

CURRENT DRAFT AS OF 11/15/11

EXHIBIT A

AMENDMENT

TO

AGREEMENT NO. 1677

BY AND BETWEEN

THE NORTHEAST OHIO REGIONAL SEWER DISTRICT

AND

THE COUNTY OF COUNTY, OHIO

11-484

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THIS AMENDMENT TO AGREEMENT NO. 1677 (the "Amendment") is made this ____ day of _____, 2011, by and between the Northeast Ohio Regional Sewer District (the "District"), a regional sewer district organized and existing as a political subdivision under Chapter 6119 of the Ohio Revised Code, acting pursuant to Resolution No. 263-11, adopted by the Board of Trustees of the District on November 3, 2011 (Exhibit "A"), and the County of Summit, Ohio ("Summit County"), a charter County organized and validly existing under the Ohio Revised Code and its Charter, acting pursuant to Resolution No. _____, adopted by the Summit County Council on _____, 2011 (Exhibit "B").

WHEREAS, on or around July 5, 1984, the District and Summit County entered into Agreement No. 1264 for the purpose of memorializing the terms and conditions under which the District would provide sanitary sewer services on a master meter basis to Summit County, including the requirement that Summit County pay for all charges based on eighty-percent (80%) of the metered flow; and

WHEREAS, on or around October 22, 1987, the parties entered into Agreement No. 1677, in order to expand the service area within Summit County under which the District provides sanitary sewer services to Summit County, essentially replacing Agreement No. 1264, and continuing the requirement that Summit County pay for all charges based on eighty-percent (80%) of the metered flow; and

WHEREAS, the parties from time to time supplemented Agreement No. 1677 to expand and modify the service area within Summit County under which the District

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provides sanitary sewer services to Summit County, and such supplemental agreements were numbered "1677-A" for reference purposes; and

WHEREAS, Summit County has requested the District modify the method under which Summit County is billed by the District for sanitary sewer service; and

WEREAS, the District is agreeable to modifying its billing method with respect to those areas of Summit County served by the District, as well as supplementing Agreement No. 1677 with additional terms and conditions that are desired by the parties.

NOW THEREFORE, in consideration of the mutual covenants set forth in this Amendment, and for other good, sufficient, and valuable consideration, the District and Summit County do hereby mutually covenant and agree to the following:

SECTION 1. It is the intention of the parties that Section 4 of Agreement No. 1677 be and is hereby amended to replace the existing language of paragraph (A) with the following:

"Summit County agrees that the sanitary sewage flow to the District's facilities shall be metered and billed at the rate of 80% of the metered flow through calendar year 2011, 70% of the metered flow during calendar year 2012, 65% of the metered flow during calendar year 2013, 60% of the metered flow during calendar year 2014, 55% of the metered flow during calendar year 2015, and 50% of the metered flow during calendar year 2016. Beginning in 2017 and continuing until modification or termination of this Agreement, sanitary sewer service charges shall be billed to Summit County based upon the quarterly quantity of metered water consumed by Summit County customers within the service area at the District's standard Subdistrict II rate per MCF. Such billing shall be in

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revenue and expenditures in as much detail as available from District's accounting system(s) on a year-end basis, not later than March 31st for the prior calendar year. At minimum, revenue and expenditures shall be provided by each account established in District's Financial System Chart of Accounts.

SECTION 4. A determination that any part of this Amendment is invalid shall not invalidate or impair the force or effect of any other part thereof, except to the extent that such other part is wholly dependent for its operation upon the part so declared invalid.

SECTION 5. The provisions of this Amendment are hereby incorporated into the Agreement as if fully rewritten therein. All terms used above shall be defined and construed in the manner set forth in the Agreement. Except as otherwise provided in, or as otherwise necessary or appropriate to give effect to the terms of the Amendment, all the provisions, terms and conditions contained in the Agreement and not inconsistent with this Amendment shall remain unchanged and in full force and effect.

SECTION 6. This Amendment includes the exhibits attached hereto, all of which are made fully a part of this Amendment as if fully written herein:

1. Exhibit "A" - Northeast Ohio Regional Sewer District Resolution No. 263-11
2. Exhibit "B" - Summit County Resolution No. _____

SECTION 7. The parties acknowledge that certain litigation is ongoing involving the parties and some communities within Summit County regarding the District's jurisdiction and/or service area for surface water management in Summit County. The parties agree that this Amendment shall not be used or construed in any way to establish or evidence the District's jurisdiction or service area for surface water management within Summit County or the County's acknowledgement of or consent to the same.

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Summit County and the District, through their authorized officers, have executed this Amendment to the Agreement No. 1677 as of the day and year first stated above.

COUNTY OF SUMMIT

BY: _____
Russell M. Pry
County Executive

DATE: _____

BY: _____
David E. Marquard, P.E., P.S.
Director of Environmental Services

DATE: _____

**The legal form and correctness
of this Instrument is approved:**

Deborah S. Matz
Director of Law
County of Summit

Date

**THE NORTHEAST OHIO REGIONAL SEWER
DISTRICT**

BY: _____
Julius Ciaccia
Executive Director

DATE: _____

BY: _____
Darnell Brown, President
Board of Trustees

DATE: _____

**The legal form and correctness
of this Instrument is approved:**

**MARLENE SUNDHEIMER
DIRECTOR OF LAW**

Katarina K. Waag
Assistant Director of Law
Northeast Ohio Regional Sewer District

Date