VILLAGE OF BENTLEYVILLE

ORDINANCE NO: 2017-24
INTRODUCED BY: HALE

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE CUYAHOGA COUNTY BOARD OF HEALTH TO PROVIDE PHASE II STORMWATER SERVICES IN THE VILLAGE OF BENTLEYVILLE IN 2017 – 2018 AND DECLARING AN EMERGENCY.

WHEREAS, the Cuyahoga County Board of Health has submitted a bid to the Village to provide Phase II Stormwater Services in 2017-2018 in an amount not to exceed $3,314.00; and

WHEREAS, Council has determined it is in the best interest of the Village to enter into a Memorandum of Understanding with the Cuyahoga County Board of Health to provide Phase II Stormwater Services.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF BENTLEYVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO, THAT:

Section 1: The Mayor is hereby authorized to enter into a Memorandum of Understanding (attached) with the Cuyahoga County Board of Health in an amount not to exceed $3,314.00, payable annually in two equal payments of $1,657.00. The Board shall submit an invoice to the Community for the payment due hereunder.

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

Section 3: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, or safety of the inhabitants of the Village and for the further reason that the Village wants to enter into a contract with PS Construction Fabrics Inc. as soon as possible.

Passed: 08.14.2017

Mayor

I, the undersigned, Fiscal Officer of the Village of Bentleyville, hereby certify that there is no newspaper published or having an office of publication in the same Village and that I published the foregoing Ordinance by posting the same in five (5) of the most public places of said Village, as defined by Ordinance of Council, for a period of fifteen (15) days, beginning the date following passage and signature by the Mayor.

Fiscal Officer

I, the undersigned, Fiscal Officer of the Village of Bentleyville, hereby certify that the foregoing is a true copy of Ordinance 2017-24 duly enacted by the Council of said Village on this 16 day of August, 2017.

Fiscal Officer

MEMORANDUM OF UNDERSTANDING

AUTHORITY AND CONSENT FOR THE CUYAHOGA COUNTY BOARD OF HEALTH TO PROVIDE PHASE II STORMWATER SERVICES IN THE VILLAGE OF BENTLEYVILLE IN 2017 - 2018

This Memorandum of Understanding ("MOU") is entered into by and between The Cuyahoga County Board of Health ("The Board") and The Community of Bentleyville ("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, the Board has 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 Board 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 Board 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 Districts ("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

WHEREAS: Communities have the authority to grant consent and authority to the Board 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

The Board and the Community have identified the need for the following described project:

- To support the implementation of Minimum Control Measures (MCM) #3: Illicit Discharge Detection and Elimination (IDDE) programming;

B. SCOPE OF WORK

1. The Board will need the locations of each of the Community's previously identified Municipal Separate Stormwater System outfall locations.

2. The Board will monitor 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 upon request sample up to 10 flowing outfall locations that are outside of the Northeast Ohio Regional Sewer District's Regional Stormwater Management Program area during the 2017 and 2018 report period. The samples collected will be analyzed for the presence of E. coli bacteria.

3. The Board will provide the Community with a summary of the work performed as it relates to Minimum Control Measures (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 Board may request the Community to provide assistance in gaining 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 Bentleyville hereby grants consent and authority to the Board to complete the above described project.

D. COOPERATION STATEMENT

The Community of Bentleyville shall cooperate with the Board in the above described project as follows:

1. Provide the Board any maps, assistance, and/or direction to aid in obtaining access and/or collecting samples for testing purposes;
2. Provide the Board 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 not to exceed $3,314.00, payable annually in two equal payments of $1,657.00. 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 August 14, 2017 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 the Board.

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
Health Commissioner

Date:_____

Approved as to form.

Thomas P. O'Donnell
CCBH General Counsel

Date:_____

FOR THE COMMUNITY OF BENTLEYVILLE

Leonard A. Spremulli
Mayor

Date: 08.16.2017

Approved as to form.

Ann C. Oakar, Esq.
Law Director

Date: 8/16/17