

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

CITY OF CLEVELAND,	)	CASE NO. 455021
	)	
Plaintiff,	)	JUDGE TIMOTHY McMONAGLE
	)	
- vs. -	)	
	)	
NORTHEAST OHIO REGIONAL	)	AGREED JUDGMENT ENTRY
SEWER DISTRICT,	)	
	)	
Defendant.	)	

This cause came on to be heard on this 4<sup>th</sup> day of ~~March~~ <sup>April</sup>, 2005, on the Complaint for Contribution and/or Indemnity from Joint Tortfeasor ("Complaint") of Plaintiff, the City of Cleveland ("City"), against Defendant, Northeast Ohio Regional Sewer District ("District"), the Answer to the Complaint, and the record of the proceedings taken in this cause, including this stipulated Agreed Judgment Entry.

Upon due consideration, the Court finds that the terms of this Agreed Judgment Entry are conducive to the public health, safety, convenience and welfare.

The Court, having reviewed and approved this stipulated Agreed Judgment Entry, does now HEREBY FIND, ORDER, ADJUDGE AND DECREE:

- (1) That this Court has jurisdiction over the parties and subject matter in this proceeding;
- (2) That responsibility for the sewer facilities giving rise to this litigation has been addressed by the City and the District in the Memorandum of Understanding Between the City of Cleveland and the Northeast Ohio

Regional Sewer District Relative to Sewer System Responsibility attached as Exhibit "A" ("Agreement") and made a part of this Agreed Judgment Entry, and that the Agreement is conducive to the public health, safety, convenience and welfare, and that enforcement of the terms of the Agreement is feasible, fair, and reasonable to the parties.

IT IS HEREBY FURTHER ORDERED:

- (3) That the District shall make a capital contribution in lump sum payments ~~of~~ *A.J.* totaling \$900,000 toward the construction costs of a sewer infrastructure improvement project or projects of mutual benefit to the District and the City in a manner that will offset and reduce the City's normal and customary contribution toward the projects by a like amount. This contribution shall be in addition to any other contribution by the District for the elements of the project that would normally and customarily be attributable to the District and shall be payable by the District to the City upon award and execution of a contract for the sewer infrastructure improvement project;
- (4) That the City and the District intend that the project referenced in the preceding paragraph shall consist of the creation of tandem storage basins, improvements to culvert and stream channels, and diversion of excess flow from the Chevrolet Branch to the East Branch of Big Creek ("Chevy Branch Project"), for the purpose of ameliorating intercommunity drainage problems in the area of the Chevrolet Branch of Big Creek;

- (5) That the City shall take the lead in applying for State Issue 2 Infrastructure Improvement Grant funds from the Ohio Public Works Commission for the Chevy Branch Project and shall act as Project Engineer;
- (6) That in the event the application for State Issue 2 Infrastructure Improvement Grant funds from the Ohio Public Works Commission for the Chevy Branch Project is unsuccessful, or the project does not proceed for any other reason, the parties shall promptly agree to a mutually acceptable project satisfying the provisions of paragraph 3 to substitute for the Chevy Branch Project; and
- (7) That upon the District's discharge of its obligations under paragraph 3 of this Agreed Judgment Entry, the City shall file a dismissal of this cause with prejudice. The parties shall jointly file a status report with this Court within 120 days of the entry of this order.

This Court expressly retains jurisdiction over this case and the enforcement of the terms and conditions set forth in this Agreed Judgment Entry.

IT IS SO ORDERED.

\_\_\_\_\_  
JUDGE TIMOTHY McMONAGLE

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APPROVED AS TO FORM AND SUBSTANCE:

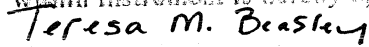
  
TERESA M. BEASLEY

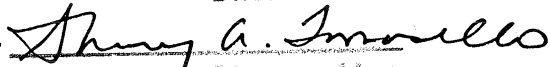
Director of Law, City of Cleveland

  
WILLIAM B. SCHATZ

General Counsel, Northeast Ohio Regional Sewer District

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

  
Teresa M. Beasley  
Director of Law

By   
Asst Director of Law

Date 4/4/05