

RESOLUTION NO. 110-2023(MSES), *First  
Reading*

By Mayor Seren

A Resolution authorizing the Mayor to execute an amendment to the 2018 Stormwater Project Agreement with the City of Shaker Heights and the Northeast Ohio Regional Sewer District for the Shaker Lakes Dams Rehabilitation Project and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, on January 19, 2018, the cities of Cleveland Heights and Shaker Heights ("the Cities") entered into a Regional Stormwater Project Agreement ("the Agreement") with the Northeast Ohio Regional Sewer District ("NEORSD") for the Shaker Lakes Dams Rehabilitation Project involving Upper Shaker Lake (also known as "Horseshoe Lake," with the dam at that lake known as the "Horseshoe Lake Dam") and Lower Shaker Lake, each of which is located partially in each of the Cities, as well as Green Lake, located in the City of Shaker Heights, to plan and implement the Shaker Lakes Dams Rehabilitation project (the "Project") which consisted of certain activities to be undertaken in connection with each of the three lakes; and

WHEREAS, upon subsequent inspection the condition of Horseshoe Lake Dam was found to be in a far greater state of deterioration than at the time of execution of the Agreement, such that Horseshoe Lake Dam needed to be either completely reconstructed, rather than rehabilitated as provided under the scope of the Agreement, or decommissioned (removed); and

WHEREAS, the NEORSD's Chagrin River/Lake Erie Tributaries ("CHALET") Stormwater Master Plan determined that while Lower Shaker Lake provided flood control benefits that justify reconstruction of the Lower Shaker Lake Dam, Horseshoe Lake did not provide stormwater management or flood control benefits that could justify reconstruction of the Horseshoe Lake Dam using funds of the NEORSD's Regional Stormwater Management Program; and

WHEREAS, because Horseshoe Lake Dam could only be reconstructed, beyond the scope of the Agreement, or decommissioned (removed), and because of the findings of the CHALET study, NEORSD recommended that the best combination of flood relief, Ohio Department of Natural Resources ("ODNR") dam safety compliance, and long-term benefit would be achieved through the removal of Horseshoe Lake Dam and the restoration of Doan Brook in that vicinity to a more naturalized state; and

WHEREAS, on September 27, 2021 the City of Shaker Heights City Council, with the concurrence of the Mayor, adopted Resolution No. 21-92, indicating the concurrence of the Shaker Heights City Council in the proposal of NEORSD to remove Horseshoe Lake Dam and to return the Horseshoe Lake lake bed to its naturalized state, including streams, non-invasive vegetation, plantings, trees, and other amenities pursuant to a thorough and open public planning process to be undertaken in consultation with the cities of Shaker Heights and Cleveland Heights, and to rebuild the Lower Shaker Lake Dam to

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meet ODNR criteria for a Class I dam, as a part of NEORSD's regional stormwater management plan, and all at NEORSD's cost; and

WHEREAS, this Council, with the concurrence of the Mayor, adopted Resolution No. 151-2021 on November 22, 2021, indicating the concurrence of the Cleveland Heights City Council in the same, above-described NEORSD proposal; and

WHEREAS, ODNR on March 29, 2023 performed a new inspection of Horseshoe Lake Dam and, on May 1, 2023, issued a Dam Safety Inspection Report for Horseshoe Lake Dam 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 (Horseshoe) Lake Dam **are no longer acceptable and if completed would not bring the dam into compliance**" (emphasis added); and

WHEREAS, the 2023 ODNR Report further states that in lieu of comprehensive reconstruction/remediation of the dam, the dam may be decommissioned; and

WHEREAS, in light of the 2023 ODNR Inspection Report, the Parties wish to amend the Agreement to accept the NEORSD's recommendation not to perform the Upper Shaker (Horseshoe) Lake aspect of the Project described in the Agreement, and instead, to decommission the Horseshoe Lake Dam and return the lake bed to its naturalized state, including streams, non-invasive vegetation, plantings, trees, and other amenities ("Doan Brook near Horseshoe Lake Restoration Project"); and

WHEREAS, the Parties agree that the Agreement will need to be further modified, or a separate agreement executed, once additional design details of the Doan Brook near Horseshoe Lake Restoration Project have been developed and components more specifically agreed upon among the Parties; and

WHEREAS, the 2018 Agreement provides in Section 12.1 that the Agreement may be modified by written instrument executed by each party; and

WHEREAS, for purposes of background and clarification only, NEORSD is also undertaking a separate project known as the "Lower Shaker Lake Dam Reconstruction Project", pursuant to separate project agreement among the Parties.

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

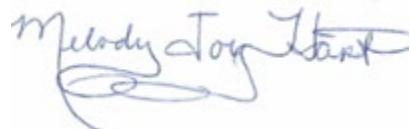
SECTION 1. The Mayor shall be and is hereby authorized to execute an amendment to the 2018 Regional Stormwater Project Agreement ("the Agreement") with the Northeast Ohio Regional Sewer District ("NEORSD") and the City of Shaker Heights

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for the Shaker Lakes Dams Rehabilitation Project, substantially in accordance with the draft Amendment on file with the Clerk of Council, subject to the final approval of 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 and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to amend the 2018 Regional Stormwater Project Agreement for the Shaker Lakes Dams Rehabilitation at the earliest possible time in order that the threats to public safety associated with the current condition of the dams be alleviated as soon as possible. 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 JOY HART  
President of the Council



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ADDIE BALLESTER  
Clerk of Council

PASSED: 06/20/2023

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Presented to Mayor: 06/21/2023

Approved: 06/21/2023



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KAHLIL SEREN  
Mayor