

**ORDINANCE NO. 2018-28**  
**INTRODUCED BY: MR. NEWELL**

**4103**

**AN ORDINANCE  
AUTHORIZING THE MAYOR TO ENTER INTO A  
CONTRACT WITH THE CUYAHOGA COUNTY BOARD OF  
HEALTH TO PROVIDE PHASE II STORMWATER SERVICES  
IN 2018 AND DECLARING AN EMERGENCY.**

WHEREAS, the Village has determined that it is necessary to engage the services of the Cuyahoga County Board of Health ("Board") in order to inspect and monitor stormwater systems within the Village; and

WHEREAS, the Village desires to enter into a Memorandum of Understanding prepared by the Board to perform Phase II Stormwater services in order to maintain compliance with the Municipal Separate Storm Sewer Systems Permit issued by the Ohio EPA.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO:**

SECTION 1. The Mayor is authorized and directed to enter into a Memorandum of Understanding with the Board and to pay the Board in the amount of Two Thousand Five Hundred and Seventy-Three Dollars and Fifty-Five Cents (\$2,573.55) for providing Phase II stormwater services as described in Section B, Scope of Work, in the Memorandum of Understanding which is attached hereto and incorporated herein as Exhibit "A".

SECTION 2. The Finance Director is authorized to appropriate to a proper account a sum sufficient to cover the costs of the services to be rendered by the Board as authorized in Section 1 of this Ordinance and as set forth in the attached Memorandum of Understanding.

SECTION 3. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 4. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

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SECTION 5. That this Ordinance be and is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the habitants of the Village and for the further reason that this Ordinance is necessary to timely commence monitoring of stormwater discharge in order to maintain compliance with the Municipal Separate Storm Sewer Systems Permit issued by the Ohio EPA. Wherefore, provided it receives two-thirds (2/3) of the votes of all members elected to Council, this Ordinance shall be in full and effect from and immediately upon its passage by this Council and approval by the Mayor; otherwise it shall take effect and be in force after the earliest period allowed by law.

PASSED: May 14, 2018

  
\_\_\_\_\_  
Karl Maersch, Council President

Submitted to the Mayor for  
his approval on this  
15 day of May, 2018

Approved by the Mayor this  
15 day of May, 2018

  
\_\_\_\_\_  
Mayor William Tomko

I hereby certify that Ordinance No. 2018 -28 was duly enacted on the 14 day of May, 2018, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.

  
\_\_\_\_\_  
Clerk of Council

EXHIBIT "A"

**MEMORANDUM OF UNDERSTANDING**

**CUYAHOGA COUNTY BOARD OF HEALTH AND THE  
VILLAGE OF CHAGRIN FALLS  
AUTHORITY AND CONSENT TO PROVIDE  
PHASE II STORMWATER SERVICES IN 2018**

This Memorandum of Understanding ("MOU") is entered into by and between The Cuyahoga County Board of Health ("CCBH") and The Community of Chagrin Falls ("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, CCBH 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 CCBH 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 CCBH 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 District's ("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 CCBH 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**

CCBH and the Community have identified the need for the following described project:

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

## **B. SCOPE OF WORK**

1. The Board will monitor 20 percent (20%) of 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 up to 13 of the flowing outfall locations that are outside of the Northeast Ohio Regional Sewer District's Regional Stormwater Management Program area during the 2018 report period. The samples collected will be analyzed for the presence of E. coli bacteria.
2. The Board will source track for possible sources of an illicit discharge, for up to a maximum of 15 hours. This activity would be coordinated between the community and the Board of Health in relation to previous inspections.
3. The Board will provide the Community an annual summary of the work performed as it relates to Minimum Control Measure (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 Community will provide aid in providing 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 Chagrin Falls hereby grants consent and authority to CCBH to complete the above described project.

## **D. COOPERATION STATEMENT**

The Community of Chagrin Falls shall cooperate with CCBH in the above described project as follows:

1. Provide CCBH any maps, assistance, and/or direction to aid in obtaining access and/or collecting samples for testing purposes;
2. Provide CCBH 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 \$2,573.55 once the work is completed. 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 May 14, 2018 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 MOU on any occasion and upon any particular circumstance shall not operate as a waiver of such provision of this MOU on any other occasion or upon any other circumstance. This MOU may be modified or amended only via a writing signed by both Parties.

b. Assignment. Neither Party shall have the right to assign this MOU to any third party. Any such attempted assignment will be null and void.

c. Complete Agreement; Integration. This MOU 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 MOU, 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 MOU does not and is not intended to confer any rights or remedies upon any party other than the COMMUNITY and CCBH.

f. Notices. All notices required or permitted under this MOU shall be given in writing by courier or reputable overnight delivery services, or by certified mail, return receipt requested.

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

**FOR THE BOARD:**

*Terrence Allan*  
Terrence Allan  
Health Commissioner

Date: 6/7/18

Approved as to form.

*Thomas P. O'Donnell*  
Thomas P. O'Donnell  
CCBH General Counsel

Date: 5/22/18

**FOR THE COMMUNITY OF CHAGRIN  
FALLS:**

*William T. ...*

Date: 5-14-18

Approved as to form.

*David McLaughlin*  
, Esq.  
Law Director

Date: 5/14/18

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