

**RESOLUTION NO. 2024-18**

**A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OR THEIR DESIGNEE TO ENTER INTO A GRANT AGREEMENT BY AND BETWEEN THE STATE OF OHIO THROUGH THE OHIO OFFICE OF BUDGET AND MANAGEMENT AND THE LORAIN PORT AUTHORITY FOR THE PURPOSE OF ACCEPTING GRANT DOLLARS AWARDED THROUGH THE ONE TIME STRATEGIC COMMUNITY, PENDING MINOR NONSUBSTANTIVE CHANGES AND LEGAL COUNSEL APPROVAL.**

**WHEREAS**, the Lorain Port Authority applied for funding through the One Time Strategic Community Investments program offered by the State of Ohio; and

**WHEREAS**, Black River Landing has been a catalyst for the development of the City of Lorain, becoming the number one tourist destination for Lorain County and driving traffic, dollars and investment into the City of Lorain, which is a key mission of the Lorain Port Authority; and

**WHEREAS**, the Lorain Port Authority is the owner of Black River Landing and has put efforts behind establishing a master plan for the redevelopment of the site and is currently working towards compiling a capital stack to begin the first phase of the redevelopment project; and

**WHEREAS**, the Lorain Port Authority was awarded a grant through this strategic fund for the purposes of providing dollars for the improvement of Black River Landing; and

**WHEREAS**, in order to accept the grant, the Lorain Port Authority must enter into the grant agreement with the State of Ohio through the Ohio Office of Budget and Management for the acceptance of funds.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Lorain Port Authority:

**SECTION I.** That the Executive Director or his designee is hereby authorized to enter into a Grant Agreement by and between the Lorain Port Authority and the State of Ohio through the Ohio Office of Budget and Management for the Project.

**SECTION II.** That the Grant Agreement will be the guiding document for the expenditure of funds and reporting criteria.

**SECTION III.** It is found and determined that all formal proceedings and actions of this Board concerning and relating to the passage of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action, were in

meetings open to the public in compliance with all legal Requirements, including Section 121.22, of the Ohio Revised Code.

**Ayes: 6**

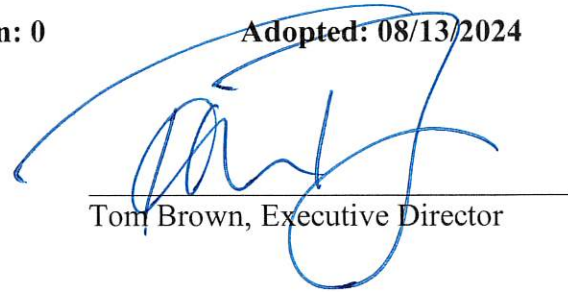
**Nays: 0**

**Abstain: 0**

**Adopted: 08/13/2024**



Bradly Mullins, Chairman



Tom Brown, Executive Director

**GRANT AGREEMENT BETWEEN  
THE OFFICE OF BUDGET AND MANAGEMENT AND**

This Grant Agreement (“Agreement”) is made and entered into by and between the State of Ohio (the “State”), through the Ohio Office of Budget and Management (“OBM”), acting by and through its Director, and located at 30 East Broad Street, 34th Floor, Columbus, Ohio 43215, and the (the “Recipient” or “Grantee”), acting by and through its authorized representative, and located at (each individually a “Party” or collectively the “Parties”).

**WHEREAS**, pursuant to Section 200.20 of Substitute House Bill 2 (the “Act”), the 135th General Assembly of the State of Ohio has appropriated funds in the amount of \$717,800,000 to OBM in appropriation item 042509, One Time Strategic Community Investments;

**WHEREAS**, pursuant to Section 200.30 of the Act, OBM shall use the One Time Strategic Community Investments to provide grants for the projects listed in that section in the amounts listed;

**WHEREAS**, pursuant to Section 200.30 of the Act, OBM, prior to disbursing a grant to a Recipient, shall enter into this Agreement with the Recipient;

**WHEREAS**, pursuant to Section 200.30 of the Act, the Recipient, as part of this Agreement, shall agree to complete a final report, in a form and manner prescribed by OBM, detailing how the Recipient used the grant and submit the report to OBM; and

**WHEREAS**, pursuant to Section 200.30 of the Act, the Grantee was appropriated for the project titled (the “Project”).

**NOW, THEREFORE**, for the purposes of providing these grant funds to the Grantee in accordance with the Act, the Parties hereby covenant and agree as follows:

1. **Funding Amount and Purpose.** OBM agrees to provide the Grantee via electronic funds transfer to be used by the Grantee for the purposes of funding the Project. In no event shall the State or OBM’s financial commitment to the Grantee exceed as provided for in this Section. Any funds provided under this Agreement that are not spent in conformity with the intent and purpose of the appropriation designated in Section 200.30 of the Act or in violation of other federal, state, or local laws, rules, regulations, or Executive Orders shall be returned in full to the State. Nothing in this Agreement shall constitute, or be deemed to constitute, an obligation of future appropriations of the General Assembly.
2. **Certification of Funds.** It is expressly understood and agreed by the Parties that none of the rights, duties, and obligations of the Parties under this Agreement shall be binding on either Party until all statutory provisions of the Ohio Revised Code (“R.C.”) including, without limitation, R.C. 126.07, have been complied with, and until such time as all funds have been made available.
3. **Bonded and Insured Employees and Agents.** The Grantee hereby certifies to OBM that: (i) all individuals or agents of the Grantee who are responsible for maintaining or disbursing funds acquired through this Agreement are or will be fully bonded or insured against the loss of such

funds; (ii) the bonding agent or insurer shall be licensed to do business in Ohio; and (iii) no part of the funds acquired by the Grantee through this Agreement shall be spent to obtain that bonding or insurance.

4. **Performance Period; Report of Expenditures.**

- a. **Initial Period.** The Grantee acknowledges the performance period for this Agreement runs through June 30, 2026. The Grantee will make a good faith effort to complete the Project on or before June 30, 2026. No later than July 31, 2026, the Grantee agrees to submit a final report to OBM detailing the use of funds and confirming the expenditures were made in accordance with the purposes enumerated in Section 1 of this Agreement. Notwithstanding Section 8 of this Agreement, any funds not expended shall be returned in full to the State within fourteen (14) days following the submission of the final report to OBM.
- b. **Extension.** If the Grantee has not expended all funds for the Project by June 30, 2026, the Parties, by mutual consent, may extend this Agreement. In lieu of a final report as provided in Section 4(a) of this Agreement, the Grantee agrees to submit an interim report to OBM detailing the use of funds and the expected completion date of the Project. The interim report shall be submitted to OBM no later than July 31, 2026. As permitted by the extension, no later than thirty (30) days following completion of the Project or the expenditure of all funds, whichever is sooner, the Grantee agrees to submit a final report to OBM detailing the use of funds and confirming the expenditures were made in accordance with the purposes enumerated in Section 1 of this Agreement. Notwithstanding Section 8 of this Agreement, any funds not expended shall be returned in full to the State within fourteen (14) days following the submission of the final report to OBM.
- c. **Project Incompletion.** To the extent applicable, should the Grantee decide not to complete the Project as provided in this Agreement, the Grantee will provide OBM with a final report detailing why the Grantee has chosen not to proceed with the Project. The final report shall be submitted to OBM no later than the last agreed upon date for completion of the Project. Notwithstanding Section 8 of this Agreement, any funds not expended shall be returned in full to the State within fourteen (14) days following the submission of the final report to OBM.

5. **Relationship of the Parties.** It is fully understood and agreed to by the Grantee that neither the Grantee nor its officers, employees, agents, representatives, contractors, or other personnel shall at any time, or for any purpose, be considered agents, servants, or employees of the State or OBM.

6. **Term of Agreement.**

- a. **Effective Date.** This Agreement shall commence and be binding on the Parties upon the completion of: (i) the signature of the Grantee's authorized representative below; and (ii) the Grantee's receipt of funds.
- b. **Expiration.** This Agreement will, unless otherwise earlier terminated herein, expire two (2) years following the date of the Grantee's submission of its final report to OBM pursuant to Section 4 of this Agreement.

Provisions of this Agreement have no force upon expiration unless its context provides otherwise.

- c. **Termination for Cause.** OBM reserves the right to terminate this Agreement upon written notice to the Grantee and to recover any funds distributed to the Grantee, or by the Grantee to contractors or other payees, in violation of the terms of this Agreement.
  - d. **Breach; Opportunity to Cure.** OBM, in its sole discretion, may permit the Grantee to cure a breach in this Agreement. Such cure period shall be no longer than twenty-one (21) calendar days. Notwithstanding OBM permitting a period of time to cure the breach or the Grantee's cure of the breach, nothing in this Agreement shall prohibit the State or OBM from exercising any other rights or remedies available to it under federal or state law.
7. **Notice.** Notices required by the Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, personal delivery, or sent by facsimile or other electronic means (email). Any notice delivered or sent shall be effective on the date of delivery. All notices and other written communications under the Agreement shall be, unless otherwise modified by subsequent written notice, directed to the OBM contact listed on the funding opportunity. The authorized representative on the grant agreement will serve as the main point of contact for this funding whereas additional contacts listed on the funding request form, as applicable, will serve as grant contacts for administrative purposes.
8. **Remittances.** If for any reason funds acquired through this Agreement are required to be paid, repaid, or remitted to the State, they shall be remitted in full by the Grantee to OBM within forty-five (45) days of demand. Any such remittance shall include a copy of this Agreement.
9. **Reports and Records.** During the term of this Agreement and for two (2) years following the date of the Grantee's submission of its final report to OBM, the Grantee shall keep and make all reports and records associated with the grant under this Agreement available to the State, OBM, the Ohio Auditor of State, or other authorized representatives or agents of the foregoing as necessary upon request.
10. **Liability; Waiver of Liability.** The Grantee shall be solely liable for any and all claims, demands, or causes of action arising from its obligations under this Agreement. Each Party to this Agreement must seek its own legal representative and bear its own costs, attorney fees, and expenses, in any litigation that may arise from the performance of this Agreement. It is specifically understood and agreed that OBM does not indemnify the 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. Nothing in this Agreement shall be construed to be a waiver of any immunity of the Grantee granted by statute or the immunity of any of its employees or agents for any purpose. In no event shall OBM be liable for indirect, consequential, incidental, special, liquidated, or punitive damages, or lost profits. On and after the date of this Agreement, the Grantee agrees not to seek any determination of liability against OBM or any department, agency, or official of the State in the case of claim or suit arising from the funds provided to the Grantee under this Agreement. The Grantee forever releases and waives any and all claims, demands, and causes of action it may ever possess or assert against OBM and its employees, agents, officials, and attorneys arising from, or relating to, this Agreement.

11. **Public Funds Compliance.** The Grantee will assure compliance with all applicable federal, state, and local laws and regulations pertaining to handling, management, and accountability in relation to public funds. All funds received by the Grantee under this Agreement shall be deposited in one or more financial institutions that fully insure, secure, or otherwise protect the funds from loss through federal deposit insurance and/or other deposit and/or collateralization strategies that protect the funds against loss. Funds granted to the Grantee shall be held in compliance with Chapter 135 of the Revised Code, as applicable.
12. **Ohio Ethics Law.** The Grantee certifies that it is in compliance with and will continue to adhere to the requirements of the Ohio ethics and conflict of interest laws as found in Chapter 102 of the Revised Code and R.C. 2921.42 and 2921.43. The Grantee understands that failure to comply with Ohio's ethics and conflict of interest laws is, in itself, grounds for termination of this Agreement and may result in the loss of other contracts or grants with the State.
13. **Drug-free Workplace.** The Grantee agrees to comply with all applicable state and federal laws regarding a drug-free workplace and shall make a good faith effort to ensure that none of its employees or permitted contractors purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.
14. **No Findings for Recovery.** The Grantee represents and warrants to the State that no officer, employee, or agent is 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. The Grantee agrees that if this representation or warranty is determined by OBM to be false, the Agreement shall be void ab initio as between the Parties to this Agreement, and any funds paid by the State hereunder immediately shall be repaid in full to the State, or an action for recovery immediately may be commenced by the State for recovery of said funds.
15. **Employment Nondiscrimination.** Pursuant to R.C. 125.111, the Grantee agrees that Grantee and any contractor or subcontractor will not discriminate against any citizen of this state in the employment of a person qualified and available to perform work related to the Project on the basis of race, color, religion, sex, age, disability or military status as defined in R.C. 4112.01, national origin, or ancestry. In addition, the Grantee further agrees that Grantee and any contractor, subcontractor, or person acting on behalf of any contractor or subcontractor, will not discriminate against, intimidate, or retaliate against any employee hired for the performance of work related to the Project on the basis of race, color, religion, sex, age, disability or military status as defined in R.C. 4112.01, national origin, or ancestry. To the extent applicable, the Grantee represents that the contractor(s) from whom the Grantee makes purchases has a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, and has filed a description of the affirmative action program and a progress report on its implementation with the Ohio Department of Development.
16. **Prevailing Wage.** To the extent applicable, the Grantee shall comply with the prevailing wage requirements of Chapter 4115 of the Revised Code extending from this Agreement.
17. **Competitive Selection.** The Grantee shall comply with all applicable state requirements relating to the competitive selection of contractors and comply with its own competitive selection policies and procedures. If competitive selection for the Project is not required by law, to the extent reasonably possible as determined by the Grantee, the Grantee shall employ an open and competitive process in the selection of its contractors.

18. **Campaign Contributions.** The Grantee hereby certifies that neither it nor any of its officers nor the spouse of any such person, has made contributions to the Governor of Ohio in excess of the limitations specified in R.C. 3517.13.
19. **Compliance with Laws.** The Grantee shall comply with Section 200.30 of the Act and all applicable federal, state, or local laws, rules, regulations, or Executive Orders in the performance of the Grantee's obligations under this Agreement.
20. **Indemnification.** Unless the Grantee is otherwise prohibited from indemnifying the State or OBM under state or federal law, the Grantee agrees to indemnify and to hold the State and OBM harmless and immune from any claims or causes of action arising from, or related to, implementing the Project, including any acts or omissions of the Grantee or its officers, employees, agents, representatives, contractors, or other personnel. Neither the State nor OBM shall be considered a party to and shall not be held liable under any contract entered into by the Grantee in carrying out its activities pursuant to this Agreement.
21. **Miscellaneous Provisions.**
- a. **Controlling Law.** This Agreement and the rights of the Parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio. The Grantee consents to jurisdiction in a court of proper jurisdiction in Franklin County, Ohio.
  - b. **Days.** When this Agreement refers to days, it means calendar days, unless it expressly provides otherwise.
  - c. **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.
  - d. **Successors and Assigns.** Neither this Agreement nor any rights, duties, or obligations hereunder may be assigned or transferred in whole or in part by the Grantee, without the prior written consent of OBM.
  - e. **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.
  - f. **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 provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.
  - g. **Entire Agreement.** This Agreement contains the entire agreement between the Parties and shall not be modified, amended, or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the Parties. This Agreement supersedes any and all previous agreements, whether written or oral, between the Parties.
  - h. **Amendment.** This Agreement may be modified or amended at any time during its term by mutual consent of the Parties, expressed in writing, and officially signed by both Parties.

- i. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.
- j. **Electronic Signatures.** Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. 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.

*(Remainder of page intentionally left blank)*



**IN WITNESS WHEREOF**, this Agreement is signed by the duly authorized representatives of OBM and the Grantee and shall be effective in accordance with Section 6(a) of this Agreement.

**As to the Grantee, the Authorized Representative:**

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

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

**As to the Ohio Office of Budget and Management:**

By: Kimberly A. Murnieks

Date: July 25, 2024

Kimberly A. Murnieks  
Director