

# City of Strongsville

16099 Foltz Parkway  
Strongsville, Ohio 44149-5598  
Phone: 440-580-3110  
Council Office Fax: 440-572-1648  
[www.strongsville.org](http://www.strongsville.org)

## City Council

Michael J. Daymut  
Ward 1

Matthew A. Schonhut  
Ward 2

James E. Carbone  
Ward 3

Gordon C. Short  
Ward 4

Joseph C. DeMio  
At-Large

Kenneth M. Dooner  
President Pro Tem  
At-Large

Duke Southworth  
President of Council  
At-Large

Aimee Pientka, CMC  
Clerk of Council  
[aimee.pientka@strongsville.org](mailto:aimee.pientka@strongsville.org)

Tiffany Mekeel, CMC  
Assistant Clerk of Council  
[tiffany.mekeel@strongsville.org](mailto:tiffany.mekeel@strongsville.org)

June 2, 2016

## MEETING NOTICE

City Council has scheduled the following meetings for **Monday, June 6, 2016**, 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 and Engineering Committee** will meet to discuss Ordinance Nos. 2016-072, 2016-114 and Resolution Nos. 2016-115 and 2016-116.

**Recreation and Community Services Committee** will meet to discuss Ordinance No. 2016-117.

**Economic Development** will meet to discuss items pertinent to the committee.

**Committee of the Whole** will meet to discuss Ordinance No. 2016-101.

**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, CMC  
Clerk of Council

**STRONGSVILLE CITY COUNCIL REGULAR MEETING**  
**MONDAY, JUNE 6, 2016 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 – May 16, 2016*
6. APPOINTMENTS, CONFIRMATIONS, AWARDS AND RECOGNITION:
  - Presentation by The Strongsville St. Francis of Assisi Council of the Knights of Columbus:
    - 2016 Firefighter of the Year: Randy J. French
    - 2016 Strongsville Police Officer of the Year: Mike Guminey
    - 2016 Dispatcher of the Year: Sheryl Buschman
  - Presentation of 2015 Strongsville Police Department recognition awards:
    - Sgt. Greg Cravatas – Blue Collar
    - Ptl. Ryan Young – Blue Collar
    - Ptl. Zaki Hazou – Professionalism
    - Ptl. Shamus Kelley – Professionalism
    - Ptl. Brook Miller – Quality Service
    - Ptl. Jason Glover – Quality Service
    - Corrections Officer Matt Cook – Compassion
    - Corrections Officer Angela Farrow – Compassion
    - Stacia Bellini – Citizen
    - Richard Stewart – Citizen
    - Robert Pfaller – Citizen
    - Ronald Pfaller – Citizen
    - Kevin Hardony – Citizen
    - Ronaldo Sanchez – Citizen
7. PUBLIC HEARING:
  - Ordinance No. 2016-072 by Mr. Daymut. AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF STRONGSVILLE ADOPTED BY SECTION 1250.03 OF TITLE SIX, PART TWELVE OF THE CODIFIED ORDINANCES OF STRONGSVILLE TO CHANGE THE ZONING CLASSIFICATION OF CERTAIN PROPERTY LOCATED AT 19132 TEMPLE DRIVE (PPNs 393-19-016 and 393-19-017) IN THE CITY OF STRONGSVILLE, FROM PF (PUBLIC FACILITIES) CLASSIFICATION TO OB (OFFICE BUILDING) CLASSIFICATION. *First reading and referred to Planning Commission 04-04-16. Favorable recommendation by Planning Commission 04-14-16. Second reading 04-18-16.*

8. REPORTS OF COUNCIL COMMITTEE:

- SCHOOL BOARD – Mr. Carbone:
- SOUTHWEST GENERAL HEALTH SYSTEM – Mr. Southworth:
- BUILDING AND UTILITIES – Mr. Schonhut:
- COMMUNICATIONS AND TECHNOLOGY – Mr. Schonhut:
- ECONOMIC DEVELOPMENT– Mr. Daymut:
- FINANCE – Mr. Dooner:
- PLANNING, ZONING AND ENGINEERING – Mr. Daymut:
- PUBLIC SAFETY AND HEALTH – Mr. DeMio:
- PUBLIC SERVICE AND CONSERVATION – Mr. Carbone:
- RECREATION AND COMMUNITY SERVICES – Mr. Short:
- COMMITTEE-OF-THE-WHOLE – Mr. Southworth:

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. 2016-072 by Mr. Daymut. AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF STRONGSVILLE ADOPTED BY SECTION 1250.03 OF TITLE SIX, PART TWELVE OF THE CODIFIED ORDINANCES OF STRONGSVILLE TO CHANGE THE ZONING CLASSIFICATION OF CERTAIN PROPERTY LOCATED AT 19132 TEMPLE DRIVE (PPNs 393-19-016 and 393-19-017) IN THE CITY OF STRONGSVILLE, FROM PF (PUBLIC FACILITIES) CLASSIFICATION TO OB (OFFICE BUILDING) CLASSIFICATION. *First reading and referred to Planning Commission 04-04-16. Favorable recommendation by Planning Commission 04-14-16. Second reading 04-18-16.*

- Ordinance No. 2016-101 by Mayor Perciak and All Members of Council. AN ORDINANCE AMENDING SECTION 618.12 (HUNTING OR TRAPPING PROHIBITED) OF CHAPTER 618 ANIMALS OF PART SIX-GENERAL OFFENSES CODE OF THE CODIFIED ORDINANCES OF THE CITY TO AUTHORIZE A NUISANCE ABATEMENT INITIATIVE FOR BOTH SHORT TERM AND LONG TERM CONTROL AND REDUCTION OF THE WHITE-TAILED DEER POPULATION, IN COORDINATION WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES AND CONTIGUOUS, ADJOINING, POLITICAL SUBDIVISIONS THAT OPT TO ADOPT A SIMILAR PLAN FOR NUISANCE ABATEMENT, AND DECLARING AN EMERGENCY. *First reading 05-02-16. Second reading 05-16-16.*
  - Ordinance No. 2016-114 by Mayor Perciak and All Members of Council. AN ORDINANCE APPROVING AND AUTHORIZING THE FILING OF AN APPLICATION WITH THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), UNDER THE HAZARD MITIGATION ASSISTANCE GRANT PROGRAM, FOR ACQUISITION AND DEMOLITION OF CERTAIN HOMES ON ROCK CREEK CIRCLE, AND DECLARING AN EMERGENCY.
  - Resolution No. 2016-115 by Mayor Perciak and Mr. Daymut. A RESOLUTION AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS FOR THE WESTWOOD DRIVE WIDENING PROJECT IN THE CITY OF STRONGSVILLE, AND DECLARING AN EMERGENCY.
  - Resolution No. 2016-116 by Mayor Perciak and Mr. Daymut. A RESOLUTION AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS FOR THE SANITARY SEWER REHABILITATION PROGRAM FOR 2016, AND DECLARING AN EMERGENCY.
  - Ordinance No. 2016-117 by Mayor Perciak and Mr. Short. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING DESIGN AND CONSULTING SERVICES IN CONNECTION WITH THE RENOVATION OF FOUR LOCKER ROOMS AT THE CITY'S EHRNFELT RECREATION CENTER, AND DECLARING AN EMERGENCY.
12. COMMUNICATIONS, PETITIONS AND CLAIMS:
13. MISCELLANEOUS BUSINESS:
14. ADJOURNMENT:

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2016 – 072

By: Mr. Daymut

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF STRONGSVILLE ADOPTED BY SECTION 1250.03 OF TITLE SIX, PART TWELVE OF THE CODIFIED ORDINANCES OF STRONGSVILLE TO CHANGE THE ZONING CLASSIFICATION OF CERTAIN PROPERTY LOCATED AT 19132 TEMPLE DRIVE (PPNs 393-19-016 and 393-19-017) IN THE CITY OF STRONGSVILLE, FROM PF (PUBLIC FACILITIES) CLASSIFICATION TO OB (OFFICE BUILDING) CLASSIFICATION.

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

**Section 1.** That the Zoning Map of the City of Strongsville, adopted by Section 1250.03 of Title Six, Part Twelve of the Codified Ordinances of Strongsville, be amended to change the zoning classification of certain property located at 19132 Temple Drive (PPNs 393-19-016 and 393-19-017), from PF (Public Facilities) classification to OB (Office Building) classification, which property is more fully described in Exhibit "A" and as depicted in Exhibit "B", attached hereto and incorporated herein as if fully rewritten.

**Section 2.** That the Clerk of Council is hereby authorized to cause the necessary change on the Zoning Map to be made in order to reflect the zoning change in classification as provided in this Ordinance.

**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 shall take effect and be in force from and after the earliest period allowed by law.

First Reading: April 4, 2016

Referred to Planning Commission

Second Reading: April 18, 2016

April 5, 2016

Third Reading: \_\_\_\_\_

Favorable recommendation by Planning Commission  
Approved: April 14, 2016

Public Hearing: June 6, 2016

CITY OF STRONGSVILLE, OHIO  
ORDINANCE NO. 2016 - 072  
Page 2

\_\_\_\_\_  
President of Council

Approved: \_\_\_\_\_  
Mayor

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

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

	<u>Yea</u>	<u>Nay</u>
Carbone	_____	_____
Daymut	_____	_____
DeMio	_____	_____
Dooner	_____	_____
Schönhut	_____	_____
Short	_____	_____
Southworth	_____	_____

Attest: \_\_\_\_\_  
Clerk of Council

ORD. No. 2016-072 Amended: \_\_\_\_\_  
1st Rdg. 04-04-16 Ref: PC/PZE  
2nd Rdg. 04-08-16 Ref: PZE  
3rd Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_

Pub Hrg. 06-06-16 Ref: \_\_\_\_\_  
Adopted: \_\_\_\_\_ Defeated: \_\_\_\_\_

## **Exhibit A**

### Parcel No. 1

Situated in the City of Strongsville, County of Cuyahoga and State of Ohio and known as being Sublot No. 22 in Strongsville Heights Subdivision of part of Original Strongsville Township Lot No. 56, as shown by the recorded plat in Volume 140 of Maps, Pages 22 and 23 of Cuyahoga County Records, as appears by said plat, be the same more or less, but subject to all legal highways.

p.p.# 393-19-016

### Parcel No. 2

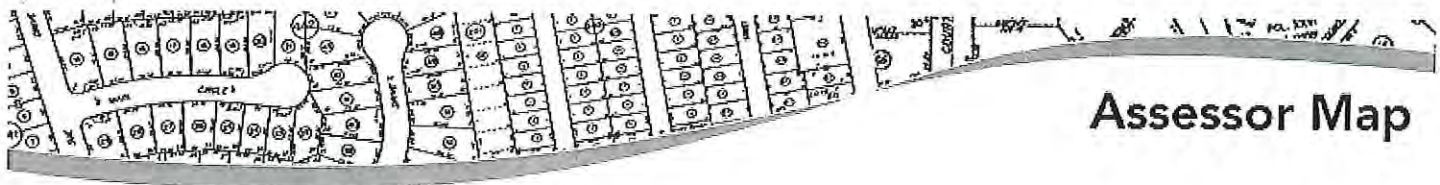
Situated in the City of Strongsville, County of Cuyahoga and State of Ohio and known as being Sublot No. 23 in Strongsville Heights Subdivision of part of Original Strongsville Township Lot No. 56, as shown by the recorded plat in Volume 140 of Maps, Pages 22 and 23 of Cuyahoga County Records, as appears by said plat, be the same more or less, but subject to all legal highways.

p.p.# 393-19-017

Property: 19132 Temple Drive, Strongsville, Ohio 44149

Owner: Rise Properties LLC

**EXHIBIT A**



# Assessor Map

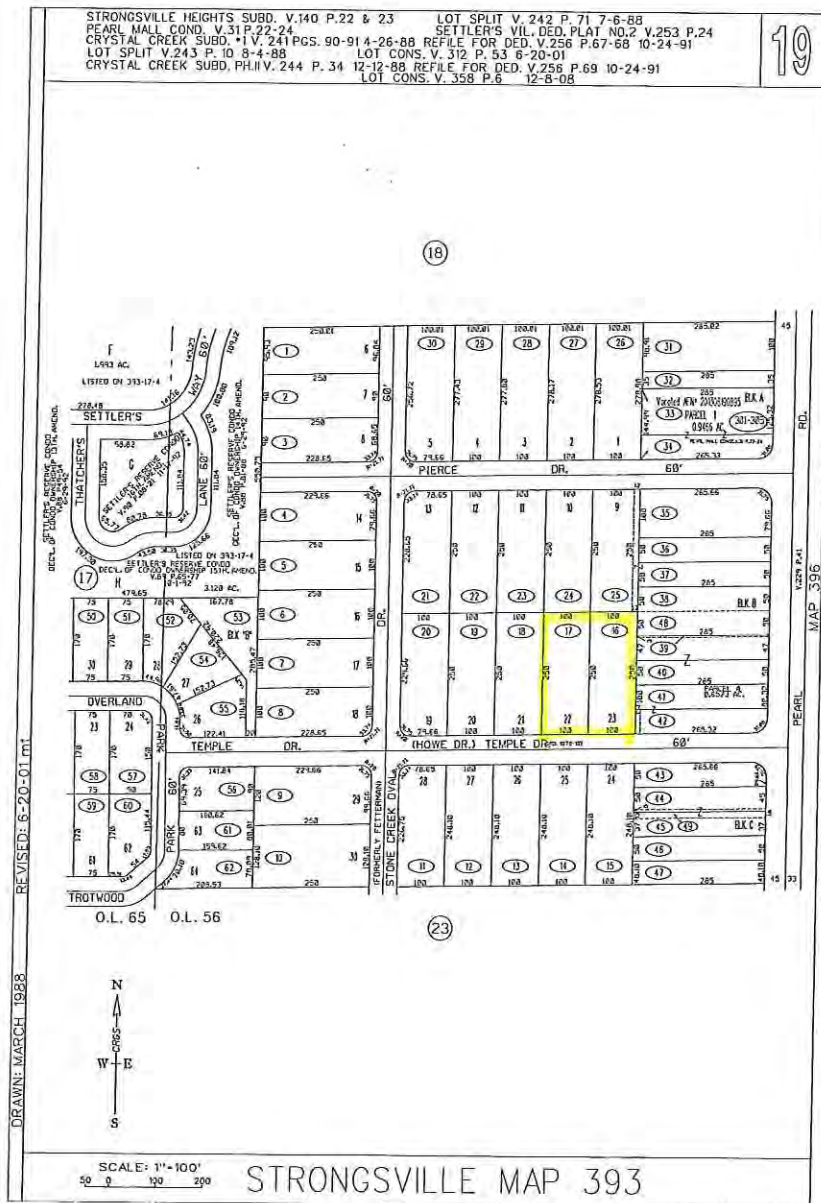


EXHIBIT B



**PETITION FOR ZONING CHANGE**

Ordinance Number: 2016-072

To the Council of the City of Strongsville, County of Cuyahoga, State of Ohio:

I/We, the undersigned owner(s) of the property set above our names on the Property Description Form attached to this document, hereby petition your Honorable Body that said property be changed from a class Public Facility PF use to a class Office Bldg use.

Such change is necessary for the preservation and enjoyment of a substantial property right because: We would like to operate our business at this location

Such change will not be materially detrimental to the public welfare nor to the property of other persons located in the vicinity because 1) small staff 2) will not disrupt the quiet enjoyment of the area 3) operate 9-5pm Mon-Fri 4) Customers do not visit location; no add'l traffic

Please list other supporting documents (if any) which accompany this petition:

1. N/A
2. \_\_\_\_\_
3. \_\_\_\_\_

THE PROPOSED USE OF THE PROPERTY IS: Office

Name, address and **telephone number** of applicant or applicant's agent:

Name: Amy Osterig - Bedner

Address: 1898 Scranton Rd, Cleveland, 44113

Telephone Number: 440.550.9060

[Signature]  
Signature of Owner(s) Rise Properties, LLC

State of Ohio )  
County of Cuyahoga )

Sworn to and subscribed in my presence this 22 day of MARCH, 2016.

[Signature]



**Bruce H. Bynum**  
Notary Public, State of Ohio  
My commission expires: June 29, 2016

Particular attention to the details in item number 4 on page one. The certified list of property not be prepared by a title insurance company. Please provide a cover letter from the title insurance company verifying that said list was prepared by them.

**PROPERTY DESCRIPTION FORM**

Ordinance Number: 2016-072

The following described property is that property for which a change is being requested in the attached Petition for Zoning Change and which is hereby incorporated into and made part of said petition:

Address of Property: 19132 Temple Drive, Strongsville, Ohio 44149

Permanent Parcel No.: 393-19-016 + 393-19-017 (see attached memo)

The property is bounded by the following streets: (indicate direction; i.e., north, south, etc.) To the south: Temple Drive.

Number and type of buildings which now occupy property (if any): One

Acreage: 1.14 Acres

Said property (has) (had) the following deed restrictions affecting the use thereof (attach copy): No deed restrictions known. Current zoning is PF, Public Facility.

Said deed restrictions (will) (have) expire(d) on: N/A

Said property is presently under lease or otherwise encumbered as follows: N/A

Owner(s)	Percent of Ownership:
1. <u>Rise Properties, LLC</u>	<u>100</u> %
2. _____	_____ %
3. _____	_____ %

[Signature]  
Signature of Owner(s)

State of Ohio )  
County of Cuyahoga )

Sworn to and subscribed to in my presence this 22 day of MARCH, 2016



**Bruce H. Bynum**  
Notary Public, State of Ohio  
Expires June 29, 2016

[Signature]  
Notary Public

My commission expires June 29, 2016

\* Please pay particular attention to the details in item number 4 on page one. The certified list of property owners must be prepared by a title insurance company. Please provide a cover letter from the title insurance company verifying that said list was prepared by them.

**CITY OF STRONGSVILLE**  
**OFFICE OF THE COUNCIL**

**MEMORANDUM**

---

**TO:** Ken Mikula, City Engineer

**FROM:** Aimee Pientka, Clerk of Council

**DATE:** March 22, 2016

**SUBJECT:** Rezoning Application  
Rise Properties, LLC; Owner  
PPN: 393-19-016  
Address: 19132 Temple Drive  
From Public Facility to Office Building District Use

---

---

Please check the legal description on the attached application for rezoning and, if correct, please forward to the Law Director so he may prepare legislation for Council to consider.

Thank you.

AKP  
Attachments

cc: Thomas P. Perciak, Mayor  
Kenneth A. Kraus, Law Director  
Daniel J. Kolick, Assistant Law Director  
George Smerigan, City Planner  
Brent Painter, Economic Development Director  
All Members of Council  
Carol Opera, Planning Commission Secretary

# City of Strongsville

## *Memorandum*

**To:** Neal Jamison, Law Director

**CC:** Mayor Perciak  
Ken Mikula, City Engineer  
✓ Aimee Pientka

**From:** Lori Daley, Assistant City Engineer

**Date:** March 24, 2016

**Re:** Rezoning Application  
Rise Properties, LLC; Owner  
PPN's 393-19-016 & 017  
19132 Temple Drive  
From PF to OB

---

Neal,

The legal descriptions included in the Clerk of Council's March 22, 2016 memo regarding the above referenced application accurately depict the areas to be rezoned.

Please note, Cuyahoga County still has the parcels listed under two different numbers. The rezoning includes both PPN's listed above.

Please feel free to contact me with any questions.

Thank you.

**CITY OF STRONGSVILLE**  
**OFFICE OF THE COUNCIL**

**MEMORANDUM**

---

**TO:** Ken Mikula, City Engineer

**FROM:** Aimee Pientka, Clerk of Council

**DATE:** March 24, 2016

**SUBJECT:** Rezoning Application  
Rise Properties, LLC; Owner  
PPN: 393-19-016 and 393-19-017  
Address: 19132 Temple Drive  
From Public Facility to Office Building District Use

---

---

Per the memo from Lori Daley dated March 24, 2016, the above rezoning also includes PPN 393-19-017 which the original Property Description Form did not reflect. I have spoken to the owner, Marty DeMichele, who advised he wanted this parcel included in the rezoning. Attached is the updated Property Description form for this rezoning.

AKP  
Attachments

cc: Thomas P. Perciak, Mayor  
Neal Jamison, Law Director  
Daniel J. Kolick, Assistant Law Director  
George Smerigan, City Planner  
Brent Painter, Economic Development Director  
All Members of Council  
Carol Opera, Planning Commission Secretary

Permanent: 393-19-016  
Parcel #:

CUYAHOGA COUNTY  
OFFICE OF FISCAL OFFICER - 2  
DEED 3/31/2015 3:17:38 PM

Type Instrument: Warranty Deed  
Tax District #: 3340

Date: 3/31/2015 2:31:00 PM

**201503310424**

Grantee: RISE PROPERTIES LLC  
Balance Assumed: \$ 0.00  
Total Consideration: \$ 15,000.00  
Conv. Fee Paid: \$ 60.00  
Transfer Fee Paid: \$ 0.50  
Fee Paid by: City Title Agency  
Exempt Code:

Tax List Year: 2015  
Land Use Code: 4850  
Land Value: 110,000  
Building Value: 131,300  
Total Value: 241,300  
Arms Length Sale: UNKNW  
Rcpt: d-03312015-14  
Inst #: 691217  
Check #: 4489

  
Cuyahoga County Fiscal Officer

KNOW ALL MEN BY THESE PRESENTS

That The Strongsville Temple Company, Inc. (collectively or singularly referred to as "Grantors") for valuable consideration paid, grants, with covenants of General Warranty to Rise Properties LLC, an Ohio Limited Liability Company whose tax mailing is: 6601 Smith Road, Brook Park, Ohio 44130 and property address is: 19132 Temple Drive, Strongsville, Ohio 44149 the following described realty:

**Parcel No. 1**

Situated in the City of Strongsville, County of Cuyahoga and State of Ohio and known as being Sublot No. 22 in Strongsville Heights Subdivision of part of Original Strongsville Township Lot No. 56, as shown by the recorded plat in Volume 140 of Maps, Pages 22 and 23 of Cuyahoga County Records, as appears by said plat, be the same more or less, but subject to all legal highways.

**Parcel No. 2**

Situated in the City of Strongsville, County of Cuyahoga and State of Ohio and known as being Sublot No. 23 in Strongsville Heights Subdivision of part of Original Strongsville Township Lot No. 56, as shown by the recorded plat in Volume 140 of Maps, Pages 22 and 23 of Cuyahoga County Records, as appears by said plat, be the same more or less, but subject to all legal highways.

PPN: 393-19-016

CITY TITLE COMPANY

100148

Prior Instrument Reference: Volume 7062 Page 475 & 477

And the said Grantors do for themselves and their successors and assigns covenant with said Grantees, as above granted, that at and until the ensembling of these presents it is well seized of the above described premises as a good and indefeasible estate in fee simple, and has good right to bargain and sell the same in manner and form as above written; that the same are free and clear from all encumbrances whatsoever except restrictions, conditions, reservations, limitations, and easements of record; restrictions and conditions contained in this Deed; if any, zoning ordinances; and taxes and assessments, both general and special, presently a lien but not yet due and payable; and that they will warrant and defend said premises, with the appurtenances thereunto belonging, to the said Grantees, as above granted, forever, against all lawful claims and demands whatsoever, except as hereinabove provided.

EXECUTED this 31<sup>st</sup> day of MARCH, 2015.

The Strongsville Temple Company, Inc.

[Signature]  
By: William J. Craig, its President

[Signature]  
By: Sandra Wojnowski, its Vice President

STATE OF OHIO

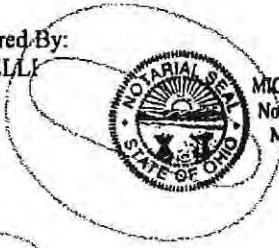
COUNTY OF Cuyahoga

On this 30<sup>th</sup> day of MARCH, 2015, before me, a Notary Public, in and for said County, personally came The Strongsville Temple Company, Inc., By: William J. Craig, its President and By: Sandra Wojnowski, its Vice President the grantor(s) in the foregoing deed, and acknowledged the signing thereof to be their voluntary act and deed.

Witness my official signature and seal on the day last above mentioned.

[Signature]  
Notary Public

This Instrument Prepared By:  
WILLIAM E. NEGRELLI  
Attorney at Law  
5599 Pearl Road  
Parma, Ohio 44129  
440-88-6100



MICHAEL R. LEWANDOWSKI  
Notary Public, State of Ohio  
My Commission Expires  
December 8, 2016

[Signature]

**CITY OF STRONGSVILLE**  
**OFFICE OF THE COUNCIL**

**MEMORANDUM**

---

**TO:** Planning Commission  
**FROM:** Tiffany Mekeel, Assistant Clerk of Council  
**DATE:** April 5, 2016  
**SUBJECT:** Referral from Council: Ordinance No. 2016-072

---

---

At its regular meeting of April 4, 2016, City Council referred the following Ordinance to the Planning Commission for its report and recommendation thereon:

- Ordinance No. 2016-072 by Mr. Daymut. AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF STRONGSVILLE ADOPTED BY SECTION 1250.03 OF TITLE SIX, PART TWELVE OF THE CODIFIED ORDINANCES OF STRONGSVILLE TO CHANGE THE ZONING CLASSIFICATION OF CERTAIN PROPERTY LOCATED AT 19132 TEMPLE DRIVE (PPNs 393-19-016 and 393-19-017) IN THE CITY OF STRONGSVILLE, FROM PF (PUBLIC FACILITIES) CLASSIFICATION TO OB (OFFICE BUILDING) CLASSIFICATION.

A copy of the ordinance is attached for Planning Commission review.

TAM  
Attachment



## MEMORANDUM

**TO:** Aimee Pientka, Council Clerk  
Neal Jamison, Law Director

**FROM:** Carol Oprea, Administrative Assistant, Boards & Commissions

**SUBJECT:** Referrals to Council

**DATE:** April 15, 2016

---

Please be advised that at its meeting of April 14, 2016, the Strongsville Planning Commission gave Favorable Recommendation to the following;

**ORDINANCE NO. 2016-072**

An Ordinance Amending the Zoning Map of the City of Strongsville adopted by Section 1250.03 of Title Six, part Twelve of the Codified Ordinances of Strongsville to change the Zoning Classification of certain property located at 19132 Temple Drive (PPN's 393-19-016 and 393-19-017) in the City of Strongsville from PF (Public Facilities) Classification to OB (Office Building) Classification.

**CITY OF STRONGSVILLE, OHIO**

**ORDINANCE NO. 2016 – 101**

**By: Mayor Perciak and All Members of Council**

**AN ORDINANCE AMENDING SECTION 618.12 (HUNTING OR TRAPPING PROHIBITED) OF CHAPTER 618 ANIMALS OF PART SIX-GENERAL OFFENSES CODE OF THE CODIFIED ORDINANCES OF THE CITY TO AUTHORIZE A NUISANCE ABATEMENT INITIATIVE FOR BOTH SHORT TERM AND LONG TERM CONTROL AND REDUCTION OF THE WHITE-TAILED DEER POPULATION, IN COORDINATION WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES AND CONTIGUOUS, ADJOINING, POLITICAL SUBDIVISIONS THAT OPT TO ADOPT A SIMILAR PLAN FOR NUISANCE ABATEMENT, AND DECLARING AN EMERGENCY.**

WHEREAS, the white-tailed deer population in urban areas has grown to unmanageable numbers; and

WHEREAS, as a consequence thereof great financial loss has been suffered by public and private property owners, in the destruction of plants, flowers, trees and other edible landscaping; and

WHEREAS, deer/vehicle accidents increase annually and threaten the lives and property of all those who travel by vehicle on our streets and highways; and

WHEREAS, while hunting within the City of Strongsville is prohibited, the exploding regional deer population urgently requires deer management efforts; and

WHEREAS, this Council finds that the existing circumstances constitute an ongoing and serious nuisance which must be abated for the public health, safety and welfare; and

WHEREAS, the Mayor and Administration, working in conjunction with the Ohio Department of Natural Resources (“ODNR”) and in coordination with other similarly situated municipalities, seek to establish a “nuisance abatement initiative” to allow for the liberal issuance of permits from both the ODNR and the municipal police department (deer damage control permits) with the consent of and upon the application of property owners seeking relief; and

WHEREAS, this Council in Resolution No. 2015-231, submitted to the Cuyahoga County Board of Elections for the consideration of the Electors of the City of Strongsville, an advisory election for the proposed amendment of Section 618.12 of the Codified Ordinances to permit limited hunting of white-tailed deer by crossbow or long bow by licensed individuals under terms and conditions established by the State of Ohio and the City, and under the supervision of the Chief of Police; and

WHEREAS, this advisory election took place on March 15, 2016 and the Electors of the City of Strongsville by a substantial margin voted in favor of amending Section 618.12 of the Codified Ordinances to permit limited hunting of white-tailed deer by crossbow or long bow by licensed individuals under terms and conditions established by the State of Ohio and the City, and under the supervision of the Chief of Police; and

WHEREAS, similar advisory elections on the same issue also took place on March 15, 2016 in the cities of Broadview Heights, North Royalton, Parma, Parma Heights and Seven Hills; with the Electors in each of these municipalities voting in favor to permit the limited hunting of white-tailed deer, as set forth above.

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

**Section 1.** That Section 618.12 of Chapter 618 of Part Six-General Offenses Code of the Codified Ordinances of the City of Strongsville, be and is hereby amended to read in its entirety as follows:

**618.12 HUNTING OR TRAPPING PROHIBITED.**

(a) No person shall hunt or trap animals or fowl within the Municipality, except that law enforcement officers, health officials, persons possessing a nuisance trapping permit issued by the Division of Wildlife of the State of Ohio, and a resident using a live box trap trapping on property which he owns or permanently occupies may trap wildlife or animals constituting a nuisance; **and except as provided in division (c) of this Section.**

(b) A person holding a nuisance trapping permit issued by the Division of Wildlife of the State of Ohio shall:

- (1) Notify the Animal Control Officer or the Police Department of his name, the location and time of placement of each trap placed in the Municipality prior to setting any such trap;
- (2) Use a box trap or a trap approved by the Division of Wildlife of the State of Ohio; and

- (3) Release such animal outside the City limits within twenty-four hours of trapping or in accordance with State of Ohio, Division of Wildlife regulations.

**(c) The limited hunting of white-tailed deer by crossbow or long bow may be permitted within the City under the following terms and conditions:**

- (1) The Chief of Police or his designated representative may, in his sole discretion, issue a Municipal Deer Control Permit to a qualified archer applicant (engaged to assist property owners aggrieved by deer damage) only as a corollary to and following the issuance by the ODNR of either its own Deer Damage Control Permit or hunting license for the applicable white-tailed deer hunting season to allow only bow-hunting (long bow and crossbow) of white-tailed deer.
- (2) The Municipal Deer Control Permit shall be limited to areas of not less than five (5) contiguous acres by a qualified archer(s), on such forms and subject to such rules and regulations as the Chief of Police may prescribe.
- (3) Hunting shall be conducted from an elevated platform only.
- (4) Written permission from the property owner(s) must be obtained.
- (5) A qualified archer shall be defined as an individual having obtained an approval/certification from an approved archery proficiency test site, valid Ohio hunting license, if applicable, and all other applicable State requirements.
- (6) Compliance with all laws, rules and regulations of the City and State is required.
- (7) All applicants shall agree, in writing, to defend, indemnify and hold harmless the City for any negligent acts committed by the applicant.
- (8) Any other requirements as deemed necessary to preserve and protect the health, safety and welfare of the residents shall be determined solely by the Chief of Police.
- (9) The Chief of Police is hereby authorized to promulgate any and all rules and regulations necessary to carry out the provisions of this

**section, and all other rules and regulations necessary to insure public health and safety, all of which shall be published.**

- (10) Nothing in this section shall be deemed to prohibit the killing of rats and other undesirable rodents authorized to be killed by the Chief of Police using means for such killing which are also authorized by the Chief of Police.**

~~(e)(d)~~ **Whoever violates any provision of this section-divisions (a) or (b) of this Section is guilty of a minor misdemeanor. Whoever violates division (c) shall be guilty of a misdemeanor of the first degree.** Punishment shall be as provided in Section 698.02.  
~~(Ord. 1992-175. Passed 11-2-92.)~~

**Section 2.** In order to defray the expenses incurred with the management of this program, a fee of \$150.00 per each qualified archer applicant is established and must accompany any application for the Municipal Deer Damage Control Permit.

**Section 3.** The City, in cooperation with ODNR and the Division of Wildlife, will explore and strive to adopt long-term, non-lethal options for deer population control, including but not limited to contraception, sterilization, relocation and/or such other methods as may provide the necessary relief in non-lethal methods and on a cost-effective basis.

**Section 4.** No other method for the control of the deer population is permitted other than such as is authorized herein; all other provisions of the Codified Ordinances of the City of Strongsville not specifically modified herein shall remain unaffected by these measures and fully enforceable.

**Section 5.** 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 6.** 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 this Ordinance is required to be immediately effective in order to mitigate the ongoing nuisance of deer herds which must be abated, and to establish the parameters for the issuance of deer damage control permits. 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

CITY OF STRONGSVILLE, OHIO  
ORDINANCE NO. 2016 - 101  
Page 5

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	_____	_____
Daymut	_____	_____
DeMio	_____	_____
Dooner	_____	_____
Schonhut	_____	_____
Short	_____	_____
Southworth	_____	_____

Attest: \_\_\_\_\_  
Clerk of Council

ORD. No. 2016-101 Amended: \_\_\_\_\_  
1st Rdg. 05-02-16 Ref: COW  
2nd Rdg. 05-16-16 Ref: COW  
3rd Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Pub Hrg. \_\_\_\_\_ Ref: \_\_\_\_\_  
Adopted: \_\_\_\_\_ Defeated: \_\_\_\_\_

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2016 – 114

By: Mayor Perciak and All Members of Council

**AN ORDINANCE APPROVING AND AUTHORIZING THE FILING OF AN APPLICATION WITH THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), UNDER THE HAZARD MITIGATION ASSISTANCE GRANT PROGRAM, FOR ACQUISITION AND DEMOLITION OF CERTAIN HOMES ON ROCK CREEK CIRCLE, AND DECLARING AN EMERGENCY.**

WHEREAS, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121 et seq., (Stafford Act) identifies the use of disaster relief funds under the Hazard Mitigation Grant Program for the acquisition and relocation of structures in the floodplain; and

WHEREAS, the City of Strongsville has previously applied with the Ohio Emergency Management Agency (OEMA) for funding under the Stafford Act relating to the acquisition and demolition of certain homes in the City that have experienced substantial storm damage due to flooding (the Project); and

WHEREAS, the OEMA has chosen four (4) homes on Rock Creek Circle in the City of Strongsville that are eligible to apply with the Federal Emergency Management Agency (FEMA) for funding under the Hazard Mitigation Grant Program for the acquisition and demolition of said homes.

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 and City Engineer be and are hereby authorized and directed to prepare and submit an application to FEMA for funding under the Hazard Mitigation Grant Program, in the estimated amount of \$644,805.00, being FEMA's seventy-five percent (75%) share of the total estimated Project cost of \$859,740.00, for acquisition and demolition of certain homes on Rock Creek Circle, in the City of Strongsville, and authorizes execution of all documents and to do all things necessary in furtherance thereof.

**Section 2.** That this Council hereby approves and authorizes the execution and delivery of certifications, agreements, assurances and such other information required in connection therewith by the Mayor, City Engineer, Director of Finance and/or their authorized representatives.

**Section 3.** That, if such application is approved and funds awarded, it is the intent of this Council to pay for the City's portion of costs in connection with such Project, estimated to be some \$214,935.00, being a twenty-five percent (25%) share of the total cost of the Project, from the FEMA Fund.

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2016 - 114

Page 2

**Section 5.** 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 6.** 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 the execution and filing of such application is immediately required in order to meet the application deadline date, and it is necessary to promptly provide authorization and approvals for the City to be eligible for receipt of such funds, 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.

\_\_\_\_\_  
President of Council

Approved: \_\_\_\_\_  
Mayor

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

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

	<u>Yea</u>	<u>Nay</u>
Carbone	_____	_____
Daymut	_____	_____
DeMio	_____	_____
Dooner	_____	_____
Schonhut	_____	_____
Short	_____	_____
Southworth	_____	_____

Attest: \_\_\_\_\_  
Clerk of Council

ORD. No. 2016-114 Amended: \_\_\_\_\_

1st Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_

2nd Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_

3rd Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_

\_\_\_\_\_

Pub Hrg. \_\_\_\_\_ Ref: \_\_\_\_\_

Adopted: \_\_\_\_\_ Defeated: \_\_\_\_\_



CITY OF STRONGSVILLE, OHIO

RESOLUTION NO. 2016 – 115

By: Mayor Perciak and Mr. Daymut

**A RESOLUTION AUTHORIZING THE MAYOR TO  
ADVERTISE FOR BIDS FOR THE WESTWOOD DRIVE  
WIDENING PROJECT IN THE CITY OF STRONGSVILLE,  
AND DECLARING AN EMERGENCY.**

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 Westwood Drive Widening Project, 336 feet east of Pearl Road, and 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, Pearl Road Tax Incremental Financing (TIF) Fund #2, and Pearl Road Tax Incremental Financing Fund (TIF) #3.

**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 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 in order to advertise for public bidding of the aforesaid road improvement Project in a timely manner, to improve the condition of roadways in the City, and conserve public funds. 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; otherwise from and after the earliest period allowed by law.

\_\_\_\_\_  
President of Council

Approved: \_\_\_\_\_  
Mayor

Date Passed: \_\_\_\_\_ Date Approved: \_\_\_\_\_

CITY OF STRONGSVILLE  
RESOLUTION NO. 2016 - 115  
Page 2

	<u>Yea</u>	<u>Nay</u>
Carbone	_____	_____
Daymut	_____	_____
DeMio	_____	_____
Dooner	_____	_____
Schonhut	_____	_____
Short	_____	_____
Southworth	_____	_____

Attest: \_\_\_\_\_  
Clerk of Council

**RES**  
ORD. No. 2016-115 Amended: \_\_\_\_\_  
1st Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_  
2nd Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_  
3rd Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Pub Hrg. \_\_\_\_\_ Ref: \_\_\_\_\_  
Adopted: \_\_\_\_\_ Defeated: \_\_\_\_\_

CITY OF STRONGSVILLE, OHIO

RESOLUTION NO. 2016 – 116

By: Mayor Perciak and Mr. Daymut

**A RESOLUTION AUTHORIZING THE MAYOR TO  
ADVERTISE FOR BIDS FOR THE SANITARY SEWER  
REHABILITATION PROGRAM FOR 2016, AND  
DECLARING AN EMERGENCY.**

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 Sanitary Sewer Rehabilitation Program for 2016, consisting of lateral internal television inspection, sewer joint testing, and sealing of mainline sanitary sewers and house lateral connections in various areas of the City, in accordance with plans and specifications 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 Sanitary Sewer 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 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 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 authorize advertising for public bidding on this project in order to maintain and improve the municipal sanitary sewer system, 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.

\_\_\_\_\_  
President of Council

Approved: \_\_\_\_\_  
Mayor

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

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

CITY OF STRONGSVILLE, OHIO  
RESOLUTION NO. 2016 - 116  
Page 2

	<u>Yea</u>	<u>Nay</u>
Carbone	_____	_____
Daymut	_____	_____
DeMio	_____	_____
Dooner	_____	_____
Schonhut	_____	_____
Short	_____	_____
Southworth	_____	_____

Attest: \_\_\_\_\_  
Clerk of Council

*RES*  
ORD. No. 2016-116 Amended: \_\_\_\_\_  
1st Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_  
2nd Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_  
3rd Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Pub Hrg. \_\_\_\_\_ Ref: \_\_\_\_\_  
Adopted: \_\_\_\_\_ Defeated: \_\_\_\_\_

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2016 – 117

By: Mayor Perciak and Mr. Short

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING DESIGN AND CONSULTING SERVICES IN CONNECTION WITH THE RENOVATION OF FOUR LOCKER ROOMS AT THE CITY'S EHRNFELT RECREATION CENTER, AND DECLARING AN EMERGENCY.**

WHEREAS, by and through Resolution No. 2016-039, the Mayor advertised a request for qualifications and proposals for architectural and engineering design and consulting services for the renovation of four (4) locker rooms at the City's Ehrnfelt Recreation Center; and

WHEREAS, pursuant to Revised Code Section 153.69, the City selected and ranked no fewer than three firms which it considered to be most qualified to provide the required professional design services; and

WHEREAS, the City has negotiated a contract with TC Architects, Incorporated, the firm ranked most qualified to perform the required services; and

WHEREAS, the City is desirous of entering into a contract for such services.

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 after negotiations, **TC ARCHITECTS, INCORPORATED** is the most qualified firm to perform the architectural and engineering design and consulting services in connection with the renovation of four (4) locker rooms at the City's Ehrnfelt Recreation Center; that the compensation being requested is deemed to be fair and reasonable, and that the criteria set forth in Ohio Revised Code Sections 153.65-.80 for the selection of a professional design services firm and negotiation of a contract have been met. All other proposals for this contract are hereby rejected, and any informalities or minor defects in the proposal process are hereby waived.

**Section 2.** That the Mayor be and is hereby authorized and directed to enter into a contract with **TC ARCHITECTS, INCORPORATED**, to provide architectural and engineering design and consulting services in connection with the renovation of four (4) locker rooms at the City's Ehrnfelt Recreation Center, substantially in accordance with the terms and conditions set forth in the proposed contract attached hereto as Exhibit 1, and incorporated herein by reference, which in all respects is hereby approved.

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2016 - 117

Page 2

**Section 3.** That the funds for the purposes of said contract have been appropriated and shall be paid from the Recreation Capital Improvement 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 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 enter into said contract in order to commence the renovation of the locker rooms at the City's Ehrnfelt Recreation Center, to enhance the facilities at the Recreation Center for the benefit of its patrons, 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.

\_\_\_\_\_  
President of Council  
Approved: \_\_\_\_\_  
Mayor

Date Passed: \_\_\_\_\_ Date Approved: \_\_\_\_\_

	<u>Yea</u>	<u>Nay</u>
Carbone	_____	_____
Daymut	_____	_____
DeMio	_____	_____
Dooner	_____	_____
Schonhut	_____	_____
Short	_____	_____
Southworth	_____	_____

Attest: \_\_\_\_\_  
Clerk of Council

ORD. No. 2016-117 Amended: \_\_\_\_\_  
 1st Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_  
 2nd Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_  
 3rd Rdg. \_\_\_\_\_ Ref: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Pub Hrg. \_\_\_\_\_ Ref: \_\_\_\_\_  
 Adopted: \_\_\_\_\_ Defeated: \_\_\_\_\_

## AGREEMENT

**THIS AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **CITY OF STRONGSVILLE**, 16099 Foltz Parkway, Strongsville, Ohio 44149 ("City"), and **TC ARCHITECTS, INCORPORATED**, 755 White Pond Drive, Suite 401, Akron, Ohio 44320 ("Architect").

### WITNESSETH:

WHEREAS, the City desires to undertake a project involving the design for renovation of four (4) locker rooms at the City's Ehrnfelt Recreation Center located at 18100 Royalton Road, Strongsville, Ohio 44136, and desires to employ an architectural firm to assist the City in said project;

**NOW THEREFORE**, the City and Architect agree as set forth below.

## TERMS AND CONDITIONS OF AGREEMENT BETWEEN CITY AND ARCHITECT

### ARTICLE 1 Architect's Responsibilities

#### 1.1 ARCHITECT'S SERVICES

- 1.1.1 The Architect's services consist of those services performed by the Architect, Architect's employees and Architect's consultants as enumerated in Articles 2 and 3 of this Agreement and any other requirements included in Article 8.
- 1.1.2 Architect shall provide its services under this Agreement in accordance with the professional standards prevailing in the metropolitan Cleveland area, and all of the Architect's services under this Agreement shall be performed as is consistent with said standards, time being of the essence. The Architect shall submit for the City's information and approval a schedule for the performance of the Architect's services which may be adjusted as the Project proceeds, and shall include allowances for periods of time required for the City's review and for approval of submissions by authorities having jurisdiction over the Project. Such schedule shall be consistent with and shall not vary from the schedule to be established by the City and the Architect. Time limits established by the schedule to be approved by the City shall not, except for reasonable cause, be exceeded by the Architect or City. Any adjustments to the schedule shall be void and of no force and effect until such adjustments are agreed to in writing by City and Architect.

**Article 2**  
**Scope of Architect's Basic Services**

**2.1 DEFINITION**

2.1.1 The Architect's Basic Services consist of those set forth in the City's RFQP document dated March 7, 2016, the attached two (2) Scope of Services Exhibits A and A-1 incorporated herein, and as further described in Paragraphs 2.2 through 2.6 and any other services agreed to between the parties as part of Basic Services, normal structural, mechanical, and electrical to produce a set of Construction Documents, as described by and required in paragraph 2.4.

**2.2 SCHEMATIC DESIGN PHASE**

2.2.1 The Architect in consultation with the City, and any other persons or entities designated by City shall develop a written and/or graphic program for the Project to ascertain the City's needs (including its Fire Department's) and to establish the requirements for the Project.

2.2.2 The Architect shall review with the City proposed site use and improvements; selection of materials, building systems and equipment; and methods of Project delivery.

2.2.3 The Architect shall review with the City alternative approaches to design and construction of the Project.

2.2.4 Based on the mutually agreed upon program, schedule and construction budget requirements, the Architect shall prepare, for approval by the City, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components.

2.2.5 At intervals appropriate to the progress of the Schematic Design Phase and mutually agreeable to the City, the Architect shall provide schematic design studies for the City's review. Those intervals shall be established and the Architect's services called for in this phase shall be performed in a timely manner to meet the schedule to be established for "Schematic Design."

2.2.6 Upon completion of the Schematic Design Phase, the Architect shall provide drawings, outline specifications and other documents for the City's approval.

**2.3 DESIGN DEVELOPMENT PHASE**

2.3.1 Based on the approved Schematic Design Documents and any adjustments authorized by the City in the program, schedule or construction budget, the Architect shall prepare Design Development Documents for the City's review and approval. The Design Development Documents shall be based upon data



and estimates prepared by the Architect in consultation with the City, and shall consist of drawings and other documents that establish and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. The Design Development Documents shall take into account applicable laws, statutes, ordinance, codes, orders, rules and regulations imposed by governmental authorities having jurisdiction over the project.

2.3.2 At intervals mutually agreeable to the City and Architect, the Architect shall provide drawings and other documents which depict the current status of design development for the City's review. Those intervals shall be established and the Architect work called for in this phase shall be performed in a timely manner to meet the schedule established on the line to be identified as "Design Development" in Exhibit B, to be attached hereto.

2.3.3. Upon completion of the Design Development Phase, the Architect shall provide drawings, outline specifications and other documents for the City's approval.

2.3.4 The Architect also shall provide interior design.

## 2.4 **CONSTRUCTION DOCUMENTS PHASE**

2.4.1 Based on the approved Design Development Documents and any further adjustments authorized by the City in the scope or quality of the Project or in the construction budget, the Architect, utilizing its data and estimates, shall prepare, for approval by the City, Construction Documents consisting of Drawings and Specifications setting forth in customary detail the requirements for the construction of the Project. The Construction Documents shall take into account applicable laws, statutes, ordinances, codes, rules and regulations imposed by governmental authorities having jurisdiction over the project. Alternative and "like materials" specifications will be reviewed by the Architect with final approval to be by the City.

2.4.2 At intervals mutually agreeable to the City and Architect, the Architect shall provide Drawings and Specifications for the City's review. Those intervals shall be established and the Architect's services called for in this phase shall be performed in a timely manner to meet the schedule established on the line to be identified as "Final Design" in Exhibit B, to be attached hereto.

2.4.3 Upon completion of the construction Documents Phase, the Architect shall provide Construction Documents for the City's approval.

2.4.4 The Architect shall assist the City in the preparation of the bidding information, bidding forms, the Conditions of the Contracts, and the forms of Agreement between the City and Contractors. The Architect shall assist the City in issuing bidding documents to bidders and conducting pre-bid conferences with

prospective bidders. The Architect shall respond to questions from bidders, and shall issue addenda. The Architect's work under this phase shall be performed in a timely manner for the schedule established on the line to be identified as "Bidding and Award" in Exhibit B, to be attached may commence continue and conclude in accordance with such schedule.

- 2.4.5 The Architect shall assist the City in connection with the City's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project and with obtaining all necessary approvals and permits.

## 2.5 **BIDDING OR NEGOTIATION PHASE**

- 2.5.1 The Architect, following the City's approval of the Construction Documents and Architect's latest estimate of Construction Cost, shall assist the City in obtaining bids or negotiated proposals and assist in preparing contracts for construction.

- 2.5.2 If the total of the lowest and best bona fide bids by responsible Contractors satisfactory to the City for the construction of the Project pursuant to the approved Contract Documents for the Project exceeds by more than ten percent (10%) the total construction cost of the project as set forth in the approved Project Budget, then the Architect shall conduct further cost adjustment sessions with the City in order to accomplish revision of the Contract Documents to reduce or modify the quality or quantity, or both, of the Work so that the total construction cost of the Project will not exceed the total construction cost set forth in the approved Project Budget by more than ten percent (10%) of the total construction cost of the Project set forth therein, or in the alternative, to adjust the Project budget. After authorization by the City, the Architect shall provide the bidding services set forth in this Article 2 for the re-bid of the Project, if necessary.

## 2.6 **CONSTRUCTION PHASE - ADMINISTRATION OF THE CONSTRUCTION CONTRACT**

- 2.6.1 The Architect's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the various Contracts for construction and terminates upon 200 days after final occupancy by the City and the issuance to the City of the final project certificates for payment.

- 2.6.2 The Architect shall provide administration of the Contract for construction in cooperation with the City as set forth below and in the General Conditions of the Contract for Construction. The Architect also is responsible to identify the types of special inspections and testing required for the project, and thereafter in cooperation with the City to coordinate special inspections required under the Ohio Building Code.

- 2.6.3 Construction Phase duties, responsibilities and limitation of authority of the Architect shall not be restricted, modified or extended without written agreement of the City and Architect.
- 2.6.4 The Architect shall be a representative of and shall advise and consult with the City (1) during the Construction Phase, and (2) at the City's direction from time to time during the correction period described in the Contacts for Construction. The Architect shall have authority to act on behalf of the City only to the extent provided in this Agreement unless otherwise modified by written instrument.
- 2.6.5 Once construction commences, the Architect shall visit the site a total of twelve (12) times, and when appropriate to the state of construction or as otherwise agreed by the City and Architect in writing, to become generally familiar with the progress and quality of the Work completed and to determine if the Work is proceeding in general accordance with all of the requirements of the Contract Documents and take into account applicable law statutes, ordinances, codes, rules and regulations, and is being performed in a manner indicating that the Work when completed will be in accordance with the Contract Documents. On the basis of on-site observations as an architect, the Architect shall keep the City informed of the progress and quality of the Work and shall provide information of its findings to the City, to assist the City and submit written reports at least once a month, and as the circumstances require, and shall endeavor to guard the City against defects and deficiencies in the Work. Once construction commences, the Architect shall participate in meetings with the City and contractor during the site visits, and provide for recording of and/or notes of the meetings with the contractors.
- 2.6.6 The Architect shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work. The Architect shall not be responsible for the Contractors' schedules or failure to carry out the Work in accordance with the Contract Documents, except as otherwise set out to the contrary in Subparagraph 2.6.5. The Architect shall not have control over or charge of acts or omissions of the Contractors, Subcontractors, or their agents or employees, or of any other persons performing services or portions of the Work.
- 2.6.7 The Architect shall at all times have access to the Work wherever it is in preparation or progress.
- 2.6.8 The Architect agrees to act as the representative of the City in any communications by and with the Architect's consultants, and such communications shall be through the Architect.

- 2.6.9 Based on the Architect's observations at the site of the Work and evaluations of each Contractor's Application for Payment, the Architect shall review and certify the amounts due the Contractor(s) within five (5) days after receipt of the Contractor's Application for Payment.
- 2.6.9.1 The Architect's certification for payments shall constitute a representation to the City, based on the Architect's observations at the site as provided in Subparagraph 2.6.5, on the data comprising the Contractor's Applications for Payment, that the Work has progressed to the point indicated and the quality of the Work is in general accordance with the Contract Documents. The foregoing representations are subject to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed in writing at the time of the Architect's Certification for Payment. The issuance of a Certificate for Payment shall further constitute a representation that the Contractor is entitled to payment in the amount certified.
- 2.6.9.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) reviewed construction means, methods, techniques, sequences or procedures, or (2) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.
- 2.6.10 The Architect shall have the authority, after notification to the City, to reject Work which does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect will have authority, upon written authorization from the City, to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed, provided, however, the Architect must obtain the City's prior written approval of any such inspection or testing. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractors, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the Work.
- 2.6.11 The Architect shall review and approve or take other appropriate action upon Contractors' submittals such as Shop Drawings, Product Data and Samples, for the purpose of: (1) taking into account with applicable laws, statutes, ordinances, codes, orders, rules and regulations; and (2) determining whether or not the Work, when completed, will be in general accordance with the requirements of the Contract Documents. The Architect's action shall be taken in accordance with the schedule submitted to the City pursuant to subparagraph 1.1.3 hereof so as to cause no delay in the Contractors' Work or in construction by the City's own forces. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instruction for installation or

performance of equipment or systems designed by Contractors, all of which remain the responsibility of the Contractors to the extent required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon such certification to establish that the materials systems or equipment will meet the performance criteria required by the Contract Documents.

- 2.6.12 The Architect shall review and sign or take other appropriate action on Change Orders and Construction Change Directives for the City's review, approval and execution in accordance with the Contract Documents.
- 2.6.13 The Architect may authorize minor changes in Work, not involving an adjustment in a Contract Sum and not involving an extension of a Contract Time, which changes are not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order issued through the City.
- 2.6.14 The Architect shall assist the City in conducting one (1) inspection to determine the date or dates of Substantial Completion. The Architect shall assist the City in conducting one (1) inspection to determine the date of Final Completion, and shall issue a Certificate of Substantial Completion. The Architect shall receive, review, and approve or disapprove as the case may be guarantees, warranties and similar submittals required by the Contract Documents and shall forward the same to the City. Maximum of (2) reviews for each submittal. Upon compliance with all requirements of the Contract Documents, the Architect, shall prepare and issue a final Construction Payment Report which shall indicate whether the Architect finds the Work performed acceptable under the Contract Documents and if acceptable shall include a review and certification of the final amounts due the respective Contractors in the form of final Certificates of Payment which shall be approved and executed by the Architect and Contractors.
- 2.6.15 The Architect shall interpret and provide recommendations on matters concerning performance of the Contractors and the requirements of the Contract Documents on written request of either the City or a Contractor. The Architect's response to such requests shall be made with reasonable promptness and within any agreed upon time limits.
- 2.6.16 Interpretations and recommendations of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and recommendations, the Architect shall endeavor to secure faithful performance

by the Contractors, and shall not be liable for results of interpretations or decisions so rendered in good faith or in the absence of negligence.

- 2.6.17 The Architect shall render written interpretations and recommendations within a reasonable time on all claims, disputes or other matters in question relating to the execution or progress of the Work as provided in the Contract Documents.
- 2.6.18 Architect hereby represents to the City the following:
- (1) that Architect is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete the services required and perform its obligations hereunder.
  - (2) that Architect is able to furnish any of the tools, materials, supplies, equipment and labor required to complete the services required hereunder.
  - (3) that Architect is authorized to do business in the State of Ohio and properly licensed by governmental and public and quasi-public authorities having jurisdiction over its and the services required hereunder and the Project itself;
  - (4) that Architect's execution of this Agreement and its performance thereof is within its duly authorized powers; and
  - (5) that Architect's duly authorized representative has visited the Project, familiarized himself with the local conditions under which the services required hereunder are to be performed and correlated his observations with all of the requirements of the Contract Documents.
- 2.6.19 The Architect shall provide the City with one (1) set of Electronic Documents showing all significant changes to the Working Drawings during the Construction Phase and shall also provide one (1) set of reproducible as record Drawings for the City's file. The City shall provide in its agreements with Contractors that each Contractor shall provide to the Architect one (1) set of reproducible prints and drawings prepared by such Contractor.
- 2.6.20 As part of the Basic Services, the Architect shall meet with the City, and/or their designated representatives promptly after Substantial Completion to review the need for facility operation services.
- 2.6.21 As part of the Basic Services, upon request of the City, and prior to the expiration of one (1) year from the date of Substantial Completion, the Architect shall conduct a meeting with the City and its designated representatives to review the facility operations and performance and to make appropriate recommendations to the City.

**ARTICLE 3**  
**Additional Services**

**3.1 GENERAL**

3.1.1 The services described in this Article 3 are not included in Basic Services unless so identified otherwise in this Agreement, and they shall be paid for by the City as provided in this Agreement, in addition to the compensation for Basic Services. The services described under Paragraphs 3.2, 3.3 and/or 3.4 shall only be provided if authorized or confirmed in writing by the City. If services described under Contingent Additional Services in Paragraph 3.3 are required due to circumstances beyond the Architect's control, the Architect shall notify the City prior to commencing such services. If the City deems that such services described under Paragraph 3.3 are not required, the City shall give prompt written notice to the Architect. If the City indicates in writing that all or part of such Contingent Additional Services are not required, the Architect shall have no obligation to provide those services. Notwithstanding anything to the contrary in this Agreement, City shall not be responsible to pay and the Architect shall not be entitled to receive compensation for any Additional Services if such services were required due to the fault of the Architect or the Architect's failure to perform in accordance with the terms of this Agreement.

**3.2 CONTINGENT ADDITIONAL SERVICES**

3.2.1 Making major revisions in Drawings, Specifications or other documents when such revisions are:

- .1 inconsistent with approvals or instructions previously given by the City, including revisions made necessary by adjustments in the City's program or Project budget;
- .2 required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents; or
- .3 due to changes required as a result of the City's failure to render decisions in a timely manner.

3.2.2 Providing services required because of significant changes in the Project including, but not limited to, changes in size, quality, complexity, the City's schedule, or the method of bidding or negotiating and contracting for construction, except for services required under Paragraph 2.5.

3.2.3 Preparing Drawings, Specifications and other documentation and supporting data, and providing other services in connection with Change Orders and Construction Change Directives.

- 3.2.4 Providing services in connection with evaluating substantial substitutions proposed by Contractors and making subsequent revisions to Drawings, Specifications and other documentation resulting therefrom.
- 3.2.5 Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such Work.
- 3.2.6 Providing services made necessary by the termination or default of a Contractor or by major defects or deficiencies in the Work of a Contractor unless the Architect, with reasonable diligence under its supervisory obligations set out in this Agreement, should have observed and halted such major defects or deficiencies in work.
- 3.2.7 Providing services in evaluating an extensive number of claims submitted by a Contractor or others in connection with the Work.
- 3.2.8 Providing services in connection with an arbitration proceeding or legal proceeding except where the Architect is party thereto.

**ARTICLE 4**  
**City's Responsibilities**

- 4.1 The City shall consult with the Architect regarding requirements for the Project, including the City's contemplated objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expendability, special equipment, systems, and site requirements.
- 4.2 The City shall establish and update an overall budget for the Project based on consultation with the Architect, which shall include the Construction Cost, the City's other costs and reasonable contingencies related to all of these costs.
- 4.3 If requested by the Architect, the City shall furnish evidence that financial arrangements have been made to fulfill the City's obligations under this Agreement.
- 4.4 The City shall designate a representative authorized to act on the City's behalf with respect to the Project and its construction, who shall be the City's Building Commissioner. The City or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. There also shall be a representative available from the City's Fire Department; namely, the Fire Chief, for purposes of consultation concerning special needs and design.



- 4.5 The City may furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. Surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures, adjacent drainage; rights-of-ways, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be references to a Project benchmark.
- 4.6 City shall furnish the services of geotechnical engineers when such services are requested by the Architect, whose approval will not be unreasonably withheld. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, and ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations. The City shall be informed of the necessity of such services and consulted thereon.
- 4.7 The City shall furnish the services of other consultants when such services are reasonably required by the scope of the Project and are requested by the Architect, provided that City shall retain such consultants only if they are not to be provided as a part of Basic Services hereunder. The City shall be informed by the Architect of the necessity of such services and consulted thereon.
- 4.8 When recommended by the Architect in accordance with Section 2.6.2 above, the City shall furnish structural, mechanical, air and water pollution tests, and other laboratory and environmental tests, inspections and reports required by law, including but not limited to "special inspections" required under the Ohio Building Code, or the Contract Documents for the Architect's review.
- 4.9 The City shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services that the City may require to verify the Contractors' Applications for Payment or to ascertain how or for what purposes the Contractors have used the monies paid by or on behalf of the City, provided that the City shall have no obligation to provide any of the aforesaid services to any party to a proceeding arising out of a dispute on any issue related to the Project.
- 4.10 The services, information, surveys and reports required by Paragraphs 4.5 through 4.7 shall be furnished at the City's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof, absent the negligence of the Architect.

- 4.11 The proposed language of certificates or certifications requested of the Architect for Architect's consultants shall be submitted to the Architect for review and approval within a reasonable time prior to execution. The City shall not request certifications that would require knowledge or services beyond the scope of this Agreement.
- 4.12 The City shall furnish the required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Architect's services and Work of the Contractors.
- 4.13 The City shall furnish the Architect copies of written communications with the Contractors.
- 4.14 Notwithstanding anything to the contrary in Article 4, the City shall only furnish information or services described in this Article 4 to the extent that any such information or service is reasonably required by the Architect to perform its services under this Agreement. Such information or services provided by the City may be relied upon by the Architect.

## **ARTICLE 5 Construction Cost**

### **5.1 DEFINITION**

- 5.1.1 Construction Cost, for the purposes of this Agreement, shall mean the latest Estimate of Probable Construction Cost prepared by the Architect, and approved by the City until such time as all contracts for construction of the Project have been bid and awarded. Upon the award by the City of the last contract for construction, Construction Cost shall mean the sum of all contracts awarded for construction of the Project. If a change order is approved by the City which increases or decreases a construction contract price, the Construction Cost shall be adjusted in an amount equal to such change order; provided that no increase in Construction Cost shall be made by change order or otherwise if such increase in cost is the result of error, omission, or other fault of the Architect, its officers, employees, agents, or consultants.
- 5.1.2 Construction Cost shall not include the compensation of the Architect and Architect's consultants, the costs of the land, rights-of-way, financing or other costs which are the responsibility of the City as provided in Article 4.

### **5.2 RESPONSIBILITY FOR CONSTRUCTION COST**

- 5.2.1 The Architect shall be responsible for establishment of the estimate of Construction Cost and the City's Project Budget, all to be utilized in preparation

of the Construction Documents. The Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the City's Project budget or from any estimate of Construction Cost or evaluation reviewed by the Architect.

- 5.2.2 No fixed limit of Construction Cost has been established as a condition of this Agreement. However, as soon as reasonably practical, the City with the assistance of the Architect will establish a preliminary Project Budget and estimated construction cost, minus those costs set out in Subparagraph 5.1.2.

## **ARTICLE 6 Payments to the Architect**

### **6.1 DIRECT PERSONNEL EXPENSE**

- 6.1.1 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employer benefits, insurance, sick leave, holidays, vacations, and pension contributions.

### **6.2 PAYMENTS ON ACCOUNT OF BASIC SERVICES**

- 6.2.1 Subject to the provisions of subparagraph 7.2.2 hereof, the City shall make payments directly to the Architect after the City's receipt and approval of the Architect's detailed statements and certificates in a form approved by the City executed by Architect covering that portion of the Work completed on the Project prior to the date of each certificate. The Architect shall submit a draft copy of each statement for services rendered no later than the tenth day of the calendar month for the City's review and approval. The City shall promptly review such draft and submit its comments and responses. The Architect shall submit its final interim statement for services rendered no later than the fifteenth day of a calendar month. The City shall pay each such statement submitted within those time frames on or before the last day of each such calendar month. Statements received after the aforesaid calendar dates shall be processed for payment in the next calendar month.
- 6.2.2 Payments shall be in proportion to services performed within each phase of service, and shall not exceed the percentages set forth in Subparagraph 7.2.2.
- 6.2.3 When compensation is based on a percentage of Construction Cost and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable only to the extent services are performed on those portions, in accordance with the schedule set forth in Subparagraph 7.2.2, based on (1) the lowest bona fide bid or negotiated

proposal, or (2) if no such bids or proposals are received, the most recent Detailed Estimate of Probable Construction Cost prepared by the Architect and approved by the City for such portions of the Project.

6.2.4 No action or payment by the City for any of Architect's services shall alter or act as waiver of Architect's obligations or alter City's rights under this Agreement.

### 6.3 **PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES**

6.3.1 Payments on account of the Architect's Additional Services shall be made monthly upon presentation of the Architect's statement of services rendered or expenses incurred.

### 6.4 **PAYMENTS WITHHELD**

6.4.1 No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to Contractors, or on account of the cost of changes in the Work other than those for which the Architect has been found to be liable, unless the Architect has not properly performed the services required in accordance with the terms of this Agreement.

### 6.5 **ARCHITECT'S ACCOUNTING RECORDS**

6.5.1 Records of Architect's expenses and hours pertaining to this Project shall be kept in accordance with generally accepted accounting principles, which principles shall be consistently applied. Said records shall be available to the City, their authorized representatives and auditors, and the Auditor of the State of Ohio and his designees for inspection and copying during regular business hours for four (4) years after the date of the final Certificate of Payment; or until the completion of all City audit proceedings for the calendar year(s) in which those records were created, or until the conclusion of any legal proceedings arising out of the Project, whichever is the last to occur.

## **ARTICLE 7 Basis of Compensation**

The City shall compensate the Architect as follows:

### 7.1 **BASIC COMPENSATION**

7.1.1 For Basic Services, as described in Article 2, and any other services included as part of Basic Services, Basic Compensation shall be computed as follows:

A total flat fee of Sixty Thousand Dollars (\$60,000.00) which will not be exceeded irrespective of hours spent, costs of consultants or personnel,

costs of construction, bids, or construction cost estimates, amount of square footage, overhead, administrative costs, profit or any other factor of any kind whatsoever. This is intended to be and shall constitute a total and maximum flat fee for all basic services under this Agreement for the entire scope of the Project.

7.1.2 Progress payments for Basic Services in each phase shall not exceed the following percentages of the total Basic Compensation payable:

Schematic Design Phase	15%
Design Development Phase	22%
Construction Documents Phase	35%
Bidding or Negotiation Phase	3%
Construction Phase	<u>25%</u>
Total Basic Compensation	100%

## 7.2 **COMPENSATION FOR ADDITIONAL SERVICES**

7.2.1 For Additional Services of the Architect beyond Basic Services, as described in Paragraphs 3.2 or 3.3, compensation shall be computed on a flat fee basis as may be agreed to by the parties in writing and in advance of undertaking the work.

## 7.3 **FORCE MAJEURE**

7.3.1 The performance of either party's covenants in this Agreement shall be suspended during any period that the performance of this Agreement or the Work is prevented by acts of God, accidents, weather, strikes, boycotts, lockouts and other labor troubles, riot, fire, earthquake, flood, war, action of national or state government, including any court of competent jurisdiction, or any other delay or contingency beyond the reasonable control of either party, and the time for performance of this Agreement shall be extended for the time performance is delayed by any such event, at no additional cost to the City.

7.3.2 Payments for services properly performed are due and payable within the time set forth in subparagraph 6.3.1.

## **ARTICLE 8 Insurance and Indemnification**

### 8.1 **ARCHITECT'S INSURANCE**

8.1.1 Architect shall maintain, at its own expense except as specifically set out herein to the contrary, the insurance coverages set forth in this section insuring the Architect, its employees, agents and designees and the Indemnitees as required herein, which insurance shall be placed with insurance companies

rated at least A- or better by Best's Key Rating Guide and lawfully authorized to do business in the State of Ohio. Each policy shall provide by endorsement or rider that the policy shall not be terminated, canceled, non-renewed or materially modified less than 30 days after receipt by the City of written notice of such action as evidenced by return receipt of United States certified mail. Each policy shall also provide by rider that the violation of any of the terms of any other policy issued by the insurer to the Architect or any subcontractor of the Architect shall not invalidate the policy. Each policy of liability insurance shall provide by rider that the presence of officers, employees, agents and/or representatives of the City on the Site of the Project shall not invalidate the policy.

- 8.1.1.1 The indemnity contained in subparagraph 8.3.1 of this Agreement shall include the Indemnitees as additional insureds by causing amendatory riders or endorsements to be attached to the insurance policies described below in subparagraph 8.1.1.3. The insurance coverage afforded under 8.1.1.3 shall be primary to any insurance carried independently by the Indemnitees. Said amendatory riders or endorsements shall indicate that as respects the Indemnitees, there shall be severability of interests under said insurance policies for all coverages provided under said insurance policies.
- 8.1.1.2 Architect's Professional Liability Insurance (including coverage with all coverage retroactive to the commencement of Architect's services in relation to the Project) with not less than \$1,000,000.00 aggregate limit of liability covering negligent errors and omissions with said coverage to be maintained for a period of two (2) years after the date of final payment hereunder.
- 8.1.1.3 Comprehensive General Liability Insurance (including broad-form contractual liability and completed operations, explosion, collapse and underground hazards) written on an occurrence basis covering as insured the Architect and the City in the Project for personal injury, bodily injury, death and property damage with not less than \$2,000,000.00 limits of liability for each occurrence and in the aggregate to be maintained for a period of two (2) years after the date of final payment hereunder. The Architect shall require that its subcontractors maintain a similar policy of insurance covering as insured the subcontractor and the City.
- 8.1.1.4 Comprehensive Automobile Liability Insurance, including hired and non-owned vehicles, if any, covering personal injury, bodily injury, death and property damage with not less than \$2,000,000.00 for each occurrence and in the aggregate.
- 8.1.1.5 Valuable Papers Insurance insuring all plans, designs, drawings, specifications and documents produced or used under this Agreement by the Architect or any subcontractor thereof in a total amount not less than \$50,000.00 or the total cost to replace any loss whatsoever which could damage or destroy such valuable papers and provide payment to re-create, re-establish or restore such

valuable papers. The benefits of all valuable papers insurance shall be made to extend expressly to the City.

- 8.1.1.6 Worker's Compensation, Disability benefit and other similar employee benefit acts insurances or coverages securing those benefits for the employees of the Architect in the amount of the maximum required by the applicable law.
- 8.1.1.7 Architect shall submit valid certificates in form and substance satisfactory to the City evidencing the effectiveness of the foregoing insurance policies along with original copies of the endorsement and amendatory riders to any such policies to City for City's and approval immediately upon execution of this Agreement, and subsequently not less than 30 days before the expiration dates of expiring policies, provided that for valuable papers insurance, original policies must be deposited with the City.
- 8.1.1.8 Architect hereby agrees to maintain the insurance described in Paragraph 8.1 hereof during the term hereof. If the Architect fails to furnish and maintain the insurance required by Paragraph 8.1, the City may purchase such insurance on behalf of the Architect, and the Architect shall pay the cost thereof to the City upon demand and shall furnish to the City any information needed to obtain such insurance; in the alternative, the City may set-off such costs from and against fees owed by the City to Architect.

## 8.2 CITY'S LIABILITY INSURANCE

- 8.2.1 The City may extend and maintain its own liability insurance, including such insurance as will protect it from claims which may arise from alleged negligence, error or omission of the City, its officers and employees in conjunction with the Project. This provision and/or any action taken by the City hereunder does not constitute and shall not be deemed a waiver of any of the immunities to which the City, its officers or employees are entitled under the provisions of Ohio Revised Code Chapter 2744 or other applicable statutory or case law.

## 8.3 INDEMNIFICATION

- 8.3.1 The Architect hereby agrees to indemnify, and hold harmless the City and other persons or entities designated by the City and, to the extent of insurance coverage required by subparagraphs 8.1.1.1 through 8.1.1.5, from losses, liabilities, injuries, damages and expenses, including reasonable attorneys' fees as determined by a court judgment or arbitration decision, that the Indemnitees may incur by reason of any injury or damage sustained to any person or property (including, but not limited to any one or more of the Indemnitees) arising out of or occurring in connection with Architect's, its agents', employees', consultants' and subcontractors' negligent errors, omissions or negligent acts in the performance of its Services and duties or otherwise which may arise or be incident or related to the services to be performed or provided under this

Agreement, provided that the Architect shall not be obligated to indemnify an Indemnatee for damages caused by or resulting from the negligence of Indemnatee or action giving rise to strict liability of an Indemnatee.

#### 8.4 **NOTICES**

8.4.1 All notices or other communications hereunder to either party shall be in writing and if mailed, shall be deemed to have been given on the earlier of actual receipt by the intended recipient or on the second business day after the date when deposited in the United States mail by registered or certified mail, postage prepaid and addressed:

If to City:                      City of Strongsville  
   16099 Foltz Parkway  
   Strongsville, OH 44149

Attention: Building Commissioner

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

If to the Architect:        TC Architects, Incorporated  
   755 White Pond Drive, Suite 401  
   Akron, OH 44320

Attention: Susan B. Allen

or to either party at such other address as such party may designate, in a notice to the other party, at its address for receipt of notices hereunder.

### **ARTICLE 9**

#### **Use of Architect's Drawings, Specifications and Other Documents**

9.1 The Drawings, Specifications and other documents prepared by the Architect for this Project are instruments of the Architect's services for use solely with respect to this Project and, unless otherwise provided, the Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The City shall be permitted to retain copies, including reproducible copies, and electronic media of the Architect's Drawings, Specifications and other documents for information and reference in connection with the City's construction, use, occupancy, or future changes to the Project. The Architect's Drawings, Specifications or other documents shall not be used by the City or others on other projects, or for



completion of this Project by others, unless the Architect is in default under this Agreement, except by agreement in writing and with appropriate compensation to the Architect, provided that it is expressly understood and agreed that City shall have the right to utilize the Drawings and Specifications in the event City expands the Project, corrects any deficiencies, makes any renovations or repairs to the Project, or for future project design use other than the construction of another building.

- 9.2 Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the Architect's reserved rights.

## **ARTICLE 10 Dispute Resolution**

- 10.1 All claims, disputes and other matters in question between the Architect and the City arising out of, or relating to, the Contract Documents or the breach thereof, shall be settled, if possible, by negotiation and mutual agreement of the parties hereto. In the event of their inability to agree, all such disputes shall be submitted to mediation. If mediation is unsuccessful, then the dispute shall be decided by arbitration in accordance with the construction industry rules of the American Arbitration Association only if the parties mutually agree, and in such event by three (3) arbitrators; or in a court of competent jurisdiction in the State of Ohio. Any agreement to arbitrate shall be reduced to writing and shall incorporate provisions for discovery by both parties. In the absence of such provisions, both parties shall be entitled to and shall provide discovery in accordance with the Ohio Rules of Civil Procedure, and Architect shall provide discovery pursuant to Section 10.6.1 of this Agreement. Failure of either party to provide discovery in a pending arbitration shall terminate the agreement to arbitrate upon written notice of termination by the party requesting discovery to the opposing party and the American Arbitration Association. Such a termination shall divest the American Arbitration Association and the appointed arbitration panel of jurisdiction, and neither party shall be bound by any decision rendered by the arbitration panel.

The Architect will carry on the work and maintain the progress schedule during the pendency of any dispute, including any arbitration or court proceedings, unless otherwise mutually agreed in writing.

## **ARTICLE 11 Termination, Suspension or Abandonment**

- 11.1 This Agreement may be terminated by either party upon not less than ten (10) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. In the event this Agreement is terminated due to the

fault of the Architect, the City shall be entitled to exercise any and all remedies provided by applicable law. In the event this Agreement is terminated due to the fault of the City, the Architect shall be entitled to receive compensation for the portion of its fee then earned and all substantiated Reimbursable Expenses incurred as of the date of termination.

- 11.2 If the Project is suspended by the City for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed provided that the services required of the Architect hereunder cannot be substantially completed in accordance with the latest approved schedule described in Exhibit A and subparagraph 1.1.3, the Architect's compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the Architect's services. Such compensation shall be computed on the basis of the Architect's usual and customary hourly rates for time productively devoted to the Project by Architect's principals and technical personnel in accordance with paragraph 7.2.1, or as otherwise agreed by the parties.
- 11.3 This Agreement may be terminated by the City upon not less than ten (10) days' written notice to the Architect in the event that the Project is permanently abandoned. If the Project is abandoned by the City for more than 90 consecutive days, either party may terminate this Agreement by giving written notice to the other party. In the event of such a termination, the Architect shall be entitled to receive compensation for that portion of his fee then earned and all substantiated Reimbursable Expenses incurred as of the date of termination.
- 11.4 Persistent failure of the City to make payments to the Architect for services and expenses properly performed in accordance with this Agreement shall be considered substantial nonperformance and cause for termination.
- 11.5 If the City persistently fails to make payment when due for services and expenses properly performed, the Architect may, upon ten (10) days' written notice to the City, suspend performance of services under this Agreement unless there is a dispute as specified in Section 10.1. Unless payment in full for services and expenses properly performed is received by the Architect within ten (10) days' of the date of the notice, the suspension shall take effect without further notice. In the event of such a suspension of services, the Architect shall have no liability to the City for delay or damage caused the City because of such suspension of services.
- 11.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services properly performed prior to termination, together with all substantiated Reimbursable Expenses incurred as of the date of termination.

**ARTICLE 12**  
**Miscellaneous Provisions**

- 12.1 Unless otherwise provided, this Agreement shall be governed by the law of the State of Ohio.
- 12.2 Terms in this Agreement shall have the same meaning as those in General Conditions of the Contract Documents, provided that if it is not therein defined, such a word, term or phrase shall be read in context and construed according to the rules of grammar and common usage or acquired technical meaning.
- 12.3 The City and Architect, respectively, bind themselves, their partners, successors, permitted assigns and legal representatives to the other party to this Agreement and to the partners, successors, permitted assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither City nor Architect shall assign, transfer, convey, pledge or otherwise dispose of its interest in this Agreement without the prior written consent of the other, and the Architect shall not assign any moneys due under this Agreement without the City's prior written consent.
- 12.4 This Agreement represents the entire and integrated agreement between the City and Architect and supersedes all prior negotiations, representations or agreements, either written or oral. Amendments, modifications, or changes to this Agreement shall not be effective unless in writing and approved by the Architect and City through its Mayor and, when required by law, the Council.
- 12.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or Architect.
- 12.6 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal or exposure of persons to hazardous materials in any form currently located at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances, provided, however, the Architect shall report to the City the presence and location of any hazardous material of which the Architect has notice.
- 12.7 The Architect shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Architect's promotional and professional materials. The Architect's materials shall not include the City's confidential or proprietary information if the City has previously advised the Architect in writing of the specific information considered by the City to be confidential or proprietary. The City shall provide professional credit for the Architect on the construction sign and in the promotional materials for the Project, in a form within the discretion of the City.

- 12.8 Time shall be of the essence in the performance of this Agreement.
- 12.9 Except with the City's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.
- 12.10 Nothing contained in this Agreement shall be considered to diminish the governmental or police powers of the City.
- 12.11 Architect agrees to take into account applicable federal, state and county laws regarding nondiscrimination, and specifically agrees not to discriminate against any employee, applicant for employment, or potential purchaser because of age, race, color, religion, creed, gender, national origin, disability, or sexual preference.
- 12.12 Architect covenants that it has no interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of this Agreement. No person having such interest shall be employed by it.
- 12.13 The Architect affirms that Architect has not agreed to make any valuable gift whether in the form of service, loan, thing or promise to any person or any of its partners, having the duty to recommend, the right to vote upon, or any other direct influence on the selection of consultants to provide architectural services to the City. A voluntary campaign contribution made pursuant to law shall not be considered as a valuable gift for the purposes of this Agreement.
- 12.14 It is expressly understood and agreed that during the term of this Agreement, Architect shall be engaged in the provision of services as an independent contractor, and shall have no right to control City's officials, employees, agents, contractors, or representatives. It is further expressly understood that Architect's officers, employees, agents, contractors and representatives are acting solely and exclusively under the direction and control of Architect. Nothing in this Agreement shall be deemed to create or establish a relationship of employment, agency, or representation between the City and Architect, its officers, employees, agents, contractors or representatives.
- 12.15 Nothing contained herein shall make, or be deemed to make, the City and Architect a partner of one another, and this Agreement shall not be construed as creating a partnership between the parties.
- 12.16 This Agreement shall not become effective or binding upon the City unless and until the City Council shall have authorized the Mayor to execute the same; and the Director of Finance of the City shall have endorsed hereon his certificate of availability of funds applicable to this Agreement. Evidence of said authorization

and certificate of funds shall be issued to Architect by the City before Architect will proceed with the work.

- 12.17 Neither the waiver by either party to this Agreement of any breach of any agreement, condition or provision of this Agreement, nor the failure of either party to seek redress for violation of, or to insist upon strict performance of, any agreement, condition or provision, shall be considered to be a waiver of the agreement, condition or provision or of any subsequent breach of any agreement, condition or provision. No provision of this Agreement may be waived except by written agreement of the party to be charged.
- 12.18 Wherever the context shall so require, the singular shall include the plural and the plural shall include the singular.
- 12.19 The paragraph headings contained herein are only for convenience and reference, and are not intended to be a part of this Agreement or in any manner to limit or describe the scope or intent of this Agreement or the particular paragraphs to which they refer.

**THIS AGREEMENT** is entered into as of the day and year first above written.

**“CITY”**

**“ARCHITECT”**

**CITY OF STRONGSVILLE**

**TC ARCHITECTS, INCORPORATED**

By: \_\_\_\_\_  
Thomas P. Perciak, Mayor

By: \_\_\_\_\_  
Susan B. Allen  
Vice President, Partner

**CERTIFICATION OF FUNDS**

I, Joseph K. Dubovec, Director of Finance of the City of Strongsville, Ohio hereby certify that the money to meet this Contract has been lawfully appropriated for the purpose of the Contract and is in the treasury of the City, or is in the process of collection to the credit of the appropriate fund free from prior encumbrance.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director of Finance

**CERTIFICATE OF LAW DIRECTOR**

I hereby certify that I have reviewed and approved the form of the foregoing Contract  
this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Law Director

## **EXHIBIT A**

### **SCOPE OF SERVICES**

Engineering services are offered primarily in the mechanical and electrical disciplines for commercial, institutional, industrial and residential structures.

Mechanical services include the design and preparation of working drawings for the following systems:

1. Plumbing systems
2. Heating systems
3. Air conditioning systems
4. Ventilation, exhaust and make-up air systems
5. Control systems

Electrical services include the design and preparation of working drawings for the following systems:

1. Lighting and lighting control systems
2. Fire detection and alarm systems

Additional consultation and system analysis services include the following as "Additional Services":

- Construction observation

## EXHIBIT A-1

The overall renovation and Scope of Services shall include re-design work, architectural, engineering and preparation of specifications to accomplish at least all of the following:

- Re-design of the four existing locker rooms (2 male and 2 female)
- Evaluate and redesign exhaust for all locker rooms; tie-in to current Metasys system.
- Upgrade lighting fixtures in all locker rooms to high efficient LED fixtures.
- Replace all existing ceiling fixtures.
- Upgrade restroom area fixtures including faucets, urinals and toilets.
- Remove internal plumbing for showers so it is external and accessible.
- Men's first floor gang showers configuration to be only three shower heads.
- Men's basement level gang showers configuration to be on four shower heads.
- Add trench drains at all shower stall access points and access to shower area.
- Add floor drainage throughout both first floor locker rooms including locker and restroom area.
- Upgrade countertops to solid surface material with integrated sink basins.
- Paint any exposed block in all four locker rooms.
- Waterproof the floor (locker area, restroom area, and shower floor and shower walls).
- Remove all existing lockers and redesign locker configuration in both men's locker rooms to an open floor plan. This would include demolition and relocating of current benches. Raise all new lockers off the ground by at least 18 inches.
- Remove all existing lockers and raise new lockers off the ground by at least 18 inches.
- Men's and women's basement lockers cannot be a metal material.
- The base of all lockers must be made to facilitate water drainage.
- Remove all floor tiles and replace with largest size tiles to minimize linear footage of grout line. Floor tiles must meet slip coefficient for a wet environment.
- Remove all wall tiles and replace with largest size tiles to minimize linear footage of grout line.
- Install of bathing suit spinners in men's and women's basement locker rooms.
- Install two hair dryers in all shower areas and install one hand dryer and one paper towel dispenser in all restroom areas.
- Baby changing stations in all four locker rooms.
- Addition of vanity counter space in all four locker rooms.
- Extend a new wall in men's first floor locker room no more than 10 feet.

Re-design and upgrade of entrance area to lower level locker rooms entering from aquatic center.



**CITY OF STRONGSVILLE**  
**EQUAL OPPORTUNITY REQUIREMENTS**  
**for**  
**SERVICE and SUPPLY CONTRACTS**

The City of Strongsville has adopted by Resolution No. 1977-70 regulations which provide that all prospective BIDDERS on CONTRACTS in excess of \$2,500.00 for Services, Equipment and Material Supplies or Vendors must complete and file with the BID the following Affirmative Action Certification, or BID will be deemed non-responsive and void.

This Certification becomes part of the resultant CONTRACT.

In providing goods and/or services hereunder Vendor, Lessor or CONTRACTOR agrees to comply with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 and provisions of Executive Order no. 11246, dated September 24, 1965 as amended by Executive Order No. 11375, dated October 13, 1967 and such other executive orders on non-discrimination in Employment as may be issued with the rules, regulations and orders pursuant thereto as the same may be amended or revised from time to time all of which are specifically included by reference and made a part hereof. Vendor, Lessor or CONTRACTOR agree to include the substance of the foregoing clause in every Sub-Contract or Purchase Order for performance of work in furnishing goods and/or services hereunder.

Company: \_\_\_\_\_

By: \_\_\_\_\_

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

**NON-COLLUSION AFFIDAVIT**

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY \_\_\_\_\_ )

\_\_\_\_\_, being first duly sworn, deposes and says that

he/she is \_\_\_\_\_ of the party making the foregoing  
(Title)

Proposal; that such Proposal filed herewith is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation; that such Proposal is genuine and not collusive or sham; that said Proposer has not, directly or indirectly, induced or solicited any other Proposer to put in a false or sham Proposal, and has not, directly or indirectly, colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham Proposal or that anyone shall refrain from proposing; that said Proposer has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the Proposal price of said Proposer or of any other Proposer or to fix any overhead, profit, or cost element of such Proposal price or that of any other Proposer, or to secure any advantage against the City of Strongsville or anyone interested in the proposed Contract; that all statements contained in such Proposal are true; that said Proposer has not, directly or indirectly, submitted his Proposal price or any breakdown thereof or the contents thereof, or divulged information or data relative thereto, or paid or agreed to pay, directly or indirectly, any money, or other valuable consideration for assistance or aid rendered or to be rendered in procuring or attempting to procure the Contract above referenced, to any corporation, partnership, company, association, organization, or to any member or agent thereof, or to any other individual, except to such person or persons as hereinabove disclosed to have a partnership or other financial interest with said Proposer in his general business; and further that said Proposer shall not pay or agree to pay, directly or indirectly, any money or other valuable consideration to any corporation, partnership, company, association, organization, or to any member or agent thereof, or to any other individual, for aid or assistance in securing the Contract above referenced in the event the same is awarded to the Proposer.

\_\_\_\_\_  
Affiant

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE THIS \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public





