

**GRANT AGREEMENT FOR FEE SIMPLE ACQUISITION OF LAND,
CONSERVATION EASEMENT PURCHASE OR PARK AND RECREATION
PROJECTS, UNDER THE ADAMS COUNTY PARKS, RECREATION AND
GREEN SPACE GRANT PROGRAM**

THIS GRANT AGREEMENT (“Grant Agreement”), made this _____ day of _____, 20____, by and between the **County of Adams**, (“County”) a Fifth Class County of the Commonwealth of Pennsylvania, by and through its governing body, the **Adams County Commissioners** (the “ACC”), with offices and a mailing address located at the Adams County Courthouse, 117 Baltimore Street, Room 201, Gettysburg, Pennsylvania 17325; **and** [*Name, Address, and classification of Grantee*] (“Grantee”). The County and Grantee are also sometimes referred to herein as the “Parties,” or as a “Party.” The effective date of this Grant Agreement shall be the latest date of execution hereof by the Parties, as indicated herein below.

WHEREAS, the County, by the ACC, has approved a Parks, Recreation and Green Space Grant Program (the “Program”) Grant, unto the Grantee, in the amount of _____ Dollars (\$ _____) (the “Grant”); and

WHEREAS, Grantee has agreed to use the Grant for [*Description of Project and Purpose thereof*] (the “Project”) and complete the detailed Scope of Work, *which is attached hereto and incorporated herewith; and*

WHEREAS, Grantee has agreed to be legally bound by and fully and timely comply with all of the terms and conditions set forth in the Program Guidelines (the “Program Guidelines”), which Program Guidelines document is incorporated by reference herein as though set forth at length, as the same exists as of the effective date of this Grant Agreement; and

WHEREAS, the Parties have agreed to be legally bound by the provisions of the present Grant Agreement with respect to the use of the Grant and completion of the Project.

NOW, THEREFORE, WITNESSETH, that, with the foregoing Recitals incorporated herein by reference and deemed essential parts hereof, and in consideration of the Parties’ mutual promises and agreements herein contained, the receipt and sufficiency of which consideration are hereby mutually acknowledged, and intending to be legally bound hereby, the County and the Grantee hereby agree as follows:

1. **COUNTY OBLIGATION TO PAY GRANT.** The County shall be obligated to pay the Grant solely upon Grantee's compliance with all applicable terms and conditions of the Program Guidelines, and this Grant Agreement.

2. **LIMITATION OF GRANT.** The Grant shall be expended solely for the Project and for no other purpose, and in accordance with the Grant proposal and the Program Guidelines. Any Grant monies expended for a non-approved purpose shall, at the County's sole discretion, cause all of the Grant balance paid to Grantee to become immediately due and owing to the County. If such repayment is not made within 30 days, any amount still owing shall be considered a loan, subject to a 3% monthly interest rate. Grantee agrees that any costs incurred in the collection of such repayment by the County shall be borne exclusively by the Grantee, and Grantee hereby agrees to waive any legal claims challenging the County's attempt to collect the repayment amount through judicial process. Nothing in this paragraph shall be read to limit other remedies as outlined herein or otherwise available at law or equity.

3. **GRANT EXPIRATION DATE.** Should the Grant not be expended by the Project completion date, or the Project and Scope of Work completed by [*Insert Date:* _____], the Grant may be revoked by the County, retained for the Program, or reallocated to other projects as determined by the County. The County may extend the Grant expiration date in its sole discretion, but only following a written request by the Grantee for an extension, which shall include the reasons the original completion date was not met.

4. **RESTRICTIVE COVENANTS AND OTHER LIMITATIONS (ONLY FOR CONSERVATION EASEMENTS OR FEE SIMPLE ACQUISITION PROJECTS).** The Deed for the fee simple acquisition of land, or the conservation easement, as the case may be, to be acquired with the Grant shall contain and be subject to the permanent, perpetual restrictive covenants, conditions, restrictions and permitted uses attached hereto and incorporated herein by reference, which will restrict the use of the subject real estate to the specific uses as described in the Project, and for no other purpose(s). Such covenants shall be a component of the Deed of Easement or Fee Simple Deed that is used to document such acquisition.

5. **CONDITIONS PRECEDENT TO SCHEDULING CLOSING OR FINAL FUNDING OF PROJECT.** Not less than fifteen (15) days prior to **scheduling** the closing date for the fee simple acquisition of land or the conservation easement, or the final funding of any Park and Recreation Projects undertaken pursuant to this Program, the Grantee shall provide to the County all documentation required by the respective Procedural Checklists contained in the Program Guidelines.

6. **TITLE EXCEPTIONS (ONLY FOR CONSERVATION EASEMENT OR FEE SIMPLE ACQUISITION PROJECTS).** All exceptions contained in the title insurance commitment shall be subject to the review and approval of the County. In the event that the County objects to any exception, the Grant

shall be withheld pending removal of the exception(s) within a mutually agreed upon period of time. In the event any exception(s) cannot be removed to the satisfaction of the County, the Grant shall, at the County's sole discretion, be revoked.

7. NO SENIOR LIENS PERMITTED (ONLY FOR CONSERVATION EASEMENT OR FEE SIMPLE ACQUISITION PROJECTS). No part of the purchase price for the Project, or closing expenses related thereto, shall be borrowed, and no purchase money liens may be created or imposed upon the real estate, **unless** all such liens are subordinated, as a matter of record, to the Conservation Easement or the covenants, conditions, restrictions and permitted uses set forth in the Fee Simple Acquisition Deed. This provision shall not be construed to prohibit the use of grant funds obtained from the United States of America or the Commonwealth of Pennsylvania for the acquisition of the Project real estate or conservation easement, and the imposition of any related deed restrictions required by the Commonwealth or the United States of America in connection therewith shall not be considered to be a lien prohibited by this Paragraph.

8. PROJECT COST OVERRUNS/OVER-FUNDING. The County will not fund any portion of the Project in excess of the Grant, and any cost overruns shall be the sole responsibility of the Grantee. The County will present the Grant funds as identified above at the closing for the subject property or interest, or in accordance with Program Guidelines, upon final completion of the Project. The County reserves the right to review its contribution and reduce the Grant amount accordingly if the cost of the Project is substantially lower than originally estimated in the Grant Application. In addition, the Grantee shall timely refund to the County any overpayments or unused portions of the Project funding in accordance with the timeline for this Project, and the Grantee has an affirmative duty to report timely on all Grant expenses, as required by Program Guidelines.

9. COUNTY NOT A PARTY TO OTHER AGREEMENTS. In no event shall the County be deemed to be a Party to any agreement between the Grantee and any seller, contractor, or third party, including, without limitation, the agreement for the fee simple acquisition of land or conservation easement. The County's interest in the Project shall be strictly limited to protecting the County's interest with respect to the Grant and achievement of the purposes of the Project.

10. GRANTEE AN INDEPENDENT CONTRACTOR. At all times and for all purposes relative to the completion of the Project, Grantee shall be deemed to be acting as an independent contractor, and no person/entity acting on Grantee's behalf shall be deemed to be an employee or agent of the County or a joint employee of the Parties for any purpose. In no event shall this Grant Agreement be construed as establishing a partnership, joint venture, or other business or similar relationship between the Parties, and nothing herein shall be construed to authorize either Party to act as an agent for the other.

11. GRANTEE'S INDEMNIFICATION OF COUNTY. Grantee shall indemnify and hold the County, its elected and appointed officials, officers, administrators, employees, agents, contractors, subcontractors, successors and assigns, or any of them, harmless from any and all claims, demands, suits, actions, damages and liabilities, including all costs of litigation and attorneys' fees, based upon or arising from any action performed or omitted to be performed by Grantee and its officers, employees, agents and subcontractors under this Grant Agreement, and shall, at the request of the County, defend any and all actions brought against the County based upon any such claims or demands. Grantee's agreement in this respect shall extend to payment of the County's court costs and legal fees in the enforcement of the provisions of this Paragraph, and shall survive the termination or completion of this Grant Agreement.

12. DEFAULT/ENFORCEMENT OF GRANT AGREEMENT. The County shall have the right to enforce this Grant Agreement, the Program Guidelines, Project Scope of Work and the restrictions, permitted uses, set forth in this Grant Agreement, all documents incorporated herein, and the Deed for the fee simple acquisition of land or conservation easement, as the case may be, by any proceedings at law or in equity against the Grantee or any person(s) or entity(ies) violating or attempting to violate any provision of any of the same; to restrain violations to require specific performance; and/or to recover damages or refuse reimbursement to the applicant for the project or request reimbursement of any partial grant funding made earlier. The provisions of this paragraph shall survive any settlement upon the property acquired with the Grant funds and shall be fully enforceable by the County upon learning of such actual or attempted default or violation, including following such settlement and the completion and close-out of the Grant. If the County determines that the Grantee is in violation of the terms of this Grant Agreement, or the Program Guidelines, Project Scope of Work, or the restrictions, permitted uses, or other limitations set forth in the Deed for the fee simple acquisition of land or conservation easement, as the case may be, or that a violation of any of the same is threatened, the County shall give written notice to the Grantee of such violation and shall demand corrective actions sufficient to cure the violation. Where the violation involves a diminution in value of or injury to the property or interest purchased with the Grant resulting from any use or activity inconsistent with the restrictions, permitted uses, or other limitations applicable thereto, the Grantee shall restore that portion of the subject property or interest so injured. If the Grantee fails to cure the violation within thirty (30) days after receipt of written notice thereof from the County, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, or the Grantee fails to begin curing such violation within the thirty (30) day period, or the Grantee fails to continue diligently to cure such violation until finally cured, the County may bring an action at law or equity in a Court of competent jurisdiction to enforce the terms of this Grant Agreement, to enjoin the violation *ex parte* as necessary by temporary or permanent injunction, to recover any damages to which it may be entitled for

violation of the terms of this Grant Agreement or injury to any public interest protected by this Grant Agreement, to require the restoration of the subject property or interest to the condition that existed prior to such injury, or refuse reimbursement to the applicant for the project or request reimbursement of any partial grant funding made earlier. The Grantee hereby acknowledges and agrees that the County's remedies at law for any violation of the terms of this Grant Agreement are inadequate and that the County shall be entitled to the injunctive relief described in this Grant Agreement, both prohibitive and mandatory, in addition to such other relief to which the County may be entitled, including specific performance of the terms of this Grant Agreement without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Any costs incurred by the County in enforcing the terms of this Grant Agreement against the Grantee, including, without limitation, costs of suit and attorneys' fees, and any costs of restoration necessitated by the Grantee's violation of the terms of this Grant Agreement, shall be borne by the Grantee.

13. STATUTORY AND REGULATORY COMPLIANCE. Grantee shall comply with all applicable federal, state and local laws, ordinances, rules and regulations in the performance of this Grant Agreement and in completing the Project.

14. DOCUMENTS RETENTION AND COUNTY ACCESS THERETO. The Grantee shall maintain a separate file of the Grant program and all related financial records for a period of not less than seven (7) years from the date of settlement. During this period, the County shall have access to such file(s) during normal business hours. If the Project is audited by the County or other governmental agency, and exceptions are found, the Grantee shall maintain the Project file until all audit findings are resolved to the satisfaction of the auditing agency.

15. NONDISCRIMINATION. Grantee shall perform the Project without regard to race, ancestry, color, religious creed, age, sex, diagnosis, handicap, disability, national origin, sexual orientation or other category protected by law.

16. REPRESENTATIONS AS TO AUTHORITY. Each Party represents unto the other that all necessary actions have been taken to approve this Grant Agreement and that this Grant Agreement is a legal, valid and binding obligation of each and legally enforceable in accordance with its terms.

17. ASSIGNMENT PROHIBITED. Grantee shall not transfer or assign this Grant Agreement, or its rights, duties, obligations or responsibilities hereunder, in whole or in part, without the prior written consent of the County.

18. NO WAIVER. The failure of any Party to insist upon strict performance of a covenant hereunder or of any obligation hereunder shall not be a waiver of such Party's right to demand strict compliance therewith in the future.

19. **SEVERABILITY.** If any provision of this Grant Agreement is held to be illegal, void, invalid or unenforceable, it shall not affect the validity, legality or enforceability of the remaining portions of this Grant Agreement, and if any provision is held to be inapplicable to any person, entity or circumstance, it shall, nevertheless, remain applicable and enforceable relative to all other persons, entities and circumstances.

20. **SUCCESSORS AND ASSIGNS.** This Grant Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns.

21. **AMENDMENT.** No change, modification or amendment of this Grant Agreement shall be valid or binding upon the Parties unless such change or modification shall be in writing, and signed by the Party against whom the same is sought to be enforced.

22. **ENTIRE AGREEMENT.** The Program, this Grant Agreement, Project Scope of Work, and all incorporated documents, constitute the full and complete agreement of the Parties pertaining to the subject matter hereof, and shall supersede any and all prior and contemporaneous agreements and understandings of the Parties in connection therewith. There are no representations, warranties or agreements other than those set forth in the Program or this Grant Agreement.

23. **JURISDICTION/VENUE.** The Parties agree that this Grant Agreement shall be interpreted in accordance with Pennsylvania law. Any legal suit, action, or proceeding arising out of or relating to this Grant Agreement shall be instituted exclusively in the state courts of Adams County, Pennsylvania, or if state courts lack jurisdiction, in the federal district court of the Middle District of Pennsylvania. Grantee agrees to waive any claims related to venue, including *forum non conveniens*.

24. **RIGHT-TO-KNOW LAW.** Grantee recognizes that the County is a government agency for purposes of the Right-To-Know Law, 65 P.S. § 67.101 *et seq.*, and is therefore subject to public disclosure of certain records in its possession, including records associated with this Grant Agreement. Grantee agrees to waive any claims against the County for public disclosure of such records required by the Right-To-Know Law.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties, by their undersigned, duly authorized officers/representatives, and intending to be legally bound hereby, have duly executed this Grant Agreement on the dates appearing below.

ATTEST:

**COUNTY OF ADAMS
ADAMS COUNTY COMMISSIONERS**

Paula V. Neiman, Chief Clerk

By: _____
Randy L. Phiel, Chairman

Date: _____

By: _____
James E. Martin, Vice-Chairman

(SEAL)

By: _____
Marty Karsteter Qually, Commissioner

ATTEST/WITNESS:

[NAME OF GRANTEE]

By: _____
Printed Name:
Title:

Date: _____

By: _____
Printed Name:
Title: