

PUBLIC NOTICE

AGENDA

ADMINISTRATIVE SERVICES COMMITTEE MEETING

Committee Members: Sandy Russell, Lisa Evans, and Kim Chamberland

Thursday, July 14, 2022, at 4:00 p.m.

Council Chambers, 745 Center Street, Milford, Ohio 45150

Call to Order

Proceedings: Approval of the June 16, 2022, updated Administrative Services Committee Minutes

Agenda Items:

- Discussion: Noise Nuisances for Institutional Zoned Districts
- Discussion: Amending Appropriation Ordinances 2021-113 and 2022-129
- Quote: Engineering Services for Evaluating and Reducing Discharge of Phosphorus
- OPWC Grant Agreements (Water Supply and Discharge Line Replacement Projects)
- Discussion: Waste Collection and Recycling One Year Renewal
- And all additional matters that may properly come before the Committee.

Adjourn

**Administrative Services Committee
Meeting Minutes
June 16, 2022**

Ms. Russell called the meeting to order at 3:00 p.m.

Present: *Sandy Russell*, Lisa Evans, Kim Chamberland

Staff: City Manager Michael Doss, Planning and Community Development Coordinator Christine Celsor, Finance Director Pat Wirthlin, Law Director Mike Minniewar and Executive Assistant Jackie Bain

Visitors: Lynn Chaney, Mike Menkhaus, Damiene Nelson, Laurie Howland and Mr. Ryan Hartig

Proceedings: The updated minutes from the May 11, 2022, Administrative Services Committee Meeting were approved.

DISCUSSION: PROPOSED LEGISLATION RE: SHORT TERM RENTALS AND REGULATIONS

Mr. Doss reviewed the suggestive Changes information regarding Short Term Rentals and Regulations:

740.01 removed the word Owner Occupied

740.03 added the word Residential

740.04 permitting Fee amount changed to \$500

He stated that he did not feel these were substantive changes but wanted to figure out with the committee a time frame to enact this ordinance. If we take this ordinance and it becomes effective January 1 of next year, this would then be a substantive change which would make the whole legislative process start itself back over again starting Tuesday unless we get the five necessary votes. Anything else, if its effectuated, on Tuesday night, with no significant changes, it would go into effect at such time. Any other extended periods would need to be discussed. Mr. Doss informed the committee that the staff wanted to come before committee with the changes they were suggesting.

Mr. Minniewar discussed the effective date with the committee. The rationale was to due process and fairness, require a person to be given an opportunity to go through the permit process. We have not even had a permit application generated yet.

Ms. Celsor commented that the 740.03 rule/regulation needed to be changed to read:

A Residential STRP is not permitted within the three hundred feet buffer zone of another residential STRP, and no more than thirty STRP's shall be permitted per calendar year.

The committee discussed and concluded that a permit application process will be available within sixty days. October 1, 2022, was proposed as the date to which those that the Ordinance applies to, must come in and complete the permit process.

Ms. Chamberland made a motion to take the updated information as discussed in this meeting to council.

Ms. Chaney –

Ms. Chaney had multiple questions regarding the changes and the process for the currently proposed Short Term Rental Ordinance information.

Mr. Minniear explained the process per the City of Milford Charter.

The committee members explained items of concern to staff. They had to define between commercial and residential. And the current discussion is regarding the time frame becoming effective on October 1, 2022.

Ms. Russell addressed the audience and explained the clarification process which will help staff be able to enforce the rules and regulations of the Short-Term Rental information.

Mr. Menkhaus –

Commented that not all of these businesses are illegal if you have a zoning variance. Questions were also asked of the committee regarding the rules and regulations of the Short-Term Rental.

Ms. Howland –

Discussed the committee's duties and obligations. And how this effects the people living next door to these units every single day. If it such a concern of where these people will stay, she suggests that people stay at our local hotels.

Mike Minniear responded that if we are going to pass the ordinance, passing it indicates that the Owner-Occupied short-term rental properties are legal at that point. Then the permit process allows you to continue to operate, provided you do the permit process. We may want to pass it making it effective immediately so that they are on notice that they are operating not according to the ordinance, but we will give you a moratorium, so to speak, to complete the permit application within a certain amount of days.

Ms. Wirthlin explained the first reading information. Also discussed were the concerns of staff regarding the placing of the word residential to make it clearer. And if it was not a substantive change and if it is something to just make it clearer, that is okay. But if it is a substantive change, then they would have to start the process over. And the issue of the time frame could or could not be a substantive change. She believes that up to 90 days was not a major change. And that is why we could change it a little bit, and it does not have to be a verbatim second reading, and it can still be a second reading and pass at the next meeting instead of starting over.

Mr. Minniear stated that there are two separate things here. The ordinance itself which is the law/the text. Which is Chapter 740/Short Term Rental Property. Then there is the enacting legislation, which is the ordinance itself, which he will read. He reads the ordinance, and he adopts the text by incorporation. There is nothing in the text that states when it is effective. The last council meeting it was effective immediately. HE can only read it again, there has to be exactly the same text at the next council meeting. If we do not change anything on it, the changes he discussed before regarding the \$500 and the Residential those are clarifications. Those are substantive major changes. Making the effective date from immediate to a time period is a major change. IF he comes back at the next council meeting and there is no change to the effective date, it can be passed that night, with four votes. If the effective date is made any time other than immediately, he can only read it for the first time at the meeting. Mr. Minniear stated that we make it effective immediately but with the understanding that people will have the opportunity to complete the permit process to be in compliance.

Ms. Chamberland clarified the information with Mr. Minniear that as this is written, does this constitute as a second reading and can be passed by only four votes at the next council meeting? And then we can say it is effective immediately for people that have owner-occupied short-term rentals in residential neighborhoods would get on notice that you would have to apply for your permit for your property. And we have a moratorium until October 1st.

Mr. Minniear stated that yes. He could read the ordinance as the text as it exists today, with just those minor clarification changes, is effective immediately, but the city will grant a time period for people to complete the process. Which could pass on Tuesday. If we did not give people a moratorium, what would we do? Call the Sheriff? He is concerned with the community and the residents but there is a fairness issue involved here. The people have to be given the opportunity to bring themselves in compliance. It is about due process and fairness and about the residents that live here.

Damiene Nelson –

Has owned many rental properties and yes, it is a pain to adapt. But you can definitely make money on long term rentals.

Ms. Chamberland made a motion to move this to council, next Tuesday, to make this *EFFECTIVE IMMEDIATELY with people to have the opportunity to complete the permit process until October 1st.*

Ms. Russell seconded the motion

Ms. Evans no

THE COMMITTEE AGREED TO RECOMMEND THAT THE LAW DIRECTOR DRAFT AN ORDINANCE TO BE EFFECTIVE IMMEDIATELY RESIDENTIAL, OWNER AND NON-OWNER OCCUPIED, SHORT-TERM RENTAL PROPERTIES ARE PROHIBITED.

*In the body of the Ordinance it will be indicated that persons currently not in compliance with this ordinance shall be given until October 1, 2022, to be in compliance

DISCUSSION: MEDICAL MARIJUANA FACILITIES

Mr. Doss discussed how the state has offered up additional licensers for medical marijuana dispensaries in the State and at they have gone through a lot of reprocesses. There were several applicants that listed the City of Milford as their addresses to place dispensaries. Several LLC placed multiple applications for one property. We have received any permitting or any applications for permits for any of those properties. There is a concern for how many medical marijuana dispensaries can you have within a city. And it can have an impact on economic development because of the stigma that is still around.

The committee discussed and considered limiting the amount of medical marijuana dispensaries within the City of Milford. And to only allow one operating licensed facility at one time.

Ms. Chaney commented that currently in the insurance industry even if it is allowed by the State marijuana is not recognized at the Federal level as being a legally operated business and as such you cannot insure them. You many need to input some insurance criteria for the business.

THE COMMITTEE AGREED TO RECOMMEND THAT THE LAW DIRECTOR DRAFT AN ORDINANCE LIMITING MEDICAL MARIJUANA OPERATION FACILITY TO ONE LICENSED OPERATION FACILITY AT ONE TIME IN THE CITY OF MILFORD.

DISCUSSION: 5633 HAPPY HOLLOW ROAD LOT SPLIT

Ms. Celsor brought to the committee's attention an application for a lot re-configuration located at 5633 Happy Hollow Road. The house is located on a parcel in Milford and the driveway is located on a parcel in Miami Township. The are looking to combine the driveway property into the main part of the property. All departments have reviewed this information and did not have with any concerns.

Mr. Ryan Hartig – Viox & Viox

Discussed with the committee the property size and reviewed a layout of the property.

THE COMMITTEE AGREED TO RECOMMEND THAT THE LAW DIRECTOR DRAFT AN ORDINANCE APPROVING THE RECONFIGURATION OF THE LOT AT 5633 HAPPY HOLLOW ROAD

ESTABLISHMENT OF THE PARK LEVY IMPROVEMENT FUND NO. 418

Ms. Wirthlin brought to the committees' attention that a month ago she asked for approval to make Fund 208 for the Park Levy. She has since then has had second thoughts about it after talking this over with financial experts. They have decided to go in a different direction. It would involve two funds. Fund number 418/Park Levy Improvement Fund, which accounts for the park development & Fund 332/Bond Levy Retirement Fund which accounts for the debt payment. Separating one from the other.

The Committee Agreed to Recommend That The Law Director Draft An Ordinance Authorizing The Creation of The Park Levy Improvement Fund Number 418 (And Declaring An Emergency)

DISCUSSION: LOCAL GOVERNMENT FORMULA

Mr. Doss discussed the Local Government Fund Formula and how it is dispersed. Milford's formula with the new Township model went down to a bit over \$50,000 which was set to go on a three-year scale. This model, which three groups have to vote on, Clermont County Commission, The City of Milford and a combination of the Townships and Villages. If they are to exclude the City of Milford, they must pass an ordinance every year. If they include the city of Milford in their formula, it is good for a period of five years. Mr. Doss reviewed information regarding a consensus model with the committee. He went over information on several resolutions being circulated through Clermont County with the Township Association and also a mayor's model going around. The model that benefits the City of Milford the most is the Clermont Consensus model.

Ms. Wirthlin also discussed Milford's involvement in the process and the race for resolutions process.

THE COMMITTEE AGREED TO RECOMMEND THAT THE LAW DIRECTOR DRAFT AN RESOLUTION AUTHORIZING ADOPTION OF AN ALTERNATIVE METHOD OF APPORTIONMENT OF THE UNDIVIDED LOCAL GOVERNMENT FUND FOR CALENDAR YEARS 2023 THROUGH 2027

DISCUSSION: NON-UNION EMPLOYEES COMPENSATION

Mr. Doss informed the committee that it is that time of the year to discuss non-union employee compensation. At the end of each calendar year, we pass a Resolution for employee compensation for non-union employees. We have collective bargaining employees and the contracts for those four bargaining pay increases are effective July 1 of each year. We are trying to line them up with the Union contracts and that is why you are seeing this information now instead of at the beginning of each year as previously done. And to be distributed by a flat amount that he or she can divi up accordingly to staff.

Mr. Doss also asked for an additional consideration for the Asst. Chief of Police and Finance Director to have their portion of their pension picked up. They are vitally important positions, key roles within the City of Milford. It would 10% for the Finance Director and 12.25% for the Assistant Police Chief. They are not getting an increase with the \$21,000 but is also about retainage of good quality employees. And their names to be identified in the ordinance.

THE COMMITTEE AGREED TO RECOMMEND THAT THE LAW DIRECTOR DRAFT AN ORDINANCE TO INCREASE THE AMOUNT FOR NON-UNION EMPLOYEES COMPENSATION IN THE TOTAL AMOUNT OF \$21,000 TO BE DIVIDED UP BY THE CITY MANAGER.

THE COMMITTEE AGREED TO RECOMMEND THAT THE LAW DIRECTOR DRAFT AN ORDINANCE TO HAVE A PORTION OF THE PENSION PICKED UP FOR ASSISTANT CHIEF OF POLICE IN THE AMOUNT OF (12.25% PER YEAR) AND THE FINANCE DIRECTOR IN THE AMOUNT OF (10% PER YEAR)

There being no further business, the meeting adjourned at 4:28 pm with a motion from Ms. Evans. Seconded by Ms. Chamberland All yes

Respectfully submitted,
Jackie Bain, Executive Assistant

“These minutes have been approved and adopted by Ms. Russell, Ms. Evans and Ms. Chamberland on June 21, 2022.”



CITY OF MILFORD

745 Center Street, Suite 200, Milford, OH 45150

Phone: 513-831-4192

Fax: 513-248-5096

www.milfordohio.org



To: Honorable Chair Sandy Russell and Members Lisa Evans & Kim Chamberland
Administrative Services Committee

From: Pat Wirthlin, Finance Director

Date: July 14, 2022

Subject: FY2022 Second Amended Appropriations, Transfers & Advances

~\$7.4 Million Changes

Please find attached a list of proposed amendments to the City's 2022 appropriations, transfers, and advances. The increase in budgeted expenditures amounts to ~\$7.4 million in total. Please note that I am in the process of filing an Amended Certificate of Estimated Revenue which will increase budgeted revenues by close to the same amount.

~\$30 Million Total Budget

These changes put the City's total budget at ~ \$30 million, the largest budget yet. This amazing City has quite a few irons in the fire!

Staff Suggestion for Committee Recommendation

RECOMMENDATION AUTHORIZING THE LAW DIRECTOR TO PREPARE AN ORDINANCE AMENDING APPROPRIATIONS ORDINANCES 2021-113 and 2022-129 BY INCREASING THE INDIVIDUAL ITEMS AS LISTED ON THE ATTACHED CHART TOTALING \$7,389,511.

City of Milford
2nd Amended Appropriations, Transfers & Advances
Fiscal Year 2022

		Category		Total	Purpose
		Personnel	Other		
Fund		Increase (Decrease)			
Appropriations					
101	General Fund				
1000	Police	\$ 29,000	\$ 29,000	\$ 58,000	Staff Changes OPERS & HSA / Email Migration
1003	Police Contracts	57,000		57,000	Main Street Duke Gas Line Staffing
4000	Planning		1,500	1,500	Docking Station & Monitor
5200	Solid Waste & Recycling		2,500	2,500	Rumpke Contract Increase
6100	Service		1,000	1,000	Email Migration
7000	Manager	13,500	42,000	55,500	Overtime / Lobbyist
7100	Finance	9,500	1,500	11,000	Promotion / Email Migration
7300	Legislative		3,800	3,800	Email Migration, Insurance
7400	Mayor's Court	6,500	1,000	7,500	Health Insurance
207	Cemetery	(5,500)	18,000	12,500	Wage Reallocation / Landscaping Contract
212	Permissive		36,000	36,000	SR 28 Water Main Break, Street Repairs
215	Fire / EMS Levy		69,900	69,900	FEMA Smoke/CO2 Project, Tax Incentive
329	General Bond Retirement		11	11	Bond Interest
415	Capital Improvement		7,700	7,700	Body Cameras (29% Grant), City Hall 3rd Floor
418	Park Levy Improvement		1,004,000	1,004,000	5 Points Landing Park
502	Water Operating	4,000		4,000	Life Insurance
503	Wastewater Operating		55,600	55,600	Parkway Lift Station Issues, Fuel
516	Water Capital		1,000	1,000	Radio Read Meters
731	Special Deposits Trust		1,000	1,000	Utility Refund
Transfers & Advances					
101	General Fund				
	Advance Out to Water Tower Impr		3,000,000	3,000,000	Prepay Requirement for OhioBuilds Grant
515	Water Tower Improvement				
	Advance Repaid to General Fund		3,000,000	3,000,000	Prepay Requirement for OhioBuilds Grant
TOTALS		\$ 114,000	\$ 7,275,511	\$ 7,389,511	

RECORD OF ORDINANCES

GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 30043

Ordinance No. 2020-08 Passed January 21, 2020

AN ORDINANCE ENACTING CHAPTER 737 OF THE CODIFIED ORDINANCES OF THE CITY OF MILFORD, OHIO, ESTABLISHING THE REGULATION OF AMPLIFIED SOUND WITHIN THE CITY OF MILFORD RIVER DISTRICT.

Now, Therefore, Be It Ordained By The Council Of The Municipality Of Milford, Ohio:

Section 1.

The Council of the City of Milford hereby enacts Chapter 737 of the Codified Ordinances of the City of Milford, Ohio to read as follows:

CHAPTER 737 RIVER DISTRICT SOUND

737.01 DEFINITIONS

- (1) "Amplified sound" means music or other loud sound whether generated by live performance, radio, phonograph, television, tape player, compact disc player, computer, loudspeaker, or any other sound amplifying device.
- (2) "Person" means the owner, tenant, person in possession of a premises, or person in control of the premises by reason of employment, or agency, whether such ownership, possession or control is exclusive or joint. A "person" shall include any corporate entity or partnership.
- (3) "River District" is that business district located within the City of Milford as defined and set forth in the Milford Zoning Ordinance.

737.02 No person shall permit or allow amplified sound to be played or generated within the City of Milford River District after 10:00 p.m. Sunday through Thursday or after 12:00 a.m. Friday and Saturday.

737.03 Any violation of this Ordinance shall be a minor misdemeanor subject to a \$150 fine on the first violation; a fourth degree misdemeanor subject to a \$250 fine on the second violation; a third degree misdemeanor subject to a \$500 on the third violation; and a \$750 fine for each violation thereafter.

737.04 The City may consider the temporary expansion of the hours provided for herein in the case of a special event. Any person seeking permission to expand the hours provided for herein shall complete the necessary permit application as provided by the City Administration no later than fifteen days prior to the scheduled event. The City Manager or Manager's designee has the sole discretion as to whether or not the permit should be granted.

Section 2.

This Ordinance shall amend and supersede the provisions of any Ordinance, Resolution, Rule, or Regulation which are clearly inconsistent herewith.

Section 3.

Pursuant to and in accordance with Section 12.05 of the Milford City Charter, this Ordinance shall become effective immediately upon its passage by City Council.

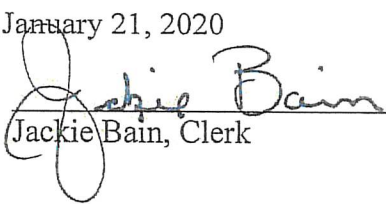
RECORD OF ORDINANCES

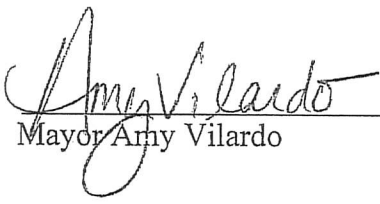
GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 30043

Ordinance No. _____ Passed _____, 20____

ADOPTED: January 21, 2020

ATTESTED:


Jackie Bain, Clerk


Mayor Amy Vilardo

LAW DIRECTOR'S CERTIFICATION

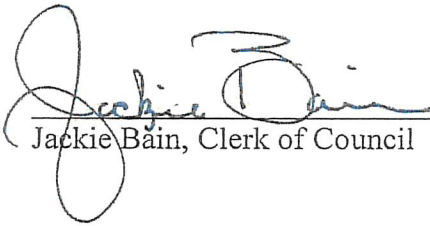
I hereby certify that I have prepared the foregoing Ordinance in accordance with Sec. 12.02 of the Milford City Charter.

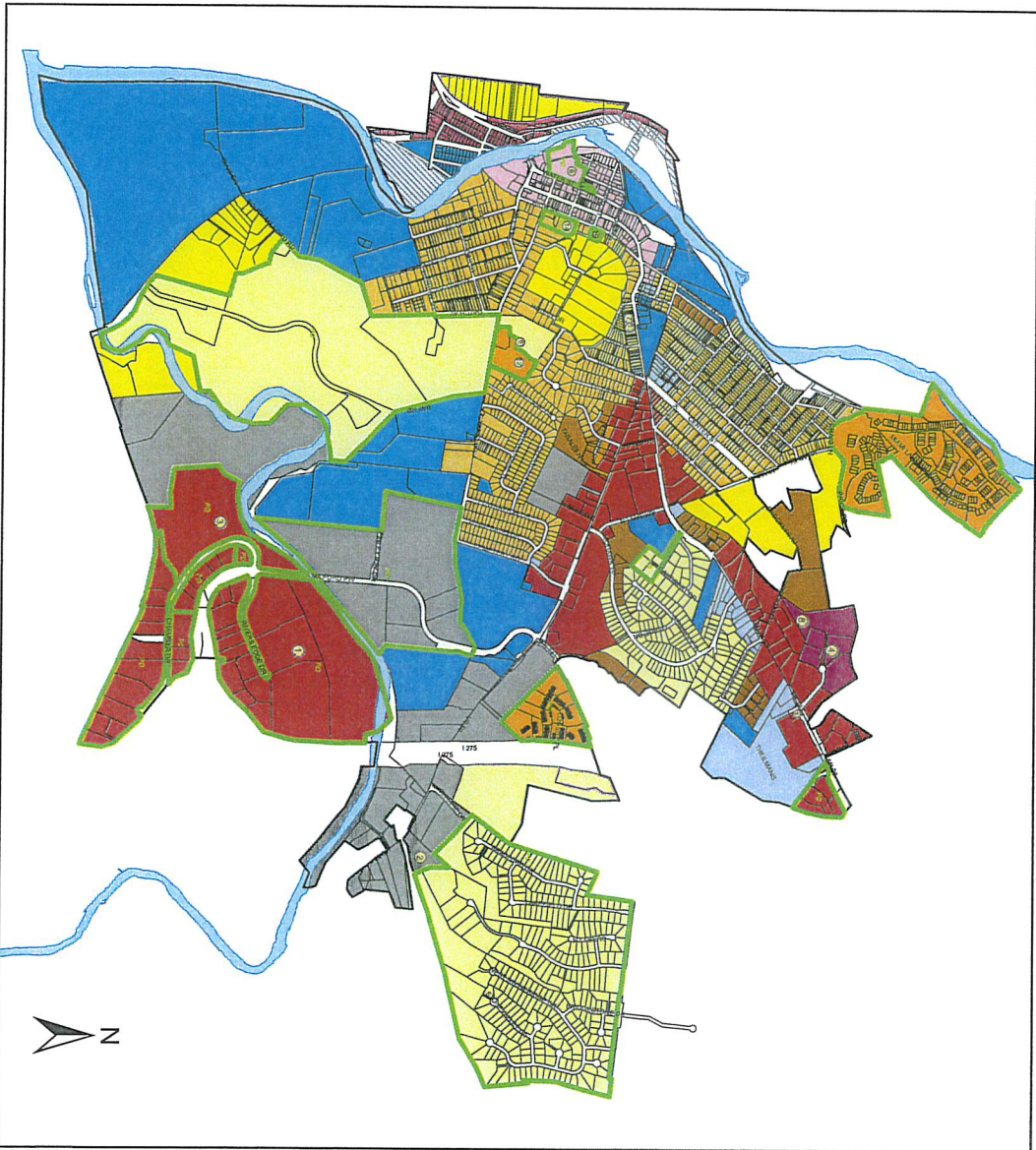


Michael Minniewar, Law Director
Reg. No. 0022446

CLERK'S CERTIFICATION

I Jackie Bain, Clerk of Council of the City of Milford, Ohio, do hereby certify that the foregoing Resolution was published by posting the complete text of said Ordinance at five (5) of the most public places in said Municipality as determined by Council as follows: at Peoples Bank, 735 Lila Avenue, Milford, Ohio; at Park National Bank, 25 Main Street, Milford, Ohio; at Milford Community Fire Department, 687 B US 50, Milford, Ohio; at the Milford Post Office, 100 Castleberry Court, Milford, Ohio; and at the site of the Municipal Building, 745 Center St., Milford, Ohio each for a period of fourteen (14) days commencing on the 23 day of January, 2020.


Jackie Bain, Clerk of Council



Zoning Districts

- R-1, Large Lot Residential
- R-2, Single Family Residential
- R-3, Single Family Residential
- R-4, Multi-Family Residential
- R-5, Multi-Family Apartment Complex
- B-2, Downtown Mixed Use
- MFD, Milford River District
- B-3, General Business
- B-5, Special Business
- I, Institutional
- O, Office
- L-1, Light Industry
- F, Floodplain
- PD, Planned Development
- Water Features
- Parcel Boundaries

Adopted June 1999 (ORD 89-196)

Revisions

- 216/2001 (ORD 00-09)
- 416/2001 (ORD 01-15)
- 118/2005 (ORD 05-42)
- 418/2005 (ORD 05-43)
- 305/2009 (ORD 09-47)
- 417/2012 (ORD 12-58)
- 614/2013 (ORD 13-10)
- 518/2014 (ORD 14-10)
- 519/2014 (ORD 14-11)
- 1120/2018 (ORD 18-14)
- 604/2019 (ORD 19-14)
- 605/2019 (ORD 19-15)
- 1207/2021 (ORD 21-11)
- 631/2022 (ORD 22-13)

Zoning Map City of Milford, Ohio

1,000 500 0 1,000 Feet

This map was prepared by the Planning Department of the City of Milford, Ohio. It is not intended to be used for any purpose other than for general information. The City of Milford, Ohio, is not responsible for any errors or omissions in this map. The City of Milford, Ohio, is not responsible for any damages or losses resulting from the use of this map.

Prepared by the City of Milford
Planning Department
1440 Center St., Suite 200
Milford, Ohio 44130
(330) 375-5000
www.milfordohio.org



June 23, 2022

City of Milford
745 Center Street, Suite 200
Milford, Ohio 45150

Attn: Michael Doss,
City Manager

Re: Phosphorus Discharge Optimization
Evaluation Plan

Mr. Doss,

As requested, please consider this correspondence as Environmental Engineering Service's (EES) proposal to assist the City of Milford in complying with its current NPDES permit through completion of an Evaluation for reducing Discharge of Phosphorus. This requirement is imposed on all Ohio POTW's with a design flow of 1.0 MGD and no current phosphorus limit in its NPDES permit.

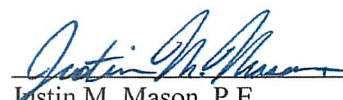
The work effort described in the attached Exhibit A will be completed in accordance with the schedule contained in the NPDES permit. The fee for the Exhibit A services will be a lump sum amount of \$ 4,950 payable on a progress basis. The fee will be increased by a lump sum amount of \$ 3,000 if bench scale studies are deemed appropriate and cost effective.

The signature of your Authorized Signatory in the space provided below will indicate your concurrence with the terms and conditions contained herein and our Authorization to Proceed.

We look forward to our continued work with the City of Milford.

Sincerely,

ENVIRONMENTAL ENGINEERING SERVICE


Justin M. Mason, P.E.
Project Manager

PLANNING - DESIGN - OPERATIONS
3575 Columbia Road Lebanon, Ohio 45036
(513) 934-1512 FAX (513) 934-1515
A Division of Ohio Valley Environmental Engineering, Inc.

ACCEPTANCE & AUTHORIZATION TO PROCEED
CITY OF MILFORD

Authorized Signatory

Date

EXHIBIT A
SCOPE OF SERVICES
PHOSPHORUS DISCHARGE OPTIMIZATION EVALUATION PLAN

I. PROJECT PURPOSE:

To assist the City in fulfilling its obligation under its NPDES permit to prepare and submit for OEPA Approval "Phosphorus Discharge Optimization Evaluation Plan."

II. SCOPE OF SERVICES:

EES will:

1. Review current operation performance of the WWTP including total phosphorus concentrations of the effluent and influent (if available) for the previous twelve (12) months;
2. If influent data is unavailable, work with the City to establish a collection protocol to secure this data for the next twelve (12) months;
3. Gather, collate and develop data and analyses necessary to complete the OEPA-provided "Evaluation for Reducing Discharge of Phosphorus" form and complete same;
4. To facilitate accurate O&M costs for possible chemical addition, bench scale studies will be conducted to quantify chemical dosing requirements based on effluent characteristics.
5. Document possible source reduction measures, operation improvements and minor facility modifications that will cost-effectively optimize WWTP Phosphorus discharge;
6. Provide a proposed schedule for implementation of recommended discharge optimization measures;
7. Prepare for submission by the City all documents required by the NPDES permit within the time schedule contained within the permit;
8. Assist the City in responding to OEPA comments (if any) prior to final acceptance by the Agency.

Ohio Public Works Commission

PROJECT GRANT AGREEMENT

STATE CAPITAL IMPROVEMENTS PROGRAM

Pursuant to Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1, this Project Grant Agreement (“Agreement”) is entered into **July 1, 2022** by and between the State of Ohio, acting by and through the Director of the Ohio Public Works Commission (“Director” or the “OPWC”), and **City of Milford** (“Recipient”), in respect of the Project named **Wallace Avenue Water Tower Supply Line Replacement** as described in Appendix A of this Agreement (“Project”) to provide **49 %** of the total Project cost (“Participation Percentage”), not to exceed **Three Hundred Eighty Eight Thousand Eighty Dollars (\$ 388,080)**, for the sole and express purpose of financing or reimbursing costs of the Project as more fully set forth in this Agreement and the Appendices as attached.

OPWC Project **CJ01Z**

RECITALS

The State Capital Improvements Fund created under Ohio Revised Code Section 164.08 is to benefit local subdivisions for the acquisition, construction, reconstruction, improvement, planning and equipping of roads and bridges, appurtenances to roads and bridges to enhance the safety of animal-drawn vehicles, pedestrians, and bicycles, waste water treatment systems, water supply systems, solid waste disposal facilities, and storm water and sanitary collection, storage, and treatment facilities, including real property, interests in real property, facilities, and equipment related or incidental to those facilities.

Pursuant to Ohio Revised Code Section 164.02, the Ohio General Assembly created the Ohio Public Works Commission (OPWC) to implement the policies set forth in Article VIII of the Ohio Constitution and Ohio Revised Code Chapter 164;

Pursuant to Ohio Revised Code 164.05, the Director is empowered to (i) enter into agreements with Local Subdivisions to provide loans, grants, and local debt support for Capital Improvement Projects; and (ii) authorize payments to Local Subdivisions or their Contractors for costs incurred for Capital Improvement Projects;

Pursuant to Ohio Revised Code Section 164.06, the Director is empowered to review and approve or disapprove requests for financial assistance from the District Public Works Integrating Committees in accordance with the criteria set forth in Ohio Revised Code Sections 164.06(B);

Ohio Revised Code Sections 164.05 and 164.06 permit a grant of funds for such a Capital Improvement Project to be expended or provided only after the District Public Works Integrating Committee has submitted a request to fund the Project to the Director outlining the Recipient's planned use of the funds, and subsequent approval of the request by the Director;

The Recipient desires to engage in the Capital Improvement Project described in Appendix A of this Agreement; and

The Project has been duly recommended to the Director pursuant to Ohio Revised Code 164.06 by the District Committee of which the Recipient is a part.

In consideration of the contained promises and covenants, the undersigned agree as follows:

I. **DEFINITIONS AND GENERAL PROVISIONS.** The following words and terms as used in this Agreement shall have the following meanings.

“Bond Counsel” means an attorney or firm of attorneys of nationally recognized standing on the subject of municipal bonds satisfactory to the Director of the OPWC.

“Capital Improvement Project” means the eligible project as defined in Ohio Revised Code Section 164.08 and as described in Appendix A.

“Chief Executive Officer” means the single office or official of the Recipient and as designated in Appendix A pursuant to Section V. A. or authorized designee as per written notification to the Director.

“Chief Fiscal Officer” means the single office or official of the Recipient and as designated in Appendix A, pursuant to Section V. A, or authorized designee as per written notification to the Director.

“Code” means the Internal Revenue Code of 1986, as amended. Each reference to the Code herein shall be deemed to include the United States Treasury Regulations in effect, whether temporary or final, with respect thereto and applicable to the Infrastructure Bonds or the use of the proceeds thereof.

“Contractor” means a person who has a direct contractual relationship with the Recipient and is the manufacturer of all or a portion of the Project, or the provider of labor, materials or services in connection with

the acquisition, improvements, construction, reconstruction, expansion, or engineering of the Project; or both.

“Cost of Project” means the costs of acquiring, constructing, reconstructing, expanding, improving and engineering projects and shall also be deemed to include preliminary costs, including but not limited to, planning costs, design costs, and financing costs.

“District Committee” means the District Public Works Integrating Committees and the Executive Committees created pursuant to Ohio Revised Code Section 164.04.

“Effective Date” means the date set forth on Page One of this Agreement.

“Eligible Project Costs” means such portion of the Project costs disbursed from the OPWC to the Recipient for the sole and express purpose of acquiring, constructing, reconstructing, expanding, improving, engineering and equipping the Project, other direct expenses, and related financing costs.

“Governing Body” means the board of county commissioners or a county council if a county, the legislative authority of a municipal corporation, or the board of township trustees if a township, the board of directors if a sanitary district; or the board of trustees if a regional water and sewer district.

“Local Subdivision” means a county, municipal corporation, township, sanitary district or regional water and sewer district of the State.

“Local Subdivision Contribution” means the Local Subdivision financial share used for the sole and express purpose of paying or reimbursing the costs certified to the Director under this Agreement for the completion of the project. Such funds shall constitute a specified percentage of the total Cost of Project set forth in Appendix B and may consist of money by any person, any Local Subdivision, the State of Ohio, or the federal government or of contributions in-kind by such parties through purchase or donation of equipment, land, easements, labor, or materials necessary to complete the Project.

“Participation Percentage” means the rounded percentage of the total actual Project costs that will be contributed by the OPWC, not to exceed the maximum dollar contribution of the OPWC identified in this Project Agreement, and the rounded percentage of the total actual Project costs that will be contributed by the Recipient. Both percentages are identified in Appendix B. If the total actual Project costs exceed the estimated Project costs identified in Appendix B, the Local Subdivision Participation Percentage will increase to reflect the cost overrun, while the OPWC percentage contribution will decrease recognizing that there is a maximum dollar contribution from the OPWC which is identified in this Project Agreement.

“Private Business Use” means use (directly or indirectly) in a trade or business or activity carried on by any Private Person (other than a Tax-Exempt Organization) other than use as a member of, and on the same basis as, the public.

“Private Person” means any person, firm, entity or individual who or which is other than a governmental unit as defined in Code Section 150 and used in Code Sections 141 and 148.

“Project” means the scope of work specified in Appendix A.

“Project Manager” means the principal employee or agent of the Recipient having administrative authority over the Project designated in Appendix A pursuant to Section V.A., or authorized designee as per written notification to the Director.

“State” means the State of Ohio.

“Tax-Exempt Organization” means a governmental unit, as used in Code Sections 141 and 148.

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- II. **GRANT OF FINANCIAL ASSISTANCE.** Subject to the terms and conditions contained in this Agreement, the Director hereby grants to the Recipient financial assistance, as established in this section, for the sole and express purpose of paying or reimbursing the eligible costs certified to the Director under this Agreement for the completion of the Project.
- A. *The Grant.* The Director hereby agrees to provide financial assistance in the form of a grant, from the State Capital Improvements Fund, in an amount not to exceed **Three Hundred Eighty Eight Thousand Eighty Dollars (\$ 388,080)**.
- B. *Joint Funded Project with the Ohio Department of Transportation.* For those projects advertised, awarded and administered by the Ohio Department of Transportation (ODOT), the Recipient and the Director hereby assign certain responsibilities to the ODOT, an authorized representative of the State of Ohio. Notwithstanding Sections V.A., V.B., and V.C. of the Project Agreement, the Recipient hereby acknowledges that upon notification by the ODOT, all payments for eligible project costs will be disbursed by the Director and the OPWC directly to the ODOT. A Memorandum of Funds issued by the ODOT shall be used to certify the estimated project costs. Upon receipt of a Memorandum of Funds from the ODOT, the OPWC shall transfer funds directly to the ODOT via an Intra-State Transfer Voucher. The amount or amounts transferred shall be determined by applying the Participation Percentages defined in Appendix B to those eligible project costs within the Memorandum of Funds.
- III. **LOCAL SUBDIVISION CONTRIBUTION.** The Recipient shall, at a minimum, contribute to the Project the Local Subdivision Participation Percentage as set forth in Appendix B of this Agreement. In the event that the total actual Project costs exceed the estimated Cost of Project identified in Appendix B, the OPWC shall not be required to increase the maximum amount of the grant and the Recipient shall increase its Local Subdivision Contribution to meet such actual Cost of Project.
- IV. **PROJECT SCHEDULE.** Construction of the Project must begin within one year of the Effective Date of this Agreement, or this Agreement may become null and void at the sole discretion of the Director. A preliminary construction schedule is provided in Appendix A. Delays, with reason for the delay(s), must be communicated to the Director as soon as possible. The Director will review written requests for extensions and may extend the construction start date taking into consideration the Project can be completed within a reasonable time frame. Failure to meet the schedule without approval for an extension may cause this Agreement to become null and void at the sole discretion at the Director.
- V. **DISBURSEMENTS.** All payments made by the OPWC shall be made directly to the contractor that performed the work on the Project and originated the invoice unless the Recipient requests reimbursement. The following provisions apply to Project disbursements:
- A. *Project Administration Designation.* Pursuant to Ohio Administrative Code 164-1-21(B)(1-3), the Recipient shall designate its Chief Executive Officer, Chief Fiscal Officer and Project Manager in Appendix A of this Agreement. The Director and OPWC must be notified of changes in these designations in writing including the addition of designees or alternates.
- B. *Disbursements to Contractors to Pay Costs of the Project.* The Recipient shall submit to the Director a Disbursement Request together with the information and certifications required by this section, unless otherwise approved by the Director. The dollar amount set forth in the Disbursement Request shall be calculated based on the Participation Percentage set forth on Page One of this Agreement or as amended, to account for changed conditions in the Project financing scheme. If all requirements for disbursement are deemed by the Director to be accurate and completed, the Director shall initiate a voucher in accordance with applicable State requirements for the payment of the amount set forth in the Disbursement Request. The Office of Budget and Management, Ohio Shared Services, will forward the warrant, drawn in connection with the voucher, by regular first-class United States mail or electronic funds transfer to the contractor or other authorized recipient designated in the Disbursement Request.

Prior to any disbursement from the Fund, the following documents shall be submitted to the Director by the Recipient:

1. If the request is for disbursement to a Contractor, an invoice submitted to the Recipient by the Contractor which invoice requests payment of such sums in connection with its performance of the Project;
2. If the request is for disbursement to the Recipient, proof of payment of the invoice such as check, warrant, or other evidence satisfactory to the Director that payment of such sums has been made by the Recipient in connection with the portion of the Project for which payment is requested;
3. A Disbursement Request Form properly certified by the Project Manager, Chief Executive Officer and the Chief Fiscal Officer; and
4. Such other certificates, documents and other information as the Director may reasonably require.

If the Director finds that the documents comply with the requirements of this Agreement, the Director is authorized to cause the disbursement of moneys from the Fund for payment of the identified Project costs. The Recipient represents that the Project was initially constructed, installed or acquired by the Recipient no earlier than the Effective Date of this Agreement.

- C. *Limitations on Use.* No part of the moneys delivered to the Recipient pursuant to Section II is being or will be used to refinance, retire, redeem, or otherwise pay debt service on all or any part of any governmental obligations regardless of whether the interest on such obligations is or was excluded from gross income for federal income tax purposes.
- D. *Project Scope.* The physical scope of the Project shall be limited to only those Capital Improvements as described in Appendix A of this Agreement. If circumstances require a change in such physical scope, the change must be approved by the District Committee, recorded in the District Committee's official meeting minutes, and provided to the Director for the execution of an amendment to this Agreement.
- E. *Project Cost Overruns.* If the Recipient determines that the moneys granted pursuant to Section II, together with the Local Subdivision Contribution, are insufficient to pay in full the costs of the Project, the Recipient may make a request for supplemental assistance to its District Committee. Pursuant to Ohio Administrative Code Section 164-1-23, the Recipient must demonstrate that such funding is necessary for the completion of the Project and the cost overrun was the result of circumstances beyond the Recipient's control, that it could not have been avoided with the exercise of due care, and that such circumstances could not have been anticipated at the time of the Recipient's initial application. Should the District Committee approve such request, the action shall be recorded in the District Committee's official meeting minutes and provided to the Director for the execution of an amendment to this Agreement.

VI. CONDITIONS TO FINANCIAL ASSISTANCE AND ITS DISBURSEMENT. The Recipient must comply with the following before receiving funds:

- A. The Recipient certifies that the Local Subdivision Contribution necessary for the completion of the Project is available or expected to be available through the construction of the Project and must demonstrate its compliance with the provisions of Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1. If the local share as certified by the Chief Fiscal Officer at the time of the Project application becomes unavailable, the Recipient is to notify the Director and the OPWC as soon as possible or this Agreement may become null and void at the sole discretion

at the Director.

- B. The Recipient shall execute all other documents and certificates as deemed necessary by the Director, on the date hereof or at any time hereafter in connection with the financial assistance and disbursement of moneys pursuant to this Agreement, including any amendments to this Agreement.

VII. REPRESENTATIONS, WARRANTIES AND COVENANTS OF RECIPIENT. The Recipient represents warrants and covenants for the benefit of the Director as follows:

- A. The Recipient is a Local Subdivision of the State with all the requisite power and authority to construct, or provide for the construction of, and operate the Project under the laws of the State and to carry on its activities as now conducted.
- B. The Recipient has the power to enter into and perform its obligations under this Agreement and has been duly authorized to execute and deliver this Agreement.
- C. This Agreement is the legal, valid and binding obligation of the Recipient, subject to certain exceptions in event of bankruptcy and the application of general principles of equity.
- D. The Recipient has complied with all procedures, prerequisites and obligations for Project application and approval under Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1.
- E. The Recipient is not the subject of, or has it initiated any claim or cause of action that would give rise to any liability which would in any way inhibit Recipient's ability to carry out its performance of this Agreement according to its terms.
- F. Use of the Project – Qualified Service Contracts.
1. *General.* The Recipient shall not use the Project or suffer or permit the Project to be used for any Private Business Use. For purposes of the preceding sentence, use pursuant to a contract that satisfies the criteria of paragraphs 2 or 3 of this subsection shall not be regarded as a Private Business Use.
 2. *Qualified Service Contracts.* A Service Provider includes any person that is a Related Party to the Service Provider and the phrase "Chief Executive Officer" includes a person with equivalent management responsibilities.
 - a. *Qualified Service Contracts – Rev. Proc. 2017-13.* Unless the Recipient chooses to apply the safe harbors described below in F.2.b. for Service Contracts (defined below) entered into before (and not materially modified after) August 18, 2017, an arrangement under which services are to be provided by a Private Person ("Service Provider") involving the use of all or any portion of, or any function of, the Project (for example, the management services for an entire facility or a specific department of a facility) ("Service Contract") is a "Qualified Service Contract" if either (A) the only compensation provided for in the Service Contract consists of reimbursements of actual and direct expenses paid by the Service Provider to persons other than Related Parties and reasonable related administrative overhead expenses of the Service Provider ("Expense Reimbursement") or (B) all of the following conditions are satisfied:
 - b. The compensation (including Expense Reimbursement) for services provided pursuant to the Service Contract ("Compensation") is reasonable;

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- c. None of the Compensation (disregarding reimbursement of actual and direct expenses paid by the Service Provider to persons other than Related Parties, which for this purpose excludes employees of the Service Provider), including the timing of the payment thereof, is based on net profits from the operation of the portion of the Project with respect to which the Service Provider provides services (the “Managed Property”) or any portion thereof. Compensation will not be treated as providing a share of net profits if no element of the Compensation considers, or is contingent upon, either the Managed Property’s net profits or both the Managed Property’s revenues and expenses for any fiscal period. For this purpose, Compensation will not be treated as providing the Service Provider a share of the Managed Property’s net profits or requiring the Service Provider to bear a share of Managed Property’s net losses if the Compensation is: (i) based solely on a capitation fee, a periodic fixed fee, or a per-unit fee; (ii) incentive compensation that is determined by the Service Provider’s performance in meeting one or more standards that measure quality of services, performance, or productivity, and the amount and timing of the payment of the incentive compensation does not take into account (or is contingent upon) the Managed Property’s net profits; or (iii) a combination of the types of Compensation set forth in (i) and (ii);
 - d. The determination of the amount of Compensation and the amount of any expenses to be paid by the Service Provider (and not reimbursed), separately and collectively, do not consider either the Managed Property’s net losses or both the Managed Property’s revenues and expenses for any fiscal period;
 - e. The timing of the payment of Compensation is not contingent upon the Managed Property’s net losses or net profits. Deferral of the payment of Compensation will not be treated as contingent on the Managed Property’s net losses or net profits if the Service Contract includes requirements that: (i) the Compensation is payable at least annually; (ii) the Recipient is subject to reasonable consequences for late payment, such as reasonable interest charges or late payment fees; and (iii) the Recipient will pay such deferred Compensation (with interest or late payment fees) no later than the end of five years after the original due date of the payment of the Compensation;
 - f. The term of the Service Contract, including all renewal options, is no greater than the lesser of 30 years or 80% of the weighted average reasonably expected economic life of the Managed Property;
 - g. The Recipient must exercise a significant degree of control over the use of the Managed Property. This control requirement is met if the Service Contract requires the Recipient to approve the annual budget of the Managed Property, capital expenditures with respect to the Managed Property, each disposition of property that is part of the Managed Property, rates charged for the use of the Managed Property, and the general nature and type of use of the Managed Property (for example, the type of services);
 - h. The Recipient must bear the risk of loss upon damage or destruction of the Managed Property;
 - i. The Service Provider must agree that it is not entitled to and will not take any tax position that is inconsistent with being a Service Provider to the Recipient with respect to the Managed Property (e.g., the Service Provider will not claim

depreciation, amortization, or investment tax credit, or deduction for any payment as rent, with respect to the Managed Property); and

- j. The Service Provider must have no role or relationship with the Recipient, directly or indirectly, that, in effect, substantially limits the Recipient's ability to exercise its rights under the Service Contract, based on all the facts and circumstances. A Service Provider will not be treated as having a role or relationship that substantially limits the Recipient's ability to exercise its rights under the Service Contract if:
 - (i) Not more than 20% of the voting power of the Governing Body of the qualified user in the aggregate is vested in the directors, officers, shareholders, partners, members, and employees of the Service Provider;
 - (ii) The Governing Body of the Recipient does not include the Chief Executive Officer of the Service Provider or the chairperson (or equivalent executive) of the Service Provider's Governing Body; and
 - (iii) The Chief Executive Officer of the Service Provider is not the Chief Executive Officer of the Recipient or any Related Party to the Recipient.

- 3. *Qualified Service Contracts – Rev. Proc. 97-13.* A Service Contract is considered to contain termination penalties if the termination limits the Recipient's right to compete with the Service Provider, requires the Recipient to purchase equipment, goods or services from the Service Provider, or requires the Recipient to pay liquidated damages for cancellation of the Service Contract. Another contract between the Service Provider and the Recipient (for example, a loan or guarantee by the Service Provider) is considered to create a contract termination penalty if that contract contains terms that are not customary or arm's length that could operate to prevent the Recipient from terminating the Service Contract. A requirement that the Recipient reimburses the Service Provider for ordinary and necessary expenses, or restrictions on the hiring by the Recipient of key personnel of the Service Provider are not treated as contract termination penalties.

If the Recipient chooses to apply the following safe harbors, a Service Contract is a Qualified Service Contract if entered into before (and not materially modified after) August 18, 2017 and all of the following conditions are satisfied:

- a. The compensation for services provided pursuant to the Service Contract is reasonable;
- b. None of the compensation for services provided pursuant to the Service Contract is based on net profits from operation of the Project or any portion thereof;
- c. The compensation provided in the Service Contract satisfies one of the following subparagraphs:
 - (i) At least 95% of the compensation for each annual period during the term of the Service Contract is based on a periodic fixed fee and the term of the Service Contract, including all renewal options, does not exceed the lesser of 80% of the reasonably expected useful life of the

Project and 15 years. For purposes of Section VII.F., a “periodic fixed fee” means a stated dollar amount for services rendered for a specified period of time that does not increase except for automatic increases pursuant to a specified, objective external standard that is not linked to the output or efficiency of the Project (*e.g.*, the Consumer Price Index) and a “renewal option” means a provision under which the Service Provider has a legally enforceable right to renew the Service Contract but does not include a provision under which a Service Contract is automatically renewed for one-year periods absent cancellation by either party, even if such Service Contract is expected to be renewed; or

- (ii) At least 80% of the compensation for each annual period during the term of the Service Contract is based on a periodic fixed fee and the term of the Service Contract, including all renewal options, does not exceed the lesser of 80% of the reasonably expected useful life of the Project and 10 years; or
- (iii) At least 50% of the compensation for each annual period during the term of the Service Contract is based on a periodic fixed fee, the term of the Service Contract, including all renewal options, does not exceed five years, and the Service Contract is terminable by the Recipient on reasonable notice, without penalty or cause, at the end of the third year of the Service Contract term; or
- (iv) All of the compensation for services is based on a capitation fee or a combination of a capitation fee and a periodic fixed fee, the term of the Service Contract, including all renewal options, does not exceed five years, and the Service Contract is terminable by the Recipient on reasonable notice, without penalty or cause, at the end of the third year of the Service Contract term; a “capitation fee” means a fixed periodic amount for each person for whom the Service Provider assumes the responsibility to provide all needed services for a specified period so long as the quantity and type of service actually provided to covered persons varies substantially; or
- (v) All of the compensation for services is based on a per-unit fee or a combination of a per unit fee and a periodic fixed fee, the term of the Service Contract, including all renewal options, does not exceed three years and the Service Contract is terminable by the Recipient on reasonable notice, without penalty or cause, at the end of the second year of the Service Contract term; a “per-unit fee” means a fee based on a unit of service provided (*e.g.*, a stated dollar amount for each specified procedure) and generally includes separate billing arrangements between physicians and hospitals; or
- (vi) All of the compensation for services is based on a percentage of fees charged or a combination of a per-unit fee and a percentage of revenue or expense fee, the term of the Service Contract, including all renewal options, does not exceed two years and the Service Contract is terminable by the Recipient on reasonable notice, without penalty or cause, at the end of the first year of the Service Contract term; this subparagraph (vi) applies only to (I) Service Contracts under which the Service Provider primarily provides services to third parties (*e.g.*,

health care services) or (II) Service Contracts involving the Project during an initial start-up period for which there has been insufficient operations to establish a reasonable estimate of the amount of the annual gross revenues (or gross expenses in the case of a Service Contract based on a percentage of gross expenses) (*e.g.*, a Service Contract for general management services for the first year of operations), in which case the compensation for services may be based on a percentage of gross revenues, adjusted gross revenues (*i.e.*, gross revenues less allowances for bad debts and contractual and similar allowances), or expenses of the Project, but not more than one of these measures; or

(vii) All the compensation for services is based on a stated amount, a periodic fixed fee, a capitation fee, a per-unit fee, or a combination of the preceding. The compensation for services also may include a percentage of gross revenues, adjusted gross revenues, or expenses of the Project (but not both revenues and expenses). The term of the Service Contract, including all renewal options, does not exceed five years, and the Service Contract need not be terminable by the Recipient prior to the end of the term. For purposes of this section, a tiered productivity award as described in section 5.02(3) of Internal Revenue Service Revenue Procedure 97-13, as amplified by Internal Revenue Service Notice 2014-67, will be treated as a stated amount or a periodic fixed fee, as appropriate.

- d. The Service Provider has no role or relationship with the Recipient, directly or indirectly, that, in effect, substantially limits the Recipient's ability to exercise its rights under the Service Contract, including cancellation rights;
- e. The Service Provider and its directors, officers, shareholders and employees possess in the aggregate, directly or indirectly, no more than 20% of the voting power of the Governing Body of the Recipient;
- f. No individual who is a member of the Governing Body of the Service Provider and the Recipient is the Chief Executive Officer of the Recipient or the Service Provider or the chairperson of the Governing Body of the Recipient or the Service Provider; and
- g. The Recipient and the Service Provider are not Related Parties.

4. *Exceptions.* The Recipient may treat a Service Contract that does not comply with one or more of the criteria of Section VII.F. as not resulting in Private Business Use of the Project if it delivers to the Director of the OPWC, at its expense, an opinion of Bond Counsel to the effect that such Service Contract does not result in Private Business Use of the Project and that entering into such Service Contract would not adversely affect the exclusion from gross income of the interest on the bonds that financed the Project or cause the interest on such bonds, or any portion thereof, to become an item of tax preference for purposes of the alternative minimum tax imposed under the Code.

G. *Use of Proceeds.* With respect to the Project to be financed or reimbursed by moneys granted pursuant to Section II:

- 1. The total cost of the Project shall not and will not include any cost which does not

constitute “Costs of Capital Improvements Projects”, as defined in Ohio Revised Code Section 164.01(F);

2. All the Project is owned, or will be owned, by the Recipient or another Tax-Exempt Organization, upon providing prior written notice to the Director, for as long as the loan is outstanding;
 3. The Recipient shall not use any of the moneys to pay or reimburse the Recipient for the payment of or to refinance costs incurred in connection with the acquisition, construction, improvement and equipping of property that is used or will be used for any Private Business Use; and
 4. The Recipient may engage in Private Business Use only if it delivers to the Director of the OPWC, at the Recipient’s expense, an opinion of bond counsel that to do so would not adversely affect the exclusion of interest on the Infrastructure Bonds from gross income for federal income tax purposes and such opinion is accepted by the Director of the OPWC.
- H. *General Tax Covenant.* The Recipient shall not take any action or fail to take any action which would adversely affect the exclusion of interest on the Infrastructure Bonds from gross income for federal income tax purposes.
- I. *Sufficiency of Moneys.* The Recipient has sufficient moneys in addition to those granted to Recipient pursuant to this Agreement to fund the Project to completion, as its Local Subdivision Contribution.
- J. *Construction Contract.* If federal funds are included as part of the financing of the non-OPWC portion of the Project, federal law may prevail, including, but not limited to, application of Davis Bacon prevailing wage rates, the Copeland “Anti-Kickback” Act, the Contract Work Hours and Safety Standards Act, and any federal environmental regulations. Recipient is solely responsible for ensuring compliance with federal requirements applicable to its Local Subdivision Contribution. Notwithstanding the above, the following provisions apply to construction contracts under this Agreement:
1. *Ohio Preference.* The Recipient shall, to the extent practicable, use and shall cause all its Contractors and subcontractors to use Ohio products, materials, services and labor in connection with the Project pursuant to Ohio Revised Code 164.05(A)(6);
 2. *Domestic Steel.* The Recipient shall use and cause all its Contractors and subcontractors to comply with domestic steel use requirements pursuant to Ohio Revised Code 153.011;
 3. *Prevailing Wage.* The Recipient shall require that all Contractors and subcontractors working on the Project comply with the prevailing wage requirements contained in Ohio Revised Code Sections 164.07(B) and 4115.03 through 4115.16;
 4. *Equal Employment Opportunity.* The Recipient shall require all Contractors to secure a valid Certificate of Compliance;
 5. *Construction Bonds.* In accordance with Ohio Revised Code 153.54, et. seq., the Recipient shall require that each of its Contractors furnish a performance and payment bond in an amount at least equal to 100% of its contract price as security for the faithful performance of its contract;
 6. *Insurance.* The Recipient shall require that each of its construction contractors and subcontractors maintain during the life of its contract or subcontract appropriate Workers

Compensation Insurance, Commercial General Liability, Public Liability, Property Damage and Vehicle Liability Insurance, and require Professional Liability Insurance for its professional architects and engineers; and

7. *Supervision.* The Recipient shall provide and maintain competent and adequate Project management covering the supervision and inspection of the development and construction of the Project and bear the responsibility of ensuring that construction conforms to the approved surveys, plans, profiles, cross sections and specifications.
- VIII. **PROGRESS REPORTS.** The Recipient shall submit to the Director, at the Director's request, summary reports detailing the progress of the Project pursuant to this Agreement and any additional reports containing such information as the Director may reasonably require.
- IX. **AUDIT RIGHTS.** The Recipient shall, at all reasonable times, provide the Director access to a right to inspect all sites and facilities involved in the Project and access to and a right to examine or audit any and all books, documents and records, financial or otherwise, relating to the Project or to ensure compliance with the provisions of this Agreement. The Recipient shall maintain all such books, documents and records for a period of six years after the termination of this Agreement, and such shall be kept in a common file to facilitate audits and inspections. All disbursements made pursuant to the terms of this Agreement shall be subject to all audit requirements applicable to State funds. The Recipient shall ensure that a copy of any final report of audit prepared in connection with and specific to the Project, regardless of whether the report was prepared during the pendency of the Project or following its completion, is provided to the Director within 10 days of the issuance of the report. The Recipient simultaneously shall provide the Director with its detailed responses to each negative or adverse finding pertaining to the Project and contained in the report. Such responses shall indicate what steps will be taken by the Recipient in remedying or otherwise satisfactorily resolve each problem identified by any such finding. If the Recipient fails to comply with the requirements of this Section or fails to institute steps designated to remedy or otherwise satisfactorily resolve problems identified by negative audit findings, the Director of the OPWC may bar the Recipient from receiving further financial assistance under Ohio Revised Code Chapter 164 until the Recipient so complies or until the Recipient satisfactorily resolves such findings.
- X. **GENERAL ASSEMBLY APPROPRIATION.** The Recipient acknowledges and agrees that the financial assistance provided under this Agreement is entirely subject to, and contingent upon, the availability of funds appropriated by the General Assembly for the purposes set forth in this Agreement and in Ohio Revised Code Chapter 164. The Recipient further acknowledges and agrees that none of the duties and obligations imposed by this Agreement on the Director shall be binding until the Recipient has complied with all applicable provisions of Ohio Revised Code Chapter 164 and until the Recipient has acquired and committed all funds necessary for the full payment of the Local Subdivision Contribution applicable to the Project.
- XI. **THIRD PARTY RIGHTS AND LIABILITY.** Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, good, or supplies of the Project sufficient to impose upon the Director any of the obligations specified in Ohio Revised Code Section 126.30. The Recipient shall be responsible for the Recipient's use or application of the funds being provided by the Director and the Recipient's construction or management of the Project.
- XII. **TERMINATION.** The Director's and OPWC's obligations under this Agreement shall immediately terminate upon the failure of the Recipient to comply with any of the Agreement's terms or conditions. Upon such termination, the Recipient shall be obligated to return any moneys delivered to the Recipient pursuant to the provisions of this Agreement.
- XIII. **GOVERNING LAW.** This Agreement shall be interpreted and construed in accordance with the laws of the

State. In the event any disputes related to this Agreement are to be resolved in a Court of Law, said Court shall be in the courts of Franklin County, State of Ohio.

- XIV. SEVERABILITY. If any of the provisions or parts of this Agreement are found to be invalid or unenforceable, the remainder of this Agreement and the application of this provision to such other persons or circumstances shall not be affected, but rather shall be enforced to the greatest extent permitted by Law.
- XV. ENTIRE AGREEMENT. This Agreement and its Appendices and Attachments contain the entire understanding between the parties and supersede any prior understandings, agreements, proposals and all other communications between the parties relating to the subject matter of this Agreement, whether such shall be oral or written.
- XVI. CAPTIONS. Captions contained in this Agreement are included only for convenience of reference and do not define, limit, explain or modify this Agreement or its interpretation, instruction or meanings and are in no way intended to be construed as part of this Agreement.
- XVII. NOTICES. Except as otherwise provided, any required notices shall be in writing and shall be deemed duly given when deposited in the mail, postage prepaid, return receipt requested, by the sending party to the other party at the addresses set forth below or at such other addresses as party may from time to time designate by written notice to the other party.
- XVIII. NO WAIVER. A failure of a party to enforce strictly a provision of this Agreement in no event shall be considered a waiver of any part of such provision. No waiver by a party of any breach or default by the other party shall operate as a waiver of any succeeding breach or other default or breach by such other party. No waiver shall have any effect unless it is specific, irrevocable and in writing.
- XIX. ACCEPTANCE BY RECIPIENT. This Agreement must be signed by the Chief Executive Officer and returned to and received by the Director prior to the acquisition of land and to the disbursement of funds
- XX. ASSIGNMENT. Neither this Agreement or any rights, duties or obligations as described shall be assigned by either party without the prior written consent of the other party.
- XXI. ETHICS/CONFLICT OF INTEREST. The Recipient, by signature on this Agreement, certifies that it has reviewed and understands the Ohio ethics and conflict of interest laws, and will take no action inconsistent with those laws.
- XXII. NON-DISCRIMINATION. Pursuant to Ohio Revised Code Section 125.111 the Recipient agrees that the Recipient and any person acting on behalf of the Recipient shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry against any citizen of this State in the employment of any person qualified and available to perform the work under this Agreement. The Recipient further agrees that the Recipient any person acting on behalf of the Recipient shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.
- XXIII. COMPLIANCE WITH LAW. The Recipient, in expending the funds, agrees to comply with all applicable federal, State and local laws, rules, regulations and ordinances.
- XXIV. FACSIMILE SIGNATURES. This Agreement may be executed in multiple counterparts, each of which may be deemed an original agreement and both of which shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

All the above is agreed to and understood by the parties signed below. This Agreement for Project No. **CJ01Z** is effective as of the date first written above.

RECIPIENT

STATE OF OHIO
Ohio Public Works Commission

Michael Doss, City Manager
City of Milford
745 Center Street, Suite 200
MILFORD, OH 45150


Linda S. Bailiff, Director

Ohio Public Works Commission
65 East State Street, Suite 312
Columbus, OH 43215-4213

Appendix A

Project Completion Schedule, Administration Designation, Description

- 1) *Project Schedule.* Construction must begin within one year of July 1, 2022 . Construction is scheduled to begin August 15, 2022 with completion by May 15, 2023 . The Recipient may make a written request for an extension of the date to initiate construction, specifying the reasons for the delay and providing new construction start and completion dates. Requests may be approved by the Director providing that the Project can be completed within a reasonable time frame.
- 2) *Project Administration Designation.* The Project Administration Designation required by Section V.A. of this Agreement is designated by the Recipient as follows:

Michael Doss, City Manager	to act as the Chief Executive Officer;
Patricia Wirthlin, Finance Director	to act as the Chief Fiscal Officer; and
Bruce Brandstetter, Senior Vice President	to act as the Project Manager.
- 3) *Project Location & Description.* The Project, for which the provision of financial assistance is the subject of this Agreement, is hereby described as follows:

Location:

This project is on Wallace Avenue from Lila Avenue/Main Street to the existing stand pipe at the top of Wallace Avenue.

Description:

The project consists of 2,200 linear feet of 12-inch water-line and 100 linear feet of 8-inch line. Additional items include 7 new fire hydrants, 700 linear feet of new service line, one air release valve and 35 curb/roadway boxes. Restoration includes 3,000 square yards of pavement milling and 175 cubic yards of asphalt paving. Miscellaneous restoration items include concrete curb and sidewalk replacement, seed and mulch.

Appendix B

Local Subdivision Contribution, Disbursement Ratio, Project Financing and Expenses Scheme

- 1) *OPWC/Local Subdivision Participation Percentages:* For the sole and express purpose of financing/reimbursing costs of the Project, the estimated costs of which are set forth and described below, the Recipient hereby designates its Local Subdivision Percentage Contribution as amounting to a minimum total value of **51 %** of the total Project Cost. The OPWC Participation Percentage shall be **49 %** not to exceed **\$ 388,080** .
- 2) *Project Financing and Expenses Scheme:* The Recipient further designates the Project's estimated financial resources and estimated costs certified to the OPWC under this Agreement for the Project to consist of the following components:

Project Estimated Costs

a) Engineering	31,500
b) Construction Administration	29,000
c) Right-of-Way	0
d) Construction	634,500
e) Permits, Advertising, Legal	2,000
f) Construction Contingencies	95,000
Total Estimated Costs	792,000

Project Financial Resources

a) Local Resources	
In-kind/Force Account	0
Local Revenues	403,920
Public Revenue – ODOT/FHWA	0
Public Revenue – OEPA/OWDA	0
Public Revenue – Other	0
Total Local Resources	403,920
b) OPWC Funds	388,080
Total Financial Resources	792,000

Ohio Public Works Commission

PROJECT GRANT AGREEMENT

STATE CAPITAL IMPROVEMENTS PROGRAM

Pursuant to Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1, this Project Grant Agreement (“Agreement”) is entered into **July 1, 2022** by and between the State of Ohio, acting by and through the Director of the Ohio Public Works Commission (“Director” or the “OPWC”), and **City of Milford** (“Recipient”), in respect of the Project named **Water Tower Discharge Line (Wallace to Garfield Avenues)** as described in Appendix A of this Agreement (“Project”) to provide **49 %** of the total Project cost (“Participation Percentage”), not to exceed **Two Hundred Forty Five Thousand Dollars (\$ 245,000)**, for the sole and express purpose of financing or reimbursing costs of the Project as more fully set forth in this Agreement and the Appendices as attached.

OPWC Project **CJ03Z**

RECITALS

The State Capital Improvements Fund created under Ohio Revised Code Section 164.08 is to benefit local subdivisions for the acquisition, construction, reconstruction, improvement, planning and equipping of roads and bridges, appurtenances to roads and bridges to enhance the safety of animal-drawn vehicles, pedestrians, and bicycles, waste water treatment systems, water supply systems, solid waste disposal facilities, and storm water and sanitary collection, storage, and treatment facilities, including real property, interests in real property, facilities, and equipment related or incidental to those facilities.

Pursuant to Ohio Revised Code Section 164.02, the Ohio General Assembly created the Ohio Public Works Commission (OPWC) to implement the policies set forth in Article VIII of the Ohio Constitution and Ohio Revised Code Chapter 164;

Pursuant to Ohio Revised Code 164.05, the Director is empowered to (i) enter into agreements with Local Subdivisions to provide loans, grants, and local debt support for Capital Improvement Projects; and (ii) authorize payments to Local Subdivisions or their Contractors for costs incurred for Capital Improvement Projects;

Pursuant to Ohio Revised Code Section 164.06, the Director is empowered to review and approve or disapprove requests for financial assistance from the District Public Works Integrating Committees in accordance with the criteria set forth in Ohio Revised Code Sections 164.06(B);

Ohio Revised Code Sections 164.05 and 164.06 permit a grant of funds for such a Capital Improvement Project to be expended or provided only after the District Public Works Integrating Committee has submitted a request to fund the Project to the Director outlining the Recipient's planned use of the funds, and subsequent approval of the request by the Director;

The Recipient desires to engage in the Capital Improvement Project described in Appendix A of this Agreement; and

The Project has been duly recommended to the Director pursuant to Ohio Revised Code 164.06 by the District Committee of which the Recipient is a part.

In consideration of the contained promises and covenants, the undersigned agree as follows:

I. **DEFINITIONS AND GENERAL PROVISIONS.** The following words and terms as used in this Agreement shall have the following meanings.

“Bond Counsel” means an attorney or firm of attorneys of nationally recognized standing on the subject of municipal bonds satisfactory to the Director of the OPWC.

“Capital Improvement Project” means the eligible project as defined in Ohio Revised Code Section 164.08 and as described in Appendix A.

“Chief Executive Officer” means the single office or official of the Recipient and as designated in Appendix A pursuant to Section V. A. or authorized designee as per written notification to the Director.

“Chief Fiscal Officer” means the single office or official of the Recipient and as designated in Appendix A, pursuant to Section V. A, or authorized designee as per written notification to the Director.

“Code” means the Internal Revenue Code of 1986, as amended. Each reference to the Code herein shall be deemed to include the United States Treasury Regulations in effect, whether temporary or final, with respect thereto and applicable to the Infrastructure Bonds or the use of the proceeds thereof.

“Contractor” means a person who has a direct contractual relationship with the Recipient and is the manufacturer of all or a portion of the Project, or the provider of labor, materials or services in connection with

the acquisition, improvements, construction, reconstruction, expansion, or engineering of the Project; or both.

“Cost of Project” means the costs of acquiring, constructing, reconstructing, expanding, improving and engineering projects and shall also be deemed to include preliminary costs, including but not limited to, planning costs, design costs, and financing costs.

“District Committee” means the District Public Works Integrating Committees and the Executive Committees created pursuant to Ohio Revised Code Section 164.04.

“Effective Date” means the date set forth on Page One of this Agreement.

“Eligible Project Costs” means such portion of the Project costs disbursed from the OPWC to the Recipient for the sole and express purpose of acquiring, constructing, reconstructing, expanding, improving, engineering and equipping the Project, other direct expenses, and related financing costs.

“Governing Body” means the board of county commissioners or a county council if a county, the legislative authority of a municipal corporation, or the board of township trustees if a township, the board of directors if a sanitary district; or the board of trustees if a regional water and sewer district.

“Local Subdivision” means a county, municipal corporation, township, sanitary district or regional water and sewer district of the State.

“Local Subdivision Contribution” means the Local Subdivision financial share used for the sole and express purpose of paying or reimbursing the costs certified to the Director under this Agreement for the completion of the project. Such funds shall constitute a specified percentage of the total Cost of Project set forth in Appendix B and may consist of money by any person, any Local Subdivision, the State of Ohio, or the federal government or of contributions in-kind by such parties through purchase or donation of equipment, land, easements, labor, or materials necessary to complete the Project.

“Participation Percentage” means the rounded percentage of the total actual Project costs that will be contributed by the OPWC, not to exceed the maximum dollar contribution of the OPWC identified in this Project Agreement, and the rounded percentage of the total actual Project costs that will be contributed by the Recipient. Both percentages are identified in Appendix B. If the total actual Project costs exceed the estimated Project costs identified in Appendix B, the Local Subdivision Participation Percentage will increase to reflect the cost overrun, while the OPWC percentage contribution will decrease recognizing that there is a maximum dollar contribution from the OPWC which is identified in this Project Agreement.

“Private Business Use” means use (directly or indirectly) in a trade or business or activity carried on by any Private Person (other than a Tax-Exempt Organization) other than use as a member of, and on the same basis as, the public.

“Private Person” means any person, firm, entity or individual who or which is other than a governmental unit as defined in Code Section 150 and used in Code Sections 141 and 148.

“Project” means the scope of work specified in Appendix A.

“Project Manager” means the principal employee or agent of the Recipient having administrative authority over the Project designated in Appendix A pursuant to Section V.A., or authorized designee as per written notification to the Director.

“State” means the State of Ohio.

“Tax-Exempt Organization” means a governmental unit, as used in Code Sections 141 and 148.

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- II. **GRANT OF FINANCIAL ASSISTANCE.** Subject to the terms and conditions contained in this Agreement, the Director hereby grants to the Recipient financial assistance, as established in this section, for the sole and express purpose of paying or reimbursing the eligible costs certified to the Director under this Agreement for the completion of the Project.
- A. *The Grant.* The Director hereby agrees to provide financial assistance in the form of a grant, from the State Capital Improvements Fund, in an amount not to exceed
Two Hundred Forty Five Thousand Dollars (\$ 245,000).
- B. *Joint Funded Project with the Ohio Department of Transportation.* For those projects advertised, awarded and administered by the Ohio Department of Transportation (ODOT), the Recipient and the Director hereby assign certain responsibilities to the ODOT, an authorized representative of the State of Ohio. Notwithstanding Sections V.A., V.B., and V.C. of the Project Agreement, the Recipient hereby acknowledges that upon notification by the ODOT, all payments for eligible project costs will be disbursed by the Director and the OPWC directly to the ODOT. A Memorandum of Funds issued by the ODOT shall be used to certify the estimated project costs. Upon receipt of a Memorandum of Funds from the ODOT, the OPWC shall transfer funds directly to the ODOT via an Intra-State Transfer Voucher. The amount or amounts transferred shall be determined by applying the Participation Percentages defined in Appendix B to those eligible project costs within the Memorandum of Funds.
- III. **LOCAL SUBDIVISION CONTRIBUTION.** The Recipient shall, at a minimum, contribute to the Project the Local Subdivision Participation Percentage as set forth in Appendix B of this Agreement. In the event that the total actual Project costs exceed the estimated Cost of Project identified in Appendix B, the OPWC shall not be required to increase the maximum amount of the grant and the Recipient shall increase its Local Subdivision Contribution to meet such actual Cost of Project.
- IV. **PROJECT SCHEDULE.** Construction of the Project must begin within one year of the Effective Date of this Agreement, or this Agreement may become null and void at the sole discretion of the Director. A preliminary construction schedule is provided in Appendix A. Delays, with reason for the delay(s), must be communicated to the Director as soon as possible. The Director will review written requests for extensions and may extend the construction start date taking into consideration the Project can be completed within a reasonable time frame. Failure to meet the schedule without approval for an extension may cause this Agreement to become null and void at the sole discretion at the Director.
- V. **DISBURSEMENTS.** All payments made by the OPWC shall be made directly to the contractor that performed the work on the Project and originated the invoice unless the Recipient requests reimbursement. The following provisions apply to Project disbursements:
- A. *Project Administration Designation.* Pursuant to Ohio Administrative Code 164-1-21(B)(1-3), the Recipient shall designate its Chief Executive Officer, Chief Fiscal Officer and Project Manager in Appendix A of this Agreement. The Director and OPWC must be notified of changes in these designations in writing including the addition of designees or alternates.
- B. *Disbursements to Contractors to Pay Costs of the Project.* The Recipient shall submit to the Director a Disbursement Request together with the information and certifications required by this section, unless otherwise approved by the Director. The dollar amount set forth in the Disbursement Request shall be calculated based on the Participation Percentage set forth on Page One of this Agreement or as amended, to account for changed conditions in the Project financing scheme. If all requirements for disbursement are deemed by the Director to be accurate and completed, the Director shall initiate a voucher in accordance with applicable State requirements for the payment of the amount set forth in the Disbursement Request. The Office of Budget and Management, Ohio Shared Services, will forward the warrant, drawn in connection with the voucher, by regular first-class United States mail or electronic funds transfer to the contractor or other authorized recipient designated in the Disbursement Request.

Prior to any disbursement from the Fund, the following documents shall be submitted to the Director by the Recipient:

1. If the request is for disbursement to a Contractor, an invoice submitted to the Recipient by the Contractor which invoice requests payment of such sums in connection with its performance of the Project;
2. If the request is for disbursement to the Recipient, proof of payment of the invoice such as check, warrant, or other evidence satisfactory to the Director that payment of such sums has been made by the Recipient in connection with the portion of the Project for which payment is requested;
3. A Disbursement Request Form properly certified by the Project Manager, Chief Executive Officer and the Chief Fiscal Officer; and
4. Such other certificates, documents and other information as the Director may reasonably require.

If the Director finds that the documents comply with the requirements of this Agreement, the Director is authorized to cause the disbursement of moneys from the Fund for payment of the identified Project costs. The Recipient represents that the Project was initially constructed, installed or acquired by the Recipient no earlier than the Effective Date of this Agreement.

- C. *Limitations on Use.* No part of the moneys delivered to the Recipient pursuant to Section II is being or will be used to refinance, retire, redeem, or otherwise pay debt service on all or any part of any governmental obligations regardless of whether the interest on such obligations is or was excluded from gross income for federal income tax purposes.
- D. *Project Scope.* The physical scope of the Project shall be limited to only those Capital Improvements as described in Appendix A of this Agreement. If circumstances require a change in such physical scope, the change must be approved by the District Committee, recorded in the District Committee's official meeting minutes, and provided to the Director for the execution of an amendment to this Agreement.
- E. *Project Cost Overruns.* If the Recipient determines that the moneys granted pursuant to Section II, together with the Local Subdivision Contribution, are insufficient to pay in full the costs of the Project, the Recipient may make a request for supplemental assistance to its District Committee. Pursuant to Ohio Administrative Code Section 164-1-23, the Recipient must demonstrate that such funding is necessary for the completion of the Project and the cost overrun was the result of circumstances beyond the Recipient's control, that it could not have been avoided with the exercise of due care, and that such circumstances could not have been anticipated at the time of the Recipient's initial application. Should the District Committee approve such request, the action shall be recorded in the District Committee's official meeting minutes and provided to the Director for the execution of an amendment to this Agreement.

VI. **CONDITIONS TO FINANCIAL ASSISTANCE AND ITS DISBURSEMENT.** The Recipient must comply with the following before receiving funds:

- A. The Recipient certifies that the Local Subdivision Contribution necessary for the completion of the Project is available or expected to be available through the construction of the Project and must demonstrate its compliance with the provisions of Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1. If the local share as certified by the Chief Fiscal Officer at the time of the Project application becomes unavailable, the Recipient is to notify the Director and the OPWC as soon as possible or this Agreement may become null and void at the sole discretion

at the Director.

- B. The Recipient shall execute all other documents and certificates as deemed necessary by the Director, on the date hereof or at any time hereafter in connection with the financial assistance and disbursement of moneys pursuant to this Agreement, including any amendments to this Agreement.

VII. REPRESENTATIONS, WARRANTIES AND COVENANTS OF RECIPIENT. The Recipient represents warrants and covenants for the benefit of the Director as follows:

- A. The Recipient is a Local Subdivision of the State with all the requisite power and authority to construct, or provide for the construction of, and operate the Project under the laws of the State and to carry on its activities as now conducted.
- B. The Recipient has the power to enter into and perform its obligations under this Agreement and has been duly authorized to execute and deliver this Agreement.
- C. This Agreement is the legal, valid and binding obligation of the Recipient, subject to certain exceptions in event of bankruptcy and the application of general principles of equity.
- D. The Recipient has complied with all procedures, prerequisites and obligations for Project application and approval under Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1.
- E. The Recipient is not the subject of, or has it initiated any claim or cause of action that would give rise to any liability which would in any way inhibit Recipient's ability to carry out its performance of this Agreement according to its terms.
- F. Use of the Project – Qualified Service Contracts.
1. *General.* The Recipient shall not use the Project or suffer or permit the Project to be used for any Private Business Use. For purposes of the preceding sentence, use pursuant to a contract that satisfies the criteria of paragraphs 2 or 3 of this subsection shall not be regarded as a Private Business Use.
 2. *Qualified Service Contracts.* A Service Provider includes any person that is a Related Party to the Service Provider and the phrase "Chief Executive Officer" includes a person with equivalent management responsibilities.
 - a. *Qualified Service Contracts – Rev. Proc. 2017-13.* Unless the Recipient chooses to apply the safe harbors described below in F.2.b. for Service Contracts (defined below) entered into before (and not materially modified after) August 18, 2017, an arrangement under which services are to be provided by a Private Person ("Service Provider") involving the use of all or any portion of, or any function of, the Project (for example, the management services for an entire facility or a specific department of a facility) ("Service Contract") is a "Qualified Service Contract" if either (A) the only compensation provided for in the Service Contract consists of reimbursements of actual and direct expenses paid by the Service Provider to persons other than Related Parties and reasonable related administrative overhead expenses of the Service Provider ("Expense Reimbursement") or (B) all of the following conditions are satisfied:
 - b. The compensation (including Expense Reimbursement) for services provided pursuant to the Service Contract ("Compensation") is reasonable;

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- c. None of the Compensation (disregarding reimbursement of actual and direct expenses paid by the Service Provider to persons other than Related Parties, which for this purpose excludes employees of the Service Provider), including the timing of the payment thereof, is based on net profits from the operation of the portion of the Project with respect to which the Service Provider provides services (the “Managed Property”) or any portion thereof. Compensation will not be treated as providing a share of net profits if no element of the Compensation considers, or is contingent upon, either the Managed Property’s net profits or both the Managed Property’s revenues and expenses for any fiscal period. For this purpose, Compensation will not be treated as providing the Service Provider a share of the Managed Property’s net profits or requiring the Service Provider to bear a share of Managed Property’s net losses if the Compensation is: (i) based solely on a capitation fee, a periodic fixed fee, or a per-unit fee; (ii) incentive compensation that is determined by the Service Provider’s performance in meeting one or more standards that measure quality of services, performance, or productivity, and the amount and timing of the payment of the incentive compensation does not take into account (or is contingent upon) the Managed Property’s net profits; or (iii) a combination of the types of Compensation set forth in (i) and (ii);
 - d. The determination of the amount of Compensation and the amount of any expenses to be paid by the Service Provider (and not reimbursed), separately and collectively, do not consider either the Managed Property’s net losses or both the Managed Property’s revenues and expenses for any fiscal period;
 - e. The timing of the payment of Compensation is not contingent upon the Managed Property’s net losses or net profits. Deferral of the payment of Compensation will not be treated as contingent on the Managed Property’s net losses or net profits if the Service Contract includes requirements that: (i) the Compensation is payable at least annually; (ii) the Recipient is subject to reasonable consequences for late payment, such as reasonable interest charges or late payment fees; and (iii) the Recipient will pay such deferred Compensation (with interest or late payment fees) no later than the end of five years after the original due date of the payment of the Compensation;
 - f. The term of the Service Contract, including all renewal options, is no greater than the lesser of 30 years or 80% of the weighted average reasonably expected economic life of the Managed Property;
 - g. The Recipient must exercise a significant degree of control over the use of the Managed Property. This control requirement is met if the Service Contract requires the Recipient to approve the annual budget of the Managed Property, capital expenditures with respect to the Managed Property, each disposition of property that is part of the Managed Property, rates charged for the use of the Managed Property, and the general nature and type of use of the Managed Property (for example, the type of services);
 - h. The Recipient must bear the risk of loss upon damage or destruction of the Managed Property;
 - i. The Service Provider must agree that it is not entitled to and will not take any tax position that is inconsistent with being a Service Provider to the Recipient with respect to the Managed Property (e.g., the Service Provider will not claim

depreciation, amortization, or investment tax credit, or deduction for any payment as rent, with respect to the Managed Property); and

- j. The Service Provider must have no role or relationship with the Recipient, directly or indirectly, that, in effect, substantially limits the Recipient's ability to exercise its rights under the Service Contract, based on all the facts and circumstances. A Service Provider will not be treated as having a role or relationship that substantially limits the Recipient's ability to exercise its rights under the Service Contract if:
 - (i) Not more than 20% of the voting power of the Governing Body of the qualified user in the aggregate is vested in the directors, officers, shareholders, partners, members, and employees of the Service Provider;
 - (ii) The Governing Body of the Recipient does not include the Chief Executive Officer of the Service Provider or the chairperson (or equivalent executive) of the Service Provider's Governing Body; and
 - (iii) The Chief Executive Officer of the Service Provider is not the Chief Executive Officer of the Recipient or any Related Party to the Recipient.
- 3. *Qualified Service Contracts – Rev. Proc. 97-13.* A Service Contract is considered to contain termination penalties if the termination limits the Recipient's right to compete with the Service Provider, requires the Recipient to purchase equipment, goods or services from the Service Provider, or requires the Recipient to pay liquidated damages for cancellation of the Service Contract. Another contract between the Service Provider and the Recipient (for example, a loan or guarantee by the Service Provider) is considered to create a contract termination penalty if that contract contains terms that are not customary or arm's length that could operate to prevent the Recipient from terminating the Service Contract. A requirement that the Recipient reimburses the Service Provider for ordinary and necessary expenses, or restrictions on the hiring by the Recipient of key personnel of the Service Provider are not treated as contract termination penalties.

If the Recipient chooses to apply the following safe harbors, a Service Contract is a Qualified Service Contract if entered into before (and not materially modified after) August 18, 2017 and all of the following conditions are satisfied:

- a. The compensation for services provided pursuant to the Service Contract is reasonable;
- b. None of the compensation for services provided pursuant to the Service Contract is based on net profits from operation of the Project or any portion thereof;
- c. The compensation provided in the Service Contract satisfies one of the following subparagraphs:
 - (i) At least 95% of the compensation for each annual period during the term of the Service Contract is based on a periodic fixed fee and the term of the Service Contract, including all renewal options, does not exceed the lesser of 80% of the reasonably expected useful life of the

Project and 15 years. For purposes of Section VII.F., a “periodic fixed fee” means a stated dollar amount for services rendered for a specified period of time that does not increase except for automatic increases pursuant to a specified, objective external standard that is not linked to the output or efficiency of the Project (e.g., the Consumer Price Index) and a “renewal option” means a provision under which the Service Provider has a legally enforceable right to renew the Service Contract but does not include a provision under which a Service Contract is automatically renewed for one-year periods absent cancellation by either party, even if such Service Contract is expected to be renewed; or

- (ii) At least 80% of the compensation for each annual period during the term of the Service Contract is based on a periodic fixed fee and the term of the Service Contract, including all renewal options, does not exceed the lesser of 80% of the reasonably expected useful life of the Project and 10 years; or
- (iii) At least 50% of the compensation for each annual period during the term of the Service Contract is based on a periodic fixed fee, the term of the Service Contract, including all renewal options, does not exceed five years, and the Service Contract is terminable by the Recipient on reasonable notice, without penalty or cause, at the end of the third year of the Service Contract term; or
- (iv) All of the compensation for services is based on a capitation fee or a combination of a capitation fee and a periodic fixed fee, the term of the Service Contract, including all renewal options, does not exceed five years, and the Service Contract is terminable by the Recipient on reasonable notice, without penalty or cause, at the end of the third year of the Service Contract term; a “capitation fee” means a fixed periodic amount for each person for whom the Service Provider assumes the responsibility to provide all needed services for a specified period so long as the quantity and type of service actually provided to covered persons varies substantially; or
- (v) All of the compensation for services is based on a per-unit fee or a combination of a per unit fee and a periodic fixed fee, the term of the Service Contract, including all renewal options, does not exceed three years and the Service Contract is terminable by the Recipient on reasonable notice, without penalty or cause, at the end of the second year of the Service Contract term; a “per-unit fee” means a fee based on a unit of service provided (e.g., a stated dollar amount for each specified procedure) and generally includes separate billing arrangements between physicians and hospitals; or
- (vi) All of the compensation for services is based on a percentage of fees charged or a combination of a per-unit fee and a percentage of revenue or expense fee, the term of the Service Contract, including all renewal options, does not exceed two years and the Service Contract is terminable by the Recipient on reasonable notice, without penalty or cause, at the end of the first year of the Service Contract term; this subparagraph (vi) applies only to (I) Service Contracts under which the Service Provider primarily provides services to third parties (e.g.,

health care services) or (II) Service Contracts involving the Project during an initial start-up period for which there has been insufficient operations to establish a reasonable estimate of the amount of the annual gross revenues (or gross expenses in the case of a Service Contract based on a percentage of gross expenses) (e.g., a Service Contract for general management services for the first year of operations), in which case the compensation for services may be based on a percentage of gross revenues, adjusted gross revenues (i.e., gross revenues less allowances for bad debts and contractual and similar allowances), or expenses of the Project, but not more than one of these measures; or

- (vii) All the compensation for services is based on a stated amount, a periodic fixed fee, a capitation fee, a per-unit fee, or a combination of the preceding. The compensation for services also may include a percentage of gross revenues, adjusted gross revenues, or expenses of the Project (but not both revenues and expenses). The term of the Service Contract, including all renewal options, does not exceed five years, and the Service Contract need not be terminable by the Recipient prior to the end of the term. For purposes of this section, a tiered productivity award as described in section 5.02(3) of Internal Revenue Service Revenue Procedure 97-13, as amplified by Internal Revenue Service Notice 2014-67, will be treated as a stated amount or a periodic fixed fee, as appropriate.

- d. The Service Provider has no role or relationship with the Recipient, directly or indirectly, that, in effect, substantially limits the Recipient's ability to exercise its rights under the Service Contract, including cancellation rights;
- e. The Service Provider and its directors, officers, shareholders and employees possess in the aggregate, directly or indirectly, no more than 20% of the voting power of the Governing Body of the Recipient;
- f. No individual who is a member of the Governing Body of the Service Provider and the Recipient is the Chief Executive Officer of the Recipient or the Service Provider or the chairperson of the Governing Body of the Recipient or the Service Provider; and
- g. The Recipient and the Service Provider are not Related Parties.

- 4. *Exceptions.* The Recipient may treat a Service Contract that does not comply with one or more of the criteria of Section VII.F. as not resulting in Private Business Use of the Project if it delivers to the Director of the OPWC, at its expense, an opinion of Bond Counsel to the effect that such Service Contract does not result in Private Business Use of the Project and that entering into such Service Contract would not adversely affect the exclusion from gross income of the interest on the bonds that financed the Project or cause the interest on such bonds, or any portion thereof, to become an item of tax preference for purposes of the alternative minimum tax imposed under the Code.

- G. *Use of Proceeds.* With respect to the Project to be financed or reimbursed by moneys granted pursuant to Section II:

- 1. The total cost of the Project shall not and will not include any cost which does not

constitute “Costs of Capital Improvements Projects”, as defined in Ohio Revised Code Section 164.01(F);

2. All the Project is owned, or will be owned, by the Recipient or another Tax-Exempt Organization, upon providing prior written notice to the Director, for as long as the loan is outstanding;
 3. The Recipient shall not use any of the moneys to pay or reimburse the Recipient for the payment of or to refinance costs incurred in connection with the acquisition, construction, improvement and equipping of property that is used or will be used for any Private Business Use; and
 4. The Recipient may engage in Private Business Use only if it delivers to the Director of the OPWC, at the Recipient’s expense, an opinion of bond counsel that to do so would not adversely affect the exclusion of interest on the Infrastructure Bonds from gross income for federal income tax purposes and such opinion is accepted by the Director of the OPWC.
- H. *General Tax Covenant.* The Recipient shall not take any action or fail to take any action which would adversely affect the exclusion of interest on the Infrastructure Bonds from gross income for federal income tax purposes.
- I. *Sufficiency of Moneys.* The Recipient has sufficient moneys in addition to those granted to Recipient pursuant to this Agreement to fund the Project to completion, as its Local Subdivision Contribution.
- J. *Construction Contract.* If federal funds are included as part of the financing of the non-OPWC portion of the Project, federal law may prevail, including, but not limited to, application of Davis Bacon prevailing wage rates, the Copeland “Anti-Kickback” Act, the Contract Work Hours and Safety Standards Act, and any federal environmental regulations. Recipient is solely responsible for ensuring compliance with federal requirements applicable to its Local Subdivision Contribution. Notwithstanding the above, the following provisions apply to construction contracts under this Agreement:
1. *Ohio Preference.* The Recipient shall, to the extent practicable, use and shall cause all its Contractors and subcontractors to use Ohio products, materials, services and labor in connection with the Project pursuant to Ohio Revised Code 164.05(A)(6);
 2. *Domestic Steel.* The Recipient shall use and cause all its Contractors and subcontractors to comply with domestic steel use requirements pursuant to Ohio Revised Code 153.011;
 3. *Prevailing Wage.* The Recipient shall require that all Contractors and subcontractors working on the Project comply with the prevailing wage requirements contained in Ohio Revised Code Sections 164.07(B) and 4115.03 through 4115.16;
 4. *Equal Employment Opportunity.* The Recipient shall require all Contractors to secure a valid Certificate of Compliance;
 5. *Construction Bonds.* In accordance with Ohio Revised Code 153.54, et. seq., the Recipient shall require that each of its Contractors furnish a performance and payment bond in an amount at least equal to 100% of its contract price as security for the faithful performance of its contract;
 6. *Insurance.* The Recipient shall require that each of its construction contractors and subcontractors maintain during the life of its contract or subcontract appropriate Workers

Compensation Insurance, Commercial General Liability, Public Liability, Property Damage and Vehicle Liability Insurance, and require Professional Liability Insurance for its professional architects and engineers; and

7. *Supervision.* The Recipient shall provide and maintain competent and adequate Project management covering the supervision and inspection of the development and construction of the Project and bear the responsibility of ensuring that construction conforms to the approved surveys, plans, profiles, cross sections and specifications.
- VIII. **PROGRESS REPORTS.** The Recipient shall submit to the Director, at the Director's request, summary reports detailing the progress of the Project pursuant to this Agreement and any additional reports containing such information as the Director may reasonably require.
- IX. **AUDIT RIGHTS.** The Recipient shall, at all reasonable times, provide the Director access to a right to inspect all sites and facilities involved in the Project and access to and a right to examine or audit any and all books, documents and records, financial or otherwise, relating to the Project or to ensure compliance with the provisions of this Agreement. The Recipient shall maintain all such books, documents and records for a period of six years after the termination of this Agreement, and such shall be kept in a common file to facilitate audits and inspections. All disbursements made pursuant to the terms of this Agreement shall be subject to all audit requirements applicable to State funds. The Recipient shall ensure that a copy of any final report of audit prepared in connection with and specific to the Project, regardless of whether the report was prepared during the pendency of the Project or following its completion, is provided to the Director within 10 days of the issuance of the report. The Recipient simultaneously shall provide the Director with its detailed responses to each negative or adverse finding pertaining to the Project and contained in the report. Such responses shall indicate what steps will be taken by the Recipient in remedying or otherwise satisfactorily resolve each problem identified by any such finding. If the Recipient fails to comply with the requirements of this Section or fails to institute steps designated to remedy or otherwise satisfactorily resolve problems identified by negative audit findings, the Director of the OPWC may bar the Recipient from receiving further financial assistance under Ohio Revised Code Chapter 164 until the Recipient so complies or until the Recipient satisfactorily resolves such findings.
- X. **GENERAL ASSEMBLY APPROPRIATION.** The Recipient acknowledges and agrees that the financial assistance provided under this Agreement is entirely subject to, and contingent upon, the availability of funds appropriated by the General Assembly for the purposes set forth in this Agreement and in Ohio Revised Code Chapter 164. The Recipient further acknowledges and agrees that none of the duties and obligations imposed by this Agreement on the Director shall be binding until the Recipient has complied with all applicable provisions of Ohio Revised Code Chapter 164 and until the Recipient has acquired and committed all funds necessary for the full payment of the Local Subdivision Contribution applicable to the Project.
- XI. **THIRD PARTY RIGHTS AND LIABILITY.** Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, good, or supplies of the Project sufficient to impose upon the Director any of the obligations specified in Ohio Revised Code Section 126.30. The Recipient shall be responsible for the Recipient's use or application of the funds being provided by the Director and the Recipient's construction or management of the Project.
- XII. **TERMINATION.** The Director's and OPWC's obligations under this Agreement shall immediately terminate upon the failure of the Recipient to comply with any of the Agreement's terms or conditions. Upon such termination, the Recipient shall be obligated to return any moneys delivered to the Recipient pursuant to the provisions of this Agreement.
- XIII. **GOVERNING LAW.** This Agreement shall be interpreted and construed in accordance with the laws of the

State. In the event any disputes related to this Agreement are to be resolved in a Court of Law, said Court shall be in the courts of Franklin County, State of Ohio.

- XIV. SEVERABILITY. If any of the provisions or parts of this Agreement are found to be invalid or unenforceable, the remainder of this Agreement and the application of this provision to such other persons or circumstances shall not be affected, but rather shall be enforced to the greatest extent permitted by Law.
- XV. ENTIRE AGREEMENT. This Agreement and its Appendices and Attachments contain the entire understanding between the parties and supersede any prior understandings, agreements, proposals and all other communications between the parties relating to the subject matter of this Agreement, whether such shall be oral or written.
- XVI. CAPTIONS. Captions contained in this Agreement are included only for convenience of reference and do not define, limit, explain or modify this Agreement or its interpretation, instruction or meanings and are in no way intended to be construed as part of this Agreement.
- XVII. NOTICES. Except as otherwise provided, any required notices shall be in writing and shall be deemed duly given when deposited in the mail, postage prepaid, return receipt requested, by the sending party to the other party at the addresses set forth below or at such other addresses as party may from time to time designate by written notice to the other party.
- XVIII. NO WAIVER. A failure of a party to enforce strictly a provision of this Agreement in no event shall be considered a waiver of any part of such provision. No waiver by a party of any breach or default by the other party shall operate as a waiver of any succeeding breach or other default or breach by such other party. No waiver shall have any effect unless it is specific, irrevocable and in writing.
- XIX. ACCEPTANCE BY RECIPIENT. This Agreement must be signed by the Chief Executive Officer and returned to and received by the Director prior to the acquisition of land and to the disbursement of funds
- XX. ASSIGNMENT. Neither this Agreement or any rights, duties or obligations as described shall be assigned by either party without the prior written consent of the other party.
- XXI. ETHICS/CONFLICT OF INTEREST. The Recipient, by signature on this Agreement, certifies that it has reviewed and understands the Ohio ethics and conflict of interest laws, and will take no action inconsistent with those laws.
- XXII. NON-DISCRIMINATION. Pursuant to Ohio Revised Code Section 125.111 the Recipient agrees that the Recipient and any person acting on behalf of the Recipient shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry against any citizen of this State in the employment of any person qualified and available to perform the work under this Agreement. The Recipient further agrees that the Recipient any person acting on behalf of the Recipient shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.
- XXIII. COMPLIANCE WITH LAW. The Recipient, in expending the funds, agrees to comply with all applicable federal, State and local laws, rules, regulations and ordinances.
- XXIV. FACSIMILE SIGNATURES. This Agreement may be executed in multiple counterparts, each of which may be deemed an original agreement and both of which shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

All the above is agreed to and understood by the parties signed below. This Agreement for
Project No. **CJ03Z** is effective as of the date first written above.

RECIPIENT

STATE OF OHIO
Ohio Public Works Commission

Michael Doss, City Manager

City of Milford
745 Center Street, Suite 200
MILFORD, OH 45150


Linda S. Bailiff, Director

Ohio Public Works Commission
65 East State Street, Suite 312
Columbus, OH 43215-4213

Appendix A

Project Completion Schedule, Administration Designation, Description

- 1) *Project Schedule.* Construction must begin within one year of July 1, 2022 . Construction is scheduled to begin August 15, 2022 with completion by May 15, 2023 . The Recipient may make a written request for an extension of the date to initiate construction, specifying the reasons for the delay and providing new construction start and completion dates. Requests may be approved by the Director providing that the Project can be completed within a reasonable time frame.
- 2) *Project Administration Designation.* The Project Administration Designation required by Section V.A. of this Agreement is designated by the Recipient as follows:

Michael Doss, City Manager	to act as the Chief Executive Officer;
Patricia Wirthlin, Finance Director	to act as the Chief Fiscal Officer; and
Bruce Brandstetter, Senior Vice President	to act as the Project Manager.
- 3) *Project Location & Description.* The Project, for which the provision of financial assistance is the subject of this Agreement, is hereby described as follows:

Location:

The discharge line extends along Wallace Avenue from the water tank site south to Garfield Avenue at the intersection of Mill Street/Laurel Avenue.

Description:

The total length is approximately 1,300 LF with new 1,200 LF of 12-inch ductile iron pipe and 100 LF of 8-inch ductile iron pipe. Approximately 4,000 SY of pavement milling, 200 CY of asphalt paving, 75 LF of remove and replace of concrete curb, and 200 SF of remove and replace of concrete sidewalk and 4 new hydrants installed. This will be accomplished through 1,200 LF of new 12-inch waterline plus the other two phases of this overall improvement, through the Wallace Avenue supply line and future 1 million gallon elevated storage tank.

Appendix B

Local Subdivision Contribution, Disbursement Ratio, Project Financing and Expenses Scheme

- 1) *OPWC/Local Subdivision Participation Percentages:* For the sole and express purpose of financing/reimbursing costs of the Project, the estimated costs of which are set forth and described below, the Recipient hereby designates its Local Subdivision Percentage Contribution as amounting to a minimum total value of **51 %** of the total Project Cost. The OPWC Participation Percentage shall be **49 %** not to exceed **\$ 245,000** .
- 2) *Project Financing and Expenses Scheme:* The Recipient further designates the Project's estimated financial resources and estimated costs certified to the OPWC under this Agreement for the Project to consist of the following components:

Project Estimated Costs

a) Engineering	31,000
b) Construction Administration	29,000
c) Right-of-Way	0
d) Construction	381,000
e) Permits, Advertising, Legal	2,000
f) Construction Contingencies	57,000

Total Estimated Costs	500,000
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Project Financial Resources

a) Local Resources	
In-kind/Force Account	0
Local Revenues	255,000
Public Revenue – ODOT/FHWA	0
Public Revenue – OEPA/OWDA	0
Public Revenue – Other	0

Total Local Resources	255,000
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b) OPWC Funds	245,000
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Total Financial Resources	500,000
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ADDENDUM

This document serves to add the following to the contract dated October 13, 2017 (the “Contract”) between the City of Milford, Ohio (the “City”) and Rumpke of Ohio, Inc. (the “Contractor”).

It is hereby agreed as follows:

Effective August 1, 2022 and continuing through July 31, 2023 Rumpke shall continue to provide weekly unlimited solid waste collection (including yardwaste and large items) and one (1) time per week curbside recycling collection for all residential units within the City of Milford billed directly to the City as follows:

Residential Trash:	\$11.82 Per Unit Per Month
Residential Recycle:	\$ 4.33 Per Unit Per Month

Each resident will be provided with (1) 95-gallon trash cart and (1) 65-gallon recycle cart at no additional charge. Additional trash or recycle carts will be billed directly to the resident at \$3.00 each per month.

The City’s monthly invoice will also continue to reflect a charge of \$.29 per unit Generation Fee Adjustment Factor. The City’s invoice will continue to reflect a fuel surcharge that will be updated quarterly.

All other terms and conditions of the original contract dated October 13, 2017 shall remain unchanged.

The Contractor agrees to comply with all Federal, State and local laws and regulations in the collection, removal, and disposal of all such waste material. In the event that the Contractor incurs increased costs (such as, but not limited to, tipping fees, disposal fees, additional fuel costs, or new or increased surcharges, fees or taxes as a result of imposition of new governmental regulations not in effect at the time of acceptance of said contract and

which regulate the type of material collected, the location for disposition of such material, or the payment of fees for disposing of such materials) then the City shall, after negotiation with Rumpke and approval by the City Council, adjust the unit cost by an amount commensurate with the increased per unit operating cost incurred by Rumpke.

In the event that either party is unable to perform any of its obligations under this contract or to enjoy any of its benefits because of (or if failure to perform the services is caused by) war, Acts of God, natural disaster (such as floods, earthquakes, tornadoes, hurricanes, blizzards, windstorms, high water table, unusually severe weather), fires, quarantine, labor disputes or strikes, explosion, shortage or failure in the supply of fuel, electric current or other public utility not caused by Contractor's actions, actions or decrees of governmental bodies not caused by Contractor's actions, or any other cause beyond the control of the parties (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party. Upon receipt of notice, all obligations under this contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, either party may terminate this contract.

The term of this contract extension shall be for one (1) year effective August 1, 2022 and continuing through July 31, 2023. This contract may be renewed for one (1) additional one-year option period upon mutual written agreement of both parties.

CITY OF MILFORD, OHIO

City Manager


Witness

Date

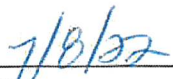
RUMPKE OF OHIO, INC.



William J. Rumpke, Jr., President



Witness



Date

Rumpke Waste Collection and Recycling Services Contract - City of Milford

Current (Monthly Charge)	Proposed (Monthly Charge)	Future Contract (1-3 yrs)
\$ 11.40 Waste	\$ 11.82 Waste	\$ 14.00 Waste
\$ 4.16 Recycling	\$ 4.33 Recycling	\$ 4.90 Recycling
<hr/> \$ 15.56 Total	<hr/> \$ 16.15 Total	<hr/> \$ 18.90 Total