

ORDINANCE NO. 20-069

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE ERIE SOIL & WATER CONSERVATION DISTRICT FOR PARTICIPATION IN THE ERIE COUNTY NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PHASE II PROGRAM; AUTHORIZING AND DIRECTING THE CITY MANAGER AND/OR FINANCE DIRECTOR TO EXPEND THE NECESSARY FUNDS FOR PARTICIPATION; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, as mandated by Congress under the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) Storm Water Program is a comprehensive two-phased national program for addressing the non-agricultural sources of storm water discharges that adversely affect the quality of our nation's waters and the program uses the NPDES permitting mechanism to require the implementation of six (6) minimum controls designed to prevent harmful pollutants from being washed by storm water runoff into local water bodies and the Phase II Final Rule, published in the Federal Register on December 8, 1999, requires NPDES permit coverage for storm water discharges from certain regulated small municipal separate storm sewer systems (MS4s); and

WHEREAS, the City has identified the Erie Soil & Water Conservation District (ESWCD) as the lead agency for the Erie County NPDES Small MS4 Program and recognizes the need for a close working relationship in carrying out the responsibilities of the NPDES Small MS4 Program for which each Co-Permittee is charged; and

WHEREAS, the City of Sandusky has participated in this program since 2011 and has received many benefits from ESWCD and the Memorandum of Agreement provides funding to the Soil and Water District for professional services performed on behalf of the City to meet requirements of the Ohio Environmental Protection Agency's (OEPA) NPDES Storm Water Program for the co-permittee's jurisdictions; and

WHEREAS, the co-permittees covered under the OEPA Small Municipal Separate Storm Sewer Systems (MS4) permit are the City of Sandusky, Erie County Engineer, City of Vermilion, Perkins Township, Margaretta Township and the Village of Bay View; and

WHEREAS, the term of this agreement is one (1) year with four (4) automatic renewals and the City's annual cost to continue to participate in the Erie County NPDES Storm Water Program this year is \$13,000.00 and the annual cost for the renewal years is \$13,000.00 for year 2021, \$14,000.00 for years 2022 and 2023, and \$15,000.00 for year 2024 and all annual fees will be paid with Sewer Funds; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to continue participation in the program and make payment to the Erie Soil &

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Water Conservation District at the earliest opportunity as annual fees are due in the first quarter of each calendar year pursuant to the proposed Memorandum of Agreement and prior to May 1, 2020, in order for ESWCD to receive matching funds from the State of Ohio; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission approves the form of the agreement and authorizes and directs the City Manager to enter into the Memorandum of Agreement with the Erie Soil & Water Conservation District for participation in the Erie county National Pollutant Discharge Elimination System (NPDES) Storm Water Program, substantially in the same form as Exhibit "A", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein, together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the terms of this Ordinance.

Section 2. The City Manager and/or Finance Director is authorized and directed to expend funds to the Erie Soil & Water Conservation District for the annual fee to continue to participate in the Erie County National Pollutant Discharge Elimination System (NPDES) Storm Water Program in an amount **not to exceed** Thirteen Thousand and 00/100 Dollars (\$13,000.00) and to expend funds for the renewal years in the amount of \$13,000.00 for year 2021, \$14,000.00 for years 2022 and 2023, and \$15,000.00 for year 2024, pursuant to and in accordance with the terms of the agreement.

Section 3. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent

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provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.



RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION



KELLY L. KRESSER
CLERK OF THE CITY COMMISSION

Passed: April 13, 2020

Memorandum of Agreement
between
The Erie Soil & Water Conservation District
and
City of Sandusky, Ohio

Upon this _____ day of _____, 20____ this Memorandum of Agreement (Agreement) was entered into by and between the Erie Soil & Water Conservation District (District), and the City of Sandusky (City), Erie County.

Mandated by Congress under the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) Storm Water Program is a comprehensive two-phased national program for addressing the non-agricultural sources of storm water discharges that adversely affect the quality of our nation's waters. The Program uses the NPDES permitting mechanism to require the implementation of six minimum controls designed to prevent harmful pollutants from being washed by storm water runoff into local water bodies. The Phase II Final Rule, published in the Federal Register on December 8, 1999, requires NPDES permit coverage for storm water discharges from certain regulated small municipal separate storm sewer systems (MS4s).

According to 40 CFR 122.26(b)(8), "municipal separate storm sewer means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

(i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law)...including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges into waters of the United States.

(ii) Designed or used for collecting or conveying stormwater;

(iii) which is not a combined sewer; and

(iv) which is not part of a Publicly Owned Treatment Works (POTW)"

The City has identified the District as the lead agency for the Erie County NPDES Small MS4 Program. Other Erie County municipalities and townships have joined the Erie County NPDES Small MS4 Program as co-permittees. Recognizing the need for a close working relationship in carrying out the responsibilities of the NPDES Small MS4 Program for which each is charged, the City and the District enter into this Memorandum of Agreement as the foundation for a cooperative relationship. Such cooperation allows for joint effort in the solution of problems relating to storm water management, land use planning, and the development of the soil and water resources within the urbanized areas of Erie County.

The District agrees to:

1. Employ a program coordinator qualified to guide the City in implementing the NPDES Small MS4 Program, including assistance to select and implement minimum control measures to ensure compliance with Ohio EPA's NPDES Small MS4 permit requirements.

2. Update and submit the revised Storm Water Management Plan (SWMP) and the NPDES Small MS4 permit application for the City to the Ohio Environmental Protection Agency (EPA) in compliance with regulations and deadlines.
3. Provide payment to Ohio EPA for the NPDES Small MS4 permit fee and annual discharge fees (Fees shall be paid from the yearly appropriation to District).
4. Collect data and reports from the City on the progress of the program, compile this information, and write and submit the NPDES Small MS4 Annual Report to Ohio EPA in compliance with applicable regulations and deadlines.
5. Provide informational resources and technical assistance as requested to assist in satisfying the SWMP requirements and to guide proper land use decisions.
6. Keep City informed of updates to NPDES Small MS4 permit rules and regulations
7. Carry out all duties and tasks within the Annual Plan of Work (Exhibit A), and provide the City with an updated Plan of Work each year of this agreement for review and approval by City staff

The City agrees to:

1. Appoint a minimum of one (1) representative and one (1) alternate to serve on the Erie County Stormwater Committee, which will guide the Erie County NPDES Small MS4 Program
2. Cooperate with the District to develop and implement programs that satisfy the NPDES Small MS4 permit in accordance with the SWMP
3. Support the District's efforts by following up on any private construction site Storm Water Pollution Prevention Plan (SWPPP) compliance issues within 30 days of original notice of violation, and take necessary actions to bring the site into compliance with state and local regulations by issuing stop work orders and/or the issuance of fines
4. Ensure the appropriate MS4 staff attend the annual Good Housekeeping/Pollution Prevention trainings and/or workshops hosted by the District, when possible
5. Develop and implement a Storm Water Pollution Prevention Plan (SWPPP) in accordance with the SWPPP requirements of Ohio EPA's Industrial Storm Water General Permit for each subject municipal facility
6. Conduct annual dry-weather screening of the MS4 outfalls, ensuring 100% of the City's MS4 outfalls will be screened over the 5 year permit term
7. Conduct quarterly dry and wet-weather inspections and annual comprehensive inspections, complete the appropriate reports within ESRI GIS apps developed, and make necessary changes identified during these inspections to comply with Ohio EPA's Industrial Storm Water General Permit requirements, as needed
8. Develop and implement an Illicit Discharge Detection and Elimination Plan
9. Provide the District with data, reports and other collected information to be used in the NPDES Small MS4 Annual Report
10. Provide the following appropriations to the District, payable in the first quarter of each calendar year:

<i>Year 2020</i>	<i>\$13,000</i>
<i>Year 2021</i>	<i>\$13,000</i>
<i>Year 2022</i>	<i>\$14,000</i>

Year 2023 \$14,000
Year 2024 \$15,000

An annual review will occur for any adjustments that need to be made due to planned program objectives which shall be approved by the City and the District prior to implementation of adjustments.

11. Utilize best efforts to observe the principles of sound soil and water conservation, giving considerations to the need for storm water quantity and quality, erosion and sediment control measures, and natural resource protection, and compliance with NPDES permit requirements.
12. Recognize the District has no regulatory authority to enforce NPDES rules and regulations.

It is mutually agreed:

1. The District and the City shall meet annually to review and, where possible, coordinate their individual progress and activities for maximum mutual benefit and update the Annual Plan of Work (Exhibit A) as necessary
2. The Erie County Commissioners will be the holder of the NPDES Small MS4 permit, but the City will be responsible for meeting the requirements of the NPDES Small MS4 Permit as it pertains to its operation
3. The District prohibits discrimination in programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, and marital or familial status
4. This agreement is effective for the period of one (1) year beginning on the effective date above with an automatic one year renewal each year for four (4) additional years unless one or both parties terminate by written notice as outlined below
5. This agreement may be terminated upon 30 days written notice by either party
6. The Erie County Stormwater Committee shall meet quarterly or more often if deemed necessary by the majority of committee members

In witness whereof, this Agreement is executed and agreed to on the day, month, and year written above.

Erie Soil & Water Conservation District

City of Sandusky

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit A

Small MS4 Program Annual Plan of Work for Year 2020

City of Sandusky

General Program Administration

- Program technical assistance
- Annual reporting and collection of data
- Update and submit the storm water management plan
- Provide the City with relevant SW educational material and/or links to post on City's website

Minimum Control Measures 1&2 - Public Education & Public Involvement:

- Meet the education 10% target population reach (50% over 5 year permit)
- Conduct minimum of 1 volunteer/public engagement stormwater event
- Clean Water Contractor Program

Minimum Control Measure 3 - Illicit Discharge Detection & Elimination (IDDE):

- Collect required reportable info from Erie County Health District and Sewer Maintenance
- Maintain GIS feature layer of all off-lot discharging HSTS's
- Assist with updating the IDDE plan and ordinances based on the Small MS4 Permit OHQ000004
- Assist Sewer Maintenance with tracking and reporting of confirmed illicit discharges

Minimum Control Measure 4 - Construction Site Stormwater Runoff Control:

- Conduct SWPPP plan reviews on all regulated construction projects and provide comments
- Attend pre-construction meetings (for SWPPP purposes) when requested by the City
- Conduct a minimum of 1 oversight SWPPP inspection per month on any regulated construction project during active construction and provide the contractor and City representative with required report documentation
- Review fee schedule for plan submittal and assist in developing new schedule
- Continue to track all time spent per construction project for both review and inspections; invoice Public Works Department monthly until instructed otherwise
- Develop a standard inspection form for contractors to use for required weekly SWPPP inspections

Minimum Control Measure 5 - Post-Construction Stormwater Management

- Conduct inspections on all private existing SW Post-Construction BMPs and provide inspection reports to the City
- Continue to update the ESRI GIS map of existing private BMPs
- Collect, review and maintain records of maintenance agreements for any new SW Post-Construction BMPs
- Review incorporating a fee for filing/recording maintenance agreements

Minimum Control Measure 6- Good Housekeeping & Pollution Prevention for Municipal Operations

- Ensure appropriate staff complete all required quarterly & annual facility inspections
- Assist with training new staff on doing the quarterly & annual inspection protocols
- Assist in developing and implementation of a SWPPP for each regulated facility
- Provide required Good Housekeeping/Pollution Prevention annual training for MS4 staff
 - Spills/IDDE Training, January