

EXHIBIT A

19-253
INTERGOVERNMENTAL AGREEMENT
between
COUNTY OF SUMMIT, OHIO
And
THE NORTH HILLS WATER DISTRICT
concerning
TWINSBURG ROAD CULVERT REPLACEMENT

THIS INTERGOVERNMENTAL AGREEMENT is made as of the date of final execution by the parties between the County of Summit, Ohio (the "County"), an Ohio county with its principal place of business located at 175 S. Main Street, Akron, Ohio 44308, acting for the Summit County Engineer, by its Executive, and the North Hills Water District, a municipal water utility, hereafter referred to the "District", with its principal place of business located at 253 W. Aurora Rd., Northfield, Ohio 44067

WITNESSETH:

WHEREAS, the County is removing and replacing Twinsburg Rd. Culvert #112-13461 located on Twinsburg Rd., approximately 200' west of Walters Rd. in Northfield Center Township and within the District's utility service area; and

WHEREAS, the District has requested the County to include in the planned construction project, the relocation and lowering of a water line under the culvert; and

WHEREAS, the County culvert design puts the District's water line below the proposed concrete headwall; and

WHEREAS, the District desires to relocate the water line; and

WHEREAS, the contractor will be hired by the County to perform the work; and

WHEREAS, by the North Hills Water District Resolution No.109-19, adopted May 30, 2019 the District's Board of Directors Chairman is authorized to enter into an agreement with the County for the herein described portion of this Project; and

WHEREAS, this Intergovernmental Agreement was authorized by County Council by the adoption of **County Council Resolution No. 2019-_____**; and

WHEREAS, it is necessary for the parties to execute this Intergovernmental Agreement to set forth the rights and duties of the parties concerning the construction contract and the payment of the contractor performing the work for the County and District.

NOW, THEREFORE, in consideration of the covenants and promises set forth below, the parties agree as follows:

1. Scope of Work and Responsibilities.

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1. Scope of Work and Responsibilities.

a. **Scope Of Work – Remove and Replace Culvert and Relocate Water Line.**

The Scope of Work covered by this Intergovernmental Agreement consists of the removal of and the construction of a new culvert under Twinsburg Rd., relocating the existing water line under the culvert located in the Northfield Center Township within the District's service area, in accordance with plans designed by the Summit County Engineer's Office (hereinafter referred to as the "Project"). Both parties have had the opportunity to review and approve the plans, which are considered to be fully incorporated herein by reference. The parties agree that the County will administer the Project including advertising, awarding, signing a contract with the winning contractor, and supervising the construction and testing phases of the Project, provided that the District shall be responsible for testing and inspections of the water line, as provided below. All work shall be prepared according to ODOT standards, District standards, and the Cleveland Water Department Standards. The District shall directly pay the contractor for those items of work and materials that are utilized to remove and install the water line. All work is to be performed by the low bid contractor as determined by the County.

b. **County Responsibilities**

The County shall include the necessary plan sheets, specifications and quantities in the County prepared bid package to obtain a competitively bid cost for the proposed work. The County shall bid, award, manage and inspect the Project, except as noted below. The County shall be responsible for the direct payment of the contractor for culvert removal and culvert construction items on a timely basis as defined in Terms of Payment.

Additionally, the County shall provide in the bid package and the construction contract that 1) the District is a third party beneficiary of the contract; 2) the contractor will be required to work directly with the District with respect to testing and inspections of the water line ; 3) the District will pay the contractor directly for the work related to the water line; 4) the District will have direct recourse against the contractor should a dispute arise with respect to the water line construction; 5) the District shall be indemnified by the contractor related to contractor's work on the Project; 6) the District will be listed as an additional insured on all contractor insurance policies related to the Project; and 7) the District shall have final approval of the contractor post-bid and pre-selection for contract award related to the water line construction portions of the Project.

c. **District Responsibilities**

The District shall provide all necessary labor and equipment to inspect and test the water line work performed on the Project to ensure proper completion of the Project. The District, in cooperation with the County, shall monitor the progress of the work and shall determine the amount of payment due the contractor for the water line work on a monthly basis. The District shall be responsible for the direct payment of the contractor for water line items on a timely basis as defined in Terms of Payment.

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d. Terms Of Payment

The County shall directly pay the contractor for expenses for the actual cost of the culvert removal and culvert replacement based on the unit costs bid and awarded by the County.

The District shall directly pay the contractor for expenses for the actual cost of the water line removal and relocation, based on the unit costs bid and awarded by the County.

The County will be responsible for any change orders that may be necessary to complete the work on the bridge.

The District will be responsible for any change orders that may be necessary to complete the work on the water line.

e. Dispute Resolution

In the event a dispute arises regarding this Intergovernmental Agreement, notification of such dispute shall be sent to the Construction Section Manager for the Summit County Engineer and a designated representative of the District, in writing, within 30 days of discovery of such dispute.

In such notification, the disputing party shall present such evidence as may support their position. Within a reasonable time, the representatives for each party shall review the facts and circumstances surrounding the dispute for the purpose of determination. Said dispute shall be resolved within a reasonable period of time. If the dispute cannot be resolved, either party may resort to its legal remedies.

f. Inspections

The County shall be responsible for the inspections of all work performed to the culvert and roadway by the contractor. The District shall be responsible for the inspections of all work performed to the water line by the contractor. All inspections shall be performed within 24 hours of the completion of the work requiring inspection.

g. Term

This Intergovernmental Agreement becomes effective upon signature by the parties, and will expire upon completion of the acceptance of the culvert replacement Project and upon the payment of the final invoice. This Agreement may be rescinded by either party prior to the awarding of construction contract for the Project, giving five (5) days written notice to the other party.

2. Relationship of Parties. The parties agree that at no time shall the relationship between the parties under this Intergovernmental Agreement be construed, held out or considered a joint venture or principal-agent.

3. Non-Discrimination. The County and District agree that in the hiring of employees for the performance of their duties under this Intergovernmental Agreement,

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the County, District or their subcontractors, or any person acting on the behalf of the County, District or their subcontractors, shall not discriminate by reason of race, creed, sex, disability, military status as defined in section 4112.01 of the Ohio Revised Code, color, gender identity as defined in Section 101.02(f) in the Codified Ordinances of the County of Summit and sexual orientation as defined in Section 101.02(r) in the Codified Ordinances of the County of Summit against any citizen of the State of Ohio in the employment of labor or workers who are qualified and available to perform the work to which the employment relates. The County and District further agree that the County, District, or their subcontractors, or any person on behalf of the County, District, or their subcontractors, in any manner, shall not discriminate against or intimidate any employee hired for the performance of duties under this Intergovernmental Agreement on account of race, creed, sex, disability, military status as defined in section 4112.01 of the Ohio Revised Code, color, gender identity as defined in Section 101.02(f) in the Codified Ordinances of the County of Summit and sexual orientation as defined in Section 101.02(r) in the Codified Ordinances of the County of Summit. The County and District certify that they do not maintain and they will not permit their employees from performing services at any segregated facilities. The County and District agree to comply with all applicable federal, state and local laws, orders, rules, and regulations, as amended, regarding discrimination.

4. Equal Opportunity Employer. The County and District expressly represent that they are Equal Employment Opportunity employers as defined in and are in compliance with all Equal Employment Opportunity statutes, rules, regulations, and executive orders and amendments.

5. Insurance. Each party acknowledges that it is responsible for providing its own insurance and/or requiring its vendor to procure appropriate insurance covering acts and negligence of the vendor.

6. Miscellaneous.

a. Integration. This Intergovernmental Agreement represents the entire and integrated agreement between the parties. This Intergovernmental Agreement supersedes all prior and contemporaneous communications, representations, understandings, agreements or contracts, whether oral or written, relating to the subject matter of this Intergovernmental Agreement.

b. Amendment and Waiver. This Intergovernmental Agreement may not be amended, supplemented, or waived except by a writing signed by the parties. The waiver of any particular right or claim does not constitute a waiver of any other right or claim. This Intergovernmental Agreement may be amended to achieve additional goals of the County and District with the written consent of the parties.

c. Assignment. Neither party shall assign its rights or delegate its duties under this Intergovernmental Agreement without the prior written consent of the other party. Subject to such consent, Intergovernmental Agreement shall be

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binding upon and for the benefit of the parties hereto, their successors and assigns.

d. Capacity to Execute. Each party hereby certifies that all actions necessary to execute this Intergovernmental Agreement were taken and that the person executing this Intergovernmental Agreement is authorized to do so and has the power to bind their respective party to the terms and conditions contained herein.

e. Review by Legal Counsel. Each party has had the opportunity to review this Intergovernmental Agreement with the assistance of legal counsel. Accordingly, the County and District agree that the rule of construction that any ambiguity in this Intergovernmental Agreement is to be construed against the drafting party is not applicable.

f. No Authority to Bind. Neither party has the power or authority to bind the other party to contracts or other obligations, except as provided herein.

g. Severability. If any provision of this Intergovernmental Agreement is found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Intergovernmental Agreement shall continue in full force and effect.

h. Force Majeure. No party shall be considered in default in the performance of any obligation hereunder, except the obligation to make payment, to the extent that the performance of such obligation is prevented or delayed by fire, flood, explosion, strike, war, insurrection, embargo, government requirement, civil or military authority, act of God, or any other event, occurrence or condition which is not caused, in whole or in part, by that party, and which is beyond the reasonable control of that party. The parties shall take all reasonable action to minimize the effects of any such event, occurrence or condition.

i. Reservation of Rights. A delay or failure in enforcing any right or remedy afforded hereunder or by law shall not prejudice or operate to waive that right or remedy or any other right or remedy, including any remedy for a future breach of this Intergovernmental Agreement, whether of a like or different character.

j. Notices. Every notice and demand required under the terms of this Intergovernmental Agreement shall be in writing and must be sent by certified mail, return receipt requested, or by other means of delivery requiring a signed receipt, to the other party's address as shown below. All notices are effective upon receipt. A party may change its address by giving written notice to the other party in accordance with this Section.

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With additional notice to:

Summit County Engineer
538 East South Street
Akron, Ohio 44311

Notices to the District

North Hills Water District
253 W. Aurora Rd.
Northfield, Ohio 44067
Attn: John K. Campbell, Chair, Board of Directors
With additional notice to:

Chagrin Valley Engineering
22999 Forbes Road, Suite B
Cleveland, Ohio 44146-5667
Attn: Michael E. Henry, P.E. – District Engineer

- k. Compliance. Each party agrees to comply with all applicable federal, state and local laws, orders, rules, and regulations.
- l. Ethics Compliance. Each party agrees to comply with Ohio Ethics Laws as listed in the Chapters 102 and 2921 of the Ohio Revised Code. By signing this Intergovernmental Agreement, each party certifies that it is unaware of any violations of these provisions and that the undersigned believes their respective entity is in compliance with these provisions.
- m. Governing Law. This Intergovernmental Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts of choice of laws.
- n. Forum. Any litigation arising under this Intergovernmental Agreement must be litigated in the Akron Municipal Court or the County of Summit Court of Common Pleas, and each party submits itself to the jurisdiction and venue of those courts.

(End of text. Execution on following page.)

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Intending to be legally bound, the parties have signed this Intergovernmental Agreement effective as of the date of final execution.

COUNTY OF SUMMIT, OHIO

By: Ilene Shapiro, Executive
Date: _____

Alan Brubaker, Summit County Engineer

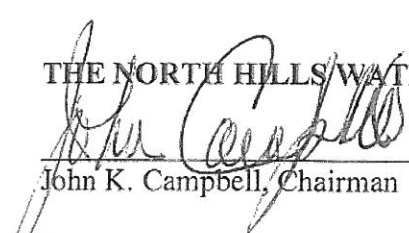
APPROVED AS TO FORM:

Marvin D. Evans, Assistant Prosecutor
For Summit County Prosecutor

APPROVED AS TO FORM:

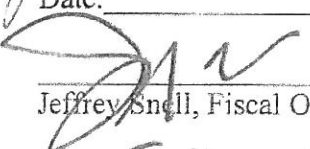
Deborah S. Matz
Director, Department of Law

THE NORTH HILLS WATER DISTRICT



John K. Campbell, Chairman

Date: _____



Jeffrey Snell, Fiscal Officer

Date: 5.30.19

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**NORTH HILLS WATER DISTRICT
RESOLUTION 109-19**

**A RESOLUTION TO ENTER INTO A INTRAGOVERNMENTAL
AGREEMENT BETWEEN THE COUNTY OF SUMMIT AND THE
NORTH HILLS WATER DISTRICT CONCERNING THE
TWINSBURG ROAD CULVERT REPLACEMENT**

WHEREAS, the North Hills Water District owns certain infrastructure on Twinsburg Road being a waterline; and

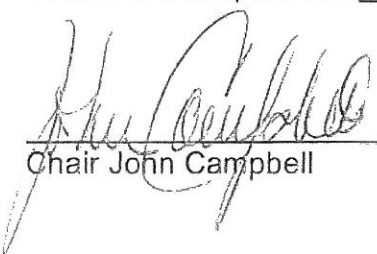
WHEREAS, the County Engineer is replacing a culvert number 112-1346 on Twinsburg Road, approximately 200 feet west of Walters Road in Northfield Center; and

WHEREAS, the North hills Water District desires to pay the additional cost to move said waterline out of the proposed concrete head wall;

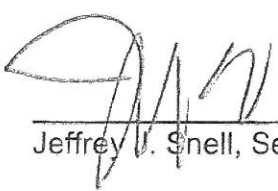
NOW, THEREFORE BE IT RESOLVED, by the Board of Trustees of the North Hills Water District that they authorize their Chair, John Campbell, to enter into the Intragovernmental Agreement between the county of Summit and the North Hills Water District concerning the Twinsburg Road Culvert Replacement Project such as North Hills water District will be responsible for the additional cost to move the water line as part of the County Project.

Roll call showed all in favor.

Resolution adopted this 26th day of May, 2019.



Chair John Campbell



Jeffrey V. Snell, Secretary/Fiscal Officer