

CITY OF OBERLIN, OHIO

ORDINANCE NO. 22-60 AC CMS

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A LICENSE AGREEMENT WITH THE WESTERN RESERVE LAND CONSERVANCY FOR THE PURPOSE OF DEVELOPING A PUBLIC ACCESS “BOARDWALK” TRAIL FROM A PORTION OF THE CITY-OWNED “RAMSEY RIGHT-OF-WAY” (LORAIN COUNTY PERMANENT PARCEL NO. 1400007000002) TO THE WESTERN RESERVE LAND CONSERVANCY’S PROPERTY (LORAIN COUNTY PERMANENT PARCEL NO. 1400007000001) AS AN EMERGENCY MEASURE

WHEREAS, the Western Reserve Land Conservancy (the “Land Conservancy”) is proposing to install a “boardwalk” trail approximately 175 feet long adjacent to a wetland area in the southeastern portion of the approximately 63-acre Oberlin Preserve Property at 425 West Hamilton Street; and

WHEREAS, the proposed boardwalk would connect a portion of the City-owned “Ramsey Right-of-Way” and a wetland area on the Land Conservancy’s property as shown in the site plan map in **Exhibit A** of this Ordinance; and

WHEREAS, approximately 50 feet of the proposed boardwalk trail will extend into the “Ramsey Right-of-Way”; and

WHEREAS, both the City-owned “Ramsey Right-of-Way” and the Land Conservancy’s property are zoned “P-1”/Public Park and Recreation District which permits public parks and facilities erected by non-profit corporations such as the Land Conservancy; and

WHEREAS, the wetland area adjacent to the proposed “boardwalk” trail is a favorite of birders and Oberlin residents who visit the wetland and view the birds, amphibians and reptiles, especially the turtles; and

WHEREAS, the Planning Commission, at its meeting on September 7, 2022 approved the site plan for the proposed “boardwalk” trail subject to the Land Conservancy obtaining an easement or license agreement from the City of Oberlin to connect to the “Ramsey Right-of-Way”; and

WHEREAS, the Land Conservancy has obtained grant funding to construct the proposed “boardwalk” trail; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, Lorain County, State of Ohio:

SECTION 1. That the City Manager is hereby authorized and directed to enter into a license agreement with the Western Reserve Land Conservancy, a private non-profit Ohio corporation, substantially in the form as attached hereto as **Exhibit B**.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this Ordinance were adopted in an open meeting of this

Council, and that all deliberations of this Council 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.

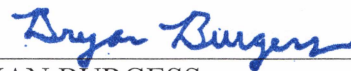
SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio or to provide for the usual daily operation of a municipal department, to wit: to facilitate the construction of a public boardwalk trail for the enjoyment of Oberlin and area residents and to utilize grant funding for its construction before the end of the 2022 construction season and provided that it is elevated to emergency status by the affirmative vote of at least five members of Council and receives the affirmative vote of at least five members of Council upon final passage, it shall go into full force and effect from and immediately after its passage; otherwise, it shall take effect on the earliest date allowed by law.

PASSED: 1st Reading: October 3, 2022
2nd Reading: _____
3rd Reading: _____

ATTEST:



BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL



BRYAN BURGESS
PRESIDENT OF COUNCIL

POSTED: 10/04/2022

EFFECTIVE DATE: 10/03/2022

LICENSE TO USE PREMISES

This License Agreement is entered into as of the 14th day of October, 2022
By and between the City of Oberlin, Ohio, (“City”) and the Western Reserve Land Conservancy, an Ohio not for profit corporation, (Licensee).

WHEREAS, City is the owner of certain land being known as the Ramsey Right of Way, (“City Right-of-Way”); and

WHEREAS, Licensee is the owner of certain land adjacent to said City Right-of-Way which has been improved for use as a pedestrian recreational trail. A depiction of said trail is contained in Exhibit A attached hereto.

WHEREAS, Licensee desires to connect its recreational trail and traverse the City Right-of-Way for the installation of a walkway to provide access to an abutting wetlands area, being referred to herein as the “License Area” depicted on Exhibit A.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. **License to Use License Area.** The city does hereby grant to Western Reserve a non-exclusive license to establish a connection of its pedestrian recreational trail to the City Right-of-Way and to install a walkway thereon for use by the general public.

2. **Condition of Premises; Liability.** City makes no warranties whatsoever regarding the condition of the License Area. Licensee has inspected the License Area and found it suitable for Licensee’s purposes. City shall not be liable for any personal injury or damage to property which Licensee or its guests or invitees may incur, regardless of the cause thereof. Licensee hereby releases City from all such liability, it being the intent of the parties that Licensee shall maintain adequate insurance to cover any such losses. Licensee hereby agrees to defend, indemnify and hold harmless the City, its elected and appointed officials, officers, employees agents and volunteers from and against any and all claims, damages, losses, suits, judgments, costs and expenses arising from Licensee’s use of the License Area including, but not limited to, the amounts of deductibles on Licensee’s insurance policies, or any costs resulting from Licensee’s failure to acquire insurance coverage as required hereunder, and any costs arising from subrogation under worker’s compensation or liability claims.

3. **Insurance.** Licensee agrees, at its sole cost and expense, to procure and maintain in full force during the term of this Agreement general liability insurance, with limits of at least \$2,000,000/\$2,000,000 naming City as an additional insured. Licensee shall provide a certificate of proof of such insurance.

4. **Compliance with Laws.** Licensee agrees to comply with all applicable federal, state and local laws and regulations. Licensee will not discriminate on the basis of race, religion, age, sex, color, disability, sexual orientation, gender identity, gender expression (as defined under City ordinances), political affiliation, national or ethnic origin, or veteranstatus.

5. **Notices.** Any notice required to be given by either party upon the other shall be in writing and shall be given by hand delivery, registered or certified mail (return receipt requested), or overnight delivery service as follows:

If to City: 69 South Main Street
Oberlin Ohio 44074
Attn: City Manager

If to Licensee: Western Reserve Land Conservancy
3850 Chagrin River Rd.
Moreland Hills, OH 44022

or at such other address as may be specified by either party from time to time.

6. **Termination.** This Agreement may be terminated by either party upon thirty (30) days prior written notice given to the other, provided however that the City may temporarily remove said walkway as may be necessary for its use or maintenance of the City Right-of Way with reasonable notice as may be warranted under the circumstance.

7. **Assignment.** Licensee may not assign or sub-license this Agreement without the prior written consent of the City.

8. **Entire Agreement; Amendment.** This Agreement contains the entire agreement of the parties, and no covenants, representatives, inducements or promises, oral or otherwise, not embodied herein, shall be in force or effect. This Agreement may not be modified, nor any of its provisions waived, except by a writing signed by both parties.

9. **Governing Law.** This Agreement will be governed by and construed in accordance with the law of the State of Ohio.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the first date written above.

CITY OF OBERLIN, OHIO

WESTERN RESERVE LAND
CONSERVANCY

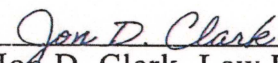
By: 

By: 

Its: City Manager

Its: Assistant Secretary/General Counsel

Approved as to form:


Jon D. Clark, Law Director