

RESOLUTION NO. 1701

**A RESOLUTION APPROVING THE COMMUNITY REINVESTMENT AREA AGREEMENT BETWEEN THE VILLAGE OF NEW LONDON, OHIO AND FIRELANDS ELECTRIC COOPERATIVE, INC. AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT, AND DECLARING AN EMERGENCY**

WHEREAS, The Council of the Village of New London by Ordinance No. 2016-12, adopted August 22, 2016, designated the Village in its entirety as a Community Reinvestment Area pursuant to Chapter 3735.66 of the Ohio Revised Code; and

WHEREAS, The Director of the Ohio Development Services Agency confirmed the Village of New London's Petition for Area Confirmation to be valid and consistent with applicable legislative requirements and assigned the Area # 077-54908-166; and

WHEREAS, The Village of New London and Firelands Electric Cooperative, Inc. have negotiated terms for the provision of tax incentives to Firelands Electric Cooperative, Inc. for its new facility project located at Industrial Parkway, New London, Ohio; and,

WHEREAS, the New London Community Reinvestment Area negotiating committee has reviewed the CRA application from Firelands Electric Cooperative, Inc. and has recommended that Village Council approve the same; and

WHEREAS, the CRA application has been submitted to the boards of education of the local school districts having jurisdiction over the property subject to the proposed agreement in accordance with Chapter 5709.83 of the Ohio Revised Code; and

WHEREAS, The Village of New London and Firelands Electric Cooperative, Inc. have written a CRA Agreement, which is attached and made a part of this Resolution; and,

WHEREAS, The Mayor believes that all aspects of the Ohio Revised Code Section 3735.66 have been met, and recommends that Village Council approve the Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF NEW LONDON, OHIO:**

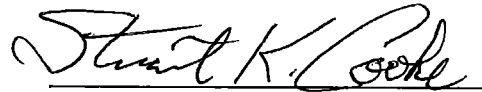
**Section 1.** That the Village Council shall and hereby does approve the Agreement and authorizes the Mayor to execute the Agreement on behalf of the Village of New London.

**Section 2.** That a copy of this Resolution and Agreement be forwarded to the Director of the Development Services Agency, State of Ohio.

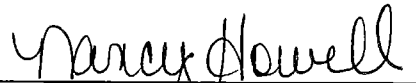
**Section 3.** That within one (1) year of the effective date of this resolution, the Huron County Tax Incentive Review Council shall evaluate the status of the Agreement to make sure that both parties have met all obligations of same.

**Section 4.** That this resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, or safety, and for the welfare of the citizens of the Village, and for the further reason that it is necessary that this measure take effective prior to the commencement of construction anticipated to begin on or about April 1, 2017, and that, provided it receives the majority vote of two-thirds or more of those elected to Council, this Resolution shall therefore take effect and be in force immediately from and after its passage, and otherwise it shall take effect at the earliest period allowed by law.

Passed: March 13, 2017

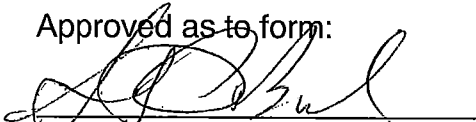


President of Council

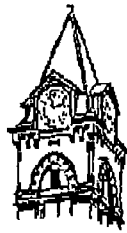


Clerk of Council

Approved as to form:



Law Director



VILLAGE OF

# NEW LONDON

Inc OHIO 1854

## COMMUNITY REINVESTMENT AREA AGREEMENT

This agreement made and entered into by and between the Village of New London, Ohio, a municipal corporation, with its main offices located at 115 East Main Street, New London, Ohio 44851, hereinafter referred to as "New London" and Firelands Electric Cooperative, Inc., a Corporation with its main offices located at One Energy Place, New London, Ohio 44851, hereinafter referred to as Firelands Electric, WITNESSETH;

WHEREAS, New London has encouraged the development of real property and the acquisition of personal property located in the area designated as a Community Reinvestment Area; and

WHEREAS, Firelands Electric is desirous of expanding its production capacity and construction of new electric utility and warehousing facilities for expansion of its electric utility hereinafter referred to as the "PROJECT", within the boundaries of the aforementioned Community Reinvestment Area, provided that the appropriate development incentives are available to support the economic viability of said PROJECT; and

WHEREAS, the New London Village Council, New London, Ohio by Ordinance 2016-12 adopted August 22, 2016, designated the area as an "Community Reinvestment Area" pursuant Chapter 3735 of the Ohio Revised Code; and

WHEREAS, effective January 11, 2017, the Director of Development of the State of Ohio determined that the aforementioned area designated in said Ordinance 2016-12 contained the characteristics set forth in Section 3735.66 of the Ohio Revised Code and confirmed said area as a Community Reinvestment Area under said Chapter 3735; and

WHEREAS, New London having the appropriate authority for the stated type of project is desirous of providing Firelands Electric with incentives available for the development of the PROJECT in said Community Reinvestment Area under Chapter 3735 of the Ohio Revised Code; and

WHEREAS, Firelands Electric has submitted a proposed agreement application (herein attached as Exhibit A) to New London said application (hereinafter referred to as "APPLICATION"); and

WHEREAS, Firelands Electric has remitted the required state application fee of \$750.00 made payable to the Ohio Development Services Agency with the application to be forwarded to said department with a copy of the final agreement; and

WHEREAS, the Mayor, John Martin of New London and the New London Housing Advisory Council have investigated the application of Firelands Electric and have recommended the same to the Village Council of New London on the basis that Firelands Electric is qualified by financial responsibility and business experience to create and preserve employment opportunities in said Community Reinvestment Area and improve the economic climate of New London; and

WHEREAS, the project site as proposed by Firelands Electric is located in the New London Local School District and the EHOVE Career Center and the Board of Education of the New London Local School District and EHOVE Career Center have been notified in accordance with Section 5709.83 and been given a copy of the APPLICATION; and

WHEREAS, pursuant to Section 3735.67(A) and in conformance with the format required under Section 3735.671(B) of the Ohio Revised Code, the parties hereto desire to set forth their agreement with respect to matters hereinafter contained;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

1. Firelands Electric shall construct an electric utility facility at Industrial Drive, New London, Ohio 44851. Said facilities shall be constructed on parcel number 26021B010110000 that is on the list of the Huron County Auditors list of parcels in New London, Ohio.

The PROJECT will involve a total investment by Firelands Electric of three million, seven hundred seventy five thousand dollars (\$ 3,775,000.00), plus or minus 10% at the Industrial Drive site. Included in this investment are three million seven hundred forty thousand dollars (\$3,740,000.00) for construction of the new facilities.

The PROJECT will begin on April 1, 2017 and all acquisition, construction and installation will be completed by June 20, 2018.

2. Firelands Electric shall create within a time period not exceeding 30 months after the commencement of construction of the aforesaid facility, equivalent of 0 new full-time permanent job opportunities. Firelands Electric will use its best efforts to retain 29 existing full-time equivalent jobs at the Industrial Drive facility.

Firelands Electric currently has 27 full-time permanent employees, 4 part-time permanent employees at the project site. In total, Firelands Electric has 27 full-time permanent employees, 4 part-time permanent employees in the State of Ohio.

The retention of the existing jobs will maintain the current annual payroll of two million sixty nine thousand dollars (\$ 2,069,000.00).

3. Firelands Electric shall provide to the proper Tax Incentive Review Council any information reasonably required by the council to evaluate Firelands Electric's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code if requested by the council.
4. New London hereby grants Firelands Electric a tax exemption for real property improvements made to the PROJECT site pursuant to Section 3735.67 of the Ohio Revised Code and shall be in the following amounts: 100% of the assessed value to be exempted for a term of 15 years. The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation.

Firelands Electric must file the appropriate DTE-24 tax forms with the Huron County Auditor to effect and maintain the exemptions covered in the agreement.

5. The Village of New London waives the annual fee associated with this CRA agreement.
6. Firelands Electric shall pay such real and other taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If Firelands Electric fails to pay such taxes or file such returns and reports, all incentives granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.
7. Firelands Electric shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.
8. If for any reason the Community Reinvestment Area designation expires, the Director of the Ohio Development Services Agency revokes certification of the zone, or New London revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless Firelands Electric materially fails to fulfill its obligations under this agreement and New London terminates or modifies the exemptions from taxation granted under this agreement.
9. If Firelands Electric materially fails to fulfill its obligations under this agreement, or if New London determines that the certification as to delinquent taxes required by this agreement is fraudulent, New London may terminate or modify the exemptions from taxation granted under this agreement, " and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement." In such case, the Village Council may secure repayment of such taxes by a lien on the exempted property in the amount required to be repaid; and such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property, all as

provided in Ohio Revised Code Section 3735.671(C).

10. Fireland Electric hereby certifies that at the time this agreement is executed, Firelands Electric does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which Firelands Electric is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Revised Code, or, if such delinquent taxes are owed, Firelands Electric currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against Firelands Electric. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes.
11. Firelands Electric affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio or a political subdivision of the State; (2) any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.
12. Firelands Electric and New London acknowledges that this agreement must be approved by formal action of the legislative authority of New London as a condition for the agreement to take effect. This agreement takes effect upon such approval.
13. New London has developed a policy to ensure recipients of Community Reinvestment Area tax benefits practice non-discriminating hiring in its operations. By executing this agreement, Firelands Electric is committing to following non-discriminating hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.
14. Exemptions from taxation granted under this agreement shall be revoked if it is determined that Firelands Electric, any successor property owner, or any related member (as those terms are defined in Section 3735.671 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under Division (E) of Section 3735.671 or Section 5709.62 or 5709.63 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections.
15. Firelands Electric affirmatively covenants that it has made no false statements to the State or local political subdivisions in the process of obtaining approval of the Community Reinvestment Area incentives. If any representative of Firelands Electric has knowingly made a false statement to the State or local political subdivision to obtain the Community Reinvestment Area incentives, Firelands Electric shall be required to immediately return all benefits received under the Community Reinvestment Area Agreement pursuant ORC Section 9.66(C)(2) and shall be ineligible for any future economic development assistance from the State, any state agency or a political subdivision pursuant to ORC Section 9.66(C)(1). Any person who provides a false statement to secure economic

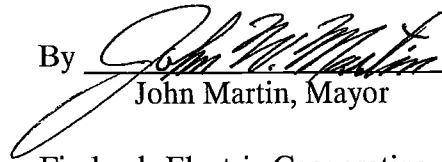
development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to ORC Section 2921.13(D)(1), which is punishable by a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.

16. This agreement is not transferable or assignable without the express, written approval of the Village of New London.

IN WITNESS WHEREOF, New London, by John Martin, its Mayor, and pursuant to Ordinance 2016-12, has caused this instrument to be executed this 13<sup>th</sup> day of MARCH, 2017 and Firelands Electric by APRIL L BORDAS, its GENERAL MANAGER has caused this instrument to be executed on this 13<sup>th</sup> day of MARCH, 2017.

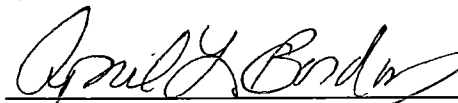
New London

By

  
John Martin, Mayor

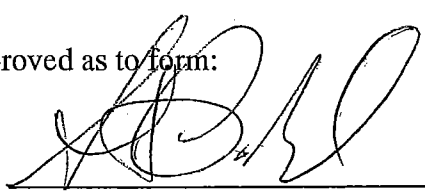
Firelands Electric Cooperative, Inc.

By

  
April L. Bordas, General Manager

Approved as to form:

By:

  
Village of New London Law Director

