



October 2, 2023  
Regular Meeting  
7:30 PM

Cleveland Heights City Hall  
Council Chambers  
40 Severance Cir  
Cleveland Heights, Ohio

**AGENDA - CLEVELAND HEIGHTS CITY COUNCIL MEETING**

- 1) Meeting called to order by Council President
- 2) Roll Call of Council Members
- 3) Excuse absent members
- 4) Amendments to the Agenda (if necessary)
- 5) Approval of minutes from previous meeting(s)
  - a. September 5, 2023
- 6) Communications from the Mayor
- 7) Report of the Clerk of Council
- 8) **Public Comment - Legislative Agenda Items only**

(Note: Persons wishing to speak must register in advance. A 3-minute time limit applies. If there are more than 15 speakers, the time will be automatically reduced to 2-minutes. Council President reserves the right to reduce the time limit based on the volume of business on the agenda. Comments unrelated to the agenda may be made after Committee Reports)
- 9) **LEGISLATION**

*Note: The title for each piece of legislation contains a parenthetical reference to the Council Committee within which the subject matter of the legislation falls. Council Committees are abbreviated as follows: (AS)-Administrative Services; (COTW)-Committee of the Whole; (CRR)-Community Relations and Recreation; (F)-Finance; (HB)-Housing and Building; (MSES)-Municipal Services and Environmental Sustainability; (PD)-Planning and Development; (PSH)-Public Safety and Health. See Resolution 97-2022 for a list of Council Committee subject matter areas.*

  - a. **First Readings – Consideration of Adoption Requested**

**RESOLUTION NO. 155-2023(PD): First Reading.** A Resolution authorizing the Mayor to submit a joint application with the Cities of University Heights and East Cleveland to the Northeast Ohio Area Wide Coordinating Agency (“NOACA”) for a grant under the Transportation for Livable Communities Initiative (“TLCI”) Implementation Grant Program to fund the Taylor Road Corridor Road Reconfiguration; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

Move for Adoption

**RESOLUTION NO. 156-2023(CRR): First Reading.** A Resolution recognizing October, 2023 as *LGBTQ+ History Month*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Councilmember Russell

Move for Adoption

**b. First Readings Only**

**RESOLUTION NO. 157-2023(PD): First Reading.** A Resolution authorizing the execution of agreements between the City of Cleveland Heights, the Northeast Ohio Regional Sewer District (the “District”) and the City of Shaker Heights to authorize the District to proceed with the design of the Doan Brook Restoration Near Horseshoe Lake Park Project, and the design of certain amenities funded by the two Cities, at an approximate design cost to Cleveland Heights of One Hundred Sixty-eight Thousand Three Hundred Twenty-seven Dollars (\$168,327.00); and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

**ORDINANCE 158-2023(PSH): First Reading.** An Ordinance authorizing the renewal of an agreement with the Cuyahoga County General Health District for the provision of public health services to the City and its residents; providing compensation therefor; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

**10) Committee Reports**

**11) Public Comment - General**

(Note: Persons wishing to speak must register in advance. A 3-minute time limit

applies. Council President reserves the right to reduce time limit based on the volume of business on the agenda.)

**12) Old Business**

**13) New Business**

**14) Adjournment**

**NEXT MEETING OF COUNCIL: OCTOBER 16, 2023**



September 5, 2023  
Regular Meeting  
7:30 PM

Cleveland Heights City Hall  
Council Chambers  
40 Severance Cir  
Cleveland Heights, Ohio

**MEETING MINUTES**

**1) Meeting called to order by Council President**

Start: 7:46pm

**2) Roll Call of Council Members**

**Present:** Anthony Mattox Jr., Janine Boyd, Davida Russell, Melody Joy Hart,  
Craig Cobb, Tony Cuda, Gail Larson

**3) Excuse absent members**

**4) Amendments to the Agenda (if necessary)**

**5) Approval of minutes from previous meeting(s)**

a. June 22, 2023

**APPROVED**

b. August 7, 2023

**APPROVED**

**6) Communications from the Mayor**

The expected timeframe for completion of the ice rink renovations has been  
delayed by at least 2 weeks.

**7) Report of the Clerk of Council**

Nothing to report

**8) Public Comment - Agenda Items only**

(Note: Persons wishing to speak must register in advance. A 3-minute time limit  
applies. Council President reserves the right to reduce time limit based on the

volume of business on the agenda. Comments unrelated to the agenda may be made after Committee Reports)

### Speakers

<b>Paul Volpe</b>	Citizen	Noble Station
<b>Drew Herzig</b>	Citizen	Ord 142-2023, Res 130-2023
<b>Diane Hallum</b>	Citizen	Ord 143-2023/Noble Station
<b>CJ Nash</b>	Citizen	Noble Station
<b>West Schaub</b>	Citizen	Noble Station

## 9) LEGISLATION

*Note: The title for each piece of legislation contains a parenthetical reference to the Council Committee within which the subject matter of the legislation falls. Council Committees are abbreviated as follows: (AS)-Administrative Services; (COTW)-Committee of the Whole; (CRR)-Community Relations and Recreation; (F)-Finance; (HB)-Housing and Building; (MSES)-Municipal Services and Environmental Sustainability; (PD)-Planning and Development; (PSH)-Public Safety and Health. See Resolution 97-2022 for a list of Council Committee subject matter areas.*

### **a. First Readings – Consideration of Adoption Requested**

**ORDINANCE NO. 134-2023(F): First Reading.** An Ordinance determining to proceed with the implementation through assessment of a public services plan for the Coventry Village Special Improvement District of Cleveland Heights, Ohio, Inc. ("Coventry SID"); and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

**Motion to adopt:** Craig Cobb

**Seconded:** Gail Larson

**Yes:** Anthony Mattox Jr., Gail Larson, Janine Boyd, Craig Cobb, Davida Russell, Melody Joy Hart, Tony Cuda

**No:** None

### **LEGISLATION PASSED**

**ORDINANCE NO. 135-2023(F): First Reading.** An Ordinance levying an assessment for a public services plan for the Coventry Village Special Improvement District of Cleveland Heights, Ohio, Inc.; and declaring the necessity that this legislation become immediately effective as an emergency

measure.

Introduced by Mayor Seren

**Motion to adopt:** Melody Joy Hart

**Seconded:** Anthony Mattox Jr.

**Yes:** Anthony Mattox Jr., Gail Larson, Janine Boyd, Craig Cobb, Davida Russell, Melody Joy Hart, Tony Cuda

**No:** None

**LEGISLATION PASSED**

**RESOLUTION NO. 136-2023(AS): First Reading.** A Resolution appointing Angela Bennett as a member of the Citizens Advisory Commission of the City of Cleveland Heights, OH; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Vice President Cobb

**Motion to adopt:** Craig Cobb

**Seconded:** Janine Boyd

**Yes:** Anthony Mattox Jr., Gail Larson, Janine Boyd, Craig Cobb, Davida Russell, Melody Joy Hart, Tony Cuda

**No:** None

**LEGISLATION PASSED**

**RESOLUTION NO. 137-2023(AS): First Reading.** A Resolution appointing Bob Brown as an alternate member of the Board of Zoning Appeals of the City of Cleveland Heights, OH; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Vice President Cobb

**Motion to amend:** Craig Cobb

**Seconded:** Gail Larson

**Yes:** Anthony Mattox Jr., Gail Larson, Janine Boyd, Craig Cobb, Davida Russell, Melody Joy Hart, Tony Cuda

**No:** None

**MOTION PASSED**

**Motion to adopt:** Craig Cobb

**Seconded:** Anthony Mattox Jr.

**Yes:** Anthony Mattox Jr., Gail Larson, Janine Boyd, Craig Cobb, Davida Russell, Melody Joy Hart, Tony Cuda

**No:** None

**LEGISLATION PASSED**

**RESOLUTION NO. 138-2023(PD): First Reading.** A Resolution authorizing the Mayor to prepare and submit an application to participate in the Ohio Public Works Commission State Capital Improvement and/or Local Transportation Improvement Program(s); and declaring the necessity that this legislation become immediately effective as an emergency.

Introduced by Mayor Seren

**Motion to adopt:** Anthony Mattox Jr.

**Seconded:** Gail Larson

**Yes:** Anthony Mattox Jr., Gail Larson, Janine Boyd, Craig Cobb, Davida Russell, Melody Joy Hart, Tony Cuda

**No:** None

**LEGISLATION PASSED**

**b. First Readings Only**

**RESOLUTION NO. 139-2023(F): First Reading.** A Resolution authorizing the Mayor to enter into an agreement with the Coventry Village Special Improvement District of Cleveland Heights, Ohio, Inc. ("Coventry SID") for advancement of funds in anticipation of assessment; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

**READ INTO THE RECORD**

**RESOLUTION NO. 140-2023(F): First Reading.** A Resolution requesting the County Fiscal Officer to advance taxes from the proceeds of the 2023 tax year collection pursuant to Section 321.34 of the Ohio Revised Code; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

**READ INTO THE RECORD**

**RESOLUTION NO. 141-2023(F): First Reading.** A Resolution accepting the amounts and rates as determined by the Budget Commission; authorizing the necessary tax levies and certifying them to the County Fiscal Officer; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

**READ INTO THE RECORD**

**ORDINANCE NO. 142-2023(PSH): First Reading.** An Ordinance establishing and acknowledging a policy of detainee access to menstrual

1 products and cleaning facilities in the Cleveland Heights Jail; and declaring  
2 the necessity that this legislation become immediately effective as an  
3 emergency measure.

4  
5 Introduced by Councilperson Boyd

6 **READ INTO THE RECORD**

7 **ORDINANCE NO. 143-2023(PD): First Reading.** An Ordinance authorizing  
8 the Mayor to enter into a Development Agreement with TWG Development,  
9 LLC for the construction of a residential development at 2228 Noble Road  
10 (several parcels); and declaring the necessity that this legislation become  
11 immediately effective as an emergency measure.

12  
13 Introduced by Mayor Seren

14 **READ INTO THE RECORD**

15 **c. Second Readings**

16  
17 **RESOLUTION NO. 130-2023(MSES): Second Reading.** A Resolution  
18 authorizing the Mayor to execute a contract with Nutter Consulting for the  
19 preparation of a Climate Action and Resiliency Plan; and declaring the  
20 necessity that this legislation become immediately effective as an emergency  
21 measure.

22 Introduced by Mayor Seren

23 **Motion to adopt:** Gail Larson

24 **Seconded:** Davida Russell

25  
26 **Yes:** Anthony Mattox Jr., Gail Larson, Janine Boyd, Craig Cobb, Davida  
27 Russell, Melody Joy Hart, Tony Cuda

28 **No:** None

29 **READ INTO THE RECORD**

30 **Consent Agenda**

31 *Note: Individual Consent Agenda items are not discussed separately during the Council*  
32 *meeting, unless removed from the Consent Agenda on the request of a member of*  
33 *Council. Once an item is removed from the Consent Agenda, it will be placed on the*  
34 *Regular Agenda. Action upon the Consent Agenda will require two motions: the first to*  
35 *suspend the rules under Chapter 11 of the Codified Ordinance of the City of Cleveland*  
36 *Heights, and a second for approval or adoption of the items within the Consent Agenda.*  
37 *A vote upon adoption of the Consent Agenda operates as to all items on the Consent*  
38 *Agenda at the time the motion to approve or adopt is made.*

39 **Motion to suspend rules:** Craig Cobb

40 **Seconded:** Anthony Mattox Jr.

41  
42 **Yes:** Anthony Mattox Jr., Gail Larson, Janine Boyd, Craig Cobb, Davida  
43 Russell, Melody Joy Hart, Tony Cuda



No: None

**MOTION PASSED**

**Motion to adopt:** Craig Cobb

**Seconded:** Gail Larson

**Yes:** Anthony Mattox Jr., Gail Larson, Janine Boyd, Craig Cobb, Davida Russell, Melody Joy Hart, Tony Cuda

**No:** None

**LEGISLATION PASSED**

**RESOLUTION NO. 144-2023(CRR): First Reading.** A Resolution recognizing September 2023, *Suicide Prevention Month*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren, President Hart, and Councilwoman Russell

**PASSED ON CONSENT AGENDA**

**RESOLUTION NO. 145-2023(PD): First Reading.** A Resolution recognizing September 22, 2023 as Car Free Day and Park(ing) Day 2023 in Cleveland Heights; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

**PASSED ON CONSENT AGENDA**

**RESOLUTION NO. 146-2023(CRR): First Reading.** A Resolution recognizing September, 2023 as *National Infant Mortality Awareness Month*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Councilwoman Russell

**PASSED ON CONSENT AGENDA**

**RESOLUTION NO. 147-2023(CRR): First Reading.** A Resolution recognizing September, 2023 as *National Sickle Cell Awareness Month*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

**PASSED ON CONSENT AGENDA**

**RESOLUTION NO. 148-2023(CRR): First Reading.** A Resolution recognizing September 19, 2023 as *Take a Loved One to the Doctor Day*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Councilwoman Russell

## PASSED ON CONSENT AGENDA

### 10) Committee Reports

**HB:** Update from the Housing and Building Committee Meeting held earlier in the evening. The next regularly scheduled HB Committee meeting will be the first Monday of October.

**CRR:** Update from the Community Relations and Recreation Committee Meeting held earlier in the evening.

**MSES:** Update from the Municipal Services and Environmental Sustainability Committee meeting from earlier in the day. The next meeting of this committee will be September 18<sup>th</sup> at 10am.

**PD:** The Planning and Development Committee will be meeting September 11<sup>th</sup> to discuss several items, including the Noble Station project and two other pieces of legislation regarding the CIC.

**PSH:** There will be a Public Safety and Health Committee meeting to discuss legislation regarding women's menstrual health in jails. The date is TBD but will be posted soon.

### 11) Public Comment - General

(Note: Persons wishing to speak must register in advance. A 3-minute time limit applies. Council President reserves the right to reduce time limit based on the volume of business on the agenda.)

#### Speakers

<b>Juanita Brent</b>	State Representative	District directory and redistricting event
<b>Leo D. Wilson</b>	Citizen	Street repairs
<b>James Williams</b>	Citizen	Parks and Recs Committee
<b>Cole Ware</b>	Citizen	Coventry Rd. Vacancy Working Group
<b>Mallory Kent</b>	Citizen	Coventry Rd. vacancies
<b>Adam Winston</b>	Citizen	Women's Health Expo at Metro Health
<b>Joani Worthy &amp; Tony Love</b>	Citizen(s)	ERC Employee Retention Credit for Cleveland Heights businesses
<b>Simone Kitchens</b>	Citizen	Coventry Rd. safety
<b>Catherine Dahlem</b>	Citizen	Councilmember comments
<b>Julie Hammond-Gierke</b>	Citizen	Coventry Rd. vacancies

<b>Suzanne DeGaetano</b>	Citizen	Coventry Rd. vacancies
<b>Nancy Young</b>	Citizen	Growing rental population and declining homeowner population
<b>Ash O'Connor</b>	Citizen	Coventry Rd. vacancies
<b>Craig Dorn</b>	Citizen	Youth Opportunities Unlimited partnership with the City
<b>Linda Margolin</b>	Citizen	Lack of direction for Severance Town Center redevelopment
<b>Andreea Widlak</b>	Citizen	University Hospitals- CPR/AED training

**12) Old Business**

**Cuda:** Thanked the Mayor for the Proclamation for his 50-year high school anniversary.

**Russell:** Asked again for the names of those who received the mailer regarding the Noble Station community meeting.

**13) New Business**

**Mattox:** Would like to discuss at the next COTW meeting how Councilmembers/Council Committee's engage with staff.

**Cuda:** He believes Council needs to have a discussion about Council comments being removed.

**14) Adjournment**

**NEXT MEETING OF COUNCIL: SEPTEMBER 18, 2023**



## MEMORANDUM

**To: Mayor Seren**

**cc: William Hanna, Law Director**

**From: Eric Zamft, Director of Planning & Development**

**Date: September 26, 2023**

**Subject: Resolution authorizing the Mayor to submit a joint application with the Cities of University Heights and East Cleveland to the Northeast Ohio Area Wide Coordinating Agency (NOACA) for a grant under the Transportation for Livable Communities Initiative (TLCI) Implementation Grant Program to fund the Taylor Road Corridor Road Reconfigurations Project**

The Cities of Cleveland Heights, University Heights, and East Cleveland recognize the shared challenges to transportation, access, and mobility within the region and have been collaborating on improvements to Taylor Road, evidenced by the 2021 Taylor Road Corridor Study (<https://www.noaca.org/community-assistance-center/funding-programs/tlci-planning-assistance/taylor-road-corridor-study>).

The result of that collaboration is that the Cities propose the Taylor Road Corridor Road Reconfigurations Project, which would consist of a road diet, buffered bicycle lanes, and new paint.

The City has many times in the past participated in Northeast Ohio Areawide Coordinating Agency's (NOACA's) Transportation for Livable Communities Initiative (TLCI) Program, including most recently last year. The Cities wish to submit a joint application to NOACA for funding for the Project through the TLCI Implementation Program. The Cities have determined that the City of Cleveland Heights would act as the Project Sponsor and lead applicant.

The TLCI application requires a resolution from City Council authorizing the Mayor to submit the joint application with East Cleveland and University Heights. Applications are due on October 6, 2023. Therefore, the administration is requesting that Council consider for adoption such resolution upon First Reading, as an emergency.

Proposed: 10/02/2023

RESOLUTION NO. 155-2023(PD), *First Reading*

By Mayor Seren

A Resolution authorizing the Mayor to submit a joint application with the Cities of University Heights and East Cleveland to the Northeast Ohio Area Wide Coordinating Agency (“NOACA”) for a grant under the Transportation for Livable Communities Initiative (“TLCI”) Implementation Grant Program to fund the Taylor Road Corridor Road Reconfiguration; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, the Cities of Cleveland Heights, University Heights, and East Cleveland (the “Cities”) recognize the shared challenges to transportation, access, and mobility within the region; and

WHEREAS, the Cities have determined to work collaboratively to meet those challenges through shared planning; and

WHEREAS, the Cities worked with NOACA on a TLCI grant in 2018 and 2019 to prepare the Taylor Road Corridor Study; and

WHEREAS, the Cities further have determined to work collaboratively to implement recommendations of the Taylor Road Corridor Study within their communities; and

WHEREAS, the Cities further have determined to supplement the Taylor Road Corridor Study’s recommendations with newer best practices; and

WHEREAS, the Cities propose the Taylor Road Corridor Reconfigurations, which would consist of road diet, buffered bicycle lanes, and new paint (the “Project”); and

WHEREAS, the Cities look to build upon the private and public investments that are in progress, planned, and/or anticipated to occur along the Taylor Road Corridor, including new townhomes under construction within University Heights, a new mixed-use development proposed in Cleveland Heights, and upcoming sewer work in East Cleveland; and

WHEREAS, the TLCI Implementation Program provides federal funds for projects that integrate transportation and land use planning, increase transportation options, promote livability, and advance the goals of NOACA’s Strategic Plan for northeast Ohio; and

ORDINANCE NO. 155-2023(PD)

WHEREAS, the TLCI Implementation Program is paid on a reimbursement basis, requiring the applicant to first expend funds (if matched) and then request reimbursement from NOACA; and

WHEREAS, the Cities have determined that the City of Cleveland Heights would act as the Project Sponsor and, therefore, would be designated as the recipient; and

WHEREAS, the City of Cleveland Heights agrees to abide by all federal requirements as a recipient of federal transportation funds, including Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act, and including all applicable federal procurement requirements; and

WHEREAS, the City of Cleveland Heights, as Project Sponsor, agrees to be responsible for managing any and all sub-contracting agencies, organizations, or consultants; and

WHEREAS, the City of Cleveland Heights, as Project Sponsor, agrees to complete the agreed upon scope of services or will forfeit current and future TLCI awards; and

WHEREAS, the City of Cleveland Heights, as Project Sponsor, is authorized to execute a contract with the Ohio Department of Transportation ("ODOT") and NOACA if selected for the TLCI Program.

WHEREAS, this Council has determined that it would be in the best interest of the City and its residents to submit the proposed joint application.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The Mayor be, and is hereby, authorized to submit a joint application on behalf of the City of Cleveland Heights, with the Cities of University Heights and East Cleveland, to the Northeast Ohio Areawide Coordinating Agency, with the City of Cleveland Heights acting as the Project Sponsor and designated recipient of USDOT funds, for the TLCI Implementation Program.

SECTION 2. Notice of passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. It is necessary that this Resolution become immediately effective as an emergency measure for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to meet the application deadline. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

\_\_\_\_\_  
MELODY JOY HART  
President of the Council

\_\_\_\_\_  
ADDIE BALESTER  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

\_\_\_\_\_  
KAHLIL SEREN  
Mayor

Proposed: 10/2/2023

RESOLUTION 156-2023(CRR), *First Reading*

By Councilmember Russell

A Resolution recognizing October, 2023 as *LGBTQ+ History Month*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, the City of Cleveland Heights support the rights, freedoms, and equality of all those who are lesbian, gay, bisexual, transgender, and queer (LGBTQ+); and

WHEREAS, this Council recognizes that years of struggle for freedom and civil rights by LGBTQ+ people have contributed to the rich history of collective action championing equality for all people; and

WHEREAS, the City of Cleveland Heights celebrates this rich history, acknowledging the contributions LGBTQ+ individuals have made and continue to make to strengthen the fabric of American society and its promise of equal rights for all people; and

WHEREAS, October holds historical significance because the first LGBT National March on Washington occurred in October 1979, marking the 10<sup>th</sup> anniversary of the Stonewall Riots; and

WHEREAS, the month of October has now been established as LGBTQ+ History Month to remind all cultures within our wider community of the important roles LGBTQ+ people have taken in shaping the social, historical, legal, and political world we live in today; and

WHEREAS, the City of Cleveland Heights appreciates and recognizes the importance of LGBTQ+ History Month as an effective means of educating and calling to action its community to work together by fighting prejudice and discrimination in their own lives; and

WHEREAS, the City of Cleveland Heights believes everybody deserves to feel safe and welcome in their community, to be known by their preferred name, gender identity, and story.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:



RESOLUTION 156-2023(CRR)

SECTION 1. This Council hereby recognizes October 2023 as *LGBTQ+ History Month* and urges every resident to reflect on and celebrate the rich history of the LGBTQ+ community.

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. It is necessary that this Resolution become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to recognize *LGBTQ+ History Month* on a timely basis. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

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MELODY HART  
President of Council

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ADDIE BALESTER  
Clerk of Council

PASSED:

Presented to Mayor:

Approved:

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KAHLIL SEREN  
Mayor

Proposed: 10/02/2023

RESOLUTION NO. 157-2023(PD), *First Reading*

By: Mayor Seren

A Resolution authorizing the execution of agreements between the City of Cleveland Heights, the Northeast Ohio Regional Sewer District (the "District") and the City of Shaker Heights to authorize the District to proceed with the design of the Doan Brook Restoration Near Horseshoe Lake Park Project, and the design of certain amenities funded by the two Cities, at an approximate design cost to Cleveland Heights of One Hundred Sixty-eight Thousand Three Hundred Twenty-seven Dollars (\$168,327.00); and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, the Northeast Ohio Regional Sewer District (District) 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 District has determined that Lower Shaker Lake provides flood control benefits that justify reconstruction of the Lower Shaker Lake Dam, but that Upper Shaker (Horseshoe) Lake does not provide stormwater management or flood control benefits that justify reconstruction of the Upper Shaker (Horseshoe) Lake dam with funds under the District's Regional Stormwater Management Program; and

WHEREAS, the District has recommended that removal of Upper Shaker (Horseshoe) Lake Dam and restoration of Doan Brook to a more naturalized state in the area provides the best combination of stormwater management and flood control benefits, Ohio Department of Natural Resources (ODNR) dam safety compliance, and long-term benefits; and

WHEREAS, in Resolution No.151-2021, enacted on November 22, 2021 this Council stated that it concurs with the proposal of the District, as a part of its regional stormwater management plan and at the District's cost, to remove Horseshoe Lake Dam and to return the lake bed to its naturalized state, including streams, non-invasive vegetation, plantings, trees, and other amenities (Lake Bed Improvements) following a thorough and open public planning process undertaken in consultation with the Cities of Shaker Heights and Cleveland Heights, and to rebuild the Lower Shaker Lake Dam so that it meets ODNR criteria for a Class I dam; and

WHEREAS, the City of Shaker Heights adopted a similar resolution of concurrence on September 28, 2021; and

WHEREAS, pursuant to Resolution No. 110-2023, enacted on June 20, 2023, the City entered into an amendment to the Regional Stormwater Project Agreement with the District

and the City of Shaker Heights, to non-perform the Upper Shaker (Horseshoe) Lake aspect of the 2018 Stormwater Project Agreement and, instead, to decommission the Upper Shaker (Horseshoe) Lake Dam, and return the lake bed to its naturalized state, including the Lake Bed Improvements through the Doan Brook Restoration Near Horseshoe Lake Park Project (the Project); and

WHEREAS, the design and cost components of the Project have advanced to a stage where the Cities and District have determined it appropriate and necessary to enter into an agreement (the Project Design Agreement or Stormwater Project Agreement), as anticipated in the 2018 Stormwater Project Agreement Amendment, in order to delineate and memorialize the responsibilities of the District as to the design components of the Project, including the complete design of the removal of the existing Dam, restoration of the entire area of the former lake bed, and restoration of the Doan Brook branches through the site, as well as certain public amenities, at the District's sole cost; and

WHEREAS, the Cities wish to delineate and memorialize the responsibilities of the Cities within the Project Design Agreement or Stormwater Project Agreement and in a separate agreement between the Cities, for the cost of the design of certain park amenities beyond the scope of the District's Project as described above, which design costs shall be the responsibility of the Cities, and the approximate design cost to the City of Cleveland Heights is One Hundred Sixty-eight Thousand, Three Hundred Twenty-seven Dollars (\$168,327.00); and

WHEREAS, the Cities shall subsequently determine and memorialize in separate agreements with one another and the District which of such park amenities shall be included within the scope of the District's Project construction specifications and the terms of the cost-sharing between the two Cities for all construction costs of any such park amenities.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio that:

SECTION 1. The Mayor is hereby authorized to enter into a Project Design Agreement or Stormwater Project Agreement and such other agreement or agreements as may be necessary, to effectuate the design of the Doan Brook Restoration Near Horseshoe Lake Park Project, including the design of certain park amenities beyond the scope of the District's Project as agreed upon by the Cities, and at the cost of the Cities, and at the approximate design cost to the City of Cleveland Heights of One Hundred Sixty-eight Thousand , Three Hundred Twenty-seven Dollars (\$168,327.00). Said agreements shall be in the form as approved by the Director of Law.

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. It is necessary that this Resolution become immediately effective as an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the inhabitants of the City of Cleveland Heights, such emergency being the need to

RESOLUTION NO. 157-2023(PD)

execute the three-party agreements as soon as possible to proceed with the design of the critical Doan Brook Restoration Project. Wherefore, provided it receives the vote of five or more members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

\_\_\_\_\_  
MELODY JOY HART  
President of the Council

\_\_\_\_\_  
ADDIE BALESTER  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_ Approved: \_\_\_\_\_

\_\_\_\_\_  
KAHLIL SEREN  
Mayor

**STORMWATER PROJECT AGREEMENT**

**BY AND BETWEEN**

**THE NORTHEAST OHIO REGIONAL SEWER DISTRICT**

**AND**

**CITY OF CLEVELAND HEIGHTS**

**AND**

**CITY OF SHAKER HEIGHTS**

**FOR**

**DOAN BROOK RESTORATION NEAR HORSESHOE LAKE PARK PROJECT**

This Agreement (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023 (“Effective Date”), by and between the Northeast Ohio Regional Sewer District (“District”) acting pursuant to Resolution No. \_\_\_\_\_-23, adopted by the Board of Trustees of the District on \_\_\_\_\_, 2023 (**Exhibit “A”**), the City of Cleveland Heights (“Cleveland Heights”) acting pursuant to Ordinance No. \_\_\_\_\_, passed by its City Council on \_\_\_\_\_, 2023 (**Exhibit “B”**), and the City of Shaker Heights (“Shaker Heights”) acting pursuant to Ordinance No. \_\_\_\_\_, passed by its City Council on \_\_\_\_\_, 2023 (**Exhibit “C”**). The Cities of Cleveland Heights and Shaker Heights may be referred to collectively herein as the “Cities.” The District and the Cities may be referred to collectively herein as the “Parties.”

**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, on January 19, 2018, the District and the Cities entered into a Regional Stormwater Project Agreement (District Agreement No. 3782) (the “2018 Agreement”) for the Shaker Lakes Dams Rehabilitation Project No. 1320, regarding Green Lake in the City of Shaker Heights, and Upper Shaker Lake (also known as “Horseshoe Lake”) and Lower Shaker Lake

located partially in each of the Cities, to plan and implement the Shaker Lakes Dams Rehabilitation project (the “SLDR Project”) which consisted of aspects at each of the three lakes; and

WHEREAS, the Green Lake and Lower Shaker Lake aspects of the SLDR Project required under the 2018 Agreement were completed and no further work on the Green Lake and Lower Shaker Lake aspects remain to be performed under the 2018 Agreement; and

WHEREAS, upon further inspection, the condition of Upper Shaker (Horseshoe) Lake dam was found to be in a far greater state of deterioration than at the time of execution of the 2018 Agreement, thereby requiring that Upper Shaker (Horseshoe) Lake Dam either be completely reconstructed, rather than rehabilitated as provided under the scope of the 2018 Agreement, or decommissioned; and

WHEREAS, subsequent to execution of the 2018 Agreement, the District’s Chagrin River/Lake Erie Tributaries (“CHALET”) Stormwater Master Plan determined that Lower Shaker Lake provides flood control benefits that justify reconstruction of the Lower Shaker Lake Dam, and also determined that Upper Shaker (Horseshoe) Lake did not provide stormwater management or flood control benefits that could justify reconstruction of the Upper Shaker (Horseshoe) Lake dam with funds under the District’s Regional Stormwater Management Program; and

WHEREAS, because Upper Shaker (Horseshoe) Lake Dam could only be reconstructed, beyond the scope of the 2018 Agreement, or decommissioned, and because of the findings of the CHALET study, the District recommended that removal of Upper Shaker (Horseshoe) Lake Dam and restoration of Doan Brook to a more naturalized state in the area provided the best combination of flood relief, Ohio Department of Natural Resources (ODNR) dam safety compliance, and long-term benefits; and

WHEREAS, the City of Shaker Heights City Council, with the concurrence of the Mayor, adopted a resolution on September 27, 2021 (Res. No. 21-92) stating: “this Council concurs with the proposal of the Northeast Ohio Regional Sewer District (NEORS), as a part of its regional stormwater management plan, and at its cost, to remove Horseshoe Lake Dam and to return the lake bed to its naturalized state, including streams, non-invasive vegetation, plantings, trees, and other amenities (Lake Bed Improvements) following a thorough and open public planning process undertaken in consultation with the cities of Shaker Heights and Cleveland Heights, and to rebuild the Lower Shaker Lake Dam so that it meets ODNR criteria for a Class I dam”; and

WHEREAS, the City of Cleveland Heights with the concurrence of the Mayor, adopted a resolution on November 22, 2021 (Res. No. 151-2021) stating: “this Council concurs with the proposal of the Northeast Ohio Regional Sewer District (NEORS), as a part of its regional stormwater management plan, and at its sole cost, to remove Horseshoe Lake Dam and to return the lake bed to its naturalized state, including streams, non-invasive vegetation, plantings, trees, and other amenities (Lake Bed Improvements) following a thorough and open public planning

process undertaken in consultation with the cities of Cleveland Heights and Shaker Heights and to rebuild the Lower Shaker Lake Dam so that it meets ODNR criteria for a Class I dam”; and

WHEREAS, on March 29, 2023, ODNR performed a new inspection of Upper Shaker (Horseshoe) Lake Dam, and on May 1, 2023, ODNR issued a Dam Safety Inspection Report for Upper Shaker Lake Dam (the “Report”), which states, in part, that “Due to the continued deterioration and extent of problems with the dam...The conditionally approved 2018 repair plan and specifications for Upper Shaker Lake Dam are no longer acceptable and if completed would not bring the dam into compliance” (said Report is attached hereto and incorporated herein as Exhibit 1; see, in particular, Report, Discussion Item 1, p. 6); and

WHEREAS, the ODNR Report further states that “In lieu of comprehensive reconstruction remediation of the dam, the dam may be decommissioned” (Report, Discussion Item 1, p. 6); and

WHEREAS, the Upper Shaker (Horseshoe) Lake Dam repair aspect of the SLDR Project is now an impossibility under the District’s Regional Stormwater Management Program because: (a) the dam cannot be repaired or rehabilitated as described in the 2018 Agreement, due to its deteriorated condition, (b) repair would not bring the dam into compliance with ODNR requirements, per the May 1, 2023 Inspection Report, and (c) the CHALET study determined that Upper Shaker (Horseshoe) Lake does not provide stormwater management or flood control benefit that could make it a proper expenditure under the NEORSO Regional Stormwater Management Program; and

WHEREAS, in light of the May 1, 2023 ODNR Inspection Report, and in lieu of comprehensive reconstruction of the Upper Shaker (Horseshoe) Lake Dam, the Parties entered into an amendment (“Amendment #1”) to the 2018 Agreement to accept the District’s recommendation to non-perform the Upper Shaker (Horseshoe) Lake aspect of the SLDR Project, and instead, decommission the Upper Shaker (Horseshoe) Lake Dam, and return the lake bed to its naturalized state, including streams, non-invasive vegetation, plantings, trees, and other amenities, renaming this aspect of the SLDR Project as the Doan Brook Restoration Near Horseshoe Lake Park Project (herein, the “Doan Brook Restoration Project” or the “Project”); and

WHEREAS, at the time of Amendment #1, pre-design of the Doan Brook Restoration Project was nearing completion with full design of said project expected to commence in late 2023; and

WHEREAS, under Amendment #1, the Parties agreed that subsequent modification of the 2018 Agreement, or a separate agreement, would be necessary once additional design details of the Doan Brook Restoration Project had been developed and components may be more specifically agreed upon among the Parties; and

WHEREAS, Upper Shaker (Horseshoe) Lake Dam remains a Class I dam in a state of deterioration that poses a threat to public health and safety in the event of catastrophic failure, and as such, the Parties agree that progress toward completion of the Doan Brook Restoration aspect of the SLDR Project must not be unreasonably delayed and all effort should be made to proceed as efficiently and responsibly as possible; and

WHEREAS, for purposes of clarification only, the District will also be undertaking a separate project known as the “Lower Shaker Lake Dam Reconstruction Project”, which shall be undertaken pursuant to a new or amended project agreement negotiated among the Parties; and

WHEREAS, pursuant to Amendment #1, the Parties agreed to enter into further amendment(s) to the 2018 Agreement, or to enter into a new agreement, once additional design and cost component details of the Doan Brook Restoration Project have been developed, including the complete design of the removal of the existing Dam, restoration of the entire area of the former lake bed, and restoration of the Doan Brook branches through the site, as well as certain public amenities, and specifically agreed upon among the Parties prior to construction of the same; and

WHEREAS, the design and cost components of the Project have advanced to a stage where the Parties have determined it appropriate and necessary to enter into this Agreement, as anticipated in Amendment #1, to delineate and memorialize the responsibilities of the Parties as to such design and cost components of the Project; and

WHEREAS, the Cities wish to include within the scope of the District’s Project design agreement with its consultant certain park amenities beyond the scope of the District’s Project, the design costs of which shall be the responsibility of the Cities in accordance with terms described herein; and

WHEREAS, the Cities shall subsequently determine which of such park amenities shall be included within the scope of the District’s Project construction specifications and the terms of the cost-sharing between the two Cities for all construction costs of any such park amenities.

WHEREAS, the Parties intend to enter into one or more amendments to this Agreement as design, construction, and other details are finalized.

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

**ARTICLE 1. OBLIGATIONS OF THE NORTHEAST OHIO REGIONAL SEWER DISTRICT**

1.1 The District shall perform the design of the Doan Brook Restoration Project as further specified in this Agreement and the Scope of Services (**Exhibit “D”**) to be performed by the District’s design consultant, which generally consists of the removal of Upper Shaker



(Horseshoe) Lake Dam (the “Horseshoe Lake Dam” or the “Dam”) and the restoration of Doan Brook to a more naturalized state.

- 1.2 The District shall manage the design, budget, schedules, engineering, and other deliverables of the Project.
- 1.3 The District shall fund all costs associated with the Project, except those park amenities as otherwise stated below and in the exhibits to this Agreement.
- 1.4 The District shall compensate directly all design consultants under contract with the District for performance of the Project.
- 1.5 The District shall comply with any applicable state, federal and local statutes, policies, and regulations relating to equal opportunities, non-discrimination, prevailing wages, environmental, historic preservation, and all applicable floodplain management codes, except as provided in Section 2.3 of this Agreement.
- 1.6 Pursuant to Section 2.2 of this Agreement, the District shall obtain all necessary federal, state, and local permits or other governmental regulatory approvals necessary to initiate and complete the Project.
- 1.7 The District shall require its design consultants to name the Cities as an additional insured on Project related insurance policies for auto liability, general liability, and property liability, as applicable to the Project.
- 1.8 The District shall include a statement in its design contracts designating the Cities as third-party beneficiaries of such contracts.
- 1.9 The District shall include within the scope of its Project design agreement with its consultant certain park amenities to be entirely funded by the Cities, all as further defined in Articles 3 and 4 below.

## **ARTICLE 2. OBLIGATIONS OF THE CITIES OF CLEVELAND HEIGHTS AND SHAKER HEIGHTS**

- 2.1 In consideration of the District performing this Agreement, the Cities hereby grant to the District and its employees, agents, consultants, subconsultants, contractors, and subcontractors a license to use and occupy with machinery, vehicles and equipment any portions of property leased by the Cities from the City of Cleveland, and known as “Horseshoe Lake Park,” as needed, for the purpose of designing, constructing, operating, maintaining, repairing or removing the Project. The District may enter upon and use all access roads in and around the Project area.
- 2.2 The Cities shall assist the District to obtain all required federal, state, and local permits or other approvals necessary to commence and complete both the design and construction of

the Project. The Cities grant the District permission to obtain the foregoing permits on the Cities' behalf.

- 2.3 The Cities acknowledge that the District does not own Horseshoe Lake Dam, nor does the District have any obligations with respect to any current or future ODNR requirements, including, but not limited to, compliance with the Emergency Action Plans and Operation, Maintenance, and Inspection Manuals prepared by the District.
- 2.4 The Cities shall waive all City permitting or other fees related to performance of all aspects of the Project.
- 2.5 The Cities shall entirely fund various park amenities as further defined in Articles 3 and 4 below.

### **ARTICLE 3. DESIGNED PARK AMENITIES DIRECTED BY THE CITIES**

- 3.1 The scope of the Project design agreement with the District's consultant shall include the design of various park amenities (the "Designed Park Amenities") selected by the Cities and described more fully in **Exhibit "E."** *[NOTE: We envision this exhibit including a list of the amenities the Cities wish to have the District design and the cost to paid with City funds.]*
- 3.2 The Parties agree that the scope of the Project construction bid documents may include any of the Designed Park Amenities that the Cities subsequently select for construction, which may include some, all, or none of the Designed Park Amenities. All costs related to construction of any of the Designed Park Amenities shall be the responsibility of the Cities. The identification of any Designed Park Amenities for construction and the allocation of costs between the Cities for the construction of same shall be specified in a subsequent amendment to this Agreement.
- 3.3 The Parties further agree that, after completion of construction of the District Project, the Cities may construct any of the Designed Park Amenities, solely at the Cities' expense, and provided that such construction does not impede the conveyance of water through Doan Brook and that if such construction disturbs the District's Project, it will be returned by the Cities to its condition prior to the Cities' construction. The District shall have the right to review and approve any subsequent construction by the Cities in the Project area prior to performing such construction.

### **ARTICLE 4. PLANS AND ESTIMATES**

- 4.1 The District shall invite the Cities to all design progress meetings for the Project.
- 4.2 The Cities shall have the opportunity to review and accept the District's plans/specifications, phasing approach, and associated bid documents at the following stages of development: Thirty Percent (30%) complete, Sixty Percent (60%) complete, Ninety Percent (90%) complete, and One Hundred Percent (100%) complete. The City's

acceptance of the plans/specifications at all phases described above shall not be unreasonably withheld.

- 4.3 The District shall be fully and wholly responsible for all expenses associated with the preparation of the plans and bidding documents as to the decommissioning of the Dam and the restoration of Doan Brook to a more naturalized state.

#### **ARTICLE 5. TERM**

- 5.1 This Agreement shall begin on the Effective Date and shall continue until all obligations hereunder have been completed. This Agreement may be terminated at the mutual written agreement of the Parties or upon the termination of either Lease by Way of Concession with the City of Cleveland and as to the City whose lease has been terminated.
- 5.2 The Parties agree that the construction phase of the Project shall be performed under either a separate project agreement or an amendment to this Agreement, at the option of the Parties, after the design phase of the Project has been completed.

#### **ARTICLE 6. REIMBURSEMENT FOR DESIGN OF DESIGNED PARK AMENITIES**

- 6.1 The Cities agree to pay the District, on a reimbursement basis, an amount not-to-exceed \$ [REDACTED] (the "City Funds") for all of the District's consultant costs incurred for designing the Designed Park Amenities, with Shaker Heights contributing 65% of the City Funds and Cleveland Heights contributing 35% of the City funds. In the event that the cost of the Designed Park Amenities exceeds such amount, the Cities shall seek additional authority from their respective City Councils to enter into an amendment to this Agreement to pay such additional cost.
- 6.2 All pay applications to the Cities for reimbursement of design costs relative to the Designed Park Amenities shall be documented by the District based on paid invoices demonstrating the degree of completion of design services and the agreed upon scope and fee for design of the Designed Park Amenities included in the District's design agreement.

#### **ARTICLE 7. DISPUTE RESOLUTION**

- 7.1 The Parties shall continue the performance of their obligations under this Agreement notwithstanding the existence of a dispute.
- 7.2 The Parties shall first try to resolve the dispute at the level of the designated representatives as follows:

<b>District's Representative(s)</b>	<b>Cities' Representatives</b>
Janet Popielski, Stormwater Program Manager (216) 881-6600, ext.6415	<b>City of Cleveland Heights:</b> Collette Clinkscale, Director of Public Works (216) 691-7300

	<b>City of Shaker Heights:</b> Patricia Speese, Director of Public Works (216) 491-1495
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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	Cities' Representatives
Frank Greenland, Director of Watershed Programs (216) 881-6600, ext. 6460	<b>City of Cleveland Heights:</b> ???  <b>City of Shaker Heights:</b> Jeri Chaikin, Chief Administrative Officer (216) 491-1421

7.3 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 Parties shall mutually select a mediator who is experienced in public utility infrastructure engagements. 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 the mediator appointment, which meeting shall be attended by at least the respective representatives in 6.2 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.

7.4 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 8, Remedies, below.

## **ARTICLE 8. REMEDIES**

8.1 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.

## **ARTICLE 9. NOTIFICATIONS**

9.1 The Parties hereby designate the following individuals to serve as the primary points of contact under this Agreement:

District Representative	Cities' Representatives
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Janet Popielski, Stormwater Program Manager (216) 881-6600, ext.6415	<b>City of Cleveland Heights:</b> Collette Clinkscale, Director of Public Works (216) 291-2209  <b>City of Shaker Heights:</b> Patricial Speese, Director of Public Works (216) 491-31490
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#### **ARTICLE 10. GOVERNING LAW**

10.1 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 11. DISCLAIMER OF JOINT VENTURE**

11.1 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 12. AUTHORITY TO EXECUTE**

12.1 Each person executing this Agreement represents and warrants that they are duly authorized to execute this Agreement by the party on whose behalf they are so executing.

#### **ARTICLE 13. MODIFICATION OF AGREEMENT**

13.1 This Agreement may only be modified by written instrument executed by each party.

#### **ARTICLE 14. RECITALS**

14.1 The Recitals above constitute material and operative provisions in this Agreement and are incorporated herein by reference.

#### **ARTICLE 15. MISCELLANEOUS**

15.1 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.

15.2 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.

- 15.3 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.
- 15.4 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.
- 15.5 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any person other than the Parties hereto, any legal or equitable right, benefit, or remedy of any nature under or by reason of this Agreement.
- 15.6 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.

#### **ARTICLE 16. EXHIBITS**

- 16.1 The following exhibits are attached hereto and incorporated herein:

Exhibit “A” – District Resolution

Exhibit “B” – Cleveland Heights Ordinance

Exhibit “C” – Shaker Heights Ordinance

Exhibit “D” – Scope of Services

Exhibit “E” – Designed Park Amenities

[remainder of page intentionally left blank]

The parties hereto have executed and delivered this Agreement as of the date first above written.

**NORTHEAST OHIO REGIONAL SEWER DISTRICT**

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

and: \_\_\_\_\_  
Darnell Brown, President  
Board of Trustees

The legal form and correctness  
of this instrument is approved.

By: \_\_\_\_\_  
Eric J. Luckage  
Chief Legal Officer  
Northeast Ohio Regional Sewer District

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

**CITY OF CLEVELAND HEIGHTS**

By: \_\_\_\_\_  
Kahlil Seren  
Mayor

The legal form and correctness  
of this instrument is approved.

By: \_\_\_\_\_  
William Hanna  
Director of Law  
City of Cleveland Heights

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

**CITY OF SHAKER HEIGHTS**

By: \_\_\_\_\_  
David Weiss  
Mayor

The legal form and correctness  
of this instrument is approved.

By: \_\_\_\_\_  
William M. Ondrey Gruber  
Director of Law  
City of Shaker Heights

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

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 CLEVELAND HEIGHTS

AND

CITY OF SHAKER HEIGHTS

FOR

STORMWATE PROJECT AGREEMENT  
FOR DOAN BROOK RESTORATION  
NEAR HORSESHOE LAKE PARK  
PROJECT

## 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.

\_\_\_\_\_  
Total Approximate Cost: N/A

\_\_\_\_\_  
KENNETH J. DUPLAY  
CHIEF FINANCIAL OFFICER

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
ERIC J. LUCKAGE  
CHIEF LEGAL OFFICER

\_\_\_\_\_  
Date

DRAFT

Proposed: 10/02/23

ORDINANCE NO. 158-2023 (PSH), *First Reading*

By Mayor Seren

An Ordinance authorizing the renewal of an agreement with the Cuyahoga County General Health District for the provision of public health services to the City and its residents; providing compensation therefor; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, Ohio Revised Code Section 3709.08 authorizes cities to enter into contracts with general health districts for public health services; and

WHEREAS, this Council has authorized such agreements with the Cuyahoga County General Health District for such health services in previous years; and

WHEREAS, it would be in the best interest of the City and its residents to renew this agreement for the calendar years 2024 and 2025.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The Mayor be, and he is hereby, authorized to enter into any and all agreements, and to execute any related documents, with the Cuyahoga County General Health District (hereafter the "District") for the provision of certain public health services to the City and its residents which are required to be provided under State law including, without limitation, school health services, community health services, family health services, and environmental health and sanitation services. The agreement shall be for a period of two years, commencing January 1, 2024. The fee for the mandated services shall not exceed the sum of Three Hundred Twenty-eight Thousand Five Hundred Twelve Dollars (\$328,512.00) for calendar year 2024 and Three Hundred Sixty-two Thousand Four Hundred Ninety-six Dollars (\$362,496.00) for calendar year 2025. The agreement and any related documents shall be approved as to form and subject to the final approval of the Director of Law.

SECTION 2. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. It is necessary that this Ordinance become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to meet County deadlines and continue providing residents essential health services uninterrupted. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

ORDINANCE NO. 158 -2023(PSH)

\_\_\_\_\_  
MELODY JOY HART  
President of the Council

\_\_\_\_\_  
ADDIE BALESTER  
Clerk of Council

PASSED: \_\_\_\_\_

Presented to Mayor: \_\_\_\_\_

Approved: \_\_\_\_\_

\_\_\_\_\_  
KAHLIL SEREN  
Mayor