RESOLUTION NO. ___-23

RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO APPLY FOR AND ACCEPT FUNDING FROM THE OHIO EPA FOR A $10,000.00 DRINKING WATER DISTRIBUTION EQUIPMENT GRANT AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PAINESVILLE, LAKE COUNTY, OHIO:

SECTION I. That the City Manager is hereby authorized and directed to apply to the Ohio EPA for a $10,000.00 DRINKING WATER DISTRIBUTION EQUIPMENT GRANT and the City Manager is further authorized upon the award of the Grant to enter into an Agreement with the EPA for the $10,000.00 DRINKING WATER DISTRIBUTION EQUIPMENT GRANT. A copy of that Grant Agreement is attached as Exhibit A.

SECTION II. That this Resolution is passed as an emergency measure for the protection and preservation of the peace, health, safety and general welfare of the inhabitants of the City of Painesville, the emergency being the immediate necessity to repave various streets within the City in order to improve the City of Painesville water distribution system and, therefore, this Resolution shall become effective immediately upon its passage.

PASSED:

_____
Jim Fodor
Vice President of Council

ATTEST:

_____
Helen Petersburg
Acting Clerk of Council

Ohio Environmental Protection Agency

H2Ohio Direct Assistance PWS Standard Grant Agreement

This Agreement is made and entered into as of the "Effective Date" by and between the Director of the Ohio Environmental Protection Agency, hereinafter referred to as the **Ohio EPA**, and the Painesville City **(PWS),** its contractors, agents, and successors, hereinafter referred to as the **Grantee,** for the **Drinking Water Distribution Equipment Grant**.

WITNESSETH THAT:

WHEREAS Ohio Revised Code Section 126.60 established the H2Ohio Fund and authorizes the Director of the Environmental Protection Agency to distribute money appropriated to the H2Ohio Fund by awarding or allocating grants or money for the development and implementation of projects and programs that are designed to address water quality priorities, support watershed planning, scientific research and data collection; and which may be used by Ohio EPA to fund waterway improvement and protection of all waterways in support of water quality priorities and management in accordance with section 126.60 of the Revised Code.

WHEREAS Obligations of the State of Ohio are subject to the provisions of ORC Section 126.60. WHEREAS ORC section 126.60 identifies the following purposes as eligible for the H2Ohio Fund:

(1) Agriculture water projects;
(2) Community water projects;
(3) Nature water projects;
(4) Awarding or allocating grants or money, issuing loans, or making purchases for the development and implementation of projects and programs, including remediation projects, that are designed to address water quality priorities;
(5) Funding cooperative research, data gathering and monitoring, and demonstration projects related to water quality priorities;
(6) Encouraging cooperation with and among leaders from state legislatures, state agencies, political subdivisions, business and industry, labor, agriculture, environmental organizations, institutions of higher education, and water conservation districts;
(7) Other purposes, policies, programs, and priorities identified by the Ohio Lake Erie commission in coordination with state agencies or boards responsible for water protection and water management, provided that the purposes, policies, programs, and priorities align with a statewide strategic vision and comprehensive periodic water protection and restoration strategy.

WHEREAS the Director of Ohio EPA has determined that **Grantee's Distribution Management Equipment Grant Application** conforms to the requirements of uses for the H2Ohio Fund and meets the eligibility criteria of the H2Ohio Fund as specified in ORC Section 126.60.

WHEREAS, for purposes of this H2Ohio Grant Award, "Eligible Project/Program Costs" may be reimbursed out of this Grant from the H2Ohio Fund in an amount not to exceed **$10,000.00** are also depicted in Exhibit 1, which shall be fully incorporated by reference into this H2Ohio Grant Agreement as **Exhibit 1**.

NOW THEREFORE, in consideration of the mutual covenants by and between the parties hereto, the parties agree as follows:

I. Grant Award. The **Director** hereby awards to the **Grantee** a Grant not to exceed **$10,000.00** from the money appropriated to the H2Ohio Fund for the purpose of implementing the project/program detailed in **"Exhibit 1"** for the **Work Activities** for eligible expenditures for the project/ program activities related to the purchase of equipment the Director has determined meets the eligibility criteria for use of H2Ohio Funds as specified in ORC section 126.60.

Costs or expenditures incurred by the **Grantee** or **Grantee's** Contractors, Employees, or Agents for items or services that are not part of the approved budget as depicted in Exhibit 1 or that exceed the amount of this Grant Award may not be paid out or reimbursed from the Grant. Any grant-related expenditures made or paid prior to the effective date of the grant agreement will not be reimbursed pursuant to this agreement.

A. **(Grantor)** On behalf of the Director of Ohio EPA, the Division of Drinking and Ground Waters "DDAGW" shall be responsible for evaluation of the Grantee's adherence to this agreement, authorization of payment of the award to the Grantee, and authorization of modification(s) to this Agreement. The Ohio EPA DDAGW Chief, or his/her designee, shall coordinate communications with the Grantee's Project Director of the Grant Project or Grantee's Authorizing Agent.

B. **(Grantee's Project Director)** The Grantee's Project Director shall, in accordance with the proposed budget, coordinate 1) the work activities, and requirements set forth in the body of this Agreement in order to procure the supplies, training and equipment described in the approved application and 2) the work, activities and requirements set forth in the Grant Application. The Grantee's Project Director shall coordinate all work through the DDAGW Chief, or his/her designee.

C. **(Scope of Work)** The Grantee shall successfully perform and complete: 1) the work, activities, and requirements set forth in the body of this Agreement; and 2) the work, activities, and requirements set forth in the Grant Application, attached hereto as **"Exhibit 1"** and fully incorporated herein.

D. **(Adherence to Budget)** The Grantee has submitted to the Grantor, as a condition precedent to this Agreement, a proposed Budget. The Grantee stipulates and agrees that the proposed Budget accurately reflects anticipated project resources and expenditures for the term of this Agreement. The Grantee shall complete the work, activities, and requirements set forth in the body of this Agreement and in **"Exhibit 1"** (attached hereto and incorporated herein) in accordance with the proposed Budget (Section 3 of Exhibit 1).

E. **(Project Period)** The parties agree that the "Project Period" is from the date when the last required signature is affixed hereto, to a date within twelve (12) months from said date when reimbursement is requested by the grantee. The Project Period may be extended if a written request submitted by the Grantee to the Grantor is approved in writing by the Grantor.

II. Grant Method of Disbursement and Release of Fund. The **Grantee** agrees that all payments made under this Grant Award represent reimbursements based on actual costs and are made based upon **Grantee's** satisfactory performance of **Grantee's** obligations under this Grant Agreement.

Grantee shall request disbursements, and Grantor may make disbursements, which at all times shall be at Grantor's discretion, in accordance with the following schedule and requirements:

A. Grantee must submit payment requests for costs incurred for eligible expenditures on a form prescribed by Grantor, with copies of supporting documents including invoices. The amount of payment request(s) shall not exceed the costs incurred, or the total amount of the Grant Award. Reimbursement requests may be submitted within twelve (12) months of the grant award date unless a written time extension has been approved in writing by Grantor. Grantee may not seek reimbursement for any costs incurred prior to the effective date of this Grant Agreement.

B. All payments made under this grant award are based on actual costs and are made in consideration of the Grantee's promises and the Grantee's satisfactory performance as set forth in this Agreement.

C. The documentation for the release of Grant Funds shall be in a form and substance as required by Grantor, from time to time.

D. The release of Grant Funds shall be in accordance with the schedule set forth in this section II, unless Ohio EPA approves in writing a request for a change to the schedule, but any such change shall not change the total Grant Award in an amount not to exceed **$10,000.00**.

E. At all relevant times, the adequacy of Grantee's request for the release of Grant Funds shall be at the sole discretion of Grantor.

III. Changes to Project or Method of Disbursement. Any change or changes that substantially modify the Method of Disbursement, will be submitted to Ohio EPA for prior written approval, and will be at Ohio EPA's discretion. The **Grantee** shall not submit payment requests for costs associated with the change orders until Ohio EPA approval has been obtained. Any changes or modifications made in accordance with this section shall be contingent upon Ohio EPA written approval, shall be consistent with the requirements of ORC section 126.60, and comply with Federal and State law, including the requirements of ORC Chapters 6109 and 6111. Any changes or modifications made in accordance with this section to this agreement or to the exhibits attached to this agreement shall be incorporated fully herein, and subject to the terms and conditions of this Grant Agreement.

IV. Grantee's Representations. Grantee agrees to proceed expeditiously with, and complete, the Projects/Programs in accordance with the specific terms and conditions of each of the following: this Grant Agreement and any exhibits or agreements with the State incorporated herein or related to the Project, permit and plan approvals, and the approved project detailed plans and specifications. **Grantee** also agrees to proceed under this agreement in a manner which conforms with the eligibility requirements of the H2Ohio Fund as specified in ORC Section 126.60. **Grantee** accepts such performance as an essential element of this Agreement.

V. Nondiscrimination. The **Grantee** shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability as defined in the Americans with Disabilities Act (ADA). The **Grantee** shall not, in any manner, discriminate, intimidate or retaliate against any employee on account of race, color,

religion, sex, sexual orientation, military status, national origin, disability, age or ancestry. The **Grantee** shall take affirmative action to ensure that employees are treated during employment, without regard to their race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability, as defined in the ADA. Such action shall include, but is not limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, including apprenticeship.

The **Grantee** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause. Furthermore, the **Grantee** agrees to comply with all pertinent provisions of ORC Section 125.111, 4112.02, and the Drug Free Workplace Act.

VI. **State Financial Commitment.** Nothing in this Agreement shall constitute, or be deemed to constitute, an obligation of future appropriations by the General Assembly of the State of Ohio. The State of Ohio's financial commitment to the **Project/Program** shall not exceed the Ohio EPA's grant to **Grantee** described in Paragraph I.

VII. **Drug-Free:** The **Grantee** agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free workplaces and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the work being performed hereunder purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

VIII. The **Grantee** shall, in all solicitations or advertisements for employees placed by or on behalf of the **Grantee**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability, as defined in the ADA.

IX. The **Grantee** shall comply with the State Equal Employment Opportunity guidelines, and any direction as set forth by officials or agencies of the State or Federal Government that seek to eliminate unlawful employment discrimination, and with all other State and Federal efforts to assure equal employment practices under this Agreement. Before and during performance, the **Grantee** shall promptly comply with all requests and direction from the State of Ohio or any of its officials and agencies.

X. Upon the **Grantee's** noncompliance with the nondiscrimination clauses of this Agreement, this Agreement may be canceled, terminated, or suspended in whole or in part, and the **Grantee** may be ineligible for further state contracts and such other sanctions may be imposed and remedies instituted as otherwise provided by the law.

XI. This Agreement may be canceled, terminated, or suspended in whole or in part upon a determination by the Ohio EPA that the **Grantee** is in Breach of this Agreement due to any violation of the terms or conditions of this Agreement, including **Grantee's** representations under this Agreement and the requirement that the **Grantee's** project/program meets the eligibility criteria of the H2Ohio Fund as specified in ORC section 126.60. Such a determination may render **Grantee** ineligible for reimbursement under this Grant Agreement or further state contracts.

XII. It is fully understood and agreed that neither **Grantee** nor any of its employees or other personnel shall at any time or for any purpose, be considered as agents or employees of the Ohio EPA or the State of Ohio. The **Grantee** certifies that neither the **Grantee** nor its

employees or other personnel are public employees of the Agency under federal or state law for tax, Workers' Compensation, and retirement deduction purposes.

XIII. **Compliance Assurance:** The **Grantee** shall carry out and administer the project according to all applicable federal, state, and local laws, rules, regulations, ordinances, and the terms of this Agreement. Nothing in this agreement is intended to constitute approval from the Ohio EPA for activities associated with the construction and operation of the project. **Grantee** is responsible for applying for and receiving all applicable permits and approvals for the project in accordance with applicable federal, state, and local requirements.

XIV. **Grantor Access:** The designated representatives of Ohio EPA shall have access to inspect the work described in the project, and retain all other lawful access pursuant to statute, regulation, or other agreements.

XV. **Project Phase and Fiscal Reports**.

Project Phase Metrics Reports and Fiscal Reports for the Projects/Program subject to this Grant Agreement shall be prepared by **Grantee** and submitted to **Ohio EPA DDAGW** at the address provided in *Section XXXI, Notice*, in accordance with the project phases in the application. Each report shall include a narrative describing the activities that were undertaken with respect to the Grant Agreement, together with detailed information on the project/program, including any relevant metrics demonstrating the future use of the equipment.

Fiscal Reports shall be included with the Project Phase Reports for the H2Ohio funded portion of the projects/program or Close-Out of the Grant. The Fiscal Reports shall include a financial report signed by an authorized official of Grantee, which demonstrates to Ohio EPA's satisfaction that the H2Ohio Grant was utilized for eligible program expenditures.

Notwithstanding that Project Phase and fiscal reports shall also be due in accordance with the timelines for phases set forth in the application, project phase reports shall be submitted no later than 12 months from the effective date of this Grant Agreement, unless a change is approved by Ohio EPA in writing.

XVI. **Final Reports.**

Final Project Report. Not later than 60 days following completion of the H2Ohio funded portion of the **project/program** Grantee shall prepare and submit to **Ohio EPA DDAGW** at the address provided in *Section XXXI, Notice* a Final Report of the project activities that were undertaken with respect to the H2Ohio Grant, including any relevant metrics on the use of the equipment purchased.

Final Fiscal Report. Not later than 60 days following completion of the H2Ohio funded portion of the **project/program**, **Grantee** shall: (i) complete a full, final written accounting of the expenditure of the H2Ohio Grant funds utilized under this agreement; and (ii) submit a copy of such accounting to **Ohio EPA DDAGW** at the address provided in *Section XXXI, Notice*, for review and approval. The Final Fiscal Report shall include a summary of the fiscal reports, reflecting that all amounts disbursed were utilized for eligible expenditures, and reflect any remaining expenditures to demonstrate to Ohio EPA's satisfaction that the H2Ohio Grant was utilized for eligible expenditures up to the amount of the total **grant award**. The final fiscal report shall be signed by the project manager and **Grantee's**

fiscal agent. If the final fiscal report documents that not all funds were disbursed and the project is complete, all unused funds shall be returned to Grantor within 30 days.

XVII. **Grantor Right to Audit.** Grantor shall at any reasonable time have the right of access to and the right to audit all books and records, financial or otherwise, pertinent to the administration and operation of this project. The **Grantee** shall keep said books and records in a manner consistent with generally accepted accounting procedures in a common file to facilitate audits and inspections. In the event of a special audit, the **Grantee** will be responsible for the actual cost of the audit. Said costs shall be determined by the State of Ohio.

XVIII. **Records. Grantee** shall preserve all account statements, documents and other records associated with this Agreement and the **Project/Program** Account for a minimum of five (5) years after termination of this Agreement.

XIX. The **Grantee** shall keep and make available to the Ohio Auditor of State all books and records, financial or otherwise, pertinent to the administration and operation of this project. **Grantee** shall keep such books and records in a manner consistent with generally accepted accounting procedures in a common file to facilitate audits by the Ohio Auditor of State. The **Grantee** will be responsible for the actual cost of all audits. Said costs shall be determined by the State of Ohio. The **Ohio EPA** shall at any reasonable time have the right of access to and the right to review all books and records, financial or otherwise, pertinent to the administration and operation of this project.

XX. Neither this Agreement, nor any rights, duties, nor obligations hereunder, may be assigned, delegated, or transferred in whole or in part by the **Grantee** without prior written consent of the State. Any assignment or delegation not consented to may be deemed void by the State.

XXI. The **Grantee** by signature on this document, certifies that it: (1) has reviewed and understands the Ohio ethics and conflict of interest laws, including the requirements found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43, and (2) **Grantee** is currently in compliance with and will continue to adhere to, the requirements of Ohio ethics laws and conflict of interest laws and will take no action inconsistent with those laws. The **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 of Ohio. No personnel of Contractor or public official, employee or member of the governing body of any locality in which work under this Agreement is being carried out, and who exercises any functions or responsibilities in connection with the review or approval of this Agreement or carrying out of any such work, shall, prior to the completion of the work, voluntarily acquire any personal interest that is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out the work. Any such person who acquires an incompatible or conflicting personal interest on or after the effective date of this Agreement, or who involuntarily acquires any such personal interest, shall immediately disclose his or her interest to Ohio EPA in writing. Thereafter, he or she shall not participate in any action affecting the work under this Agreement, unless Ohio EPA determines in its sole discretion that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to public interest.

XXII. The **Grantee** affirms that, as applicable to it, no party listed in Division (I) or (J) of Section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions in excess of the amounts specified in ORC 3517.13, to the Governor or to his campaign committees.

XXIII. The **Grantee** affirmatively represents and warrants to **Ohio EPA** that it is not subject to a finding for recovery under ORC 9.24 or otherwise qualifies under that section. The **Grantee** agrees that if this representation or warranty is deemed to be false, the Agreement shall be void *ab initio* as between the parties to this Agreement, and any funds paid by Ohio EPA hereunder immediately shall be repaid to Ohio EPA, or an action for recovery immediately may be commenced by Ohio EPA for recovery of said funds. The **Grantee** affirmatively represents and warrants to Ohio EPA that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either ORC 153.02 or ORC 125.25. If this representation and warranty is false, this Agreement is void *ab initio* and **Grantee** shall immediately repay to the State any funds paid under this Agreement.

XXIV. The **Ohio EPA** shall not be responsible for any costs incurred by the **Grantee** prior to the effective date of this Agreement and any grant-related expenditures made prior to the effective date of the Grant Agreement will not be reimbursed.

XXV. **Grantee** shall be responsible for its own acts and omissions and will be responsible for any and all damages, costs, and expenses that arise out of the performance of this Agreement and that are due to **Grantee's** own negligence, tortious acts, or other conduct or that are due to the negligence, tortious acts, or other conduct of the **Grantee's** respective agents, officers, or employees.

XXVI. **Indemnity. Grantee** agrees to indemnify, save, and hold harmless Ohio EPA from any claims or causes of action arising from, or related to, implementing the **Project/Program**, including any acts or omissions of **Grantee**. Ohio EPA shall not be considered a party to and shall not be held liable under any contract entered into by **Grantee** in carrying out the activities pursuant to this Agreement.

XXVII. **Severability.** A determination by a court of competent jurisdiction that any part of this Agreement is invalid shall not invalidate or impair the force or effect of any other part hereof, except to the extent that such other part is wholly dependent for its operation on the part so declared invalid.

XXVIII. This Agreement shall remain in effect until the entire **project/program** is completed and the Auditor of State has completed the local government audits for the last year in which grant funds were disbursed. If the Ohio Auditor of State issues a finding for recovery to the Grantee, the **Ohio EPA** reserves the right, at any time after execution of this Agreement to terminate, revise, or extend the grant in whole or in part, upon written notification to the **Grantee**. The **Grantee**, upon receipt of notice of termination, shall not incur any new obligations and shall take all necessary and appropriate steps to limit disbursements and minimize costs and obligations, including cancelling as many outstanding obligations as possible. If requested by the **Ohio EPA**, the **Grantee** shall promptly furnish a report that describes the status of all work under this Agreement as of the date of receipt of the termination notice. The **Grantee** agrees to waive any right to, and shall make no claim for, additional compensation against the **Ohio EPA** by reason of such termination.

XXIX. **Provision of Services to be within the United States and Prohibition on the Purchases of Services from or Investments in Russian Institutions and Companies.** Subrecipient affirms to have read and understands Executive Order 2019-12D and Executive Order 2022-02D and shall abide by those requirements in the performance of this Agreement and shall perform no services required under the Agreement outside of the United States or purchase services from or investment in Russian institutions and companies. Notwithstanding any other terms of this Agreement, the State reserves the right to recover any funds paid for

services the Subrecipient performs outside of the United States for which it did not receive a waiver or funds paid for services from or investments in Russian institutions and companies. The State does not waive any other rights and remedies provided the State in this Agreement.

XXX. The State, in its sole discretion, may provide written notice to **Grantee** of a breach and permit the **Grantee** to cure the breach. Such cure period shall be no longer than 21 calendar days. Notwithstanding the State permitting a period of time to cure the breach or the **Grantee's** cure of the breach, the State does not waive any of its rights and remedies provided the State in this Agreement.

XXXI. **Termination.** Ohio EPA reserves the right, at any time after the Effective Date, and with or without cause, to terminate, revise, or extend the grant in whole or in part, upon written notification to the **Grantee**. The **Grantee**, upon receipt of notice of termination, shall not incur any new obligations and shall take all necessary and appropriate steps to limit disbursements and minimize costs and obligations, including cancelling as many outstanding obligations as possible.

If requested by the Ohio EPA, the **Grantee** shall promptly furnish a report that describes the status of all work under this Agreement as of the date of receipt of the termination notice. The **Grantee** agrees to waive any right to, and shall make no claim for, additional compensation against the Ohio EPA by reason of such termination.

Upon termination of this Agreement, all unspent funds and funds subject to a finding for recovery by the Ohio Auditor of State, if any, shall be returned to the **Ohio EPA** in accordance with the terms and conditions in this Grant Agreement, but no later than within forty-five (45) days of **project/program** completion or receiving notification of any termination of the grant or program. Any payment not received within forty-five days of the due date may be turned over to the Attorney General for collection as a delinquent claim, and the **Grantee** agrees to pay the **Ohio EPA** all costs the **Ohio EPA** incurs for delinquent collections by the Attorney General's office.

XXXII. **Notices.** All communications shall be in writing and shall be hand-delivered; mailed first class, postage pre-paid; or mailed certified or registered mail, postage pre-paid or e-mailed, as follows:

Ohio Environmental Protection Agency
Attn: Sean Stephenson, Division of Drinking and Ground Waters
P.O. Box 1049
Columbus, OH 43216-1049
Email: DDAGW.Grants@epa.ohio.gov

XXXIII. **Grant Funds Not Expended:** If Grant Funds are not expended by Grantee in accordance with the terms and conditions of this Agreement, the award of the Grant Funds shall cease, and Grantor shall have no further obligation to release the Grant Funds. Grantor shall also have no obligation to release any amount of Grant Funds that exceeds the eligible costs of the project actually incurred by Grantee. If Grant Funds have been released to Grantee and Grantor determines that Grantee has not performed in accordance with the terms and conditions of this Agreement, Grantee shall return such improperly expended Grant Funds within Forty-Five (45) Days of demand by Grantor. In the event that the project is affirmatively abandoned by Grantee, all Grant Funds

released by Grantor to Grantee under this Agreement shall be refunded to Grantor by Grantee within Forty-Five (45) days after abandonment has occurred.

Effective Date. This Agreement shall be effective upon execution of this Agreement by all Parties, the "Effective Date," and shall continue in full force and effect until completion of the entire **project/program**, or until all obligations of the **Grantee** under this Agreement have been fully satisfied, whichever is later.

The remainder of this page was left intentionally blank.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

Grantee: **Painesville City**

Award: **$10,000.00**

(I, we) have the authority to sign this Agreement and do so in (my/our) respective capacities:

_____ _____
Signature of Grantee's Authorizing Agent Date

_____
Name and Title of Authorizing Agent
(Please type or print)

_____ _____

Anne M. Vogel, Director, or Authorized Agent Date
Ohio Environmental Protection Agency

RESOLUTION NO. ___-23

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO ACCEPT THE DEED FROM THE LAKE COUNTY LAND REUTILIZATION CORP FOR THE PROPERTY LOCATED AT 160 S. ST. CLAIR STREET AND TO FILE THE DEED WITH THE LAKE COUNTY RECORDER'S OFFICE AND DECLARING AN EMERGENCY.

WHEREAS, the Lake County Land Reutilization Corp is the title owner of property that is located at 160 S. St. Clair Street, Painesville, Ohio 44077, Permanent Parcel No. 15B0020000370; and

WHEREAS, this property is located adjacent to a 3.31 acre parcel of land that the City owns on E. High Street and S. St. Clair Street, that is identified as Permanent Parcel No. 15-B-002-0-00-005-0;

WHEREAS, the City of Painesville transferred this property to the Lake County Land Reutilization Corp on July 23, 2019, and at this time the Lake County Land Reutilization Corp and the City wish to have this property transferred back to the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PAINESVILLE, LAKE COUNTY OHIO, THAT:

SECTION I: That the City Council hereby accepts the property from the Lake County Land Reutilization Corp. that is identified as 160 S. St. Clair Street, Painesville, Ohio 44077, Permanent Parcel No. 15B0020000370 and City Council hereby authorizes and directs the City Manager to take any and all actions that are necessary to accept this property from the Lake County Land Reutilization Corp and to have the Deed filed with the Lake County Recorder's Office.

SECTION II: The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with the statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION III: That this Resolution is hereby declared to be an emergency measure for the immediate preservation of the public peace, health, and/or safety and for the welfare of the citizens of the City of Painesville and for the reason that it is necessary that this property becomes available as soon as possible for redevelopment purposes in the City and, therefore, this Resolution shall be in full force and effect immediately upon passage by the City Council.

PASSED:

EFFECTIVE:

_____
Jim Fodor
Vice President of Council

ATTEST:

_____
Helen Petersburg
Acting Clerk of Council

RESOLUTION NO. _____-23

RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AND EXECUTE A TRANSFER AND INDEMNIFICATION AGREEMENT WITH VIC PLACE LLC REGARDING A CERTAIN PARCEL OF LAND LOCATED IN THE CITY OF PAINESVILLE, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Painesville, Ohio (the "City") is desirous of encouraging economic development within the City to create jobs for its residents and to increase the City's tax base; and

WHEREAS, in furtherance of those efforts, the City has adopted and implemented a Downtown Master Plan and a Downtown Transportation and Streetscape Plan (collectively, the "Development Plans"); and

WHEREAS, as evidenced by the Development Plans, the Memorandum of Understanding as to Proposed Development Agreement dated July 2, 2022 and approved by this Council pursuant to Resolution 41-22 passed on June 27, 2022, and other City documents, the City is "engaged in urban redevelopment" as provided in Ohio Revised Code ("R.C.") Section 5709.41; and

WHEREAS, pursuant to R.C. Sections 5709.41, 5709.42 and 5709.43, the City is authorized to enact an ordinance (the "TIF Ordinance") to declare "Improvement" (as defined in R.C. Section 5709.41) to be a public purpose and exempt from real property taxation so long as (1) the City held fee title to such real property prior to the adoption of the TIF Ordinance, and (2) such real property is leased or conveyed to any person either before or after the adoption of the TIF Ordinance; and

WHEREAS, Vic Place LLC, an Ohio limited liability company ("Vic Place") desires to construct or cause to be constructed a mixed-use development (the "Project") on Permanent Parcel No. 15-C-001-0-00-001-0, which is owned by Vic Place (the "Property"); and

WHEREAS, the City, as part of its urban redevelopment efforts, desires to support the project through the passage of the TIF Ordinance pursuant to R.C. Section 5709.41; and

WHEREAS, in order to pass the TIF Ordinance, the City is required to accept fee title to the Property and transfer fee title to the Property back to the current owner, Vic Place; and

WHEREAS, Vic Place and the City (collectively the "Parties") desire to enter into a Transfer and Indemnification, hereinafter referred to as "the Agreement", for the Property.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF PAINESVILLE, COUNTY OF LAKE, OHIO, AS FOLLOWS:

SECTION I. This City Council of the City of Painesville hereby approves the form of the Transfer and Indemnification Agreement in substantially similar form as that attached hereto as Exhibit A. The City Council hereby further authorizes and directs the City Manager to execute and deliver the Transfer and Indemnification Agreement attached hereto as Exhibit A and to take any and all necessary action relative thereto, including but not limited to, the execution of a deed transferring the Property to Vic Place.

SECTION II. This City Council finds and determines that all the formal actions of this Council and any of its committees concerning and relating to the adoption of this Resolution were taken, and that all deliberations of the Council and any of its committees that resulted in such formal action were held, in meetings open to the public in compliance with the law.

SECTION III. All prior legislation, resolutions, and/or motions, or any parts thereof, which are consistent with this Resolution is/are hereby repealed as to the inconsistent parts thereof.

SECTION IV. That this Resolution is passed as an emergency measure for the protection and preservation of the peace, health, safety and general welfare of the inhabitants of the City of Painesville, the emergency being the immediate necessity to transfer the property to the Lake County Port Authority and back to the City in a timely manner to promote economic development; and therefore, this Resolution shall become effective immediately upon its passage.

PASSED:

EFFECTIVE:

_____
Jim Fodor
Vice President of Council

ATTEST:

_____
Helen Petersburg
Acting Clerk of Council

EXHIBIT A

TRANSFER AND INDEMNIFICATION AGREEMENT
([Project] .41 TIF)

This Transfer and Indemnification Agreement ("Agreement") is entered into this ____ day of _____, 2023, by and between **[Project LLC]**, an Ohio limited liability company (the "Indemnitor"), and the **City of Painesville**, an Ohio municipal corporation (the "City").

Recitals

WHEREAS, the parties are undertaking the urban redevelopment of the real property described in Exhibit A (the "Project Site"); and

WHEREAS, to support that urban redevelopment, the City agreed to include the Project Site in a tax increment financing ("TIF") area under Ohio Revised Code Section 5709.41; and

WHEREAS, in order to include the Project Site in that TIF area, the City must have acquired fee title to the Project Site while engaged in urban redevelopment, and the parties intend to transfer fee title to the Project Site to the City and then back to the Indemnitor; and

WHEREAS, the parties desire to memorialize their agreement to convey the Project Site and protect the City against any liabilities that may occur as a result of the conveyance to the City and re-conveyance back to the Indemnitor of the Project Site.

Agreement

NOW THEREFORE, in consideration of their mutual covenants set forth herein and their respective commitments for the urban redevelopment of the Project Site, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to the foregoing and as follows:

Section 1. Transfer. The Indemnitor agrees to convey to the City title to the Project Site via limited warranty deed. The City hereby agrees to reconvey to the Indemnitor or its designee title to the Project Site via quitclaim deed within three days following its acceptance of title to the Project Site.

Section 2. Indemnification. The Indemnitor agrees to indemnify the City and hold harmless and defend the City from and against, and pay for, any and all costs, losses, liabilities, damages and expenses, including reasonable fees and expenses of attorneys, that are not offset by insurance proceeds and that are paid or incurred by the City as a result of or relating to the conveyance of the Project Site to the City by Indemnitor or the re-conveyance of the Project Site by the City to the Indemnitor or its designee, including but not limited to costs, losses, liabilities, damages, and expenses incurred due to claims of any violations of any local, state, or federal environmental rules, ordinances, acts, laws or regulations. The City must give prompt notice to the Indemnitor of the assertion of any claim or the commencement of any suit, action or proceeding with respect to which indemnity may be sought hereunder, specifying, if known, the facts pertaining thereto and the amount or an estimate of the amount of the liability arising therefrom, provided, however, failure to give such notice does not relieve the Indemnitor of any liability hereunder (except to the extent the Indemnitor has suffered actual prejudice thereby). The Indemnitor has the right to participate in or assume the defense of any such suit, action or proceeding at its own expense, and the City has the right (but not the duty) to participate in the defense thereof, which will be at the Indemnitor's expense unless it has assumed the defense thereof. Whether or not the Indemnitor chooses to defend or prosecute any claim, the Indemnitor and the City will cooperate in the defense or prosecution thereof and will take all such actions as may be reasonably requested in connection therewith.

The Indemnitor also hereby agrees to forever acquit and discharge the City from any and all liabilities, damages, losses, costs, actions, manners of action, causes of action, claims and/or demands of any nature and description, both known and unknown, suspected and unsuspected, foreseen and unforeseen, and whether arising in law or in equity, which result or may result in the future as a result of or relating to the conveyance of the Project Site to the City by the Indemnitor, or the re-conveyance of the Project Site by the City to the Indemnitor or its designee.

The Indemnitor must obtain the same release of the City as that contained in Paragraph 2 above from any other developer(s) with whom it partners in connection with the development of the Project Site.

Section 3. Notices. All notices or other correspondence relating to this Agreement must be in writing (including e-mail or facsimile) and must be delivered or sent guaranteed overnight delivery, by facsimile or e-mail (to be followed by personal or overnight guaranteed delivery, of requested) or by postage prepaid registered or certified mail, return receipt requested, and will be deemed to be given for purposes of this Agreement on the date such writing is received by the intended recipient. Unless otherwise specified in a notice sent in accordance with this section, all communications in writing must be given to the parties at the following addresses:

As to the City:
City of Painesville, Ohio
7 Richmond Street
Painesville, Ohio 44077
Attn: City Manager

As to the Indemnitor:
[Project LLC]

Section 4. Successors; Assignment; Amendments, Changes and Modifications. This Agreement is binding upon the Indemnitor, the City and their respective successors in interest and the City and its successors in interest. This Agreement may not be assigned by the Indemnitor or the City without the prior written consent of the other. This Agreement may only be amended by written instrument executed by the City and the Indemnitor.

Section 5. Extent of Covenants; No Personal Liability. All obligations of the parties contained in this Agreement are effective and enforceable to the extent authorized and permitted by applicable law. No such obligation will be deemed an obligation of any present or future member, officer, agent, or employee of any of the parties hereto in their individual capacity.

Section 6. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, that provision is fully severable. This Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never formed a part of this Agreement and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement.

Section 7. Separate Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered will be an original, but all such counterparts will together constitute one and the same instrument. Electronic signatures (such as documents executed pursuant to a reputable document execution software, e.g. DocuSign) or signatures transmitted or stored by facsimile or electronic means are deemed original signatures and duplicates are deemed original copies of this Agreement.

Section 8. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the matters covered herein and supersedes prior agreements and understandings between the parties on this subject matter.

Section 9. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Ohio.

[Signatures on next page]

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Agreement as of the date first set forth above.

[PROJECT LLC], an [Ohio limited liability company]

By: _____
Name:
Title:

CITY OF PAINESVILLE, OHIO, an Ohio municipal corporation

By: _____
Doug Lewis, City Manager

Approved as to form:

_____
Law Director

RESOLUTION NO. _____-23

RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO ACCEPT FINANCIAL ASSISTANCE FROM THE OHIO ENVIRONMENTAL PROTECTION AGENCY (OHIO EPA) 2023 COMMUNITY AND LITTER GRANT TO BE USED TOWARDS THE COMMUNITY CLEAN UP DAY, AND DECLARING AN EMERGENGY

WHEREAS, the Ohio Environmental Protection Agency Grant administers financial assistance to local governments and nonprofits to support and expand community recycling and litter prevention efforts, through the Ohio EPA-Recycle Ohio grant program; and

WHEREAS, the City of Painesville submitted an application and was approved for an award for funding from the Ohio EPA; and

WHEREAS, the City will utilize these funds to help cover the cost of the community clean up litter collection events, outreach, and education throughout the City of Painesville for the period covering July 1, 2023 through June 30, 2024;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Painesville, Lake County, Ohio:

SECTION I: That the City Council hereby authorizes and directs the City Manager to enter into an Agreement with the Ohio Environmental Protection Agency for the 2023 Community and Litter Grant. A copy of that Grant Agreement is attached as Exhibit A.

SECTION II: That this Resolution is declared to be an emergency measure necessary for the immediate protection and preservation of the public peace, health, safety and general welfare of the inhabitants of the City of Painesville and, therefore, shall become effective immediately upon its passage.

PASSED:

EFFECTIVE:

_____
Jim Fodor
Vice President of Council

ATTEST:

_____
Helen Petersburg
Acting Clerk of Council

EXHIBIT A

Ohio Environmental Protection Agency
2023 Community and Litter Grant Agreement

This Agreement is made and entered into by and between the Director of the Ohio Environmental Protection Agency, hereinafter referred to as the **Agency**, and the **City of Painesville, Ohio,** hereinafter referred to as the **Grantee**. Agency and Grantee are collectively the "Parties" and each a "Party."

WITNESSETH THAT:

WHEREAS the Grantee, as authorized under Ohio Revised Code (ORC) Chapter 3736, has applied to the Agency for program funding to implement a 2023 Community and Litter Grant, hereinafter referred to as the 2023 CLG: and

WHEREAS ORC 3736.05 authorizes the Director, to make grants from the recycling and litter prevention fund created in ORC 3736.03. ORC 3736.05 and 3736.02(B) further authorize the Director to enter into this agreement; and

WHEREAS the Grantee agrees to perform in compliance with the terms, promises, conditions, and assurances as outlined in the Grantee's 2023 Grant Manual and the 2023 CLG Application, a copy of which is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein; and

WHEREAS the 2023 CLG funds in the amount of **$7,280.00** have been encumbered. Obligations of the State of Ohio are subject to the provisions of ORC Section 126.07.

NOW THEREFORE, in consideration of the mutual covenants by and between the parties hereto, the parties agree as follows:

I. The Agency hereby awards to the Grantee a grant not to exceed **$7,280.00,** for the purpose of implementing the project detailed in the Grantee's application. Costs incurred by the Grantee for items that are not part of the approved budget as contained in the Grantee's application, or costs in excess of amounts specified in the approved budget as contained in the Grantee's application will not be reimbursed by the Agency. Any grant-related expenditures made prior to the effective date of the grant agreement will not be reimbursed. The Grantee agrees to maintain and expend the match funds required, either (1) in the dollar amount set forth in the Funding Request Details specified in the Grantee's application as "Match Funds Required", or (2) if the grant award is reduced, when reconciling the grant account at closeout as a result of reduced actual costs, then the dollar amount of the Grantee's match funds required may be proportionately reduced.

II. The Agency shall pay to the Grantee, subject to cash availability, fifty percent (50%) of its total grant award after the effective date of this Agreement, to be used for project costs according to the Grantee's approved budget as contained in the Grantee's application. A final payment of fifty percent (50%) of the grant award will be withheld to reconcile the grant account at the end of the grant period or the closeout of the grant. The parties understand and agree that all payments made under this grant award are based on actual costs and are made based upon Grantee's satisfactory performance of Grantee's obligations under this grant agreement.

III. The Grantee shall not, in any manner, discriminate against, intimidate, or retaliate against

any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability as defined in the Americans with Disabilities Act (ADA The Grantee shall take affirmative action to ensure that employees are treated appropriately during employment, without regard to their race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability, as defined in the ADA. Such action shall include, but is not limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, including apprenticeship.

The Grantee agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places, and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the work being performed hereunder purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way. The Grantee agrees to post notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause in conspicuous places, available to employees and applicants for employment. Furthermore, the Grantee agrees to comply with all pertinent provisions of ORC Section 125.111, 4112.02, and the Drug Free Workplace Act.

IV. The Grantee shall, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability, as defined in the ADA.

V. The Grantee shall comply with the State Equal Employment Opportunity guidelines, and any direction as set forth by officials or agencies of the State or Federal Government that seek to eliminate unlawful employment discrimination, and with all other State and Federal efforts to assure equal employment practices under this Agreement. Before and during performance, the Grantee shall promptly comply with all requests and direction from the State of Ohio or any of its officials and agencies related to this paragraph.

VI. Upon the Grantee's noncompliance with the nondiscrimination clauses of this Agreement, this Agreement may be canceled, terminated, or suspended in whole or in part, and the Grantee may be ineligible for further state contracts. Further, such other sanctions may be imposed and remedies instituted as otherwise provided by the law.

VII. It is fully understood and agreed that neither Grantee nor any of its employees or other personnel shall at any time or for any purpose, be considered as agents or employees of the Ohio EPA or the State of Ohio. The Grantee certifies that neither the Grantee nor its employees or other personnel are public employees of the Agency under federal or state law for tax, Workers' Compensation, and retirement deduction purposes.

VIII. The Grantee shall carry out and administer the project according to all applicable federal, state, and local laws, rules, regulations, ordinances and the terms of this Agreement, as outlined in the Agency's 2023 CLG Application and Grant Manual.

IX. The Agency shall at any reasonable time have the right of access to and the right to audit all books and records, financial or otherwise, pertinent to the administration and operation of this project. The Grantee shall keep said books and records in a manner consistent

with generally accepted accounting procedures in a common file to facilitate audits and inspections. In the event of a special audit, the Grantee will be responsible for the actual cost of the audit. Said costs shall be determined by the State of Ohio.

X. The Grantee, by signature on this document, certifies that it: (1) has reviewed and understands the Ohio ethics and conflict of interest laws, including the requirements found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43, and (2) Grantee is currently in compliance with and will continue to adhere to, the requirements of Ohio ethics laws and conflict of interest laws and will take no action inconsistent with those laws. The 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 of Ohio. No personnel of Contractor or public official, employee or member of the governing body of any locality in which work under this Agreement is being carried out, and who exercises any functions or responsibilities in connection with the review or approval of this Agreement or carrying out of any such work, shall, prior to the completion of the work, voluntarily acquire any personal interest that is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out the work. Any such person who acquires an incompatible or conflicting personal interest on or after the effective date of this Agreement, or who involuntarily acquires any such personal interest, shall immediately disclose his or her interest to Ohio EPA in writing. Thereafter, he or she shall not participate in any action affecting the work under this Agreement, unless Ohio EPA determines in its sole discretion that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to public interest.

XI. The Grantee affirms that, as applicable to it, no party listed in Division (I) or (J) of Section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions in excess of the amounts specified in ORC 3517.13, to the Governor or to his campaign committees.

XII. The Grantee affirmatively represents and warrants to Agency that it is not subject to a finding for recovery under ORC 9.24 or otherwise qualifies under that section. The Grantee agrees that if this representation or warranty is deemed to be false, the Agreement shall be void *ab initio* as between the parties to this Agreement, and any funds paid by Agency hereunder immediately shall be repaid to Agency, or an action for recovery immediately may be commenced by Agency for recovery of said funds.

XIII. The Grantee affirmatively represents and warrants to Agency that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either ORC 153.02 or ORC 125.25. If this representation and warranty is false, this Agreement is void *ab initio* and Grantee shall immediately repay to the State any funds paid under this Agreement.

XIV. Implementation of the approved 2023 CLG project as outlined in the Grantee's 2023 CLG Approved Application and this Agreement shall not commence until the Agreement is signed by all parties or **July 1, 2023**, whichever is later. The Agency shall not be responsible for any costs incurred by the Grantee prior to the effective date of this Agreement.

XV. Grantee represents and warrants that:

1. It is not subject to any judgment or decree of a court of competent jurisdiction or governmental agency that would limit or restrict its right to enter and carry out this Agreement.

2. Neither the execution of this Agreement nor the consummation of its transactions will constitute a breach under any contract or agreement to which it is a party or by which it is bound.

3. It has made no false statements to the other party or any of its employees or agents in the process of obtaining this Agreement

4. It has the authority to execute this Agreement and perform their obligations under this Agreement.

5. It has received no written notice that any investigation, action or litigation is pending or threatened, which materially and adversely affects this Agreement.

XVI. This Agreement shall remain in effect until **June 30, 2025**. The Agency reserves the right, at any time after execution of this Agreement, with or without cause, to terminate, revise, or extend the grant in whole or in part, upon written notification to the Grantee. The Grantee, upon receipt of notice of termination, shall not incur any new obligations and shall take all necessary and appropriate steps to limit disbursements and minimize costs and obligations, including cancelling as many outstanding obligations as possible. In the event of such termination, the Grantee will be paid for approved expenditures incurred prior to termination and for any noncancelable obligations properly incurred by the Grantee prior to termination. If requested by the Agency, the Grantee shall promptly furnish a report that describes the status of all work under this Agreement as of the date of receipt of the termination notice. The Grantee agrees to waive any right to, and shall have no claim for, additional compensation against the Agency by reason of such termination.

XVII. The Grantee reserves the right, at any time after execution of this Agreement to terminate the program, in whole or in part, upon a thirty (30) day written notification to the Agency. In the event of such termination by the Grantee, the Grantee shall not incur any new obligations and shall make a good faith effort to cancel as many outstanding obligations as possible.

XVIII. All unspent funds and unallowed expenditures shall be returned to the Agency within forty-five (45) days of sending notification to the Agency or receiving notification from the Agency of any termination of the grant or program. Any payment not received within forty-five days of the due date may be turned over to the Attorney General for collection as a delinquent claim, and the Grantee agrees to pay the Agency all costs the Agency incurs for delinquent collections by the Attorney General's office.

XIX. The Grantee affirms to have read and understands Executive Order 2019-12D and Executive Order 2022-02D and shall abide by those requirements in the performance of this Agreement and shall perform no services required under the Agreement outside of the United States or purchase services from or investment in Russian institutions and companies. Notwithstanding any other terms of this Agreement, the State reserves the

right to recover any funds paid for services the Grantee performs outside of the United States for which it did not receive a waiver or funds paid for services from or investments in Russian institutions and companies. The State does not waive any other rights and remedies provided to the State in this Agreement. The Executive Orders are available at:

https://governor.ohio.gov/wps/portal/gov/governor/media/executive-orders/2019-12d

https://governor.ohio.gov/media/executive-orders/Executive-Order-2022-02D

The Grantee also affirms, understands, and agrees to immediately notify the State of any change or shift in the location(s) of services performed by the Grantee or its subcontractors under this Agreement, and no services shall be changed or shifted to a location(s) that is/are outside of the United States.

If the Grantee or any of its subcontractors perform services under this Agreement outside of the United States, or purchase services from or investments in Russian institutions and companies, the performance of such services shall be treated as a material breach of the Agreement. The State is not obligated to pay and shall not pay for such services. If Grantee or any of its subcontractors perform any such services, Grantee shall immediately return to the State all funds paid for those services. The State may also recover from the Grantee all costs associated with any corrective action the State may undertake, including but not limited to an audit or a risk analysis, as a result of the Grantee performing services outside the United States or purchases of services from or investments in Russian institutions and companies.

The State may, at any time after the breach, terminate the Agreement, upon written notice to the Grantee. The State may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Agreement and costs associated with the acquisition of substitute services from a third party.

The State, in its sole discretion, may provide written notice to Grantee of a breach and permit the Grantee to cure the breach. Such cure period shall be no longer than 21 calendar days. During the cure period, the State may buy substitute services from a third party and recover from the Grantee any costs associated with acquiring those substitute services.

Notwithstanding the State permitting a period of time to cure the breach or the Grantee's cure of the breach, the State does not waive any of its rights and remedies provided to the State in this Agreement, including but not limited to recovery of funds paid for services the Grantee performed outside of the United States, purchases of services from or investments in Russian institutions and companies, costs associated with corrective action, or liquidated damages.

XX. Until termination of this contract (expiration date – see condition XVI) and for a period of three years following termination, the **Agency** may require repayment of any funds, up to the full amount that has been distributed, upon a finding by the Director that **Grantee** or the cooperating enterprise is not in substantial compliance with environmental laws or rules or has become subject to a formal enforcement action by Ohio EPA or the Ohio Attorney General's Office. If the **Agency** terminates this agreement pursuant to this paragraph, any funds already distributed to Grantee, including funds that have already

been spent, shall be returned to the **Agency** within forty-five (45) days of receiving notification of termination. Any payment not received within forty-five days of the due date may be referred to the Ohio Attorney General's Office for collection as a delinquent claim, and the Grantee agrees to pay the Agency all costs the Agency incurs for delinquent collections by the Ohio Attorney General's Office. Grantee shall require all contracts with subcontractors to include legal mechanisms (e.g., default judgments or liens) to recover funds pursuant to this paragraph.

XXI. Neither this Agreement, nor any rights, duties, nor obligations hereunder, may be assigned, delegated, or transferred in whole or in part by the Grantee without prior written consent of the State. Any assignment or delegation not consented to may be deemed void by the State. This Agreement represents the complete and final agreement between the Parties and supersedes any previous writing or understanding.

XXII. Each party shall be responsible for its own acts and omissions and will be responsible for any and all damages, costs, and expenses that arise out of the performance of this Agreement, including those that are due to that party's own negligence, tortious acts, or other conduct, or that are due to the negligence, tortious acts, or other conduct of the party's respective agents, officers, or employees.

Ohio Environmental Protection Agency
2023 Community and Litter Grant Agreement

The effective date of this Agreement is the date when the Director of the Ohio Environmental Protection Agency signs this Agreement, or **July 1, 2023**, whichever date is later.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

Grantee: **City of Painesville, Ohio**
Award: **$7,280.00**

(I, we) have the authority to sign this Agreement and do so in (my/our) respective capacities:

Grantee Signature

E-SIGNED by Doug Lewis
on 2023-06-02 12:30:16 GMT

Signed: _____ **Date:** 2023-06-02 12:30:16 UTC

Authorized Official: **Doug Lewis, City Manager**
City of Painesville, Ohio

Ohio Environmental Protection Agency Signature

E-SIGNED by Daniel Sowry
on 2023-06-02 12:31:16 GMT

Signed: _____ **Date:** 2023-06-02 12:31:16 UTC

Dan Sowry, Assistant Chief
On behalf of Anne M. Vogel, Director, per 5/10/2023 Delegation of Authority
Ohio Environmental Protection Agency