

CITY OF OBERLIN, OHIO

ORDINANCE No. 15- 02 AC CMS

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE LORAIN COUNTY STORM WATER MANAGEMENT DISTRICT TO ASSIST THE CITY IN THE IMPLEMENTATION OF A STORM WATER UTILITY PROGRAM

WHEREAS, the Lorain County Storm Water Management District has established a storm water utility serving the unincorporated areas of Lorain County and in doing so has developed a business plan, practices, procedures, databases, etc. that facilitate efficient operation of the storm water utility; and

WHEREAS, the City of Oberlin is desirous of creating a business plan for a storm water utility to better serve the needs of our residents and contracting with the Lorain County Storm Water Management District provides the most cost effective, expeditious opportunity to develop a business plan and fee structure for a Oberlin Storm Water Utility to meet the needs of Oberlin residents; and

WHEREAS, the Lorain County Storm Water Management District and the City of Oberlin have, in partnership, completed the Phase I Storm Water Utility planning study; and

WHEREAS, said planning study includes recommendations to proceed with Phase II to develop/implement a stormwater utility to provide a dedicated funding source to assist in complying with NPDES water quality requirements and to improve drainage systems in Oberlin.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That the proposed Memorandum of Understanding between the City of Oberlin and the Lorain County Storm Water Management District to assist the City in developing the business plan, financial analyses, ordinances and associated materials for a Storm Water Utility in Oberlin, a copy being attached hereto as Exhibit 1 and incorporated herein by reference, is hereby approved, and the City Manager is hereby authorized and directed to execute same on behalf of the City.

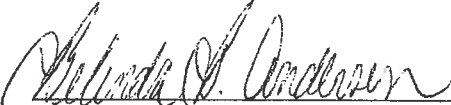
SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were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

PASSED: 1st Reading: January 20, 2015

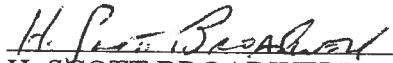
2nd Reading: February 2, 2015

3rd Reading: February 17, 2015 (Effective in 30 days)(A)

ATTEST:



BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL



H. SCOTT BROADWELL
PRESIDENT OF COUNCIL

POSTED: 02/18/2015

EFFECTIVE DATE: 03/19/2015

ORIGINAL

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) entered into by and between the Lorain County Storm Water District (County) and the City of Oberlin (City) on the date set forth below.

Recitals

WHEREAS, both the County and City are required pursuant to the Clean Water Act to comply with certain NPDES (National Pollutant Discharge Elimination System) small MS4 (Municipal Separate Storm Water System) permit regulations of the Environmental Protection Agency (EPA) to develop and implement programs to detect and eliminate illicit discharges; and

WHEREAS, EPA allows MS4 permit holders to partner to jointly perform services required for compliance; and

WHEREAS, County has implemented a Storm Water Utility Fee and Business Plan which includes a set aside of funds to assist in achieving compliance with the Clean Water Act; and

WHEREAS, County has adopted the Lorain County Storm Water Management Plan as the basis of the County and the City of Oberlin collectively to coordinate and collaborate on compliance with the permit requirements; and

WHEREAS, the parties hereto have determined that it is in the best interests of their constituents to collaborate in the joint performance of certain EPA Phase II MS4 requirements as hereafter set forth in that:

It will be more economical.

It will save on duplication of efforts and use of resources.

Control of storm water crosses political boundaries, and it is therefore more effective if done through a coordinated effort of local governments.

THEREFORE, IN CONSIDERATION OF the mutual covenants herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree to and promise to partner in complying with the Clean Water Act through performance of the following six Phase II minimum control measures and further to comply with the Lorain County Storm Water Management Program:

Co-Permittee and Filing of NPDES Permit Application

The City agrees to become a co-permittee of the County as allowed by Ohio EPA under the NPDES Permit. The County will pay any fees associated with the submission of the Co-Permittee application. The County will submit the application to Ohio EPA.

The County will provide a copy of its Storm Water Management Program to the City. The County and City will review and address changes that may be needed as the Program is updated to incorporate changes in the District, current and future NPDES Permits, and evolving needs of the City. Changes will be made to maintain compliance with the NPDES Permit and the Minimum Control Measures required.

The County will work with the City to collect the necessary information to include and report to the Ohio EPA in the required Annual Report. The Annual Report will be submitted to Ohio EPA no later than March 31 of each year reporting on the activities undertaken the previous calendar year by the County and the City including any actions that the City may choose to do in addition to those activities contained in this agreement. A copy of the Annual Report will be provided to the City for its records.

The County will actively work to provide compliance with the EPA NPDES Minimum Control Measures for which it is responsible as part of the MOU. However, the City agrees that the County will not be liable for any EPA noncompliance findings or fines. It is the City's responsibility to ensure compliance and maintain liability for said compliance within the permit.

The following break down of Minimum Control Measures (MCM) and responsibilities shall not prevent either party from going above and beyond the responsibilities outlined in the MOU. Any costs incurred for implementation beyond the outlined responsibilities shall be born solely by the entity that takes such an action. Should the City take any actions beyond the scope of this agreement in furtherance of the NPDES Permit compliance, it is the City responsibility to report and document the actions taken to the County. The County will then be able to include those activities within the Annual Report.

MCM #1 – Public Education and Outreach on Storm Water Impacts

County Responsibility:

- County will develop and pay for Public Education materials for County and City use. These will include Erosion Control Factsheet(s), Post Construction Factsheet(s) and a County Public Education Factsheet. The Public Education Factsheet will be developed in concert with the Lorain County Public Involvement and Public Education Committee (LCPIPE). The County will maintain a webpage with links to these brochures along with other information.
- The County will provide to the City annually a brochure in electronic format that is consistent with the PIPE Annual Theme over each permit term. The current MS4 permit runs through 2019.
- The County will provide press releases to the City for Public Education to be placed in newsletters and other outlets that the City may choose to utilize.

City Responsibility:

- The City will insert PIPE themed brochure in utility bill and mail out once a year to all customers.
- City will make the Factsheets developed by County available at City Hall and other City public meeting places.
- Provide link to County Storm Water district Website on City Website.
- Track number of brochures and number of each factsheet distributed and report numbers back to County at end of each year for inclusion in the Annual Report.
- Include press releases from County relevant to Public Education on Storm Water on City web site and social media, newsletters or other appropriate outlets available to the City to inform the residents.

MCM #2 – Public Involvement / Participation

County Responsibility:

- The County is responsible for and will pay for the development of Public Involvement and Participation activities including:
- Lorain County Public Involvement and Public Education (LCPIPE) Work Group, ensuring a representative of the County will be there representing the County and all of its co-permittees, relieving the City from having to send a representative.
- Lorain County will distribute updates from the workgroup to the City as needed.
- Solid and Hazardous Waste Disposal. County will collect data by zipcode to report in the annual report.
- Lorain County Pride Day
- Lorain County Volunteer Stream Cleanup Program
- Lorain County Adopt a Highway Program

City Responsibility:

- City may send participants to the LCPIPE Work Group
- City is responsible to make sure that these activities are advertised to City employees and residents

MCM #3 – Illicit Discharge Detection & Elimination

County Responsibility:

- Inventory current Illicit Discharge Detection & Elimination Program (IDDE) practices within the City
- Based on the inventory of current practices the County will develop an Illicit Discharge Detection & Elimination (IDDE) Program
- Forward model legislation consistent with existing County legislation to implement IDDE Program.
- Screen outfalls within the City and apply its protocols as established in its IDDE Program from testing through to enforcement.
- Inform City of results of number of screenings, and data related to screenings.

City Responsibility:

- Pass legislation to update Illicit Discharge Detection & Elimination consistent with the County's IDDE Program.
- Assist County in collection and inventory of current IDDE practices including providing information on:
 - MS4 Outfalls (location and previous screening results)
 - MS4 Mapping information for County to develop comprehensive storm sewer system map showing the location of all outfalls and the names and location of all surface waters of the State that receive discharges from those outfalls. Within five years of when your coverage under this general permit was granted, your comprehensive storm sewer system map shall also include your MS4 system (owned and/or operated by you), including catch basins, pipes, ditches, flood control facilities (retention/detention ponds), post-construction water quality BMPs and private post construction water quality BMPs which have been installed to satisfy Ohio EPA's NPDES Construction Storm Water general permit and/or your local post-construction water quality BMP requirements.
- Assist County in accessing property as may be necessary and in enforcement of the IDDE Program if Illicit Discharges are found.

MCM #4 – Construction Site Storm Water Runoff Control

County Responsibility:

- The county has developed Construction Site Erosion Control regulations that have been implemented and which are required for all sites with more than one acre of disturbance.
- Board of Commissioners will provide enforcement of the regulations.

City Responsibility:

- Adopt Construction Erosion and Sediment Control regulations compatible with those that the County has approved.
- Report known violations to Lorain County Storm Water Management District
- Assist the Board of Commissioners as necessary in enforcement measures as needed. Examples may include issuing stop work order through Building Department or denying zoning permit until compliance with regulations is demonstrated.

MCM #5 – Post Construction Storm Water Management

County Responsibility:

- The County has developed Post Construction Storm Water regulations that have been implemented and which are required for all sites with more than one acre of disturbance.
- Board of Commissioners will provide enforcement of the regulations.

City Responsibility:

- Adopt Post Construction Storm Water Management regulations compatible with those that the County has approved.
- Report known violations to Lorain County Storm Water Management District
- Assist the Board of Commissioners as necessary in enforcement measures as needed.

MCM #6 – Pollution Prevention / Good Housekeeping

County Responsibility:

- Lorain County has developed a generic Operation and Maintenance Manual that can be used by the City. This manual will be updated by the County as needed during permit cycles and provided to the City.

- Create Storm Water Pollution Prevention Plans (SWP3) for City Facilities under the Ohio EPA MS4 permit coverage including:
 - Oberlin Municipal Light and Power
 - General Maintenance Division Service Complex
 - Westwood Cemetery
 - Oberlin Compost Facility
 - any future facilities constructed or acquired in the future requiring a SWP3
- Provide technical assistance in customizing Operation and Maintenance Manual to meet specific City requirements.
- Forward training opportunities that appear to be relevant and/or useful for personnel that need continuing training.

City Responsibility:

- Expand upon and implement O & M manual for specific City Facilities.
- Implement and follow SWP3 for City Facilities
- Forward training opportunities and information to City employees
- Ensure City Employees receive required training
- Log employee training hours
- Provide reporting to County on activities including but not limited to training hours and staff that received, inspections of facilities quarterly, materials and amounts used to deice roads, incidental spills and releases, etc.

Administrative and Incidental Actions

From time to time the County has received correspondence from the Ohio EPA in regards to complaints received from the General Public. The County will work with the City to determine the nature of the complaint and what steps may need to be taken to ensure compliance is maintained.

Customer service functions that include phone calls to and from residents, updates to the MOU as may be needed, meetings with OEPA for clarification and information will not be charged.

Coordination of drainage plans, capital improvements pursued in collaboration between the City and County to control flooding within County and City will not be charged by County within this MOU.

Costs

Costs incurred by the County in performing duties on behalf of the City shall be considered an advance from the County to the City. Costs are projected to total \$68,250.00 in year one of the agreement. In year 2 estimated costs are anticipated to be \$31,782.00. While this agreement is in place, year two shall be a baseline and costs shall be increased annually by 2.5% to cover inflationary effects of time beginning in year three thereafter.

Costs associated with MCMs 3-5 are calculated at a time and materials estimate and could be higher or lower based upon actual need. MCM 3 assumes a 100% screening in year 1 to bring City into full compliance. Years two through five would be a 25% screening of outfalls. Thereafter it should return to the 20% per year so long as subsequent NPDES permits do not change the requirement.

The breakdown of costs per task is estimated to be as follows:

Description	Cost
Annual Report	\$750
MCM 1 - Pub Education	\$500
MCM 2 - Pub Involvement	\$2,500
MCM 3 - IDDE*	\$28,000
MCM 4 - Sediment Control - Construction*	\$10,000
MCM 5 - Post Construction*	\$7,500
MCM 6 - Pollution Prevention/Good House.	\$19,000
Administrative and Incidental Action	\$0
Total Cost yr 1	\$68,250.00

* a time and materials cost.

The breakdown of costs per task is estimated to be as follows:

Description	Cost
Annual Report	\$769
MCM 1 - Pub Education	\$512
MCM 2 - Pub Involvement	\$2,563
MCM 3 - IDDE *	\$7,500
MCM 4 - Sediment Control - Construction *	\$10,250
MCM 5 - Post Construction *	\$7,688
MCM 6 - Pollution Prevention/Good House.	\$2,500
Administrative and Incidental Action	\$0
Total Cost yr 2	\$31,782.00

In subsequent years, should it be determined that the total cost is no longer accurately reflecting the costs of the services, a written amendment to the schedule shall occur to be approved.

Repayment

The City shall not be required to repay costs incurred under this MOU until the City establishes a Storm Water Utility and collects its first revenues from the Utility.

Should the City join the Lorain County Storm Water District, costs incurred shall be deducted from collections originating in the City over a period of five years.

Should neither of the above options occur prior to March 31, 2017 then the funds advanced shall be repaid in full on April 1, 2017 and thereafter on April 1 of each year thereafter for the previous years advance.

Termination

This MOU may be terminated by either party upon sixty (60) days written notice to the other party.

LORAIN COUNTY STORM
WATER DISTRICT:

CITY OF OBERLIN

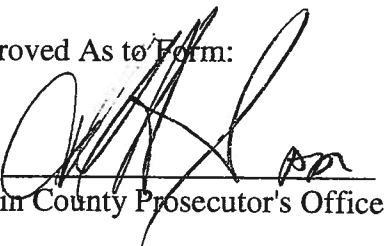
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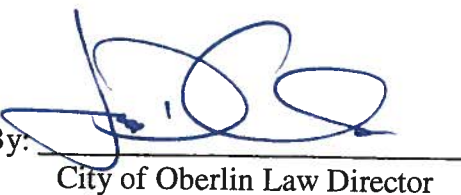
By: 

Date: 2-12-15

Date: 1/30/15

Approved As to Form:

By: 
Lorain County Prosecutor's Office

By: 
City of Oberlin Law Director

Date: 2-9-15

Date: 1/30/15