

Introduced by _____
Motioned by _____
Seconded by _____
1st Reading _____
2nd Reading _____
Third Reading _____
Under suspension _____

RESOLUTION NO. 2020-17

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE CUYAHOGA SOIL AND WATER CONSERVATION DISTRICT AND THE NORTHEAST OHIO REGIONAL SEWER DISTRICT TO PROVIDE U.S. EPA PHASE II STORM WATER SERVICES FOR THE 2021 CALENDAR YEAR, AND DECLARING AN EMERGENCY**

**WHEREAS**, the Village of Oakwood is an operator of a small municipal separate storm sewers system (MS4) which was required to, and did obtain, by **March 10, 2003**, National Pollutant Discharge Elimination System permit (MS4 Permit) coverage, through the Ohio EPA, for storm water discharge as a result of U.S. EPA’s Storm Water Phase II Rule; and

**WHEREAS**, the Storm Water Phase II Rule is part of the U.S. EPA's effort to preserve, protect, and improve the nation's water resources from polluted storm water runoff, Phase II is intended to further reduce adverse water quality and aquatic habitat conditions by instituting the use of controls on the unregulated sources of storm water discharges that have the greatest likelihood of causing environmental degradation. The Phase II rule automatically covers on a nationwide basis all small municipal separate storm sewer systems (MS4s) located in "urbanized areas" as delineated by the Census Bureau; and

**WHEREAS**, MS4s are required to design a storm water management plan to reduce the discharge of pollutants to the maximum extent practicable. The Phase II Rule defines a small MS4 storm water management program as comprised of six minimum control measures that, when administered in concert, are expected to result in reduction of the discharge of pollutants into receiving water bodies. Operators of regulated small MS4s are required to design their programs to do the following: reduce the discharge of pollutants to the "maximum extent practicable" (MEP), protect water quality and satisfy the appropriate water quality requirements of the Clean Water Act. Implementation of the MEP standard will require the development and implementation of best management practices and the achievement of measurable goals to satisfy each of the following six (6) minimum control measures (MCM):

**MCM 1. Public Education and Outreach**

Distributing educational materials and performing outreach to inform citizens about the impacts polluted storm water runoff discharges can have on water quality.

**MCM 2. Public Participation/Involvement**

Providing opportunities for citizens to participate in program development and implementation, including effectively publicizing public hearings and/or encouraging citizen representatives on a storm water management panel.

**MCM 3. Illicit Discharge Detection and Elimination**

Developing and implementing a plan to detect and eliminate illicit discharges to the storm sewer system (includes developing a system map and informing the community about hazards associated with illegal discharges and improper disposal of waste).

**MCM 4. Construction Site Runoff Control**

Developing, implementing and enforcing an erosion and sediment control program for construction activities that disturb one (1) or more acres of land (controls could include silt fences and temporary storm water detention ponds).

**MCM 5. Post-Construction Runoff Control**

Developing, implementing and enforcing a program to address discharges of post-construction storm water runoff from new development and redevelopment areas. Applicable controls could include preventive actions such as protecting sensitive areas (e.g., wetlands) or the use of structural BMPs such as grassed swales or porous pavement.

**MCM 6. Pollution Prevention/Good Housekeeping**

Developing and implementing a program with the goal of preventing or reducing pollutant runoff from municipal operations. The program must include municipal staff training on pollution prevention measures and techniques (e.g., regular street sweeping, reduction in the use of pesticides or street salt, or frequent catch-basin cleaning); and

**WHEREAS**, the Village of Oakwood is a member of the Northeast Ohio Regional Sewer District (NEORSWCD) and the NEORSWCD is required to provide Phase II storm water regulation support services to member communities for MCM Nos. 1, 2, 3 and 6 and is further authorized to provide such services through service providers such as the Cuyahoga Soil and Water Conservation District (SWCD); and

**WHEREAS**, the NEORSWCD has recognized SWCD as a preferred service provider which will work with NEORSWCD and the Village to plan and provide a conservation program that includes public education and involvement, and which will implement the Public Involvement and Public Education (PIPE) program, which program meets and exceeds the requirements of MCM Nos. 1 and 2; and

**WHEREAS**, the Village desires to enter into a Memorandum of Understanding (MOU) with NEORSWCD and SWCD for a period of twelve (12) calendar months beginning in January 2021, and subsequent annual renewals, to retain the services of SWCD, and participate with SWCD, in meeting the requirements of MCM Nos. 1 and 2, and provide an annual report to the Ohio EPA, all as more fully set forth in the MOU, which is attached hereto as Exhibit A, and incorporated as if fully rewritten herein; and

**WHEREAS**, per the MOU, the Village agrees to grant an annual conservation appropriation to SWCD, in an amount not to exceed \$6,000.00 for the calendar year 2021, and NEORSWCD agrees to provide the Village with an appropriation in the amount of \$6,000.00, which the Village shall use to pay SWCD to implement the services set forth in the MOU for the calendar year 2021.

**NOW, THEREFORE BE IT RESOLVED** by the Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio that:

**Section 1.** The Mayor is hereby authorized and directed to enter into the MOU with NEORSWCD and SWCD for the calendar year 2020, which is attached hereto as Exhibit A, and

incorporated as if fully rewritten herein, and to grant an annual conservation appropriation to SWCD, in an amount not to exceed \$6,000.00 for the calendar year 2021, conditioned upon the Village receiving from NEORSW an appropriation in the amount of \$6,000.00, which the Village shall use to pay SWCD to implement the services set forth in the MOU for the calendar year 2021.

**Section 2.** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting on the date indicated below, 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 3.** This Resolution constitutes an emergency measure necessary for the health, safety and general welfare of the residents of the Village, and to allow the services set forth in the MOU to immediately commence, and provided it receives the affirmative vote of two-thirds (2/3) of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force from and after the earliest period allowed by law

PASSED: \_\_\_\_\_, 2020

\_\_\_\_\_  
Johnnie Warren, President of Council

\_\_\_\_\_  
Gary V Gottschalk, Mayor

Approved as to legal form:

\_\_\_\_\_  
James Climer, Director of Law

ATTEST: \_\_\_\_\_  
Debra L Hladky, Clerk of Council

**CERTIFICATION**

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Ordinance No. 2020- was duly and regularly passed by this Council at the meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Debra L. Hladky, Clerk of Council

**POSTING CERTIFICATE**

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that Ordinance No. 2020- was duly posted on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and will remain posted for a period of fifteen (15) days thereafter in the Council Chambers and in not less than five (5) of the most public places in the municipality as determined by the Council of the said Village.

\_\_\_\_\_  
Debra L. Hladky, Clerk of Council

DATED: \_\_\_\_\_

Exhibit A follows:

**MEMORANDUM OF UNDERSTANDING for 2021-2025**  
**Between the Cuyahoga Soil and Water Conservation District**  
**and the**  
**Northeast Ohio Regional Sewer District**  
**and the**  
**Village of Oakwood**

This Memorandum of Understanding ("MOU") is made this \_\_\_\_ day of \_\_\_\_\_ ("Effective Date"), between the Cuyahoga Soil and Water Conservation District (SWCD) and the Northeast Ohio Regional Sewer District (NEORSW), pursuant to the authority of Board Resolution 299-20, adopted November 5, 2020 and Village of Oakwood for providing technical assistance in implementing soil and water conservation measures.

**Purpose** – Implementation of conservation education, stewardship, and public involvement activities that also corresponds to the Village's Municipal Separate Storm Sewer System (MS4) permit.

Recognizing the need for effective collaboration in raising awareness through education, stewardship opportunities and public involvement and working to change the perceptions and behaviors of the public for a cleaner, healthier environment, such as what is required in the National Pollutant Discharge Elimination System (NPDES) permit, the Village, the Cuyahoga Soil and Water Conservation District (SWCD), and NEORSW accept this agreement as the document which describes the process for exchange. Cooperation between these units of government facilitates better awareness of environmental issues and potential solutions for a healthier environment. In providing conservation *education* assistance and expertise to the Village, the SWCD hopes to influence citizens to better protect and conserve soil and water resources. The Ohio Revised Code, Chapter 940, describes the District's authority for engaging in this MOU.

Additionally, NEORSW is required to provide Phase II stormwater regulation support services to member communities for Minimum Control Measure Nos. 1, 2, 3, and 6 under NEORSW's Regional Stormwater Management Code (Title V), and is further authorized to provide such services through agreements with service providers such as the SWCD.

The SWCD, NEORSW, and the Village have mutually agreed to this scope of assistance related to education, stewardship, and public involvement for the conservation of soil and water resources.

***Cuyahoga SWCD Conservation Program***

The SWCD will work with the Village to provide a conservation program that includes public education and public involvement, such as that listed in the Village's Storm Water Management Plan, local watershed action plan, and/or balanced growth plans, or others as mutually agreed upon. The goal of the education, stewardship and public involvement program is to reach diverse stakeholders, including Village residents, Village staff, school children, etc. through the following services:

1. SWCD staff will coordinate activities and facilitate program implementation with feedback from the Village's designee and/or through an annual stakeholder meeting.
2. SWCD staff will attend Village council meetings, as requested.
3. SWCD will assist the Village in planning and promotion of a local pollution prevention or clean water event and assist in identifying partnerships with various community stakeholders. Events

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may include stream clean ups, drain stenciling, water festivals or other activities to engage the public.

4. SWCD will create a variety of educational materials, including brochures, fact sheets, newsletters, newsletter articles, web-based information for the Village's use, special mailings, educational posters and school programs, such as age-specific student programs and teacher workshops related to conservation concerns, including watershed issues, soils and water.
5. SWCD will provide opportunities for student involvement in local, state and national programs and competitions.
6. On the Village's behalf, the SWCD will participate in the Northeast Ohio Public Involvement and Public Education Work group (NEO PIPE). Products produced by the NEO PIPE Work Group will be shared with the Village.
7. The SWCD will seek opportunities to maximize impact and minimize additional program costs related to printing large quantities of selected materials that become available to the public.
8. The SWCD will provide an annual report of all activities undertaken, including copies of all fliers, notices, and types of stakeholders reached, attendance records and any data collected.

### *Village's Role*

1. The Village will designate someone to serve as the liaison to the Cuyahoga SWCD and to help provide guidance regarding conservation education and public involvement and with coordination of activities such as improvement days, storm drain stenciling, and watershed planning activities.
2. The Village will help to identify potential leaders, including civic leaders, civic groups, senior organizations, fraternal groups, scout leaders, school liaisons, business leaders and anyone else that should be contacted through an outreach program.
3. The Village will disseminate program information in a timely manner.
4. The Village will assume full responsibility for completion and submittal of their required annual reports.

### *Agreed Procedures*

- The Village agrees to grant an annual conservation appropriation to the SWCD, not to exceed \$6,000 for a one-year term, following the Effective Date, and the Cuyahoga SWCD agrees to use the grant funds to provide a conservation program for the Village.
- The Village will provide a resolution to the SWCD that acknowledges this working agreement and provides documentation to facilitate dispersal of funds to the SWCD on an annual basis.
- That the SWCD is a conservation technical and education service agency and therefore is not granted regulatory authority in the Ohio Revised Code.

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- That the working relationship will be defined to include lines of communications with appropriate departments. The SWCD and the Village will meet at least once a year to coordinate a work plan and exchange information with the goal of developing a multi-disciplinary approach to resource management.
- SWCD will provide a written annual report, relevant to its role, as outlined in this MOU.
- That credit will be given jointly to the SWCD and the Village in any conservation publications produced.
- That all parties will review quality of service and address concerns as they arise.
- The Village recognizes the 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.
- All services of the SWCD are offered on a non-discriminatory basis without regard to race, age, marital status, handicap, or political persuasion.

### **Coordination between NEORSW and SWCD**

1. In accordance with Title V of NEORSW's Regional Stormwater Management Code, NEORSW will provide an appropriation in the amount of \$ 6,000 to the Village, which shall use such appropriation to pay the Cuyahoga SWCD to carry out the services set forth in this MOU.
2. NEORSW and SWCD shall jointly plan annual MCM #1 and MCM #2 activities.
3. SWCD shall provide the District with monthly reports of services provided to each community.

### ***Term, Renewal, Termination***

The term of this MOU shall commence on the date (the "Initial Effective Date") SWCD receives written notice from the Village, in a form approved by SWCD and in accordance with Sections 5705.41 and 5705.44 of the Ohio Revised Code, as applicable, indicating that the Village has agreed to grant funds, in an amount agreed to by the parties, to support SWCD's general operations for the following 12-month period (the "Initial Village Notice"). The parties acknowledge, understand, and agree that any such funding shall be for the purposes of the SWCD's providing Phase II services for a period of 12 *calendar* months following the Initial Effective Date (the "Initial MOU Term") and that this MOU shall terminate on the 12-month anniversary of the Initial Effective Date.

This MOU may be amended or terminated at any time by mutual consent of all parties.

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In witness thereof, the Memorandum executed and agreed to on the latest day, month and year written below:

Cuyahoga Soil & Water  
Conservation District

Oakwood Village

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By:  
Chair

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By: Hon. William Duncan

Date:

Date:

Northeast Ohio Regional Sewer District

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By: Kyle Dreyfuss-Wells  
Chief Executive Officer

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And: Darnell Brown, President  
Board of Trustees

Date:

Date:

This Instrument Reviewed By:  
Katarina K. Waag  
Assistant General Counsel  
Northeast Ohio Regional Sewer District



# CONTRACT NO.

NORTHEAST OHIO REGIONAL SEWER  
DISTRICT

WITH

CUYAHOGA SOIL AND WATER  
CONSERVATION DISTRICT

OAKWOOD VILLAGE

FOR

2021 PHASE II TECHNICAL ASSISTANCE  
IMPLEMENTING SOIL AND WATER  
CONSERVATION MEASURES

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Total Approximate Cost:           \$6,000

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The legal form and correctness of the within  
instrument are hereby approved.

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CHIEF LEGAL OFFICER

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Date

## CERTIFICATION

It is hereby certified that the amount required to meet the contract, agreement, obligation, payment or expenditure, for the above, has been lawfully appropriated or authorized or directed for such purpose and is in the Treasury or in process of collection to the credit of the fund free from any obligation or certification now outstanding.

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CHIEF FINANCIAL OFFICER

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Date