

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PURCHASE AGREEMENT TO PURCHASE 64 WEST SHORE ROAD FROM THOMAS AND MARY HUERNER AND DECLARING AN EMERGENCY.

WHEREAS, the City of Avon Lake, as buyer, and Thomas and Mary Huerner, as sellers, desire to enter into a Purchase Agreement of 64 West Shore Road, Lorain County Permanent Parcel No. 04-00-006-101-082.

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

Section No. 1: That the Mayor is hereby authorized and directed to execute an agreement (Exhibit 1) for the purchase of 64 West Shore Road, Lorain County Permanent Parcel Nos. 04-00-006-101-082 for the sum of Four Hundred Thousand Dollars (\$400,000).

Section No. 2: That the Mayor and Finance Director are authorized and directed to execute all instruments and take such actions as may be required to complete such transfer.

Section No. 3: That all actions taken by the Mayor and his Administration to effectuate the transaction on behalf of the City are duly ratified and confirmed.

Section No. 4: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance 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. 5: That this Ordinance is hereby declared to be an emergency measure to ensure the timely and efficient operations of the City, thus for the public welfare. Therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: 5/22/2023

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

POSTED: 5/26/2023

APPROVED: 5/23/2023

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

/s/ Gregory J. Zilka  
Mayor

## RESIDENTIAL REAL ESTATE PURCHASE AGREEMENT

1. OFFER: ACCEPTANCE. AVON LAKE REGIONAL WATER by and through THE CITY OF AVON LAKE, OHIO, an Ohio municipal corporation, ("Buyer"), hereby offers and agrees to buy and THOMAS AND MARY HUERNER, ("Seller"), hereby agrees to sell the property described below. As used herein the "date of this Agreement" shall mean the date the last party to sign its acceptance.

2. THE PROPERTY.

Address: 64 West Shore Road, Avon Lake, Ohio aka Lorain County Parcel ID No. 04-00-006-101-082 totaling approximately (+/-) 0.17 acres, more fully depicted and described in Exhibit "A" which is attached hereto and incorporated herein by reference.

The "Property" shall include the land described above, all easements, hereditaments, appurtenances, all buildings and fixtures in the present condition, and all of the following items as are now in the property: electrical, heating, plumbing and bathroom fixtures; light bulbs; shades, blinds, curtain rods and drapery hardware; awnings, screens, screen doors, storm windows and storm doors; landscaping; TV antenna; radiator covers; built-in appliances; tacked down carpeting; garage door openers and controls; attached smoke and/or fire detectors and security systems; fireplace grates and screens; and attached mirrors.

3. PURCHASE PRICE. The price shall be \$400,000.00 (the "Purchase Price"), to be paid as follows:

- a. \$1,000.00 Earnest money deposit (the "Deposit") in the form of a check payable to the Title Company (as hereinafter defined) to be delivered to Seller and deposited in escrow within seven (7) days following the date of this Agreement.
- b. The balance of the Purchase Price plus any prorations stated herein shall be paid to the Title Company on the Closing Date (as hereinafter defined).

4. CONDITIONS OF THE PROPERTY; DISCLOSURES.

a. Purchase of the Property "As-is". Except as provided to the contrary in this Agreement, Buyer and Seller agree that the Property is being purchased and sold in its present condition, "AS-IS," without any warranties or representations.

b. Buyer's Use of Property Buyer, after it obtains actual possession of the Property, contemplates that it will demolishing the existing house and other structures located upon the Property and thereafter use the real property in conjunction with the expansion of Avon Lake Regional Water facilities.

c. State of Ohio Residential Property Disclosure Form. Buyer hereby waives its right to receive a State of Ohio Residential Property Form from Seller and waives any right it may have pursuant to Ohio law to terminate this contract as a result of Seller's failure to provide Buyer with a completed Ohio Residential Property Disclosure Form prior to closing.

d. Private inspection. Buyer shall have fifteen (15) days following the date of this Agreement (the "Inspection Deadline") to cause the Property to be inspected by one or more persons of Buyer's choosing and to notify Seller in writing of any deficiencies disclosed by such inspection(s). Seller agrees to cooperate with such inspection(s). If Buyer does not notify Seller of any deficiencies prior to the Inspection Deadline, then Buyer shall be deemed to accept the Property in its present, AS-IS condition. If Buyer gives timely notice, specifying such deficiencies, then, unless Buyer and Seller otherwise agree in writing, this Agreement shall terminate seven (7) days after Seller's receipt of Buyer's notice.

e. Government Requirements. To the best of Seller's knowledge, there are no outstanding violations of any statutes, ordinances, rules or regulations affecting the Property as set forth in any notice from any governmental authority. If any governmental notices of violations are received prior to the Closing Date, Seller will immediately advise Buyer. Seller shall be responsible for complying with the requirements of any point-of-sale ordinance or similar governmental requirements applicable to the Property, unless the parties otherwise agree in writing.

a. Lead Warning Statement. Every purchase of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

5. SELLER'S RIGHT TO REMOVE IMPROVEMENTS. Seller, upon transfer of ownership of the Property to Buyer shall be allowed to remove and take with them when they vacate the premises the existing arbor, plants, shrubs and bricks that are currently located upon the real property and the additional items of personal property and chattels that are attached to or located within the house currently located upon the property, including, but not limited to the items list of items set forth on the attached list that has been marked as Exhibit B, is attached hereto and incorporated herein.

6. DAMAGE. Seller shall bear the risk of loss and shall maintain adequate insurance until title transfer. If any portion of the Property is damaged or destroyed prior to Closing, Seller shall promptly notify Buyer of such damages and of the amount of insurance proceeds payable (exclusive of proceeds specifically for damage to personal property of Seller not to be conveyed to Buyer). If the amount of damage (determined by the insurance adjuster) exceeds the lesser of 10% of the Purchase Price or \$5,000.00, the Buyer shall have the option, to be exercised by notice to Seller not later than five (5) days after notice from Seller, to: (a) complete the transaction and receive the proceeds of any insurance payable for damage to the Property plus a credit at Closing equal to the

amount of the “deductible”, or (b) terminate this Agreement. The failure of Buyer timely to exercise its option shall be deemed an election to complete this transaction. If the amount of the damage is less than the amount specified above, then Buyer shall be required to accept the insurance proceeds plus a credit at Closing equal to the amount of the damage not paid by insurance.

7. TITLE.

a. Seller shall convey marketable title to the Property to Buyer, or Buyer's nominee, by general warranty deed (the “Deed”), with release of dower, if any, free and clear of all liens and encumbrances except the “Permitted Exceptions”, defined as follows: (1) any mortgage which Buyer has agreed to assume; (2) real estate taxes and assessments which are not yet due and payable; (3) zoning ordinances, if any; (4) restrictions, conditions, reservations, and easements of record, if any, and (5) any liens or encumbrances created by the acts of Buyer or waived by Buyer as provided in 7D.

b. Seller shall furnish Buyer, or its nominee, with an ALTA Owner's Policy of Title Insurance (the “Title Policy”) issued by Erie Commercial Title, Attn: Jackie Shear, 868 Corporate Way, Westlake, Ohio 44145; (216) 689-1050; [jacquelineshear@ecommtitle.com](mailto:jacquelineshear@ecommtitle.com) (the “Title Company”) insuring title to the Property to be good in Buyer, or its nominee, as of the filing of the deed for record, subject only to the Permitted Exceptions.

c. Seller shall furnish a copy of the commitment for such title policy (the “Title Commitment”) to Buyer and Buyer's lender, if any, or their respective attorneys, not less than fifteen (15) days prior to the Closing Date.

d. If the Title Commitment shall disclose any defect in Seller's title or any lien, or encumbrance other than the Permitted Exceptions (the “Title Objections”), then, unless Buyer shall have waived the Title Objections in writing, Seller shall have thirty (30) days after receipt of the Title Commitment to provide Buyer with evidence to Buyer's satisfaction that the Title Objections have been removed or will be removed at Closing, failing which, Buyer may elect to (1) accept title subject to the Title Objections without reductions in the Purchase Price, or (2) terminate this Agreement by giving written notice to Seller and the Escrow Agent within ten (10) days after such thirty (30) day period has expired. If Buyer shall fail to timely elect to terminate, then Buyer shall be deemed to have waived the Title Objections.

e. Buyer, at Buyer's cost, may cause a registered surveyor to make a boundary or location survey for the Property. If a survey shall disclose any matter which materially and adversely affects the use or value of the Property, then Buyer may so notify Seller and the Escrow Agent in writing no later than thirty (30) days after receipt of the Title Commitment, in which event such matter shall be deemed to be a Title Objection.

8. ESCROW. The Escrow Agent for this transaction shall be the Title Company. Buyer shall deliver to the Escrow Agent a copy of this Agreement which shall serve as its escrow instructions for this transaction. The Escrow Agent may accept this escrow subject to its standard conditions of acceptance of escrow, to the extent they are not inconsistent with this Agreement.

9. CLOSING AND DELIVERY OF POSSESSION. All documents and funds and/or financial institution commitments for funds necessary to complete this transaction shall be placed in escrow in sufficient time to permit transfer of title on the Closing Date (as defined below). The Escrow Agent shall file the Deed for record (the "Closing") and complete this transaction in accordance with the provision of this Agreement on or before June 16, 2023, subject to extension for curing Title Objections, as provided in 7D, or on such other date as Buyer and Seller may mutually agree in writing (the "Closing Date"), provided that the Escrow Agent has reviewed all funds and documents required to be deposited with it for the closing and the Title Company is in a position to issue the Title Policy. Seller shall deliver possession of the Property to Buyer, free of any tenants' possessory rights, broom clean, at 6:00 p.m. no later than the expiration of the Lease Agreement, as defined below (the "Delivery Date").

10. LEASE-BACK. The parties shall cooperate in good faith from the Effective Date hereof until the Closing Date to negotiate a lease of no more than one (1) year of the Property (the "Lease") for Seller to occupy the Property from and after the Closing Date. Seller, as Tenant, shall enter into a lease with Buyer at Closing with respect to the Property, in a form substantially similar as the form lease attached hereto as Exhibit "C". If any such leases exist, all existing leases (and memoranda thereof) shall be terminated by Seller and existing tenants at Closing. Seller shall be responsible for the cost and expense of water and sewer, municipal garbage, rubbish removal and other utilities serving the Real Property through and including the date immediately preceding the Delivery Date. Buyer shall be responsible for all assessed real property taxes, during the Lease term.

#### SELLER'S COVENANT'S

a. Seller is not aware of any improvements made without obtaining proper. necessary permits and all permits obtained for Property improvements have been properly closed.

b. Seller shall use the Property as ordinarily as dwelling and shall maintain and repair the Property so that, on the Delivery Date, the Property will be in the same condition as it exists on the date of this contract, ordinary wear and tear and loss by insured casualty alone excepted.

c. Except for this Agreement and the Lease contemplated hereby, Seller shall not enter into or amend any agreement that would bind Buyer or any other agreement of any kind whatsoever with respect to all or any portion of the Property, including without limitation, any agreement to purchase, sell, option, lease or otherwise dispose of or alienate all or any portion of the Property.

d. Between the Effective Date and the Closing, Seller shall not, without Buyer's prior written consent: (i) amend, renew or extend any lease in any respect, unless required by law; (ii) grant a written lease to any tenant occupying space without a written lease; (iii) terminate any lease or evict any tenant except by reason of a default by the tenant thereunder; (iv) consent to the assignment of a lease or subletting by any tenant except as required by the terms of the applicable lease or by law; or (v) permit anyone to use or occupy any space pursuant to an oral agreement.

e. Seller shall not, without Buyer's prior written consent, permit occupancy of, or enter into any new lease for use or enjoyment of the Property which is presently vacant or which may hereafter become vacant.

f. Between the Effective Date and the Closing Date, Seller will make all payments of principal and interest and all other payments required under the existing financing of the Property. On or before the Closing, Seller shall satisfy all debts secured by the Property or other liens or judgments filed against the Property.

g. Seller shall not seek to amend or change the Property's Permits and zoning classification or to enter into any zoning lot declaration or zoning lot development agreement.

h. Seller shall not actively market the Property or enter into or negotiate any agreement, letter of intent, or term sheet, binding or not, with anyone else for the Property and shall not allow anyone else to perform any due diligence for the Property.

i. To Seller's knowledge and except as may be disclosed in any environmental reports delivered to Buyer: (i) no Hazardous Materials (all substances or materials defined as "hazardous substances," "hazardous materials," "hazardous wastes," "pollutants," "contaminants," "toxic substances" or other similar terms in any of the Environmental Laws, including, but not limited to, petroleum, including any fraction thereof or petroleum products, asbestos or asbestos-containing materials, polychlorinated biphenyls ("PCBs") or any other regulated substances) have been stored at, disposed of or are located in, on, under or about the Real Property; (ii) no Hazardous Materials have been released, buried or accumulated in, on under or about the Real Property; (iii) neither the Real Property nor any part thereof is contaminated by or contains any Hazardous Materials; (iv) no underground storage tanks are present at the Real Property; and (v) no permit is required from the Ohio or United States Environmental Protection Agency for the use or maintenance of any improvement or facility on or about the Real Property. To Seller's knowledge, there is no liability, whether asserted or unasserted, fixed or contingent, relating to the Real Property or any part or parts thereof resulting from any environmental matters, including, without limitation, the release, discharge, disposal, storage, accumulation, transport, leakage, spillage or other actions or omissions with respect to Hazardous Materials or any breach or violation of any Environmental Laws.

## 12. BUYER'S REPRESENTATIONS AND WARRANTIES.

a. Buyer is an Ohio municipal corporation, validly existing and in good standing under the laws of the State of Ohio and has all requisite power and authority to own and sell the Property.

b. The execution, delivery and performance of this Agreement by Buyer have been duly and validly authorized in the manner required by its Charter, Ordinances and laws of the State of Ohio, and this Agreement is a valid and binding obligation of Buyer, enforceable according to its terms.

## 13. PRORATIONS, CHARGES AND CREDITS.

a. Real estate taxes, assessments (general and special), annual maintenance fees and subdivision charges shall be prorated as of the Closing Date (charging/crediting items applicable to the Closing Date to Seller), using as the basis for the proration of taxes and assessments the rate and valuation shown for the Property on the last available tax duplicate. The proration of taxes and assessments shall be final.

Seller warrants that Seller has received no written notice of any proposed assessment from any governmental authority.

b. Seller, pursuant to the Lease, shall keep all utilities serving the Property in name of Seller. Seller shall order final meter readings to be made as of the Delivery Date for all utilities serving the Property and Seller shall pay all final bills rendered from such meter readings.

c. The Escrow Agent shall charge to Seller: (1) ½ the cost of Title Commitment, the cost for the title search, and the premium for the Title Policy; (2) the conveyance fee and transfer taxes; (3) the cost of removing or discharging any defect, lien or encumbrance required for conveyance of the Property as required by this Agreement; (4) the amount due to Buyer for any proration or credit under this Agreement; and, (5) ½ the escrow fee.

d. The Escrow Agent shall charge to Buyer: (1) the cost of recording the Deed; (2) ½ the cost of Title Commitment, the cost for the title search, and the premium for the Title Policy; and (3) ½ the escrow fee.

14. NOTICE. All notices given pursuant to this Agreement shall be communicated in writing (including by facsimile or electronic mail) and shall be deemed given upon actual receipt.

15. TERMINATION. If a party has performed its obligations under this Agreement and, being entitled to do so, that party has elected to terminate this Agreement, then the party shall give the other party and the Escrow Agent written notice of the termination within three (3) days following the date on which the right to terminate arose (or such other date as specified herein). Except as otherwise specified in this Agreement, upon any such permitted termination, the Escrow Agent shall promptly return the Deposit to Buyer and return all funds and documents to the party which deposited them, whereupon Seller, Buyer and the Escrow Agent shall be relieved of any liability hereunder, except that Seller shall be liable for any title and escrow charges incurred to prior to termination.

16. DEFAULT; REMEDIES. Time is of the essence of this Agreement. If Buyer fails to make payment of the Purchase Price promptly when the same shall become due, or defaults in the performance of any covenant or agreement herein contained, and such failure or default continues for ten (10) days following written notice from Seller, then Seller may terminate this Agreement. Upon such termination, the Escrow Agent shall deliver the Deposit (after deducting any title and escrow charges incurred prior to such termination) to Seller as liquidated damages as Seller's sole remedy for such default, unless Seller notifies the Escrow Agent and Buyer upon such termination of Seller's election to pursue other legal or equitable remedies. If Seller fails to perform

any obligation imposed by this Agreement, and such failure continues for five (5) days following written notice from Buyer, Buyer may elect to terminate this Agreement or to pursue any legal or equitable remedy. In the event of any dispute between the parties arising out of this Agreement, the prevailing party in such dispute shall be entitled to recover from and be paid by the other party all costs and expenses incurred in connection with such dispute, including reasonable counsel fees and court costs and expenses.

17. ASSIGNMENT. This Agreement may be assigned freely by Buyer, in whole or in part, without the prior written consent of Seller. This Agreement may not be assigned by Seller, in whole or in part, without the prior written consent of Buyer.

18. ENTIRE AGREEMENT. This Agreement, including any Addendum Clauses and Exhibits, constitutes the entire agreement between the parties. No other conditions, representations, warranties or agreements, expressed or implied, have been made or relied upon by Buyer or Seller. The representations, warranties and agreements contained in this Agreement shall survive the transfer of title.

19. PARTIES BOUND AND BENEFITTED. This Agreement shall bind and benefit the parties hereto and their respective heirs, personal representatives, successors and assigns.

20. REAL ESTATE BROKER. No real estate broker is owed a commission in connection with the sale of the Property.

21. COUNTERPARTS. This Agreement may be executed by the parties in counterparts, each of which shall be deemed an original, but all of such counterparts taken together shall constitute one and the same Agreement.

THIS AGREEMENT IS A LEGALLY BINDING CONTRACT. IF YOU HAVE ANY QUESTIONS OF LAW, CONSULT YOUR ATTORNEY.



<p>BUYER:</p> <p>AVON LAKE REGIONAL WATER</p> <p>BY: _____</p> <p>Date: _____</p> <p>CITY OF AVON LAKE, an Ohio Municipal Corporation</p> <p>BY: _____</p> <p>Date: _____</p>	<p>SELLERS;</p> <p>_____</p> <p>Thomas Huerner</p> <p>_____</p> <p>Mary Huerner</p>
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**APPROVED AS TO LEGAL FORM:**

\_\_\_\_\_

Director of Law

City of Avon Lake, Ohio

**CERTIFICATE OF THE DIRECTOR OF FINANCE**

I hereby certify that the amount required to meet the City's obligations under this Contract has been lawfully appropriated and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrance.

\_\_\_\_\_

Director of Finance

Date: \_\_\_\_\_

**ACCEPTANCE BY ESCROW AGENT**

The Escrow Agent hereby accepts this Agreement in accordance with Paragraph 7 of this Agreement.

Name: \_\_\_\_\_

Signed by: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT "A"**  
**Legal Description**

PERMANENT PARCEL NO. 04-00-006-101-082

Situated in the City of Avon Lake, County of Lorain and State of Ohio: and known as being part of Original Avon Township Section No. 6 and bounded and described as follows: Beginning at a point at the intersection of the center line of Lake Road 60 feet wide and Moore Road 60 feet wide; thence North along centerline of Moore Road 378 feet; thence West along the centerline of West Shore Road 40 feet wide, 107.52 feet to a stone set at the point of curve; thence North 20 feet to the Northerly line of West Shore Road on a curved line deflecting to the left 27.96 feet, said curved line having a radius of 244.56 feet and a chord which bears South 87°40'30" West 27.96 feet; thence continuing along the Northerly line of West Shore Road on a curved line deflecting to the left 35 feet, said curved line having a radius of 344.55 feet and a chord which bears South 82°26'30" West, 34.98 feet; thence continuing further along the Northerly line of West Shore Road on a curved line deflecting to the left 35 feet to the principal place of beginning, said curved line having a radius of 344.55 feet and a chord which bears south 76°37'20" West, 34.98 feet; thence North 0°43'20" West 123.56 feet; thence South 58°25' West 40 feet; thence South 1°39'30" East 113.77 feet to the Northerly line of West Shore Road 40 feet wide; thence Easterly along said Northerly line of West Shore Road North 69°24'50" East 8.37 feet to a point of curve; thence along the Northerly line of West Shore Road on a curved line deflecting to the right 25.84 feet to the principal place of beginning, said curved line having a radius of 344.55 feet and a chord which bears North 71°33'40" East 25.84 feet together with all the hereditaments and appurtenances thereof, but subject to all legal highways, according to survey made by W.E. Holland Engineering Company, Cleveland, Ohio July 21, 1920. Said premises being further known as Sublot No. 17 in the West Shore Realty Company's proposed Sandy Beach Subdivision. Situated in the City of Avon Lake, County of Lorain, and State of Ohio and being part of section No. 6, and further described as follows: Beginning at a point at the intersection of center line of Lake Road 60 feet wide and the centerline of Moore Road; thence North along the centerline of Moore Road, 378 feet; thence West along the centerline of West Shore Road (40 feet wide) 107.52 feet to a stone set at the point of curve; thence North to the Northerly line of West Shore Road on a curve deflecting to the left 35 feet to the principle place of beginning. Said curved line having a radius of 344.55 feet and a chord which bears South 82°26'30" West, 34.98 feet. Course No. 1 of lot being conveyed by this deed. Thence North 00°14'10" West, 123.53 feet. Course No. 2 of same. Thence South 77°02'30" West, 36 feet. Course No. 3; thence South 00°43'20" East, 123.56 feet to the Northerly line of West Shore Road 40 feet. Course No. 4 of same. Thence Easterly along said Northerly line of West Shore Road on a curved line deflecting to the right, 35 feet to the principal place of beginning, together with all hereditaments and appurtenances thereof, but subject to all legal highways. And further known as being Sublot No. 18 in the Sandy Beach Subdivision according to a survey made by W. E. Holland Engineering company of Cleveland, Ohio, December 1919, be the same more or less, but subject to all legal highways.

Property Address: 64 West Shore Rd., Avon Lake OH 44012

## **EXHIBIT B**

Schedule of Items that may be removed from the Property by Seller

- The Arbor;
- Walkway and patio bricks;
- Any or all plants and shrubs;
- The Bird corner brackets on the front porch;
- The Refrigerator;
- Family room shelf;
- Door to stairway;
- All ceiling fans;
- Medicine cabinet;
- Kitchen cabinet; and
- Fish sink

EXHIBIT C  
Lease Agreement

See attached.

## Exhibit "B"

### RESIDENTIAL LEASE

This lease agreement (the "Lease") is made \_\_\_\_\_, 2023 between AVON LAKE REGIONAL WATER through THE CITY OF AVON LAKE, OHIO, an Ohio municipal corporation (collectively the "Landlord"), whose address is 201 Miller Rd, Avon Lake, OH 44012 and THOMAS AND MARY HUERNER (collectively the "Tenant"), for lease of the premises located at 64 West Shore Road, Avon Lake, County of Lorain, Ohio 44012 (the "Premises").

All capitalized terms used in this Lease shall have the meaning as defined in this agreement unless otherwise specifically defined. Any reference to a Lease provision in this agreement shall be deemed to also include any obligation, covenant, term, duty, condition, or agreement under this Lease.

THIS AGREEMENT SHOULD BE READ AND UNDERSTOOD BEFORE BEING SIGNED. IT IS A BINDING LEGAL AGREEMENT.

1. **Term of Lease.** The term (the "Lease Term") of this Lease will be for a period of one (1) year, beginning immediately following Closing as defined in the Residential Real Estate Purchase Agreement between the above parties for the Premises (the "Commencement Date"), and will end no later than one year after the Commencement Date (the "Termination Date"), except as otherwise described herein or as otherwise extended pursuant to a permitted Lease extension or renewal. Use of the term "Lease" or "Lease Term" in this agreement refers to the lease term, which shall be the sole Lease Term provided to Tenant.
2. **Rent and Late Charges.** The Lease Term rental (not including any permitted extension or renewal term) is \$1.00 (the "Rent") payable prior to the Commencement Date.
3. Rent shall be payable in the following forms: cash or personal check. Rent shall be paid by mailing or delivering the rent payment to the address disclosed in the first paragraph of this lease. Any payment set forth in this Lease due to the Landlord as additional rent (the "Additional Rent") shall be payable and subject to the same provisions as the payment of Rent and shall be payable within 30 days of invoice to Tenant. The Landlord shall have the same right to collect and enforce the payment of Additional Rent as with the payment and collection of Rent. Any reference to a default of the payment of Rent shall be deemed to also include a reference to a default of the payment of Additional Rent.
4. **INTENTIONALLY DELETED.**
5. **Termination Option.** Tenant shall have the option to terminate this Lease at the end of any month of the Term by giving Landlord notice of termination at least thirty (30) days before the end of that month. If Tenant exercises this option, this Lease shall terminate at the end of that month in the same manner and with the same effect as though the term of this Lease expired at the end of that month.

This lease term shall not renew, and is entered by the parties for a single one (1) year Lease Term, to facilitate the Residential Purchase Agreement between the parties.

- 6. Utilities and Services.** Tenant is responsible for the payment of all utilities at the Premises. Tenant agrees to promptly pay all bills and charges for utilities and services furnished to the Premises. Any payment due the Landlord under this Paragraph 6 shall be considered Additional Rent.
- 7. Interruption in Utilities and Services.** The Landlord is not liable for any stoppage, interruption or reduction of utilities or services caused by factors or forces beyond the Landlord's control or for any loss or damage to the Tenant or other loss or cost incurred by the Tenant for any food spoilage, appliance or electronic device damage or any damage to any personal property of the Tenant as a result of such stoppage, reduction or interruption. If there is such a stoppage, reduction or interruption, the Landlord shall, as soon as reasonably possible, take all steps within the Landlord's control to restore the service. Nothing in this Paragraph 7 shall be construed to waive the Landlord's warranty of habitability, or to limit the Tenant's remedies in the event of a breach of that warranty.
- 8. Use of Premises.** The Tenant shall possess and use the Premises only as a private residence for the Tenant and the Tenant's minor children, if any. No other occupant or other use is permitted. Occupancy by any other persons is prohibited without written permission from the Landlord. The Tenant will comply with all legal requirements for the use of the Premises and will not use the Premises for unlawful purposes. The Tenant shall not cause, maintain, or permit any nuisance in, on, or about the Premises, or commit any waste in or on the Premises. No Tenant, or any of the Tenant's family, guests, or visitors, shall disturb or annoy neighboring occupants by: any unseemly, offensive or untimely noises; offensive odors; emitting any light from any portion of the Premises which is unreasonably bright, disturbing, or causes unreasonable glare; or by any interference in any way. The Tenant shall not use or permit the Premises to be used for any illegal purpose. No pets are permitted without the express written consent of the Landlord.

The Tenant shall not violate or permit any other person within the Premises who is there with permission of the Tenant to violate drug related activity defined and prohibited in Ohio Rev. Code §§ 2925.01 and / or 3719.01 et seq., or any similar ordinance enacted by the municipality in which the Premises is located. The Tenant shall not permit any person to occupy the Premises if both of the following apply to such person: (a) the person's name appears on the state registry of sex offenders and child-victim offenders maintained under Ohio Rev. Code § 2950.13, and (b) the state registry of sex offenders and child-victim offenders indicates that such person was convicted of or pleaded guilty to either a non-registration exempt sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for such offense.

- 9. Repair and Maintenance.** Tenant acknowledges that the Premises are now in good repair. Throughout the term of this Lease, Landlord shall comply with the requirements set forth in Section 5321.04 of the Ohio Revised Code, including, but not limited to the

requirement to provide all repairs and maintenance reasonably necessary to keep the Premises in a fit and habitable condition. Throughout the term of this Lease, Tenant shall (a) keep the Premises in a safe and sanitary condition; (b) dispose of all rubbish, garbage and other waste in a clean, safe and sanitary manner; (c) keep all plumbing fixtures in the Premises or used by Tenant as clean as their condition permits; (d) use and operate all electrical and plumbing fixtures properly; (e) comply with the requirements imposed on tenants by all applicable state and local housing, health and safety codes; (f) personally refrain and forbid any other person who is on the Premises with Tenant's permission from intentionally or negligently destroying, defacing, damaging or removing any fixture, appliance or other part of the Premises; (g) maintain in good working order and condition any range, refrigerator, washer, dryer, dishwasher, or other appliances supplied by the Landlord; (h) conduct himself or herself, and require other persons on the Premises with Tenant's consent to conduct themselves, in a manner that will not disturb his or her neighbors' peaceful enjoyment of the premises; and (i) conduct himself or herself and require other persons in his or her household and persons on the Premises with his or her consent to conduct themselves, in connection with the Premises, so as not to violate the prohibitions contained in Chapters 2925 and 3719 of the Ohio Revised Code, or in municipal ordinances that are substantially similar to any section in either of those chapters, which relate to controlled substances. At the termination of this Lease, Tenant shall surrender the Premises to Landlord in the same order and state of cleanliness they were in when Tenant first occupied the Premises.

Without limiting the above, Tenant shall keep and maintain the walls, ceilings, floors, woodwork, paint, plastering, plumbing, pipes, fixtures, windows, all other interior portions of the Premises, and the lawns, yards, sidewalks and drives on or about the Premises in a clean, sightly, and sanitary condition, and free of ice and snow. Tenant shall keep the lawn mowed, shrubbery trimmed and the yard free of excessive weed growth, so that the lawn and yard shall at all times be maintained in a neat and presentable condition.

**10. Delivery of Possession and the Tenant's Right to Quiet Enjoyment.** The Tenant is currently in actual possession of the Premises and shall remain in the Premise upon the Commencement Date.. The Tenant shall be entitled to the quiet enjoyment of the Premises, free from any interference from the Landlord or any person under the Landlord's control, during the Lease Term as long as the Tenant is not in default of any provision of this Lease.

**11. Liability of the Landlord and the Tenant.** The Landlord shall be exempt from any and all liability for any damage or injury to any person or property caused by or resulting from any cause or happening whatsoever, unless the damage or injury is caused by or due to the intentional or negligent act or omission of the Landlord. The Tenant assumes the full responsibility and cost of defending, compromising, discharging, or otherwise satisfying any loss, liability, claim, or action that occurs due to the negligent acts or omissions of the Tenant or the Tenant's family, visitors, or other persons on the Premises with the consent of the Tenant. The Tenant shall also be responsible to reimburse to the Landlord any cost incurred due to the negligent act or omission of the Tenant, the Tenant's family, visitors, or other persons on the Premises with the Tenant's permission.



The Tenant must give prompt written notice to the Landlord of any condition or defect affecting the Premises that the Tenant could reasonably foresee resulting in liability or loss. This notice must be given within 24 hours after the Tenant knows of the condition or defect affecting the Premises. Any payment due under this Paragraph 11 shall be treated as Additional Rent and shall be paid with the first monthly Rent payment following presentation of an invoice from the Landlord to the Tenant. In case of any dispute between the Landlord and the Tenant concerning the amount of payment due for costs incurred pursuant to this Paragraph, the Tenant agrees to pay the amount claimed by the Landlord without prejudice to the Tenant's right to recover any excess through appropriate legal proceedings.

**12. Conduct of the Tenant.** The Tenant must have regard and consideration for the comfort and convenience of other tenants in the building in which the Premises are located. The Tenant will be responsible for the acts and conduct of the Tenant's family, visitors, and any other persons on the Premises with the Tenant's permission or in the building in which the Premises are located.

**13. Fire Hazards and Insurance.** The Tenant agrees to use every reasonable precaution against fire and to promptly notify the Landlord of any fire hazard, fire, or other accident in the Premises. The Tenant shall not use the Premises or permit them to be used in such a manner that fire insurance or other insurance placed on any portion of the Premises shall be canceled, suspended, or rated a more hazardous risk than at the date of the execution of this Lease. On the Tenant's breach of this obligation, the Landlord may, in addition to other remedies provided by the Lease or by law, collect from the Tenant, as Additional Rent, any increase in premiums on insurance carried on the Premises.

**14. Insurance on the Tenant's Belongings and Crime Insurance.** The Landlord carries no insurance covering loss to any of the Tenant's belongings, whether located or stored inside or outside the Premises. The Tenant has total responsibility for securing insurance protection against loss by fire or other cause to the Tenant's belongings.

**15. Alterations and Repairs.**

The Tenant agrees not to attach or install awnings, television or radio aerials, satellite receivers, screens, signs or anything else to the building in which the Premises are located, or to balconies outside the building or to the Premises. The Tenant agrees not to paint, wallpaper, or make any other alterations, improvements, changes, or additions to the Premises, building, or balconies without the prior written consent of the Landlord. The costs of materials and labor for such permitted paint, wallpaper, alterations, improvements, changes, or additions shall be at the sole cost of the Tenant, and such work shall be in compliance with all other terms and requirements of this Lease. The Tenant shall remove any attachments, installations, alterations, improvements, or additions at the Termination Date and shall restore the Premises to the same condition as existed at the Commencement Date (or the date of possession, whichever is later), reasonable wear and tear excepted. All costs of removal and restoration shall be at the Tenant's expense. If the Tenant fails to restore the Premises as required, the Landlord may do so and assess the cost as damages to the Premises.

Regardless of any other provisions in the Lease, The Tenant, at any time during the lease term, may remove any or all of the items permitted to be removed by the Seller in accordance with Section 5 of the Purchase Agreement between Avon Lake Regional Water, as Buyer, and Thomas and Mary Huerner, as Seller, dated \_\_\_\_\_, 2023.

**16. The Landlord's Right of Entry.**

- (a) The Landlord shall have the right to enter the Premises at all reasonable hours to inspect it with reasonable notice to the Tenant, and whenever necessary or agreed to make repairs and alterations, decorations, or improvements to the Premises, to clean the Premises or to provide necessary or agreed services. The Landlord shall not be required to provide notice to make emergency repairs. The Tenant shall not unreasonably withhold consent for the Landlord to enter the Premises to deliver parcels that are too large for the Tenant's mail facilities.
- (b) If the Tenant changes the locks or installs additional locks on the Premises, the Tenant must provide the Landlord advance Notice and furnish the Landlord with a duplicate set of keys for the new locks. Any changed or additional locks that the Tenant installs shall become the property of the Landlord and shall remain on the Premises at the Termination Date. All keys that are given to the Tenant at the Commencement Date (or upon possession, whichever is later) shall be returned to the Landlord at the Termination Date. If the Tenant fails to return any key to the Premises, the Landlord may replace the lock of the unreturned key at the Tenant's expense, payable immediately upon demand by the Landlord. The Landlord is not liable for any damages that may occur because the Landlord is unable to gain access to the Premises due to inability to gain entry as permitted by this Paragraph 16.

**17. Assignment and Subletting.** The Tenant may not do any of the following without the Landlord's written consent: (1) assign this Lease; (2) sublet all or any part of the Premises; (3) permit any person to use the Premises other than those specified in 8 of this Lease. Unless the Tenant has obtained the Landlord's written consent, any assignment or subletting may be disregarded by the Landlord as if it had not occurred, and the Tenant shall continue to remain responsible for the performance of all provisions of this Lease. At the Landlord's option, such assignment or subletting shall terminate this Lease.

The Landlord expressly covenants that such consent shall not be unreasonably or arbitrarily refused. The consent of the Landlord to any one assignment or subletting shall not be deemed to be a consent by the Landlord to any prior or subsequent assignment or subletting. The Landlord reserves the right to assign the Landlord's interest in this Lease and the Security Deposit on sale or release of the Premises. The Landlord reserves the unrestricted right to assign the Landlord's interest in any other sums received or to be paid under this Lease.

**18. The Tenant's Default.** The Tenant shall be considered in default under this Lease under any of the following circumstances in which the Tenant: (1) fails to pay Rent due and owing under this Lease; (2) after written notice to cease, continues to be so disorderly as to destroy the peace and quiet of the other residents of the neighborhood; (3) willfully or by gross negligence causes or allows destruction, damage, or injury to the Premises; (4)

after written notice to cease, continues to substantially violate or breach any of the provisions contained in this Lease; (5) after written notice, refuses to accept modifications in the provisions of this Lease at the end of the term or at the end of any permitted renewal or extension term of the Lease; and (6) after written notice to cease, continues to substantially violate or breach any of the Rules and Regulations attached to this Lease.

- 19. The Landlord's Remedies on Default.** If Tenant fails to pay the rent when due or to perform any other terms or conditions of this Lease, or vacates the Premises before the end of the term, Landlord may, at its option and after giving any notices required by law, terminate this Lease and/or pursue any other remedies that may be available. If Tenant defaults, Tenant agrees to pay Landlord all of the following: (a) all costs of reletting the Premises (including, but not limited to, the costs of cleaning and painting the interior of the Premises, shampooing the carpets, advertising and all other costs of preparation of the Premises for reletting); (b) the full monthly installment of rent payable for the last month during any part of which the Premises were occupied by Tenant; (c) rent for the remainder of the term, except for any rent that Landlord may recover by reletting the Premises; and (d) any other damages to which Landlord may be entitled.
- 20. Abandoned Property.** On the Termination Date, whether by operation of this Lease, by entry of judgment for possession in favor of the Landlord, or by the Tenant's vacation of the Premises, the Tenant shall be responsible for the removal of all Tenant-owned property. If the Tenant fails to remove any such property, on reentry by the Landlord it shall be deemed abandoned and ownership shall transfer to the Landlord. The Landlord shall then be entitled to dispose of the property without liability to the Tenant.
- 21. Waiver of Breach.** Waiver by the Landlord of any breach of any provision of the Tenant under this Lease is not a waiver of any prior, contemporaneous, or subsequent breach of any other provision of the Tenant, or of any prior or subsequent breach of the same. The receipt by Landlord of any rent or any other sum of money or any other consideration paid by Tenant after the termination of this Lease, after giving notice of termination or the initiation of any legal proceedings by Landlord against Tenant, shall not reinstate, continue or extend this Lease or in any manner affect any other rights that Landlord may have either in law or in equity as a result of Tenant's default. No failure of Landlord to enforce the breach of any covenant or agreement of Tenant shall be deemed a waiver of any subsequent similar breach or default. Waiver by the Landlord of any breach of any provision of the Tenant under this Lease is not a waiver of any prior, contemporaneous, or subsequent breach of any other provision of the Tenant, or of any prior or subsequent breach of the same.
- 22. Binding Effect on Successors and Assigns.** This Lease shall inure to and be binding on the parties' heirs, successors, executors, administrators, and assignees. Nothing in this paragraph shall be construed as a consent by the Landlord of any assignment of this Lease or any interest in it by the Tenant.

- 23. Disputes.** The parties agree that the law of the State of Ohio will govern all disputes, claims or controversy under, arising from or a breach of any provision of this Lease, and determine all rights under this Lease.
- 24. Headings.** The headings in this Lease are for convenience only and are not to be considered in construing this Lease.
- 25. Saving and Severability Clause.** If any provision of this Lease is contrary to law, whether by statute or final court decision, the provision shall be considered amended as necessary to conform to legal requirements. The rest of the Lease shall remain in full force and effect and unaffected by any such amendment.
- 26. Joint and Several Liability.** If Tenant consists of more than one person, the persons comprising Tenant shall be jointly and severally liable for the payment and performance of all obligations under this Lease. A default by one Tenant shall be a default of all.
- 27. Notices.** All notices that must be given in accordance with a statute or regulation shall be given as provided by law. All other notices given under this Lease must be in writing. Notice may be given by personal delivery to the other party or by certified mail, return receipt requested (each, a "Notice"). Notices shall be addressed to the Landlord at the address written at the beginning of this Lease and to the Tenant at the Premises. A Notice shall be defined as a notice meeting all of the foregoing, except those required by statute or regulation, which shall be subject to the requirements of such statute or regulation.
- 28. Entire Agreement.** This Lease is the entire agreement of the Landlord and the Tenant. The Tenant has read this Lease before signing. Any changes or modifications of this Lease, other than modifications presented by the Landlord at the end of the Lease Term, must be in writing and signed by both parties. If more than one person signs this Lease as the Tenant, all such parties shall be jointly and severally responsible for the obligation of the Tenant hereunder.

THE LANDLORD AND THE TENANT HAVE READ THIS LEASE, FULLY UNDERSTAND ITS PROVISIONS, AND INTEND TO BE BOUND BY IT.

[Signatures on Following Page]

It is signed on the date written at the beginning of the Lease.

LANDLORD:

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Avon Lake Regional Water

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City of Avon Lake

TENANT:

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Thomas Huerner

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Mary Huerner