

## ORDINANCE NO. 06-24

AN ORDINANCE TO AUTHORIZE THE CITY MANAGER TO ACCEPT A NATUREWORKS LOCAL ASSISTANCE GRANT IN THE AMOUNT OF \$16,629.00 AND ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES, AND DECLARING AN EMERGENCY.

BE IT ORDAINED, by the City of Conneaut, County of Ashtabula and State of Ohio:

SECTION 1. That the City Manager, on behalf of the City of Conneaut, is hereby authorized to accept a NatureWorks Local Assistance Grant in the amount of \$16,629.00 and enter into an agreement with the Ohio Department of Natural Resources, attached hereto as Exhibit A, for the acquisition, construction, reconstruction, expansion, improvement, planning, and equipping of capital projects that enhance the use and enjoyment of natural resources by individuals.

SECTION 2. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council or any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is declared to be an emergency measure in the interests of public peace, health and safety and to comply with grant deadlines and, shall take effect immediately upon passage and signing by the President of Council.

Passed this 22 day of January, 2024.

  
President of Council

ATTEST:

  
Clerk of Council

## NATUREWORKS LOCAL ASSISTANCE GRANT AGREEMENT

This Agreement is between the **OHIO DEPARTMENT OF NATURAL RESOURCES**, acting through its Office of Real Estate and Land Management, ("**ODNR**") with offices located at 2045 Morse Rd., Bldg. E, Columbus, OH, 43229, and **City of Conneaut**, which is located at 294 Main Street, Conneaut, Ohio 44030 ("**Grantee**").

Grantee is an applicant who submitted a grant proposal (the "Grant Proposal") to ODNR for this grant program. Under R.C. § 1501.01 and §1557.06, ODNR may provide grants to eligible applicants for capital improvements for the acquisition, construction, reconstruction, expansion, improvement, planning, and equipping of capital projects that enhance the use and enjoyment of natural resources by individuals. Grantee has met the application requirements and has been approved by ODNR as eligible to receive this grant. Grantee will undertake the following with funding from this grant:

Install new playground equipment at Liberty Street Park

The parties therefore agree as follows:

1. **AWARD.** ODNR hereby agrees to: (1) provide Grantee funding assistance not to exceed \$ **\$16,629.00** from Ohio's fiscal allocations made available under the provisions of Amended Substitute House Bill No. 687, and pursuant to Ohio Revised Code Section 1557.06, the NatureWorks Local Assistance Grant Program; (2) upon receipt of tangible proof of actual eligible costs paid by the Grantee in performing this Agreement, reimburse the Grantee funds equal to no more than seventy-five percent of such eligible costs incurred in the performance and completion of the deliverables detailed in the attached Exhibit A, Boundary Map (the "Project").
2. **PERFORMANCE OF PROJECT.** Grantee shall perform its duties and responsibilities under this Agreement in compliance with the terms, promises, conditions, plans, specifications, estimates, procedures, maps, and assurances set forth in the Grant Proposal, incorporated herein by reference as though fully set forth herein, as well as the terms set forth in this Agreement. Grantee shall: (1) perform in compliance with the terms, promises, conditions, construction plans, specifications, estimates, procedures, maps, and assurances set forth in the Grant Proposal; (2) comply with all applicable federal, state and local laws and regulations; (3) promptly submit to the ODNR such reports and documents as ODNR may request; (4) establish a separate special account for the funds for the acquisition and/or development of the Project; (5) not change any of the terms, promises, conditions, plans, specifications, estimates, procedures, maps, or assurances set forth in the Grant Proposal unless the proposed change is approved by ODNR; (6) report any and all income gained on the Property or facilities during the Project Period; and (7) prominently display a NatureWorks acknowledgment sign at the site or facility acquired or developed with NatureWorks Local Grant Fund Program assistance. ODNR reserves the right to audit the special account created by Grantee, pursuant to Section 15, either during or after completion of the Project.

3. **NOTICE.** All notices, consents, and communications required hereunder (each, a "Notice") shall be in writing and shall be deemed to have been properly given when: 1) hand delivered with delivery acknowledged in writing; 2) sent by U.S. Certified mail, return receipt requested, postage prepaid; 3) sent by overnight delivery service (FedEx, UPS, etc.) with receipt; or 4) sent by fax or email. Notices shall be deemed given upon receipt thereof and shall be sent to the addresses below. Notices sent by fax or email shall be effectively given only upon acknowledgement of receipt by the receiving party. Any party may change its address for receipt of Notices upon notice to the other party. If delivery cannot be made at any address designated for Notices, a Notice shall be deemed given on the date on which delivery at such address is attempted.

<b>Grantee Contact:</b>  James Hockaday Local Project Coordinator City of Conneaut 294 Main Street Conneaut, Ohio 44030 (440) 593-7401 manager@conneautoh.org	<b>ODNR Contact:</b>  Dee Burlison Program Manager ODNR Office of Real Estate & Land Management 2045 Morse Road, E-2 Columbus, Ohio 43229 614-265-6834 Dolores.Burlison@dnr.ohio.gov
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4. **PERIOD OF PERFORMANCE.** Implementation of the Project shall not commence until this Agreement is effective. This Agreement shall be effective as of the date on which it is signed by an authorized representative of ODNR. ODNR shall not be responsible for any costs incurred by the Grantee prior to the date this Agreement becomes effective. This Agreement shall terminate on December 31, 2025, unless modified by the mutual, written consent of both parties before that date or otherwise terminated as provided herein. The period between the Effective Date and the Termination Date shall be referred to herein as the "Project Period." Grantee shall complete all work on the Project on or before December 31, 2025.
5. **COMPLIANCE WITH ODNR PROCEDURES.** ODNR and the Grantee mutually agree to perform this Agreement in accordance with the policies and procedures set forth by ODNR, and the guidelines set forth in the NatureWorks Local Assistance Grant Program Procedural Guide and Application (hereinafter "Procedural Guide" and "Application"). Failure to comply with or show sufficient progress in complying with the Procedural Guide and Application may result in the termination of this Agreement. ODNR may issue instructions, interpretations, or additional guidelines as necessary for effective program performance. Project assistance may be terminated in whole or in part at any time within the Project Period if ODNR determines that Grantee has failed to comply with this Agreement. Grantee will be promptly notified in writing of such findings and given reasons for this action. Grantee shall follow its own requirements relating to bid guarantees, performance bonds and payment bonds, and insurance.
6. **NO RESTRICTIONS OF RECORD.** Grantee hereby represents and warrants that there are not now, and there will not be, any restrictions of record with respect to the Project, including without limitation, any encumbrances, liens, or other matters that would interfere with or otherwise impair the use of the property as described in Exhibit A (the "Boundary Map") attached hereto, on which the Project will be located and developed to enhance the use of natural resources (the "Property"). If the Property is to be acquired with the funding assistance granted pursuant to this Agreement, Grantee shall not permit any

encumbrances, liens, or other matters that would interfere with or otherwise impair the use of the Property for the Project as approved. Grantee shall provide a final Boundary Map for the Property prior to the acquisition of the Property. Grantee represents that it is, and/or covenants that it will be, the fee simple owner of the Property, or has, or will have, a lease with a term longer than fifteen (15) years beyond the anticipated date of the closeout on the Project and that the only restrictions of record with respect to the Property are, or will be: (a) any state of facts which an accurate survey might show; (b) all zoning regulations, restrictions, rules and ordinances, and other laws and regulations now in effect or hereafter adopted by any governmental agencies having jurisdiction over the Property; and (c) all matters of record pertaining to the Property, including dedicated public rights-of-way and the items identified on said Exhibit A.

7. **USE OF PROPERTY.** Grantee agrees to operate, maintain, and keep for public outdoor recreation purposes the Property and facilities acquired or developed pursuant to this Agreement, as identified in the Boundary Map. The Property and/or facilities will be kept open for general public use during reasonable hours and during appropriate seasons of the year, according to the type of use occurring on the site. During the term of the bonds issued to provide funds for the NatureWorks Local Assistance Grant Program, the Property shall not be converted to another use other than public outdoor recreation use nor shall the Property be transferred through deed or easement without the approval of ODNR. Should Grantee convert the Property without the approval of ODNR, Grantee may become ineligible for further grant funding through ODNR until the condition of noncompliance is rectified to the satisfaction of ODNR. Grantee shall retain and use the Project and Property in a manner consistent with the purposes of Article VIII, Section 21 of the Ohio Constitution.
8. **MAINTENANCE OF PROPERTY.** The Property will be operated and maintained to be safe, attractive, and inviting to the public. Sanitation and sanitary facilities will be maintained on the Property to comply with applicable state and local health standards. Buildings, recreation and support facilities, and other improvements on the Property will be kept in reasonable repair throughout their estimated life expectancy to prevent undue deterioration.
9. **ACCESSIBILITY.** Any new facility constructed on the Property will, whenever possible, be designed to accommodate people with disabilities. The Property and facilities on the Property shall be made available to all persons regardless of race, color, religion, sex, national origin, handicap, military status, age, or ancestry. Any modifications to existing structures shall also include design considerations for persons with disabilities. Grantee agrees that this requirement is applicable to any construction occurring on the Property, regardless of the funding source for the improvement. Grantee will require that any facility on the Property be designed to comply with the Architectural Barriers Act of 1968 (Public Law 90-480), DOI Section 504 Regulations (43 CFR Park 17) and will be responsible to ensure compliance with these specifications by the contractor.
10. **USER FEES.** User fees charged for use of the Property or facilities on the Property shall be reasonable for all users and shall not create unfair competition with private enterprises offering similar services. Revenues occurring from non-recreational uses of the Property (Ex. Income from sales of timber, oil, gas, or minerals) shall be (a) returned to the public in the form of expanded facilities or services on the Property or (b) offset the reimbursement basis.

11. **QUALIFICATION TO RECEIVE GRANT.** Grantee affirms that it is a duly organized local government entity, qualified to receive grants under the NatureWorks Local Assistance Grant Program. Grantee further affirms that if at any time during the term of this Agreement, Grantee for any reason becomes disqualified from participating in the NatureWorks Local Grant Fund Program, Grantee will immediately notify ODNR in writing and will immediately cease performance of the Project. Failure to provide such notice in a timely manner shall void this Agreement and may be sufficient cause for the State of Ohio to debar the Grantee from future state grant opportunities as may be permitted by law. Grantee represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either R.C. Section 153.02 or R.C. Section 125.25.
12. **BIDDING; PLANS.** Grantee shall follow all applicable laws in determining whether the Project must be competitively bid. If competitive bidding for the Project is not required by law, to the extent reasonably possible as determined by Grantee, Grantee shall employ an open and competitive process in the selection of its contractors. Bid documents shall not be designed so as to restrict or preclude open competitive bidding. Plans must reflect the intent of the Project as described in the authorizing legislation. Once approved by ODNR, plans and specifications shall not be substantially modified. ODNR must be notified of any planned substantial changes, and only approved changes will be eligible for reimbursement.
13. **UTILITIES.** Unless situated within an easement or right of way owned by others, all new or replacement utility lines on the Property shall be placed underground.
14. **APPROPRIATION OF PROPERTY.** Grantee shall comply with the terms of Ohio Revised Code Chapter 163 for all real property acquisitions and, where applicable, shall assure compliance with those requirements for the Property to be developed with assistance under this Agreement.
15. **REPORTS AND RECORDS.** The Grantee will keep and make all reports and records associated with the Project funded under this Agreement available to the State Auditor, or the Auditor's designee, and ODNR for a period of not less than eighteen (18) years after the Termination Date. These reports and records shall include a description of the Project, a detailed overview of the scope of work, and disbursement detail (including amount, date, nature/object of expenditure), and vendor information. Grantee acknowledges that the Auditor of State and other departments, agencies, and officials of the State may audit the Project at any time, including before, during and after completion. Grantee agrees that any costs of audit by the Auditor of State or any other department, agency, or official of the State will be the sole responsibility of Grantee, and that no funds provided under this Agreement will be used by Grantee for payment of any audit expenses for any reason at any time.
16. **TAXES.** Grantee accepts full responsibility for payment of any and all taxes, insurance premiums, or payroll deductions required for all employees engaged by Grantee in the performance of the work authorized by this Agreement, including without limitation, unemployment compensation, workers' compensation, and all health care, income tax, social security, and Medicare deductions. ODNR is exempt from federal, state, and local taxes and shall not be liable for any taxes under this Agreement.
17. **TERMINATION BY ODNR.** Any time after signing this Agreement, ODNR may terminate the Agreement, in whole or in part, for any reason whatsoever, upon written notification to the Grantee. Grantee shall return

any unused grant funds to ODNR within thirty (30) days of termination. In the event of termination, all unused funds shall be retained by ODNR.

18. **TERMINATION BY GRANTEE.** Any time after signing this Agreement, Grantee may terminate this Agreement for any reason whatsoever upon written notification to ODNR. If Grantee terminates this Agreement, Grantee shall not incur any new obligations using grant funds and shall use its reasonable best efforts to cancel as many outstanding obligations of grant funds as possible. Grantee shall return all unused grant funds to ODNR within thirty (30) days of termination. Upon Grantee's termination, Grantee shall repay ODNR all funds transferred under this Agreement.
  
19. **NONDISCRIMINATION IN EMPLOYMENT.** Pursuant to R.C. § 125.111 and ODNR policy, Grantee agrees that Grantee, any subcontractor, and any person acting on behalf of Grantee, shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status as defined in R.C. § 4112.01, national origin, or ancestry against any citizen of this state in the employment of any person qualified and available to perform the activities. Grantee further agrees that Grantee, any subcontractor, and any person acting on behalf of Grantee or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of the activities on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.  
  
Grantee shall, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, handicap, or any disability. Grantee shall cooperate with the state Equal Employment Opportunity Coordinator, with any other official or agency of the state or federal Government which seeks to eliminate unlawful employment discrimination, and with all other state and federal efforts to assure equal employment practices under the Agreement, and Grantee shall comply promptly with all requests and directions from the State of Ohio or any of its officials and agencies in this regard.
  
20. **AFFIRMATIVE ACTION PROGRAM.** Grantee shall require the prime contractor(s) on the project have a valid Certificate of Compliance (COC) from the Ohio Department of Administrative Services, Equal Opportunity Division before awarding a construction contract. Grantees can look up those contactors with valid a Certificate of Compliance at <https://eodreporting.oit.ohio.gov/certification-compliance>.
  
21. **WORKERS' COMPENSATION.** Grantee shall provide its own workers' compensation coverage throughout the duration of this Agreement and any extensions thereof. ODNR is hereby released from any and all liability for injury received by the Grantee, its employees, agents, or subcontractors, while performing tasks, duties, work, or responsibilities as set forth in this Agreement.
  
22. **COMPLIANCE WITH LAWS.** Grantee, in the execution of its duties and obligations under this Agreement, agrees to comply with all applicable federal, state, and local laws, rules, regulations, and ordinances.
  
23. **LIABILITY; INDEMNIFICATION.** Grantee shall be solely responsible for any and all claims, demands, or causes of action arising from Grantee's obligations under this Agreement. Each party to this Agreement must seek its own legal representative and bear its own costs, attorney fees, and expenses, in any litigation that may arise from the performance of this Agreement. It is specifically understood and agreed

that ODNR does not indemnify Grantee. Nothing in this Agreement shall be construed to be a waiver of the sovereign immunity of the State of Ohio or the immunity of any of its employees or agents for any purpose. In no event shall ODNR be liable for indirect, consequential, incidental, special, liquidated, or punitive damages, or lost profits.

24. **DRUG-FREE WORKPLACE.** If applicable to Grantee as a “contracting authority” Grantee agrees to comply with all applicable state and federal laws regarding drug-free workplace.
25. **USE OF MBE AND EDGE VENDORS.** Revised Code § 125.081 requires state agencies to set aside purchases for Minority Business Enterprises (“MBE”) and Executive Order 2008-13S encourages use of Encouraging Diversity, Growth and Equity (“EDGE”) businesses. ODNR encourages Grantee to purchase goods and services from Ohio-certified MBE and EDGE vendors.
26. **EVENTS OF SIGNIFICANT IMPACT.** Grantee shall immediately notify ODNR of developments that have a significant impact on the activities supported under this award. Also, notice must be given in case of problems, delays, or adverse conditions that materially impair the ability to meet the objectives of the award. This notification must include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.
27. **PUBLIC RECORDS.** Public access to award or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to the Ohio Public Records Law R. C. §§ 149.43 and 149.431.
28. **DEEBARMENT AND SUSPENSION.** Grantee certifies that it is not debarred from consideration for contract awards by the State of Ohio under R.C. §§ 153.02, 125.25, or 5513.06. If this certification is false, this Agreement is void *ab initio* and Grantee shall immediately repay ODNR all funds transferred by this Agreement.
29. **FINDINGS FOR RECOVERY.** Grantee represents and warrants that it is not subject to a finding for recovery under R.C. § 9.24, or that it has taken appropriate remedial steps required under R.C. § 9.24 or otherwise qualifies under that section. Grantee agrees that if this representation or warranty is deemed to be false, the agreement shall be void *ab initio* as between the parties to this agreement, and any funds paid by ODNR hereunder immediately shall be repaid to ODNR, or an action for recovery immediately may be commenced by ODNR for recovery.
30. **OHIO ETHICS LAW.** The Grantee certifies that it: (i) has reviewed and understands the Ohio ethics and conflict of interest laws as found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43, and (ii) will take no action inconsistent with those laws. The Grantee understands that failure to comply with Ohio’s ethics and conflict of interest laws is grounds for termination of this Agreement and may result in the loss of other contacts or grants with the State of Ohio.
31. **CAMPAIGN CONTRIBUTIONS.** The Grantee affirms that, if applicable to it, no party listed in R.C. § 3517.13(I) or R.C. § 3517.13(J) or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or the Governor’s campaign committees.

32. **NON-APPROPRIATION.** Performance by ODNR under this Agreement may be dependent upon the appropriation of funds by the Ohio General Assembly. Therefore, in accordance with R.C. § 126.07, it is agreed that ODNR's payments are contingent on the availability of such lawful appropriations by the Ohio General Assembly. If the Ohio General Assembly fails at any time to continue funding for the payments due hereunder, this Agreement is hereby terminated as of the date that the funding expires without further obligation of ODNR.
33. **GOVERNING LAW.** This Agreement and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio. Grantee consents to jurisdiction in a court of proper jurisdiction in Franklin County, Ohio.
34. **WAIVER.** A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.
35. **ASSIGNMENT.** Neither this Agreement nor any rights, duties, or obligations hereunder may be assigned or transferred in whole or in part by Grantee.
36. **CONFLICTS.** In the event of any conflict between the terms and provisions of the body of this Agreement and any attachments hereto, the terms of this Agreement shall control.
37. **SEVERABILITY.** The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provisions shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.
38. **HEADINGS.** The headings in this Agreement have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Agreement.
39. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. Either party hereto may deliver a copy of its counterparty's signature page to this Agreement electronically pursuant to R.C. § 1306. Each party hereto shall be entitled to rely upon an electronic signature of any other party delivered in such a manner as if such signature were an original.
40. **ENTIRE AGREEMENT.** This Agreement, including any attachments referenced and made a part hereof, contains the entire agreement between the parties hereto with respect to the subject matter hereof, and shall not be modified, amended, or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This Agreement supersedes any and all previous agreements, whether written or oral, between the parties.

Each party is signing this Agreement on the date stated below that party's signature.

GRANTEE

OHIO DEPARTMENT OF NATURAL RESOURCES

City of Conneaut

OFFICE OF REAL ESTATE & LAND MANAGEMENT

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_