



City of Strongsville

16099 Foltz Parkway
Strongsville, Ohio 44149-5598
Phone: 440-580-3110
Council Office Fax: 440-572-1648
www.strongsville.org

March 12, 2020

City Council

James A. Kaminski
Ward 1

Annmarie P. Roff
Ward 2

Kelly A. Kosek
Ward 3

Gordon C. Short
Ward 4

Joseph C. DeMio
At-Large

James E. Carbone
At-Large

Matthew A. Schonhut
At-Large

Aimee Pientka, MMC
Clerk of Council

Tiffany Mekeel, CMC
Assistant Clerk of Council

MEETING NOTICE

City Council has scheduled the following meetings for **Monday, March 16, 2020**, to be held in the Caucus Room and the Council Chamber at the **Mike Kalinich Sr. City Council Chamber, 18688 Royalton Road**:

Caucus will begin at 7:30 p.m. All committees listed will meet immediately following the previous committee:

7:30 P.M. **Planning, Zoning & Engineering** will meet to discuss Ordinance No. 2020-040 and Resolution No. 2020-041.

Public Service & Conservation Committee will meet to discuss Ordinance No. 2020-042 and Resolution Nos. 2020-043 and 2020-044.

Committee of the Whole will meet to discuss Ordinance No. 2020-045 and Resolution Nos. 2020-046 and 2020-047.

8:00 P.M. **Regular Council Meeting**

Any other matters that may properly come before this Council may also be discussed.

BY ORDER OF THE COUNCIL:

Aimee Pientka, MMC
Clerk of Council





STRONGSVILLE CITY COUNCIL REGULAR MEETING

MONDAY, MARCH 16 2020 AT 8:00 P.M.

Mike Kalinich Sr. City Council Chamber
18688 Royalton Road, Strongsville, Ohio



AGENDA

1. CALL TO ORDER:
2. PLEDGE OF ALLEGIANCE:
3. CERTIFICATION OF POSTING:
4. ROLL CALL:
5. COMMENTS ON MINUTES:
 - *Council Meeting – March 2, 2020*
6. PUBLIC HEARING:
 - Resolution No. 2020-047 by Mayor Perciak and All Members of Council. A RESOLUTION APPROVING THE APPLICATION OF EMIL S. KARIM TO PLACE LAND IN AN AGRICULTURAL DISTRICT.
 - On the matter of the possible re-appointment and re-employment of Joseph M. Walker, who will be retired effective March 31, 2020 and seeking re-employment to his former and same position as Service Director for The City of Strongsville, to be effective April 1, 2020.
7. APPOINTMENTS, CONFIRMATIONS, AWARDS AND RECOGNITION:
 - Mayor's appointment and Council confirmation of Dustin M. Hayden to fill the vacancy and unexpired term of Thomas E. Smeader, as a member of the City's Board of Zoning Appeals, expiring March 14, 2021.
 - Motion to confirm the Mayor's possible re-appointment of Joseph M. Walker as Service Director for the City of Strongsville to be effective April 1, 2020, in compliance with Section 145.381 of the Ohio Revised Code.
8. REPORTS OF COUNCIL COMMITTEE:
 - SCHOOL BOARD – Mr. Carbone:
 - SOUTHWEST GENERAL HEALTH SYSTEM – Mr. Short:
 - BUILDING AND UTILITIES – Mr. DeMio:
 - COMMUNICATIONS AND TECHNOLOGY – Ms. Roff:
 - ECONOMIC DEVELOPMENT – Mr. Carbone:
 - FINANCE – Mr. DeMio:
 - PLANNING, ZONING AND ENGINEERING – Mr. Schonhut:
 - PUBLIC SAFETY AND HEALTH – Mr. Short:

- PUBLIC SERVICE AND CONSERVATION – Mr. Kaminski:
- RECREATION AND COMMUNITY SERVICES – Ms. Kosek:
- COMMITTEE-OF-THE-WHOLE – Mr. Schonhut:

9. REPORTS AND COMMUNICATIONS FROM THE MAYOR, DIRECTORS OF DEPARTMENTS AND OTHER OFFICERS:

- MAYOR PERCIAK:
- FINANCE DEPARTMENT:
- LAW DEPARTMENT:

10. AUDIENCE PARTICIPATION:

11. ORDINANCES AND RESOLUTIONS:

- Ordinance No. 2020-040 by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ISSUE AND APPROVE CHANGE ORDER NO. 2 FOR AN INCREASE IN THE CONTRACT PRICE IN ACCORDANCE WITH THE PROVISIONS OF THE CONTRACT BETWEEN THE CITY OF STRONGSVILLE AND PERRAM ELECTRIC, INC., IN CONNECTION WITH THE STRONGSVILLE TRAFFIC SIGNAL UPGRADE PROJECT, AND DECLARING AN EMERGENCY.
- Resolution No. 2020-041 by Mayor Perciak and All Members of Council. A RESOLUTION AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS FOR THE PAVEMENT RECONSTRUCTION PROGRAM FOR 2020 IN THE CITY OF STRONGSVILLE.
- Ordinance No. 2020-042 by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THE CITY OF STRONGSVILLE CLOCK TOWER EXTERIOR RESTORATION PROJECT, AND DECLARING AN EMERGENCY.
- Resolution No. 2020-043 by Mayor Perciak and All Members of Council. A RESOLUTION AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS FOR THE PURCHASE OF GENERAL PAVEMENT SERVICES FOR 2020 TO BE USED BY THE DEPARTMENT OF PUBLIC SERVICE OF THE CITY OF STRONGSVILLE.
- Resolution No. 2020-044 by Mayor Perciak and All Members of Council. A RESOLUTION GRANTING PERMISSION TO REPURCHASE A CERTAIN CERTIFICATE FOR BURIAL RIGHTS IN THE STRONGSVILLE MUNICIPAL CEMETERY. [Taylor]
- Ordinance No. 2020-045 by Mayor Perciak and All Members of Council. AN ORDINANCE APPROVING AND ADOPTING REPLACEMENT PAGES TO THE CODIFIED ORDINANCES OF THE CITY FOR THE LAST HALF OF 2019 AND THROUGH JANUARY 21, 2020, REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH, AND DECLARING AN EMERGENCY.

- Resolution No. 2020-046 by Mayor Perciak and All Members of Council. A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MODIFICATION AND CONSENT TO A MORTGAGE SUBORDINATION IN REGARDS TO THE DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FILED IN CONNECTION WITH PROPERTY OWNED BY M & B STRONGSVILLE, LLC, AND DECLARING AN EMERGENCY.
- Resolution No. 2020-047 by Mayor Perciak and All Members of Council. A RESOLUTION APPROVING THE APPLICATION OF EMIL S. KARIM TO PLACE LAND IN AN AGRICULTURAL DISTRICT.

12. COMMUNICATIONS, PETITIONS AND CLAIMS:

- Application for Permit: **NEW D5I: To: Outback Steakhouse of Florida LLC, DBA: Outback Steakhouse, 17602 Royalton Road, Strongsville, Ohio 44136** (Responses must be postmarked no later than 04/03/2020).

13. MISCELLANEOUS BUSINESS:

14. ADJOURNMENT:

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2020 – 040

By: Mayor Perciak and All Members of Council

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ISSUE AND APPROVE CHANGE ORDER NO. 2 FOR AN INCREASE IN THE CONTRACT PRICE IN ACCORDANCE WITH THE PROVISIONS OF THE CONTRACT BETWEEN THE CITY OF STRONGSVILLE AND PERRAM ELECTRIC, INC., IN CONNECTION WITH THE STRONGSVILLE TRAFFIC SIGNAL UPGRADE PROJECT, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 2019-117, Council authorized the Mayor to enter into a contract with Perram Electric, Inc., in connection with the Traffic Signal Upgrade Project, in the City of Strongsville, (the "Project"), in an amount not to exceed \$5,651,350.00; and

WHEREAS, thereafter, pursuant to Ordinance No. 2019-188, Council authorized the Mayor to issue and approve Change Order No. 1 for an adjustment in the contract price resulting in a net decrease of \$168,577.59 after including certain changes in the work performed on the Project by Perram Electric, Inc., and an adjusted new Project cost of \$5,482,772.41; and

WHEREAS, at this time, the City's authorized consultant on the Project, CT Consultants, Inc., has now recommended, and the City Engineer has determined, that due to unforeseen conditions and extra work performed as requested by the City, it would be in the best interests of the City to include such additional changes in the work to be performed on the Project by Perram Electric, Inc., all as more fully set forth collectively in Exhibit A, attached hereto and incorporated herein as if fully rewritten, all resulting in an increase for Change Order No. 2 of \$84,928.55, and a new total Project cost of \$5,567,700.96.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1. That the Mayor be and is hereby authorized and directed to issue and approve Change Order No. 2 to the contract in the amount of \$84,928.55, as recommended by the City's Consultant and City Engineer, and reflected collectively in Exhibit A; and after the issuance and approval of said Change Order No. 2 and compliance with the terms and conditions of the contract, to direct the Director of Finance to make payment to Perram Electric, Inc. in the additional amount of \$84,928.55, thereby increasing the total Project cost to \$5,567,700.96.

Section 2. That the funds necessary for this Ordinance have been appropriated and shall be paid from the General Capital Improvement Fund, the TIF Capital Improvement Fund, and such other Federal, State and local funds made available for the Project.

Section 3. 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, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2020 – 040

Page 2

Section 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that it is immediately necessary to provide for changes in the work in order to properly and timely complete the Project, to facilitate payment to the contractor for changes in the work, to avoid potential legal problems, and conserve public funds. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

President of Council

Approved: _____
Mayor

Date Passed: _____

Date Approved: _____

| | <u>Yea</u> | <u>Nay</u> |
|----------|------------|------------|
| Carbone | _____ | _____ |
| DeMio | _____ | _____ |
| Kaminski | _____ | _____ |
| Kosek | _____ | _____ |
| Roff | _____ | _____ |
| Schonhut | _____ | _____ |
| Short | _____ | _____ |

Attest: _____
Clerk of Council

ORD. No. 2020-040 Amended: _____
 1st Rdg. _____ Ref: _____
 2nd Rdg. _____ Ref: _____
 3rd Rdg. _____ Ref: _____

 Pub Hrg. _____ Ref: _____
 Adopted: _____ Defeated: _____

CHANGE ORDER

Change Order No.: 2
Date: March 5, 2020
Agreement Date: August 1, 2019

Name of PROJECT: Strongsville Traffic Control - PID 97602

OWNER: Strongsville, Ohio
CONTRACTOR: Perram Electric, Inc

The following changes are hereby made to the CONTRACT DOCUMENTS:

Justification: Referenced attached documentation

Change to CONTRACT PRICE:

Original CONTRACT PRICE: \$ 5,651,350.00

Current CONTRACT PRICE adjusted by
Previous CHANGE ORDER \$ 5,482,772.41

The CONTRACT PRICE due to this CHANGE ORDER
will be **increased** by: \$ 84,928.55

The FINAL CONTRACT PRICE including this
CHANGE ORDER will be \$ 5,567,700.96

Change to CONTRACT TIME:

The CONTRACT TIME will be **increased** by _____
(Calendar Days)

Original Completion Date March 18, 2021
The date for completion of all WORK will be March 18, 2021
(Date)

Requested by:

Dave Powell, Vice President (Date)
Perram Electric, Inc

Recommended by:

Brian Meluch, P.E. (Date)
CT Consultants, Inc

Recommended by:

Chris Brubaker (Date)
CT Consultants, Inc

Accepted by:

Ken Mikula, P.E., Strongsville City Engineer (Date)
City of Strongsville, OH

Federal Agency Approval
(where applicable)

(Date)



Summary of Review Totals

Proposed Change Order Number 2

| <i>Item No.</i> | | <i>Value of Extra Work</i> |
|-----------------|--|----------------------------|
| 2-1 17 | The pole planned at 82 & Howe, Marathon station corner, (SW corner) has high water that prohibited its installation. Necessary to grout and seal the perimeter to complete the foundation. | \$22,508.90 |
| 2-2 20 | Cleaning out the existing conduits | \$8,000.52 |
| 2-3 21 | Groundhogs 2000 hit buried existing foundations during their attempt to drill and install conduit | \$456.89 |
| 2-4 25 | There is a conduit causing an issue at proposed Signal Support Foundation SS 3 at Pearl & Business Dist. | \$2,249.84 |
| 2-5 26 | City requesting price for 4" conduit bore | \$6,995.59 |
| 2-6 30 | Can't find the existing pull boxes at Pearl and Valley Parkway (Metro Park) | \$1,560.45 |
| 2-7 31 | Storm sewer conflict at Royalton and Ordner | \$2,825.86 |
| 2-8 35 | Cannot reuse the loop detectors in existing racks. Need to upgrade to detector cards from the amplifiers | \$40,330.50 |
| 2-9 37 | There is new software for the controllers, called "EOS". Replaces ASC3. PathMaster proposes upgrade at no cost | \$0.00 |

Final Amount Change Order #2

\$84,928.55

CITY OF STRONGSVILLE, OHIO

RESOLUTION NO. 2020 – 041

By: Mayor Perciak and All Members of Council

A RESOLUTION AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS FOR THE PAVEMENT RECONSTRUCTION PROGRAM FOR 2020 IN THE CITY OF STRONGSVILLE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA, AND STATE OF OHIO:

Section 1. That the Mayor be and is hereby authorized to advertise for bids for the Pavement Reconstruction Program for 2020, consisting of removal and replacement of concrete pavement, catch basin reconstruction, and replacement of curbs and ramps, in accordance with specifications and bid documents on file in the office of the City Engineer, which are in all respects hereby approved.

Section 2. That the funds for the purposes of this Resolution have been appropriated and shall be paid from the General Capital Improvement Fund and the Street Construction, Maintenance & Repair Fund.

Section 3. 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 the Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. That this Resolution shall take effect and be in force immediately upon its passage and approval by the Mayor.

President of Council

Approved: _____
Mayor

Date Passed: _____

Date Approved: _____

| | <u>Yea</u> | <u>Nay</u> |
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| Carbone | _____ | _____ |
| DeMio | _____ | _____ |
| Kaminski | _____ | _____ |
| Kosek | _____ | _____ |
| Roff | _____ | _____ |
| Schonhut | _____ | _____ |
| Short | _____ | _____ |

Attest: _____
Clerk of Council

RES
ORD. No. 2020-041 Amended: _____
1st Rdg. _____ Ref: _____
2nd Rdg. _____ Ref: _____
3rd Rdg. _____ Ref: _____

Pub Hrg. _____ Ref: _____
Adopted: _____ Defeated: _____

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2020 – 042

By: Mayor Perciak and All Members of Council

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THE CITY OF STRONGSVILLE CLOCK TOWER EXTERIOR RESTORATION PROJECT, AND DECLARING AN EMERGENCY.

WHEREAS, the City has advertised and received bids for the exterior restoration of the City of Strongsville Clock Tower; and

WHEREAS, Council is desirous of proceeding to award and enter into a contract for such project.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1. That this Council hereby finds and determines that the bid submitted by **MASONRY RESTORATION MAINTENANCE, INC.**, meets the specifications on file in the office of the Director of Public Service; is in compliance with the applicable requirements for bids and contracts established by the laws of the City and the State; and is now the next lowest and best bid for the proposed contract, since the apparent lowest bidder has withdrawn their bid due to a tabulation error in the bid. All other bids for this contract are, therefore, hereby rejected.

Section 2. That the Mayor be and is hereby authorized and directed to enter into a contract with the aforesaid lowest and best bidder in the amount of \$279,676.00 for the exterior restoration of the City of Strongsville Clock Tower, and in a form approved by the Law Director.

Section 3. That the funds for the purposes of this Ordinance have been appropriated and shall be paid from the General Fund.

Section 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, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 5. That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the City, and for the further reason that it is immediately necessary to enter into a contract in order to commence necessary repair and restoration work on the Clock Tower, to preserve and enhance City properties, and to conserve public funds. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2020 – 042

Page 2

President of Council

Approved: _____
Mayor

Date Passed: _____

Date Approved: _____

| | <u>Yea</u> | <u>Nay</u> |
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| Carbone | _____ | _____ |
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| Kosek | _____ | _____ |
| Roff | _____ | _____ |
| Schonhut | _____ | _____ |
| Short | _____ | _____ |

Attest: _____
Clerk of Council

ORD. No. 2020-042 Amended: _____
 1st Rdg. _____ Ref: _____
 2nd Rdg. _____ Ref: _____
 3rd Rdg. _____ Ref: _____

 Pub Hrg. _____ Ref: _____
 Adopted: _____ Defeated: _____

CITY OF STRONGSVILLE, OHIO

RESOLUTION NO. 2020 – 043

By: Mayor Perciak and All Members of Council

A RESOLUTION AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS FOR THE PURCHASE OF GENERAL PAVEMENT SERVICES FOR 2020 TO BE USED BY THE DEPARTMENT OF PUBLIC SERVICE OF THE CITY OF STRONGSVILLE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA, AND STATE OF OHIO:

Section 1. That the Mayor be and is hereby authorized to advertise for bids for the purchase of general pavement services to be used during 2020 by the Department of Public Service of the City of Strongsville, in accordance with specifications on file in the office of the Director of Public Service, which are in all respects hereby approved.

Section 2. That the funds for the purposes of this Resolution have been appropriated and shall be paid from the Street Construction, Maintenance and Repair Fund.

Section 3. 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 the Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. That this Resolution shall take effect and be in force from and after the earliest period allowed by law.

President of Council

Approved: _____
Mayor

Date Passed: _____

Date Approved: _____

| | <u>Yea</u> | <u>Nay</u> |
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| Carbone | _____ | _____ |
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| Roff | _____ | _____ |
| Schonhut | _____ | _____ |
| Short | _____ | _____ |

Attest: _____
Clerk of Council

RES
 ORD. No. 2020-043 Amended: _____
 1st Rdg. _____ Ref: _____
 2nd Rdg. _____ Ref: _____
 3rd Rdg. _____ Ref: _____

Pub Hrg. _____ Ref: _____
 Adopted: _____ Defeated: _____

CITY OF STRONGSVILLE, OHIO

RESOLUTION NO. 2020 – 044

By: Mayor Perciak and All Members of Council

A RESOLUTION GRANTING PERMISSION TO REPURCHASE A CERTAIN CERTIFICATE FOR BURIAL RIGHTS IN THE STRONGSVILLE MUNICIPAL CEMETERY. [Taylor]

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA, AND STATE OF OHIO:

Section 1. That pursuant to Codified Ordinance Section 1060.09, this Council hereby authorizes the repurchase of a certificate for burial rights in the Strongsville Municipal Cemetery for Graves C and E, in Lot 153 of Section C, from Shirley Taylor (and the Estate of Howard Taylor, deceased), by the City of Strongsville at the same price that was originally paid therefor.

Section 2. That the funds for the repurchase of said certificate have been appropriated and shall be paid from the General Fund.

Section 3. 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 the Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. That this Resolution shall take effect and be in force from and after the earliest period allowed by law.

President of Council

Approved: _____
Mayor

Date Passed: _____

Date Approved: _____

| | <u>Yea</u> | <u>Nay</u> |
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| Carbone | _____ | _____ |
| DeMio | _____ | _____ |
| Kaminski | _____ | _____ |
| Kosek | _____ | _____ |
| Roff | _____ | _____ |
| Schonhut | _____ | _____ |
| Short | _____ | _____ |

Attest: _____
Clerk of Council

RES
ORD. No. 2020-044 Amended: _____
1st Rdg. _____ Ref: _____
2nd Rdg. _____ Ref: _____
3rd Rdg. _____ Ref: _____

Pub Hrg. _____ Ref: _____
Adopted: _____ Defeated: _____

STRONGSVILLE, OHIO

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2020 – 045

By: Mayor Perciak and All Members of Council

AN ORDINANCE APPROVING AND ADOPTING REPLACEMENT PAGES TO THE CODIFIED ORDINANCES OF THE CITY FOR THE LAST HALF OF 2019 AND THROUGH JANUARY 21, 2020, REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH, AND DECLARING AN EMERGENCY.

WHEREAS, in order to conform with the changes adopted by the Ohio General Assembly and with current State law as required by the Ohio Constitution, it is necessary for the City to amend certain provisions within its Traffic and General Offenses Codes; and

WHEREAS, various ordinances of a general and permanent nature have been passed by Council since September 3, 2019 and through January 21, 2020, which now should be included in the Codified Ordinances; and

WHEREAS, Council has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish the aforesaid amendments and revisions.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1. That the additions and amendments to the Traffic and General Offenses Codes of the Codified Ordinances of the City of Strongsville, as prepared by the Walter H. Drane Company in order to comply with current State law, be and are hereby approved and adopted; and the ordinances of Strongsville of a general and permanent nature, as revised, re-codified, rearranged and consolidated into component codes, titles, chapters and sections within the January, 2020 replacement pages to the Codified Ordinances for the last half of 2019 and through January 21, 2020, be and are hereby approved and adopted, all as set forth in Exhibit A attached hereto and incorporated herein by reference.

Section 2. That any other ordinances or resolutions or parts thereof in conflict with any of the above Ordinances shall, to the extent of any conflict, be and are hereby repealed.

Section 3. 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, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City; and for the further reason that there exists an imperative necessity for the earliest publication and distribution of the aforesaid amendments to the Codified Ordinances to the officials and residents of the City, so as to facilitate the administration and daily operation of the City and its departments, and to avoid practical and legal entanglements. Therefore,

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2020 – 045

Page 2

provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

President of Council

Approved: _____
Mayor

Date Passed: _____ Date Approved: _____

| | <u>Yea</u> | <u>Nay</u> |
|----------|------------|------------|
| Carbone | _____ | _____ |
| DeMio | _____ | _____ |
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| Kosek | _____ | _____ |
| Roff | _____ | _____ |
| Schonhut | _____ | _____ |
| Short | _____ | _____ |

Attest: _____
Clerk of Council

ORD. No. 2020-045 Amended: _____

1st Rdg. _____ Ref: _____

2nd Rdg. _____ Ref: _____

3rd Rdg. _____ Ref: _____

Pub Hrg. _____ Ref: _____

Adopted: _____ Defeated: _____

STRONGSVILLE, OHIO

EXHIBIT "A"

| <u>Ord. No.</u> | <u>Date</u> | <u>C.O. Section</u> |
|-----------------|-------------|---|
| 2019-145 | 9-3-19 | 250.10 |
| 2019-154 | 11-18-19 | 1252.15(a) |
| 2019-159 | 10-7-19 | 432.30 |
| 2019-191 | 12-16-19 | 254.02, 254.03 |
| 2019-193 | 12-16-19 | 476.03(f), 648.01, 672.01, 1060.51, 1060.52 |
| 2019-194 | 12-16-19 | 210.12 |

Traffic Code

442.03 Prerequisites to Operation of a Commercial Motor Vehicle. (Amended)

General Offenses Code

624.01 Drug Abuse Control Definitions.

CITY OF STRONGSVILLE, OHIO

RESOLUTION NO. 2020 – 046

By: Mayor Perciak and All Members of Council

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MODIFICATION AND CONSENT TO A MORTGAGE SUBORDINATION IN REGARDS TO THE DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FILED IN CONNECTION WITH PROPERTY OWNED BY M & B STRONGSVILLE, LLC, AND DECLARING AN EMERGENCY.

WHEREAS, on or about June 12, 2006, M & B Strongsville, LLC ("M & B") executed and duly recorded with the Cuyahoga County Recorder (Instrument No. 200606140108), a Declaration of Covenants, Conditions, Easements and Restrictions in connection with a private children's preschool to be constructed and located at M & B's property located on Howe Road near Tracy Lane; and

WHEREAS, the Declaration provides that it is for the benefit of the City and may be enforced solely by the City; and

WHEREAS, on December 3, 2007, City Council adopted Resolution No. 2007-246 wherein it authorized the Mayor, on behalf of the City, to consent to subordination of the aforementioned Declaration of Covenants, Conditions, Easements and Restrictions to any first mortgage held by M & B's lender, or to any deed provided in lieu of such mortgage holder's foreclosure on M & B's property, or to any sale or other transfer of M & B's property by order of a Bankruptcy Court; and

WHEREAS, in order for M & B to obtain re-financing for the property, it is necessary for the said Declaration to be subordinated to any first mortgage placed on the property by M & B's lender; and

WHEREAS, the City has no objection to subordination of the Declaration to such first mortgage, or to a deed provided in lieu of foreclosure on M & B's property; and

WHEREAS, the Declaration contains a use restriction that M & B's property shall be used solely as a private, non-sectarian, children's pre-school known as "KidsFirst Learning Center"; and

WHEREAS, M & B is now proposing that the Declaration be modified in order to remove the name "KidsFirst Learning Center" from the use restriction; and

WHEREAS, the City has no objection to modifying the Declaration so as to remove the name "KidsFirst Learning Center" from the use restriction.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1. That accordingly Council hereby authorizes the Mayor, on behalf of the City, to consent to subordination of the aforementioned Declaration of Covenants, Conditions, Easements and Restrictions to any first mortgage held by M & B's lender, or to any deed

CITY OF STRONGSVILLE, OHIO
RESOLUTION NO. 2020 – 046
Page 2

provided in lieu of such mortgage holder's foreclosure on M & B's property, or to any sale or other transfer of M & B's property by order of a Bankruptcy Court, as set forth in the Subordination Agreement attached hereto as Exhibit A.

Section 2. That Council further authorizes the Mayor, on behalf of the City, to consent to the Modification of the aforementioned Declaration of Covenants, Conditions, Easements and Restrictions to remove the name "KidsFirst Learning Center" from the use restriction, as set forth in the Modification attached hereto as Exhibit B.

Section 3. 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, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. That this Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the City, and for the further reason that it is immediately necessary to assure proper development of all lots and land within the City of Strongsville. Therefore, provided this Resolution receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor.

 President of Council

Approved: _____
 Mayor

Date Passed: _____ Date Approved: _____

| | <u>Yea</u> | <u>Nay</u> |
|----------|------------|------------|
| Carbone | _____ | _____ |
| DeMio | _____ | _____ |
| Kaminski | _____ | _____ |
| Kosek | _____ | _____ |
| Roff | _____ | _____ |
| Schonhut | _____ | _____ |
| Short | _____ | _____ |

Attest: _____
 Clerk of Council

RES
 ORD. No. 2020-046 Amended: _____
 1st Rdg. _____ Ref: _____
 2nd Rdg. _____ Ref: _____
 3rd Rdg. _____ Ref: _____

 Pub Hrg. _____ Ref: _____
 Adopted: _____ Defeated: _____



SUBORDINATION AGREEMENT

This Subordination Agreement (the “**Agreement**”) is dated as of the _____ day of _____, 20__ by and between **THE CITY OF STRONGSVILLE, OHIO**, an Ohio municipal corporation (the “**City**”), and **EATON FAMILY CREDIT UNION, INC.**, an Ohio not for profit corporation (“**Lender**”) having an address at 333 Babbitt Road, Euclid, Ohio 44123.

RECITALS

WHEREAS, M&B Strongsville LLC, an Ohio limited liability company (the “**Owner**”), is the owner in fee simple of real property (the “**Property**”) situated in the City of Strongsville, County of Cuyahoga, State of Ohio, which is Property is described in Exhibit “A” hereto; and

WHEREAS, the Owner has executed and caused to be filed in the real estate records of Cuyahoga County, Ohio (the “**Official Records**”) as Instrument No. 200606140108 a Declaration of Covenants, Conditions, Easements and Restrictions (the “**Declaration**”) restricting the use of the Property as set forth therein; and

WHEREAS, on _____, 2020, the City enacted Ordinance/Resolution No. 2020-_____, a copy of which is attached hereto as Exhibit “B”; and

WHEREAS, pursuant to the terms of the Declaration, the Declaration may be modified, amended or revoked by the Owner, in whole or in part, only with the consent of the City by an ordinance or resolution enacted by its Council; and

WHEREAS, in connection with a mortgage loan (the “**Loan**”) being made by Lender to the Owner, to be secured inter alia, by a first open-end mortgage on the Property (the “**Security Instrument**”) to be recorded in the Official Records and such other documents as the Lender requires (the “**Security Instrument** and such other documents, collectively the “**Security Documents**”), the Lender has required that the City’s rights under the Declaration be subordinated to the rights of the Lender pursuant to the Security Documents;

NOW, THEREFORE, for mutual consideration, including the mutual covenants and agreements set forth below, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The City agrees that the Declaration is and shall be subject and subordinate to the Security Documents and to all present and future advances under the obligations secured thereby and all renewals, amendments, modifications, consolidations, replacements and extensions of the secured obligations and the Security Documents. Said subordination is to have the same force and effect as if the Security Documents and such renewals, modifications, consolidations, replacements and extensions thereof had been executed, acknowledged, delivered and recorded prior to the Declaration, any amendments or modifications thereof and any notice thereof.

The City agrees that, in the event of a foreclosure of the Security Instrument by Lender, sale or other transfer of the Property by order of a Bankruptcy Court, or the acceptance of a deed in lieu of foreclosure by Lender or any other succession of Lender or a third party by the foregoing to fee ownership to the Property, the Lender, its successors, representatives and assigns and any future owner of the Property who takes fee title to the Property from the Lender or as a result of a foreclosure sale or sale or other transfer by order of a Bankruptcy Court and such future owner's successors, heirs, representatives and assigns shall not be bound by, and shall take title to the Property free and clear of, the Declaration and all of the provisions contained therein.

2. Promptly after delivery to the Owner of any notice of default by the Owner under the Security Documents Lender shall use its reasonable efforts to provide the City with a copy thereof by certified or registered mail, return receipt requested, at the following address:

Mayor
City of Strongsville
16099 Foltz Parkway
Strongsville, Ohio 44149

With a copy to:
Law Director
City of Strongsville
16099 Foltz Parkway
Strongsville, Ohio 44149

or at such other address as the City shall designate.

3. The term "Lender" as used herein includes any successor or assign of the named Lender herein, including without limitation, any co-lender at the time of making the Loan, any purchaser at a foreclosure or bankruptcy sale and any transferee pursuant to a deed in lieu of foreclosure, and their successors and assigns and any future mortgagee subsequent to Lender.

4. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed modified to the extent necessary to be enforceable, or if such modification is not practicable, such provision shall be deemed deleted from this Agreement, and the other provisions of this Agreement shall remain in full force and effect.

5. Neither this Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified orally, but only by an instrument in writing, executed by the party against which enforcement of the termination, amendment, supplement, waiver or modification is sought and with approval of the Council of the City in accordance with law. This Agreement and the terms and conditions of this Agreement shall run with the land.

[no further text this page – signature page to follow]

This Agreement shall be construed in accordance with the laws of the State of Ohio.

Witness the execution hereof under seal as of the date first above written.

CITY OF STRONGSVILLE

By: _____
Thomas P. Perciak, Mayor

APPROVED AS TO FORM:

Law Director, City of Strongsville

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

This is an acknowledgement clause. No oath or affirmation was administered to the signer.

On this ____ day of March, 2020, before me, a Notary Public in and for said County and State, personally appeared Thomas P. Perciak, the individual named in the foregoing instrument, as Mayor of the City of Strongsville, which executed the foregoing instrument, and acknowledged that he did sign the foregoing instrument as such Mayor of said Municipal Corporation and that such signing is the free act and deed of said Mayor for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto subscribed my name and affixed my official seal at Strongsville, Ohio, the ____ day of March, 2020.

Notary Public
My commission expires: _____

Prepared by:
Carl J. Dyczek, Esq.
Buckingham, Doolittle & Burroughs, LLC
1375 East Ninth Street, Suite 1700
Cleveland, Ohio 44114

This Agreement shall be construed in accordance with the laws of the State of Ohio.

Witness the execution hereof under seal as of the date first above written.

LENDER:

EATON FAMILY CREDIT UNION, INC.

By: _____

Name: _____

Its: _____

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

This is an acknowledgement clause. No oath or affirmation was administered to the signer.

On this ____ day of February, 2020, before me, a Notary Public in and for said County and State, personally appeared _____, the individual named in the foregoing instrument, as _____, of Eaton Family Credit Union, Inc. which executed the foregoing instrument, and acknowledged that he/she did sign the foregoing instrument as such _____ of said Bank and that such signing is the free act and deed of said Bank for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto subscribed my name and affixed my official seal at _____, Ohio, the ____ day of _____, 2020.

Notary Public
My commission expires: _____

EXHIBIT A

Legal Description

EXHIBIT B

City of Strongsville, Ohio
Ordinance/Resolution No. 2020-_____

MODIFICATION TO
DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS

THIS MODIFICATION TO DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS (this "Modification"), is made this ____ day of February, 2020, by THE CITY OF STRONGSVILLE, OHIO (the "City") and M & B STRONGSVILLE, LLC, an Ohio limited liability company ("Declarant").

RECITALS:

WHEREAS, Declarant filed of record that certain Declaration of Covenants, Conditions, Easements and Restrictions dated June 12, 2006, as Instrument No. 200606140108 in the Cuyahoga County, Ohio Recorder's Office (the "Declaration"); and

WHEREAS, the Declaration places certain use restrictions, in perpetuity, on real property owned by Declarant in fee simple and commonly known as 15163 Howe Road, Strongsville, Ohio; and

WHEREAS, the Declaration is intended for the sole benefit of the City and may be enforced solely by the City; and

WHEREAS, at Declarant's request, the City has agreed to modify certain rights it has under the Declaration, as provided for herein; and

WHEREAS, the City has approved this Modification by the enactment of [Ordinance/Resolution] No. _____, a true and complete copy of which is attached hereto as Exhibit A and made a part hereof;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. MODIFICATION. From and after the recording hereof, Section 1 of the Declaration is hereby deleted in its entirety and replaced with the following:

“1. Use Restriction: The Property shall be used solely as a private, non-sectarian, children’s preschool, to serve primarily the families of Strongsville, all generally in accordance with a site plan (the “Site Plan”), a copy of which is attached hereto as Exhibit “B,” and with all applicable provisions of the Codified Ordinances of the City of Strongsville, and for only such accessory or other uses as are or may be incidental to that principal use.”

2. BINDING EFFECT. This Modification shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, legal representatives, successors and assigns.

3. ENTIRE AGREEMENT. This Modification contains the entire agreement between the parties relating to the transactions contemplated hereby and all prior or contemporaneous agreements, understandings, representations, or statements, oral or written, are superseded hereby.

4. NO THIRD PARTY RIGHTS. Nothing in this Modification, express or implied, is intended to confer upon any person, other than the parties hereto, and their respective successors and assigns, any rights or remedies under or by reason of this Modification.

5. COUNTERPARTS. This Modification may be executed in any number of separate counterparts, each of which when taken together shall constitute but one and the same document.

(signatures appear on next pages)

IN WITNESS WHEREOF, the parties have executed this Modification effective as of the date first above written.

CITY OF STRONGSVILLE, OHIO

By: _____
Name: Thomas P. Perciak
Its: Mayor

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

This is an acknowledgment clause. No oath or affirmation was administered to the signer.

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named CITY OF STRONGSVILLE, OHIO, by THOMAS P. PERCIAK, its Mayor, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed and the free act and deed of such municipality.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at _____, Ohio, this ____ day of _____, 2020.

Notary Public

IN WITNESS WHEREOF, the parties have executed this Modification effective as of the date first above written.

DECLARANT:

M & B STRONGSVILLE, LLC,
an Ohio limited liability company

By: _____
Name: Willis B. Boyer
Its: President

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

This is an acknowledgment clause. No oath or affirmation was administered to the signer.

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named M & B STRONGSVILLE, LLC, by Willis B. Boyer, its President, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed and the free act and deed of such limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at _____, Ohio, this ____ day of _____, 2020.

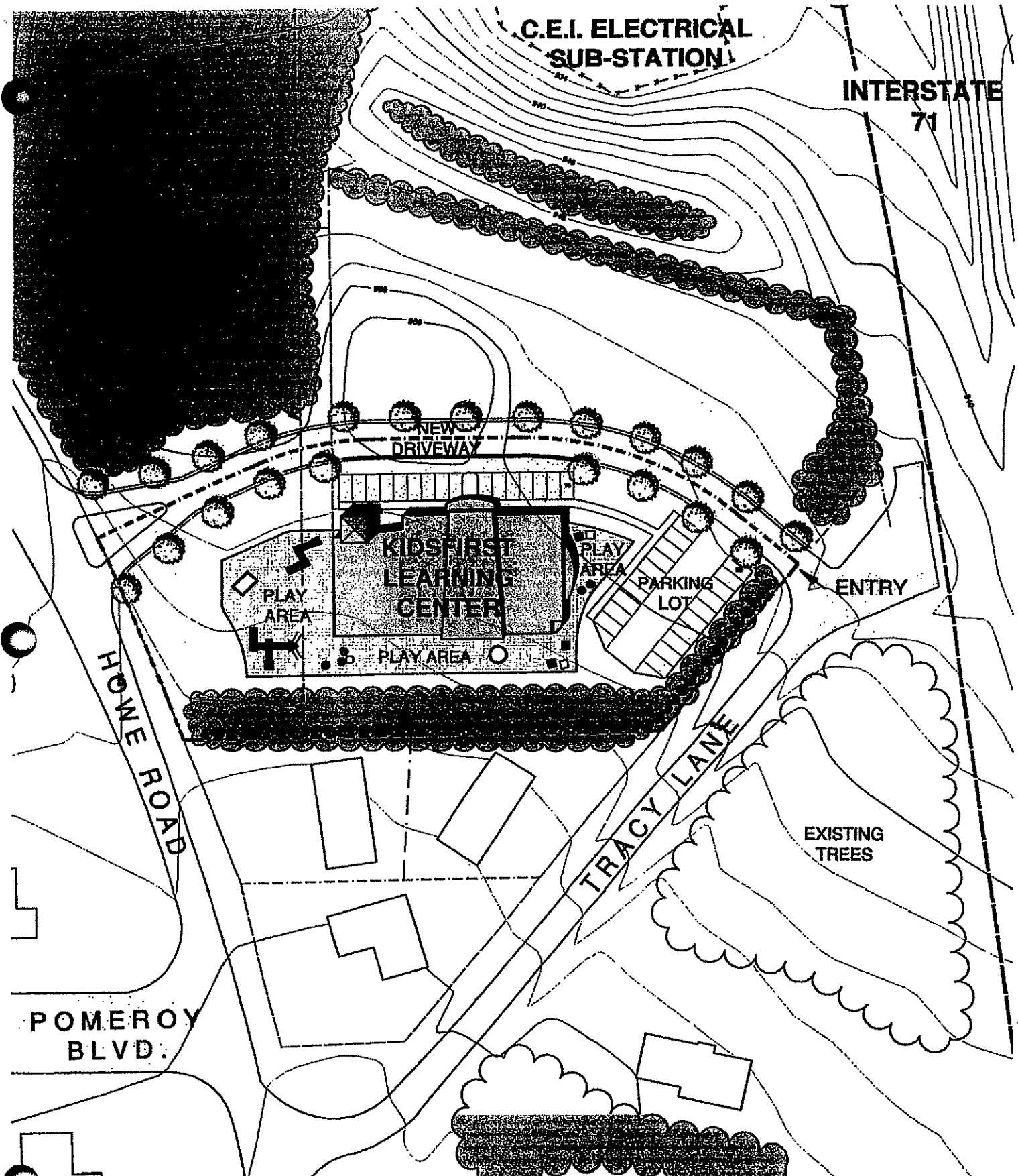
Notary Public

This instrument prepared by:
Dylan Mook, Esq.
Singerman, Mills, Desberg & Kauntz Co., L.P.A.
3333 Richmond Road
Suite 370
Beachwood, Ohio 44122
(216) 292-5807

EXHIBIT A

[ORDINANCE/RESOLUTION] NO. _____
OF THE CITY OF STRONGSVILLE, OHIO

(see attached)



KIDSFIRST LEARNING CENTER

TRACY LANE

STRONGSVILLE, OHIO

FIRSTNORTH CORPORATION

EXHIBIT B

CITY ARCHITECTURE

CITY OF STRONGSVILLE, OHIO

RESOLUTION NO. 2020 – 047

By: Mayor Perciak and All Members of Council

A RESOLUTION APPROVING THE APPLICATION OF EMIL S. KARIM TO PLACE LAND IN AN AGRICULTURAL DISTRICT.

WHEREAS, Emil S. Karim (the "applicant") has filed a renewal application with the Clerk of Council to place Permanent Parcel No. 394-14-003, located at 18402 Prospect Road, in the City of Strongsville ("applicant's land"), which the applicant has owned for many years, into an agricultural district; and

WHEREAS, through passage of Resolution No. 2015-073 on April 20, 2015, this Council previously approved a prior similar application for the same property; and

WHEREAS, on February 19, 2020, the Cuyahoga County Fiscal Office notified the City that it had approved the current application; and

WHEREAS, this Council held a public hearing on March 16, 2020, within the time prescribed by law, to hear the applicant and any public comments in support of and/or against the granting of the application.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1. That this Council finds and determines that the application attached hereto as Exhibit A to place applicant's land comprising some thirteen (13) acres into an agricultural district is in compliance with law and is hereby approved.

Section 2. That the approval of the application to place applicant's land in an agricultural district shall be for the period commencing on the effective date as established by law and ending no later than five (5) years thereafter.

Section 3. That the Clerk of Council be and is hereby directed to forward a certified copy, return receipt requested, of this Resolution to the applicants and the Cuyahoga County Fiscal Office within five (5) days from the date of adoption of this Resolution in accordance with law.

Section 4. 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, that resulted in such formal action were in compliance with all legal requirements.

Section 5. That this Resolution shall take effect and be in force from and after the earliest period allowed by law.

CITY OF STRONGSVILLE, OHIO
RESOLUTION NO. 2020 - 047
Page 2

President of Council

Approved: _____
Mayor

Date Passed: _____

Date Approved: _____

| | <u>Yea</u> | <u>Nay</u> |
|----------|------------|------------|
| Carbone | _____ | _____ |
| DeMio | _____ | _____ |
| Kaminski | _____ | _____ |
| Kosek | _____ | _____ |
| Roff | _____ | _____ |
| Schonhut | _____ | _____ |
| Short | _____ | _____ |

Attest: _____
Clerk of Council

REC
ORD. No. 2020-047 Amended: _____
1st Rdg. _____ Ref: _____
2nd Rdg. _____ Ref: _____
3rd Rdg. _____ Ref: _____

Pub Hrg. _____ Ref: _____
Adopted: _____ Defeated: _____