

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT WITH RUSS BALTHIS, ESQ., OF KUTAK ROCK LLP FOR LEGAL SERVICES AND DECLARING AN EMERGENCY.

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

WHEREAS, the Administration and Council desire to retain the personal services of Russ Balthis, Esq., as legal counsel for economic development matters, including the projects located in the center of the City.

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 Russ Balthis, Esq., of Kutak Rock LLP of Cleveland, Ohio, for the purpose of retaining personal, professional services for economic development matters. (Exhibit A)

Section No. 2: That said agreement shall state among its terms that the cost of said personal, professional services shall not exceed \$11,500. 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 Community Development Director, the Finance Director is hereby directed to deliver to Russ Balthis, Esq., 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 legal counsel for economic development in the center 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.

PASSED: 11/10/2025

/s/ Jennifer J. Fenderbosch
Council President

POSTED: 11/14/2025

APPROVED: 11/11/2025

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

/s/ Mark A. Spatzel
Mayor

October 23, 2025

City of Avon Lake
150 Avon Belden Road
Avon Lake, OH 44012
Attn: Mayor Mark Spaetzel

Dear Mayor Spaetzel:

We are very pleased that you have engaged Kutak Rock LLP (the “Firm,” “we” or “us”) to provide legal services. This engagement letter, including all appendices hereto, describes the terms on which the Firm has agreed to provide legal services to City of Avon Lake, Ohio (the “Client” or the “City”).

SCOPE OF ENGAGEMENT

We have been engaged to represent the City in connection with various economic development matters, including the town center project, as specifically described in Appendix A hereto (the “Engagement”). Unless otherwise provided in writing, the Engagement is limited to the scope described in this engagement letter. We would be pleased to discuss with you the terms and scope of additional engagements.

DESCRIPTION OF BASIS FOR LEGAL FEES

Our fees are based principally on the experience and expertise of the people who are providing services to the Client, the nature of the engagement and the amount of time spent on the engagement. Specific details regarding our fees and certain other charges for the Engagement are described in Appendix A hereto.

GENERAL PROVISIONS

The provisions attached to this engagement letter as Appendices A and B, entitled “Terms and Scope of Engagement” and “General Terms,” respectively, are incorporated into this engagement letter.

You should be aware that we view the City, rather than any individual employee, officer, or director of the City, as our client. We would, of course, be happy to provide any such related parties with legal services so long as our representation will not be likely to result in a conflict of interest between any such related party and the City.

KUTAKROCK

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In representing various clients, we encounter conflict of interest issues from time to time. When these issues arise, we seek to carefully weigh the interests of all clients involved in accordance with the applicable rules of professional responsibility. Conflict of interest matters are further discussed in the General Terms attached as Appendix B.

We reserve the right to withdraw from our representation if, among other things, the Client fails to honor the terms of this engagement letter or as a result of any fact or circumstance that would, in our view, render our continuing representation of the Client unlawful or unethical. We will not terminate our representation without reasonable, written notice. We hope and fully expect these kinds of considerations will never become an issue between the Firm and the Client.

Provided this engagement letter accurately reflects your understanding of the terms of the Engagement, please sign this engagement letter and return it to me by email or physical delivery. If you have questions about this engagement letter, please do not hesitate to call to discuss them before countersigning this engagement letter. We look forward to our relationship and working with you.

Very truly yours,

Kutak Rock LLP

Accepted:

By: _____

Name: _____

Title: _____

APPENDIX A

TERMS AND SCOPE OF ENGAGEMENT LETTER

Scope of Engagement: Economic development advice, including, without limitation, the implementation of tax increment financing pursuant to the Ohio Revised Code.

Fees: Our fees for legal services in connection with the Engagement will be charged on the basis of the time devoted to your matters by our professional staff in performing the services, provided that the total fees for legal services under this engagement letter shall not exceed \$11,500. Our hourly rate for attorneys or other professionals that are likely to be involved in the Engagement will be \$495 per hour. This rate may be adjusted from time to time, typically on an annual basis, and the list of professional staff may be revised from time to time. Listed below are certain Firm lawyers, paralegals and other personnel that we anticipate may work on the Engagement:

<u>Lawyer</u>	<u>Status</u>
Russell Balthis	Transition Partner
Jessica Ice	Of Counsel

APPENDIX B

ENGAGEMENT LETTER—GENERAL TERMS

General Terms

This engagement letter, including all appendices hereto, sets out the scope of our representation and identifies the Client as our sole client with respect to this engagement. Unless otherwise specified, we do not represent any other persons or entities, including a parent corporation, subsidiary, or affiliates, unless named in this engagement letter. Our advice and work are provided solely for the Client's benefit and relates only to the matter(s) set out in this engagement letter. The terms of this engagement letter apply as soon as we act on your instructions, regardless of whether you have signed this engagement letter.

This engagement letter is between the Firm and the Client. We will conduct ourselves in accordance with the applicable rules of professional responsibility.

As a courtesy to our clients, we may provide reminders of upcoming regulatory due dates and advisories with regard to legal or industry developments of general interest. These courtesy reminders and advisories are not intended as legal advice. You should not rely on them as such, nor can we commit to providing courtesy updates on a regular or continuing basis. We will, of course, provide legal advice regarding a specific topic as it may affect you pursuant to such assignments as you elect to give us as part of the Engagement.

Working Relationship

Effective representation requires open and honest communication. We require that you provide to us clear and timely instruction, relevant information and documents, and be available for consultation.

We may communicate with you using any reasonable method, including electronic communication such as email, which may not be absolutely secure and may present a risk of interception or copying. Generally, however, the Firm will communicate with you through the use of email. If email is not your preferred method of communication, please notify us.

Communications between a lawyer and a client regarding legal advice generally are privileged and confidential. These communication protections may be jeopardized if you disclose any communications to any person outside of the Firm. Do not discuss communications between you and the Firm with third parties. Please notify the Firm if you do not consider your email sufficiently secure to receive attorney-client privileged information. Notwithstanding the foregoing, we have your consent to communicate via email, unless you have otherwise notified us, and any required communication or written communication hereunder may be by email.

You agree that we are under no duty to disclose to you any information that is confidential to another client or any other person.

We will handle the personal data that you send to us about you, your employees, agents, contractors, or other individuals in accordance with the data protection and privacy standards equivalent to, or in excess of, those required by law. We may transfer such data between Firm locations in order to provide better legal services to you.

In the event the Client requests the Firm to utilize a web-based, third-party file sharing service for the purpose of accessing files shared by or with the Client, the following terms shall apply. The Client has been advised that the Firm offers a secure file sharing service supported by the Firm and acknowledges that use of a third-party application or site is not supported by the Firm. In order to meet our obligations under Model Rule of Professional Conduct 1.6, we are required to advise you, and the Client understands and agrees, that the Client's selection and use of a third-party file sharing service is at the Client's own risk and is governed by the specific third-party file sharing service's terms, conditions and policies, which may not provide adequate security for data placed with the file sharing service. The Firm has not vetted, and the Firm is not responsible for the security of any electronic information, communications or files that may be posted to, the third-party file sharing service. In the event the Client (a) uploads confidential, proprietary, trade secret and/or privileged information, communications or files, or (b) requests that information, communications or files created or conveyed by the Firm in connection with its representation of the Client be uploaded to a third-party file sharing service selected by the Client, the Client specifically confirms awareness of the risk that use of certain third-party file sharing services may result in waiver of the attorney-client privilege or other applicable privilege, and/or the trade secret, confidential, or proprietary status of such information, communications or files. Being so advised, the Client hereby consents to the Firm's use of the file sharing service as directed by the Client, notwithstanding such risk.

It is the Firm's practice to vet third-party service providers engaged to assist with specific client matters to ensure the provider can comply with the Firm's information security standards. The Client acknowledges and agrees that, in the event the Client directs the use of a specific third-party service provider in connection with Client's matter(s), the Client will be deemed to have waived vetting by the Firm and to have assumed any risks associated therewith. In the event vetting is waived, the Client understands that the Firm will not be responsible for any breach of information security by the Client-selected vendor.

Conflicts

We have checked for conflicts of interest in connection with the initial matter(s) subject to the Engagement and have found none unless otherwise disclosed to you and addressed in a separate written communication, including email. Should you assign additional matters in the future, it may be necessary to again check for conflicts of interest arising out of those additional engagements. Consistent with the applicable

rules of professional responsibility, we must reserve the right to decline representation of the Client with respect to such new matters if a conflict is found to exist.

The Firm represents many clients. It is possible that some of our present or future clients may have disputes with the Client, its affiliates or a related person during the time we are providing legal services to the Client. As a condition to our undertaking the Engagement, the Client has agreed that the Firm may continue to represent or undertake in the future to represent existing or new clients whose interests may be adverse to the Client, its affiliates or related persons in matters, including litigation, that are not substantially related to the matters as to which we are representing the Client. You have agreed that the validity and enforceability of this unrelated matter conflict waiver is an essential condition to the Firm's willingness to accept the Engagement, and the Firm would not have accepted the Engagement but for this waiver. Accordingly, the Client agrees that, if the validity or enforceability of this waiver is ever challenged or revoked, we may withdraw from representing the Client and continue to represent our other clients even in matters directly adverse to the Client. We agree that your prospective consent to conflicting representation shall not apply in any matter substantially related to a matter in which we have provided legal services to the Client. We will never use any confidential information received from the Client in any way inconsistent with our professional responsibilities.

We are often asked for information about our experience. Unless otherwise directed in writing, the Client consents to our public disclosure that the Client is a client and a general description of the work done for the Client.

Fees and Costs

Details regarding our fees are set out in Appendix A hereto.

The Engagement may require charges incidental to such representation. The Client agrees to pay such costs, including, for example, travel, delivery services, imaging, printing, court fees, auditing and assurance services, and other expenses. For items we purchase in bulk or through fixed fee arrangements, such as computerized legal research and data analysis and storage, we will charge a rate reasonably apportioned to you. The Client agrees to pay third-party costs, such as experts, consultants and local counsel, retained by us on the Client's behalf. While we undertake no obligation to advance costs on the Client's behalf, in the event and to the extent that we do so, the Client agrees to promptly reimburse us.

Unless expressly stated otherwise, estimates we provide are presented solely for planning purposes and are subject to change. An estimate is an assessment of fees or costs if a matter proceeds in accordance with our assumptions. An estimate is neither a baseline nor a cap on the Client's obligation to pay. Actual expenses may turn out to deviate significantly from the estimate. Upon request, we may be able to provide an updated estimate. However, in the absence of such a request, we undertake no

obligation to update or revise any estimate as a matter progresses or as actual fees and costs are realized.

All fees and costs of the Firm, experts or third parties that we state or estimate exclude any applicable sales, use, transfer or similar taxes. Those taxes will be included in our invoice and are payable by the Client. If the Client or another payer of those fees, costs or taxes is required, on account of any such amounts, to make a deduction when paying our invoices, the Client must increase the overall payment so that we receive a net sum equal to our full invoiced amount.

Our policy is to bill monthly; however, we reserve the right to issue an interim bill and to change the frequency of billing and the time for payment. If the Client disagrees with any invoice, please notify us immediately, otherwise we will understand that the invoice is agreeable to the Client. Our invoices are payable upon receipt, unless otherwise stated within the invoice. The Client remains responsible for paying costs and fees even if the Client has an arrangement with a third-party payer for payment. If full payment is not received when due, we reserve the right to suspend services, terminate and/or seek withdrawal, charge reasonable interest for past due amounts and seek reimbursement for any collection costs, including reasonable attorneys' fees.

Anti-money laundering, anti-bribery, anti-terrorist, and similar laws require compliance with client identification, verification and other rules. We may not be able to represent the Client until we have all information required for those purposes, and the Client agrees to provide such information as necessary to comply with such rules.

Staffing

It may be appropriate, at times, for us to involve additional Firm lawyers and other personnel, beyond your primary points of contact with the Firm, who have special expertise or can otherwise facilitate the completion of the Engagement in a cost-effective, timely and thorough manner. To the extent you have concerns about any such staffing, we will discuss them with you.

Records Retention

Generally, files are destroyed 10 years after the date on which a matter has been identified by the responsible attorney as no longer active. A notice of destruction will be sent to the Client 45 days prior to the destruction date, using the most current contact information available to the Firm. The Client may, of course, provide additional written instructions regarding record retention, return, or disposal, which we will honor. Work product, mental impressions of a case, lawyer's notes, document drafts and emails are not considered to be part of the Client's file; therefore, those items may not be retained.

Use of Artificial Intelligence Tools

Many software applications routinely used in business employ “artificial intelligence” (AI) providing automated capabilities, and you should expect such applications to be used in the course of providing our services. However, in the event we employ “generative AI” in connection with the services we provide you, defined as AI that is capable of creating new content, including text, image, or audio, we will inform you.

Termination

The Client may terminate the Engagement at any time. Subject to the applicable rules of professional responsibility, we may terminate the Engagement at any time. We expressly reserve the right to stop acting on the Client’s behalf, and the Client consents to our right to terminate, if the Client fails to pay amounts payable in connection with the Engagement as detailed herein. The Client remains responsible for paying fees and costs related to work performed before the end of the Engagement, and we will not be liable for any resulting loss.

Completion of the Engagement

Our Engagement will end when we have completed the services described in this engagement letter, or, unless otherwise agreed, after 36 months of furnishing no billable services to you, whichever occurs sooner, without the need for further written confirmation. Any new relationship will require a new engagement letter, notwithstanding any communications or administrative action during that period.

Translated Documents

If we use or prepare a translation, the Client should be aware that words and legal concepts used in one language may not have an exact equivalence in another language. The Client should not assume, and we do not warrant, that any translation exactly replicates the original text.

Entire Agreement

This engagement letter and the attached Appendices together constitute our entire agreement regarding the Engagement. The agreement cannot be modified by any policies, procedures, guidelines, correspondence or other document unless the change is agreed to in writing by a Partner of the Firm. If there is a conflict between the General Terms contained in the Appendix B and the detailed provisions of this engagement letter or Appendix A, the detailed provisions of this engagement letter or Appendix A, as applicable, shall control. If any part of this engagement letter is held to be illegal, invalid, or unenforceable, it shall not form part of the agreement and the balance shall remain enforceable and unaffected.