

# CITY OF OBERLIN, OHIO

## ORDINANCE No. 18-32 AC CMS

AN ORDINANCE PETITIONING THE BOARD OF COUNTY COMMISSIONERS TO JOIN THE LORAIN COUNTY 6117 REGIONAL STORM WATER DISTRICT AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE LORAIN COUNTY STORM WATER MANAGEMENT DISTRICT

WHEREAS, the USEPA has established rules and regulations to require implementation of the NPDES Phase II Storm Water Permit program; and

WHEREAS, for the purpose of preserving and promoting the public health and welfare, a Board of County Commissioners may establish one or more sewer districts within a county to control the drainage facilities within the county, establish rules and regulations and rates and charges; and

WHEREAS, the Board of County Commissioners has recognized the need for cooperation between the City of Oberlin and Lorain County to effectively and efficiently administer the NPDES Phase II Storm Water Permit program; and

WHEREAS, following nearly three years of study and preparation, a Storm Water Advisory Committee made up of City officials and key stakeholders in the City have recommended the City of Oberlin join the Lorain County Storm Water District chartered under Chapter 6117 of the Ohio Revised Code to administer the NPDES Phase II Permit for Lorain County; and

WHEREAS, in accordance with the Memorandum of Understanding (MOU) entered into by and between the Lorain County Storm Water Management District (County) and the City of Oberlin (City) per Ordinance 14-69 AC CMS, outlining both parties' responsibilities to administer and comply with the NPDES Phase II water quality regulations; and

WHEREAS, the Board of County Commissioners of Lorain County, Ohio has established a Storm Water District chartered under Chapter 6117 of the Ohio Revised Code to administer the NPDES Phase II Permit for Lorain County.

NOW, THEREFORE BE IT ORDAINED, by the Council of the City of Oberlin, County of Lorain, State of Ohio, a majority of all members elected thereto concurring:

SECTION 1. That the City of Oberlin does hereby petition the Board of County Commissioners to include all of the territory of said Municipal Corporation within the legal boundaries of said Lorain County Regional Storm Water District, in accordance with section 6117.03 of the Ohio Revised Code.

SECTION 2. That the proposed Memorandum of Understanding between the City of Oberlin and the Lorain County Storm Water Management District, a copy being attached hereto

as Exhibit A 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 3. That the Clerk of Council is hereby authorized and directed to certify copies of this Ordinance to the Board of County Commissioners of Lorain County.

SECTION 4. 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.

SECTION 5. That this ordinance shall take effect at the earliest possible date allowed by law.

PASSED: 1<sup>st</sup> Reading: May 7, 2018  
2<sup>nd</sup> Reading: May 21, 2018  
3<sup>rd</sup> Reading: June 4, 2018

ATTEST:

  
\_\_\_\_\_  
BELINDA B. ANDERSON, MMC  
CLERK OF COUNCIL

  
\_\_\_\_\_  
BRYAN BURGESS  
PRESIDENT OF COUNCIL

POSTED: 06/05/2018

EFFECTIVE DATE: 07/04/2018

I Belinda B. Anderson, the duly appointed, qualified and acting Clerk of Council, for said City of Oberlin of Lorain County, Ohio, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 18-32 CMS, as adopted on June 4<sup>th</sup>, 2018 further certify that the meeting was duly called and held and that a quorum was present

Witness my hand and Official Seal at Oberlin, Ohio this 5<sup>th</sup> day of June 2018.

(Seal)

  
\_\_\_\_\_  
Clerk of Oberlin City Council

# ORIGINAL

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) entered into by and between the Lorain County Storm Water Management 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, City has become a co-permittee of the County as allowed by Ohio EPA under the NPDES permit; and

WHEREAS, the City has undertaken the steps necessary to develop a storm water utility and business plan that is compatible within the operation of the County District with similar billing mechanism and policies, compatible goals and objectives, and mutual interest in minimizing costs and increasing efficiencies; 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 matters including the six Phase II minimum control measures and further to comply with the Lorain County Storm Water Management Program:

**District Participation**

**County Responsibility:**

- Provide assistance with customer service including but not limited to development of property impervious area maps, fee calculations, and site visits.
- County will absorb maintenance costs for ditch projects for joint City/County ditch improvement projects so long as funds are available consistent with the Policy set by the Board.
- County will appoint an Oberlin representative to the County Stormwater Advisory Committee (SWAC)
- County will assist the City with pursuit of grant funding for stormwater quality and quantity.

**City Responsibility:**

- Retain ownership and maintenance responsibility for all City owned stormwater infrastructure.
- Submit an annual budget to the County consistent with the Business Plan and Financial Factsheet developed for the Oberlin Stormwater Utility Program.
- Submit a financial report on expenditures from the enterprise fund to the County at the end of each fiscal year.

**General Conditions:**

The County will provide a copy of its Storm Water Management Program to the City as it is updated. 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.

### **Minimum Control Measures**

The following breakdown 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, if in existence.
- 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, a representative from the County will attend work group sessions on behalf of the County and all co-permittees, relieving the City from this responsibility.
- Lorain County will distribute updates from the workgroup to the City.
- Solid and Hazardous Waste Disposal. County will collect data by zipcode to include with 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 the public Involvement/Participation activities are advertised to City employees and residents.

## **MCM #3 – Illicit Discharge Detection & Elimination**

County Responsibility:

- The County will maintain an Illicit Discharge Detection & Elimination (IDDE) Program for the City.
- 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 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, this information will be provided to the City.
- Assist City with plan review, monthly inspections and enforcement as requested for compliance with the NPDES permit.

City Responsibility:

- Adopt the Construction Erosion and Sediment Control regulations that the County has in place.
- Perform plan reviews and monthly inspections of active construction sites disturbing one or more acres.
- Report known violations to Lorain County Storm Water Management District

- Provide 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, this information will be provided to the City.
- Provide plan review, inspections and enforcement as requested for compliance with the NPDES permit.

##### City Responsibility:

- Comply with responsibilities outlined in the MOU between the City and Lorain County Soil and Water Conservation District.
- Perform plan review and inspections of post construction best management practices (BMPs) within the City.
- Obtain Long Term Inspection and Maintenance agreements with owners of all new post construction BMPs.
- Report known violations to Lorain County Storm Water Management District
- Provide enforcement measures as needed.

#### **MCM #6 – Pollution Prevention / Good Housekeeping**

##### County Responsibility:

- Lorain County has developed an Operation and Maintenance Manual that can be used by the City. This manual will be updated by the County as needed during permit cycles with said updates 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 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 staff training hours, 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 may receive correspondence from the Ohio EPA in regard to complaints 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, MOU updates, meetings with OEPA for clarification and information will not be charged.

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

**Billing and Collection**

County Responsibility:

- County agrees to implement a stormwater fee as established by the City. County will then provide billing to the City stormwater customers in the same manner as employed for the County Stormwater Utility Program.
- Prepare the billing database and impervious area update annually by end of July.
- Provide transfer to the City's Stormwater Enterprise Fund twice per year within 30 days of payment receipt from the Lorain County Auditor for stormwater billing. Each transfer

will be the full amount received from City stormwater customers less half the amount of the annual advance reimbursement and MS4 services cost for the first five years of the program. In year six, each transfer will be the full amount received from the City stormwater customers less half the amount of the annual MS4 services cost.

City Responsibility:

- Provide new development plans that change the impervious area.
- Certify annual billing database to the County Auditor by first Monday in September including rate adjustments due to change in fee per ERU and credits issued to customers

Cost:

**Reimbursement of County Advances for Utility Implementation and MS4 Program Assistance**

In accordance with the previous Memorandum of Understandings approved by the City and County. The City agrees to reimburse the County the following amounts:

Stormwater Utility Implementation Advance:

Phase 1:	\$31,000.00
Phase 2:	<u>\$112,840.00</u>
Subtotal:	\$143,840.00

MS4 Program Assistance Advance:

Year 1 (2015) MS4 Costs:	\$58,250.00
Year 2 (2016) MS4 Costs:	\$21,532.00
Year 3 (2017) MS4 Costs:	\$22,070.00
Year 4 (2018) MS4 Costs:	<u>\$22,622.00</u>
Subtotal:	\$124,474.00

Total Advance Amount: \$268,314.36 this amount is reimbursable over the first five years of the stormwater utility program.

Advance Reimbursement Amount: \$53,662.87/yr. for five years.

**Annual Costs**

Costs incurred by the County in performing duties on behalf of the City as a member of the County Stormwater District shall be \$32,000 in year 1 of the stormwater utility program with annual increases of 3%.

Termination

This MOU may be terminated by either party upon sixty (60) days written notice to the other party by June 1 and will go into effect on January 1 of the following year as billing and collection cannot be altered once set by the County Auditor. If the MOU is terminated prior to the completion of Advance payback the remaining balance on the Advance must be paid in full within (60) days of termination. Annual costs will be prorated based on the time of termination within the year and the prorated amount must also be paid in full within (60) days of termination.

LORAIN COUNTY STORM  
WATER DISTRICT:

CITY OF OBERLIN

By: [Signature]

By: [Signature]

Date: 08/21/2018

Date: 7/18/2018

Approved As to Form:

By: [Signature]  
Lorain County Prosecutor's Office

By: [Signature]  
City of Oberlin Law Director

Date: 8-22-18

Date: 7/18/18