

AN ORDINANCE AUTHORIZING FUNDS FOR CONTINUED LEGAL SERVICES TO
TODD DAVIS, ESQ., AND DECLARING AN EMERGENCY.

WHEREAS, the Administration and Council have authorized Todd Davis, Esq., to represent the City in the brownfield redevelopment and the west end redevelopment, including the property formerly known as the 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 is hereby authorized and directed to continue to provide legal services for brownfield redevelopment for the west end redevelopment 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 \$147,000.

Section No. 3: 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 any of its committees, which resulted in such formal action, 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: This Ordinance is declared to be an emergency measure, the emergency being the necessity for the immediate preservation of public health, safety, and welfare. Therefore, this Ordinance shall be in full force and effect immediately upon its adoption and approval by the Mayor.

PASSED: 5/27/2025

/s/ Jennifer J. Fenderbosch
Council President

POSTED: 5/30/2025

APPROVED: 5/28/2025

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

/s/ Mark A. Spaetzle
Mayor

TODD S. DAVIS
Attorney at Law

3 Hemisphere Way
Cleveland, Ohio 44146-4216
Phone: (216) 464-4105 Fax: (440) 439-4134

April 24, 2025

Mayor Mark Spaetzel
City of Avon Lake
150 Avon Belden Road
Avon Lake, Ohio 44012

Dear Mayor Spaetzel:

I am pleased to have the opportunity to represent the City of Avon Lake, Ohio as legal counsel in connection with the Brownfield redevelopment and environmental aspects your West End Redevelopment, including the redevelopment of the former NRG Power Plant. I will undertake to provide you with legal services in a responsible, timely and cost-efficient fashion. To avoid any misunderstanding as to the firm's engagement and its billing and collection practices as to this matter and as to future matters in which I may represent you, this letter describes the basis on which I will provide and bill for such legal services. Should you have any questions regarding these practices, please call me immediately.

Statements generally are rendered on a monthly basis for legal services rendered during the previous month. In determining fees, the major factor is usually time expended. My time charges are based on quarter hour increments and my current hourly rate for legal services performed is \$700 per hour. As we discussed, this engagement will supplement work on this matter which already has been performed. This next phase of the engagement is entered in connection with the Initial Budget attached as part of the anticipated First Amendment to Professional Services Reimbursement Agreement for Power Plan Redevelopment Project by and between the City of Avon Lake, Ohio and the Avon Lake Environmental Redevelopment Group, LLC ("ALERG") (the "Reimbursement Agreement"), pursuant to which the City will seek reimbursement for my fees, in accordance with Exhibit A thereto. A copy of Exhibit A to the Reimbursement Agreement is attached hereto. Therefore, this engagement will be limited to 210 hours of time (or an amount not to exceed \$147,000), unless extended or otherwise authorized by the City of Avon Lake.

In addition to fees, statements will often include separate charges for certain costs and expenses that are incurred in connection with legal services performed for you. Such expenses include, among others, computerized legal research, photocopies, facsimiles, filing fees, travel expenses, courier services, and long distance telephone charges.

Sometimes, certain expenses of particular magnitude, such as major travel expenses and title examinations, necessitate direct payment by the client. In these situations, you will be billed directly on instruction to the providers, or I will send the provider's statement to you for direct payment. As is sometimes the case, expenses may not be currently accounted for at the time of billing, whether final or interim. Remaining expenses, if any, will be billed at a later date.

Mayor Mark Spaetzel
City of Avon Lake
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Although I may from time to time, at the client's request, furnish estimates of legal fees and other charges that I anticipate will be incurred, these estimates are by their nature inexact (due to unpredictable circumstances) and, therefore, the actual fees and charges ultimately billed may vary from such estimates.

Payment to the firm is expected within thirty days of receipt of my statement. If at any time during our relationship you find that you are unable to meet the payment arrangement, I urge you to contact me immediately. In the event of any non-payment in breach of this agreement, you agree to indemnify me against any costs, fees and expenses in connection with any collection matter associated therewith. Interest on my unpaid invoices past due shall accrue at the rate of ten percent (10%) per annum.

Our relationship may be terminated by either of us at any time by written notice to the other party. I reserve the right to withdraw from our representation if, among other things, you fail to honor the terms of this engagement letter, including nonpayment of my statements. In the event of termination of our relationship, I will make a reasonable effort to effect an orderly transfer of your documents, your instruments and your other papers in my files to whomever you may designate, and you agree that you will take all necessary steps to free me of any obligation to perform further services, including the execution of any documents necessary to complete my withdrawal. I will be entitled to be paid for all services rendered and disbursements made or expenses incurred on your behalf to the date of withdrawal.

Please indicate your understanding and acceptance of the terms set forth above by signing and dating a copy of this letter in the place provided therefor and returning it to me. If you have any questions with regard to this letter, please do not hesitate to contact me. I look forward to a mutually beneficial relationship.

Very truly yours,



Todd S. Davis, Esq.

/maf

We hereby accept the above letter and its terms.

CITY OF AVON LAKE, OHIO

By: _____

Its: _____

Date: _____

EXHIBIT A

Initial Budget for Interim Development Agreement Cost Reimbursement (Revised 3/24/25) (January 1, 2025 - July 1, 2025)

	<u>Firm</u>	<u>Hours</u>	<u>Budget</u>
1.0 LEGAL FEES			
1.1 Purchase Agreement Negotiation and City Council Approval			\$47,000.00
All work expected to be completed by July 1, 2025.	Davis	40	\$28,000.00
	Berns	40	\$19,000.00
1.2 TIF Negotiations			\$52,000.00
Fifty percent of work expected to be completed by July 1, 2025.	Berns	80	\$38,000.00
Balance during remainder of 2025.	Davis	20	\$14,000.00
1.3 Zoning Issues			\$41,500.00
Fifty percent of work expected to be completed by July 1, 2025.	Berns	80	\$38,000.00
Balance during remainder of 2025.	Davis	5	\$3,500.00
1.4 Environmental Review and Planning			\$70,000.00
All work for this portion expected to be completed by July 1, 2025.	Davis	100	\$70,000.00
1.5 Miscellaneous Meetings and Issues			\$29,375.00
	Davis	25	\$17,500.00
	Berns	25	\$11,875.00
1.6 Contingency			\$23,500.00
	Davis	20	\$14,000.00
	Berns	20	\$9,500.00
	Subtotal		\$263,375.00

2.0 ENVIRONMENTAL PROFESSIONALS

2.1 Conduct an Initial Site Visit	Verdantas	\$3,800.00
Verdantas will undertake a site visit to traverse the property as safely as possible to gain a comprehensive understanding of the environmental assessment work completed to date, evaluate site conditions, and inspect the remaining structures on the approximate 22-acre portion of the property that the City is considering for purchase (i.e., the Screen House, Transformer Building, and Pump House Building). Verdantas' Certified Professional and Project Manager/Primary Risk Assessor will be in attendance for this initial site visit. This estimate includes travel time between Dublin and Avon Lake.		

Initial Budget for Interim Development Agreement Cost Reimbursement (Revised 3/24/25)
(January 1, 2025 - July 1, 2025)

2.2 Technical Review of Existing Documents and Data	Verdantas	\$10,000.00
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Verdantas will perform a review of the existing documents and data recently provided by Deigan & Associates ("Deigan") in the Data Room. This task will include discussions with Deigan to develop a thorough understanding of the Phase II Property Assessment activities completed thus far, as well as any additional Phase II activities planned for the next phase of the property assessment. Verdantas' Certified Professional and Project Manager/Primary Risk Assessor will participate in a meeting with the City to discuss these findings.

2.3 Prepare a Summary Report	Verdantas	\$5,000.00
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Following the completion of Task 2, Verdantas will compile a summary report detailing the information provided in the Data Room. Once the summary report is completed, Verdantas will convene with the City of Avon Lake to present the initial findings and data concerning the portion of the property they are interested in purchasing.

2.4 Collaboration with Diegan & Associates on Additional Phase II Investigation and No Further Action Activities	Verdantas	\$25,000.00
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Verdantas will collaborate and coordinate with Deigan to identify additional site investigation activities necessary to support the Ohio VAP No Further Action Letter. **Verdantas anticipates that Deigan will perform actual sampling activities and field work, to be supported by Verdantas, as reasonably necessary.** These activities also may include preliminary site-specific risk assessment activities and discussions with Ohio EPA VAP Technical Assistance.

	Subtotal	\$43,800.00
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3.0 Costs		\$3,000.00
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Budget for photocopies, shipping and other miscellaneous expenses.

	<u>TOTAL</u>	<u>\$310,175.00</u>
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2025 Legal Billing Rates

Todd S. Davis, Esq. - \$700/hr
Jordan Berns, Esq. - \$475/hr
Majeed Makhoulf, Est. - \$475/hr

*This budget is a good faith estimate of anticipated costs based on currently available information, for purposes of the Interim Development Agreement (the "IDA"). While all service providers will use good faith efforts to minimize transaction costs, this budget estimate may be periodically updated as needed to reflect changing costs for the parties' approval.