

**Stormwater Project Agreement**

**between**

**Northeast Ohio Regional Sewer District**

**and**

**City of North Royalton**

**for**

**Sanitary Force Main Lowering in Preparation for Chippewa Creek Flood**

**Reduction Project Near Echo Lane**

**THIS AGREEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, 2022, between the Northeast Ohio Regional Sewer District (“District”), a regional sewer district organized and existing as a political subdivision of the State of Ohio under Chapter 6119 of the Ohio Revised Code, and the City of North Royalton (“City”), pursuant to the authority of City Council Ordinance No. \_\_\_\_, passed \_\_\_\_\_ (Exhibit “A”).

**RECITALS:**

WHEREAS, the District, pursuant to the authority of Ohio Revised Code Chapter 6119, and Title V Stormwater Management Code of the District’s Code of Regulations (“Title V”) is authorized to provide overall Stormwater Management of the Regional Stormwater System, including planning, financing, design, improvement, construction, inspection, monitoring, maintenance, operation, and regulation for the proper handling of stormwater runoff and the development and provision of technical support information and services to member communities; and

WHEREAS, the City and the District entered into a Regional Stormwater Management Program Service Agreement dated October 1, 2015 (the “RSMP Service Agreement”); and

WHEREAS, Chippewa Creek is located on the Regional Stormwater System, as such term is defined in Title V; and

WHEREAS, the District’s Cuyahoga River South Stormwater Master Plan identified “Problem Area CCPA09” in Chippewa Creek subwatershed; and

WHEREAS, the District is performing the design for certain improvements necessary to increase stormwater detention capacity within the Valley Lane Basin and conveyance throughout the project area to reduce flooding all in furtherance of the District’s Regional Stormwater Management Program; and

WHEREAS, the City owns a sanitary force main within the footprint of the Valley Lane Basin, which limits the District’s ability to gain the necessary stormwater storage, and

WHEREAS, the lowering of the force main within the Valley Lane Basin is an appropriate solution for both parties to increase the stormwater function in the basin in furtherance of the goals of the District’s Regional Stormwater Management Program, while maintaining sanitary sewage flow to the pump station; and

WHEREAS, due to timing constraints, the City has proposed to perform the force main lowering within the basin (the “Project”) prior to the District’s Chippewa Creek Flood Reduction Project Near Echo Lane Project (1575) and the District has agreed to reimburse the City for half of the costs related to the construction of the Project, up to an amount not-to-exceed \$45,000.00; and

WHEREAS, the District is authorized to reimburse the City toward the cost of the Project, generally, under Ohio Revised Code Section 6119.09, and specifically, under Ohio Revised Code Section 6119.06(G) to contract with any political subdivision to construct, reconstruct, enlarge, improve, maintain, repair, and operate Water Resource Projects; and under Ohio Revised Code Section 6119.09 to enter into agreements with political subdivisions for the effective cooperative action and safeguarding of the respective interests of the parties for the construction and funding of projects by one or more of the parties; and is authorized under Ohio Revised Code Section 6119.06 (O) to make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under Chapter 6119 of the Ohio Revised Code.

Now, therefore, in consideration of the foregoing, the District and the City agree to enter into this Agreement for the continued benefit of the Regional Stormwater System, as set forth below.

**ARTICLE 1. CITY OF NORTH ROYALTON**

1.1 Performance of the Project. The City shall be responsible for construction of the Project as detailed in the engineering plans, which have been reviewed and deemed congruent with the future redesign of the Valley Lane Basin.

1.1.1 Easements and Other Real Estate Interests. The City shall be responsible for acquiring, at the City's cost, all temporary access and permanent easements, and other real estate interests necessary to perform the Project and to perform long-term maintenance of the force main.

1.1.2 Compliance with Laws and Regulations. The City shall comply with all applicable local, state, and federal laws, rules, regulations, and

requirements in performing the Project. The City shall apply for and be responsible for all costs associated with any permits, including required mitigation, necessary to comply with the above. The City shall submit any permit applications to the District for review prior to making such application.

1.1.3 Construction. The City shall provide notification to the District at least seven (7) business days prior to the start of the Project construction and include District staff in the construction kick-off meeting as well as milestone construction meetings. The City shall install the Project in accordance with the District-approved plans and drawings and provide on-site construction inspection and oversight.

1.1.4 Project Coordination. The City shall coordinate with the District's representatives during all critical stages and milestones of the construction to allow sufficient time for the District to review and provide comments related to inspection of the construction work. Upon completion of the Project, the City shall provide copies of as-built drawings, including detailed horizontal and vertical location of the new force main, of the Project to the District.

1.1.5 Modifications to Project Components. The City shall submit written requests for District approval to modify the budget, deadline(s), deliverables, or other components of the Project to the District at least thirty (30) business days prior to the desired date of execution of such modification.

1.1.6 Reimbursement Requests. The City shall provide requests for reimbursement to the District no more than monthly. All reimbursement requests must include a Progress Report and Reimbursement Request (Exhibit "B").

1.1.6.1 Utilization of District Funds. The City shall use 100% of the District Funds for activities and/or expenses related to the Construction of the Project, as approved by the District. Any other use of District-provided funding shall require prior written approval by the District.

1.1.7 Prevailing Wages. The City shall be responsible for determining whether the payment of prevailing wages, as set forth in Chapter 4115 of the Ohio Revised Code, are required for labor used in constructing the Project, and shall ensure compliance with any prevailing wage requirements in said Chapter.

1.1.8 Project Schedule. The City shall complete the Project in accordance with a Project schedule developed by the City and approved by the District. The Project duration for construction shall not exceed 1-year from the Effective Date of this Agreement.

1.1.9 Warranty Period. The City's construction agreement shall require the contractor to provide a one (1) year warranty period that commences upon substantial completion of each of the Project construction ("Warranty Period"). At the completion of the Warranty Period, the City shall provide the District with a final warranty inspection report including how all warranty items were addressed.

1.2 Public Participation, Outreach, and Signage. The City shall acknowledge the District in presentations or publications related to the Project. The City shall lead, and the District will assist, development of a public notification plan to inform the public of the Project. The City shall acknowledge the District on Project-related public outreach

communications and in City public meetings that discuss the Project. The City shall provide the District no less than fifteen (15) days' notice prior to any public meetings relative to the Project.

1.3 Signage. The City shall acknowledge the District on signage related to the Project. The District shall have the right to approve all content and format of all materials and signage.

1.4 Ownership, Operation and Maintenance. During construction and after completion of the Project, the City shall own all installed Project components, and shall operate and maintain the Project components.

1.5 Access. The City hereby grants the District access to the public rights-of-way and shall grant any necessary easements and/or other rights of entry to the District for access to the Project area for stormwater inspection and maintenance in accordance with the RSMP Service Agreement.

**ARTICLE 2.**            **NORTHEAST OHIO REGIONAL SEWER DISTRICT**

2.1 Disbursement of District Funds. The District agrees to reimburse the City for half of the costs related to the construction of the Project, with the exception of roadway paving, in accordance with the requirements of this Agreement a total amount not-to-exceed Forty-Five Thousand Dollars (\$45,000.00). Any cost overages above the agreed to District funding shall be the City's responsibility.

2.1.1 The District's reimbursement to the City for Project costs shall be conditioned on the District's approval of the deliverables as outlined below.

2.2 Deliverables. The District shall have the right to review, comment on, and approve the deliverables. The City will provide the District with copies of the following deliverables in the formats listed:

2.2.1 Easement and property documents in PDF format

2.2.2 Certificate of Substantial Completion

2.2.3 The District shall receive at least fifteen (15) working days to complete review and provide written comment for each deliverable.

2.3 Meeting Participation. The District shall have the right to attend all Project progress meetings, for which the District will receive at least ten (10) working days' advance notice. The District shall receive the meeting minutes from each meeting from the City within five (5) working days of the meeting for review and comment.

**ARTICLE 3. TERM**

3.1 Expiration of Agreement

This Agreement shall expire upon successful completion of the obligations contained herein, but in no event shall the Agreement extend beyond a 1-year period without the written agreement of both parties to extend the term of the Agreement.

**ARTICLE 4. MISCELLANEOUS**

4.1 Execution in Counterparts

This Agreement may be executed in any number of counterparts. Each counterpart, when so executed, shall be deemed to be an original and all of which together shall constitute one and the same Agreement.

4.2 Severability

If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid, in whole or in part for any reason, such provision shall be stricken from this Agreement and such provision shall not affect the validity of the remainder of this Agreement.

4.3 Headings

The headings in this Agreement are included for convenience only and shall neither affect the construction nor the interpretation of any provision in this Agreement.

4.4 Governing Law. The terms and provisions of this Agreement shall be construed under and governed by the laws of Ohio (to which all Parties hereto consent to venue and jurisdiction).

4.5 Remedies. The Parties agree that, after exhausting the dispute resolution process outlined above, all claims, counterclaims, disputes and other matters in question between the Parties arising out of or relating to this Agreement, or the breach thereof, will be decided at law.

4.6 Disclaimer of Joint Venture. This Agreement is not intended to create a joint venture, partnership or agency relationship between the Parties, and such joint venture, partnership, or agency relationship is specifically hereby disclaimed.

4.7 Authority to Execute. Each person executing this Agreement represents and warrants that it is duly authorized to execute this Agreement by the party on whose behalf it is so executing.

4.8 Modification of Agreement. This Agreement may only be modified by written instrument executed by each party.



4.9 Merger Clause. This Agreement, along with any exhibits attached hereto, encompasses the entire agreement of the parties, and supersedes all previous understandings and agreements between the parties, whether oral or written.

4.10 Relationship of Agreement to Exhibits

The Exhibits to this Agreement are attached for reference purposes only. Nothing in this Agreement shall be construed to modify, alter, clarify, or give effect to the terms and conditions of the various Exhibits attached to this Agreement.

**ARTICLE 5.**        **EXHIBITS**

The following exhibits are attached hereto and incorporated herein:

1. Exhibit “A” – City’s Ordinance
2. Exhibit “B” – Progress Report and Reimbursement Request

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

The parties listed below have entered into this Agreement as of the date first above written.

**NORTHEAST OHIO REGIONAL  
SEWER DISTRICT**

By: \_\_\_\_\_  
Kyle Dreyfuss-Wells  
Chief Executive Officer

AND: \_\_\_\_\_  
Frank Greenland  
Director of Watershed Programs

**CITY OF NORTH ROYALTON**

By: \_\_\_\_\_  
Larry Antoskiewicz  
Mayor

The Legal Form and Correctness  
of this Instrument is Hereby Approved:

**CITY OF NORTH ROYALTON**

\_\_\_\_\_  
Thomas Kelly  
Law Director

**This Instrument Prepared By:**

\_\_\_\_\_  
Katarina K. Waag  
Assistant General Counsel  
Northeast Ohio Regional Sewer District

Each party agrees that this Agreement may be executed and distributed for signatures via email, and that the emailed signatures affixed by both parties to this Agreement shall have the same legal effect as if such signatures were in their originally written format.

# AGREEMENT NO.

NORTHEAST OHIO REGIONAL SEWER  
DISTRICT

WITH

CITY OF NORTH ROYALTON

FOR

SANITARY SEWER FORCE MAIN  
LOWERING IN PREPARATION FOR  
CHIPPEWA CREEK FLOOD REDUCTION  
PROJECT NEAR ECHO LANE

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Total Approximate Cost:           \$45,000.00

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The legal form and correctness of the within  
instrument are hereby approved.

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ERIC J. LUCKAGE  
CHIEF LEGAL OFFICER

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Date

## CERTIFICATION

It is hereby certified that the amount required to meet the contract, agreement, obligation, payment or expenditure, for the above, has been lawfully appropriated or authorized or directed for such purpose and is in the Treasury or in process of collection to the credit of the fund free from any obligation or certification now outstanding.

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KENNETH J. DUPLAY  
CHIEF FINANCIAL OFFICER

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Date

**BUDGET CENTER 8100**

**Regional Stormwater Management Program Project  
PROGRESS REPORT AND REIMBURSEMENT REQUEST**

**Instructions:**

Provide a summary of the accomplishments with respect to objectives, degree of completion based on the Project application, and any problems encountered. Progress Reports must be submitted with all reimbursement requests. Attach relevant procurement documentation, such as an itemized bill, receipt, invoice, time card along with proof of payment, such as a credit card receipt, cancelled check, and/or other documentation to substantiate compensation as deemed acceptable by the NEORSRSD.

**Project Information**

Member Community: \_\_\_\_\_

Project Title: \_\_\_\_\_

Reimbursement Request Amount: \_\_\_\_\_

**Authorized Signature**

I certify that the information in this Progress Report is accurate and reflects current status of the Project. Furthermore, I affirm that the information contained herein is, to the best of my knowledge and belief, accurate and complete.

Name (print or type): \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

- 1) Summarize progress and/or accomplishments during this reporting period as related to your project implementation schedule. (500 word maximum)

2) Difficulties and delays encountered during this reporting period. (500 word maximum)