

ORDINANCE NO.	<u>2023- 16</u>	FIRST READING	<u>February 13, 2023</u>
		SECOND READING	<u>February 27, 2023</u>
INTRODUCED BY:	<u>Mark Porter</u>	THIRD READING	<u>MARCH 7, 2023</u>

**ORDINANCE APPROVING AMENDMENT NO. 1 TO THE CONTRACT AGREEMENT BETWEEN CHAGRIN RIVER WATERSHED PARTNERS, INC. AND SOUTH RUSSELL VILLAGE FOR THE SOUTH RUSSELL VILLAGE MANOR BROOK STREAM HEADWATER RESTORATION PROJECT, AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. 1, AND DECLARING AN EMERGENCY.**

WHEREAS, by Ordinance No. 2021-12, the Village of South Russell (the “Village”) and Chagrin River Watershed Partners, Inc. (“CRWP”) entered into a Contract Agreement for CRWP to perform certain services to the Village in the administration of the 319 grant from the Ohio Environmental Protection Agency for the Manor Brook Stream Restoration Project (the “Contract”); and

WHEREAS, the Village of South Russell desires to enter into an amendment to the Contract to extend the Contract term to March 31, 2023, which is consistent with the extension for the completion of the Project itself.

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

**SECTION 1.** Amendment No. 1 to the Contract, a copy of which is attached hereto and incorporated herein by reference as **Exhibit A**, is hereby approved upon the terms and conditions as expressed therein.

**SECTION 2.** The Mayor of the Village of South Russell is hereby authorized to execute Amendment No. 1 to the Contract.

**SECTION 3.** It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution 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 of the Ohio Revised Code.

**SECTION 4.** 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 of South Russell and for the further reason this Ordinance must be immediately effective to extend the Contract term to March 31, 2023, as described in Amendment No. 1; wherefore provided it receives the affirmative vote of at least two-thirds (2/3) of all members elected to Council, this Ordinance shall be in full force 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.

Passed this 7<sup>TH</sup> day of MARCH, 2023.

William J. Koons

Mayor - President of Council

ATTEST:

Danielle Romanowski  
Fiscal Officer

I certify that Ordinance No. 2023-16 was duly enacted on the 7<sup>TH</sup> day of MARCH 2023, by the Council of the Village of South Russell, and published in accordance with the Codified Ordinances of the Village.

Danielle Romanowski  
Fiscal Officer

**AMENDMENT NO. 1 TO THE CONTRACT AGREEMENT BETWEEN  
CHAGRIN RIVER WATERSHED PARTNERS, INC.  
AND SOUTH RUSSELL VILLAGE FOR THE  
SOUTH RUSSELL VILLAGE MANOR BROOK HEADWATER STREAM  
RESTORATION PROJECT**

**WHEREAS**, the South Russell Village (“Village”) and Chagrin River Watershed Partners, Inc. (“CRWP”) entered into an Agreement (“Original Agreement”) dated January 22, 2020 for completion of the South Russell Village Manor Brook Headwater Stream Restoration Project (“Project”) which is partially funded by the Ohio Environmental Protection Agency (“Ohio EPA”); and

**WHEREAS**, Ohio EPA has approved extension of the Project Period of Performance to March 31, 2023;

**NOW THEREFORE**, in consideration of the mutual benefits to be derived and obligations assumed, both parties agree to this Amendment No. 1 to modify the Original Agreement as follows:

1. The Contract Period set forth on page 1 shall be extended to March 31, 2023.

A copy of the Original Agreement is attached to this Amendment No. 1 as Exhibit “A” and is by reference fully incorporated herein.

This Amendment No. 1 shall be effective as of the date of execution of the last signing party.

All other terms and conditions of the Original Agreement, not modified herein, remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 as of the date entered below:

\_\_\_\_\_  
William A. Tomko, President  
Chagrin River Watershed Partners

William J. Koons  
Dr. William Koons, Mayor  
South Russell Village

\_\_\_\_\_  
Date

5-28-2023  
Date

APPROVED AS TO LEGAL FORM:

Bridey Matheny  
Bridey Matheny  
Legal Counsel, South Russell Village

2/27/23  
Date



December 12, 2019

**CONTRACT AGREEMENT**  
*South Russell Village Manor Brook Headwater Stream Restoration*

<b>South Russell Village Project Contact, Address &amp; Telephone:</b> Dr. William Koons, Mayor, South Russell Village 5205 Chillicothe Road, South Russell, Ohio 44022 (440) 338-6700; <a href="mailto:mayor@southrussell.com">mayor@southrussell.com</a>
<b>CRWP Project Contact, Address &amp; Telephone:</b> Kimberly Brewster, Deputy Director, Chagrin River Watershed Partners P.O. Box 229, Willoughby, Ohio 44096-0229 (440) 975-3870 x 1006; <a href="mailto:kbrewster@crwp.org">kbrewster@crwp.org</a>
<b>Contract Period:</b> October 1, 2019 – September 30, 2022

**SECTION A: PURPOSE AND BACKGROUND**

The purpose of this contract is to formalize the relationship between the Chagrin River Watershed Partners, Inc. (hereafter referred to as CRWP) and South Russell Village (hereafter referred to as the Village) regarding the administration of the Ohio Environmental Protection Agency (hereafter referred to as Ohio EPA) Section 319(h) Nonpoint Source Program grant reporting for the South Russell Village Manor Brook Headwater Stream Restoration project (hereafter referred to as the Project).

The parties to this contract hereby recognize the following background to this contract:

1. CRWP is a non-profit corporation formed by communities in the Chagrin River watershed to assist those communities to address current, and minimize new, flooding, erosion, and water quality problems through better planning, zoning, and land use controls and practices.
2. The Village has acquired a 319 grant for the Project from the Ohio EPA (hereinafter referred to as the Grant).
3. The Village is a Member of CRWP in good standing.
4. The Project includes restoration and floodplain reconnection of 1,360 linear feet of headwater stream, revegetation of 1 acre of riparian zone along the stream, protection of restored areas through a conservation easement, environmental covenant, or other long-term riparian protection measure, and associated project education and outreach. This headwater stream is a tributary to the North Branch of McFarland Creek and eventually drains to the State Scenic Aurora Branch of the Chagrin River.

**SECTION B: VILLAGE COMMITMENTS**

Under this contract, the Village agrees to the following:

1. Utilize CRWP for the grant administration, education and outreach, subcontract, and permit requirements associated with the Grant.



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2. Include CRWP in meetings and presentations related to the Project, and provide CRWP with any supporting material necessary to fulfill the above commitments.
3. Review CRWP documents associated with the Project and ensure they meet the requirements of the Village.
4. Track and document Project expenditures and other information in accordance with the Village's Ohio EPA grant agreement and Village match contributions towards the Grant project as applicable and provide information quarterly to CRWP for Grant reporting.

### **SECTION C: CRWP COMMITMENTS**

Under this contract, CRWP agrees to the following:

1. Administer the Grant through report preparation with information provided by the Village and its subcontractors.
2. Draft a Request for Proposals for project design and build in consultation with the Village and its subcontractors.
3. Assist the Village with development of landowner agreements and landowner coordination for successful development and implementation of the restoration project.
4. Conduct education and outreach for the Project in partnership with the Village.
5. Review bid and construction documents associated with the Project to ensure stream restoration and revegetation practices are approved by Ohio EPA.
6. Assist with construction oversight in consultation with the Village and its subcontractors.
7. Perform its obligations under this contract on a timely basis and as necessary to enable the Village to perform its obligations under the Grant.

### **SECTION D: SPECIFIC PROGRAM REQUIREMENTS**

1. Each party to this contract and its employees shall be solely responsible to defend itself against any claim, demand, or cause of action arising out of the negligent act, error, or omission of that party, servants, or employees in the performance of services under this contract.
2. Each party must comply with all laws and be responsible for all effects or actions resulting from its performance under this contract.
3. This contract shall incorporate the requirements of the Grant.
4. CRWP shall complete all reimbursable activities and submit written request for reimbursement within the contract period as detailed below.



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### SECTION E: PAYMENTS

1. The Village hereby offers funding of \$15,000 for CRWP to complete grant administration; assistance with subcontracting, construction oversight and landowner coordination; and education and outreach as detailed above for the Project. The funding will be available to CRWP as a quarterly reimbursement as required grant reports are completed by CRWP.
2. To receive payment, CRWP must file a proper invoice to the Village for activities related to completion of this contract. CRWP will maintain records of all staff labor and expenses for this Project in accordance with grant procedures.
3. Eligible costs under this contract include salaries, fringe, mileage charged at the federal rate and indirect costs at CRWP's federally negotiated indirect rate for assistance provided to the Village during the contract period.
4. Upon submission of CRWP invoice(s) to the Village for staff time spent on activities related to completion of this contract, the Village will release payment.

### SECTION F: GENERAL TERMS AND CONDITIONS

1. The Village and CRWP may modify this contract by mutual written agreement.
2. All documents supported in whole or in part by this contract shall acknowledge that financial assistance was provided by the Ohio EPA as follows:  
  
*"This product or publication was financed in part or totally through a grant from the Ohio Environmental Protection Agency and the United States Environmental Protection Agency with the following funds: Section 319(h) Nonpoint Source Implementation Grant. The contents and views, including any options, findings, or conclusions or recommendations, contained in this product or publication are those of the authors and have not been subject to any Ohio EPA or US EPA peer or administrative review and may not necessarily reflect the views of the Agencies, and no official endorsement should be inferred."*
3. If the Village and/or CRWP fail to perform its obligations under this contract and do not cure such non-performance within thirty (30) days after receipt of written notice of such non-performance, the party that asserted the non-performance may terminate this contract or determine that such failure does not warrant termination. In either case, CRWP may request the Village to reimburse for any work performed in accordance with this contract up until the termination of this contract.
4. CRWP or the Village may terminate this contract, in whole or in part, without liability, if either party determines that continued operation of this contract will result in the violation of a Federal statute or regulation, or that termination would be in the public interest.
5. This contract shall be carried out in accordance with all applicable Local, State, and Federal statutes and regulations.



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6. Any and all disputes arising under this contract shall be brought in a court of competent jurisdiction in Geauga County, Ohio.

#### SECTION G: NOTICE

All notices or communications concerning this Contract shall be in writing and delivered to the following:

**To South Russell Village:**  
Dr. William Koons  
Mayor  
South Russell Village  
5205 Chillicothe Road  
South Russell, Ohio 44022

**To CRWP:**  
Mr. William Tomko  
Board President  
Chagrin River Watershed Partners, Inc.  
P.O. Box 229  
Willoughby, OH 44096

With a copy to:  
[Bridey Matheney]  
Thrasher, Dinsmore, & Dolan

#### SECTION H: CONTRACT EFFECTIVE DATE

This contract is effective when signed by the Village and CRWP. Except as otherwise provided for herein, this contract may not be terminated or modified unless by mutual written agreement between the parties. In the event that a statute is enacted during the period of this contract that would materially change the terms and conditions of this contract, CRWP may request the Village to elect between modifying this contract consistent with the provisions of such statute or contract termination.

The following organizations acknowledge receipt of this contract from CRWP and agree to its terms and conditions.

William A. Tomko Date Jan 2020  
William A. Tomko, Board President  
Chagrin River Watershed Partners, Inc.

William A. Koons Date 12-13-19  
Dr. William Koons, Mayor  
South Russell Village

APPROVED AS TO LEGAL FORM:

Bridey Matheney Date 12-16-19  
Bridey Matheney  
Village Legal Counsel