

ORDINANCE RECORD

VILLAGE OF NEWBURGH HEIGHTS, OHIO

ORDINANCE NO. 2023-22

INTRODUCED BY: Mayor Gigi Traore

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A LETTER AGREEMENT WITH PARTNERS ENVIRONMENTAL, INC. FOR STATISTICAL BACKGROUND DATA SET UPDATE REQUEST, IN AN AMOUNT NOT TO EXCEED \$5,089.00, AND DECLARING AN EMERGENCY.

WHEREAS, Partners conducted the 2022 Annual Groundwater Monitoring and submitted the Final Report in May 2022; and

WHEREAS, subsequent to that submittal, the Ohio EPA forwarded a Request for Additional Information on September 8, 2022;

WHEREAS, in its September 8, 2022 letter, the Ohio EPA recommended updating of the statistical background data sets;

WHEREAS, the attached proposal is for professional services to update the statistical data background sets;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF NEWBURGH HEIGHTS, CUYAHOGA COUNTY, OHIO, at least two-thirds of all the members elected thereto concurring, that:

Section 1. The Village Council hereby authorizes the Mayor to enter into a Letter Agreement with Partner's Environmental, Inc. for Statistical Data Set Update Request and Response to Ohio EPA Comments in connection with monitoring of the Bert Avenue Landfill, in an amount not to exceed \$5,089.00, as more fully described and on the terms and conditions and at the cost set forth in the Letter Agreement, a copy of which is set forth as Exhibit A and is incorporated herein by reference as if fully rewritten.

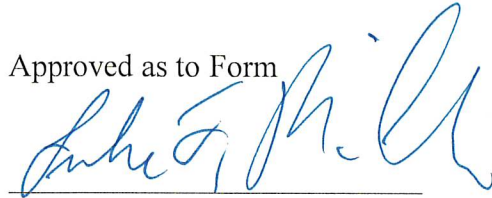
Section 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in such formal action occurred in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the Village, so that Partners may perform the required professional services and respond to the Ohio EPA to remain in compliance with the requirements of the Ohio Administrative Code; wherefore,

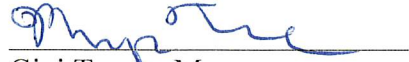
this resolution shall be in full force and effect from and immediately after its adoption and approval by the Mayor.

PASSED: June 6, 2023

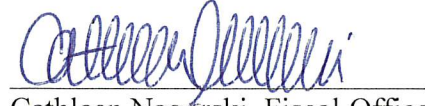
Approved as to Form



Solicitor



Gigi Traore, Mayor
Village of Newburgh Heights, Ohio



Cathleen Nagorski, Fiscal Officer
Village of Newburgh Heights, Ohio

1ST Reading: 6/6/2023
2ND Reading: 6/6/2023
3RD Reading: 6/6/2023



Environmental, Safety, Engineering & Surveying
Ohio | New York | New Jersey | Colorado

March 7, 2023

The Honorable Gig Traore
Mayor, Village of Newburgh Heights
4000 Washington Park Blvd.
Newburgh Heights, Ohio 44105

**RE: Proposal for Statistical Background Data Set Update Request and
Response to Ohio EPA Comments
Bert Avenue Landfill
Municipal Solid Waste Landfill - MSWL020022
Newburgh Heights, Ohio**

Dear Mayor Traore:

Partners is pleased to submit this proposal to the Village of Newburgh Heights, Ohio, (Village) for professional services related to the Bert Avenue Landfill in Newburgh Heights, Ohio (Property). Partners conducted the 2022 Annual Groundwater Monitoring and submitted the Final Report in May 2022. Subsequent to our submittal, the Ohio Environmental Protection Agency (EPA) forwarded a Request for Additional Information on September 8, 2022. Partners responded to the Ohio EPA on October 5, 2022, in order to maintain compliance with Ohio EPA. Based on our response the Ohio EPA provided its Letter of Compliance – ASD Concurrence dated October 20, 2022.

Services to be provided include a request to the Director of the Ohio Environmental Protection Agency (EPA) to update the statistical background data sets, as recommended by the Ohio EPA in their letter dated September 8, 2022, and costs incurred to respond to comments outlined in the September 8, 2022, letter.

The following presents Partners' Scope of Work to complete professional services as related to the Bert Avenue Landfill.

Statistical Background Data Set Update Request

In their September 8, 2022, letter, the Ohio EPA recommended that background data sets for all monitoring wells be updated in accordance with OAC 3745-2710(C)(7)(g) and consistent with 2009 USEPA Statistical Analysis of Ground Water Data at RCRA Facilities (Unified Guidance). Ohio EPA recommends updating data set with data that has been determined to be statistically different – specifically statistically significant increase (SSI) results for which the facility has submitted an Alternative Source Demonstration (ASD) with which Ohio EPA has concurred. Updating data provides a more accurate characterization of ground water quality at the facility and reduces the possibility of false positive results for statistically significant increases and the need to perform and submit ASDs. OAC 3745-27-10(C)(7)(g) states that background data can be added in blocks of data resulting from the analysis of 4 or more statistically independent samples after the data have been statistically compared to the current background data and no statistical differences are detected, unless another method is deemed appropriate by the Director. Therefore, to add data that previously represented an SSI, the facility will need to request the Director to add such data (along with supporting documentation that the SSIs do not represent an impact from the landfill and are representative of background water quality in the well) and receive approval of the Director for the request.

Partners will submit a request to the Director, on behalf of the Village, to update background data sets for statistical analysis with the appropriate supporting documentation. The request will be presented in letter format with appropriate attachments.

31100 Solon Road, Suite G, Solon, Ohio 44139

www.partnersenv.com

phone: (800) 763-1363

March 7, 2023

Response to Ohio EPA Comments

Our proposal to conduct the 2022 Annual Ground Water Monitoring did not account for the effort to respond to the Ohio EPA's inquiries. Partners responded to the Ohio EPA in October 2022 in order to maintain compliance with Ohio EPA. In total Partners incurred an additional \$2,379.00, which included telephone and email correspondence with the Ohio EPA and preparation of our response to the Agency. Therefore, Partners respectfully requests authorization for the additional fees.

Limitations

This proposal assumes that the recommended statistical methods for analysis of groundwater analytical data will be accepted by the Ohio EPA.

The Village acknowledges that our scope of work and costs are preliminary and subject to change based on comments or requests from the Ohio EPA and further understands that Notices of Violation (NOVs) may be still be received by the Village for our work. Costs for response to Ohio EPA comments are not included and would be charged in addition to the approved budget.

Costs for meetings with the Client or Ohio EPA are not included and would be billed in addition to the approved budget.

Fees

Partners is prepared to implement the above scope of work for the fees described below. These fees are based on a presumed allowable Ohio EPA inflation rate of 4.1%. The actual allowable inflation rate will be published in March 2023 and the Fees will be adjusted up or down accordingly. The fees are presented on a fixed fee and will not be altered without your written prior approval. Our proposal is valid for 30 days. The following describes our costs for this project.

Fixed Fee

Statistical Background Data Set Request	\$ 2,350
Response to Ohio EPA Comments	\$ 2,739
TOTAL	\$ 5,089

Partners understands that the monitoring will be paid for through the financial assurance bond posted by Chemetron, Inc., the owner of the project and being held by the Ohio EPA, the beneficiary of the bond. Partners will prepare invoices for the Village to submit to the financial assurance department of the Ohio EPA. An invoice will be submitted upon submittal of the Draft documentation to the Village for review. We understand that payment will be made in a timely manner and that the Village will make a reasonable effort to support such timely payment. Partners will not be obligated to proceed with the project if timely payment is not received. Partners reserves the right to recover attorney's and other reasonable fees associated with the collection of past due balances.

March 7, 2023

Closing


We appreciate this opportunity to be of service and look forward to continued work on this project.

If acceptable, please indicate your approval of this contract by signing in the space provided.

Please contact our office if you have any questions or if we can be of further assistance.

Sincerely,

Partners



John A. Zampino, PG, CP
Director, Assessment, Remediation, and Revitalization



John T. Garvey, CP
Vice President, Environmental

cc: Mr. Luke McConville, Nicola, Gudbranson & Cooper, LLC

Acceptance

I am authorized to enter into this agreement on behalf of Village of Newburgh Heights, OH
and accept this proposal in its entirety.

Agreed to this 12th day of June, 2023

Agent For: Village of Newburgh Heights

Signature: [Signature]

Name: Mayer Gigi Traore

Title: Mayer