

**COMMUNITY COST-SHARE AGREEMENT
BY AND BETWEEN
THE NORTHEAST OHIO REGIONAL SEWER DISTRICT
AND
CITY OF NORTH ROYALTON, OHIO**

This Agreement is made and entered into this _____ day of _____, 2022, by and between the Northeast Ohio Regional Sewer District (the “District”) acting pursuant to Resolution No. 114-13, adopted by the Board of Trustees of the District on May 16, 2013 (Exhibit “A”), and the City of North Royalton, Ohio (the “City”) acting pursuant to Ordinance/Resolution No. _____, adopted on _____, 2022 (Exhibit “B”).

Recitals

WHEREAS, the District, as a component of implementing a regional stormwater management program, manages a financial account termed the “*Community Cost-Share Account*” that is for the aggregation and dissemination of funds derived from revenues collected from the Stormwater Fee; and

WHEREAS, the purpose of the Community Cost-Share Account is to provide funding to assist the City with District-approved projects through the Community Cost Share Program; and

WHEREAS, the Community Cost-Share Program funds are used for construction, operation, and maintenance of the Local Stormwater System or Regional Stormwater System, including administrative costs directly associated with such projects as well as costs related to repair or upgrade; and

WHEREAS, on or about May 20, 2021, the District and the City entered into a Reimbursement Agreement for constructing a concrete encasement for the City’s sanitary sewer (the “Sanitary Sewer Encasement”) as part of the Rocky River Stream Stabilization and Sewer Protection project (the “Project”) whereby the District agreed to construct the Project and the City agreed to reimburse the District for the actual cost of the Sanitary Sewer Encasement an amount not-to-exceed \$139,400.00; and

WHEREAS, the District agrees that the City may use its Community Cost-Share Account to reimburse the District for the Sanitary Sewer Encasement

NOW THEREFORE, in consideration of the foregoing, the payment and the mutual promises contained in this Agreement, the parties agree as follows:

Article 1.0 **City’s Obligations**

1.1 The City agrees as follows:

- 1.1.1 The District completed the work for the Sanitary Sewer Encasement as detailed in the District-approved Community Cost-Share application. (Exhibit “C”)
- 1.1.2 Meet with District staff when requested to review the Project status.
- 1.1.3 Maintain in perpetuity the City sanitary sewer and the Sanitary Sewer Encasement throughout the Project site. If the City fails to maintain the City sanitary sewer and the Sanitary Sewer Encasement in accordance with this Agreement, the City shall be liable for the full amount of any Community Cost-Share Program funds paid for the Sanitary Sewer Encasement. Such amount shall be offset against the City’s Community Cost-Share Account.
- 1.1.4 Acknowledge the District on any public advertisement or outreach efforts including all publications and signage related to the Project which shall include the following disclaimer:

This project was funded in part through the Northeast Ohio Regional Sewer District (NEORS D) Community Cost-Share Program in coordination with City, under the provisions of the NEORS D Regional Stormwater Management Program. The contents and views, including any opinions, findings, or conclusions or recommendations, contained in this publication are those of the authors and have not been subject to NEORS D review and may not necessarily reflect the views of NEORS D, and no official endorsement should be inferred.

- 1.1.5 Permit the District to photograph the Project and to incorporate the Project into the District’s overall public education and outreach efforts for stormwater management.
- 1.2 Failure to meet any of the requirements listed in Article 1.1 may result in termination of this Agreement and reimbursement of disbursed funds to the District.

Article 2.0 District’s Obligations

- 2.1 The District agrees to perform as follows:
 - 2.1.1. Perform the Sanitary Sewer Encasement in accordance with Exhibit “C.”
 - 2.1.2. Allocate \$105,700.00 to the City for the Sanitary Sewer Encasement from the City’s Community Cost-Share Account.
 - 2.1.3. Retain funds from the City’s Community Cost-Share Account of up to \$105,700.00 for the Sanitary Sewer Encasement costs incurred by the District.
 - 2.1.4. Timely review and approval or disapproval of requests to modify the budget,

deadline, deliverables, or other components of the Project.

2.1.5. Acknowledge the City in presentations or publications related to the Project.

Article 3.0 **Dispute Resolution**

3.01 The Parties shall continue the performance of their obligations under this Agreement notwithstanding the existence of a dispute.

3.02 The Parties shall first try to resolve the dispute at the level of the designated representatives as follows:

District Representative	City Representative
Watershed Team Leader	<i>City Engineer</i>

If the Parties are unable to resolve the dispute at that level within ten (10) working days, the Parties shall escalate the dispute to the following level to resolve the dispute:

District Representative	City Representative
Director of Watershed Programs	<i>Mayor</i>

3.03 If the Parties remain unable to resolve the dispute within an additional ten (10) working days, the Parties shall proceed to mediation upon request by either party. The mediator shall review all documents and written statements, in order to accurately and effectively resolve the dispute. The mediator shall call a meeting between the Parties within ten (10) working days after mediator appointment, which meeting shall be attended by at least the respective representatives listed in paragraph 3.02 above. The Parties shall attempt in good faith to resolve the dispute. The Parties agree to follow the Uniform Mediation Act, Chapter 2710 of the Ohio Revised Code. The Parties shall share the cost of the mediator equally.

3.04 Such mediation shall be non-binding between the Parties and, to the extent permitted by law, shall be kept confidential. If the dispute is resolved and settled through the mediation process, the decision will be implemented by a written agreement signed by both Parties. If the dispute is unable to be resolved through mediation, the Parties agree to submit the dispute to the appropriate jurisdiction as per Article 4, Remedies, below.

Article 4 **Remedies**

4.01 The Parties agree that, after exhausting the dispute resolution process outlined above, all claims, counter-claims, 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. This Agreement shall be governed by and interpreted according to the laws of the State of Ohio.

Article 5 **Counterpart Signatures**

5.01 This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but which counterparts when taken together shall constitute one Agreement.

Article 6 **Governing Law**

6.01 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).

Article 7 **Disclaimer of Joint Venture**

7.01 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.

Article 8 **Authority to Execute**

8.01 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.

Article 9 **Exhibits**

The following exhibits are attached hereto and incorporated herein:

Exhibit "A" – District Resolution

Exhibit "B" – City Ordinance/Resolution

Exhibit "C" – District-Approved Community Cost Share Application

[signatures on the following page]

The parties have executed this Agreement on the day and year first above written.

NORTHEAST OHIO REGIONAL SEWER DISTRICT

BY: _____
Kyle Dreyfuss-Wells
Chief Executive Officer

AND

BY: _____
Darnell Brown, President
Board of Trustees

CITY OF NORTH ROYALTON, OHIO

By: _____

Title: _____

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

CITY OF NORTH ROYALTON, OHIO

Assistant/Director of Law

This Instrument Prepared By:

Anka M. Davis
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.

[FOR DISTRICT USE]

AGREEMENT NO.

NORTHEAST OHIO REGIONAL SEWER
DISTRICT

WITH

CITY OF NORTH ROYALTON, OHIO

FOR

COMMUNITY COST-SHARE PROJECT:
ROCKY RIVER STREAM STABILIZATION
AND SEWER PROTECTION PROJECT

Total Approximate Cost: \$105,700.00

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.

KENNETH J. DUPLAY
CHIEF FINANCIAL OFFICER

Date

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

ERIC J. LUCKAGE
CHIEF LEGAL OFFICER

Date

Budget Center 8100