

CITY OF MIDDLEBURG HEIGHTS, OHIO

Ordinance No. 2021- **95**

Introduced By: Mr. Meany. Co-Sponsors: Mr. Ali, Mr. McGregor

**AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF
UNDERSTANDING WITH THE CUYAHOGA COUNTY BOARD OF HEALTH
(CCBH) FOR 2022-2025 PHASE II STORMWATER SERVICES THAT ARE
PART OF THE NEORSR REGIONAL STORMWATER MANAGEMENT
PROGRAM (RSMP) SERVICE AREA**

WHEREAS, pursuant to an agreement between CCBH and NEORSR, the NEORSR recognizes CCBH as a service provider for the implementation of Minimum Control Measure (MCM) #3: Illicit Discharge Detection and Elimination (IDDE) and MCM #6: Pollution Prevention/Good Housekeeping for Municipal Operations programming; and

WHEREAS, for CCBH to provide the above-described service to municipalities within the NEORSR jurisdiction, CCBH must contract with those municipalities that are a part of the NEORSR jurisdiction to obtain consent and authority to perform these services; and

WHEREAS, the City has authority to grant consent and authority to CCBH for the purposes of performing the services outlined in the memorandum of understanding.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That the Mayor is hereby authorized to enter into a Memorandum of Understanding with the Cuyahoga County Board of Health (CCBH), a copy of which is attached hereto and marked "Exhibit A", in which there will be no exchange of funds for services performed.

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Passed: 12-14-21

Attest: M Meala
Clerk of Council

Presented to Mayor: 12-15-21

	Yea	Nay
Bortolotto	<u>X</u>	_____
Ali	<u>X</u>	_____
Sage	<u>X</u>	_____
Meany	<u>X</u>	_____
McGregor	<u>X</u>	_____
Ference	<u>X</u>	_____
Grech	<u>X</u>	_____

Oad Patton

President of Council

Approved On: 12-16-21

Matthew Castelli

Mayor

I, Mary Ann Meala Clerk of the Council of the City of Middleburg Hts., Ohio, hereby certify that Ord. 2021-95 adopted by the Council of the City of Middleburg Hts., on 12/14/21 was posted for a period of fifteen days, beginning 12/17/21 and remained so posted for fifteen days at the two posting places as designated by Charter.

Mary Ann Meala
Clerk

CERTIFICATE

I, Mary Ann Meala Clerk of Council of the City of Middleburg Heights, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ord. 2021-95 passed on the 14th day of December 2021 by said Council.

Mary Ann Meala
Clerk of Council

MEMORANDUM OF UNDERSTANDING

CUYAHOGA COUNTY BOARD OF HEALTH AND THE CITY OF MIDDLEBURG HEIGHTS AUTHORITY AND CONSENT TO PROVIDE PHASE II STORMWATER SERVICES IN 2022 - 2025

This Memorandum of Understanding ("MOU") is entered into by and between The Cuyahoga County Board of Health ("CCBH") and The City of Middleburg Heights ("City"), 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 an 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 Northeast Ohio Regional Sewer District ("The District"), pursuant to the authority of Ohio Revised Code Chapter 6119 adopted Title V - Stormwater Management Code as part of the District's Code of Regulations ("Title V") and is authorized to provide and contract for overall Stormwater Management of the Regional Stormwater System within the jurisdiction of NEORS; and

WHEREAS: Title V requires NEORS, on behalf of the municipalities within its jurisdiction to provide planning, financing, design, improvement, construction, inspection, monitoring, maintenance, operation, and regulation for the proper handling of stormwater runoff and the development and provision of technical support information and services to member municipalities; and

WHEREAS: Section 5.0502 of Title V requires the District to provide Phase II stormwater regulation support services to member communities of the District with Ohio EPA's NPDES General Permit for Municipal Separate Storm Sewer Systems for Minimum Control Measures (MCMs) #1, #2, #3, and #6; and

WHEREAS: Recently, the District passed resolution 332-21 authorizing an agreement with the CCBH for services in support of NEORS member communities' compliance with the Ohio EPA's NPDES General Permit for Municipal Separate Storm Sewer Systems; and

WHEREAS: Pursuant to the agreement between CCBH and NEORS, the District recognizes CCBH as a service provider for the implementation of Minimum Control Measure (MCM) #3: Illicit Discharge Detection and Elimination (IDDE) programming and MCM #6: Pollution Prevention/Good Housekeeping for Municipal Operations; and

WHEREAS: In order for CCBH to provide the above described services to municipalities within the NEORSJ jurisdiction, CCBH must contract with those municipalities that are part of the NEORSJ jurisdiction in order to obtain consent and authority to perform these services; and

WHEREAS: City has 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 MOU agreement for the purposes outlined herein.

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

A. PROJECT DESCRIPTION

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

- The implementation of Minimum Control Measure (MCM) #3: Illicit Discharge Detection and Elimination (IDDE) and MCM #6: Pollution Prevention/Good Housekeeping for Municipal Operations programming;

B. SCOPE OF WORK

1. The Board will monitor the City's designated Municipal Separate Stormwater System (MS4) outfall locations during a dry weather period (a minimum of 72 hours with no rain event) and sample all flowing outfall locations that are within the District's RSMP area for E. coli, during the 2022, 2023, 2024, and 2025 report periods.
2. The Board will provide an annual training presentation related to Good Housekeeping/Pollution Prevention for Municipal Operations for the community's employees on various best management practices. This will be coordinated with the community during the 2022, 2023, 2024, and 2025 report periods.
3. The Board will conduct an annual site inspection of the community's municipal operation facilities in 2022, 2023, 2024, and 2025 and provide a completed report.
4. The Board will provide the City an annual summary of the work that was performed as it relates to Minimum Control Measure (MCM) #3: Illicit Discharge Detection and Elimination and MCM #6: Good Housekeeping/Pollution Prevention for Municipal Operations to be included in the City's Phase II Stormwater Annual report to the Ohio EPA.
5. The City will provide aid in opening storm sewer manholes where and when deemed necessary for the purpose of sample collections.

C. CONSENT STATEMENT

Being in the public interest, The City of Middleburg Heights hereby gives consent to CCBH to complete the above described project.

D. COOPERATION STATEMENT

The City of Middleburg Heights shall cooperate with CCBH in the above described project as follows:

1. Provide maps, assistance and/or direction for CCBH to obtain access and/or samples for testing purposes;
2. The City will provide aid in opening storm sewer manholes where and when needed.

E. COMPENSATION.

The City shall have no obligation to pay the Board for the Scope of Work or services performed identified in Section B.

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 City. 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. The entire cost and expense of these services will be provided by NEORS to CCBH. No financial participation will be required by The City of Middleburg Heights.

G. 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.

H. TERM AND TERMINATION

The term of this Agreement shall begin on _____ and shall end on December 31, 2025, 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 City will pay the Board for the work completed as certified in this statement, subject to the provisions of this Agreement.

I. 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 City 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, at the Party's address first set forth above, on behalf of the City, an additional copy shall be forwarded to the District. Such notices shall be effective when received.

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:

Approved as to form.

Terrence Allan
Health Commissioner

Thomas P. O'Donnell
CCBH General Counsel

Date: _____

Date: _____

**FOR THE CITY OF MIDDLEBURG
HEIGHTS:**

Approved as to form.

Matthew Crutch, Mayor

, Esq.
Law Director

Date: 12-16-21

Date: _____