

**FOUNDATION PARK WALKING TRAIL IMPROVEMENTS
COST SHARING AGREEMENT**

This Foundation Park Walking Trail Improvements Cost Sharing Agreement (“Agreement”) is entered into on the date last executed below, by and between the City of Pataskala, Ohio (hereinafter, the “City”), the Licking Park District (hereinafter, the “Park District”), the Thomas J. Evans Foundation, an Ohio nonprofit corporation (hereinafter, the “Evans Foundation”), and the Gilbert Reese Family Foundation (hereinafter, the “Reese Family Foundation”). The City, Park District, Evans Foundation and Reese Family Foundation are collectively referred to as the “Parties.”

WHEREAS, the City operates and maintains the Thomas J. Evans Foundation Park, located at 10255 McIntosh Road, Pataskala, Ohio 43062 (hereinafter, “Foundation Park”) pursuant to a lease agreement with the Evans Foundation. The City intends for Foundation Park to be used for year-round recreation and enjoyment by City and local residents; and,

WHEREAS, the Park District maintains parks and bike/multi-use trails throughout Licking County, Ohio under an agreement with the Licking County Board of Commissioners, and also in conjunction with the Evans Foundation; and,

WHEREAS, Foundation Park is the largest park in the City, encompassing nearly 78 acres, and presently contains an approximately 1.4-mile (7,200’) mulch-topped walking trail that spans the entire park and surrounding wooded area; and,

WHEREAS, the City desires to upgrade and improve the existing walking trail through construction of an approximately 7,200’ compacted, aggregate trail (hereinafter, the “Walking Trail Improvements”) as described in the January 2020 engineer’s estimate secured by the City which is attached hereto as Exhibit “A” and by this reference incorporated herein; and,

WHEREAS, the Walking Trail Improvements will allow for a safer, more accessible trail for all Foundation Park visitors and, the Parties agree, will provide a benefit to the community; and,

WHEREAS, the Evans Foundation desires to grant permission under the existing lease agreement with the City of Pataskala to allow the construction of the Walking Trail Improvements; and,

WHEREAS, the Reese Family Foundation and the Park District each desire to contribute financial assistance toward the City’s upcoming construction of the Walking Trail Improvements, and have each agreed to pay 1/3 of the construction costs thereto, or \$38,000.00, whichever is less.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **COST SHARING.** In order to assist with offsetting the total cost of the Walking Trail Improvements, the Reese Family Foundation and the Park District each agree to pay the City the lesser of the following: (1) Thirty-Eight Thousand Dollars and No Cents (\$38,000.00); or (2) one-third of the total construction cost for the Walking Trail Improvements, including the signage described in Section 6 below (hereinafter, "Cost Sharing Contribution"). See Exhibit "A." For purposes of this Agreement, "construction cost" means the actual cost invoiced by the selected construction contractor, and does not include grant or in-kind work provided by the City.
2. **BILLING.** Upon completion of the Walking Trail Improvements and related signage as described in Section 6 below, the City will generate and provide an invoice to both the Reese Family Foundation and the Park District detailing the final Cost Sharing Contribution for each Party. The Reese Family Foundation and the Park District shall pay their respective invoices to the City within thirty (30) days of receipt.
3. **MAXIMUM CONTRIBUTION.** Under no circumstances shall the Reese Family Foundation's or the Park District's respective obligations under Section 2 exceed Thirty-Eight Thousand Dollars and No Cents (\$38,000), regardless of the total amount of final construction costs the contractor submits and invoices to the City.
4. **CITY OBLIGATIONS AND DISCLAIMER.** The Parties agree that the City shall bear responsibility for all actions taken with respect to the Walking Trail Improvements beyond funding, including but not limited to engineering, bidding, and construction. This Agreement exclusively represents the Parties' cost-sharing agreement, and in no way denotes any division or sharing of responsibility or liability, which responsibility and/or liability rests solely with the City. The City shall be responsible for any and all loss, liability, damage, and expense for injuries to person (including death) or property of other arising or resulting from any tortious or negligent act or default of the City, or City's employees, agents or invitees, sustained or alleged to have been sustained directly or indirectly in connection with, or to have arisen out of, or resulting from construction of the Walking Trail Improvements.
5. **EVANS FOUNDATION'S CONSENT TO IMPROVEMENTS.** By signing below, as owner and lessor of Foundation Park, the Evans Foundation hereby provides prior written consent to the City, as lessee, to make alterations, improvements, and/or changes to Foundation Park through construction of the Walking Trail Improvements. This prior written consent shall satisfy Section 6 of the lease agreement between the City and the Foundation. Additionally, the City and the Evans Foundation hereby expressly agree and understand that the Walking Trail Improvements and all accompanying signage shall remain a part of Foundation Park and shall run with the land in accordance with Section 24 of the lease agreement between the City and the Evans Foundation.
6. **SIGNAGE.** The Parties agree that the City shall cause to have signage erected at both major entrances to Foundation Park at McIntosh Road and John Reese Parkway. The signage shall contain the following language: "This walking trail was constructed as the

result of a joint community partnership between the City of Pataskala, Licking Park District, the Thomas J. Evans Foundation, and the Gilbert Reese Family Foundation.”

7. **NOTICES.** All Notices and other communications required under this Agreement, including invoices, shall be in writing and will be deemed to have been given if delivered by hand, or on the next business day if delivered by a recognized overnight courier, or when actually delivered if mailed by certified mail, return receipt requested at the following addresses:

If to the City of Pataskala:

James M. Nicholson, Finance Director
City of Pataskala
621 W. Broad Street
Pataskala, Ohio 43062

If to the Licking Park District:

Richard Waugh, Director
Licking Park District
PO Box 590
Granville, Ohio 43023

If to the Thomas J. Evans Foundation and Gilbert Reese Family Foundation:

Sarah R. Wallace, Chairman and CEO
The Thomas J. Evans Foundation
25 E. Walnut Street, PO Box 4217
Newark, Ohio 43058-4217

Sarah R. Wallace, Chairman and CEO
The Gilbert Reese Family Foundation
25 E. Walnut Street, P.O. Box 4217
Newark, OH 43058-4217

8. **MODIFICATIONS, AMENDMENTS, AND ASSIGNMENT.** This Agreement may be modified or amended only by a written agreement duly executed by the Parties. This Agreement may not be assigned by any Party.
9. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the Parties. The terms and conditions of this Agreement shall supersede the terms and conditions of any other agreement, whether oral or written, between the Parties and relating to the subject matter of this Agreement, with the only exception being the lease agreement between the Evans Foundation and the City for Foundation Park. This Agreement may be executed in multiple counterparts, each of which is identical and each of which shall be deemed to be an original, and all such counterparts together shall constitute but one instrument.

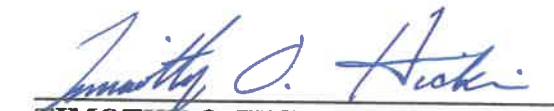
10. SEVERABILITY. If a term or provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable or illegal, said term or provision shall be severed and the remaining terms and provisions of this Agreement shall remain valid and enforceable.

11. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without reference to the selection of the forum or the principles of conflicts of law. Venue and jurisdiction for any dispute arising out of this Agreement shall be filed only in the Court of Common Pleas of Licking County, Ohio.


12. AUTHORITY. The undersigned individuals below represent that they are duly authorized to execute this Agreement on behalf of the Parties.

**CITY OF PATASKALA
FOUNDATION**

THE THOMAS J. EVANS




TIMOTHY O. HICKIN
CITY ADMINISTRATOR
DATE: 7/15/2020




By: Sarah R. Wallace
Its: Chairman + CEO
Date: 7/11/2020

THE THOMAS J. EVANS FOUNDATION




By: Sarah W. Heckman
Its: Secretary
Date: 7/11/2020

THE GILBERT REESE FAMILY FOUNDATION

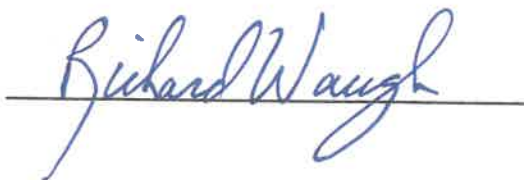


By: Sarah R. Wallace
Its: Chairman + CEO
Date: 7/11/2020



By: Sarah W. Heckman
Its: Secretary
Date: 7/11/2020

LICKING PARK DISTRICT



**RICHARD WAUGH
DIRECTOR**

APPROVED AS TO FORM:



Brian M. Zets, Esq.
Law Director, City of Pataskala