

City of Strongsville

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Strongsville, Ohio 44149-5598
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www.strongsville.org

City Council

James A. Kaminski
Ward 1

Annmarie P. Roff
Ward 2

Thomas M. Clark
Ward 3

Gordon C. Short
Ward 4

Joseph C. DeMio
At-Large

James E. Carbone
At-Large

Kelly A. Kosek
At-Large

Aimee Pientka, MMC
Clerk of Council

July 14, 2022

MEETING NOTICE

City Council has scheduled the following meetings for **Monday, July 18, 2022**, 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 7:45 p.m. *All committees listed will meet immediately following the previous committee:*

7:45 P.M. **Planning, Zoning & Engineering Committee** will meet to discuss Ordinance Nos. 2022-109, 2022-110, 2022-112 and Resolution No. 2022-111.

Public Safety & Health Committee will meet to discuss Ordinance Nos. 2022-113 and 2022-114.

Finance Committee will meet to discuss Ordinance No. 2022-115.

Recreation & Community Services Committee will meet to discuss Ordinance No. 2022-116.

Communications & Technology Committee:

Approval of the July 5, 2022 committee minutes.

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

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

BY ORDER OF THE COUNCIL:

Aimee Pientka, MMC
Clerk of Council

STRONGSVILLE CITY COUNCIL REGULAR MEETING
MONDAY, JULY 18, 2022 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:
 - *Regular Council Meeting – July 5, 2022*
6. APPOINTMENTS, CONFIRMATIONS, AWARDS AND RECOGNITION:
7. REPORTS OF COUNCIL COMMITTEE:
 - SCHOOL BOARD – Clark
 - BUILDING & UTILITIES – Clark
 - SOUTHWEST GENERAL HEALTH SYSTEM – Short
 - ECONOMIC DEVELOPMENT – Short
 - PUBLIC SERVICE AND CONSERVATION – DeMio
 - FINANCE – Kosek
 - PLANNING, ZONING AND ENGINEERING – Kaminski
 - PUBLIC SAFETY AND HEALTH – Kaminski
 - RECREATION AND COMMUNITY SERVICES – Roff
 - COMMUNICATIONS AND TECHNOLOGY – Carbone
 - COMMITTEE-OF-THE-WHOLE – Carbone
8. REPORTS AND COMMUNICATIONS FROM THE MAYOR, DIRECTORS OF DEPARTMENTS AND OTHER OFFICERS:
 - MAYOR PERCIAK:
 - FINANCE DEPARTMENT:
 - LAW DEPARTMENT:
9. AUDIENCE PARTICIPATION:

10. ORDINANCES AND RESOLUTIONS:

- Ordinance No. 2022-109 by Mayor Perciak and All Members of Council. AN ORDINANCE DETERMINING TO PROCEED WITH THE IMPROVEMENT OF ALBION ROAD AND WEBSTER ROAD BETWEEN CERTAIN TERMINI BY CONSTRUCTING SANITARY SEWERS AND MANHOLES, INSTALLING SANITARY SEWER SERVICE CONNECTIONS WHERE THEY DO NOT NOW EXIST, AND REPLACING, WHERE NECESSARY, PAVEMENT, DRIVEWAY APRONS, STORM SEWERS, CATCH BASINS AND CULVERTS, ALL TOGETHER WITH THE NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.
- Ordinance No. 2022-110 by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PROJECT LOAN AGREEMENT WITH THE STATE OF OHIO, THROUGH THE OHIO PUBLIC WORKS COMMISSION FOR ISSUE 1 FINANCIAL ASSISTANCE IN CONNECTION WITH THE ALBION ROAD AND WEBSTER ROAD SANITARY SEWER PROJECT (OPWC PROJECT NO. CA16Z), AND DECLARING AN EMERGENCY.
- Resolution No. 2022-111 by Mayor Perciak and All Members of Council. A RESOLUTION AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS FOR THE ALBION ROAD AND WEBSTER ROAD SANITARY SEWER PROJECT, AND DECLARING AN EMERGENCY.
- Ordinance No. 2022-112 by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THE FOLTZ PARKWAY CULVERT REPLACEMENT PROJECT, AND DECLARING AN EMERGENCY.
- Ordinance No. 2022-113 by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF STRONGSVILLE AND THE FRATERNAL ORDER OF THE POLICE, PARMA LODGE #15 (RADIO DISPATCHERS UNIT), IN CONNECTION WITH THE EXCHANGE OF DUTY TIME, AND DECLARING AN EMERGENCY.
- Ordinance No. 2022-114 by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE SALE BY INTERNET AUCTION, OF CERTAIN OBSOLETE PROPERTY NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE BY THE CITY'S FIRE DEPARTMENT, AND DECLARING AN EMERGENCY.
- Ordinance No. 2022-115 by Mayor Perciak and All members of Council. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH A FIRM OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS FOR PROFESSIONAL ACCOUNTING SERVICES TO PREPARE FINANCIAL STATEMENTS FOR THE CITY OF STRONGSVILLE FOR FISCAL YEARS 2022, 2023 AND 2024, WITHOUT PUBLIC BIDDING, AND DECLARING AN EMERGENCY.
- Ordinance No. 2022-116 by Mayor Perciak and All Members of Council. AN ORDINANCE APPROVING THE FILING OF AN APPLICATION ON BEHALF OF THE CITY OF STRONGSVILLE FOR FUNDING FROM NOACA THROUGH THE ENHANCED MOBILITY FOR SENIOR AND INDIVIDUALS WITH DISABILITIES PROGRAM, FOR THE PURCHASE OF A VEHICLE TO PROVIDE TRANSPORTATION SERVICES FOR THE CITY'S SENIOR WHEELS PROGRAM; AUTHORIZING ACCEPTANCE OF FUNDS, AND DECLARING AN EMERGENCY.

11. COMMUNICATIONS, PETITIONS AND CLAIMS:

- *Application for Permit: **STCK-D5-D6**: To: Cleveland Restaurant Operation Inc. DBA: **TGI Fridays**, 18400 Royalton Road, Strongsville, Ohio 44136 (Responses must be postmarked no later than 07/25/22).*

12. MISCELLANEOUS BUSINESS:

13. ADJOURNMENT:

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2022 – 109

By: Mayor Perciak and All Members of Council

AN ORDINANCE DETERMINING TO PROCEED WITH THE IMPROVEMENT OF ALBION ROAD AND WEBSTER ROAD BETWEEN CERTAIN TERMINI BY CONSTRUCTING SANITARY SEWERS AND MANHOLES, INSTALLING SANITARY SEWER SERVICE CONNECTIONS WHERE THEY DO NOT NOW EXIST, AND REPLACING, WHERE NECESSARY, PAVEMENT, DRIVEWAY APRONS, STORM SEWERS, CATCH BASINS AND CULVERTS, ALL TOGETHER WITH THE NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, this Council has adopted Resolution No. 2022-070 on May 2, 2022 (the Resolution of Necessity), declaring the necessity of making the improvement described in Section 1;

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

Section 1. Determination to Proceed with Improvement. It is determined to proceed with the improvement in the City of (i) Albion Road from a point approximately 400 feet easterly of the point where I-80 crosses Albion Road easterly to the intersection of Albion Road and Webster Road and (ii) Webster Road from its intersection with Albion Road northerly to its intersection with Pine Lakes Drive by constructing sanitary sewers and manholes, installing sanitary sewer service connections where they do not now exist, and replacing, where necessary, pavement, driveway aprons, storm sewers, catch basins and culverts, all together with the necessary appurtenances thereto.

Section 2. Improvement to Be Constructed in Accordance with Plans, Specifications and Estimate of Cost. The improvement shall be made in accordance with the provisions of the Resolution of Necessity and with the plans, specifications, profiles and estimate of cost previously approved and now on file in the office of the Clerk of Council.

Section 3. Claims for Damages. Any claims for damages resulting from the improvement that have been legally filed shall be inquired into before commencing the construction of the improvement, and the Director of Law is authorized and directed to institute legal proceedings in a court of competent jurisdiction to inquire into those claims.

Section 4. Portion of Cost of Improvement to be Assessed. The portion of the cost of the improvement to be assessed in accordance with the Resolution of Necessity shall be assessed in the manner and the number of installments provided, and on the lots and lands described, in the Resolution of Necessity.

Section 5. Approval of Estimated Special Assessments. The estimated special assessments previously prepared and filed in the office of the Clerk of Council are adopted.

Section 6. Certification and Delivery of Ordinance to County Fiscal Officer. The Clerk of Council shall deliver a certified copy of this Ordinance to the Cuyahoga County Fiscal Officer within 15 days after its passage.

CITY OF STRONGSVILLE, OHIO
ORDINANCE NO. 2022 – 109
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Section 7. Contracts for the Improvement. Subject to the provisions of Section 727.24 of the Revised Code, the Mayor or other appropriate officer of this City is authorized and directed, as soon as the funds are available and the Director of Law has advised that the legal requirements in connection with the undertaking of the improvement are in order, to make and execute a contract for the improvement with the lowest and best bidder after advertising according to law, and the improvement shall be financed as provided in the Resolution of Necessity.

Section 8. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

Section 9. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 10. Declaration of Emergency; Effective Date. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City and for the further reason that this Ordinance is required to be immediately effective to provide for the construction of the improvement, which is needed to eliminate existing and potential hazards to the health and property of the owners of the properties to be assessed by providing sanitary sewage collection service; wherefore, this Ordinance shall be in full force and effect immediately upon its adoption and approval by the Mayor.

 President of Council

Approved: _____
 Mayor

Date Passed: _____

Date Approved: _____

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

Attest: _____
 Clerk of Council

Ord. No. 2022-109 Amended: _____
 1st Rdg. _____ Ref: _____
 2nd Rdg. _____ Ref: _____
 3rd Rdg. _____ Ref: _____

Public Hrg. _____ Ref: _____
 Adopted: _____ Defeated: _____

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2022 – 110

By: Mayor Perciak and All Members of Council

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PROJECT LOAN AGREEMENT WITH THE STATE OF OHIO, THROUGH THE OHIO PUBLIC WORKS COMMISSION FOR ISSUE 1 FINANCIAL ASSISTANCE IN CONNECTION WITH THE ALBION ROAD AND WEBSTER ROAD SANITARY SEWER PROJECT (OPWC PROJECT NO. CA16Z), AND DECLARING AN EMERGENCY.

WHEREAS, the City of Strongsville is planning to provide and construct certain sanitary sewer improvements in the area of Albion Road and Webster Road (the "Project"); and

WHEREAS, by and through Ordinance No. 2021-112, the City had applied for financial assistance from the State of Ohio through the Ohio Public Works Commission in order to assist the City in funding the Project; and

WHEREAS, the City now has been advised that the Ohio Public Works Commission has approved the City's request for financial assistance from Issue 1 Funds, and has agreed to provide funding, therefore, by way of a Project Loan Agreement in the amount of \$751,392.00 at zero percent (0%) interest in loan funds, but subject to conditions; and

WHEREAS, in order to avail itself of such funding in connection with the Project, the City is required to enter into a Project Loan Agreement with the State of Ohio through the Director of the Ohio Public Works Commission.

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

Section 1. That the Project Loan Agreement and the provisions of funding approval set forth therein, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference, in all respects, is hereby approved and accepted.

Section 2. That the Mayor and other appropriate officials of the City be and are hereby authorized and directed to enter into and execute said Project Loan Agreement with the State of Ohio, through the Director of the Ohio Public Works Commission for funding assistance in connection with the Project.

Section 3. That the Mayor, Director of Finance, City Engineer, and other appropriate City officials and their designees be and are hereby further authorized and directed to provide, execute and deliver a Promissory Note payable to the order of the Ohio Public Works Commission (the "Lender") in the principal sum of \$751,392.00, or so much thereof as shall be advanced by Lender and remain unpaid, in the form and upon the terms and conditions set forth in the Promissory Note attached hereto as Exhibit B; and to provide whatever additional certifications, assurances and other necessary information and documentation may be required, and to do all other things required to perform the terms and conditions of the Agreement in accordance with their respective responsibilities thereunder.

CITY OF STRONGSVILLE, OHIO
ORDINANCE NO. 2022 – 110
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Section 4. That the City's portion of funds for the purposes of this Ordinance and Project shall be paid from the Sanitary Sewer Fund, the collection of special assessments to be levied by the City, and grant funds made available for the Project through the Northeast Ohio Regional Sewer District; and that the Director of Finance be and is hereby authorized and directed to issue his warrants for payment in accordance with the terms of the Project Loan Agreement.

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 general welfare of the inhabitants of the City, and for the further reason that it is necessary in order to receive substantial funding assistance from the Ohio Public Works Commission, to expedite construction of the Project, to eliminate hazards and provide for a system of centralized sewage collection, disposal and treatment, 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	_____	_____
Clark	_____	_____
DeMio	_____	_____
Kaminski	_____	_____
Kosek	_____	_____
Roff	_____	_____
Short	_____	_____

Attest: _____
 Clerk of Council

Ord. No. 2022-110 Amended: _____
 1st Rdg. _____ Ref: _____
 2nd Rdg. _____ Ref: _____
 3rd Rdg. _____ Ref: _____

Public Hrg. _____ Ref: _____
 Adopted: _____ Defeated: _____

Ohio Public Works Commission

PROJECT LOAN AGREEMENT

STATE CAPITAL IMPROVEMENTS PROGRAM

Pursuant to Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1, this Project Loan Agreement (“Agreement”) is entered into **July 1, 2022** by and between the State of Ohio, acting by and through the Director of the Ohio Public Works Commission (“Director” or the “OPWC”), and **City of Strongsville** (“Recipient”), in respect of the Project named **Albion Road and Webster Road Sanitary Sewer** as described in Appendix A of this Agreement (“Project”) to provide **30 %** of the total Project cost (“Participation Percentage”), not to exceed **Seven Hundred Fifty One Thousand Three Hundred Ninety Two Dollars (\$ 751,392)**, for the sole and express purpose of financing or reimbursing costs of the Project as more fully set forth in this Agreement and the Appendices as attached.

OPWC Project **CA16Z**

EX.A

RECITALS

The State Capital Improvements Fund created under Ohio Revised Code Section 164.08 is to benefit local subdivisions for the acquisition, construction, reconstruction, improvement, planning and equipping of roads and bridges, appurtenances to roads and bridges to enhance the safety of animal-drawn vehicles, pedestrians, and bicycles, waste water treatment systems, water supply systems, solid waste disposal facilities, and storm water and sanitary collection, storage, and treatment facilities, including real property, interests in real property, facilities, and equipment related or incidental to those facilities.

Pursuant to Ohio Revised Code Section 164.02, the Ohio General Assembly created the Ohio Public Works Commission (OPWC) to implement the policies set forth in Article VIII of the Ohio Constitution and Ohio Revised Code Chapter 164;

Pursuant to Ohio Revised Code 164.05, the Director is empowered to (i) enter into agreements with Local Subdivisions to provide loans, grants, and local debt support for Capital Improvement Projects; and (ii) authorize payments to Local Subdivisions or their Contractors for costs incurred for Capital Improvement Projects;

Pursuant to Ohio Revised Code Section 164.06, the Director is empowered to review and approve or disapprove requests for financial assistance from the District Public Works Integrating Committees in accordance with the criteria set forth in Ohio Revised Code Sections 164.06(B);

Ohio Revised Code Sections 164.05 and 164.06 permit a loan of funds for such a Capital Improvement Project to be expended or provided only after the District Public Works Integrating Committee has submitted a request to fund the Project to the Director outlining the Recipient's planned use of the funds, and subsequent approval of the request by the Director;

The Recipient desires to engage in the Capital Improvement Project described in Appendix A of this Agreement; and

The Project has been duly recommended to the Director pursuant to Ohio Revised Code 164.06 by the District Committee of which the Recipient is a part.

In consideration of the contained promises and covenants, the undersigned agree as follows:

I. **DEFINITIONS AND GENERAL PROVISIONS.** The following words and terms as used in this Agreement shall have the following meanings.

“Bond Counsel” means an attorney or firm of attorneys of nationally recognized standing on the subject of municipal bonds satisfactory to the Director.

“Business Day” means a day of the year on which banks located in Columbus, Ohio and in New York, New York are not required or authorized by law to remain closed and on which The New York Stock Exchange is not closed.

“Capital Improvement Project” means the eligible project as defined in Ohio Revised Code Section 164.08 and as described in Appendix A.

“Chief Executive Officer” means the single office or official of the Recipient and as designated in Appendix A pursuant to Section V. A. or authorized designee as per written notification to the Director.

“Chief Fiscal Officer” means the single office or official of the Recipient and as designated in Appendix A, pursuant to Section V. A. or authorized designee as per written notification to the Director.

“Code” means the Internal Revenue Code of 1986, as amended. Each reference to the Code shall be deemed to include the United States Treasury Regulations in effect, whether temporary or final, with

respect thereto and applicable to the Infrastructure Bonds or the use of the proceeds thereof.

“Contractor” means a person who has a direct contractual relationship with the Recipient and is the manufacturer of all or a portion of the Project, or the provider of labor, materials or services in connection with the acquisition, improvements, construction, reconstruction, expansion, or engineering of the Project; or both.

“Cost of Project” means the costs of acquiring, constructing, reconstructing, expanding, improving and engineering projects and shall also be deemed to include preliminary costs, including but not limited to, planning costs, design costs, and financing costs.

“District Committee” means the District Public Works Integrating Committees and the Executive Committees created pursuant to Ohio Revised Code Section 164.04.

“Effective Date” means the date set forth on Page One of this Agreement.

“Eligible Project Costs” means such portion of the Project costs disbursed from the OPWC to the Recipient for the sole and express purpose of acquiring, constructing, reconstructing, expanding, improving, engineering and equipping the Project, other direct expenses, and related financing costs.

“Governing Body” means the board of county commissioners or a county council if a county, the legislative authority of a municipal corporation, or the board of township trustees if a township, the board of directors if a sanitary district; or the board of trustees if a regional water and sewer district.

“Local Subdivision” means a county, municipal corporation, township, sanitary district or regional water and sewer district of the State.

“Local Subdivision Contribution” means the Local Subdivision financial share used for the sole and express purpose of paying or reimbursing the costs certified to the Director under this Agreement for the completion of the project. Such funds shall constitute a specified percentage of the total Cost of Project set forth in Appendix B and may consist of money by any person, any Local Subdivision, the State of Ohio, or the federal government or of contributions in-kind by such parties through purchase or donation of equipment, land, easements, labor, or materials necessary to complete the Project.

“Note” means the promissory note provided to the Chief Financial Officer of record.

“Participation Percentage” means the rounded percentage of the total actual Project costs that will be contributed by the OPWC, not to exceed the maximum dollar contribution of the OPWC identified in this Project Agreement, and the rounded percentage of the total actual Project costs that will be contributed by the Recipient. Both percentages are identified in Appendix B. If the total actual Project costs exceed the estimated Project costs identified in Appendix B, the Local Subdivision Participation Percentage will increase to reflect the cost overrun, while the OPWC percentage contribution will decrease recognizing that there is a maximum dollar contribution from the OPWC which is identified in this Project Agreement.

“Private Business Use” means use (directly or indirectly) in a trade or business or activity carried on by any Private Person (other than a Tax-Exempt Organization) other than use as a member of, and on the same basis as, the public.

“Private Person” means any person, firm, entity or individual who or which is other than a governmental unit as defined in Code Section 150 and used in Code Sections 141 and 148.

“Project” means the scope of work specified in Appendix A.

“Project Manager” means the principal employee or agent of the Recipient having administrative authority over the Project designated in Appendix A pursuant to Section V.A., or authorized designee as per written notification to the Director.

“Repayment Amount” means the amount to be paid by the Recipient to the OPWC on each payment date of each year during the Term pursuant to the terms and conditions of the Note.

“State” means the State of Ohio.

“Tax-Exempt Organization” means a governmental unit, as used in Code Sections 141 and 148.

“Utility” means the Project if a facility which generates revenues from fees, charges or taxes associated with the use of the facility.

II. FINANCIAL ASSISTANCE IN THE FORM OF A LOAN. Subject to the terms and conditions contained in this Agreement, the Director hereby grants to the Recipient financial assistance, as established in this section, for the sole and express purpose of paying or reimbursing the eligible costs certified to the Director under this Agreement for the completion of the Project. The OPWC shall lend to Recipient and Recipient shall borrow from the OPWC an amount not to exceed Seven Hundred Fifty One Thousand Three Hundred Ninety Two Dollars (\$ 751,392), the proceeds of which shall be utilized solely to finance the Eligible Project Costs and/or reimburse the Recipient for its advance payment of such Eligible Project Costs. The Loan shall be disbursed by the OPWC to the Recipient pursuant to Section V of the Agreement. The terms of repayment of the Loan shall be as set forth in the Note and Recipient shall make all payments required to be made under the Note as and when due.

A. In the event the Project to be constructed is or will be a Utility, the Recipient hereby agrees to the following:

1. It shall always prescribe and charge such rates, fees, charges or taxes as shall result in revenues at least adequate to meet operation, maintenance and all expenses of the Utility and the payment of all amounts required by the Note;
2. It shall permit any authorized agent of the OPWC to inspect all records, accounts and data of the Utility at any reasonable time; and
3. It shall segregate the revenues, funds, properties, costs and expenses of the Utility from all other revenues, funds properties, costs and expenses of the Recipient.

B. The Recipient shall pay to the OPWC an amount equal to the Repayment Amount as and when due as provided in the Note from (i) any source of revenues of the Recipient, or (ii) in the event the Project is or will be a Utility, the Recipient shall make such payments from the revenues of such Utility; provided, however, that if otherwise lawful, nothing in this Agreement shall be deemed to prohibit the Recipient from using, of its own volition, any of its general revenues or other revenue sources for such payments. The obligation of the Recipient to pay the Repayment Amount shall not be assignable, and the Recipient shall not be discharged therefrom, without the prior written consent of the OPWC. During the first 15 days of May and November of each year during the Term, the OPWC shall invoice the Recipient for the sum due and owing the OPWC and the payment of each such invoice shall be made by the Recipient to the OPWC not later than the last Business Day of January or the first day of July. The OPWC may adjust repayment schedules based on the administrative needs of the Lender. Any failure of the OPWC to invoice the Recipient shall not otherwise release the Recipient from its obligations to pay the Repayment Amount as and when due or otherwise fulfilling its obligations.

C. The Recipient shall pay the Local Subdivision Contribution. If the Term commences prior to the determination of the final costs of the Project, the Repayment Amount and the Local Subdivision Contribution shall be based upon the best figures available at the time of execution of the Agreement or as amended. When such final costs of the Project are greater than or less than the estimated costs of the Project as set forth in Appendix B, the amount of the Loan and the Note

shall be adjusted in accordance with the terms and conditions of the Note and the Local Subdivision Contribution shall be paid in full by the Recipient as and when due.

- D. In the event the final costs of the Project are greater than the estimated costs of the Project, the Recipient shall be responsible for the difference.
- E. Prior to the disbursement of the Loan, the Recipient shall demonstrate to the satisfaction of the Director the capability of the Recipient to pay the Repayment Amount and the Local Subdivision Contribution. The Director may withhold any disbursement during the Term if the Director reasonably believes that the Recipient is unable to pay the Repayment Amount or its Local Subdivision Contribution as and when due.
- F. Upon completion of the Project, the Recipient shall make a full and complete accounting to the OPWC of the Eligible Project Cost.
- G. If prior to the completion of the Term the Project shall be damaged or destroyed, partially or completely, by fire, flood, windstorm or other casualty, there shall be no abatement or reduction of the Repayment Amount or the Local Subdivision Contribution payable by the Recipient, and the Recipient shall at its cost and expense (i) promptly repair, rebuild or restore the property damaged or destroyed in substantially the same condition before such damage or destruction, and (ii) apply for any proceeds from insurance policies for claims for such losses as well as utilizing any additional moneys of the Recipient to repair, rebuild and restore the Project.
- H. In the event that title to or the temporary use of the Project, or any part thereof, shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, there shall be no abatement or reduction in the amount of the Repayment Amount or the Local Subdivision Contribution payable by the Recipient, and any net proceeds received from any award made in such eminent domain proceedings shall be paid to and held by the Recipient in a separate condemnation award account and shall be applied by the Recipient in either or both the following ways as shall be determined by the Recipient:
 - 1. The restoration of the improvements located on the Project Site to substantially the same condition as they existed prior to the exercise of said power of eminent domain; or
 - 2. The acquisition of additional real estate, if necessary, and facilities, by construction or otherwise, equivalent to the Project, which real estate and facilities shall be deemed a part of the Project without the payment of any amounts other than provided, to the same extent as if such real estate and facilities were specifically described.

Any balance of the net proceeds of the award in such eminent domain proceedings shall be paid to the Recipient upon delivery to the OPWC of a certificate signed by the Chief Executive Officer that the Recipient has complied with either paragraph (a) or (b), or both, of this Section. The OPWC shall cooperate fully with the Recipient in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof. In no event will the Recipient voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the prior written consent of the Director.

- I. The Recipient agrees that each of the following shall be an event of default (“Event of Default”) under this Agreement:
 - 1. The Recipient fails to make any payment to the OPWC of the Repayment Amount required as and when due under the Note and/or the Recipient fails to pay its Local

Subdivision Contribution.

2. The Recipient fails to observe and perform any obligations, agreements or provisions of the Agreement and all Appendices thereto, which failure shall continue for 30 days after receipt of written notice thereof from the Director.
- J. Whenever an Event of Default shall have happened and be subsisting, in addition to any other rights or remedies provided in this Agreement, the Note, by law or otherwise:
1. The amount of such default, in the event the Recipient defaults on the Repayment Amount, shall bear interest at 8% per annum ("Default Interest Rate"), from the date of the default until the date of the payment thereof, and all the costs incurred by the OPWC in curing such default including, but not limited to, court costs all other reasonable costs and expenses (including reasonable attorney's fees) shall be repaid by the Recipient to the OPWC as a part of the Repayment Amount.
 2. The Director may in his or her sole discretion, in accordance with Ohio Revised Code 164.05, direct the county treasurer of the county in which the Recipient is located to directly pay the amount of any default from the funds which would otherwise be appropriated to the Recipient from such county's undivided local government fund pursuant to Ohio Revised Code Sections 5747.51 to 5747.53.
 3. The OPWC shall be released from all obligations to Recipient.
 4. The entire principal amount of the Loan then remaining unpaid, together with all accrued interests and other charges shall, at the OPWC's option, become immediately due and payable.
- K. No right or remedy conferred upon the OPWC under Section J above is intended to be exclusive of any other right or remedy given in this Agreement, by law or otherwise. Each right or remedy shall be cumulative and shall be in addition to every other remedy given in this Agreement, by law or otherwise.
- L. Notwithstanding any provision contained in this Appendix, the promissory note, or any other provision of this Agreement, should the Repayment Amount equal \$5,000 or less, it shall be paid to the OPWC in two equal payments according to the invoice schedule established in this Agreement.
- M. *Joint Funded Project with the Ohio Department of Transportation.* For those projects advertised, awarded and administered by the Ohio Department of Transportation (ODOT), the Recipient and the Director hereby assign certain responsibilities to the ODOT, an authorized representative of the State of Ohio. Notwithstanding Sections V.A., V.B., and V.C. of the Project Agreement, the Recipient hereby acknowledges that upon notification by the ODOT, all payments for Eligible Project Costs will be disbursed by the Director and the OPWC directly to the ODOT. A Memorandum of Funds issued by the ODOT shall be used to certify the estimated project costs. Upon receipt of a Memorandum of Funds from the ODOT, the OPWC shall transfer funds directly to the ODOT via an Intra-State Transfer Voucher. The amount or amounts transferred shall be determined by applying the Participation Percentages defined in Appendix B to those Eligible Project Costs within the Memorandum of Funds.
- III. LOCAL SUBDIVISION CONTRIBUTION. The Recipient shall, at a minimum, contribute to the Project the Local Subdivision Participation Percentage as set forth in Appendix B of this Agreement. In the event that the total actual Project costs exceed the estimated Cost of Project identified in Appendix B, the OPWC shall not be required to increase the maximum amount of the grant and the Recipient shall increase its Local Subdivision Contribution to meet such actual Cost of Project.

IV. PROJECT SCHEDULE. Construction of the Project must begin within one year of the Effective Date of this Agreement, or this Agreement may become null and void at the sole discretion of the Director. A preliminary construction schedule is provided in Appendix A. Delays, with reason for the delay(s), must be communicated to the Director as soon as possible. The Director will review written requests for extensions and may extend the construction start date taking into consideration the Project can be completed within a reasonable time frame. Failure to meet the schedule without approval for an extension may cause this Agreement to become null and void at the sole discretion at the Director.

V. DISBURSEMENTS. All payments made by the OPWC shall be made directly to the contractor that performed the work on the Project and originated the invoice unless the Recipient requests reimbursement. The following provisions apply to Project disbursements:

A. *Project Administration Designation.* Pursuant to Ohio Administrative Code 164-1-21(B) (1-3), the Recipient shall designate its Chief Executive Officer, Chief Fiscal Officer and Project Manager in Appendix A of this Agreement. The Director and OPWC must be notified of changes in these designations in writing including the addition of designees or alternates.

B. *Disbursements to Contractors to Pay Costs of the Project.* The Recipient shall submit to the Director a Disbursement Request together with the information and certifications required by this section, unless otherwise approved by the Director. The dollar amount set forth in the Disbursement Request shall be calculated based on the Participation Percentage set forth on Page One of this Agreement or as amended, to account for changed conditions in the Project financing scheme. If all requirements for disbursement are deemed by the Director to be accurate and completed, the Director shall initiate a voucher in accordance with applicable State requirements for the payment of the amount set forth in the Disbursement Request. The Office of Budget and Management, Ohio Shared Services, will forward the warrant, drawn in connection with the voucher, by regular first-class United States mail or electronic funds transfer to the contractor or other authorized recipient designated in the Disbursement Request.

Prior to any disbursement from the Fund, the following documents shall be submitted to the Director by the Recipient:

1. If the request is for disbursement to a Contractor, an invoice submitted to the Recipient by the Contractor which invoice requests payment of such sums in connection with its performance of the Project;
2. If the request is for disbursement to the Recipient, proof of payment of the invoice such as check, warrant, or other evidence satisfactory to the Director that payment of such sums has been made by the Recipient in connection with the portion of the Project for which payment is requested;
3. A Disbursement Request Form properly certified by the Project Manager, Chief Executive Officer and the Chief Fiscal Officer; and
4. Such other certificates, documents and other information as the Director may reasonably require.

If the Director finds that the documents comply with the requirements of this Agreement, the Director is authorized to cause the disbursement of moneys from the Fund for payment of the identified Project costs. The Recipient represents that the Project was initially constructed, installed or acquired by the Recipient no earlier than the Effective Date of this Agreement.

C. *Limitations on Use.* No part of the moneys delivered to the Recipient pursuant to Section II is

being or will be used to refinance, retire, redeem, or otherwise pay debt service on all or any part of any governmental obligations regardless of whether the interest on such obligations is or was excluded from gross income for federal income tax purposes.

- D. *Project Scope.* The physical scope of the Project shall be limited to only those Capital Improvements as described in Appendix A of this Agreement. If circumstances require a change in such physical scope, the change must be approved by the District Committee, recorded in the District Committee's official meeting minutes, and provided to the Director for the execution of an amendment to this Agreement.
- E. *Project Cost Overruns.* If the Recipient determines that the moneys provided pursuant to Section II, together with the Local Subdivision Contribution, are insufficient to pay in full the costs of the Project, the Recipient may make a request for supplemental assistance to its District Committee. Pursuant to Ohio Administrative Code Section 164-1-23, the Recipient must demonstrate that such funding is necessary for the completion of the Project and the cost overrun was the result of circumstances beyond the Recipient's control, that it could not have been avoided with the exercise of due care, and that such circumstances could not have been anticipated at the time of the Recipient's initial application. Should the District Committee approve such request, the action shall be recorded in the District Committee's official meeting minutes and provided to the Director for the execution of an amendment to this Agreement.

VI. **CONDITIONS TO FINANCIAL ASSISTANCE AND ITS DISBURSEMENT.** The Recipient must comply with the following before receiving funds:

- A. The Recipient certifies that the Local Subdivision Contribution necessary for the completion of the Project is available or expected to be available through the construction of the Project and must demonstrate its compliance with the provisions of Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1. If the local share as certified by the Chief Fiscal Officer at the time of the Project application becomes unavailable, the Recipient is to notify the Director and the OPWC as soon as possible or this Agreement may become null and void at the sole discretion at the Director.
- B. The Recipient shall execute all other documents and certificates as deemed necessary by the Director, on the date hereof or at any time hereafter in connection with the financial assistance and disbursement of moneys pursuant to this Agreement, including any amendments to this Agreement.

VII. **REPRESENTATIONS, WARRANTIES AND COVENANTS OF RECIPIENT.** The Recipient represents warrants and covenants for the benefit of the Director as follows:

- A. The Recipient is a Local Subdivision of the State with all the requisite power and authority to construct, or provide for the construction of, and operate the Project under the laws of the State and to carry on its activities as now conducted.
- B. The Recipient has the power to enter into and perform its obligations under this Agreement and has been duly authorized to execute and deliver this Agreement.
- C. This Agreement is the legal, valid and binding obligation of the Recipient, subject to certain exceptions in event of bankruptcy and the application of general principles of equity.
- D. The Recipient has complied with all procedures, prerequisites and obligations for Project application and approval under Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1.
- E. The Recipient is not the subject of, or has it initiated any claim or cause of action that would give

rise to any liability which would in any way inhibit Recipient's ability to carry out its performance of this Agreement according to its terms.

F. Use of the Project – Qualified Service Contracts.

1. *General.* The Recipient shall not use the Project or suffer or permit the Project to be used for any Private Business Use. For purposes of the preceding sentence, use pursuant to a contract that satisfies the criteria of paragraphs 2 or 3 of this subsection shall not be regarded as a Private Business Use.
2. *Qualified Service Contracts.* A Service Provider includes any person that is a Related Party to the Service Provider and the phrase "Chief Executive Officer" includes a person with equivalent management responsibilities.
 - a. *Qualified Service Contracts – Rev. Proc. 2017-13.* Unless the Recipient chooses to apply the safe harbors described below in F.2.b. for Service Contracts (defined below) entered into before (and not materially modified after) August 18, 2017, an arrangement under which services are to be provided by a Private Person ("Service Provider") involving the use of all or any portion of, or any function of, the Project (for example, the management services for an entire facility or a specific department of a facility) ("Service Contract") is a "Qualified Service Contract" if either (A) the only compensation provided for in the Service Contract consists of reimbursements of actual and direct expenses paid by the Service Provider to persons other than Related Parties and reasonable related administrative overhead expenses of the Service Provider ("Expense Reimbursement") or (B) all of the following conditions are satisfied:
 - b. The compensation (including Expense Reimbursement) for services provided pursuant to the Service Contract ("Compensation") is reasonable;
 - c. None of the Compensation (disregarding reimbursement of actual and direct expenses paid by the Service Provider to persons other than Related Parties, which for this purpose excludes employees of the Service Provider), including the timing of the payment thereof, is based on net profits from the operation of the portion of the Project with respect to which the Service Provider provides services (the "Managed Property") or any portion thereof. Compensation will not be treated as providing a share of net profits if no element of the Compensation considers, or is contingent upon, either the Managed Property's net profits or both the Managed Property's revenues and expenses for any fiscal period. For this purpose, Compensation will not be treated as providing the Service Provider a share of the Managed Property's net profits or requiring the Service Provider to bear a share of Managed Property's net losses if the Compensation is: (i) based solely on a capitation fee, a periodic fixed fee, or a per-unit fee; (ii) incentive compensation that is determined by the Service Provider's performance in meeting one or more standards that measure quality of services, performance, or productivity, and the amount and timing of the payment of the incentive compensation does not take into account (or is contingent upon) the Managed Property's net profits; or (iii) a combination of the types of Compensation set forth in (i) and (ii);
 - d. The determination of the amount of Compensation and the amount of any expenses to be paid by the Service Provider (and not reimbursed), separately and

collectively, do not consider either the Managed Property's net losses or both the Managed Property's revenues and expenses for any fiscal period;

- e. The timing of the payment of Compensation is not contingent upon the Managed Property's net losses or net profits. Deferral of the payment of Compensation will not be treated as contingent on the Managed Property's net losses or net profits if the Service Contract includes requirements that: (i) the Compensation is payable at least annually; (ii) the Recipient is subject to reasonable consequences for late payment, such as reasonable interest charges or late payment fees; and (iii) the Recipient will pay such deferred Compensation (with interest or late payment fees) no later than the end of five years after the original due date of the payment of the Compensation;
- f. The term of the Service Contract, including all renewal options, is no greater than the lesser of 30 years or 80% of the weighted average reasonably expected economic life of the Managed Property;
- g. The Recipient must exercise a significant degree of control over the use of the Managed Property. This control requirement is met if the Service Contract requires the Recipient to approve the annual budget of the Managed Property, capital expenditures with respect to the Managed Property, each disposition of property that is part of the Managed Property, rates charged for the use of the Managed Property, and the general nature and type of use of the Managed Property (for example, the type of services);
- h. The Recipient must bear the risk of loss upon damage or destruction of the Managed Property;
- i. The Service Provider must agree that it is not entitled to and will not take any tax position that is inconsistent with being a Service Provider to the Recipient with respect to the Managed Property (e.g., the Service Provider will not claim depreciation, amortization, or investment tax credit, or deduction for any payment as rent, with respect to the Managed Property); and
- j. The Service Provider must have no role or relationship with the Recipient, directly or indirectly, that, in effect, substantially limits the Recipient's ability to exercise its rights under the Service Contract, based on all the facts and circumstances. A Service Provider will not be treated as having a role or relationship that substantially limits the Recipient's ability to exercise its rights under the Service Contract if:
 - (i) Not more than 20% of the voting power of the Governing Body of the qualified user in the aggregate is vested in the directors, officers, shareholders, partners, members, and employees of the Service Provider;
 - (ii) The Governing Body of the Recipient does not include the Chief Executive Officer of the Service Provider or the chairperson (or equivalent executive) of the Service Provider's Governing Body; and

- (iii) The Chief Executive Officer of the Service Provider is not the Chief Executive Officer of the Recipient or any Related Party to the Recipient.

3. *Qualified Service Contracts – Rev. Proc. 97-13.* A Service Contract is considered to contain termination penalties if the termination limits the Recipient’s right to compete with the Service Provider, requires the Recipient to purchase equipment, goods or services from the Service Provider, or requires the Recipient to pay liquidated damages for cancellation of the Service Contract. Another contract between the Service Provider and the Recipient (for example, a loan or guarantee by the Service Provider) is considered to create a contract termination penalty if that contract contains terms that are not customary or arm’s length that could operate to prevent the Recipient from terminating the Service Contract. A requirement that the Recipient reimburses the Service Provider for ordinary and necessary expenses, or restrictions on the hiring by the Recipient of key personnel of the Service Provider are not treated as contract termination penalties.

If the Recipient chooses to apply the following safe harbors, a Service Contract is a Qualified Service Contract if entered into before (and not materially modified after) August 18, 2017 and all of the following conditions are satisfied:

- a. The compensation for services provided pursuant to the Service Contract is reasonable;
- b. None of the compensation for services provided pursuant to the Service Contract is based on net profits from operation of the Project or any portion thereof;
- c. The compensation provided in the Service Contract satisfies one of the following subparagraphs:
 - (i) At least 95% of the compensation for each annual period during the term of the Service Contract is based on a periodic fixed fee and the term of the Service Contract, including all renewal options, does not exceed the lesser of 80% of the reasonably expected useful life of the Project and 15 years. For purposes of Section VII.F., a “periodic fixed fee” means a stated dollar amount for services rendered for a specified period of time that does not increase except for automatic increases pursuant to a specified, objective external standard that is not linked to the output or efficiency of the Project (e.g., the Consumer Price Index) and a “renewal option” means a provision under which the Service Provider has a legally enforceable right to renew the Service Contract but does not include a provision under which a Service Contract is automatically renewed for one-year periods absent cancellation by either party, even if such Service Contract is expected to be renewed; or
 - (ii) At least 80% of the compensation for each annual period during the term of the Service Contract is based on a periodic fixed fee and the term of the Service Contract, including all renewal options, does not exceed the lesser of 80% of the reasonably expected useful life of the Project and 10 years; or

- (iii) At least 50% of the compensation for each annual period during the term of the Service Contract is based on a periodic fixed fee, the term of the Service Contract, including all renewal options, does not exceed five years, and the Service Contract is terminable by the Recipient on reasonable notice, without penalty or cause, at the end of the third year of the Service Contract term; or
- (iv) All of the compensation for services is based on a capitation fee or a combination of a capitation fee and a periodic fixed fee, the term of the Service Contract, including all renewal options, does not exceed five years, and the Service Contract is terminable by the Recipient on reasonable notice, without penalty or cause, at the end of the third year of the Service Contract term; a “capitation fee” means a fixed periodic amount for each person for whom the Service Provider assumes the responsibility to provide all needed services for a specified period so long as the quantity and type of service actually provided to covered persons varies substantially; or
- (v) All of the compensation for services is based on a per-unit fee or a combination of a per unit fee and a periodic fixed fee, the term of the Service Contract, including all renewal options, does not exceed three years and the Service Contract is terminable by the Recipient on reasonable notice, without penalty or cause, at the end of the second year of the Service Contract term; a “per-unit fee” means a fee based on a unit of service provided (*e.g.*, a stated dollar amount for each specified procedure) and generally includes separate billing arrangements between physicians and hospitals; or
- (vi) All of the compensation for services is based on a percentage of fees charged or a combination of a per-unit fee and a percentage of revenue or expense fee, the term of the Service Contract, including all renewal options, does not exceed two years and the Service Contract is terminable by the Recipient on reasonable notice, without penalty or cause, at the end of the first year of the Service Contract term; this subparagraph (vi) applies only to (I) Service Contracts under which the Service Provider primarily provides services to third parties (*e.g.*, health care services) or (II) Service Contracts involving the Project during an initial start-up period for which there has been insufficient operations to establish a reasonable estimate of the amount of the annual gross revenues (or gross expenses in the case of a Service Contract based on a percentage of gross expenses) (*e.g.*, a Service Contract for general management services for the first year of operations), in which case the compensation for services may be based on a percentage of gross revenues, adjusted gross revenues (*i.e.*, gross revenues less allowances for bad debts and contractual and similar allowances), or expenses of the Project, but not more than one of these measures; or
- (vii) All the compensation for services is based on a stated amount, a periodic fixed fee, a capitation fee, a per-unit fee, or a combination of the preceding. The compensation for services also may include a percentage of gross revenues, adjusted gross revenues, or expenses of

the Project (but not both revenues and expenses). The term of the Service Contract, including all renewal options, does not exceed five years, and the Service Contract need not be terminable by the Recipient prior to the end of the term. For purposes of this section, a tiered productivity award as described in section 5.02(3) of Internal Revenue Service Revenue Procedure 97-13, as amplified by Internal Revenue Service Notice 2014-67, will be treated as a stated amount or a periodic fixed fee, as appropriate.

- d. The Service Provider has no role or relationship with the Recipient, directly or indirectly, that, in effect, substantially limits the Recipient's ability to exercise its rights under the Service Contract, including cancellation rights;
- e. The Service Provider and its directors, officers, shareholders and employees possess in the aggregate, directly or indirectly, no more than 20% of the voting power of the Governing Body of the Recipient;
- f. No individual who is a member of the Governing Body of the Service Provider and the Recipient is the Chief Executive Officer of the Recipient or the Service Provider or the chairperson of the Governing Body of the Recipient or the Service Provider; and
- g. The Recipient and the Service Provider are not Related Parties.

4. *Exceptions.* The Recipient may treat a Service Contract that does not comply with one or more of the criteria of Section VII.F. as not resulting in Private Business Use of the Project if it delivers to the Director, at its expense, an opinion of Bond Counsel to the effect that such Service Contract does not result in Private Business Use of the Project and that entering into such Service Contract would not adversely affect the exclusion from gross income of the interest on the bonds that financed the Project or cause the interest on such bonds, or any portion thereof, to become an item of tax preference for purposes of the alternative minimum tax imposed under the Code.

G. *Use of Proceeds.* With respect to the Project to be financed or reimbursed by moneys granted pursuant to Section II:

- 1. The total cost of the Project shall not and will not include any cost which does not constitute "Costs of Capital Improvements Projects," as defined in Ohio Revised Code Section 164.01(F);
- 2. All the Project is owned, or will be owned, by the Recipient or another Tax-Exempt Organization, upon providing prior written notice to the Director, for as long as the loan is outstanding;
- 3. The Recipient shall not use any of the moneys to pay or reimburse the Recipient for the payment of or to refinance costs incurred in connection with the acquisition, construction, improvement and equipping of property that is used or will be used for any Private Business Use; and
- 4. The Recipient may engage in Private Business Use only if it delivers to the Director, at the Recipient's expense, an opinion of bond counsel that to do so would not adversely affect the exclusion of interest on the Infrastructure Bonds from gross income for federal income tax purposes and such opinion is accepted by the Director.

- H. *General Tax Covenant.* The Recipient shall not take any action or fail to take any action which would adversely affect the exclusion of interest on the Infrastructure Bonds from gross income for federal income tax purposes.
- I. *Sufficiency of Moneys.* The Recipient has sufficient moneys in addition to those granted to Recipient pursuant to this Agreement to fund the Project to completion, as its Local Subdivision Contribution.
- J. *Construction Contract.* If federal funds are included as part of the financing of the non-OPWC portion of the Project, federal law may prevail, including, but not limited to, application of Davis Bacon prevailing wage rates, the Copeland "Anti-Kickback" Act, the Contract Work Hours and Safety Standards Act, and any federal environmental regulations. Recipient is solely responsible for ensuring compliance with federal requirements applicable to its Local Subdivision Contribution. Notwithstanding the above, the following provisions apply to construction contracts under this Agreement:
1. *Ohio Preference.* The Recipient shall, to the extent practicable, use and shall cause all its Contractors and subcontractors to use Ohio products, materials, services and labor in connection with the Project pursuant to Ohio Revised Code 164.05(A)(6);
 2. *Domestic Steel.* The Recipient shall use and cause all its Contractors and subcontractors to comply with domestic steel use requirements pursuant to Ohio Revised Code 153.011;
 3. *Prevailing Wage.* The Recipient shall require that all Contractors and subcontractors working on the Project comply with the prevailing wage requirements contained in Ohio Revised Code Sections 164.07(B) and 4115.03 through 4115.16;
 4. *Equal Employment Opportunity.* The Recipient shall require all Contractors to secure a valid Certificate of Compliance;
 5. *Construction Bonds.* In accordance with Ohio Revised Code 153.54, et. seq., the Recipient shall require that each of its Contractors furnish a performance and payment bond in an amount at least equal to 100% of its contract price as security for the faithful performance of its contract;
 6. *Insurance.* The Recipient shall require that each of its construction contractors and subcontractors maintain during the life of its contract or subcontract appropriate Workers Compensation Insurance, Commercial General Liability, Public Liability, Property Damage and Vehicle Liability Insurance, and require Professional Liability Insurance for its professional architects and engineers; and
 7. *Supervision.* The Recipient shall provide and maintain competent and adequate Project management covering the supervision and inspection of the development and construction of the Project and bear the responsibility of ensuring that construction conforms to the approved surveys, plans, profiles, cross sections and specifications.
- VIII. **PROGRESS REPORTS.** The Recipient shall submit to the Director, at the Director's request, summary reports detailing the progress of the Project pursuant to this Agreement and any additional reports containing such information as the Director may reasonably require.
- IX. **AUDIT RIGHTS.** The Recipient shall, at all reasonable times, provide the Director access to a right to inspect all sites and facilities involved in the Project and access to and a right to examine or audit any and all books, documents and records, financial or otherwise, relating to the Project or to ensure compliance with the provisions of this Agreement. The Recipient shall maintain all such books, documents and records for a period of six years after the termination of this Agreement, and such shall be kept in a common file to

facilitate audits and inspections. All disbursements made pursuant to the terms of this Agreement shall be subject to all audit requirements applicable to State funds. The Recipient shall ensure that a copy of any final report of audit prepared in connection with and specific to the Project, regardless of whether the report was prepared during the pendency of the Project or following its completion, is provided to the Director within 10 days of the issuance of the report. The Recipient simultaneously shall provide the Director with its detailed responses to each negative or adverse finding pertaining to the Project and contained in the report. Such responses shall indicate what steps will be taken by the Recipient in remedying or otherwise satisfactorily resolve each problem identified by any such finding. If the Recipient fails to comply with the requirements of this Section or fails to institute steps designated to remedy or otherwise satisfactorily resolve problems identified by negative audit findings, the Director may bar the Recipient from receiving further financial assistance under Ohio Revised Code Chapter 164 until the Recipient so complies or until the Recipient satisfactorily resolves such findings.

- X. **GENERAL ASSEMBLY APPROPRIATION.** The Recipient acknowledges and agrees that the financial assistance provided under this Agreement is entirely subject to, and contingent upon, the availability of funds appropriated by the General Assembly for the purposes set forth in this Agreement and in Ohio Revised Code Chapter 164. The Recipient further acknowledges and agrees that none of the duties and obligations imposed by this Agreement on the Director shall be binding until the Recipient has complied with all applicable provisions of Ohio Revised Code Chapter 164 and until the Recipient has acquired and committed all funds necessary for the full payment of the Local Subdivision Contribution applicable to the Project.
- XI. **THIRD PARTY RIGHTS AND LIABILITY.** Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, good, or supplies of the Project sufficient to impose upon the Director any of the obligations specified in Ohio Revised Code Section 126.30. The Recipient shall be responsible for the Recipient's use or application of the funds being provided by the Director and the Recipient's construction or management of the Project.
- XII. **TERMINATION.** The Director's and OPWC's obligations under this Agreement shall immediately terminate upon the failure of the Recipient to comply with any of the Agreement's terms or conditions. Upon such termination, the Recipient shall be obligated to return any moneys delivered to the Recipient pursuant to the provisions of this Agreement.
- XIII. **GOVERNING LAW.** This Agreement shall be interpreted and construed in accordance with the laws of the State. In the event any disputes related to this Agreement are to be resolved in a Court of Law, said Court shall be in the courts of Franklin County, State of Ohio.
- XIV. **SEVERABILITY.** If any of the provisions or parts of this Agreement are found to be invalid or unenforceable, the remainder of this Agreement and the application of this provision to such other persons or circumstances shall not be affected, but rather shall be enforced to the greatest extent permitted by Law.
- XV. **ENTIRE AGREEMENT.** This Agreement and its Appendices and Attachments contain the entire understanding between the parties and supersede any prior understandings, agreements, proposals and all other communications between the parties relating to the subject matter of this Agreement, whether such shall be oral or written.
- XVI. **CAPTIONS.** Captions contained in this Agreement are included only for convenience of reference and do not define, limit, explain or modify this Agreement or its interpretation, instruction or meanings and are in no way intended to be construed as part of this Agreement.
- XVII. **NOTICES.** Except as otherwise provided, any required notices shall be in writing and shall be deemed duly given when deposited in the mail, postage prepaid, return receipt requested, by the sending party to the other

party at the addresses set forth below or at such other addresses as party may from time to time designate by written notice to the other party.

- XVIII. NO WAIVER. A failure of a party to enforce strictly a provision of this Agreement in no event shall be considered a waiver of any part of such provision. No waiver by a party of any breach or default by the other party shall operate as a waiver of any succeeding breach or other default or breach by such other party. No waiver shall have any effect unless it is specific, irrevocable and in writing.
- XIX. ACCEPTANCE BY RECIPIENT. This Agreement must be signed by the Chief Executive Officer and returned to and received by the Director prior to the acquisition of land and to the disbursement of funds
- XX. ASSIGNMENT. Neither this Agreement or any rights, duties or obligations as described shall be assigned by either party without the prior written consent of the other party.
- XXI. ETHICS/CONFLICT OF INTEREST. The Recipient, by signature on this Agreement, certifies that it has reviewed and understands the Ohio ethics and conflict of interest laws, and will take no action inconsistent with those laws.
- XXII. NON-DISCRIMINATION. Pursuant to Ohio Revised Code Section 125.111 the Recipient agrees that the Recipient and any person acting on behalf of the Recipient shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry against any citizen of this State in the employment of any person qualified and available to perform the work under this Agreement. The Recipient further agrees that the Recipient any person acting on behalf of the Recipient shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.
- XXIII. COMPLIANCE WITH LAW. The Recipient, in expending the funds, agrees to comply with all applicable federal, State and local laws, rules, regulations and ordinances.
- XXIV. FACSIMILE SIGNATURES. This Agreement may be executed in multiple counterparts, each of which may be deemed an original agreement and both of which shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

All the above is agreed to and understood by the parties signed below. This Agreement for Project No. **CA16Z** is effective as of the date first written above.

RECIPIENT

STATE OF OHIO
Ohio Public Works Commission

Thomas Perciak, Mayor

City of Strongsville
16099 Foltz Parkway
Strongsville, OH 44149


Linda S. Bailiff, Director

Ohio Public Works Commission
65 East State Street, Suite 312
Columbus, OH 43215-4213

Appendix A

Project Completion Schedule, Administration Designation, Description

- 1) *Project Schedule.* Construction must begin within one year of July 1, 2022 . Construction is scheduled to begin December 12, 2022 with completion by October 2, 2023 . The Recipient may make a written request for an extension of the date to initiate construction, specifying the reasons for the delay and providing new construction start and completion dates. Requests may be approved by the Director providing that the Project can be completed within a reasonable time frame.

- 2) *Project Administration Designation.* The Project Administration Designation required by Section V.A. of this Agreement is designated by the Recipient as follows:

Thomas Perciak, Mayor	to act as the Chief Executive Officer;
Eric Dean, Finance Director	to act as the Chief Fiscal Officer; and
Ken Mikula, City Engineer	to act as the Project Manager.

- 3) *Project Location & Description.* The Project, for which the provision of financial assistance is the subject of this Agreement, is hereby described as follows:

Location:

This project is located on Albion Road from approximately 400 feet east of I-80 to Webster Road and on Webster Road from Albion Road to Pine Lakes Drive.

Description:

This project consists of the installation of an 8-inch sanitary sewer collection line, manholes and house connections to replace the failing septic systems currently in place. The project also includes all restoration of disturbed areas including drive aprons, drive culverts, catch basins and landscaped areas, as well as pavement repairs including milling existing asphalt, base repairs and new asphalt intermediate and surface courses.

Appendix B

**Local Subdivision Contribution, Disbursement Ratio,
Project Financing and Expenses Scheme**

- 1) *OPWC/Local Subdivision Participation Percentages:* For the sole and express purpose of financing/reimbursing costs of the Project, the estimated costs of which are set forth and described below, the Recipient hereby designates its Local Subdivision Percentage Contribution as amounting to a minimum total value of **70 %** of the total Project Cost. The OPWC Participation Percentage shall be **30 %** not to exceed **\$ 751,392** .
- 2) *Project Financing and Expenses Scheme:* The Recipient further designates the Project’s estimated financial resources and estimated costs certified to the OPWC under this Agreement for the Project to consist of the following components:

Project Estimated Costs	
a) Engineering	34,000
b) Construction Administration	0
c) Right-of-Way	0
d) Construction	2,227,855
e) Permits, Advertising, Legal	20,000
f) Construction Contingencies	222,785
Total Estimated Costs	2,504,640
Project Financial Resources	
a) Local Resources	
In-kind/Force Account	0
Local Revenues	1,753,248
Public Revenue – ODOT/FHWA	0
Public Revenue – OEPA/OWDA	0
Public Revenue – Other	0
Total Local Resources	1,753,248
b) OPWC Funds	751,392
Total Financial Resources	2,504,640

Ohio Public Works Commission

PROMISSORY NOTE

\$ 751,392

City of Strongsville

July 1, 2022

CA16Z

FOR VALUE RECEIVED, the undersigned (the "Recipient") promises to pay to the order of the Ohio Public Works Commission (hereinafter the "Lender," which term shall include any holder hereof), at its office located at **65 E. State Street, Suite 312, Columbus, OH 43215**, or at such other place as the holder hereof may designate in writing the principal sum of \$ **751,392** or so much thereof as shall be advanced by Lender and remain unpaid, together with all costs herein provided following Project completion and thereon until said amounts have been paid in full at a rate equal to **0%** per annum.

Principal due under this Note shall be payable as follows. The first payment due shall be made on the last business day in January or the first day in July following the date of Project completion, whichever date first occurs. Thereafter, payments are due the last business day in January or the first day in July for the term of the loan. Principal shall be due and payable in equal consecutive semi-annual installments accordingly until maturity. Subject to adjustment as provided herein, the amount of each such semi-annual installment of principal shall be the amount which would fully amortize the unpaid principal balance of the indebtedness evidenced by this Note, such amortization to be based upon (i) an amortization period of **20** years commencing on the date of the first payment. The Recipient acknowledges that if the semi-annual payments set forth above do not fully amortize this Note, the payment due on the Maturity Date will be a final payment, consisting of the entire unpaid principal balance hereof.

If Recipient shall fail to make any payment when due, and the same is not corrected within 60 days, then the amount of such default shall bear interest thereafter at the rate of 8% per annum (the "Default Rate") from the date of the default until the date of the payment thereof, and the entire principal hereof then remaining unpaid, together with all charges, shall, at the Lender's option, become immediately due and payable and/or the Lender by and through its Director may, in the Director's sole and complete discretion and in accordance with Ohio Revised Code 164.05, direct the county treasurer of the county in which the Recipient is located to pay the amount due from funds which would otherwise be appropriated to the Recipient from such county's undivided local government fund pursuant to Section 5747.51 to 5747.53 of the Revised Code. The Lender may exercise this option to direct the county treasurer to pay the amount due from the local government fund without any notice or demand during any default by Recipient regardless of any prior forbearance. The lender shall be entitled to collect all costs incurred by the Lender in curing such default, including, but not limited to court costs and reasonable attorney fees from a suit brought to collect this Note. In addition, if the Lender exercises its option to direct the county treasurer to pay the amount due from the local government fund, the Lender shall be entitled to collect all reasonable costs and expenses of any efforts by the Lender to collect the amount due from the local government fund, including but not limited to reasonable attorneys' fees. Lender may, at its option, delay in or refrain from exercising some or all its rights and remedies without prejudice thereto and regardless of any prior forbearance.

This Note was executed in **City of Strongsville, Cuyahoga**, Ohio. The Recipient represents that it has received all the necessary approvals from its legislative or authorizing body to execute and deliver this Note to the Lender.

By: _____
Eric Dean, Finance Director

EX.B

CITY OF STRONGSVILLE, OHIO

RESOLUTION NO. 2022 – 111

By: Mayor Perciak and All Members of Council

A RESOLUTION AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS FOR THE ALBION ROAD AND WEBSTER ROAD SANITARY SEWER PROJECT, 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 Albion Road and Webster Road Sanitary Sewer Project, consisting of installation of approximately 4,685 LF of sanitary sewer, manholes, sanitary connections, appurtenances and pavement replacement, 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, from the collection of special assessments to be levied by the City, and such other State and local funds which may be made available for the Project.

Section 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council; and that all deliberations of this Council, and any of its committees, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. That this Resolution is hereby declared to be an emergency measure 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 project in a timely manner to commence such project in order to eliminate hazards and provide for a system of centralized sewage collection, disposal and treatment, to improve properties within the City and to 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, OHIO

ORDINANCE NO. 2022 – 112

By: Mayor Perciak and All Members of Council

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THE FOLTZ PARKWAY CULVERT REPLACEMENT PROJECT, AND DECLARING AN EMERGENCY.

WHEREAS, the City has advertised and received bids for the Foltz Parkway Culvert Project in the City of Strongsville; and

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

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

Section 1. That this Council hereby finds and determines that the bid submitted by **FABRIZI TRUCKING & PAVING COMPANY, INC.** for the Foltz Parkway Culvert Replacement Project meets the specifications on file in the office of the City Engineer; is in compliance with the applicable requirements for bids and contracts established by the laws of the City and the State; and is the lowest and best bid for the proposed contract. Any informalities or minor defects in the bidding process are hereby waived. All other bids for this contract are hereby rejected.

Section 2. That the Mayor be and is hereby authorized and directed to enter into a contract with the aforesaid lowest and best bidder in the amount of \$562,265.00 for the Foltz Parkway Culvert Replacement Project in the City of Strongsville, and in a form approved by the Law Director.

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

Section 4. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council; and that all deliberations of this Council, and any of its committees, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 5. That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the City, and for the further reason that it is immediately necessary to authorize execution of said contract in order to make the within improvements to provide more efficient drainage in the Foltz Parkway area, improve properties within the City, and to conserve public funds. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

CITY OF STRONGSVILLE, OHIO
ORDINANCE NO. 2022 – 112
Page 2

President of Council

Date Passed: _____

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

Approved: _____
Mayor

Date Approved: _____

Attest: _____
Clerk of Council

Ord. No. 2022-112 Amended: _____
1st Rdg. _____ Ref: _____
2nd Rdg. _____ Ref: _____
3rd Rdg. _____ Ref: _____

Public Hrg. _____ Ref: _____
Adopted: _____ Defeated: _____

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2022 – 113

By: Mayor Perciak and All Members of Council

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF STRONGSVILLE AND THE FRATERNAL ORDER OF THE POLICE, PARMA LODGE #15 (RADIO DISPATCHERS UNIT), IN CONNECTION WITH THE EXCHANGE OF DUTY TIME, AND DECLARING AN EMERGENCY.

WHEREAS, by and through Ordinance No. 2022-009, the Mayor was authorized to enter into a Collective Bargaining Agreement between the Fraternal Order of the Police, Parma Lodge #15 (Radio Dispatchers Unit) and the City of Strongsville through December 31, 2024; and

WHEREAS, at this time, both the City and Union have agreed to enter into a Memorandum of Understanding concerning the exchange of duty time between two employees with the same job classification, in order to work for each other by trading work hours without additional compensation.

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

Section 1. That the Mayor be and is hereby authorized to enter into a Memorandum of Understanding by and between the City of Strongsville and the Fraternal Order of the Police, Parma Lodge #15 (Radio Dispatchers Unit), with regard to the exchange of duty time between two employees, all as set forth in the Memorandum of Understanding attached hereto as Exhibit A, and which in all respects is hereby approved.

Section 2. 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 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 3. 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 modify the Collective Bargaining Agreement in order to include agreed upon language. 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
ORDINANCE NO. 2022 - 113
Page 2

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

Attest: _____
Clerk of Council

Ord. No. 2022-113 Amended: _____
1st Rdg. _____ Ref: _____
2nd Rdg. _____ Ref: _____
3rd Rdg. _____ Ref: _____

Public Hrg. _____ Ref: _____
Adopted: _____ Defeated: _____

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is entered into between the City of Strongsville ("the City") and the Fraternal Order of Police, Parma Lodge 15 ("the Union"). The City and the Union enter into this MOU in order to modify the parties' collective bargaining agreement (which has an effective date of January 1, 2022 through December 31, 2024) ("the CBA"), for the purpose of allowing employees to exchange duty time. Therefore, the parties agree as follows:

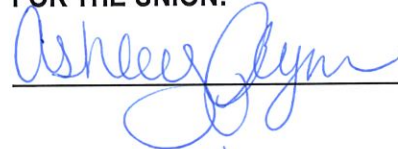
- The CBA shall be modified to include the following language:
 - 1) Exchange of duty time is within the absolute discretion of the Chief of Police or his designee.
 - 2) With prior approval of the Chief of Police, or his designee, employees may exchange duty time subject to the following provisions:
 - a) Under no circumstances shall the City be required or obligated to ensure repayment of time under provisions of this MOU.
 - b) The total number of hours worked in a given work period shall not, for the purpose of computing overtime pay, include hours worked as a result of a trade of time.
 - c) Time exchange under this MOU shall not result in the payment of overtime to an employee.
- The aforementioned modification to the CBA shall take effect and become part of the current CBA upon ratification by a majority vote of the members of the Union and by a majority vote of the members of City Council.

FOR THE CITY:

Thomas P. Perciak, Mayor

Date: _____

FOR THE UNION:



Date: 9/1/22

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2022 – 114

By: Mayor Perciak and All Members of Council

AN ORDINANCE AUTHORIZING THE SALE BY INTERNET AUCTION, OF CERTAIN OBSOLETE PROPERTY NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE BY THE CITY'S FIRE DEPARTMENT, AND DECLARING AN EMERGENCY.

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

Section 1. That this Council finds that the Fire Department of the City of Strongsville is in possession of a certain vehicle which is obsolete, surplus, and is no longer needed for any municipal purpose, as more particularly described in Exhibit "A", a copy of which is attached hereto and incorporated herein by reference, and further finds, therefore, that it will be in the best interest of the City that such property be sold by public internet auction through GovDeals.

Section 2. That pursuant to Ohio Revised Code Section 721.15, the City is authorized to sell or dispose of property by internet auction; and that, pursuant to Article IV, Section 3(e) of the City Charter, the Mayor and Director of Finance be and are hereby authorized to dispose of such obsolete tangible property identified in Exhibit "A," and to perform all acts required in furtherance thereof.

Section 3. That the Director of Finance and the Mayor therefore are authorized to retain the services of **GovDeals** to effectuate the sale of such obsolete property by internet auction through an appropriate user agreement between the City and GovDeals, and in a form to be approved by the Law Director; and that the Director of Finance, Mayor and Chief of Fire be and are further authorized and directed to execute all documents and perform all acts required to complete the sale of such obsolete and unneeded property by public internet auction.

Section 4. That the public internet auction will be conducted through GovDeals in accordance with its rules, regulations and procedures, including listing of the obsolete and unneeded property for sale by auction to the public on the internet. That as required by law, the property will be listed for ten (10) days, including Saturdays, Sundays and legal holidays.

Section 5. That the net proceeds of the operation of this Ordinance shall be deposited into the Emergency Vehicle Fund.

Section 6. 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 7. 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 the immediate sale of such obsolete and unneeded municipal property is necessary to enable the Fire Department to replace obsolete

CITY OF STRONGSVILLE, OHIO
ORDINANCE NO. 2022 - 114
Page 2

equipment, 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	_____	_____
Clark	_____	_____
DeMio	_____	_____
Kaminski	_____	_____
Kosek	_____	_____
Roff	_____	_____
Short	_____	_____

Attest: _____
 Clerk of Council

Ord. No. 2022-114 Amended: _____
 1st Rdg. _____ Ref: _____
 2nd Rdg. _____ Ref: _____
 3rd Rdg. _____ Ref: _____

Public Hrg. _____ Ref: _____
 Adopted: _____ Defeated: _____

E-One Aerial Platform



Year: 2001

Model: Cyclone II closed cab 4 door

Mileage: 37091

Aerial Length: 95 ft

Aerial Hrs: 569.1

Engine: Detroit Diesel 12.7 Liter Turbo

Engine Hrs: 4192.0

Transmission: Allison HD 5 speed electronic

Pump: Hale QMAX 2000 GPM

Pump Hrs: 338

Water Tank: 280 gal. + 20 gal foam tank

Fuel tank: Dual 25 gal side mounted tanks

Dimensions:

Length: 46 ft

Height: 12 ft

Width: 8 ft 4 in

EXHIBIT A

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2022 – 115

By: Mayor Perciak and All Members of Council

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH A FIRM OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS FOR PROFESSIONAL ACCOUNTING SERVICES TO PREPARE FINANCIAL STATEMENTS FOR THE CITY OF STRONGSVILLE FOR FISCAL YEARS 2022, 2023 AND 2024, WITHOUT PUBLIC BIDDING, AND DECLARING AN EMERGENCY.

WHEREAS, it is once again necessary for the City to arrange for professional preparation of financial statements (Comprehensive Annual Financial Report) in accordance with GASB Statement 34 public entity requirements under Ohio law; and

WHEREAS, a firm of independent certified public accountants, which has previously conducted audits of the books and records of the City of Strongsville and preparation of its financial statements, has now submitted a proposal to prepare only the financial statements of the City at competitive rates; and

WHEREAS, such firm is familiar with City records, procedures and processes which will facilitate efficient and timely preparation of annual financial statements and be advantageous to the City; and

WHEREAS, this Council recognizes and acknowledges that a contract with such a firm constitutes a "personal services" contract as that term is set out in Article V, §5(b) of the City Charter.

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

Section 1. That this Council finds and determines, as set out in Article V, §5 of the City Charter, that it is necessary and in the best interests of the City to enter into a personal services contract, without public bidding, with James G. Zupka C.P.A., Inc., in order to contract for professional accounting services to prepare required annual financial statements for the City of Strongsville on an efficient and timely basis in accordance with criteria mandated under Ohio law.

Section 2. That accordingly the Mayor be and is hereby authorized and directed to enter into an Agreement with **JAMES G. ZUPKA C.P.A., INC.**, a firm of independent Certified Public Accountants, for professional accounting services to prepare financial statements for the City of Strongsville for the fiscal years beginning January 1, 2022 and ending December 31, 2024, without public bidding, and in accordance with the Proposal attached hereto as Exhibit A and incorporated herein.

Section 3. That the funds for the purpose of such Agreement shall be paid from the General Fund, and shall be paid for subsequent years from the General Fund in accordance with future appropriation ordinances of Council.

CITY OF STRONGSVILLE, OHIO
ORDINANCE NO. 2022 – 115
Page 2

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 arrange for preparation of the City's financial statements for 2022 and subsequent years, in order to remain in compliance with legal requirements of the State of Ohio. Therefore, provided this Ordinance receives the unanimous vote of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor.

 President of Council

Approved: _____
 Mayor

Date Passed: _____

Date Approved: _____

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

Attest: _____
 Clerk of Council

Ord. No. 2022-115 Amended: _____
 1st Rdg. _____ Ref: _____
 2nd Rdg. _____ Ref: _____
 3rd Rdg. _____ Ref: _____

Public Hrg. _____ Ref: _____
 Adopted: _____ Defeated: _____

JAMES G. ZUPKA, C.P.A., INC.

*Certified Public Accountants
5240 East 98th Street
Garfield Hts., Ohio 44125*

Member American Institute of Certified Public Accountants

(216) 475 - 6136

Ohio Society of Certified Public Accountants

July 7, 2022

Mr. Thomas P. Perciak
Mayor
City of Strongsville
16099 Foltz Parkway
Strongsville, Ohio 44149

Eric Dean
Director of Finance

Dear Mayor Perciak and Mr. Dubovec:

You have requested that we prepare the annual financial statements of the City of Strongsville which will comprise the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information and cash flows, for the years ended December 31, 2022, December 31, 2023 and December 31, 2024, and the related notes to the financial statements, and perform a compilation engagement with respect to those financial statements, and preparation of the Annual Comprehensive Financial Report (ACFR).

Our Responsibilities

The objective of our engagement is to prepare financial statements in accordance with accounting principles generally accepted in the United States of America based on information provided by you and will apply accounting and financial reporting expertise to assist you in the presentation of financial statements without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statements in order for them to be in accordance with accounting principles generally accepted in the United States of America.

We will conduct our compilation engagement in accordance with the Standards for Accounting and Review Services (SSARS) promulgated by the Accounting and Review Services Committee of the AICPA and comply with applicable professional standards, including the AICPA's *Code of Professional Conduct*, and its ethical principles of integrity, objectivity, professional competence, and due care when preparing the financial statements and performing the compilation engagement.

We are not required to, and will not, verify the accuracy or completeness of the information you will provide to us for the engagement or otherwise gather evidence for the purpose of expressing an opinion or a conclusion. Accordingly, we will not express an opinion or a conclusion or provide any assurance on the financial statements.

Our engagement cannot be relied upon to identify or disclose any financial statements misstatements, including those caused by fraud or error, or to identify or disclose any wrongdoing within the City or noncompliance with laws and regulations.

We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuring management responsibilities.

EX.A

Mr. Thomas P. Perciak, Mayor, and
Mr. Eric Dean, Director of Finance
City of Strongsville
July 7, 2022
Page 2

1. We will assist with the preparation and review of the Management's Discussion and Analysis which will include the following components:
 - a. Description of the basic financial statements
 - b. Provision of condensed government-wide financial information in the form of condensed financial statements
 - c. Analysis of the overall financial position and results of operations for governmental activities
 - d. Discussion of significant transactions and changes in individual funds
 - e. Discussion of what happened with the budget this year
 - f. Description of capital assets and long-term debt activity during the year
 - g. Description of what happened to infrastructure assets
 - h. Description of any currently known facts, decisions, or conditions that are expected to have a significant effect on next year and beyond

2. We will prepare two types of basic financial statements: government-wide statements and fund financial statements. In relation to these statements, the following areas will be addressed:

Assets

- a. Distinction between government-wide and fund financial statements
- b. Review of client prepared capital assets, including infrastructure assets

Liabilities

- a. Distinction between government-wide and fund financial statement
- b. Review of client prepared accounts payable and accrued liabilities by fund/function
- c. Review of client prepared encumbrances at year-end by fund

Net Position and Fund Balance

We will prepare the following components:

- a. Distinction between government-wide and fund financial statements
- b. Conversion of fund balances to the three components of net position required for government-wide reporting.
 1. Net Investment in capital assets
 2. Restricted
 3. Unrestricted

Revenues

Assist in the identification and reporting of revenues as program revenues and general revenues

Mr. Thomas P. Perciak, Mayor, and
Mr. Eric Dean, Director of Finance
City of Strongsville
July 7, 2022
Page 3

2. (Continued)

Expenditures/Expenses

We will prepare the following schedules:

- a. Identification and reporting of expenditures/expenses by function/program
- b. Identification and reporting of indirect expenditures/expenses, if applicable
- c. We will assist with the preparation of budgetary comparison statements to include both the original and final budgets for the general and major special revenue funds

Fund Financial Statements

- a. Identification and reporting of major and nonmajor funds for financial statement presentation
- b. Reconciliation of governmental fund financial statements to governmental entity-wide statements

Footnote Disclosures

We will modify and update footnote disclosures as deemed necessary

GASB Statements

Implement all GASB Statements and perform required calculations

Your Responsibilities

The engagement to be performed is conducted on the basis that management acknowledges and understands that our role is the preparation of the financial statements in accordance with accounting principles generally accepted in the United States of America and assist you in the presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America. You have the following overall responsibilities that are fundamental to our undertaking the engagement in accordance with SSARS:

1. The selection of accounting principles generally accepted in the United States of America as the financial reporting framework to be applied in the preparation of the financial statements.
2. The preparation and fair presentation of financial statements in accordance with accounting principles generally accepted in the United States of America and the inclusion of all informative disclosures that are appropriate for accounting principles generally accepted in the United States of America, if applicable.
3. The design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the financial statements.
4. The prevention and detection of fraud.
5. To ensure that the entity complies with the laws and regulations applicable to its activities.
6. The accuracy and completeness of the records, documents, explanations, and other information, including significant judgments, you provide to us for the engagement.

Mr. Thomas P. Perciak, Mayor, and
Mr. Eric Dean, Director of Finance
City of Strongsville
July 7, 2022
Page 4

7. To provide us with -

- Access to all information of which you are aware is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, and other matters.
- Additional information that we may request from you for the purpose of the compilation engagement.
- Unrestricted access to persons within the City of whom we determine it necessary to make inquiries.

You are also responsible for all management decisions and responsibilities and for designing an individual with suitable skills, knowledge, and experience to oversee our preparation of your financial statements. You are responsible for evaluating the adequacy and results of the services performed and accepting responsibility for such services.

Our Report

We wish to emphasize that our services do not include an audit of the financial statements in accordance with generally accepted auditing standards, nor an expression of opinion as their fair presentation. Further, our services are not specifically designed and cannot be relied upon to disclose defalcations or other irregularities although, if present, their discovery may result.

Mr. Thomas P. Perciak, Mayor, and
Mr. Eric Dean, Director of Finance
City of Strongsville
July 7, 2022
Page 5

Our proposed fees are based on the level of services we provide to the City of Strongsville. The following estimate was prepared based on our recent conversation and assumes information and documents we discussed will be provided by your staff.

Our fee for preparation of the basic financial statement services will be based on the amount of time required for such services. We have listed detailed information regarding hours and fees in the attachment. We will invoice only for the hours incurred on this engagement. Should we encounter circumstances that would increase the estimated hours, we will advise you and the increased hours would be agreed to by both parties prior to any changes and billed at the hourly rate as shown in the Schedule of Fees at the end of this letter. We will complete the basic financial statements by May 30th of the year following the GAAP year.

Should services other than those covered by this letter be required or requested, their extent and the additional fees will be discussed before we perform the work.

We shall be pleased to discuss this letter with you at any time and to explain the reasons for any item. We appreciate this opportunity to respond to your request for accounting services and we are looking forward to establishing a solid professional relationship.

If the terms above are acceptable to the City of Strongsville and the services outlined are in accordance with the City of Strongsville's requirements, please sign the copy of this letter in the space provided and return it to us.

Sincerely,

James G. Zupka, CPA, Inc.
Certified Public Accountants

Accepted by the City of Strongsville:

By _____
Thomas P. Perciak

Title _____
Mayor

Date _____

By _____
Eric Dean

Title _____
Director of Finance

Date _____

SCHEDULE OF FEES

The following lists the anticipated hours and hourly rates to accomplish the proposed accounting services and preparation of the Annual Comprehensive Financial Report (ACFR) for the City of Strongsville for the years 2022-2024.

<u>Staff</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>
Partner	40	40	40
Manager	210	210	210
Staff Accountant	40	40	40
Total Hours	290	290	290
Hourly Rate	\$ 86	\$ 86	\$ 86
Project Total	<u>\$ 24,940</u>	<u>\$ 24,940</u>	<u>\$ 24,940</u>

The above fees include the following services:

- Implementation of new GASB Statements
- Annual filing of the GAAP financial statements into the Auditor of State's Hinkle System
- Filing of the ACFR with the GFOA, which includes preparation of the GFOA's Participant Application and preparation of the City's response(s) to the GFOA's review comments in the subsequent periods

The above noted fees do not include fees associated with printing of the ACFR

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2022 – 116

By: Mayor Perciak and All Members of Council

AN ORDINANCE APPROVING THE FILING OF AN APPLICATION ON BEHALF OF THE CITY OF STRONGSVILLE FOR FUNDING FROM NOACA THROUGH THE ENHANCED MOBILITY FOR SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAM, FOR THE PURCHASE OF A VEHICLE TO PROVIDE TRANSPORTATION SERVICES FOR THE CITY'S SENIOR WHEELS PROGRAM; AUTHORIZING ACCEPTANCE OF FUNDS, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Strongsville Department of Recreation & Senior Services coordinates with the City of Berea, and other agencies, to operate the Senior Wheels program, which provides transportation services for the elderly and persons with disabilities who reside within those communities; and

WHEREAS, the Senior Wheels program has documented a need to replace a vehicle for use in its transportation services; and

WHEREAS, therefore, the City of Strongsville is desirous of applying for funding to replace such vehicle, from the Northeast Ohio Areawide Coordinating Agency (NOACA) for Cleveland Urbanized Area Federal Transit Administration (FTA) funding from the Enhanced Mobility for Seniors and Individuals with Disabilities Program (Section 5310); and

WHEREAS, NOACA is designated recipient of the Enhanced Mobility for Seniors and Individuals with Disabilities (Section 5310) program for the Cleveland Urbanized Area, authorized to make grants to public bodies, private nonprofit organizations, and other eligible entities; and

WHEREAS, the Enhanced Mobility for Seniors and Individuals with Disabilities program provides eighty percent (80%) federal funds for capital projects to support alternatives to public transportation projects that assist seniors and individuals with Disabilities, new or expanded transportation services and alternatives that go beyond the requirements of the Americans with Disabilities Act (ADA) of 1990 for individuals with disabilities; and

WHEREAS, the Enhanced Mobility for Seniors and Individuals with Disabilities program is paid on a reimbursement basis requiring the applicant to first expend funds then request reimbursement from NOACA, which will, in turn, request the funds from FTA; and

WHEREAS, the City of Strongsville certifies it will provide local matching funds for capital or planning projects from sources other than federal Department of Transportation funds; and

WHEREAS, the City of Strongsville agrees to abide by federal requirements as a sub-recipient of FTA funds, including federal fiscal year 2015 Certifications and Assurances

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inclusive of provisions of Title VI of the Civil Rights Act of 1964, and all subsequent annual Certifications and Assurances during the length of the agreement, including federal procurement, maintenance, useful life, disposition standards, and ongoing reporting; and

WHEREAS, the City of Strongsville is authorized to execute a contract with NOACA if selected for the Enhanced Mobility for Seniors and Individuals with Disabilities program.

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 approves the filing of an application with NOACA for Cleveland Urbanized Area Federal Transit Administration funding from the Enhanced Mobility for Seniors and Individuals with Disabilities Program (Section 5310), on behalf of the City of Strongsville for funding for a new vehicle, as more fully set forth in the application on file in the office of the Director of Recreation & Senior Services; and further authorizes the Mayor, Director of Finance, Director of Recreation & Senior Services and/or their authorized representatives to provide, execute and deliver certifications, assurances and such other information as may be required in connection therewith.

Section 2. That the funds necessary to carry out the purposes of this Ordinance, and to pay the City's share, have been appropriated and shall be paid from the Multi-Purpose Complex Fund.

Section 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council; and that all deliberations of this Council, and any of its committees, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. That this Ordinance is hereby declared to be an emergency measure 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 approve the filing of the application in order to continue the Senior Wheels program and to provide an adequate vehicle for transportation service for the elderly and individuals with disabilities, 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: _____

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

Attest: _____
Clerk of Council

Ord. No. 2022-116 Amended: _____
1st Rdg. _____ Ref: _____
2nd Rdg. _____ Ref: _____
3rd Rdg. _____ Ref: _____

Public Hrg. _____ Ref: _____
Adopted: _____ Defeated: _____