

**MEMORANDUM OF UNDERSTANDING**

**Between**

**Athens Township Board of Trustees**

**And**

**The Plains Lions Club**

THIS MEMORANDUM OF UNDERSTANDING (hereinafter the “MOU”) is hereby made and entered into by and between Athens Township, Athens County, Ohio being a political subdivision of the State of Ohio (the “Township”), and THE PLAINS LIONS CLUB, an internationally associated, Ohio not-for-profit corporation (the “Lions Club”).

PURPOSE: This MOU is intended to provide a framework for cooperation between the Lions Club and the Township.

The Township has not adopted limited home rule government under Revised Code Chapter 504 and is therefore limited in its discretionary spending. A portion of Township revenue is designated as the Township’s General Fund<sup>2</sup> from which the Township has discretion in making appropriations and expenditures for “Quality of Life” projects, e.g. parks and recreation, monuments etc. The Township benefits from this MOU by maintaining a Park without the necessity of levying additional taxes in the form of a “Parks and Recreation” assessment as provided with the formation of a park district (ORC§511.18), the appointment of park commissioners (ORC §511.19), and the passage of a park levy (ORC §511.27).

The Plains Lions Club is an all-volunteer, private 501 not-for-profit corporation established, in part, as a community orientated, philanthropic organization, benefiting the community.

This initiative comprises part of the Township’s mission to foster and encourage agricultural, industrial, commercial, educational, entertainment, tourism, technological, cultural, and recreational pursuits.

This MOU is intended to outline the Parties’ respective rights, benefits, and responsibilities as regards the Plains Community Park (the “Park”). This document intends to identify who is responsible for the grounds and building maintenance, taxes, insurance, and final decision making responsibility of day to day operations and any future improvements of the Park, the Lions Club, and the Township.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter contained,

**IT IS HEREBY MUTUALLY AGREED and STIPULATED:**

**A. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:**

The Township's residents benefit from an active partnership with the Lions Club in Park administration, upkeep and maintenance, which reduces the Township's costs, both monetary and non-monetary. This MOU is intended to enhance the Township residents quality of life without imposing any additional taxes.

The Lions Club benefits by furthering their core mission statement of "*Empowering volunteers to serve their communities, meet humanitarian needs, encourage peace and promote international understanding through Lions clubs.*" The Park can be a place to hold meetings and host gatherings and community orientated functions, to support and supplement like-minded community organizations and all Township residents.

This is a mutual effort to build, develop, maintain, and beautify the Park as well as an enhancement in programming for Township residents focused on recreational pursuits, tourism, and entertainment. This cooperative effort provides a public service to all visitors to the Park, consistent with the Township's discharge of its governmental functions.

**B. TOWNSHIP AND BOARD RIGHTS and RESPONSIBILITIES: THE TOWNSHIP SHALL:**

1. At its sole discretion, appoint an officer or other designee to act as ex-officio, non-voting member of the Lions Club.
2. Work collaboratively with the Lions Club to identify programming opportunities and pursue grant and sponsorship funding for the physical and programmatic development of the Park.
3. If possible, in its sole discretion and from time-to-time designate Township employees or volunteers to assist the Lions Club as may be necessary to further the purpose of this MOU. Nothing herein shall be construed as Township employees being responsible for maintenance of facilities used in association with the Lions Club reservation and use program.
4. Establish and publish appropriate rules and regulations pertaining to access and use of the Park, including buildings and grounds.
5. Be receptive to suggested renovations, preservation techniques, and beautification ideas proposed by the Lions Club and participate with, at the discretion of the Board, in the funding of such activities.
6. The Township retains the sole discretion, with input from the Lions Club, as to placement of equipment, structures, signage, trees, landscaping, or any other appurtenance.
7. Promote services available at the Park, including, but not limited to postings at the Township website.

8. Expend and budget annually for the following Park expenses, subject to the availability of Township funds:

- a. Electricity.
- b. Natural Gas.
- c. Water and sanitary sewer.
- d. Wi-Fi for use in the building and security systems.
- e. One (1) handicapped accessible portable toilet and its servicing until such time as outdoor accessible facilities in a permanent structure may be constructed.
- f. Provide and pay for a dumpster on the grounds.
- g. During a pandemic or other such declared public health emergencies the Township reserves the sole authority to restrict or limit access to any and all Township owned facilities, including the Park.

Athens Township shall have facilities professionally cleaned according to recommended ODH standards prior to re-opening.

Once professionally “deep” cleaned as needed cleaning shall be the responsibility of the Lions Club.

- h. General building maintenance and upkeep of the structures and mowing of grounds.
- i. Any reasonable subscription fees, etc. for scheduling software for park use.
- j. The Township stipulates that no structures will be erected without an opportunity for comment and input from The Lions Club.

**C. LIONS CLUB RIGHTS and RESPONSIBILITIES: The Lions Club shall:**

- 1. Work with the Township to identify, support, plan, fund, and implement select improvements within the Park to ensure the safe and recreational enjoyment of Township residents and Park visitors.
- 2. The Lions Club is encouraged to; and may at its own initiative; plan, propose and construct park improvements on park grounds, provided such improvement planning has included the Township , and has been voted on and approved by the Township’s Board of Trustees.
  - k. Any Lions Club initiated improvements will be paid for by Lions Club funds either through grants or fund-raising efforts.
  - l. All such improvements shall become property of the Township.

3. Assist the Township in determining the costs and expense if needed and assist in maintaining Park grounds and building improvements.
4. Expend any usage fees collected for the day-to-day operation of the Park, including purchasing consumables such as toilet paper and cleaning supplies.
5. Accept and approve reservations for buildings and structures and maintain a calendar of events.
  - a. Post a link to the Township website with a current calendar of events and reservations using scheduling software.
6. Propose a schedule of fees associated with the park usage, subject to Township approval.
7. Maintain records of when the Park is reserved and by whom.
8. Promote services available at the Park, through social media and other platforms.
  - a. Any social media accounts associated with or using the name of The Plains Park, The Plains Community Park, or derivatives, shall be non-political and non-controversial in nature and used for informational purposes only; as Athens Township is a non-partisan form of government.
9. Keep and maintain financial records concerning the Park and submit annually to the Board those records at its first meeting in or when such records are requested in writing or electronically by the Township, provided the Township gives the Lions Club at least two weeks (14) calendar days written notification prior to the effective date of such requirement. The report shall contain but not be limited to:
  - a. As fees generated from club grounds are voluntary the Parties understand that the Lions Club's reservation calendar will not necessarily balance with the income sheet and stipulate that the reports generated for Park usage and income generated from Park usage shall be separately accounted for.
  - b. All fees collected and expenses incurred are inclusive as to the Park, buildings and grounds only.
  - c. The Township has no interest in the private finances of the Lions Club, only those as pertaining to use of Athens Township property and finances associated with the Park as related services performed by the Lions Club under this MOU.
  - d. Regularly scheduled business meetings of the Lions Club or other civic or community service clubs or organizations are exempted from any associated fees and shall take priority of any other reservation. .

- e. Failure to prepare, maintain, and/or submit to the Township said records or reports, or failure to prepare, maintain, or submit to the Township any other reports or information specifically required by this MOU or requested by the Township, constitute a material breach of this MOU and grounds for termination after sufficient notice and time for correction.
10. All costs and charges incurred by the Lions Club pursuant to this MOU shall be supported by properly receipted checks, payrolls, timecards, invoices, contracts, vouchers, orders, or other accounting documents.
  11. In the event the Lions Club is dissolved; or if this MOU is no longer applicable or terminated by mutual consent; the current operating balance of the Park operation fund and all park assets which were directed by donors for purposes of improving the Park and were collected during the term of this MOU will be directed to the Township to be used for the Park.
  12. The Plains Lions Club shall use funds raised by rental and reservation donations related to the Park exclusively to purchase goods and services for the benefit of the Park.
    - a. Such receipts/expenditures shall be accounted for, and reported to the Trustees.
    - b. The Lions Club agrees that it shall not charge the Township for any goods purchased or services rendered pursuant to this MOU, unless otherwise mutually agreed upon in writing by the parties.
    - c. Proceeds of any Special Events historically sanctioned and administered by the Lions Club including but not limited to The Plains Indian Mound Festival and car shows and vehicle cruise-ins sponsored by the Lions Club are exempt from reporting requirements where the Township is concerned.
  13. Use, develop, and maintain the Park for purposes consistent with the Township's discharge ~~of its~~ governmental functions and for no other purpose except as otherwise provided in this MOU. ~~This~~ prohibition includes yard sales, reverse auctions, and similar fund raising events unless sponsored by the Lions Club or by a similar charitable organization. Exceptions can be made on a case-by-case basis provided the Lions Club and Township agree.
    - A. Not commit, or cause to be committed, any waste, fraud, or illegal activity upon or within the Park, nor maintain, commit, or permit the maintenance or commission of any nuisance to the community or illegal activity at the Park or in the name of the Park.
  14. Keep the Park in good order and repair, except for reasonable wear and tear and casualty loss not arising from any Lions Club's negligence.

15. The Plains Lions Club shall not improve or alter the Park without prior approval of the Township; provided, however, that on expiration or sooner termination of this MOU, all improvements, etc., made to the premises by the Lions Club during the term of this MOU shall revert to and become the absolute property of the Township, free and clear of any and all claims against them by the Lions Club, its successor organization, or any third persons, and the Lions Club further agrees to indemnify and hold harmless the Township, its officers, employees, and assigns from any claims that may be made against such improvements by any third persons during the life of this agreement.

**D. LIABILITY:**

1. The Lions Club shall be solely responsible for all liability to third parties, loss or damage as a result of claims, demands, costs, or judgments arising out of activities to be carried out by the Lions Club in the performance of this MOU, the Township and its officers or employees shall not be liable for any losses or damages to third parties as a result of claims, demands, costs, or judgements arising out of activities to be carried out by the Lions club in the performance of this MOU.
2. All liability to third parties, loss, or damage as a result of claims, demands, costs, or judgments arising out of activities, such as the provision of policy and procedural direction, to be carried out by the Township in the performance of this MOU shall be the responsibility of Township and not the responsibility of the Lions Club if the liability, loss, or damage is caused by, or arises out of, the action or failure to act on the part of any Township employee or agent, provided that nothing herein shall be construed as a waiver of any immunity by the Township or its officers or employees as provided by statute or court decisions.
3. In the event that liability to third parties, loss, or damage arises as a result of activities conducted jointly by the Township and the Lions Club in fulfillment of their responsibilities under this MOU, such liability, loss, or damage shall be borne by the Township and the Lions Club in relation to each party's responsibilities under these joint activities provided that nothing herein shall be construed as a waiver of any immunity by the Township as provided by statute or court decisions.

**E. INSURANCE:**

1. The Lions Club shall at all times during the term of this MOU be an insured under a general policy of liability insurance in such amounts as are reasonable and customary and shall provide proof of such

insurance to the Township upon request. Such policy shall include coverage of at least \$1,000,000 per occurrence and \$2,000,000 aggregate coverage.

2. Large events such as The Plains Indian Mound Festival or car shows and vehicle cruise-ins, shall require an "Event Liability" rider in the amount of \$1,000,000 with the Township named as a co-insured or additional insured.

**F. NONDISCRIMINATION:**

The Lions Club shall not discriminate against any person because of race, color, religion, national origin, ethnicity age, sex, gender identity, veterans' status, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, or marital status. The Lions Club shall adhere to all applicable Federal, State and local laws, ordinances, rules and regulations prohibiting discrimination, including, but not limited to, the following: Chapter 4112 of the Ohio Revised Code; The Civil Rights Act of 1964, as amended;

Sections 504 of the Federal Rehabilitation Act of 1973 as amended; and

The Americans with Disabilities Act of 1990 as amended.

1. Breach of this Section shall be regarded as a material breach of this MOU. In the event the Lions Club is found not to be in compliance with this Section, the Board may terminate this MOU effective as of the date of delivery of written notification to the Lions Club.

**G. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES**

**THAT:**

1. Public Records: Any information furnished to the Township may constitute a public record under R.C. 149.43

**H. MODIFICATION:**

All modifications to this MOU must be mutually agreed upon by the Parties and incorporated into written amendments to this MOU after approval by the Township and signed by both Parties.

**I. ASSIGNMENTS OR SUBCONTRACTING:**

1. This MOU shall be binding upon and inure to the benefit of the Township and the Lions Club hereto and their respective heirs, executors, administrators, legal representatives, and successors. The Lions Club may not assign this Agreement without the prior written consent of the Board.
2. Independent Contractor: The Parties agree and acknowledge that the Lions Club shall not be deemed to be the agent or employee of the Township and that the Lions Club has no power or authority to contractually bind the Township.

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**J. PRINCIPAL CONTACTS:**

The principal contacts for this instrument are:

Athens Township - Board Chair or designee

The Plains Lion Club – Club President or designee

**K. NON-FUNDING OBLIGATING DOCUMENT:**

1. This MOU is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this instrument will be handled in accordance with applicable laws, regulations, and procedures including those for government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This instrument does not provide such authority. Specifically, this instrument does not establish authority for noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

**L. COMPLIANCE WITH THE LAW:**

**M.** The Lions Club shall administer the funding and provide all the services to be performed under this MOU in complete compliance with all applicable Federal, State, and local laws, ordinances, rules and regulations.

**N. APPLICABLE LAW AND VENUE:**

This MOU shall be construed under and in accordance with the laws of the State of Ohio. In the event any disputes arise under this MOU, it is understood and agreed that any legal or equitable

action resulting from such disputes shall be brought in the Athens County Court of Common Pleas or any other court located in Athens County, Ohio with jurisdiction to hear the action. In the event any action is brought in or is removed to a federal court, the venue for such action shall be the Federal Southern District of Ohio.

**O. COMMENCEMENT/EXPIRATION DATE:**

This MOU is executed in full force and effect as of the date of last signature and shall terminate in five (5) years from such date of commencement unless terminated earlier pursuant to paragraph 10 below. By written mutual consent, this MOU, in whole or in part, may be extended for one (1) additional three (3) year term.

**P. TERMINATION:**

Notwithstanding any other provision in this MOU to the contrary, either party may terminate this MOU, in whole or in part, with or without cause, upon sixty (60) calendar day's prior written notice to the other party. Nevertheless, should - the Lions Club fail to provide proof of insurance to the Board as required by paragraph (E) above, the Board may terminate this Agreement within five (5) days. The Lions Club's receipt of the request for proof of insurance. Additionally, the Board may terminate this Agreement immediately in the event that the Board determines that the Lions Club has failed to comply with paragraph (C) (7).

**Q. WAIVERS:**

No failure or delay on the part of either of the parties to this MOU in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any right, power or privilege preclude any other or further exercise of any other right, power or privilege.

**R. PURPOSE OF SECTION TITLES:**

The titles of the sections set forth in this MOU are inserted for the convenience of reference only and shall be disregarded when construing or interpreting any of the provisions of this MOU.

**S. COMPLETE MOU:**

This MOU contains all of the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this MOU or any part thereof shall have any validity or bind any of the parties hereto.

**T. SEVERABILITY:**

If any part of this MOU is found by a Court or Tribunal of competent jurisdiction to be invalid, unconstitutional or beyond the authority of either party to enter into or carry out, such part shall be deemed deleted and shall not affect the validity of the remainder of this MOU which shall continue in full force and effect. If the removal of such provision would result in the illegality and/or unenforceability of this MOU, this MOU shall terminate as of the date in which the provision was found invalid, unconstitutional or beyond the authority of the parties.

**U. CERTIFICATION OF AUTHORITY TO SIGN MOU:**

The people signing this MOU on behalf of the parties hereto certify by their signature that they are duly authorized to sign on behalf of said parties and that this MOU has been authorized by said parties. IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the last written date below.

_____	_____
Athens Township Board of Trustees	THE PLAINS LIONS CLUB
Date: _____	Date _____

**The Plains Lions Club signer shall be the current President, or the clubs authorized designee.**

**Athens Township shall be the Chair of the Board of Trustees as authorized.**

Approved as to form and legality by  
Keller J. Blackburn, Athens County Prosecuting Attorney