

VOTING ORDER

M. O'Donnell
R. Shahmir
K. Zuber
Z. Arnold
J. Fenderbosch
A. Gentry
D. Kos



CITY OF AVON LAKE

150 Avon Belden Road
Avon Lake, Ohio 44012

The following business is to be considered at the regular meeting of the Avon Lake City Council on May 13, 2024, at 7 p.m. in the Council Chamber.

Pledge of Allegiance

Roll Call: Mr. Arnold, Mrs. Fenderbosch, Ms. Gentry, Mr. Kos, Mr. O'Donnell, Mr. Shahmir, Mr. Zuber, Mayor Spaetzel, Law Director Ebert, Finance Director Widman, Public Works Director Liskovec.

Approval of Minutes: March 18, 2024, special Council Meeting and March 25, 2024, regular Council Meeting.

Correspondence

Reports

Mayor
Council President
Law Director
Finance Director
Public Works Director
Standing Committees
Special Committees

Audience Participation

Motions

Authorizing the Mayor, or his designee, to submit the NatureWorks grant application to the Ohio Department of Natural Resources for Avon Lake Play Space (ALPS).

Sponsor: R. Shahmir.

Authorizing the Finance Director to issue payment in the amount of \$750 to the Avon Lake School Foundation for a Student Program sponsored by the Environmental Advisory Affairs Board. **Sponsor: R. Shahmir.**

Authorizing the Police Chief to submit an application to the Attorney General's Office for the Ohio Law Enforcement Bulletproof Vest Program. **Sponsor: D. Kos.**

Authorizing the City Engineer to advertise for bids for the 2024 Street Program. **Sponsor: J. Fenderbosch.**

Legislation

Second Readings:

Ordinance No. 24-53, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT FOR ENVIRONMENTAL CONSULTING SERVICES AND DECLARING AN EMERGENCY. → **Sponsor: J. Fenderbosch.**

Ordinance No. 24-54, AN ORDINANCE PROVIDING CONTINUED LEGAL COUNSEL REGARDING ZONING MATTERS PURSUANT TO THE REDEVELOPMENT OF THE AVON LAKE POWER PLANT AND DECLARING AN EMERGENCY. → **Sponsor: Z. Arnold.**

Ordinance No. 24-55, AN ORDINANCE PROVIDING CONTINUED LEGAL COUNSEL AND DECLARING AN EMERGENCY. → **Sponsor: Z. Arnold.**

Ordinance No. 24-56, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE THE AMENDED AND RESTATED LEASE WITH AVON LAKE BOAT CLUB, INC., AND DECLARING AN EMERGENCY. → **Sponsor: J. Fenderbosch.**

Ordinance No. 24-57, AN ORDINANCE TO DESIGNATE A PORTION OF LAKE ROAD AS A BUSINESS DISTRICT PURSUANT TO CODIFIED ORDINANCE SECTION 402.07 AND TO MODIFY THE SPEED LIMIT ON LAKE ROAD PURSUANT TO CODIFIED ORDINANCE SECTION 434.03 TO BE TWENTY-FIVE MILES PER HOUR (25 mph) ONLY WITHIN THE BUSINESS DISTRICT AND DECLARING AN EMERGENCY. **Sponsor: D. Kos.**

First Readings:

Ordinance No. 24-58, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC., TO DESIGN A PLAY SPACE IN BLESER PARK, KNOWN AS "RENEW AVON LAKE PLAY SPACE" (ALPS), AND DECLARING AN EMERGENCY. → **Sponsor: R. Shahmir.**

Ordinance No. 24-59, AN ORDINANCE CONFIRMING THE MAYOR'S APPOINTMENT OF KATHLEEN POCZAK TO THE POSITION OF HUMAN RESOURCES DIRECTOR,

ESTABLISHING THE RATE OF COMPENSATION FOR SAID POSITION, AND DECLARING AN EMERGENCY. → *Sponsor: K. Zuber.*

Ordinance No. 24-60, AN ORDINANCE CONFIRMING THE APPOINTMENT OF A PART-TIME DEPUTY BAILIFF IN THE AVON LAKE MUNICIPAL COURT, ESTABLISHING THE RATE OF COMPENSATION FOR SAID POSITION, AND DECLARING AN EMERGENCY. → *Sponsor: K. Zuber.*

Resolution No. 24-61, A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BETWEEN CIRCON ENVIRONMENTAL (CIRCON), LEGACY POINTE CONDOMINIUM ASSOCIATION NOS. 1 THROUGH 6, AND WATERSIDE CROSSINGS SOUTH NO. 3 CONDOMINIUM ASSOCIATION, INC., (ASSOCIATIONS) FOR THE INSTALLATION, MAINTENANCE, REPAIRS, AND REPLACEMENT OF PATH MASTER EQUIPMENT, AND DECLARING OF AN EMERGENCY. *Sponsor: D. Kos.*

Ordinance No. 24-62, AN ORDINANCE AUTHORIZING THE PURCHASE OF THE APPLIED INFORMATION PRIORITY/PREEMPT SYSTEM AND CONNECTIVITY PLAN WITH PATH MASTER, INC., AND DECLARING AN EMERGENCY. *Sponsor: D. Kos.*

Ordinance No. 24-63, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT WITH BOWMAN APPRAISAL SERVICES, INC., FOR THE LOR-US 6-18.53 PROJECT AND DECLARING AN EMERGENCY. → *Sponsor: J. Fenderbosch.*

Ordinance No. 24-64, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT WITH TRANSYSTEMS REAL ESTATE CONSULTING, INC., FOR THE LOR-US 6-18.53 PROJECT AND DECLARING AN EMERGENCY. → *Sponsor: J. Fenderbosch.*

Ordinance No. 24-65, AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO ACCEPT NORTHEAST OHIO PUBLIC ENERGY COUNCIL (NOPEC) 2024 ENERGIZED COMMUNITY GRANT(S) AND DECLARING AN EMERGENCY → *Sponsor: A. Gentry.*

Public Input

Miscellaneous Business and Announcements

Adjournment

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT FOR ENVIRONMENTAL CONSULTING SERVICES AND DECLARING AN EMERGENCY.

WHEREAS, Section 59 of the Avon Lake City Charter, entitled Competitive Bidding, authorizes the expenditure of funds exceeding \$75,000 without public bidding for “personal services” as defined in the Charter; and

WHEREAS, the Administration and Council desire to continue to retain the personal services of a professional environmental consulting firm to monitor the closed landfill at the Public Works Department for 2024.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF
THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That the Mayor is hereby authorized and directed to enter into an agreement with HZW Environmental Consultants, LLC, of Mentor, Ohio, for the purpose of retaining personal services to monitor the closed landfill.

Section No. 2: That said agreement shall state in its terms that the cost of said personal services shall not exceed \$76,300. Upon receipt of an itemized billing, in conformance with the guidelines and scope of work as set forth in said agreement, to the satisfaction of the Public Works Director, the Director of Finance is hereby directed to deliver to HZW Environmental Consultants, LLC, the warrant of this City in the amount due and payable and to cause said warrant to be paid.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 4: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of providing environmental consulting services for groundwater monitoring according to EPA requirements, thus for the health, safety, and welfare of the public. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

1ST reading: 4/22/2024

2nd reading:

3rd reading:

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

AN ORDINANCE PROVIDING CONTINUED LEGAL COUNSEL REGARDING ZONING MATTERS PURSUANT TO THE REDEVELOPMENT OF THE AVON LAKE POWER PLANT AND DECLARING AN EMERGENCY.

WHEREAS, the Administration and Council has authorized Berns, Ockner & Greenberger, LLC, to represent the City in the redevelopment of the Avon Lake Power Plant relating to zoning matters.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That Berns, Ockner & Greenberg, LLC, be, and they are hereby authorized and directed to continue to provide legal services for the redevelopment of the Avon Lake Power Plant.

Section No. 2: That the necessary expenses for said representation be paid upon approval voucher submitted therefore in an amount not to exceed \$25,000.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 4: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of the continuation of legal services regarding zoning matters in the redevelopment of the Avon Lake Power Plant, thus for the health, safety, and welfare of the public. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

1st reading: 4/22/2024

2nd reading:

3rd reading:

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

AN ORDINANCE PROVIDING CONTINUED LEGAL COUNSEL AND DECLARING AN EMERGENCY.

WHEREAS, the Administration and Council has authorized Todd S. Davis, Esq. to represent the City in the Brownfield Redevelopment and the West End Redevelopment, including the former NRG Power Plant.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That Todd Davis, Esq., be, and he is hereby authorized and directed to continue to provide professional services for Brownfield Redevelopment in the west end of the City.

Section No. 2: That the necessary expenses for said representation be paid upon approval voucher submitted therefore in an amount not to exceed \$35,000.00.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 4: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of providing legal counsel for Brownfield Redevelopment in the west end of the City, thus for the health, safety, and welfare of the public. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

1st reading: 4/22/2024

2nd reading:

3rd reading:

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE THE AMENDED AND RESTATED LEASE WITH THE AVON LAKE BOAT CLUB, INC., AND DECLARING AN EMERGENCY.

WHEREAS, the City of Avon Lake, as Landlord, and the Avon Lake Boat Club, Inc., as Tenant, entered into a lease dated February 27, 2017, for the Lease of the Boat Club located at Veterans Memorial Park, 32770 Lake Road (US 6), that includes a storage room, building, boat launch structure, and the area around the boat launch structure, for the purposes of the Tenant's boating activities; and

WHEREAS, the initial term of the Lease will expire on December 31, 2037; and

WHEREAS, the Landlord and the Tenant wish to amend and fully restate the Original Lease as of the Effective Date of February 27, 2017.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF
THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That the Mayor is authorized and directed to enter into the Amended and Restated Lease incorporating the terms set forth in Exhibit A and in the form and substance acceptable to the Mayor and the Law Director.

Section No. 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 3: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of permitting the Avon Lake Boat Club, Inc., to remain in their current location and allowing their members to continue with their boating activities, thus for the health, safety, and welfare of the public. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

1st reading: 4/22/2024

2nd reading:

3rd reading:

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____
Clerk of Council

Mayor

AMENDED AND RESTATED LEASE

THIS AMENDED AND RESTATED LEASE (“Lease”) made as of January 1, 2024 (the “Effective Date”), by and between the CITY OF AVON LAKE, OHIO, an Ohio municipal corporation (“Landlord”), and the AVON LAKE BOAT CLUB, INC., an Ohio not-for-profit corporation (“Tenant”).

WITNESSETH:

WHEREAS, Landlord owns certain real property on Lake Road described in Exhibit A attached hereto and made a part hereof (the “Property”); and

WHEREAS, Tenant leases a portion of the Property (the “Premises”) from Landlord, and Landlord leases the Premises to Tenant upon the terms and conditions set forth in that certain Lease dated February 27, 2017 (the “Original Lease”) for a term ending March 31, 2037; and

WHEREAS, Landlord and Tenant wish to amend and fully restate the Original Lease to change certain terms and provisions. This Lease shall amend, replace, and supersede the Original Lease as of the Effective Date; and

WHEREAS, Landlord desires to lease the Premises to Tenant, and Tenant desires to lease the Premises from Landlord upon the terms and conditions set forth in this Lease.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and intending to be legally bound, the parties hereby covenant and agree as follows:

ARTICLE I

DEMISE

Section 1.1 Premises.

Landlord hereby leases the Premises to Tenant, and Tenant hereby takes the Premises from Landlord upon the terms and conditions hereinafter set forth. The Premises are designated as “BOAT CLUB PREMISES” on Exhibit B attached hereto and made a part hereof. The Premises also include the interior storage portion (the “Storage Room”) of the building designated as “BUILDING” on Exhibit B (the “Building”), the boat launch structure designated as “BOAT CLUB LAUNCH STRUCTURE” and the area around the boat launch structure outlined on Exhibit B (the “Boat Launch Area”). The location and configuration of the Storage Room may be altered by Landlord from time to time but shall have a floor area of not less than three hundred forty-three (343) square feet. The Premises do not include Heider Creek, the banks or retaining walls of Heider Creek.

Section 1.2 Common Elements.

Landlord grants to Tenant during the Term (hereinafter defined) the nonexclusive license to use the drive designated as “WEST SHARED ACCESS DRIVE” and the exclusive license to use the

drive designated as “EAST SHARED ACCESS DRIVE” on Exhibit B (the “Shared Drives”), and such other portions of the Property as Landlord may from time to time designate as common elements (collectively, the “Common Elements”) in common with Landlord and all others to whom Landlord has or may hereafter grant rights to use same, and subject to the exclusive control, management and direction thereof at all times by Landlord. Landlord will have the right to:

- (a) establish, modify and enforce rules and regulations with respect to the Common Elements and the use of the same;
- (b) close any or all portions of the Common Elements Areas for maintenance, repair, modification or improvement;
- (c) improve or modify the Common Elements; and
- (d) do and perform such other acts in and to the Common Elements as Landlord shall determine to be advisable.

Notwithstanding the foregoing, except for temporary closures to enable Landlord to make repairs or improvements to the Shared Drives or the other Common Elements, Landlord may not close the Shared Drives. Tenant shall have the right to maintain in its current location within the Common Elements the rail leading to the Boat Launch Area from the balance of the Premises (the “Boat Launch Rail”); however, Tenant shall not have the right to prevent others from crossing between the Boat Launch Area and the balance of the Premises.

Section 1.3 Inner Access Drive.

Although the east-west drive designated as “INNER ACCESS DRIVE” on Exhibit B (the “Inner Access Drive”) is part of the Premises, Landlord and its employees and contractors shall have the non-exclusive right to use Inner Access Drive and the aisles between the rows of boat racks for access to the lake. Tenant may not alter the Inner Access Drive, nor may Tenant install anything in or on the Inner Access Drive that would interfere with such access.

Section 1.4 Restroom.

Landlord grants to Tenant during the Term (hereinafter defined) the exclusive license to use the restroom portion of the Building (the “Restroom”). Landlord will have the right to:

- (a) establish, modify and enforce rules and regulations with respect to the Restroom and the use of the same;
- (b) close any or all portions of the Restroom for maintenance, repair, modification or improvement;
- (c) improve or modify the Restroom; and
- (d) do and perform such other acts in and to the Restroom as Landlord shall determine to be advisable.

ARTICLE II

TERM

Section 2.1 Term and Commencement Date.

Unless sooner terminated in accordance with the terms of this Lease, the term of this Lease (the "Term") shall be fifteen (15) years, commencing on April 1, 2017 (the "Commencement Date") and expiring on March 31, 2032.

Section 2.2 Termination.

This Lease shall terminate at the end of the Term without the necessity of any notice from either Landlord or Tenant to terminate the same. Landlord shall be entitled to the benefit of all provisions of law respecting the summary recovery of possession of premises from a tenant holding over to the same extent as if statutory notice had been given.

Section 2.3 Surrender.

Upon the expiration or other termination of this Lease in any way, Tenant shall deliver and surrender to Landlord possession of the Premises, including all leasehold improvements and all fixtures permanently attached to the Premises, broom clean and in as good condition and repair as the same shall be on the Commencement Date or may have been put during the Term, excepting only ordinary wear and tear and damage by Casualty (as defined in Section 9.1), other than damage by Casualty that is caused by the negligence of Tenant, its agents, employees or contractors and that is not wholly covered by Landlord's hazard insurance policy.

ARTICLE III

USE AND OPERATIONS

Section 3.1 Use.

Tenant shall use and permit the use of the Premises solely for the launching and storage of small, non-commercial boats owned by residents of the City of Avon Lake (the "Permitted Use"). Tenant may use the Storage Room only for the storage of equipment and supplies related to the Permitted Use. Tenant may not use, permit or suffer the use of the Premises, or any part thereof, for any other purpose whatsoever without the prior written consent of Landlord.

Section 3.2 Operations by Tenant and Landlord; Removal of Trash.

(a) Tenant will at its expense: (i) maintain the Premises in a clean, orderly and sanitary condition; (ii) comply with all laws, ordinances and governmental rules and regulations; (iii) collect and properly dispose of all litter surrounding the Premises that results from or is attributable to the Premises and (iv) procure a contractor mutually acceptable to the parties to control noxious weeds on the Premises.

(b) So long as no other tenants of the Property are permitted to use the Restroom, Tenant shall maintain the Restroom in good, clean, sanitary condition, free of insects, rodents, vermin and other pests, keep the Restroom fully supplied with sufficient quantities of paper towels, toilet paper and soap (“Restroom Supplies”), keep all plumbing fixtures and electrical fixtures in the Restroom in good working order, and during the boating season, clean all plumbing fixtures and mirrors in the Restroom and mop all floors of the Restroom as needed.

(c) Tenant will not: (i) place or maintain any trash or refuse other than in Landlord approved solid waste and recyclable materials collection containers; (ii) permit accumulations of trash, rubbish or refuse within or without the Premises; (iii) permit Tenant’s members to discard trash, rubbish or refuse on the Property other than in Landlord-approved collection containers; (iv) permit fish cleaning on the Property or the disposal of fish or fish parts on the Property; or (v) permit any part of the Premises to be used for any disreputable, offensive, immoral or illegal purpose.

(d) Landlord shall arrange for the collection of solid waste and recyclable materials properly placed in Landlord-approved collection containers.

(e) Landlord shall arrange for exterminator services to eliminate and prevent rodent infestation.

Section 3.3 Signs.

Tenant shall have the right to maintain those signs that were on the Premises on February 7, 2017. Tenant will not place or suffer to be placed or maintained on the Premises any additional sign, lettering, advertising matter or any other item of any kind without the prior written consent of Landlord. All such signs or other items shall comply with all applicable laws. Tenant will, at its sole cost and expense, maintain such sign, decoration, lettering, advertising matter or other item permitted by Landlord in writing in good condition and repair at all times. Tenant shall indemnify, defend and save Landlord harmless from and against any and all claims, actions, demands, damages, liability and expense, including attorneys and other professional fees, arising from or related to, wholly or in part, directly or indirectly, the erection, maintenance, existence or removal of any sign or other item installed by Tenant, and Tenant shall repair all damage caused by the erection, existence, maintenance or removal of same. At the request of Landlord, at the termination of this Lease, Tenant shall remove all signs and such other items and repair damage caused by such removal. Landlord shall have the right to remove any sign or other matter which does not conform to the requirements of this section, and the cost of such removal shall be payable by Tenant to Landlord on demand.

ARTICLE IV

RENT

Section 4.1 Rent Payable.

Tenant shall pay to Landlord as rent (“Rent”) for the Premises, the following:

- (a) the Base Rent; and
- (b) all additional sums, charges or amounts of whatever nature to be paid by Tenant to Landlord in accordance with the provisions of this Lease, whether or not such sums, charges or amounts are referred to as additional rent (“Additional Rent”).

Section 4.2 Base Rent.

- (a) The “Base Rent” shall be payable as follows:

- (i) The Base Rent for the first ten (10) Lease Years is Ten Thousand Dollars (\$10,000.00) per Lease Year. The Base Rent for the first ten Lease Years shall be payable in advance in two (2) installments of Fifty Thousand Dollars (\$50,000.00) each, the first of which shall be payable on the Commencement Date and the second of which shall be payable on April 1, 2022.

- (ii) The Base Rent for the eleventh through fifteenth Lease Years is Six Thousand Dollars (\$6,000.00) per Lease Year. The Base Rent for the eleventh through fifteenth Lease Years shall be payable in advance in three payments of Thirty Thousand Dollars (\$30,000.00) each on April 1, 2025, April 1, 2030 until expiration of lease, 2037.

Tenant acknowledges that Landlord will be relying upon the receipt of the advance installment payments of Base Rent to fund improvements. Therefore, the obligation of Tenant to pay Base Rent in advance installment payments is absolute and unconditional and under no circumstances shall Tenant be entitled to have refunded to it any portion of the Base Rent. Tenant further acknowledges that the foregoing is a material term of this Lease and that in the absence thereof, Landlord would not have agreed to enter into this Lease.

- (b) Subject to adjustment if an Extension Period (hereinafter defined) is added to the Term in accordance with Section 9.1, as used in this Lease, “Lease Year” means each successive period of twelve (12) consecutive months commencing on the Commencement Date.

Section 4.3 Payment of Rent.

Tenant shall pay all Rent when due and payable, without any setoff, deduction or prior demand therefor whatsoever. Rent shall be paid and delivered to Landlord at 150 Avon Belden Road, Avon Lake, Ohio 44012. Landlord may, at any time, change such remittance address by sending a notice to Tenant in accordance with Section 12.1 stating the change and setting forth the new address or addresses. Payments of Rent shall be deemed to have been given upon receipt. Any payment by Tenant or acceptance by Landlord of a lesser amount than shall be due from Tenant to Landlord shall be treated as payment on account. The acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full, shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant.

ARTICLE V
IMPROVEMENTS

Section 5.1 Landlord's Improvements.

As promptly as reasonably possible after the Commencement Date, taking into account weather conditions and Landlord's ability to obtain the necessary permits, Landlord shall make the following improvements and repairs to the Property:

- (a) Maintenance and repair of the eastern and western retaining walls of Heider Creek;
- (b) Maintenance and repair or replace fence on East Driveway, between Folger home and the Property;
- (c) Maintenance and repair of the decking approach to the launch facility, from approximately the flagpole to the launch structure.

Tenant shall cooperate fully with Landlord to enable Landlord to complete Landlord's work as promptly and efficiently as possible, including moving boats and boat racks and suspension of boat launching during the work on the Heider Creek retaining walls. Tenant acknowledges that the work on the retaining walls will probably be performed in the summer months (when the water flow in Heider Creek is at a minimum) and that the interference caused by such work shall not be deemed a Casualty Impact (as hereinafter defined). Except as specifically set forth herein, Landlord shall not be required to make any improvement to or alteration or repair of the Premises or the Common Elements, Tenant hereby agreeing to accept them in "AS IS" condition.

Section 5.2 Tenant's Improvements.

- (a) Except as hereinafter provided, Tenant shall not undertake, directly or indirectly, any construction work, improvements or alterations, nor shall Tenant install any equipment (all such construction work, improvements, alterations and installations being hereinafter collectively referred to as the "Work") without first obtaining Landlord's written approval of the plans and specifications therefor. The approval by Landlord of Tenant's plans and specifications shall not constitute the assumption of any liability on the part of Landlord for their accuracy or their conformity with building code requirements, and Tenant shall be solely responsible for such plans and specifications. The approval by Landlord of Tenant's plans and specifications shall not constitute a waiver by Landlord of the right thereafter to require Tenant to amend the same to provide for omissions or deficiencies therein later discovered by Landlord.
- (b) Tenant shall not commence any Work without first delivering to Landlord:
 - (i) the policies of insurance, or certificates thereof, required by Section 8.2; and
 - (ii) such security satisfactory to Landlord that such Work will be timely and properly performed.

(c) Notwithstanding the foregoing, Tenant shall not be required to obtain Landlord's approval for Minor Modifications, nor shall Subsection 5.2(b)(ii) apply to Minor Modifications. As used in this Lease, "Minor Modifications" means the following Work:

- (i) installation or construction of boat racks, rails to transport boats to and from their racks and the boat launches, and related facilities;
- (ii) installation of security systems; and
- (iii) installation of lighting.

(d) If Tenant shall fail to complete any Work commenced by Tenant, then Landlord may, in addition to all other rights and remedies it may have, complete such Work on behalf of and for the account of Tenant upon five (5) days' prior notice to Tenant of its intention to do so. The costs and expenses incurred by Landlord in completing the Work shall be deemed to be Additional Rent, due and payable on demand.

ARTICLE VI

REPAIRS AND ALTERATIONS

Section 6.1 Repairs to be Made by Landlord.

Except for repair of damage arising from or caused by the negligence or willful acts of Tenant, its agents, concessionaires, subtenants, officers, employees, licensees, invitees or contractors (which repairs may be effected by Landlord at Tenant's sole cost and expense), Landlord shall be responsible for making any repairs required to the Common Elements, the exterior, roof and structural elements of the Building, including the Restroom, and repairs to the utility lines and connections servicing the Premises to the extent such utility lines and connections are situated beyond the footprint of the Premises. However, because Landlord is a political subdivision, Landlord's obligation to make repairs shall be limited by the funds available for such purposes. Landlord shall not be required to maintain or to make any other repair or improvement to the Premises not previously described herein.

Section 6.2 Repairs to be Made by Tenant.

Except for the repairs to be made by Landlord pursuant to Section 6.1, all needed repairs and replacements to the Premises and any installations, equipment or facilities therein and thereon, shall be made by Tenant, promptly, at Tenant's sole cost and expense.

Section 6.3 Alterations by Tenant.

Tenant will not make any alteration, renovation, improvement or installation in, on or to the Premises or any part thereof (including without limitation, any alteration of signs, structural alteration, or securing of any fixture, apparatus or equipment of any kind to any part of the Premises) unless and until Tenant shall have caused plans and specifications in the form required by Section 5.2 to have been prepared, at Tenant's expense, and shall have obtained Landlord's

approval thereof. If such approval is granted, then Tenant shall cause the work described in such plans and specifications to be performed, at its expense, in accordance with the requirements of Section 5.2, promptly, efficiently and competently by duly qualified and, if necessary, licensed persons or entities.

ARTICLE VII

UTILITIES

Section 7.1 Utilities.

As Tenant's contribution toward the cost of utilities supplied to the Property (the "Utility Contribution"), Tenant shall pay to Landlord the sum Five Hundred Dollars (\$500.00) per Lease Year, payable in advance on the first day of April of each year beginning April 1, 2024.

ARTICLE VIII

INDEMNITY AND INSURANCE

Section 8.1 Indemnity by Tenant.

Tenant shall indemnify, defend and save Landlord and Landlord's officials, representatives, agents and employees harmless from and against any and all claims, actions, demands, damages, liability and expense, including attorneys' and other professional fees, in connection with loss of life, personal injury and/or damage to property arising from or related to, wholly in part, directly or indirectly, the construction, occupancy or use of the Premises or any part thereof, or arising from or related to, wholly or in part, directly or indirectly, any act or omission of Tenant, its officers, agents, contractors or employees. The obligations of Tenant pursuant to this section shall survive the expiration or termination of this Lease as to taxes and assessments payable for any period prior to such termination.

Section 8.2 Tenant's Insurance.

At all times after the execution of this Lease, Tenant will obtain and keep in force, at its expense:

(a) Commercial general liability insurance, on an occurrence basis, including premises and operations coverage, products and completed operations coverage, broad form property damage coverage and contractual liability coverage with a per occurrence combined single limit of liability for bodily injury, property damage liability and personal injury liability of not less than One Million Dollars (\$1,000,000.00). Landlord and Landlord's agents, officials, representatives and employees shall be named as insureds on the certificate of insurance. Such liability insurance shall be primary and not contributing to any insurance available to Landlord, and Landlord's insurance, if any, shall be in excess thereto.

(b) If and to the extent required by law, Worker's Compensation or similar insurance in form and amounts required by law.

Section 8.3 Waiver of Liability.

Landlord and Landlord's agents, officials, representatives and employees shall not be liable for, and Tenant waives all claims arising from damage to property sustained by Tenant or any person claiming by, through or under Tenant resulting from any accident or occurrence in or upon the Premises or any other part of the Property. The foregoing waiver shall include, but not be limited to, claims for damage resulting from: (a) any building, structure, improvement, equipment, appurtenance, utility line or Common Element becoming out of repair or any defect in any of the foregoing, (b) injury done or occasioned by wind, storm or other weather conditions, (c) the collapse of a retaining wall or any portion thereof, and (d) any act, omission or negligence of trespassers or other occupants or users of the Property.

ARTICLE IX

DAMAGE AND DESTRUCTION

Section 9.1 Option to Terminate Lease.

If the retaining walls of Heider Creek, the Building, or the improvements on the Property owned by Landlord and constituting Common Elements (all of the foregoing, collectively, "Landlord's Improvements") are damaged or destroyed by fire, the elements, or other peril, whether insured or uninsured (any of such causes being referred to herein as a "Casualty"), then Landlord shall promptly notify Tenant whether and to what extent it will repair such damage or destruction and the time within which such damage or destruction will be repaired. If such damage or destruction or Landlord's repair thereof would significantly and adversely affect the ability of Tenant to use the Premises for the Permitted Use (the "Casualty Impact") for more than thirty (30) days, then Tenant shall have the right, by notifying Landlord within ten (10) days after Tenant receives Landlord's notice, to:

- (a) terminate this Lease as of the date of such Casualty; or
- (b) if the Casualty Impact commences during the first ten (10) Lease Years, extend the Term by a period of time (the "Extension Period") equal to the lesser of:
 - (i) one (1) year,
 - (ii) the period of time between the date the Casualty Impact commences and the end of the first ten (10) Lease Years, or
 - (iii) the period of time of the Casualty Impact.

No Base Rent or Utility Contribution shall be payable for the Extension Period. The Extension Period shall commence the day after the expiration of the tenth (10th) Lease Year, and the eleventh (11th) Lease Year shall commence after the expiration of the Extension Period,

If Tenant timely elects to terminate this Lease, then this Lease shall terminate as of the date of such notice, and the parties shall be relieved of all obligations and liabilities thereafter accruing. If such

termination occurs after the first ten (10) Lease Years, then Rent shall be adjusted to the date of termination. However, in no event shall Tenant be entitled to any refund of Rent paid for the first ten (10) Lease Years. If Tenant does not timely respond to Landlord's notice, then Tenant will be deemed to have elected not to terminate this Lease and also elected not to extend the Term.

Section 9.2 Repair and Reconstruction.

If Landlord's Improvements shall be damaged by Casualty, Landlord has indicated in its notice to Tenant that it will repair all or part of the damage or destruction, and Tenant has not timely elected to terminate this Lease, then Landlord shall repair such damage or destruction as Landlord stated it would repair in its notice to Tenant.

Section 9.3 Abatement of Rent.

There shall be no abatement of Rent as a result of the Casualty or the progress of the repairs for the first (10) Lease Years. However, if there is Casualty Impact during any period of time after the first ten (10) Lease Years, then Base Rent and the Utility Contribution for such period of time shall be abated.

ARTICLE X

ASSIGNMENTS AND SUBLETTING

Section 10.1 Assignment Not Permitted,

Tenant will not mortgage, pledge, encumber, assign or in any manner transfer this Lease or Tenant's interest herein, directly or indirectly, in whole or in part. Tenant will not sublet all or any part of the Premises, other than the rental of boat slips and boat storage racks in accordance with the Permitted Use.

ARTICLE XI

DEFAULT

Section 11.1 "Event of Default" Defined.

Any one or more of the following events shall constitute an "Event of Default":

- (a) The taking, sale or transfer of Tenant's interest in the Premises under attachment, execution or other process of law or equity.
- (b) The failure of Tenant to pay any Rent or other sum of money under this Lease within fifteen (15) days after the same is due.
- (c) The use of the Premises for any purpose other than the Permitted Use.
- (d) The discovery that any material representation made by Tenant in this Lease is untrue.

(e) Default by Tenant in the performance or observance of any term, condition or covenant of this Lease (other than a default involving the payment of money), which default is not cured within thirty (30) days after the giving of notice thereof by Landlord, unless such default is of such nature that it cannot be cured within such thirty (30) day period, in which case no Event of Default shall occur so long as Tenant shall commence the curing of the default within such thirty (30) day period and shall thereafter diligently and continuously prosecute the curing of same and shall completely cure such default as promptly as possible.

Section 11.2 Remedies.

Upon the occurrence of an Event of Default, Landlord, without notice to Tenant in any instance (except where expressly provided for below), in addition to and not in lieu of any other rights or remedies available to Landlord at law or in equity, may exercise any one or more of the following rights:

(a) Landlord may perform, on behalf and at the sole cost and expense of Tenant, any obligation of Tenant under this Lease that Tenant has failed to perform and of which Landlord shall have given Tenant notice; the cost of which performance by Landlord shall be deemed Additional Rent and shall be payable by Tenant to Landlord upon demand.

(b) Landlord may (i) terminate this Lease and the tenancy created hereby by giving notice of such election to Tenant and (ii) reenter the Premises, by summary proceedings or otherwise, remove Tenant and all other persons and property from the Premises and store such property in a public warehouse or elsewhere at the sole cost and expense of and for the account of Tenant without resort to legal process and without Landlord being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby.

Section 11.3 Damages Upon Termination.

If this Lease is terminated by Landlord pursuant to Section 11.2, Tenant nevertheless shall remain liable for any Rent and damages which may be due or sustained prior to such termination, and for all reasonable costs, fees and expenses incurred by Landlord in pursuit of its remedies hereunder, including attorneys' and other professional fees (all such Rent, damages, costs, fees and expenses being referred to herein collectively as "Termination Damages") plus additional damages (the "Liquidated Damages") which are hereby stipulated to be equal to the Rent which, but for termination of this Lease, would have become due during the remainder of the Term, discounted at the rate of four percent (4%) per annum.

ARTICLE XII

NOTICES

Section 12.1 Sending of Notices.

Any notice, request, demand, approval or consent given or required to be given under this Lease shall be in writing and shall be deemed to have been given upon receipt (if hand delivered and receipt obtained) or on the third day following the day on which the same shall have been mailed

by United States registered or certified mail, return receipt requested, with all postal charges prepaid, addressed to the following addresses:

If to Landlord: City of Avon Lake, Ohio
150 Avon Belden Road
Avon Lake, Ohio 44012
Attention: Mayor

with a copy to: City of Avon Lake, Ohio
150 Avon Belden Road
Avon Lake, Ohio 44012
Attention: Law Director

If to Tenant: Avon Lake Boat Club, Inc.
P.O. Box 17
Avon Lake, Ohio 44012
Attention: _____

Either party may, at any time, change its address for the above purpose by sending a notice to the other party stating the change and setting forth the new address, which notice, however, shall be deemed to have been given only upon receipt by the other party.

ARTICLE XIII

MISCELLANEOUS

Section 13.1 Access to Premises.

Landlord and its agents, representatives, employees and contractors shall have the right to enter all parts of the Premises for the purpose of inspecting the Premises, or for the purpose of making such additions, alterations or repairs to the Premises as Landlord is required or permitted to make, and to take all materials, tools and equipment in, through, or above the Premises that may be required therefor without the same constituting an actual or constructive eviction of Tenant.

Section 13.2 Remedies Cumulative.

No reference to any specific right or remedy of Landlord shall preclude Landlord from exercising any other right or remedy or from maintaining any action which it may otherwise be entitled to maintain at law or in equity. No failure by Landlord to insist upon the strict performance of any agreement, term, covenant or condition hereof, or to exercise any right or remedy upon a breach thereof and no acceptance of full or partial Rent during the continuance of any such breach, shall constitute a waiver of any such breach, agreement, term, covenant or condition.

Section 13.3 Successors and Assigns.

This Lease and the covenants and conditions herein contained shall inure to the benefit of and be binding upon Landlord, its successors and assigns, and shall be binding upon Tenant, its successors and assigns, and shall inure to the benefit of Tenant.

Section 13.4 Compliance with Laws and Regulations.

Tenant, at its sole cost and expense, shall comply with and shall cause the Premises to comply with all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations and ordinances affecting the Premises or any part thereof, or the use thereof.

Section 13.5 Captions and Headings.

The Article and Section captions and headings are for convenience of reference only and in no way shall be used to construe or modify the provisions set forth in this Lease.

Section 13.6 No Modification.

This writing is intended by the parties as a final expression of their agreement and as a complete and exclusive statement of the terms thereof; all negotiations, considerations and representations between the parties having been incorporated herein. No course of prior dealings between the parties or their officers, employees, agents or affiliates shall be relevant or admissible to supplement, explain, or vary any of the terms of this Lease. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement between the parties or their affiliates shall not be relevant or admissible to determine the meaning of any of the terms of this Lease. No representation, understanding, or agreement has been made or relied upon in the making of this Lease other than those specifically set forth herein. This Lease may be modified only by a writing signed by the party against whom the modifications is sought to be enforced.

Section 13.7 Severability.

If any term or provision, or any portion thereof, of this Lease, or the application thereof to any person or circumstance shall, to any extent, be adjudged invalid or unenforceable, then the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 13.8 Third Party Beneficiary.

Nothing contained in this Lease shall be construed so as to confer upon any other party the rights of a third-party beneficiary.

Section 13.9 Authorization.

Each person executing this Lease on behalf of Tenant individually represents and warrants his or her authority to do so.

Section 13.10 Applicable Law.

This Lease and the rights and obligations of the parties hereunder shall be construed in accordance with the laws of the State of Ohio.

Section 13.11 Quiet Enjoyment.

If Tenant pays the Rent as and when due and timely performs all the covenants and agreements herein required to be performed by Tenant, Tenant shall, at all times during the Term, have the peaceable and quiet enjoyment and possession of the Premises without any manner of hindrance from Landlord or any persons lawfully claiming under or through Landlord.

Section 13.12 Holding Over.

If Tenant or anyone claiming under Tenant shall be in possession of all or any part of the Premises after the expiration or other termination of this Lease, the tenancy hereunder shall be deemed to be from month-to-month if such holdover is with the express written consent of Landlord, otherwise such holdover shall be deemed to be at sufferance. Such holdover shall be subject to all the terms and conditions of this Lease except as to Term and except that the Base Rent shall be One Thousand Two Hundred Fifty Dollars (\$1,250.00) per month, payable in advance on the first day of each month.

Section 13.13 Landlord's Consent.

Unless otherwise specifically provided herein to the contrary, whenever the consent, approval or acceptance of Landlord is required, such consent, approval or acceptance shall be deemed given if given by the then Mayor of the City of Avon Lake, Ohio. Whenever Landlord's consent, approval or acceptance is required, unless specifically provided to the contrary herein, such consent, approval or acceptance may be granted or withheld in Landlord's sole discretion.

Section 13.14 Termination.

Unless the context otherwise requires, use of the phrases "termination of this Lease" or "termination of the Term" or similar language shall also refer to the expiration of the Term.

IN WITNESS WHEREOF, the parties hereto intending to be legally bound hereby have executed this Lease as of the day and year first above written.

LANDLORD:

CITY OF AVON LAKE, OHIO

By: _____
Mark Spaetzel, Mayor

Date: _____

STATE OF OHIO)

LORAIN COUNTY)

BEFORE ME, a Notary Public in and for said County and State, personally appeared Mark Spaetzel, known to me to be the Mayor of the above named City of Avon Lake, Ohio, a municipal corporation, and acknowledged that he did sign the foregoing instrument on behalf of said municipal corporation, duly authorized, and that the same is his free act and deed as Mayor, and the free act and deed of said municipal corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at Avon Lake, Ohio this ____ day of _____, 2024.

Notary Public

TENANT:

AVON LAKE BOAT CLUB, INC.

By: _____

Name: _____

Title: _____

Date: _____

STATE OF OHIO)

_____ COUNTY)

BEFORE ME, a Notary Public in and for said County and State, personally appeared _____, known to me to be the _____ of the above named Avon Lake Boat Club, Inc., an Ohio not-for-profit corporation, and acknowledged that they did sign the foregoing instrument on behalf of said corporation, duly authorized, and that the same is their free act and deed as such officer, and the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at _____, Ohio this ____ day of _____, 2024.

Notary Public

EXHIBIT A
Legal Description

EXHIBIT B
Property Map

AN ORDINANCE TO DESIGNATE A PORTION OF LAKE ROAD AS A BUSINESS DISTRICT PURSUANT TO CODIFIED ORDINANCE SECTION 402.07 AND TO MODIFY THE SPEED LIMIT ON LAKE ROAD PURSUANT TO CODIFIED ORDINANCE SECTION 434.03 TO BE TWENTY-FIVE MILES PER HOUR (25 MPH) ONLY WITHIN THE BUSINESS DISTRICT AND DECLARING AN EMERGENCY.

WHEREAS, Section 434.03(a) of the Codified Ordinances of the City of Avon Lake (“C.O.”) provides that it is unlawful to operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard for the traffic, surface, and width of the street or highway and any other conditions; and

WHEREAS, C.O. Section 434.03(b)(1)(G)(2) provides that it is prima facie lawful for the operator of a motor vehicle to operate said vehicle at a speed not exceeding twenty-five miles per hour (25 mph) in all portions of the Municipality other than within a school zone, an alley, or on state routes or through highways outside of business districts; and

WHEREAS, C.O. Section 402.07 defines a “business district” as “territory fronting upon a street or highway, including the street or highway, between successive intersections within the Municipality, where 50% or more of the frontage between successive intersections is occupied by buildings in use for business, or within or outside the Municipality where 50% or more of the frontage for a distance of 300 feet or more is occupied by buildings in use for business, and the character of the territory is indicated by official traffic-control devices.”

WHEREAS, a 1,512-foot section of Lake Road between 33368 Lake Road and 33525 Lake Road entirely within the municipal boundaries of the City and has at least 50% of the frontage between successive intersections occupied by buildings in use for business; and

WHEREAS, in accordance with its powers of self-governance as set forth in Chapter I, Section 2 of the Charter of the City of Avon Lake, and Article XVIII, Sections 3 and 7 of the Ohio Constitution, the City has the authority to designate the section of Lake Road starting at a point 417 feet east of Moore Road and ending at a point 1,095 feet west of Moore Road, for a total of 1,512 feet (0.29 miles), and as depicted on the map attached as Exhibit A, as a business district and adopt and enforce local Police and similar regulations affecting the health, safety, and welfare of its residents, including regulating the speed limit within the business districts of the City; and

WHEREAS, the City has determined that the maximum speed limit on portions of Lake Road outside of the business district should be raised to thirty-five miles per hour (35 mph).

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF
THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That Council hereby designates the section of Lake Road starting at a point of 417 feet east of Moore Road and ending at a point 1,095 feet west of Moore Road, for a total of 1,512 feet (0.29 miles), as depicted on the map attached as Exhibit A, as a business district.

Section No. 2: That Council hereby directs that the maximum speed limit on Lake Road within the business district be and is hereby twenty-five miles per hour (25 mph).

Section No. 3: That Council hereby directs that the maximum speed limit on Lake Road, other than within the business district lying, be, and is hereby thirty-five miles per hour (35 mph).

Section No. 4: That Council hereby directs that the twenty-five miles per hour (25 mph) speed limit within the business district of Lake Road be indicated by official traffic-control devices.

Section No. 5: That Council hereby directs that the thirty-five miles per hour (35 mph) speed limit on Lake Road outside of the business district be indicated by official traffic-control devices.

Section No. 6: That it is found and determined that all formal actions of this Council concerning and relating to the passage 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 actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 7: That this Ordinance is hereby declared to be an emergency measure, the emergency being the immediate preservation of the public health, safety, morals, convenience, and the general welfare of the community. Therefore, this Ordinance shall be in full force and effect from and immediately after passage and approval by the Mayor.

1st reading: 4/22/2024

2nd reading:

3rd reading:

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC., TO DESIGN A PLAY SPACE IN BLESER PARK, KNOWN AS “RENEW AVON LAKE PLAY SPACE” (ALPS), AND DECLARING AN EMERGENCY.

WHEREAS, the City of Avon Lake desires to retain the personal services of Kimley-Horn and Associates, Inc., of Akron, Ohio, for professional design and implementation services of a play space in Bleser Park, known as Renew ALPS.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF
THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That the Mayor is hereby authorized to execute a personal services agreement with Kimley-Horn and Associates, Inc., of Akron, Ohio, that includes completing a topographic survey, schematic and final design, permitting, and administering ALPS’ construction and closeout. The agreement (Exhibit A) shall state in its terms that the cost of said personal services shall not exceed \$155,104.

Section No. 2: Upon completion of said design and implementation services for Renew ALPS, the Director of Finance is hereby directed to deliver to Kimley-Horn and Associates, Inc., the warrant for this City, in an amount not to exceed \$155,104, and to cause said warrant to be paid.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 4: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of designing and constructing a new playground in Bleser Park that has been long awaited by residents, thus for the health, safety, and welfare of the public. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor



April 18, 2024

Erin Fach, Recreation Director at the
City of Avon Lake
150 Avon Belden Rd
Avon Lake, Ohio 44012

Re: Letter Agreement for Professional Services for
Avon Lake Play Space (ALPS), Rev 1
32800 Electric Blvd, Avon Lake, OH 44012

Dear Erin:

Kimley-Horn and Associates, Inc. (“Kimley-Horn” or “Consultant”) is pleased to submit this Letter Agreement (the “Agreement”) to City of Avon Lake (“Client”) for providing professional design services for the new play space in Bleser Park.

Project Understanding

The ALPS is located at Bleser Park (32800 Electric Blvd, Avon Lake, OH 44012) and was constructed by resident volunteers in the mid-1990s. The Client has performed public surveys with the Design Criteria firm Sixmo Architects and is now looking for a design team to complete topographic survey, schematic and final design (80%, 100%), permitting, and project administration during construction with project closeout. The towers of the ALPS and the donor pavers will be incorporated into the final design, along with the earthen mounding. Programmatic items included in the Criteria Design are the desire for ADA surfacing, a variety of active play areas (zipline, ninja warrior, sensory, and music, etc.), site lighting, and landscaping. The project area is approximately 2.55 acres, which will require the inclusion of post construction stormwater control measures and permitting with the Ohio EPA. Cost estimates during all phases of the design process will assist the Client with funding and phasing of the project.

Scope of Services

Kimley-Horn will provide the services specifically set forth below.

TASK 1: GENERAL PROJECT MANAGEMENT

The following section includes the day-to-day project coordination and support tasks needed to successfully implement the ALPS project. Effective project management efforts require time to send emails, conduct research and prepare for meetings. This project management sub-task includes internal teamwork sessions and meetings, team meetings, approvals, quotes, schedule management, ongoing project oversight, emails, and client communication. Kimley-Horn will:

- Provide ongoing communication among all project team members by leading bi-weekly, or as-needed progress meetings throughout Tasks 1-4, preparing agendas, notices, and

meeting minutes for meetings with the input of Client's project manager. Meetings are assumed to be mainly via Teams, with key meetings in person. Meetings will be coordinated with Task deliverables.

- Coordinate an internal kick-off meeting with the project team to clearly define the scope, outline subtask responsibilities and budgets, establish schedules, and identify project milestones and goals.
- Develop a work plan that establishes major tasks, identifies project team members to complete the tasks, and determines how much time the tasks will take. We will provide this work plan (schedule) via PDF.
- Provide work plan updates to Client and the project team monthly via PDF.

TASK 1: DELIVERABLES:

- Project Meetings: 3 via teams, 3 in person. Each meeting 2 hours or less.
- Monthly work plan PDF.
- Coordination with internal team members.

TASK 2: DATA COLLECTION AND DOCUMENT REVIEW

The Kimley-Horn team will continue to develop our comprehensive understanding of the project site and its context. We will generate documentation of existing conditions and site information to design the playscape and related park features in compliance with local/state/federal guidelines.

TASK 2.1: FIELD REVIEW

We will collect existing data from NearMap, GIS, and other publicly available sources to create a preliminary basemap. We will perform an on-site field walk to assess the site for incorporation of post construction stormwater control measures, review pedestrian connections to other park elements, and visually examine the integration of the proposed playground elements with existing drainage patterns leading to Heider Ditch. We will also walk the site to understand potential views to Lake Erie.

TASK 2.2: SURVEY

Kimley-Horn will engage the services of our subconsultant, DLZ, to provide topographic survey. A topographic survey will be provided according to National Topographic Standards developed by the National Society for Professional Surveyors (NSPS) to provide adequate base survey information for the requested area including the horizontal and vertical location of major features. These features include visible above ground improvements, existing edges of sidewalks, parking lots, manholes, walls, trees, lights, structures, buildings, drive surfaces, access points, utilities (from observation, record information and surface markings provided by OH Utility Protection Service – 811) and ground elevations as well as identify any easements that might impact the work of the project site. Visible and operable stormwater inverts will also be collected. Ground elevations will be measured at a sufficient interval to produce the required one-foot contour intervals and critical high or low points. Topographic features will be located and collected utilizing State Plane Coordinates (NAD83) and NAVD88 Vertical Datum.

TASK 2.3: PERMIT REVIEW

We will list, review, and summarize potential permits required for the project.

TASK 2: DELIVERABLES:

- Summary Report: We will generate a written summary of existing conditions, permit listing, and site information collected.
- Basemap
- Topographic survey

TASK 3: SCHEMATIC PLAN DEVELOPMENT

Kimley-Horn will use the information created by Sixmo Architects and information developed during Task 2 to prepare up to two (2) preliminary schematic plan concepts. We will review these preliminary concepts during a meeting (as defined in Task 1) to develop a preferred Schematic Plan and final Programmatic program for the site. At this meeting, we will conduct a listening session to gain insights into the prioritization of program elements, potential budgets, considerations related to permits, desired aspects of the proposed lighting program, and the project schedule. At this meeting, we will also identify the first bid package play structure piece (assumed to be a singular piece). This meeting is estimated to be approximately two hours in duration where our team will prepare an agenda, questions for the Client and preliminary ranges of costs for program elements to aid in the project budget discussion.

Based on input obtained from this meeting, Kimley-Horn will develop a Preferred Schematic Plan and AACE Class 5 Opinion of Probable Construction Costs (OPCC) and revised project schedule. The Preferred Schematic Plan will be an illustrated site plan and 3-D rendering. We will revise this Preferred Schematic Plan once based on Client comments.

TASK 3: DELIVERABLES

- Two (2) Preliminary schematic plan concepts
- One (1) Preferred Schematic Plan rendering with 3D perspective
- Identification of First Bid Package play structure piece
- OPCC for the preferred Schematic Plan (Class 5 AACE)

TASK 4: PLANS AND SPECIFICATIONS

The Kimley-Horn team will finalize plans, programming needs and features desired for the community playscape. We will develop a singular small bid package containing the singular piece play structure identified in Task 3 and a second design package containing the whole project for public bidding. Drawing reviews are assumed to be completed with the Client during the 80%, and 100% design. Meeting for those Client reviews are outlined in Task 1. Kimley- Horn will update the OPCC through each phase of the design process and adjust proposed improvements to ensure the plans can be constructed within the project budget.

Plan sheets for the second bid package are assumed to consist of:

- Title Sheet
- General Notes Sheet(s)
- Existing Conditions and Demolition Plan
- Site Plan
- Proposed Playscape Plan and Details
- Accessible Features Plans
- Hardscape Plans (trails/ sidewalks)

- Grading and Drainage Plan (s)
- SWPP Plan(s)
- Site Furnishings Plan and Details
- Utilities Plans with Lighting Plan with performance specifications
- Landscape/Planting Plans, Notes, and Details
- Construction Access/ Maintenance of Traffic
- Details, Cut Sheets, and Typical Sections
- Project Technical Specifications (ODOT CMS & Master Spec)

We will also develop:

- An Opinion of Probable Construction Costs (OPCC)
- Bid forms
- Stormwater Management and Drainage Report
- OEPA NOI/NOT Permit

Not all plan sheets will be completed at each milestone. We shall prepare two bid packages. The first bid package will include a singular item of the playground. The second package will be the remaining items. Kimley-Horn will provide written response to comments from the Client and permit agencies at each milestone in the design process. The Client shall prepare the bid manual, prevailing wage rates, advertisement, and procurement of bidders. Plan deliverables will be provided as electronic PDFs. No printed copies will be provided.

TASK 4: DELIVERABLES

- First Bid Package
- 80% Package for Second Bid
- 100% Bid Package and Technical Specifications for Second Bid
- NOI/NOT permit submittals

TASK 5: BIDDING ASSISTANCE

Kimley-Horn understands the Client will use the online bidding platform Bid-Express for advertisement and bidding of this project. Kimley-Horn has used this free service for multiple park districts and municipal public bid projects. It is assumed there will be two bid packages. Bid Express will provide the bid summary information. Activities during this phase of the project may include:

- Attending one pre-bid meeting with potential bidders for the second bid package. It is assumed no pre-bid meeting will be performed for the first bid package. Assume meeting will be on-site, no more than 2 hours in duration.
- Responding to contractor RFI's. Assume no more than 2 for all bid packages.
- Adjusting plans and issuing addendums as needed. Assume no more than 2 for all bid packages.
- Evaluate compliance of contractor submittals with the bidding documents
- Contractor reference reviews and notification

TASK 5: DELIVERABLES

- One pre-bid meeting attendance
- RFI's
- Addendums
- Review and notification of contractor

TASK 6: CONSTRUCTION PHASE SERVICES

Kimley-Horn will provide construction phase services to the Client during implementation of the proposed improvements. It is assumed construction will be approximately 8 – 12 months in duration starting in late 2024/early 2025. It is assumed the construction will be performed in a continuous manner. Services for this task may include the following:

- Attending a pre-construction conference for the second bid. It is assumed this meeting will be on-site and no more than two hours.
- Regularly scheduled owner/ landscape architect/engineer/contractor meetings during the second bid construction. Assumed no more than 12, 1-hour meetings via Teams.
- Site visits for construction observation. Assumed no more than 14 total visits consisting of no more than 2 hours each visit. It is assumed the first bid will only have one (1) site visit.
- Recommendations with respect to defective work.
- Providing clarifications and interpretations to RFIs
- Shop drawing and product sample reviews
- Review of substitutes and “or-equal”. Assume no more than 5 reviews.
- Change order reviews and recommendations. Assume no more than 3 reviews.
- Adjusting plans/issuing addendum. Assume no more than 2.
- Review Contractor’s applications for payment.
- Substantial completion site visit. Assume one meeting, no more than 6 hours.
- Punch list/close out documents.
- Providing final notice of acceptability of the work and review of construction contractor’s as-built drawings.

Services Not Included

Any other services, including but not limited to the following, are not included in this Agreement:

- Geotechnical investigation
- As-built drawings
- Ecological and environmental reviews
- Building permitting
- Electrical Design (Performance Specification will be provided instead of full design)
- Building, sanitary sewer or HVAC design
- Record Drawings
- Project website hosting and content management
- Public Outreach

Additional Services

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates.

Information Provided By Client

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client’s consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:



- Other relevant planning documents, studies, data, and information as available and relevant to the Project

Responsibilities of Client

In addition to other responsibilities set out in this Agreement, the Client shall:

- Perform any public outreach
- Register the City with Bid Express
- Perform any public bid notification

Schedule

We will provide our services as expeditiously as practicable with the goal of meeting the following schedule:

May 1, 2024	NTP
June 4, 2024	Schematic Plan
September 24, 2024.....	100% Design – first package
October – December 2024.....	First package bidding & construction
December 3, 2024.....	100% Design- second package
January- September 2025.....	Second package bidding and construction

Fee and Expenses

Kimley-Horn will perform the services in Tasks 1 - 6 for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Client.

TASK 1: GENERAL PROJECT MANAGEMENT	\$16,259.00
TASK 2: DATA COLLECTION AND DOCUMENT REVIEW	\$17,099.00
TASK 3: SCHEMATIC PLAN DEVELOPMENT	\$18,057.00
TASK 4: PLANS AND SPECIFICATIONS	\$71,785.00
TASK 5: BIDDING ASSISTANCE	\$4,758.00
TASK 6: CONSTRUCTION PHASE SERVICES	\$27,147.00

Total Lump Sum Fee	\$155,104.00
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Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Kimley-Horn" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to City of Avon Lake.



Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in a PDF. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

____ Please email all invoices to _____

____ Please copy _____

To ensure proper set up of your projects so that we can get started, please complete and return with the signed copy of this Agreement the attached Request for Information. Failure to supply this information could result in a delay in starting work on this project.

We appreciate the opportunity to provide these services. Please contact me if you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

DocuSigned by:

Kevin Clements
D29E8B01D886A7

4/22/2024

CITY OF AVON LAKE

SIGNED: _____

PRINTED NAME: Erin Fach

TITLE: _____

DATE: _____

Client's Federal Tax ID: _____

Client's Business License No.: _____

Client's Street Address: _____

Attachment – Request for Information
Attachment – Standard Provisions



Request for Information

Please return this information with your signed contract; failure to provide this information could result in delay in starting your project

Client Identification

Full, Legal Name of Client					
Mailing Address for Invoices					
Contact for Billing Inquiries					
Contact's Phone and e-mail					
Client is (check one)	Owner	<input type="checkbox"/>	Agent for Owner	<input type="checkbox"/>	Unrelated to Owner
		<input type="checkbox"/>		<input type="checkbox"/>	

Property Identification

	Parcel 1	Parcel 2	Parcel 3	Parcel 4
Street Address				
County in which Property is Located				
Tax Assessor's Number(s)				

Property Owner Identification

	Owner 1	Owner 2	Owner 3	Owner 4
Owner(s) Name				
Owner(s) Mailing Address				
Owner's Phone No.				
Owner of Which Parcel #?				

Project Funding Identification – List Funding Sources for the Project

Attach additional sheets if there are more than 4 parcels or more than 4 owners

KIMLEY-HORN AND ASSOCIATES, INC.
STANDARD PROVISIONS

- 1) **Kimley-Horn's Scope of Services and Additional Services.** Kimley-Horn will perform only the services specifically described in this Agreement. If requested by the Client and agreed to by Kimley-Horn, Kimley-Horn will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay Kimley-Horn for any Additional Services an amount based upon Kimley-Horn's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.
- 2) **Client's Responsibilities.** In addition to other responsibilities herein or imposed by law, the Client shall:
 - a. Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
 - b. Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
 - c. Provide Kimley-Horn all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which Kimley-Horn may rely upon.
 - d. Arrange for access to the site and other property as required for Kimley-Horn to provide its services.
 - e. Review all documents or reports presented by Kimley-Horn and communicate decisions pertaining thereto within a reasonable time so as not to delay Kimley-Horn.
 - f. Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
 - g. Obtain any independent accounting, legal, insurance, cost estimating, and feasibility services required by Client.
 - h. Give prompt written notice to Kimley-Horn whenever the Client becomes aware of any development that affects Kimley-Horn's services or any defect or noncompliance in any aspect of the project.
- 3) **Period of Services.** Unless otherwise stated herein, Kimley-Horn will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that Kimley-Horn does not control. If such delay or suspension extends for more than six months, Kimley-Horn's compensation shall be renegotiated.
- 4) **Method of Payment.** Client shall pay Kimley-Horn as follows:
 - a. Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by Kimley-Horn and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after Kimley-Horn's transmittal of its invoice, Kimley-Horn may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
 - b. If the Client relies on payment or proceeds from a third party to pay Kimley-Horn and Client does not pay Kimley-Horn's invoice within 60 days of receipt, Kimley-Horn may communicate directly with such third party to secure payment.
 - c. If the Client objects to an invoice, it must advise Kimley-Horn in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.
 - d. If Kimley-Horn initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at Kimley-Horn's normal hourly billing rates, of the time devoted to such proceedings by its employees.
 - e. The Client agrees that the payment to Kimley-Horn is not subject to any contingency or condition. Kimley-Horn may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of Kimley-Horn to collect additional amounts from the Client.
- 5) **Use of Documents.** All documents and data prepared by Kimley-Horn are related exclusively to the services described in this Agreement and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of Kimley-Horn's documents, or any reuse of the documents without written authorization by Kimley-Horn will be at the Client's sole risk and without liability to Kimley-Horn, and the Client shall indemnify, defend and hold Kimley-Horn harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. Kimley-Horn's electronic files and source code remain the property of Kimley-Horn and shall be provided to the

Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by Kimley-Horn, the hardcopy shall govern.

- 6) **Intellectual Property.** Kimley-Horn may use or develop its proprietary software, patents, copyrights, trademarks, trade secrets, and other intellectual property owned by Kimley-Horn or its affiliates ("Intellectual Property") in the performance of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Kimley-Horn maintains all interest in and ownership of its Intellectual Property and conveys no interest, ownership, license to use, or any other rights in the Intellectual Property to Client. Any enhancements of Intellectual Property made during the performance of this Agreement are solely owned by Kimley-Horn and its affiliates. If Kimley-Horn's services include providing Client with access to or a license for Kimley-Horn's (or its affiliates') proprietary software or technology, Client agrees to the terms of the Software License Agreement set forth at <https://www.kimley-horn.com/khts-software-license-agreement> ("the License Agreement") which terms are incorporated herein by reference.
- 7) **Opinions of Cost.** Because Kimley-Horn does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. Kimley-Horn cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Kimley-Horn's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.
- 8) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. Kimley-Horn shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by Kimley-Horn as a result of such termination.
- 9) **Standard of Care.** The standard of care applicable to Kimley-Horn's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by Kimley-Horn's performance of services, and it is agreed that Kimley-Horn is not a fiduciary with respect to the Client.
- 10) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and Kimley-Horn, the risks are allocated such that, to the fullest extent allowed by law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of Kimley-Horn and Kimley-Horn's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of or in any way related to the services under this Agreement from any causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of Kimley-Horn or Kimley-Horn's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by Kimley-Horn under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. This Section is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section shall require the Client to indemnify Kimley-Horn.
- 11) **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.
- 12) **Construction Costs.** Under no circumstances shall Kimley-Horn be liable for extra costs or other consequences due to unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Kimley-Horn shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before Kimley-Horn has issued final, fully approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.
- 13) **Certifications.** All requests for Kimley-Horn to execute certificates, lender consents, or other third-party reliance letters must be submitted to Kimley-Horn at least 14 days prior to the requested date of execution. Kimley-Horn shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate

to facts of which Kimley-Horn does not have actual knowledge, or that would cause Kimley-Horn to violate applicable rules of professional responsibility.

- 14) **Dispute Resolution.** All claims arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.
- 15) **Hazardous Substances and Conditions.** Kimley-Horn shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Kimley-Horn's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. Kimley-Horn will notify the Client of unanticipated hazardous substances or conditions of which Kimley-Horn actually becomes aware. Kimley-Horn may stop affected portions of its services until the hazardous substance or condition is eliminated.
- 16) **Construction Phase Services.**
 - a. If Kimley-Horn prepares construction documents and Kimley-Horn is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against Kimley-Horn in any way connected thereto.
 - b. Kimley-Horn shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, equipment maintenance and inspection, sequence, schedule, safety programs, or safety practices, nor shall Kimley-Horn have any authority or responsibility to stop or direct the work of any contractor. Kimley-Horn's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by Kimley-Horn. Kimley-Horn neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.
 - c. Kimley-Horn is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and Kimley-Horn for all claims and liability arising out of job site accidents; and that the Client and Kimley-Horn shall be made additional insureds under the contractor's general liability insurance policy.
- 17) **No Third-Party Beneficiaries; Assignment and Subcontracting.** This Agreement gives no rights or benefits to anyone other than the Client and Kimley-Horn, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and Kimley-Horn. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Kimley-Horn, without the written consent of Kimley-Horn. Kimley-Horn reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If Kimley-Horn exercises this right, Kimley-Horn will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.
- 18) **Confidentiality.** The Client consents to the use and dissemination by Kimley-Horn of photographs of the project and to the use by Kimley-Horn of facts, data and information obtained by Kimley-Horn in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, Kimley-Horn shall use reasonable care to maintain the confidentiality of that material.
- 19) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State where the Project is located. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements, or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by Kimley-Horn. If Client requires Kimley-Horn to register with or use an online vendor portal for payment or any other purpose, any terms included in the registration or use of the online vendor portal that are inconsistent or in addition to these terms shall be void and shall have no effect on Kimley-Horn or this Agreement. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

Certificate Of Completion

Envelope Id: 364BC50C6BD84970A5C8F3D565DE4280	Status: Delivered
Subject: Complete with DocuSign: ALPS_Proposal_Rev1clean.docx	
Source Envelope:	
Document Pages: 11	Signatures: 1
Certificate Pages: 1	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Katherine Holmok
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	401 Fayetteville St.
	Suite 600
	Raleigh, NC 27601
	Katherine.Holmok@kimley-horn.com
	IP Address: 32.141.38.50

Record Tracking

Status: Original	Holder: Katherine Holmok	Location: DocuSign
4/22/2024 4:31:57 PM	Katherine.Holmok@kimley-horn.com	

Signer Events

Kevin Clements
 Kevin.Clements@kimley-horn.com
 Associate
 Kimley-Horn and Associates, Inc.
 Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

 D29E8B01D8864C7...
 Signature Adoption: Drawn on Device
 Using IP Address: 208.127.224.41

Timestamp

Sent: 4/22/2024 4:35:19 PM
 Viewed: 4/22/2024 4:44:04 PM
 Signed: 4/22/2024 4:44:23 PM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Erin Fach	Sent: 4/22/2024 4:44:25 PM
EFach@avonlake.org	Viewed: 4/22/2024 6:47:20 PM
Security Level: Email, Account Authentication (None)	

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	4/22/2024 4:35:19 PM
Certified Delivered	Security Checked	4/22/2024 6:47:20 PM
Payment Events	Status	Timestamps

AN ORDINANCE CONFIRMING THE MAYOR'S APPOINTMENT OF KATHLEEN POTOCZAK TO THE POSITION OF HUMAN RESOURCES DIRECTOR, ESTABLISHING THE RATE OF COMPENSATION FOR SAID POSITION, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE
CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That the appointment by the Mayor of Kathleen Potoczak as the Human Resources Director for a term concurrent with the term of the Mayor is hereby confirmed by Council.

Section No. 2: That the powers, duties, and responsibilities to be performed and undertaken by the Human Resources Director shall be those provided for in Ordinance No. 24-4.

Section No. 3: That Council does hereby fix and establish an annual salary of \$115,000, payable bi-weekly, effective May 14, 2024.

Section No. 4: That Ms. Potoczak shall be entitled to receive the applicable benefits provided to full-time non-bargaining employees, as declared in Codified Ordinance Chapter 260.

Section No. 5: That in addition to the benefits provided in Codified Ordinance Chapter 260, Ms. Potoczak shall be entitled to receive three (3) weeks of vacation in calendar year 2024.

Section No. 6: That Ms. Potoczak shall be entitled to receive five (5) additional personal days after 90 days of employment to be used in calendar year 2024.

Section No. 7: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 8: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of making immediate provisions to fill the vacancy of the Human Resources Director to ensure the efficient operation of the Human Resources Department, thus for the health, safety, and welfare of the citizens of Avon Lake. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

AN ORDINANCE CONFIRMING THE APPOINTMENT OF A PART-TIME DEPUTY BAILIFF IN THE AVON LAKE MUNICIPAL COURT, ESTABLISHING THE RATE OF COMPENSATION FOR SAID POSITION, AND DECLARING AN EMERGENCY.

WHEREAS, Allison Manning was elected to serve as Judge of Avon Lake Municipal Court for a six-year term beginning January 1, 2024; and

WHEREAS, pursuant to Ohio Revised Code Section 1901, appointments are necessary for the efficient operation of the Avon Lake Municipal Court, and the Judge has submitted to this Council for confirmation an appointment to the position of part-time Deputy Bailiff in the Municipal Court.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL
OF THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That the appointment of Scott Fishburn to the position of part-time Deputy Bailiff in the Avon Lake Municipal Court is hereby confirmed and ratified, effective May 7, 2024.

Section No. 2: That the powers, duties, and responsibilities to be performed and undertaken by the Deputy Bailiff shall be those prescribed in Section 1901.32 of the Ohio Revised Code.

Section No. 3: That Council does hereby fix and establish an hourly salary of \$25.23, payable bi-weekly, with three-fifths (3/5) of said amount being paid from the City treasury and two-fifths (2/5) of said amount being paid from the Lorain County treasury.

Section No. 4: That the Clerk of Council shall certify a copy of this Ordinance to the County Commissioners and the Lorain County Auditor.

Section No. 5: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 6: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of providing the Avon Lake Municipal Court with adequate personnel for the efficient operation of the Court, thus for the

preservation of the public's health, safety, and welfare. Therefore, this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council
Mayor

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BETWEEN CIRCON ENVIRONMENTAL (CIRCON), LEGACY POINTE CONDOMINIUM ASSOCIATION NOS. 1 THROUGH 6, AND WATERSIDE CROSSINGS SOUTH NO. 3 CONDOMINIUM ASSOCIATION, INC., (ASSOCIATIONS) FOR THE INSTALLATION, MAINTENANCE, REPAIRS, AND REPLACEMENT OF PATH MASTER EQUIPMENT, AND DECLARING OF AN EMERGENCY.

WHEREAS, the Fire Chief and Public Safety & Health Committee recommended the City procure equipment and services from Path Master, Inc., of Twinsburg, Ohio, for traffic and security; and

WHEREAS, the City of Avon Lake, CIRCON, and the Associations desire to enter into a Memorandum of Understanding (Exhibit A) for the installation, maintenance, repairs, and replacement of Path Master equipment; and

WHEREAS, it is in the best interest of the City of Avon Lake, CIRCON, and the Associations to authorize the Mayor to enter the proposed Memorandum of Understanding.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF
THE CITY OF AVON LAKE, STATE OF OHIO

Section No. 1: The Mayor is hereby authorized to enter into a Memorandum of Understanding between the City of Avon Lake, CIRCON, and the Associations for the installation, maintenance, repairs, and replacement of Path Master equipment.

Section No. 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 3: This Resolution is hereby declared to be an emergency measure, the emergency being the necessity of installing traffic safety devices throughout the City and providing security equipment at a local business and gated communities, thus for the health, safety, and welfare of the public. Therefore, this Resolution shall be in full force and effect immediately upon its passage and approval by the Mayor.

1st reading:

2nd reading

3rd reading:

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (this “MOU”), dated as of April 26, 2024, sets forth certain understandings by and among: the City of Avon Lake, an Ohio municipal corporation (the “City”); CIRCON Environmental (“CIRCON”); Legacy Pointe Condominium Association No. 1, Inc., an Ohio not-for-profit corporation (“Masters Lane”); Legacy Pointe Condominium Association No. 2, Inc., an Ohio not-for-profit corporation (“Tournament”); Legacy Pointe Condominium Association No. 3, Inc., an Ohio not-for-profit corporation (“Bay Hill”); Legacy Pointe Condominium Association No. 4, Inc., an Ohio not-for-profit corporation (“Vintage Pt”); Legacy Pointe Condominium Association No. 5, Inc., an Ohio not-for-profit corporation (“Breakers”); Legacy Pointe Condominium Association No. 6, Inc., an Ohio not-for-profit corporation (“Heron Bay”); and Waterside Crossings South No. 3 Condominium Association, Inc., an Ohio not-for-profit corporation (“Hyannis Port”). Masters Lane, Tournament, Bay Hill, Vintage Pt, Breakers, Heron Bay, and Hyannis Port are referred individually to as an “Association” and collectively as the “Associations.” The City, CIRCON, and Associations are referred to individually as a “Party” and collectively as the “Parties.”

WHEREAS the City desires to procure equipment and services from Path Master, Inc., an Ohio corporation (“Path Master”) for the provision of traffic and security services in the City of Avon Lake and for the security and benefit of CIRCON and the Associations (the “Proposed Transaction”);

WHEREAS CIRCON and the Associations desire to share the costs of the equipment and services purchased by the City for the security and benefit of CIRCON and the Associations; and

WHEREAS the Parties desire to set forth their intentions regarding access to the equipment and responsibility for the maintenance, repairs, or replacement of the equipment.

NOW, THEREFORE, in consideration of the mutual undertakings and agreements hereinafter set forth, the Parties agree as follows:

1. Installation. The Fire Chief of the City shall coordinate the installation of Equipment with Path Master and conduct acceptance testing on the Equipment upon its installation by Path Master or its designee.

2. Term. The term of this MOU shall begin on the date of installation (the “Commencement Date”) and continue for a period of ten (10) years (the “Term”).

3. Equipment.

a. Path Master has prepared a quote for the City, which is attached to this MOU as Schedule A and is incorporated in this MOU by reference. A portion of the quote includes equipment and services for the benefit and security of CIRCON and the Associations, including traffic lights (8), residential gates (7), and a commercial gate (1) (collectively, the “Equipment”), and the quote includes Path Master’s service plan for the Equipment, which shall be effective for the duration of the Term (the “Service Plan”).

b. CIRCON and the Associations acknowledge that the City shall have reasonable access to the Equipment for the provision of public safety services to the Parties and the City of Avon Lake.

4. Expenses. In exchange for the Equipment and Service Plan, CIRCON and each Association shall pay to the City Six Thousand Four Hundred Sixty and 00/100 Dollars (\$6,460.00) in five (5) annual installment payments of One Thousand Two Hundred Ninety-Two and 00/100 Dollars

(\$1,292.00) beginning on July 31, 2024, and due and payable on each July 31 thereafter. CIRCON and each Association shall receive an invoice from the City Department of Finance thirty-one (31) days prior to the payment installment due date. CIRCON and each Association shall pay their final installment payment on July 31, 2028, and, on this date, CIRCON and the Associations shall have collectively paid to the City the sum of Fifty-One Thousand Six Hundred Eighty and 00/100 Dollars (\$51,680.00) to reimburse the City for the costs of the Equipment and Service Plan.

5. Maintenance, Repairs, and Replacement.

a. After installation of the Equipment, CIRCON and each Association, in coordination with Path Master, Path Master’s agent, successor, or designee, or some other similar vendor (each a “Vendor”), shall assume responsibility for the maintenance, repairs, or replacement that the Equipment may be require from time to time, subject to the terms and conditions of Service Plan.

b. The Parties must notify the Fire Chief of the City pursuant Section 7(d)(iii) as soon as practicable whenever:

- i. A Party becomes aware of any issues with the Equipment; or
- ii. A Party reasonably believes that the equipment may need any maintenance, repairs, or replacement; or
- iii. A Party orders the maintenance, repairs, or replacement of the Equipment.

The Parties acknowledge that such notice is required so that the City can ensure that any maintenance, repairs, or replacement of the Equipment does not impact the City’s access to the Equipment.

6. Renewal.

a. The Parties acknowledge that, at the end of the Term, the Equipment may need to be replaced or repaired. Upon the expiration or termination of the Term, CIRCON and each Association shall cause the Equipment to be inspected by Path Master or a Vendor to ensure the Equipment is in good working order. Upon expiration of the Term, CIRCON and each Association shall be responsible for the maintenance, repairs, and replacement of the Equipment or renewing the Service Plan with Path Master or a Vendor.

b. If CIRCON or any Association desires to maintain the Equipment beyond the Term, then such Party shall give notice to the City of its intent to enter into a successive or consecutive MOU or agreement for the Equipment and the Service Plan. The City shall only negotiate a successive or consecutive agreement with Parties that have paid the expenses required under Section 4 in full and on time.

7. Miscellaneous.

a. **Amendment.** This MOU may only be amended by a written agreement of the Parties.

b. **Counterparts.** This MOU may be executed in any number of counterparts, including electronic signatures included in a pdf file, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument. This MOU

shall become effective when counterparts have been signed by each Party and delivered to the other Parties, it being understood that the Parties need not sign the same counterpart.

c. **Governing Law.** Without regard to its conflict of law principles, the laws of Ohio shall govern all matters with respect to this MOU.

d. **Notices.**

i. Each Association and their officers are listed on Schedule B, attached to this MOU and incorporated in this MOU by reference. During the Term, each Association shall notify the City of any changes to the officers listed on Schedule B.

ii. All notices needed or permitted to be given under this MOU or any agreement shall be in writing and delivered by hand or overnight courier, or mailed by certified or registered mail, return receipt requested:

If to the City:
City of Avon Lake
50 Avon Belden Road
Avon Lake, OH 44012
Attn: Gary A. Ebert, Esq., Law Director
GAEBert@avonlake.org
(440) 930-4122

If to the Associations: Refer to contact information in Schedule B.

If to CIRCON:
33560 Pin Oak Parkway
Avon Lake, OH 44012
Attn: Jeff Thomas, Maintenance Manager
JThomas@circonenviro.com
(440) 752-3398

iii. All notices needed under Section 5(b) shall be in writing and sent to the Fire Chief of the City, Chief Jeremy Betsa via email at JBetsa@avonlakefire.org or at another email address given by the City to the Parties in writing.

[signature pages follow]

IN WITNESS WHEREOF, the Parties have executed this MOU as of the date(s) set forth below.

City of Avon Lake, Ohio

By: _____
Mark Spaetzel, Mayor

Date: _____

Approved as to Form:

Gary A. Ebert, Esq.
Law Director, City of Avon Lake

CIRCON Environmental

By: _____

Name: _____

Title: _____

Date: _____

Legacy Pointe Condominium Association No. 1, Inc.

By: _____

Name: _____

Title: _____

Date: _____

Legacy Pointe Condominium Association No. 2, Inc.

By: _____

Name: _____

Title: _____

Date: _____

Legacy Pointe Condominium Association No. 3, Inc.

By: _____

Name: _____

Title: _____

Date: _____

Legacy Pointe Condominium Association No. 4, Inc.

By: _____

Name: _____

Title: _____

Date: _____

Legacy Pointe Condominium Association No. 5, Inc.

By: _____

Name: _____

Title: _____

Date: _____

Legacy Pointe Condominium Association No. 6, Inc.

By: _____

Name: _____

Title: _____

Date: _____

Waterside Crossings South No. 3 Condominium Association, Inc.

By: _____

Name: _____

Title: _____

Date: _____

**SCHEDULE A
Path Master Quote**



Path Master Inc.
1960 Midway Drive
Twinsburg OH 44087
United States

Quote

Quote # C26112-REV1

4/11/2024

Avon Lake, City of
Christofer McKay
Avon Lake, City of
150 Avon Belden Road
Avon Lake OH 44012
United States

Applied Information Priority/Preempt System

Email: cmckay@avonlakefire.org
Phone: (440) 933-8305
Fax: (440) 933-2668

Bid Date	Completion Date	Quote Expires	Terms	F.O.B.	Delivery
		30 Days	Net 30 Days	Twinsburg, Freight Allowed	12 - 16 Weeks, ARO

Bid Ref	Qty	Unit	Description	CL	Unit Sell	Ext. Sell
1.	8	EA	Applied Information Preempt/Priority Field Monitoring Unit, FMU/2, AI Model 500-085-04 with Glance Integration and Installation	58	\$3,807.00	\$30,456.00
2.	8	EA	Applied Information Preempt/Priority Gate Operator, AI Model 500-068 with Glance Integration and Installation	58	\$3,360.00	\$26,880.00
3.	25	EA	Applied Information Preempt/Priority In-Vehicle Unit AI Model 500-065 with Glance Integration	58	\$2,554.00	\$63,850.00
4.	25	EA	Installation AI In-Vehicle Unit	58	\$1,100.00	\$27,500.00
5.	41	EA	Applied Information Preempt/Priority Connectivity Plan, 10-Year Service	58	\$3,100.00	\$127,100.00

Total	\$275,786.00
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SCHEDULE B
Homeowners Associations

VIP Management: LP # 1 Legacy Pointe Condominiums No 1 Chateaux "Masters Lane"					
Don Zbin	336 Green Jacket Court	440-933-9069	Cell 440-725-9294	d_zbin45@aol.com	President
Tom Cooney	594 Masters Lane	440-773-2144		tcooney60@gmail.com	Secretary
John Osborne	356 Founders Circle	440-823-1732	440-930-8968	catawbashorenorth@gmail.com	Treasurer

VIP Management: LP #2 Legacy Pointe Condominiums No 2 Villas "Tournament"					
Mark Bennett	602 Tournament Dr.	440-308-7799		mbennettatvillas@gmail.com	President
Ray Klein	660 Tournament Dr.	330-204-9117		rkleinatvillas@gmail.com	VP
Colin Dean	641 Tournament Dr	440-930-4840		colindeanlp2@yahoo.com	Treasurer

VIP Management: LP # 3 Legacy Pointe Condominiums Carriage Homes "Bay Hill"					
Laurel Schmid	575 Bay Hill Drive	330-231-0621		laurelschmid@gmail.com	President
Fred Jereb	521 Bay Hill Drive	216-346-4583		Fredjereb3@gmail.com	VP
Ellen Chen	582 Bay Hill Drive	440-724-5191		exexchen.myemail@gmail.com	Treasurer/Secretary

VIP Management: LP# 4 Legacy Pointe Condominiums No 4 Winery "Vintage Pt"					
Susan Pagrabs	576 Vintage Pointe	440-781-3704		swpagrabs@gmail.com	President
Lisa Fallon	582 Vintage Pointe	440-225-1373		Lisafallon22@gmail.com	VP
Kristine Korber	583 Vintage Pointe	216-219-1121		kdouglaskorber@yahoo.com	Treasurer/Secretary

VIP Management: LP# 5 Legacy Pointe Condominiums No 5 "Breakers"					
Kenneth Maher	32519 Breakers Blvd	216-276-3510	440-933-9282	kvmjam@gmail.com	President
Adam Moon	32502 Breakers Blvd	440-669-9267		adammoon2000@yahoo.com	VP
Steve Feliccia	32505 Breakers Blvd			stevfeliccia@gmail.com	Treasurer/Secretary

VIP Management: LP# 6 Legacy Pointe Condominiums No 6 "Heron Bay"					
Don Nigro	665 Heron Bay	440-429-7277		dane665heronbay@gmail.com	President
Jay Kolwicz	651 Heron Bay	440-343-1132		Jaykolwicz651@gmail.com	VP
Kristin Perry	658 Heron Bay	440-225-3707		Kaperry2@hotmail.com	Treasurer/Secretary

Lawrence Management: Waterside Crossings South #3 Condominium "Hyannis Port"					
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SCHEDULE B
Homeowners Associations

Susan Sheets	575 Hyannis Port Circle	440-864-7600	chetsusan@gmail.com	President
Joe Hanigoski	504 Hyannis Port Circle	440-334-7899	jhanigoski@outlook.com	VP
Patricia Menendez	496 Hyannis Port Circle	440-221-7858	menendp@bcglobal.net	Treasurer/Secretary
			raymondnpenny@aol.com	

AN ORDINANCE AUTHORIZING THE PURCHASE OF THE APPLIED INFORMATION PRIORITY/PREEMPT SYSTEM AND CONNECTIVITY PLAN WITH PATH MASTER, INC., AND DECLARING AN EMERGENCY.

WHEREAS, the City of Avon Lake has entered into a Cooperative Purchasing Program with the State of Ohio; and

WHEREAS, the State has advertised for bids for the purchase and installation of Applied Information Priority/Preempt System (System) and Connectivity Plan, 10-year service, and finds that the bid of Path Master, Inc., of Twinsburg, Ohio, to be the lowest and best bid.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That the bid by Path Master, Inc., of Twinsburg, Ohio, submitted through the Cooperative Purchasing Program of the State of Ohio, to supply the City with the System and Connectivity Plan, 10-year service in the amount of \$275,786, be, and it is hereby accepted and approved.

Section No. 2: That upon delivery to this City and installation of the System's equipment with the proper specifications and to the full satisfaction of the Fire Chief and Director of Finance, the Director of Finance is hereby directed to deliver to Path Master, Inc., of Twinsburg, Ohio, the warrant of this City in the amount of \$275,786 and to cause said warrant to be paid.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 4: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of installing traffic safety devices throughout the City and providing security equipment at a local business and gated communities to allow the Fire and Police personnel to perform their duties promptly and efficiently, and to take advantage of the State pricing, thus for the health, safety, and welfare of the citizens of Avon Lake. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

1st reading:
2nd reading:
3rd reading:

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT WITH BOWMAN APPRAISAL SERVICES, INC., FOR THE LOR-US 6-18.53 PROJECT AND DECLARING AN EMERGENCY.

WHEREAS, the City of Avon Lake desires to retain the personal services of Bowman Appraisal Services, Inc., of Alliance, Ohio, for appraisal review services associated with the LOR-US 6-18.53 Project.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That the Mayor is hereby authorized to execute a personal services agreement with Bowman Appraisal Services, Inc., of Alliance, Ohio, for appraisal review services associated with the right-of-way plans for the LOR-US 6-18.53 Project from SR 83 to the eastern corporation limit of Bay Village along Lake Road. The agreement shall state in its terms that the cost of said personal services shall not exceed \$59,475.

Section No. 2: Upon completion of said appraisal review services, the Director of Finance is hereby directed to deliver to Bowman Appraisal Services, Inc., the warrant for this City in an amount not to exceed \$59,475 and to cause said warrant to be paid.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 4: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity to improve accessibility along Lake Road and provide pedestrian safety improvements, thus for the health, safety, and welfare of the public. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT WITH TRANSYSTEMS REAL ESTATE CONSULTING, INC., FOR THE LOR-US 6-18.53 PROJECT AND DECLARING AN EMERGENCY.

WHEREAS, the City of Avon Lake desires to retain the personal services of TranSystems Real Estate Consulting, Inc., of Cleveland, Ohio, for right-of-way acquisition services for the LOR-US 6-18.53 Project.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That the Mayor is hereby authorized to execute a personal services agreement with TranSystems Real Estate Consulting, Inc., of Cleveland, Ohio, for right-of-way acquisition services for the LOR-US 6-18.53 Project from SR 83 to the eastern corporation limit of Bay Village along Lake Road. The agreement (Exhibit A) shall state in its terms that the cost of said personal services shall not exceed \$465,166.

Section No. 2: Upon completion of said appraisal review services, the Director of Finance is hereby directed to deliver to TranSystems Real Estate Consulting, Inc., the warrant for this City in an amount not to exceed \$465,166 and to cause said warrant to be paid.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 4: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity to improve accessibility along Lake Road and provide pedestrian safety improvements, thus for the health, safety, and welfare of the public. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO ACCEPT NORTHEAST OHIO PUBLIC ENERGY COUNCIL (NOPEC) 2024 ENERGIZED COMMUNITY GRANT(S) AND DECLARING AN EMERGENCY.

WHEREAS, the City of Avon Lake is a member of the Northeast Ohio Public Energy Council (NOPEC) and is eligible for one or more NOPEC Energized Community (NEC) Grant(s) for 2024 as provided for in the NEC Grant Program guidelines; and

WHEREAS, the City wishes to enter into a Grant Agreement with NOPEC, Inc., in substantially the form presented to this Council to receive one or more NEC Grant(s).

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That Council finds and determines that it is in the best interest of the City to accept the NEC Grant(s) for 2024 and authorizes the Mayor to execute the Grant Agreement to accept the NEC Grant(s) funds.

Section No. 2: That Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section No. 3: That this Ordinance is declared to be an emergency measure, the emergency being the necessary for the immediate preservation of the public health, safety, and welfare of the City. Therefore, this Ordinance shall be in full force and effect immediately upon its adoption and approval by the Mayor.

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____
Clerk of Council

Mayor