

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN A LICENSE AGREEMENT WITH THE CLEVELAND ELECTRIC ILLUMINATING COMPANY AND DECLARING AN EMERGENCY.

WHEREAS, the City desires to beautify and enhance the City as recommended in the Comprehensive Land Use Plan; and

WHEREAS, The Cleveland Electric Illuminating Company will permit the City to attach flower baskets on specific poles within the City boundaries to achieve this objective; and

WHEREAS, it is necessary for the City to enter into a license agreement to install flower baskets on poles owned by The Cleveland Electric Illuminating Company.

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

Section No. 1: The Mayor of the City of Avon Lake is hereby authorized to sign a license agreement with The Cleveland Electric Illuminating Company. (Exhibit A)

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 adopted 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 ordering flower baskets to be installed prior to the summer season, thus for the preservation of the public peace, health, safety, and welfare. Therefore, this Resolution shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: 4/25/2022

/s/ Martin E. O'Donnell
President of Council

POSTED: 4/29/2022

APPROVED: 4/26/2022

ATTEST: /s/ Valerie E. Rosmarin
Clerk of Council

/s/ Gregory J. Zilka
Mayor

CREWS Code _____ CIN# _____ Region _____

Licensee	City of Avon Lake	Address	150 Avon Belden Road Avon Lake, OH 44012
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Location of Poles

Type of Attachments	Flower Baskets

Remarks:

Kind of Attachment	No. of Poles	Annual Rental
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Flower Baskets	@	\$	0	per pole per year	\$
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Granted this _____ of _____, 2022

**Licensors The Cleveland Electric Illuminating
Company**

Witness: _____ **By:** _____

Accepted this _____ of _____ 2022

Licensee City of Avon Lake

Witness: _____ **By:** _____

THE CLEVELAND ELECTRIC ILLUMINATING COMPANY
LICENSE AGREEMENT FOR POLE ATTACHMENT CONDITIONS – SHEET 2 of 2

1. A sketch showing the exact location of Licensor's poles must be submitted, in duplicate, with application and said sketch will be attached to, and become a part of, this agreement.
2. Immediate notice shall be given of any changes or additions to the attachments covered under this agreement. Failure of Licensee to notify Licensor of such changes or additions may be considered sufficient cause for termination of this license.
3. Licensee shall have the sole responsibility and obligation to make and maintain all attachments in a manner approved by the Licensor and in accordance with any federal, state or local law or ordinance or rule or regulation of any regulatory body having jurisdiction over such matters as may now or hereinafter be in effect; and this agreement does not obligate Licensor to inspect such attachments at any time or advise Licensee of any noncompliance.
4. The Licensee shall indemnify and save harmless the Licensor against any and all damage or loss that may result to the equipment or any property owned or used by the Licensor; from and against any and all legal and other expenses, claims, costs, losses, suits or judgments for damage or injuries arising to persons or property, or in any other manner by reason of the use or maintenance of its attachments to the poles and fixtures of the Licensor, or by reason of the acts or negligence of the agents or the employees of the said Licensee while engaged in the work of placing, maintaining, renewing or removing said attachments on said poles and fixtures, including claims made by third parties or employees of Licensee.
5. The Licensee shall not assign or sublet any of the privileges including use of the attachments of the actual system described in this agreement without the consent in writing of the Licensor.
6. Nothing herein contained shall be construed to confer upon the Licensee any rights of property in the poles and fixtures of the Licensor, or as a guarantee to the Licensee of permission from the municipal or state authorities to place or maintain its attachments to said poles and fixtures. Licensee warrants it has all municipal, state, and Federal approvals and rights to use the attachments and related system as it intends. Upon request, Licensee must disclose the use of its pole attachments and related system and provide evidence of such secured approvals and rights.
7. The Licensor may at any time upon sixty (60) days' notice in writing to Licensee, terminate this license. The Licensee shall at its own expense remove its wires and appliances from Licensor's pole within ten (10) days after termination of said license, and in event of its failure so to do, the Licensor may remove said attachments at Licensee's expense, for which expense said Licensee shall reimburse Licensor on demand plus 15%.
8. If this license shall terminate before expiration of the period for which an annual charge shall be paid, the Licensee shall pay a minimum charge of one year.
9. In case the Licensor shall entirely abandon any jointly used poles, it shall notify Licensee to that effect in writing and Licensee shall have the privilege of purchasing such poles before their removal at the appraised value thereof at time of abandonment. Licensee shall either exercise said privilege or remove its attachments from said poles within thirty (30) days after receipt of said notice. If Licensee shall not within thirty (30) days after receipt of said notice comply with said terms or remove said wires and appliances, Licensor may remove them at Licensee's expense without any liability whatever for such removal or the manner of making it for which expense Licensee shall reimburse Licensor on demand plus 15%.
10. If Licensee shall fail to comply with any of the terms of this agreement or if its attachments or related system do not conform to municipal, state or federal rules and regulations, the Licensor may give Licensee written notice to comply with said terms or remove the wires and appliances in respect to which said terms are violated and if Licensee shall not within thirty (30) days after receipt of said notice comply with said terms or remove said wires and appliances, Licensor may remove them at Licensee's expense without any liability whatever for such removal or the manner of making it for which expense Licensee shall reimburse Licensor on demand plus 15%.
11. Failure of Licensor to exercise any of its rights hereunder shall not be construed as a relinquishment of any such rights, but the same shall continue in full force and effect.
12. Licensee shall secure and maintain in force minimum policies of insurance of the types listed below and shall furnish to Licensor, upon consent to place attachments on any poles, certificates of insurance evidencing current coverage listed below. (collectively, the "Policies")
 - a. Commercial General Liability (CGL) insurance including products-completed operations, independent contractors, and contractual liability coverages with minimum limits of \$2,000,000 per occurrence, combined single limit for bodily injury (including disease or death), personal injury, and property damage (including loss of use) liability.
 - b. Automobile Liability insurance, including non-ownership and hired car endorsement, with minimum limits of \$1,000,000 per occurrence, combined single limit.
 - c. Worker's Compensation coverage in the statutory amounts under the worker's compensation act(s) of the location(s) in which the Work is to be performed, for the current period.
 - d. Employer's Liability with a minimum limit of \$1,000,000 for each accident or illness.

Any of the above per-occurrence limits may be satisfied by a combination of primary and excess liability coverage.

FirstEnergy Corp. and its subsidiaries and affiliates shall be included by Licensee as an additional insured to, the policies for the portion of any losses resulting from, or related to, the Licensee's sole or concurrent negligence. The Policies shall provide primary and non-contributory coverage in relation to any insurance Licensor carries for the same losses, and includes a separation of insured's provisions. A copy of the endorsement adding FirstEnergy Corp. and its subsidiaries and its affiliates as an additional insured (blanket endorsement is acceptable) shall be attached to the certificate of insurance providing general liability coverage.

The Policies shall not be canceled or allowed to lapse, and no change shall be made in this policy altering, restricting or reducing the insurance provided or changing the name of the insured without first giving at least thirty (30) days' notice in writing to Licensor, with receipt of notice acknowledged. In the event of cancellation or lapse of or prohibited change in any Policy, Licensor shall have the right to suspend provision of the work of Licensee until the Policy and certificates in evidence thereof are reinstated or arrangements acceptable to Licensor are made pending issuance of new policies and certificates. If any Policy shall be about to lapse or be canceled, Licensee shall, obtain a new Policy with like coverage, and if Licensee fails to do so, Licensor may terminate the Agreement.

Licensee hereby waives (and any of its Subcontractors shall waive) any rights of subrogation they or any of their insurers may have against Licensor, and each non-affiliated company disclosed in the Agreement, their respective agents or employees.

13. All attachments shall be placed as provided in Licensor's written consent and shall be installed and at all times maintained by Licensee in compliance with the requirements of all applicable federal, state, county and municipal codes and regulations, the most current edition of the National Electrical Safety Code and the Licensor's Construction Standards. Where applicable, Licensee shall comply with all pertinent provisions and be certified or licensed to perform the work according to OSHA Regulations.