

**Capital Improvement Community Park, Recreation/Conservation Project
Pass Through Grant Agreement
Ohio Department of Natural Resources**

This Community Recreation/Conservation Project Pass Through Agreement (hereinafter referred to as the "Agreement") is made and entered into by and between the State of Ohio, Department of Natural Resources, (hereinafter referred to as "State" or "ODNR"), acting by and through its director, pursuant to Sections 154.17, 154.22 and 1501.01 of the Ohio Revised Code ("ORC") and Senate Bill No. 310, 133rd General Assembly of the State of Ohio and the Village of New Richmond, an Ohio political subdivision (hereinafter referred to as "Grantee") acting by and through its authorized representative.

Notices: All notices, demands, requests, consents, approvals and other communications required or permitted to be given pursuant to the terms of this Agreement shall be in writing, and shall be deemed to have been properly given when: 1) hand delivered with delivery acknowledged in writing; 2) sent by U.S. Certified mail, return receipt requested, postage prepaid; 3) sent by overnight delivery service (Fed Ex, UPS, etc.) with receipt; or 4) sent by fax or email, and shall be respectively addressed as follows:

(a) with respect to ODNR:

Ohio Department of Natural Resources
Office of Real Estate
2045 Morse Road, E2
Columbus, Ohio 43229
Attn: Program Manager
Email: timothy.robinson@dnr.ohio.gov

(b) with respect to the Project Grantee:

Village of New Richmond
102 Willow Street
New Richmond, Ohio 45157

Attn: Administrator
Email: groberts@newrichmond.org

Notices shall be deemed given upon receipt thereof and shall be sent to the addresses appearing above. Notwithstanding the foregoing, notices sent by fax or email shall be effectively given only upon acknowledgement of receipt by the receiving party. The parties designated above shall each have the right to specify as their respective address for purposes of this Agreement any other address upon fifteen (15) days prior written notice thereof, as provided herein, to the other parties listed above. If delivery cannot be made at any address designated for notices, a notice shall be deemed given on the date on which delivery at such address is attempted.

WHEREAS, pursuant to Senate Bill No. 310, the 133rd General Assembly of the State of Ohio has appropriated funds in the amount of Twenty Five Thousand Dollars (\$25,000.00) to make a grant to the Grantee for the costs associated with the construction of a park and recreation or conservation facility in appropriation item C725E2, more fully described in as 'New Richmond Liberty Landing Park', (hereinafter referred to as "Project"). Furthermore, \$500.00 of the total Project appropriations will be used by the ODNR for the administration of the Project. The Project reference number is **CLER-010C**; and

WHEREAS, the General Assembly has identified the Parks and Recreation Improvement Fund (Fund 7035), created and existing under ORC section 154.22(F), as the fund from which these monies will be disbursed; and

only restrictions of record with respect to the Property are (a) any state of facts which an accurate survey might show, (b) all zoning regulations, restrictions, rules and ordinances, and other laws and regulations now in effect or hereafter adopted by any governmental agencies having jurisdiction over the Property and (c) all matters of record pertaining to the Property, including dedicated public rights-of-way and the items identified on said Exhibit B, 'Boundary Map. Grantee hereby represents and warrants that there are not now, and Grantee shall not cause there to be, any restrictions of record with respect to the Project or Property, including without limitation, any encumbrances, liens, or other matters, which would interfere with or otherwise impair the use of the Property as a public park and recreation or conservation facility.

5. CONSTRUCTION SERVICES. Grantee represents that it will contract for all construction services for the Project and will provide construction administration. Grantee shall have the full authority to contract with third parties for the design and construction of the Project. Grantee shall secure all necessary permits and licenses for the Project. Grantee warrants that it will cause the Project to be constructed or acquired, as applicable, with all reasonable speed and reasonably adhere to any submitted development timeline.

6. OPERATION, MAINTENANCE, AND UPKEEP. Grantee shall be solely responsible for the operation, maintenance, and upkeep of the Project, and shall take all actions reasonably necessary to ensure that the Project is available to the public for the intended parks and recreation or conservation purpose during the Term. Failure to comply with this provision or any other provision of this Agreement may result in demand for repayment of all or a portion of the grant funds paid by ODNR to Grantee under this Agreement. The amount to be repaid will be calculated based on the ratio of (x) the number of months from the event triggering the reimbursement to the final scheduled maturity date of the Bonds over (y) the total number of months that the Bonds are scheduled to be outstanding. Grantee shall not make any grant repayment unless first consulting with ODNR, and ODNR shall not accept any repayment without first obtaining the approval of the Ohio Public Facilities Commission ("OPFC").

7. REMITTANCES. If for any reason funds acquired through this Agreement are required to be paid, repaid, or remitted to the State, they shall be remitted in full by the Grantee within forty-five (45) days of demand to:

Ohio Treasurer of State
30 East Broad Street, 9th Floor
Columbus, Ohio 43215

8. COPY WITH REMITTANCE. Any such remittance pursuant to Section 7 above shall include a copy of this Agreement. A copy of the cover letter transmitting the remittance to the Treasurer of State shall be sent simultaneously to ODNR.

9. CONVEYANCE OF INTEREST IN PROJECT TO ODNR. As security for the performance of Grantee's obligations under this Agreement, Grantee hereby conveys to ODNR an interest in the Property, consisting of the right to use and occupy the Property and the facilities funded in whole or in part with grant funds under this Agreement upon default of this Agreement by Grantee. This interest shall be in effect during the Term of this Agreement. Grantee hereby

Instead of providing the general liability and casualty insurance above, Grantee may name ODNR, OPFC, the Treasurer and the State as additional insured and/or loss payees, as the coverage requires, under a self-insurance program or joint self-insurance pool created under ORC Sections 2744.08 or 2744.081, respectively, and operated by or on behalf of Grantee, in order to meet the insurance requirements, set forth herein.

13. BONDED AND INSURED EMPLOYEES AND AGENTS. Prior to release of advance funds by ODNR, Grantee will provide ODNR with a document that demonstrates that all employees or agents of Grantee who are responsible for maintaining or disbursing funds acquired through this Agreement will be fully bonded or insured against loss of such funds. The bonding agent or insurer shall be licensed to do business in Ohio. No part of the funds acquired by Grantee through this Agreement shall be spent to obtain that bonding or insurance.

14. PUBLIC FUNDS COMPLIANCE. Grantee will assure compliance with all applicable federal, state, and local laws and regulations pertaining to handling, management, and accountability in relation to public funds. All funds received by Grantee under this Agreement shall be deposited in one or more financial institutions that fully insure, secure, or otherwise protect the funds from loss through federal deposit insurance and/or other deposit and/or collateralization strategies that protect the funds against loss. If Grantee is a political subdivision of the State, grant funds shall be held in compliance with ORC Chapter 135.

15. REPORTS AND RECORDS. Grantee will keep and make all reports and records associated with the Project funded under this Agreement available to the State Auditor, or the Auditor's designee, ODNR and OPFC for a period of not less than eighteen (18) years after the date of Project closeout. These reports and records shall include a description of the Project, a detailed overview of the scope of work, and disbursement detail (including amount, date, nature/object of expenditure), and vendor information. Grantee acknowledges that the Auditor of State and other departments, agencies, and officials of the State may audit the Project at any time, including before, during and after completion. Grantee agrees that any costs of audit by the Auditor of State or any other department, agency or official of the State will be borne exclusively by and paid solely by Grantee, and that the funds provided under this Agreement will not be used by Grantee for payment of any audit expenses for any reason at any time. Grantee will be solely responsible for all costs associated with audit.

16. RESTRICTIONS ON EXPENDITURES. Grantee affirmatively states that Grantee is fully aware of the restrictions and guidelines for expending funds granted under this Agreement and intends to comply fully with same. Grantee will implement appropriate monitoring controls to ensure that funds acquired through this Agreement are expended in accordance with all applicable laws, rules, and requirements.

17. DETERMINATION OF INELIGIBILITY. If it is determined by an audit by the Auditor of State or any department, agency or official of the State or other agency or entity with legal audit authority that any Project expense is ineligible, or not properly documented, Grantee will repay that amount in full to the State.

24. LEGAL, FEDERAL TAX, AND OTHER COMPLIANCE. The Grantee will assure that monies expended under this Agreement are spent in conformity with the intent and purpose of the appropriation, the limitations on use set forth in the bill containing the appropriation, and ORC Chapter 154 and all other laws that apply to expenditure of monies by Grantee. If Grantee is required to submit an annual financial report to the Auditor of State, in accordance with Auditor of State Bulletin 2015-07, then Grantee shall report the funds it acquires through this Agreement as a separate column identified in a manner consistent with the Project description in appropriation item C725E2. If Grantee is not required to submit the aforementioned report, Grantee shall file an annual detailed expenditure report of all expenditures associated with the Project with the Auditor of State by March 1st every year until all funds provided in this Agreement have been spent. The above reports shall be filed in accordance with Auditor of State Bulletin 2015-07.

Grantee agrees to comply with all applicable federal, state and local laws and regulations, in the conduct of the Project and acknowledges that its employees are not employees of ODNR with regard to the application of the Ohio Public Employees Retirement law, Fair Labor Standards Act minimum wage and overtime provisions, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Ohio revenue and tax laws, Ohio Workers' Compensation Act and Ohio unemployment compensation law.

Grantee agrees to use funds provided under this Agreement in accordance with the Ohio Constitution and any state or federal laws and regulations that may apply. Grantee shall repay ODNR any funds improperly expended. Additionally, Grantee agrees to comply with all requirements within its control necessary to preserve the tax status of all tax-exempt or tax-advantaged bonds, the proceeds of which are used to provide the funding to Grantee set forth in this Agreement. Unless otherwise determined by the OPFC, such requirements include, but are not limited to, ensuring that the funds provided under this Agreement finance capital expenditures (as opposed to operating expenses) and are not used to refund or otherwise refinance existing debt of Grantee. Grantee shall be liable for any payments to the Internal Revenue Service or the U.S. Treasury as penalties or to preserve the tax status of tax-exempt or tax-advantaged bonds, and any other costs, resulting in whole or in part from actions taken by Grantee, including the failure of Grantee to comply with federal income tax laws applicable to such bonds. Grantee agrees to consult with OPFC if the Grantee is uncertain as to what expenditures are eligible to be financed with funds provided under this Agreement.

25. CAMPAIGN CONTRIBUTIONS Grantee hereby certifies that neither it, nor any person described in R.C. § 3517.13 (I) or (J), nor the spouse of any such person, has made, as an individual, within the two previous calendar years, one or more contributions to the governor or the governor's campaign committees totaling in excess of the limitations specified in R.C. § 3517.13..

26. EQUAL OPPORTUNITY COMPLIANCE. If Grantee is a political subdivision, Grantee shall comply with the requirements of ORC 125.111 for all contracts for purchases under the Project.

27. MODIFICATION. This Agreement may be modified if agreed to in writing by both parties.

specifically agreed upon in writing by the parties hereto. This Agreement supersedes any and all previous agreements, whether written or oral, between the parties.

- f. Execution. This Agreement is not binding upon ODNR unless executed in full.
- g. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.
- h. Electronic Signatures. Any party hereto may deliver a copy of its counterpart signature page to this Agreement electronically pursuant to ORC Chapter 1306. Each party hereto shall be entitled to rely upon an electronic signature of any other party delivered in such a manner as if such signature were an original.

32. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement.

33. OPEN TRADE: Pursuant to ORC Section 9.76 (B) Grantee warrants that the Grantee is not boycotting any jurisdiction with whom the State can enjoy open trade, including Israel, and will not do so during the contract period.

IN TESTIMONY WHEREOF, Grantee and ODNR have caused this Agreement to be executed by their respective duly authorized officers.

FOR THE GRANTEE:



Signature

Printed Name: Greg Roberts

Printed Title: Village Administrator

FOR THE STATE OF OHIO, ODNR:

John Kessler

**Chief, Office of Real Estate & Land
Management**

Ohio Department of Natural Resources

Date: _____

EXHIBIT A

PROJECT INFORMATION PACKAGE

Forms and requested materials (maps, etc.) on pages 3-11 comprise the '**Project Information Package**'. Please complete all forms on pages 3-11 and send with all other requested materials on pages 3 -11 (only) to the address below. This is the first step in the project coordination process.

Tim Robinson
ODNR
Office of Real Estate
2045 Morse Road, E2
Columbus, Ohio 43229-6693



BASIC INFORMATION

1. Awarded Project Sponsor: Village of New Richmond
2. Address, including zip code:
102 Willow Street
New Richmond, OH 45157
3. Tax Identification Number: 31-6001077
4. Telephone Number: 513 553 4146
5. Contact Person & Title: Greg Roberts Administrator
6. Email: groberts@newrichmond.org
7. Telephone Number: 513 553 4146
8. Brief Description of Project:

Our award will be earmarked towards the planning and design of our Liberty Landing Riverfront project including designing ADA compliance for access to the Showboat Majestic riverboat. Our intention would be to refine our initial Liberty Landing Park proposal with more extensive engineering design work to enhance and be more "shovel ready" for a future capital budget proposal and/or other grant funding opportunities.

RESOLUTION 2021-18

VILLAGE OF NEW RICHMOND, OHIO

Council for the Village of New Richmond, Ohio met in regular session this 28th day of September, 2021 with the following members present:

Richard Feldkamp yes
Mary Allen yes

Melanie Slade yes
Larry Prues yes

Becky Ploucha yes
Gary Skeene yes

Councilperson Skeene moved for adoption of the following:

A RESOLUTION AUTHORIZING THE VILLAGE ADMINISTRATOR, VILLAGE OF NEW RICHMOND, TO ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES (ODNR) FOR A CAPITAL IMPROVEMENT COMMUNITY PARK, RECREATION/CONSERVATION PROJECT AND PASS THROUGH GRANT ADMINISTRATION

WHEREAS, the Village of New Richmond is desirous of receiving funding for capital improvement projects for community parks; and,

WHEREAS, the Liberty Landing Park Project is a community park project eligible to receive federal and state funding; and

WHEREAS, the Village of New Richmond has received funding approval for the project listed above from the Program Manager having responsibility for the federal/state funds involved; and

WHEREAS, it is in the mutual best interest of both ODNR and the Village to enter into an agreement for the dispersal of allocated funds for the design and administration of the project; and,

NOW THEREFORE, be it resolved by the Village Council of the Village of New Richmond State of Ohio that:

SECTION I

The Council of the Village of New Richmond hereby authorizes the Village Administrator to enter into an agreement with ODNR (attached as Exhibit A”) for the above mentioned project.

SECTION II

That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare; the reason for the emergency being the filing deadline of November 21, 2021 and shall therefore take effect and be in effect immediately upon passage.

SECTION III

Following a three-fourths majority vote, the Council hereby dispenses with

The requirement that this resolution be read on two other separate days and authorizes the adoption of this resolution upon its first reading.

SECTION IV

That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were taken in meetings open to the public in compliance with all legal requirements including § 121.22 of the Ohio Revised Code and that this resolution shall take effect at the earliest period allowed by law.

Councilperson Prues seconded the motion to adopt the foregoing Resolution and upon roll call the vote was as follows:

Richard Feldkamp Yes
Mary Allen Yes
Larry Prues Yes
Melanie Slade Yes
Becky Ploucha Yes
Gary Skeene Yes

First Reading: 9/08/2021

Second Reading: _____

Third Reading: _____

ADOPTED: 9/28/2021

Attest:

Kathy Fuchs
Kathy Fuchs, Clerk of Council

Glenn Ewing
Glenn Ewing, Mayor

Approved as to form:

Scott Solmann
Scott Solmann, Solicitor

CERTIFICATE

I hereby certify this to be a true and correct copy of Resolution 2021-18 passed at a meeting of the Council of the Village of New Richmond on this 28th day of September, 2021.

Kathy Fuchs
Kathy Fuchs, Clerk of Council

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Pass Through Grant Agreement
Ohio Department of Natural Resources**

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Office of Real Estate
2045 Morse Road, E2
Columbus, Ohio 43229
Attn: Program Manager
Email: timothy.robinson@dnr.ohio.gov

(b) with respect to the Project Grantee:

Village of New Richmond
102 Willow Street
New Richmond, Ohio 45157

Attn: Administrator
Email: groberts@newrichmond.org

Notices shall be deemed given upon receipt thereof and shall be sent to the addresses appearing above. Notwithstanding the foregoing, notices sent by fax or email shall be effectively given only upon acknowledgement of receipt by the receiving party. The parties designated above shall each have the right to specify as their respective address for purposes of this Agreement any other address upon fifteen (15) days prior written notice thereof, as provided herein, to the other parties listed above. If delivery cannot be made at any address designated for notices, a notice shall be deemed given on the date on which delivery at such address is attempted.

WHEREAS, pursuant to Senate Bill No. 310, the 133rd General Assembly of the State of Ohio has appropriated funds in the amount of Twenty Five Thousand Dollars (\$25,000.00) to make a grant to the Grantee for the costs associated with the construction of a park and recreation or conservation facility in appropriation item C725E2, more fully described in as 'New Richmond Liberty Landing Park', (hereinafter referred to as "Project"). Furthermore, \$500.00 of the total Project appropriations will be used by the ODNR for the administration of the Project. The Project reference number is **CLER-010C**; and

WHEREAS, the General Assembly has identified the Parks and Recreation Improvement Fund (Fund 7035), created and existing under ORC section 154.22(F), as the fund from which these monies will be disbursed; and

WHEREAS, pursuant to ORC Chapter 154 and Article VIII Section 2i of the Ohio Constitution, capital facilities lease-appropriation bonds (the “Bonds”) have been or will be issued by the Ohio Treasurer of State (the “Treasurer”) for the purpose of paying the “costs of capital facilities” including acquiring, constructing, reconstructing, rehabilitating, renovating, enlarging and otherwise improving, equipping and furnishing capital facilities for parks and recreation, all as defined and described in ORC Section 154.01(K). A portion of those Bond proceeds will be used by ODNR to provide funding to the Grantee for the Project under this Agreement. Because ODNR is funding the Project with proceeds of those Bonds, ODNR requires that the Grantee make certain representations, warranties, and covenants (both affirmative and negative) concerning the Project and use of the grant funds, as more fully described, or provided in this Agreement, in order to comply with federal and state laws, regulations and rules relating to those Bonds and the projects funded with proceeds of those Bonds;

NOW THEREFORE, for the purposes of providing the funds to the Grantee pursuant to Senate Bill No. 310 of the 133rd General Assembly, the parties hereto covenant and agree as follows:

1. FUNDING AMOUNT. ODNR agrees to provide the Grantee Twenty Four Thousand Five Hundred Dollars (\$24,500.00), via qualifying advance and reimbursement, to be used toward the total cost of the Project. Five Hundred Dollars (\$500.00) of the amount appropriated for the Project will be retained by ODNR to cover administrative cost. In no event shall ODNR’s payment to Grantee exceed Twenty Four Thousand Five Hundred Dollars (\$24,500.00). Funds for this Project have been released by the Controlling Board as of _____ and encumbered by Contract Encumbrance Record Number _____ and are so certified by the Director of Budget and Management on _____. Obligations of the State are subject to the provisions of ORC Section 126.07. Any funds provided under this Agreement that are not spent shall be returned in full to the State.

2. PROJECT DESCRIPTION. The Grantee shall use the grant funds for ‘New Richmond Liberty Landing Park’, a project to plan and design a riverfront project in Liberty Landing Park in New Richmond, OH, all as more fully described in Exhibit A attached hereto.

3. EFFECTIVE AND TERMINATION DATES. This Agreement commences on the date that it is approved by ODNR(the “Effective Date”) and will, unless otherwise earlier terminated as provided herein, expire on the later of: (i) 15 years from the date of Project completion (or Project acquisition if the Project is solely real property acquisition); or (ii) the date upon which the latest Bond issuance funding or refinancing of the Project is paid in full (the “Term”). Grantee shall complete the Project on or before June 30th, 2022.

4. NO RESTRICTIONS OF RECORD. Grantee hereby represents and warrants that there are not now, and there will not be, any restrictions of record with respect to the Project, including without limitation, any encumbrances, liens, or other matters, which would interfere with or otherwise impair the use of the property as described on Exhibit B attached hereto, on which the Project will be located and developed as a public parks and recreation or conservation facility (the “Property”). Grantee represents that it is the fee simple owner, or has a lease, exclusive easement or cooperative use agreement with a term longer than the Term hereof, on the Property and that the

only restrictions of record with respect to the Property are (a) any state of facts which an accurate survey might show, (b) all zoning regulations, restrictions, rules and ordinances, and other laws and regulations now in effect or hereafter adopted by any governmental agencies having jurisdiction over the Property and (c) all matters of record pertaining to the Property, including dedicated public rights-of-way and the items identified on said Exhibit B, 'Boundary Map.

Grantee hereby represents and warrants that there are not now, and Grantee shall not cause there to be, any restrictions of record with respect to the Project or Property, including without limitation, any encumbrances, liens, or other matters, which would interfere with or otherwise impair the use of the Property as a public park and recreation or conservation facility.

5. CONSTRUCTION SERVICES. Grantee represents that it will contract for all construction services for the Project and will provide construction administration. Grantee shall have the full authority to contract with third parties for the design and construction of the Project. Grantee shall secure all necessary permits and licenses for the Project. Grantee warrants that it will cause the Project to be constructed or acquired, as applicable, with all reasonable speed and reasonably adhere to any submitted development timeline.

6. OPERATION, MAINTENANCE, AND UPKEEP. Grantee shall be solely responsible for the operation, maintenance, and upkeep of the Project, and shall take all actions reasonably necessary to ensure that the Project is available to the public for the intended parks and recreation or conservation purpose during the Term. Failure to comply with this provision or any other provision of this Agreement may result in demand for repayment of all or a portion of the grant funds paid by ODNR to Grantee under this Agreement. The amount to be repaid will be calculated based on the ratio of (x) the number of months from the event triggering the reimbursement to the final scheduled maturity date of the Bonds over (y) the total number of months that the Bonds are scheduled to be outstanding. Grantee shall not make any grant repayment unless first consulting with ODNR, and ODNR shall not accept any repayment without first obtaining the approval of the Ohio Public Facilities Commission ("OPFC").

7. REMITTANCES. If for any reason funds acquired through this Agreement are required to be paid, repaid, or remitted to the State, they shall be remitted in full by the Grantee within forty-five (45) days of demand to:

Ohio Treasurer of State
30 East Broad Street, 9th Floor
Columbus, Ohio 43215

8. COPY WITH REMITTANCE. Any such remittance pursuant to Section 7 above shall include a copy of this Agreement. A copy of the cover letter transmitting the remittance to the Treasurer of State shall be sent simultaneously to ODNR.

9. CONVEYANCE OF INTEREST IN PROJECT TO ODNR. As security for the performance of Grantee's obligations under this Agreement, Grantee hereby conveys to ODNR an interest in the Property, consisting of the right to use and occupy the Property and the facilities funded in whole or in part with grant funds under this Agreement upon default of this Agreement by Grantee. This interest shall be in effect during the Term of this Agreement. Grantee hereby

acknowledges and agrees that ODNR may assign or convey such right to use and occupy such facilities to the OPFC or such other State agency selected by ODNR, and Grantee does hereby consent to such assignment or conveyance. In addition, ODNR has entered into a lease with OPFC relating to the Bonds and the Project; provided that so long as Grantee shall not default under this Agreement, such lease shall not affect the Project or the use thereof. ODNR acknowledges that, absent a default by Grantee, ODNR has no right to use or occupy the Property or Project. ODNR shall have the right during the Term hereof to enter upon the Property during normal business hours for purposes of inspection of the Project for compliance with this Agreement.

10. PROHIBITION AGAINST DISPOSITION. Grantee shall not dispose of all or any part of the Property funded by ODNR through the Term of this Agreement without the prior written consent of ODNR and OPFC. All notices, demands, requests, consents, approvals, and other communications to OPFC shall be addressed as follows:

Ohio Public Facilities Commission
30 East Broad Street, 34th Floor
Columbus, Ohio 43215
Attn: Assistant Secretary

11. LIABILITY; WAIVER OF LIABILITY. Grantee shall be solely liable for any and all claims, demands, or causes of action arising from its obligations under this Agreement. Each party to this Agreement must seek its own legal representative and bear its own costs, attorney fees and expenses, in any litigation that may arise from the performance of this Agreement. It is specifically understood and agreed that ODNR does not indemnify Grantee. Nothing in this Agreement shall be construed to be a waiver of the sovereign immunity of the State of Ohio or the immunity of any of its employees or agents for any purpose. In no event shall ODNR be liable for indirect, consequential, incidental, special, liquidated, or punitive damages, or lost profits. On and after the date of this Agreement, Grantee agrees not to seek any determination of liability against ODNR, OPFC, the Treasurer or any department, agency or official of the State in the case of claim or suit arising from the Project including acquisition of the Property or any future condition, construction, operation, maintenance or use of the Property or facilities which may be developed in relation to the Project. Grantee forever releases and waives any and all claims, demands and causes of action it may ever possess or assert against ODNR and its employees, agents, officials, and attorneys arising from, or relating to, the Project.

12. INSURANCE. Unless otherwise agreed by ODNR, Grantee shall maintain, or cause to be maintained, at no cost to ODNR, commercial general liability insurance and other insurance, including, casualty insurance, and if applicable, professional liability insurance and builder's risk insurance, to insure ODNR, OPFC, the Treasurer and the State in an amount and type determined by a qualified risk assessor to be sufficient to cover the full replacement costs of improvements funded, in whole or in part, by the State, and for bodily injury, property damage, personal injury, advertising injury and employer's liability exposures of Grantee. Unless otherwise agreed by ODNR, such insurance shall remain in force at all times from the Effective Date hereof through the Term of this Agreement.

Instead of providing the general liability and casualty insurance above, Grantee may name ODNR, OPFC, the Treasurer and the State as additional insured and/or loss payees, as the coverage requires, under a self-insurance program or joint self-insurance pool created under ORC Sections 2744.08 or 2744.081, respectively, and operated by or on behalf of Grantee, in order to meet the insurance requirements, set forth herein.

13. BONDED AND INSURED EMPLOYEES AND AGENTS. Prior to release of advance funds by ODNR, Grantee will provide ODNR with a document that demonstrates that all employees or agents of Grantee who are responsible for maintaining or disbursing funds acquired through this Agreement will be fully bonded or insured against loss of such funds. The bonding agent or insurer shall be licensed to do business in Ohio. No part of the funds acquired by Grantee through this Agreement shall be spent to obtain that bonding or insurance.

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16. RESTRICTIONS ON EXPENDITURES. Grantee affirmatively states that Grantee is fully aware of the restrictions and guidelines for expending funds granted under this Agreement and intends to comply fully with same. Grantee will implement appropriate monitoring controls to ensure that funds acquired through this Agreement are expended in accordance with all applicable laws, rules, and requirements.

17. DETERMINATION OF INELIGIBILITY. If it is determined by an audit by the Auditor of State or any department, agency or official of the State or other agency or entity with legal audit authority that any Project expense is ineligible, or not properly documented, Grantee will repay that amount in full to the State.

18. NO FINDING FOR RECOVERY. Grantee represents and warrants to the ODNR that it is not subject to a finding for recovery under ORC Section 9.24, or that it has taken appropriate remedial steps required under ORC Section 9.24 or otherwise qualifies under that section. Grantee agrees that if this representation or warranty is determined by ODNR to be false, this Agreement shall be void *ab initio* as between the parties to this Agreement, and any funds paid by the State hereunder immediately shall be repaid in full to the State, or an action for recovery immediately may be commenced by the State for recovery of said funds.

19. REAL PROPERTY ACQUISITION. All appropriations of real property for the Project by Grantee shall be made pursuant to ORC Sections 163.01 to 163.22, except as otherwise provided in ORC Chapter 163.

20. PREVAILING WAGE. Except as provided in ORC Section 4115.04, moneys appropriated or reappropriated for the Project shall not be used for the construction of public improvements, as defined in section 4115.03 of the Revised Code, unless the mechanics, laborers, or workers engaged therein are paid the prevailing rate of wages prescribed in ORC Section 4115.04.

21. PROJECT NONDISCRIMINATION. Grantee agrees that any facilities that may be developed now or in the future on the lands comprising the Project will be made available to all persons regardless of race, color, sex, religion, national origin, ancestry, age, military status, handicap or disability on the same terms and conditions.

22. EMPLOYMENT NONDISCRIMINATION. Grantee, and any person acting on Grantee's behalf, shall not discriminate against any employee or applicant for employment, because of race, color, religion, national origin, ancestry, sex, age, military status as defined in Section 4112.01 of the Ohio Revised Code, handicap, or disability. Grantee shall have a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, as referred to in division (E)(1) of ORC Section [122.71](#). Annually, Grantee shall file a description of the affirmative action program and a progress report on its implementation with the equal employment opportunity office of the Ohio Department of Administrative Services. Grantee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, national origin, ancestry, sex, handicap, or disability. Such action will include, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices as may be provided by the State setting forth the provisions of this non-discrimination clause. Grantee shall comply with ORC Section 125.111 if applicable.

23. ODNR RIGHT TO TERMINATE. ODNR reserves the right to terminate this Agreement and to recover any funds distributed by Grantee to contractors or other payees in violation of the terms of this Agreement if Grantee is determined by ODNR to be unable to proceed with the Project, or if Grantee violates any of the terms herein.

24. LEGAL, FEDERAL TAX, AND OTHER COMPLIANCE. The Grantee will assure that monies expended under this Agreement are spent in conformity with the intent and purpose of the appropriation, the limitations on use set forth in the bill containing the appropriation, and ORC Chapter 154 and all other laws that apply to expenditure of monies by Grantee. If Grantee is required to submit an annual financial report to the Auditor of State, in accordance with Auditor of State Bulletin 2015-07, then Grantee shall report the funds it acquires through this Agreement as a separate column identified in a manner consistent with the Project description in appropriation item C725E2. If Grantee is not required to submit the aforementioned report, Grantee shall file an annual detailed expenditure report of all expenditures associated with the Project with the Auditor of State by March 1st every year until all funds provided in this Agreement have been spent. The above reports shall be filed in accordance with Auditor of State Bulletin 2015-07.

Grantee agrees to comply with all applicable federal, state and local laws and regulations, in the conduct of the Project and acknowledges that its employees are not employees of ODNR with regard to the application of the Ohio Public Employees Retirement law, Fair Labor Standards Act minimum wage and overtime provisions, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Ohio revenue and tax laws, Ohio Workers' Compensation Act and Ohio unemployment compensation law.

Grantee agrees to use funds provided under this Agreement in accordance with the Ohio Constitution and any state or federal laws and regulations that may apply. Grantee shall repay ODNR any funds improperly expended. Additionally, Grantee agrees to comply with all requirements within its control necessary to preserve the tax status of all tax-exempt or tax-advantaged bonds, the proceeds of which are used to provide the funding to Grantee set forth in this Agreement. Unless otherwise determined by the OPFC, such requirements include, but are not limited to, ensuring that the funds provided under this Agreement finance capital expenditures (as opposed to operating expenses) and are not used to refund or otherwise refinance existing debt of Grantee. Grantee shall be liable for any payments to the Internal Revenue Service or the U.S. Treasury as penalties or to preserve the tax status of tax-exempt or tax-advantaged bonds, and any other costs, resulting in whole or in part from actions taken by Grantee, including the failure of Grantee to comply with federal income tax laws applicable to such bonds. Grantee agrees to consult with OPFC if the Grantee is uncertain as to what expenditures are eligible to be financed with funds provided under this Agreement.

25. CAMPAIGN CONTRIBUTIONS Grantee hereby certifies that neither it, nor any person described in R.C. § 3517.13 (I) or (J), nor the spouse of any such person, has made, as an individual, within the two previous calendar years, one or more contributions to the governor or the governor's campaign committees totaling in excess of the limitations specified in R.C. § 3517.13..

26. EQUAL OPPORTUNITY COMPLIANCE. If Grantee is a political subdivision, Grantee shall comply with the requirements of ORC 125.111 for all contracts for purchases under the Project.

27. MODIFICATION. This Agreement may be modified if agreed to in writing by both parties.

28. ETHICS CERTIFICATION. Grantee, by signature on this document, certifies that it: (i) has reviewed and understands the Ohio ethics and conflict of interest laws as found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43, and (ii) will take no action inconsistent with those laws Grantee understands that failure to comply with Ohio's ethics and conflict of interest laws is, in itself, grounds for termination of this Agreement and may result in the loss of other contracts or grants with the State.

29. SEVERABILITY. Each provision hereof shall be separate and independent and the breach of any provision by either party hereto shall not discharge or relieve the other party from its obligations to perform each and every covenant to be performed by it hereunder. If any provisions hereof (or the application thereof to any person, firm or corporation or to any circumstances) shall be deemed invalid or unenforceable by any court of competent jurisdiction, the remaining provisions of this Agreement (or the application of such invalid provision to such persons, firms or corporations or circumstances other than those as to which it is invalid or unenforceable), shall not be affected thereby, and said provisions hereof shall be valid and enforceable to the fullest extent permitted by law.

30. EXPENDITURES OF PUBLIC FUNDS ON OFFSHORE SERVICES. Grantee affirms to have read and understands Executive Order 2019-12D and shall abide by those requirements in the performance of this Agreement and the Project. Notwithstanding any other terms of this Agreement, ONDR reserves the right to recover any funds paid for services the Grantee obtains outside of the United States for which it does not receive a waiver. ODNr does not waive any other rights and remedies provided ODNr in this Agreement.

31. MISCELLANEOUS.

- a. Controlling Law. This Agreement and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio. Grantee consents to jurisdiction in a court of proper jurisdiction in Franklin County, Ohio.
- b. Waiver. A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.
- c. Successors and Assigns. Neither this Agreement nor any rights, duties or obligations hereunder may be assigned or transferred in whole or in part by Grantee, without the prior written consent of ODNr.
- d. Conflict. In the event of any conflict between the terms and provisions of the body of this Agreement and any exhibit hereto, the terms and provisions of the body of this Agreement shall control.
- e. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and shall not be modified, amended, or supplemented, or any rights herein waived, unless

specifically agreed upon in writing by the parties hereto. This Agreement supersedes any and all previous agreements, whether written or oral, between the parties.

- f. Execution. This Agreement is not binding upon ODNR unless executed in full.
- g. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.
- h. Electronic Signatures. Any party hereto may deliver a copy of its counterpart signature page to this Agreement electronically pursuant to ORC Chapter 1306. Each party hereto shall be entitled to rely upon an electronic signature of any other party delivered in such a manner as if such signature were an original.

32. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement.

33. OPEN TRADE: Pursuant to ORC Section 9.76 (B) Grantee warrants that the Grantee is not boycotting any jurisdiction with whom the State can enjoy open trade, including Israel, and will not do so during the contract period.

IN TESTIMONY WHEREOF, Grantee and ODNR have caused this Agreement to be executed by their respective duly authorized officers.

FOR THE GRANTEE:



Signature

Printed Name: Greg Roberts

Printed Title: Village Administrator

FOR THE STATE OF OHIO, ODNR:

John Kessler

**Chief, Office of Real Estate & Land
Management**

Ohio Department of Natural Resources

Date: _____


ATTORNEY CERTIFICATION

Community Park, Recreation, or Conservation Project Number: **CLER-010C**

I, SCOTT SOLLMANN, VILLAGE LAW SOLICITOR [name and title], acting as attorney for the Village of New Richmond ("Grantee"), and for the reliance of the Ohio Department of Natural Resources, do certify that from my examination of the Capital Improvement Community Park Recreation or Conservation Project — Pass Through Grant Agreement (the "Agreement") and my knowledge of Grantee's organization, that acceptance of the Agreement by Grantee and the execution thereof by the signing officer has been duly authorized and is proper and in accordance with the laws of the State of Ohio. Grantee is a legally constituted public entity with full authority and legal capacity to perform all obligations and terms of the Agreement. Upon signature by the signing officer, the Agreement, in my opinion, is a legal obligation of Grantee in accordance with the terms thereof, and Grantee possesses the legal authority to fully perform all obligations incurred by Grantee in signing this Agreement. Grantee's acceptance of the Agreement and the signing officer's execution thereof, X has _____ has not* been authorized by the governing body of Grantee or has otherwise been authorized by grantee's charter. (Resolution or Ordinance No. 2021-18, dated September 28, 2021).

*If "has not" is checked, please indicate the reason. _____

Legal Counsel for Grantee



(Signature)

Printed Name of Legal Counsel

SCOTT A. SOLLMANN

Address

5300 SOCIALVILLE-FOSTER ROAD, SUITE 200
MASON OH. 45040

Registration Number

#0081467

EXHIBIT A

PROJECT INFORMATION PACKAGE

Forms and requested materials (maps, etc.) on pages 3-11 comprise the '**Project Information Package**'. Please complete all forms on pages 3-11 and send with all other requested materials on pages 3 -11 (only) to the address below. This is the first step in the project coordination process.

Tim Robinson
ODNR
Office of Real Estate
2045 Morse Road, E2
Columbus, Ohio 43229-6693



BASIC INFORMATION

1. Awarded Project Sponsor: Village of New Richmond
2. Address, including zip code:
102 Willow Street
New Richmond, OH 45157
3. Tax Identification Number: 31-6001077
4. Telephone Number: 513 553 4146
5. Contact Person & Title: Greg Roberts Administrator
6. Email: groberts@newrichmond.org
7. Telephone Number: 513 553 4146
8. Brief Description of Project:

Our award will be earmarked towards the planning and design of our Liberty Landing Riverfront project including designing ADA compliance for access to the Showboat Majestic riverboat. Our intention would be to refine our initial Liberty Landing Park proposal with more extensive engineering design work to enhance and be more "shovel ready" for a future capital budget proposal and/or other grant funding opportunities.

EXHIBIT B

Village of New Richmond
Liberty Landing Project

Boundary Area

Greg Roberts
Greg Roberts

Village Administrator

Clermont County Auditor Map

Date:
2/3/2021

CLERMONT COUNTY
AUDITOR
Linda L. Fraley, Clermont County Auditor

The information contained in this map is a public resource for general information and is provided for use only as a graphical representation. Clermont County makes no warranty to the content, accuracy, or completeness of the information contained herein and assumes no liability for any errors. Any reliance on this information is at the exclusive risk of the user.

