
6. The City will adopt, apply, and enforce Cuyahoga SWCD recommendations by not authorizing commencement and/or issuing work stoppage and other remedies. See city roles and responsibilities below for more information.
7. The City will provide Cuyahoga SWCD with field surveys, proposed layouts, designs or meeting notices needed for adequate technical assistance in a timely manner.
8. The City recognizes that Cuyahoga SWCD has no regulatory authority to enforce NPDES rules.

Agreed Procedures

- The City recognizes that Cuyahoga SWCD has an expertise in compliance with the requirements of the OEPA's NPDES regulations and is relying on such expertise.
- Cuyahoga SWCD recognizes that the City is the regulating authority.

- Consequently, Cuyahoga SWCD shall not send correspondence without the City first reading and approving such correspondence. The City shall notify SWCD of any questions, comments, and/or requested changes in a timely fashion.
- Cuyahoga SWCD shall respond to such questions, comments and make such changes in a timely fashion.
- Cuyahoga SWCD is not granted regulatory authority in the Ohio Revised Code.
- Cuyahoga SWCD and the City will meet at least once a year to coordinate a work plan and exchange information.
- 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.
- There shall be no discrimination exercised against any person because of race, color, religion, national origin, sex, gender, ancestry, age, disability, sexual orientation, sexual identify, genetic information, political affiliation, or military status when fulfilling the purpose of this engagement.
- The City recognizes 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.
- The City agrees to grant an annual conservation appropriation to Cuyahoga SWCD, not to exceed \$20,000 per twelve-month period following the Effective Date and Cuyahoga SWCD agrees to use the grant funds to provide a comprehensive conservation program for the City.
- The City and Cuyahoga SWCD will determine the most effective manner to appropriate the funds.
- The City will provide a resolution to Cuyahoga SWCD that acknowledges this working agreement and provides documentation to facilitate dispersal of funds to Cuyahoga SWCD on an annual basis.

Term, Renewal, Termination

The term of this CONTRACT shall begin on the Effective Date first stated above and when 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; and shall end on the same date twelve (12) months thereafter, unless this CONTRACT is terminated sooner, or unless the CONTRACT is extended by the CITY, for one additional one-year term of twelve (12) months, at the sole discretion of the CITY. If the CITY exercises its option to renew the CONTRACT for one additional twelve-month periods, the CONTRACT shall continue in effect for said periods, unless the CONTRACT is terminated sooner, or unless it is further extended by mutual agreement, in writing, of the parties hereto.

The exercise by the CITY of its option to extend the CONTRACT for one additional twelve (12) month period is subject to appropriation by City Council. Any such extension shall be under the same terms and conditions as set forth in this CONTRACT. The CITY shall provide notice in writing to SWCD before the end of the initial

twelve (12) month term if the CITY has determined to extend the CONTRACT for an additional one-year period.

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

By: _____
Board Chair

Date:

City of Berea


By: Hon. Cyril Kleem
Mayor

Date: 2.20.24