



OFFICE OF THE CLERK OF COUNCIL

Sara Biviano
Clerk of Council

Michelle Rhodes
Deputy Clerk of Council

March 8, 2023

Assistant Attorney General
Environment and Natural Resources
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

Re: United States v. City of Akron, Ohio, et al., D.J. Ref. No. 90-5-1-1-3144/2

Dear Assistant Attorney General:

This letter is being submitted in response to the above referenced public notice, which was published in the Federal Register on February 17, 2023, and to express support for the Third Amendment to Consent Decree (Third Amendment) between the City of Akron, the United States and the State of Ohio, which was lodged with the United States District Court for the Northern District of Ohio in Case No. 5:09-cv-00272 February 13, 2023. The Third Amendment provides for several specific benefits to our community and to the Cuyahoga River.

The proposed Third Amendment will allow the City of Akron to substitute the currently required 24-ft diameter (23 million gallons) Northside Interceptor Tunnel with a smaller 16-ft diameter (10.3 million gallons) tunnel along with the separation of the CSO Rack 34 drainage area.

- Akron has demonstrated through its extensive flow monitoring and advanced modeling, that reflects the completion of previous projects, that the smaller 16-ft diameter Northside Tunnel (10.3 million gallons) exceeds the performance required to achieve no CSO overflows in the modeled typical year.
- Akron also determined that a portion of the sewer drainage area (CSO Rack 34) could be effectively separated (building new storm sewer and rehabilitating the combined sewer to a sanitary sewer). This will eliminate all overflows in this CSO Rack 34 area.

Additional benefits to the Third Amendment include:

- Earlier reductions in combined sewer overflows.
- Upgrades to the Rack 34 drainage area sewers that will result in reductions in clean water connections to the sewer.
- Reduction in the risk of construction delays with the smaller tunnel and tunnel connections.



- In the areas of construction for the CSO Rack 34 area, drinking water lead service connections will be removed.
- Based on the most recent detailed design, the difference between the two tunnels sizes has an **estimated construction cost savings of around \$66 million**. This cost savings will provide some relief to the rate payers that are bearing the significant cost of the remaining Consent Decree requirements.

Please see attached Resolution No. 55-2023 passed by Akron City Council on March 6, 2023.

Sincerely,



Sara R. Biviano
Clerk of Council

Enclosure

cc: City of Akron, 166 S. High St., Room 701, Akron, OH 44308 Attn: Patrick Gsellman, Senior Advisor AWR

March 3, 2023

2023 MAR -3 PM 12:00

AKRON CITY COUNCIL

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Connor
absentOffered by: MAYOR HARRIGAN

COUNCIL AS A WHOLE

MOSLEY HOLLAND

RESOLUTION NO. 55 - 2023 expressing support for the mission of Akron Waterways Renewed (AWR) to invest in Akron's environmental future by building infrastructure for the next century that will protect public health and maintain water of the highest quality in the most cost-effective manner while providing local jobs for the citizens of Akron; expressing support for the proposed Third Amendment to the 2014 Consent Decree as lodged by the United States with the United States District Court for the Northern District of Ohio in Case No. 5:09-cv-00272 on February 13, 2023; and declaring an emergency

WHEREAS, the City of Akron signed a Consent Decree with the United States Environmental Protection Agency (USEPA) and the Ohio Environmental Protection Agency (OEPA), which was entered by the Court in 2014; and

WHEREAS, part of the 2014 Consent Decree requires the construction of a Northside Interceptor Tunnel to meet the performance criteria of no combined sewer overflows in the typical year; and

WHEREAS, on February 13, 2023, a proposed amendment to the 2014 Consent Decree (the Proposed Third Amendment) was lodged with the court and is subject to a 30-day public comment period from February 17, 2023, to March 20, 2023; and

WHEREAS, the Proposed Third Amendment substitutes the requirement to build the oversized 23-million-gallon Northside Interceptor Tunnel with a tunnel that has a minimum storage volume of 10.3 million gallons and the separation of the CSO Rack 34 drainage area; and

WHEREAS, the alternative projects still exceed the performance criteria of no combined sewer overflows in the typical year; and

WHEREAS, the modification request involving the Third Amendment demonstrates a solid approach and application of cost-effective model based technical solutions based on advanced modeling and changed circumstance that also provide equal or better environmental benefits; and

WHEREAS, the overall impact to the community and our environment need to be considered when evaluating Akron's investment in its environmental future and the Third Amendment results in less negative impact on the community through cost savings and provides greater environmental benefit, earlier reductions in combined sewer overflows, complete elimination of the CSO Rack 34 overflows, reduction in the risk of construction delays with a smaller tunnel and connections, and removal of lead services in the CSO Rack 34 construction area; and

WHEREAS, the 10.3-million-gallon tunnel will result in an estimated tunnel cost savings of around \$66 million all without altering the deadlines in the Consent Decree.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Akron:

Section 1. That the Council hereby expresses continued support for the mission of Akron Waterways Renewed to invest in Akron's environmental future by building infrastructure for the next century that will protect public health and maintain water of the highest quality in the most cost-effective manner while providing local jobs.

Section 2. That the Council hereby expresses support for the Proposed Third Amendment to the 2014 Consent Decree as lodged with the United States District Court on February 13, 2023.

Section 3. That the Council hereby expresses support of (1) a 10.3-million-gallon Northside Interceptor Tunnel and (2) the separation of the CSO Rack 34 drainage area as proposed in Third Amendment because, among other reasons, these projects will exceed the requirement of no combined sewer overflows in the typical year and have an estimated savings of \$66 million in tunnel costs.

Section 4. That the Clerk of Council be and is hereby authorized and directed to forward a copy of this resolution to the Assistant Attorney General, United States Department of Justice in response to the public notice of the Third Amendment.

Section 5. That this resolution is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare for the reason that it is necessary and appropriate for Council to express its support for the Proposed Third Amendment to the 2014 Consent Decree in order to reduce the financial burden on ratepayers and allow the City to achieve long-term sustainability, and provided this resolution receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed March 6, 2023

Dana R. Biviano
Clerk of Council

Raymond J. Amundson
President of Council

Approved 3/8, 2023

[Signature]
MAYOR