

RESOLUTION NO. 2023 - 64

A RESOLUTION AUTHORIZING AND DIRECTING THE ADMINISTRATION TO ENTER INTO THE HEALTHY URBAN TREE CANOPY GRANT PROGRAM YEAR 2023 PROJECT AGREEMENT WITH THE CUYAHOGA COUNTY PLANNING COMMISSION, AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE PROJECT, AND DECLARING AN EMERGENCY

WHEREAS, that the City of Parma Heights may enter into a Project Agreement with the Cuyahoga County Planning Commission and thereby participate in the Healthy Urban Tree Canopy Grant Program Year 2023 in order to provide for the planting of 100 native trees throughout Parma Heights, at a cost of up to \$64,758.00, and subject to the County's reimbursement in an amount up to \$55,320.00. This project includes a master planting design and planting initiative for the City of Parma Heights.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Parma Heights, County of Cuyahoga and State of Ohio:

Section 1: The Administration is hereby authorized and directed to execute, on behalf of the City, the Healthy Urban Tree Canopy Grant Program Year 2023 Project Agreement with the Cuyahoga County Planning Commission, in accordance with Exhibit "A", attached hereto and made a part hereof by reference as if fully rewritten, which Grant Program Project Agreement enables the City to plant 100 native trees at a projected cost of \$64,758.00 and qualify for reimbursement of a portion of said funds by the County in an amount up to \$55,320.00, and the Administration is hereby authorized to expend those funds for the project.

Section 2: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meeting open to the public, in compliance with the law.

Section 3: This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of said City and for the further reason it is necessary to enter into this Grant Program immediately to purchase and plant trees seasonally and to qualify for reimbursement of funds; wherefore, this Resolution shall be in full force and effect from and immediately after its passage by Council and approval by the Mayor.

PASSED: September 25, 2023 Thomas Rounds
PRESIDENT OF COUNCIL

ATTEST: Barbara Allen September 25, 2023
CLERK OF COUNCIL APPROVED

FILED WITH THE MAYOR: September 25, 2023 Marie Gallo
MAYOR MARIE GALLO

**HEALTHY URBAN TREE CANOPY GRANT PROGRAM YEAR 2023
PROJECT AGREEMENT
between
The Cuyahoga County Planning Commission
and
City of Parma Heights**

INTRODUCTION

This Project Agreement is entered into on this 27 day of July, 2023, (the "Effective Date"), by and between the **Cuyahoga County Planning Commission** (hereinafter referred to as "**County Planning**"), located at 2079 East 9th Street, Suite 5-300 Cleveland, Ohio 44115 and the City of Parma Heights (hereinafter referred to as "**Organization**"), located at 6281 Pearl Road Parma Heights OH, 44130, in support of the Healthy Urban Tree Canopy Grant Program (hereinafter referred to as the "Program") in Cuyahoga County.

This Agreement acknowledges the Organization's mandatory attendance at the Cuyahoga County Healthy Urban Tree Canopy Grant Awards Workshop on July 27, 2023, and both parties expressly intend for the Agreement to be effective July 27, 2023, notwithstanding that a Party may sign the Agreement within sixty (60) days of the Effective Date.

Both County Planning and Organization agree to the terms and conditions described in this Project Agreement and Appendices and are collectively referred to as the "Parties". Attachments included as part of the Appendices are incorporated herein and made a part hereof as if fully rewritten herein.

PURPOSE

Whereas, pursuant to Resolution No. R2019-0145, the County Council of Cuyahoga County, Ohio first established funding to provide support for the Program for the purpose of investing five million dollars (\$5,000,000.00) over five (5) years for the purpose of assisting with reforestation efforts in Cuyahoga County;

Whereas, pursuant to the Program, the Organization will complete Parma Heights Tract 1782.06 Planting Initiative. Parma Heights Tract 1782.06 Planting Initiative; The project will replenish tree canopy in the SW Corridor of the city as identified in the Planning Commission's GIS Map as Tract 1782.06; focusing on the Nathan Hale Park Retention Basin Walking Trail construction site and contiguous areas including neighboring streets. (hereinafter referred to as "Project");

WHEREAS, County Planning desires to make an award to the Organization to complete said Project;

WHEREAS, the Parties desire to enter into this Project Agreement to govern their respective obligations under the Program with respect to the award;

Now, therefore, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties from the other, and intending to be legally bound, the Parties agree as follows:

EFFECTIVE DATE AND TERM

The Term of this Project Agreement shall be for the period beginning on the **July 27, 2023**, the Effective Date written herein above and ending no later than **December 31, 2024**. The Term of the Project Agreement may be extended by mutual agreement of the Parties hereto, in writing, least thirty (30) days before the Project Agreement expires.

The Project Agreement must be returned within **sixty (60) days** upon notice of the grant award. Failure to return a signed Project Agreement within the sixty (60) day timeframe will forfeit the grant award, thus allowing the funds to be reallocated to another awardee.

MONITORING OF PROJECTS

The Cuyahoga Soil & Water Conservation District (hereinafter referred to as "CSWCD") will continuously monitor all stages of the project implementation for grant – funded projects. Therefore, the CSWCD must be present when planting activities begin and will:

- Review and approve all planting and maintenance plans prior to the commencement of planting activities.
- Review planting specifications with the planting crew and crew supervisor.
- Verify Planting Locations.
- Observe the planting activities, or a portion thereof.
- For project monitoring contact Jared Bartley, a minimum of 72 hours prior to the start of planting activities, at the Cuyahoga Soil and Water Conservation District at jbartley@cuyahogaswcd.org.

The Organization agrees to **provide on the reimbursement form, the name of the CSWCD staff and the date(s) that planting activities were monitored by CSWCD and verified satisfactory performance** that:

- Proper planting techniques occurred.
- Planting specifications were followed.

This is a requirement for reimbursement

FUNDING & COMPENSATION

The Organization acknowledges that funding for the completion of a Program Project was awarded to the Organization through a competitive grant application process conducted by a joint effort of County Planning, Cuyahoga County Department of Sustainability, CSWCD, and the Cuyahoga County Board of Health. Further, the Organization acknowledges that grant award provided by County Planning is a reimbursement grant award where the entity must first expense the cost and seek reimbursement of expenses paid.

- A. It is expressly understood and agreed that in no event will the total amount to be paid hereunder exceed the maximum sum of \$55,320.00 for the Parma Heights Tract 1782.06 Planting Initiative).
 1. The Organization certifies matching funds or supplementary funding to fully fund their Project. The Recipient are required to contribute no less than:
 - a. 50% match of the approved budget for Non-Profit Corporations and Park Districts with \$5,000,000.00 or more in assets (most recently reported to the State of Ohio),
 - b. 10% match of the approved budget for Municipalities, Townships, School Districts, Library Districts, Watershed groups, and Community Development Corporations, Non-Profit Corporations, and Park Districts with less than \$5,000,000.00 in assets (most recently reported to the State of Ohio)

REIMBURSEMENT & REPORTING

- A. Project Workplan. The Organization provided an overview of the work and deliverables for the Project in Organization's application. In order to be reimbursed, the County requires the following documents:
 - Approved Project Expenses Worksheet to be submitted with this Project Agreement.
 - Completed Reimbursement Form upon payment request detailing both reimbursable and match expenses, signed and dated by the Organization. It must include staff name and date that CSWD monitored the project.
 - Quarterly project reports to be submitted two (2) weeks after the end of the quarter detailing progress to-date.
 - A final report detailing the completed project in order to close out the grant.
 - A signed and dated project Closeout form summarizing total project costs and match expenses and project summary.
- B. Requests for Reimbursement. Project Award payments will be made on a reimbursement basis and should be submitted on no more than four (4) invoices during the life of the contract. Applicants must complete and submit the PY 2023 Cuyahoga County Healthy Urban Tree Canopy Grant Reimbursement Form and provide all support documentation of approved and incurred expenses that occurred within the contract period. A Quarterly Progress Report, based on the approved Expenses Worksheet for

reimbursement, is required no later than 2 weeks following the end of the quarter. Failure to report on the project status, to pay creditors for activities and equipment specified in the Project Description and Budget or failure to disburse funds for their authorized use constitutes a violation of the Project Agreement terms.

- Reimbursement requests that exceed the match requirement of the approved budget (as specified above) will not be processed until the minimum required match has been met and documented as such.
 - Send all reimbursement requests and quarterly reports via email to Alison Ball at aball@cuyahogacounty.us; and carbon copy email to Annette Linden at Alinden@cuyahogacounty.us. Identify HUTC23-PMH specific to your grant and reimbursement in the subject line.
- C. Establishment and Maintenance of Records. Records shall be maintained with respect to all matters covered by this Project Agreement. Except as otherwise authorized, such records shall be maintained for a period of five (5) years after receipt of the final payment under this Project Agreement.
- D. Documentation of Costs. All costs shall be supported by appropriate documentation of payment including a copy of cancelled check paid for eligible expenses, properly executed payrolls, time records, invoices, agreements, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, agreements, voucher orders, or other accounting documents pertaining in whole or in part to this Project Agreement shall be clearly identified and readily accessible. All records must be kept according to standard accounting practices.
- E. Worker's Compensation. The Organization assumes all responsibility for any and all Worker's Compensation premiums, unemployment compensation premiums, and federal, state and local taxes due on the compensation paid to all their employees. The Organization agrees to follow federal, state and local regulations pertaining to any employees the Organization may use to provide services under this Project Agreement.
- F. Additional Information. At such times and in such forms as County Planning may require, there shall be furnished to County Planning statements, records, data and information, as County Planning may request pertaining to matters covered by this Project Agreement.

ACKNOWLEDGEMENT

The Organization is required to acknowledge the Healthy Urban Tree Canopy (HUTC) grant program funding and the financial support of Cuyahoga County. This acknowledgement must include at a minimum, the Cuyahoga County logo and a credit line that "The Organization name/program name is supported (in part) by the residents of Cuyahoga County through a public grant from Cuyahoga Healthy Urban Tree Canopy."

The Organization must make a plan to effectively cite the Healthy Urban Tree Canopy funding and support of Cuyahoga County at its events, in print and in digital materials, including but not limited to:

- Website
- Social Media
- Event Programs
- Educational Materials
- Promotional Materials
- Research Papers
- Media Interviews
- Signage
- Emails
- Annual Reports
- Benefit Events/Fundraising

PROCUREMENT STANDARDS AND METHODS

The Organization shall use its own procurement procedures which reflect applicable state and local laws and regulations, provided that the procedures conform to the County Code and all Cuyahoga County regulations as now in effect and as may be amended from time to time for government and non-profit providers. Procurement procedures must include at a minimum obtaining no less than three (3) bids for materials and contracted work performed with the provision to select the lowest and best bid.

The Organization will enter into an agreement with a qualified and licensed contractor ("Contractor"), who is registered, bonded, and insured as required by Cuyahoga County, to complete all work.

CONFLICT OF INTEREST

Any and all potential and perceived conflicts of interest must be disclosed upon the execution of this Agreement or immediately upon discovery thereafter.

The following may **not** have a personal or financial interest or other benefit associated with this Project Agreement personally for themselves or for any person or entity with which they have a personal, familial, or business relationship, during their tenure and for one year thereafter, if applicable, including, but not limited to:

1. Any employee, agent, consultant, officer, elected or appointed official of Cuyahoga County;
2. Any entity that currently exercises or that in the past has exercised any functions or responsibilities with respect to the Project Activities or any of the activities that are in any way connected with this Project Agreement;
3. Any person or entity in a position to participate in a decision-making process;
4. Any person or entity in a position to gain inside information with regards to such activities or Project Activities.

The Organization shall take appropriate steps to ensure compliance with these requirements.

DISCRIMINATION PROHIBITED - EQUAL OPPORTUNITY

During the performance of this Project Agreement, the Organization agrees to provide the services hereunder without discrimination on account of race, sex, color, religion, national origin, age, occupation, physical or mental disability or veteran status, to the extent required by law. The Parties agree that discrimination and affirmative action clauses contained in Executive Order 11246, as amended by Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor in Title 41, Part 60 of the Code of Federal Regulations, are incorporated to the extent binding upon the Organization.

The Organization agrees that it is and shall be its policy to provide equal opportunity to all businesspersons seeking to contract or otherwise interested in contracting with this Organization, including various eligible Small Business Enterprise, Minority Business Enterprise and Women Business Enterprise (hereinafter "SBE/MBE/WBEs").

The Organization acknowledges and warrants that it has been made aware of, understands and agrees to make a good faith effort to solicit SBE/MBE/WBEs to do business with this Organization in accordance with the Cuyahoga County Code.

PROJECT AGREEMENT TO REMAIN IN COMPLIANCE WITH CERTIFICATIONS, REPRESENTATIONS, AND WARRANTIES AS CONTINUING COMMITMENTS OR VERIFICATION

Organization shall ensure that all of its certifications, representations, and warranties under this Project Agreement shall remain true throughout the duration of the Project Agreement as if they are continuing commitments, and it shall immediately notify County Planning in writing in the event that any of the certifications, representations, and warranties ceases to be true. At its sole discretion, County Planning has the unequivocal right to review and audit the Organization's continuing certifications, representations, and warranties.

During the performance of this Project Agreement, the Organization agrees to itself, its assignees, sub consultants, and successors in interest to comply with all applicable laws, resolutions, regulations and/or policies of Cuyahoga County, including but not limited to equal employment and SBE/MBE/WBEs requirements, which are herein incorporated by reference and made a part of this Agreement. Failure to comply with any of the aforementioned laws, resolutions, regulations and/or policies may result in the termination of this Project Agreement.

The Organization warrants and represents that it has not employed or retained any company, firm or person, other than a bona fide employee working for the Organization, to solicit or secure this Project Agreement, and that it has not paid or agreed to pay any company, firm or

person, other than a bona fide employee working for Organization, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Project Agreement. For breach or violation of this warranty, County Planning shall have the right to annul this Project Agreement without liability or in its discretion to deduct from the contract fee or consideration, or otherwise recover, the full amount of such fee, commission, gift, percentage, or contingent fee.

CHANGES

- A. County Planning may, from time to time, permit changes in the Project Description of the Agreement to be performed hereunder. Any such changes shall be incorporated in written amendments to this Project Agreement signed by the Parties.
- B. County Planning may upon its own initiative or upon that of the Organization, authorize changes in the time of performance. As a condition precedent to the authorization of such change, County Planning shall have determined that the Organization has exhibited the utmost in good faith in the performance of the Project Agreement and that there is just cause based upon the intervention of a circumstance unforeseeable at the execution of this Project Agreement. The Organization and County Planning, in writing, shall agree to any change in the time of completion and said writing shall be incorporated in written amendments to this Project Agreement signed by the Parties.

PERSONNEL

- A. The Organization represents that it has or will secure at its own expense, all personnel required in performing the services under this Project Agreement. Such personnel shall not be employees of or have any contractual relationship with County Planning.
- B. All of the services required hereunder will be performed by the Organization or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.

ASSIGNABILITY

The Organization shall not assign any interest in this Project Agreement and shall not transfer any interest in the same (whether by assignment or notation), without the prior written consent of the County thereto.

DEFAULT; TERMINATION OF AGREEMENT

If the Organization breaches any of its representations under this Project Agreement or fails to perform any of its obligations at any time prior to the end of the Term or is in default under any other condition of this Project Agreement for a period of thirty (30) days after date of County Planning's written notice to the Organization, County Planning may, at its sole option, terminate this Project Agreement and will be under no further obligation to disburse any funds remaining under the Award. The Organization shall be required to return any funds that may have been advanced during the thirty (30) day period that the notice was

issued. If the Project Agreement is terminated as a result of a default by the Organization, the Organization shall not be eligible to apply for a grant or loan under any subsequent round of the Program.

TERMINATION FOR CONVENIENCE

In addition to any other rights County Planning may have at law or under this Project Agreement with respect to cancellation or termination, County Planning may, without cause, terminate this Project Agreement in whole or in part, if County Planning determines that a termination is appropriate for its convenience. County Planning shall give the Organization at least thirty (30) days' notice in writing from County Planning to the Organization.

INDEMNIFICATION

The Organization and County Planning, as Ohio political subdivisions, do not indemnify any person or entity, and agree that no provision of this Project Agreement or any other agreement between County Planning and the Organization may be interpreted to obligate either to indemnify or defend the other or any other person or entity. Each party agrees to be responsible for any and all damages resulting from the actions or omissions of its officers, officials, employees and agents while same are engaged in the performance of this Project Agreement.

TAX

If applicable, the Organization shall pay all taxes, all assessments on property, and all payments in lieu of taxes when due.

GENERAL TERMS OF UNDERSTANDING

The general terms of this Project Agreement are outlined below.

- A. Any notice or communication required or permitted under this Project Agreement shall be sufficiently given in writing delivered in person or by U.S. mail, to the following:

City of Parma Heights
Joseph Sebes
6281 Pearl Road
Parma Heights, Ohio 44130

Cuyahoga County Planning Commission
Mary Cierebiej, AICP, Executive Director
2079 E. 9th Street, Suite 5-300
Cleveland, Ohio 44115

- B. County Planning acknowledges that it is a public body subject to the Ohio Revised Code and other laws related to the keeping of and access to public records, including any and all applicable Sunshine Laws, open meeting requirements, and retention schedules effecting any and all manner of communication and any and all documents in any format or media.
- C. In the event of any dispute or disagreement between County Planning and the Organization with respect to the interpretation of any provision of this Project Agreement which cannot be resolved in the normal course of business, then upon written notice of either party to the other adhering to the following:
 - 1. Each party agrees to meet for the purpose of endeavoring in good faith to resolve the dispute;
 - 2. No formal action for such dispute may be commenced by the parties until either of the parties concludes in good faith that amicable resolution through continued negotiation of the matter at issue does not appear likely and so notifies the other party; and
 - 3. The rights and obligations of the parties under this Section shall not limit either party's right to terminate this Project Agreement as otherwise permitted hereunder.
- D. This Project Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.
- E. In the event that any provision of this Project Agreement is deemed to be severable or invalid, and if any term, condition, phrase or portion of this Project Agreement shall be determined to be unlawful or otherwise unenforceable, the remainder shall remain in full force and effect, so long as the clause severed does not affect the intent of the Parties. If a court should find that any provision of this Project Agreement to be invalid or unenforceable, that provision will be changed and interpreted to accomplish the Parties' objectives to the greatest extent possible under applicable law and the remaining provisions of this Project Agreement shall continue in full force and effect.

- F. Neither Party to this Project Agreement may assign or transfer the responsibilities or agreement made herein without the prior written consent of the non-assigning party, from which approval shall not be unreasonably withheld.
- G. This Project Agreement constitutes the entire understanding of the Parties pertaining to all matters contemplated hereunder at this time. The Parties signing this Project Agreement desire or intend that any implementing contract or other agreement entered into between the parties in writing subsequent hereto shall supersede and preempt any conflicting provision of this Project Agreement.
- H. By entering into this Project Agreement, the Parties agree on behalf of themselves and their respective officers, employees, agents or assigns, that this transaction may be conducted by electronic means by agreeing that all documents requiring signatures by County Planning and the Organization may be executed by electronic means, and that the electronic signatures affixed by County Planning and/or the Organization to said documents shall have the same effect as if that signature was manually affixed to a paper version of the document.

This Project Agreement is hereby agreed, acknowledged, and executed by the duly authorized representatives below.

**For
City of Parma Heights**



Joseph Sebes

9-25-23

Date

**For
CUYAHOGA COUNTY
PLANNING COMMISSION**



Mary Cierebiej, AICP
Executive Director

9/27/23

Date