

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2022-7

By Mary H. Brown Sponsored By Mayor Cyril M. Kleem

AN ORDINANCE

AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO AMEND A CONTRACT WITH THE CUYAHOGA COUNTY DEPARTMENT OF PUBLIC WORKS TO EXTEND THE TERM OF THE CONTRACT TO PROVIDE CERTAIN SERVICES RELATIVE TO THE CITY SEWERS, AS DETERMINED FROM TIME-TO-TIME, TO FURTHER ADVANCE THE CITY'S SANITARY AND STORM SEWER MAINTENANCE PROGRAM, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Berea owns and operates certain sanitary and storm sewers, catch basins, manholes, culverts and storm water detention and retention basins located in the public right-of-way and in or along easement, excluding any sanitary sewers owned and maintained by the Northeast Ohio Regional Sewer District; and

WHEREAS, the Council of the City of Berea authorized the Director of Public Service to enter into a contract with the Cuyahoga County Department of Public Service in Ordinance No. 2017-34 to provide certain services relative to the City sewers, as determined from time-to-time, to further advance the City's sanitary and storm sewer maintenance program; and;

WHEREAS, the COUNTY and CITY entered into a sanitary and storm sewer maintenance agreement for the period June 1, 2017 to December 31, 2017 for an amount not to exceed \$150,000.00 (the "Agreement"); and

WHEREAS, on or about July 17, 2018 the parties entered into a First Amendment to extend the term of the Agreement to December 31, 2018 and increase the contract amount by \$300,000.00; and

WHEREAS, on or about January 8, 2019 the parties entered into a Second Amendment to extend the term of the Agreement to March 31, 2019; and

WHEREAS, on or about March 26, 2019 the parties entered into a Third Amendment to extend the term of the Agreement to March 31, 2020 and increase the contract amount by \$110,000.00;

WHEREAS, on or about March 23, 2020 the parties entered into a Fourth Amendment to extend the term of the Agreement to March 31, 2021 and increase the contract amount by \$1,600,000.00; and

WHEREAS, on or about March 23, 2021 the parties entered into a Fifth Amendment to extend the term of the Agreement to March 31, 2022 and increase the contact amount by \$450,000.00; and

WHEREAS, the parties desire to enter into a Sixth Amendment to extend the term of the Agreement to March 31, 2023 and increase the contact amount by \$500,000.00.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, State of Ohio:

SECTION 1. That the Director of Public Service be, and hereby is authorized to enter into a Sixth Amendment to the contract, in substantially the same form as Exhibit A, with the Cuyahoga County Department of Public Works to provide additional services relative to the City sewers to March 31, 2023, as determined from time-to-time, to further advance the City's sanitary and storm sewer maintenance program.

SECTION 2. That 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 that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

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SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare, or providing for the usual daily operation of a municipal department, and for the further reason that certain services relative to the City's sanitary and storm sewer maintenance program may continue without interruption. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: March 21, 2022

ATTEST: [Signature]
Clerk of Council

APPROVED: March 22, 2022
[Signature]
Mayor

Approved as to Form:
[Signature]
Director of Law

**SIXTH AMENDMENT
TO
AGREEMENT
BETWEEN
COUNTY OF CUYAHOGA, OHIO
AND
CITY OF BEREA, OHIO**

This SIXTH AMENDMENT ("Amendment") is made on April 1, 2022 ("Effective Date") by and between the County of Cuyahoga, Ohio, a body corporate and politic and a political subdivision of the State of Ohio organized and existing under the Charter of Cuyahoga County effective January 1, 2010, as same may have been amended, modified, and supplemented to the effective date hereof, (the "COUNTY"), on behalf of the Cuyahoga County Department of Public Works (hereinafter referred to as "CCDPW"), and the City of Berea (hereinafter referred to as "CITY"), a municipal corporation of the State of Ohio, pursuant to the authority of Ordinance No. 2022-7 passed by Berea City Council on March 21, 2022.

RECITALS:

WHEREAS, the COUNTY and CITY entered into a sanitary and storm sewer maintenance agreement for the period June 1, 2017 to December 31, 2017 for an amount not to exceed \$150,000.00 (the "Agreement"); and

WHEREAS, on or about July 17, 2018 the parties entered into a First Amendment to extend the term of the Agreement to December 31, 2018 and increase the contract amount by \$300,000.00; and

WHEREAS, on or about January 8, 2019 the parties entered into a Second Amendment to extend the term of the Agreement to March 31, 2019; and

WHEREAS, on or about March 26, 2019 the parties entered into a Third Amendment to extend the term of the Agreement to March 31, 2020 and increase the contract amount by \$110,000.00;

WHEREAS, on or about March 23, 2020 the parties entered into a Fourth Amendment to extend the term of the Agreement to March 31, 2021 and increase the contract amount by \$1,600,000.00; and

WHEREAS, on or about March 23, 2021 the parties entered into a Fifth Amendment to extend the term of the Agreement to March 31, 2022 and increase the contact amount by \$450,000.00; and

WHEREAS, the parties desire to enter into a Sixth Amendment to extend the term of the Agreement to March 31, 2023 and increase the contact amount by \$500,000.00; and

WHEREAS, the parties agree to the terms and conditions indicated herein below.

NOW THEREFORE, in consideration of the mutual promises and obligations herein to be observed and performed by the parties hereto, the parties hereby agree as follows:

I. INCORPORATION

A. The original Agreement, together with the amendments, are herein collectively referred to as the "Agreement." The foregoing recitals are incorporated in the Agreement as if fully rewritten herein.

B. The provisions of this Amendment are incorporated into the original Agreement, as if fully rewritten in the Agreement. All terms used in this Amendment shall be defined and construed in the manner set forth in the original Agreement. Except as otherwise provided in, or as otherwise necessary or appropriate to give effect to the terms of this Amendment, all the provisions, terms, and conditions contained in the Contract and not inconsistent with this Amendment shall remain unchanged and in full force and effect. In the event of any conflict between the original Agreement and this Amendment, the terms, the conditions and provisions of this Amendment shall control.

II. TERM

The term of the Agreement is extended from April 1, 2022 to March 31, 2023, unless otherwise canceled or terminated under the terms of the Agreement.

III. COMPENSATION

Exhibit A in Section II (C) (1) is hereby deleted in its entirety and replaced with Exhibit I – 2022 Hourly Rates.

The total amount of compensation in Section II (C) (4) is hereby increased by \$500,000.00.

IV. ELECTRONIC SIGNATURE

CITY AGREES ON BEHALF OF THE SUBMITTING BUSINESS ENTITY, ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, SUBGRANTEES, AGENTS OR ASSIGNS, THAT ALL AMENDMENT DOCUMENTS REQUIRING COUNTY SIGNATURES MAY BE EXECUTED BY ELECTRONIC MEANS, AND THAT THE ELECTRONIC SIGNATURES AFFIXED BY THE COUNTY TO SAID DOCUMENTS SHALL HAVE THE SAME LEGAL EFFECT AS IF THAT SIGNATURE WAS MANUALLY AFFIXED TO A PAPER VERSION OF THE DOCUMENT. CITY ALSO AGREES ON BEHALF OF THE AFOREMENTIONED ENTITY AND PERSONS, TO BE BOUND BY THE PROVISIONS OF CHAPTERS 304 AND 1306 OF THE OHIO REVISED CODE AS THEY PERTAIN TO ELECTRONIC TRANSACTIONS, AND TO COMPLY WITH THE ELECTRONIC SIGNATURE POLICY OF CUYAHOGA COUNTY.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed on the day and year first above mentioned.

COUNTY OF CUYAHOGA, OHIO

By: _____
Armond Budish, County Executive
or designee pursuant to Executive Orders
No. EO2018-0002 dated October 31, 2018
or No. EO2018-0001 dated February 26,
2018

Date: _____

The legal form for the within this
instrument is hereby approved.

Gregory G. Huth, Law Director

By: _____

Date: _____

CITY OF BEREA, OHIO

By: Cyrl Kleem
Cyrl Kleem, Mayor

Date: March 22, 2022

Approved as to legal form:

[Signature]
Director of Law
City of Berea



Exhibit 1

2022 HOURLY RATE SHEET

	2022 RATE
100 ADMINISTRATIVE	60.00
120 ENGINEERING - GENERAL SANITARY	
124 ENGINEERING - GENERAL STORM	120.00
	120.00
200 TV INSPECTION - SANITARY SEWERS	
201 TV INSPECTION - STORM SEWERS	300.00
	300.00
222 JETTING -HOUSE LATERALS	
223 JETTING CATCH BASINS	300.00
225 JETTING - PS/WWTP: TANKS/WELLS	260.00
226 JETTING & VAC SAN	300.00
227 JETTING & VAC STORM	300.00
228 JETTING - OTHER	300.00
	300.00
300 HOUSE LATERAL MAINTENANCE/LATERAL T.V.	275.00
400 I/I - METERING, SMOKE, DYE, MANHOLE	
404 I/I - OTHER/ OUPS	250.00
406 I/I - METERING MONTHLY RATE - EQUIPMENT	150.00
	150.00
500 CONSTRUCTION/REPAIR - SANITARY MAIN	
501 CONSTRUCTION/REPAIR - STORM MAIN	390.00
502 CONSTRUCTION/REPAIR/LOCATE - SANITARY LATERAL, M.H., C.B	390.00
503 CONSTRUCTION/REPAIR/LOCATE - STORM LATERAL, M.H., C.B.	390.00
511 CONSTRUCTION/REPAIR - LANDSCAPING	390.00
512 CONSTRUCTION REPAIR - OTHER	390.00
513 CONSTRUCTION REPAIR - PUMPING ACTIVITIES	390.00
514 CONSTRUCTION REPAIR - FORCE MAIN	390.00
	390.00
700 PS - O&M (1-MAN CREW)	
702 PS - O&M (2-MAN CREW)	150.00
	220.00
800 WWTP - O&M (1 MAN CREW)	
802 WWTP - O&M (2 MAN CREW)	150.00
	220.00
900 PERMITS/RECORDS	
901 INSPECTION - GENERAL	70.00
902 INSPECTION - PRIVATE/COMMERCIAL	70.00
903 INSPECTION - HOUSE/V-MEASUREMENTS	70.00
906 INSPECTION - MAIN LINE CONSTRUCTION	70.00
	70.00
STREET SWEEPING - CITY DISPOSAL	
STREET SWEEPING - COUNTY DISPOSAL	200.00
	300.00
MATERIAL LUMP SUM - CONSTRUCTION EXTRA ITEMS	
	COST