

RESOLUTION NO.	2022- 82	FIRST READING	September 26, 2022
		SECOND READING	October 3, 2022 (5:25 pm)
INTRODUCED BY:	Mark Porter	THIRD READING	October 3, 2022 (5:30 pm)

AN ORDINANCE APPROVING THE AMENDMENT TO THE AGREEMENT BETWEEN THE VILLAGE OF SOUTH RUSSELL AND MR. EXCAVATOR, INC. FOR THE MANOR BROOK HEADWATER STREAM RESTORATION PROJECT ALLOWING MR. EXCAVATOR, INC. AN EXTENSION OF TIME TO INSTALL THE REQUIRED PLANTINGS, AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT ON BEHALF OF THE VILLAGE, AND DECLARING AN EMERGENCY.

WHEREAS, on June 17, 2022, the Village of South Russell and Mr. Excavator, Inc. entered into the Agreement (“Agreement”) for the Manor Brook Headwater Stream and Wetland Restoration Project (“Project”) for Mr. Excavator, Inc. to perform certain work and services detailed therein pursuant to a grant awarded to the Village of South Russell for the Project from the Ohio EPA (the “Grant”);

WHEREAS, Mr. Excavator, Inc. has requested, through an Amendment to the Agreement, an extension of time from October 28, 2022 to December 31, 2022 within which to install the plantings for the Project required by the Agreement to allow the plantings to be properly planted in accordance with certain temperatures of the year, to allow for a dormancy period, and to better achieve the sustainability of the plantings; and

WHEREAS, the Grant for the Project through the OEPA has been extended through March 31, 2023 and, as a result, such extension of time for the required plantings will not impact the Grant.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of South Russell, Geauga County, Ohio that:

Section 1. The Council of the Village of South Russell hereby approves the Amendment to the Agreement, which is attached hereto as **Exhibit A**.

Section 2. The Council of the Village of South Russell hereby authorizes the Mayor to execute the Amendment to the Agreement on behalf of the Village of South Russell.

Section 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage 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 on or after December 2, 1975, that resulted in formal actions, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

Section 4. This Ordinance is hereby declared to be an emergency measure for the immediate preservation of the public peace, health and safety of the Village of South Russell and to immediately allow Mr. Excavator, Inc. to properly install the plantings to maximize their sustainability; wherefore, provided it receives two-thirds (2/3) of the votes of all members elected to Council, this Ordinance shall be in full and effect from and immediately upon its passage by this Council and approval by the Mayor; otherwise it shall take effect and be in force after the earliest period allowed by law.



Mayor- President of Council

ATTEST:



Fiscal Officer

I certify that Ordinance No. 2022-82 was duly enacted on the 3RD day of OCTOBER, 2022 by the Council of the Village of South Russell and published in accordance with the Codified Ordinances of the Village.



Fiscal Officer

**AMENDMENT
TO THE AGREEMENT BETWEEN
THE VILLAGE OF SOUTH RUSSELL AND MR. EXCAVATOR, INC.
FOR THE MANOR BROOK HEADWATER STREAM RESTORATION PROJECT**

This Amendment (“Amendment”) to the Agreement Between the Village of South Russell and Mr. Excavator, Inc. for the Manor Brook Headwater Stream Restoration Project (“Agreement”) is hereby made and agreed upon by the Village of South Russell and Mr. Excavator, Inc.

The Village of South Russell and Mr. Excavator, Inc., in mutual consideration of the promises made herein, agree to the following modification of the Agreement:

1. Extension of Time. The Term of the Agreement, as provided in Section 1(a), shall be extended from October 28, 2022 to December 31, 2022, with the termination date dependent upon the Project’s final completion as verified in writing by the Village of South Russell to Mr. Excavator, Inc., to allow additional time for Mr. Excavator, Inc. to install the required plantings of the revegetation of 1 acre of riparian corridor with a diversity of native woody tree and shrub species along the restored stream in accordance with the Project’s Landscape Plan, as provided in Section 4(b) of the Agreement.

2. Other than the extension of time for the Term of the Agreement as amended herein, the Agreement, and the plans and specifications relevant thereto, shall remain in full force and effect.

In witness whereof the parties below hereto have executed this amendment as of the date entered below.

Village of South Russell

Mr. Excavator, Inc.

By William G. Koons
Mayor William G. Koons

By _____
Title: _____

Date 10-2-2022

Date _____