

RESOLUTION NO. 035-2023

COMMUNITY COST-SHARE AGREEMENT BY AND BETWEEN
THE NORTHEAST OHIO REGIONAL SEWER DISTRICT AND OLMSTED TOWNSHIP
Leaf Collection Program Project

Cuyahoga County, Ohio

Be it Resolved by the Township Trustees of Olmsted Township, that

WHEREAS, the Northeast Ohio Regional Sewer District (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 Township 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, the District supports the Community Cost-Share 2023 Leaf Collection Program as a Community Cost-Share project proposed by the Township; and

NOW THEREFORE BE IT RESOLVED by the Board of Trustees of Olmsted Township, State of Ohio, that: The Board of Trustees is entering into a memorandum of understanding with NEORSD and NEORSD, 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. NEORSD agrees to allocate \$205,500.00 to the Township for the Leaf Collection Program Project from the Township’s Community Cost-Share Account. The memorandum of understanding entered into by the Board of Trustees for Olmsted Township and the NEORSD shall be marked **Exhibit A and attached hereto and made a part hereof as though fully written herein**.

BE IT FURTHER RESOLVED; that it is hereby found and determined that all formal actions of this Board of Township Trustees concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and any of its committees that resulted in such formal action, were in a meeting open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted the 12th day of April, 2023

Attest: Paul W. Miller
Township Fiscal Officer

James M. Kuehne
Township Trustees

**COMMUNITY COST-SHARE AGREEMENT
BY AND BETWEEN
THE NORTHEAST OHIO REGIONAL SEWER DISTRICT
AND
OLMSTED TOWNSHIP**

This Agreement is made and entered into this 12th day of April, 2023, by and between the Northeast Ohio Regional Sewer District (District) acting pursuant to Resolution No. 114-13, adopted by the Board of Trustees of the District on May 16, 2013 (Exhibit "A"), and Olmsted Township (Township) acting pursuant to Ordinance/Resolution No. 035-2023, adopted on April 12, 2023 (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 Township 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, the District supports the Community Cost-Share Leaf Collection Program project (the "Project") as a Community Cost-Share project proposed by the Township; and

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 Township Obligations

1.1 The Township agrees to perform as follows:

1.1.1 Complete work as detailed in the District approved Community Cost-Share application. (Exhibit "C")

1.1.2 Complete and submit Progress Reports when submitting Request for Payment as needed, or within 30 days of close of the Project, in accordance with the *Community Cost-Share Program Policy*.

- 1.1.3 Notify the Township's Watershed Team Leader at least 7 business days prior to the start of the Project.
- 1.1.4 Meet with District staff when requested to review the Project status.
- 1.1.5 Obtain all necessary legal agreements with affected property owners to perform the Project and to bind any successor in title to maintain compliance as specified in this Agreement between the District and Township for the Project.
- 1.1.6 Comply with all applicable local, state and federal requirements. This may include, but is not limited to, U.S. Army Corp of Engineers Section 404, Ohio EPA Section 401 water quality certification, and Ohio Department of Natural Resources Dam Safety Laws.
- 1.1.7 If the Township fails to maintain the Project in accordance with this Agreement, the Township shall be liable for the full amount of any Community Cost-Share Program funds paid for the Project. Such amount shall be offset against the Township Community Cost-Share Account.
- 1.1.8 Submit requests for approval to modify the budget, deadline, deliverables, or other components of the Project to the Township's Watershed Team Leader at least 30 business days prior to the desired date of execution of the modification.
- 1.1.9 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 or totally through the Northeast Ohio Regional Sewer District (NEORSD) Community Cost-Share Program in coordination with City, under the provisions of the NEORSD 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 NEORSD review and may not necessarily reflect the views of NEORSD, and no official endorsement should be inferred.
- 1.1.10 Provide the District the opportunity to have design approval for any signage or public education and outreach efforts related to the Project.
- 1.1.11 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 Allocate \$205,500.00 to the Township for the Project from the Township's Community Cost-Share Account.
- 2.1.2 Provide reimbursement of funds up to \$205,500.00 to the Township within 60 days of receipt of a complete Request for Payment from the Township, detailing costs related to the Project.
- 2.1.3 Timely review and approval or disapproval of requests to modify the budget, deadline, deliverables, or other components of the Project.
- 2.1.4 Acknowledge the Township in presentations or publications related to the Project.

2.3 The District is not liable for any and all claims, damages, losses, liens, causes of action, suits, judgments and expenses of any nature, kind or description, that result from and to the extents caused by the acts or omissions of the Township, the design professional, and the contractor, including all of their officers, owners, principals, subcontractors, employees, and agents. The District is not responsible for the accuracy, correctness and reliability of the plans as it is not reviewing or approving any plans as to suitability of the design/fitness for a particular purpose.

Article 3.0 Dispute Resolution

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

District Representative	Township Representative
Watershed Team Leader	Service Director

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	Township Representative
Director of Watershed Programs	Township Administrator

- 3.3 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 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.
- 3.4 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 4, Remedies, below.

Article 4 **Remedies**

- 4.1 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**

- 5.1 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**

- 6.1 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 7 **Disclaimer of Joint Venture**

- 7.1 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 8 **Authority to Execute**

- 8.1 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" – Township Ordinance/Resolution

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

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

OLMSTED TOWNSHIPS

By: *Kyle Dreyfuss-Wells*

Title: *Trustee*

Trustee

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

OLMSTED TOWNSHIP

James G. Markland
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 NEORSD USE]

AGREEMENT NO.

CERTIFICATION

NORTHEAST OHIO REGIONAL SEWER
DISTRICT

WITH

OLMSTED TOWNSHIP

FOR

COMMUNITY COST-SHARE PROJECT:
LEAF COLLECTION PROGRAM

Total Approximate Cost: \$205,500.00

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

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

Date

ERIC J. LUCKAGE
CHIEF LEGAL OFFICER

Date

Budget Center 8100

EXHIBIT A

**NORTHEAST OHIO REGIONAL SEWER DISTRICT
RESOLUTION NO. 114-13**

Authorizing the Executive Director to enter into Regional Stormwater Management Program Community Cost-Share Program Agreements with Member Communities.

WHEREAS, the Code of Regulations of the Northeast Ohio Regional Sewer District, Title V – Stormwater Management Code Chapter 9 outlines the Community Cost-Share Program developed to provide funds to District Member Communities for construction, operation and maintenance activities of community-specific stormwater management projects; and

WHEREAS, under the Community Cost-Share Program, 25% of the annual collected stormwater revenue from each Member Community will be held by the District in a Community Cost-Share account, whereby Communities, with review and approval by the District, through specific applications outlining the community-specific stormwater work to be performed can access reimbursement of their funds; and

WHEREAS, the District is seeking authority to enter into Regional Stormwater Management Program Community Cost-Share Program Agreements with Member Communities for the purpose of detailing and memorializing responsibilities of the District and Member Communities under specific applications to the Community Cost-Share Program;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE NORTHEAST OHIO REGIONAL SEWER DISTRICT:

Section 1. That this Board finds that for the reasons stated in the preamble hereof it is in the best interests of the District to enter into Regional Stormwater Management Program Cost-Share Program Agreements with Member Communities to memorialize responsibilities of the District and Member Communities under specific applications to the Community Cost-Share Program.

Section 2. That this Board hereby authorizes the Executive Director to enter into Regional Stormwater Management Program Cost-Share Agreements with Member Communities to memorialize responsibilities of the District and Member Communities under specific applications to the Community Cost-Share Program under such terms and conditions that are satisfactory to the Director of Law and in the best interests of the District.

Section 3. That this Board authorizes the Executive Director to execute all documents and do all things necessary to effect the terms and conditions of the Stormwater Management Program Direct Billing Agreements with Member Communities.

Section 4. That this Board declares that all formal actions of the Board concerning and relating to the adoption of this resolution and that all deliberations of the Board and any of its committees that resulted in said formal action were conducted in meetings open to the public and in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On motion of Mayor Starr seconded by Mr. O'Malley, the foregoing resolution was unanimously adopted on May 16, 2013.

Sheila J. Kelly
Sheila J. Kelly, Secretary
Board of Trustees
Northeast Ohio Regional Sewer District

EXHIBIT B

EXHIBIT C



*Community Cost-Share Program
Application*

**Community Cost-Share Program
APPLICATION**

Member Community Information

Community: Olmsted Township

Primary Project Contact: Eric Williams

(Name & Title) Service Director

Mailing Address: 7924 Fitch Road

Olmsted Township, OH 44138

Phone Number: 440-235-1011

Email: ewilliams@olmstedtownship.org

Project Information

Project Title: Leaf Collection Program

Address or Location of Project: 7924 Fitch Road

Olmsted Township, Ohio 44138

Project Start Date: Fall 2023

Project End Date: Winter 2023

Community Cost-Share Fund Request: \$205,500.00

Submission Date: 2/27/2023

Project Narrative

1) Project Summary (1,000 word maximum)

Describe the Project and include the following information, as applicable:

- Describe the Project and deliverables; provide a map if applicable
- Submit a deliverable worksheet listing tasks and deliverables with start dates and end dates for the significant benchmarks.
- List permitting requirements necessary to initiate and complete project and how the requirements will be met.

The Township will perform leaf pick-up starting in the Fall to early Winter.

The Township will purchase equipment and perform leaf pick-up throughout the 44 center line miles of Olmsted Township. A Township wide leaf collection and street cleaning program removes leaves and other "organic detritus" from the street surface, thereby preventing phosphorus from becoming entrained in storm-water.



*Community Cost-Share Program
Application*

2) Ability to Provide Long Term Maintenance (500 word maximum)

Describe the plans for long-term maintenance, addressing the following question:

- Who is responsible to provide on-going maintenance for the project and how will maintenance be ensured?
- Provide documentation of scheduled maintenance and operation for completed stormwater project(s).

Olmsted Township Trustees and Township Service Director Eric Williams will provide oversight and management for all our MS4 projects and all infrastructure will be a Township priority for maintenance. He is also responsible to ensure all storm-water management practices local and regional program are followed through on all projects.

3) Visibility and Public Outreach: (500 word maximum)

Public outreach is required if appropriate for your project.

- What audiences will be exposed to this Project (neighbors, students, community groups, general public)?

This is a service utilized by the majority of Township residents. Much of the Township is made up of older, established residences, and therefore have many mature trees on their properties. This service is for all private residential neighborhoods, and general public.



*Community Cost-Share Program
Application*

4) Budget Summary (500 words maximum)

The Budget Summary and Project Budget (*see page 3*) represent the Community Cost-Share Project components exclusively. Include details on the provider of all services such as design, engineering, construction management and materials including specific material cost, equipment, and hourly rate.

If an engineer's estimate is included with the application, indicate which line items are included in the Community Cost-Share Project application.

Equipment cost - \$199,500.00

Material disposal - \$6,000.00/year Morton's Landscaping