



# CLEVELAND HEIGHTS

## COUNCIL UPDATE

**October 14, 2021**

### MEETINGS & REMINDERS

Monday, October 18	6:30 p.m.	Council Committee of the Whole City Hall - Council Chambers
	7:30 p.m.	City Council Meeting City Hall - Council Chambers
Tuesday, October 19	6:00 p.m.	Parks and Recreation Advisory Board Community Center
	7:00 p.m.	Architectural Board of Review City Hall - Council Chambers
	7:00 p.m.	Citizens Advisory Committee City Hall - Executive Conference Room
Wednesday, October 20	7:00 p.m.	Board of Zoning Appeals City Hall – Council Chambers
Thursday, October 21	6:00 to 8:00 p.m.	Meet Your Police City Hall – Lower Level
	7:00 p.m.	Transportation and Environmental Sustainability Committee Online

### LEGISLATION

- **ODOT SRTS Infrastructure Project.** A Resolution authorizing the Ohio Department of Transportation (“ODOT”) to complete a project improving sidewalks and pedestrian crossing facilities within Cleveland Heights; and declaring an emergency.

- **Denison Park Playground.** A Resolution authorizing the City Manager to accept a grant from Game Time Company and to enter into an agreement for the purchase and installation of new playground equipment at Denison Park; and declaring an emergency.
- **Appropriations.** An Ordinance to amend certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances, relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021 and declaring an emergency.

#### **CITY MANAGER'S REPORT**

- This Saturday, October 16<sup>th</sup>, is Shredding Day behind City Hall from 9:00 am-noon. Always a very well attended event by residents.
- Please see enclosed the ARPA chart that was prepared by the Finance Director. This chart will be used for our discussion on Monday October 25<sup>th</sup> at the Committee of Finance, also that night we will go over the budget for 2022 and realistic explanations regarding revenue.
- The Finance Director and I met with each Chief and every Director going over the needs for 2022 and also instances to increase revenue. These items will also be discussed on the 25<sup>th</sup>.
- All candidates have been informed that political signs should not be on medians, tree lawns or public property. Residents have also called complaining, so staff will go out and remove the signs on those areas and bring them to the lower level at City Hall.



# CLEVELAND HEIGHTS

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## **ECONOMIC DEVELOPMENT REPORT – October 12, 2021:**

### **CEDAR-LEE-MEADOWBROOK:**

- Staff continues to be in negotiations on the Development Agreement with our Development Partner Flaherty & Collins at this time;

### **NEIGHBORHOOD REDEVELOPMENT PROGRAM (NRP) INFILL HOUSING CONSTRUCTION:**

- The Development Agreement with Start Right CDC for the construction of infill single family owner-occupied housing in the Caledonia Neighborhood was approved on 10/4/2021. The project now proceeds to implementation and the City is poised to begin the process of having up to 23 new infill houses constructed by Start Right on vacant City-owned properties in the Caledonia Neighborhood over the next several years. Currently the first home is under review by the ABR and BZA;

### **TAYLOR TUDOR PLAZA:**

- The RFQ/RFP for the rehabilitation/redevelopment of Buildings #1, #2, & #3 was issued on 8/27/2021. The recently modified anticipated schedule for the project is:
  - Week of November 8: Building Tours – Interested Developers
  - Week of November 15: Building Tours – Interested Developers
  - Week of November 29: Pre-Submittal virtual call for Developers;
  - December 10: RFQ/RFP responses due
  - December 20: Select a Development Firm for the project

<https://www.clevelandheights.com/1443/Taylor-Tudor-Plaza-Redevelopment>

For additional information on this project.

### **TOP OF THE HILL:**

- Construction on the project continues, with the completion date anticipated to be July of 2022 with a ribbon cutting soon thereafter;

# Memo

**To:** Susanna Niermann-O'Neil, City Manager

**From:** Amy Himmlein, Finance Director

**Date:** October 12, 2021

**Re:** August 2021 Financial Statements

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Attached are the August 2021 Unencumbered Balances Statement for All Funds and the Review of General Fund Statement. The review below encompasses activity from January through August 2021.

## **Review of General Fund**

### **Revenue**

- Property taxes increased 32.1% due to the final second half collection being received in August 2021 versus in September in 2020.
- Municipal Income Tax increased 8.5%. August 2021 revenue is from July 2021 collections by RITA. The increase is mainly in the collections of individual income tax.
- State Levied/Shared Taxes increased 16.2% because more has been received in local government funds from the County and the State.
- Intergovernmental Grants & Contracts decreased 60.3% from 2020 due to a worker's comp refund of approximately \$750,000 being received in April 2020.
- Fees, Licenses, Permits decreased 19.1% because the City had received the building permit for Top of the Hill and the Hebrew Academy by this time last year.
- Interest Earnings decreased 86.9% from this time in 2020 due to the decline in interest rates from the pandemic.
- Fines and Forfeitures increased 20.4% due to the Court collecting 31.4% more in fines and court costs than this time in 2020.
- All Other Revenue increased 193% due to receiving the retainage refund from RITA for 2020 in the amount of \$421,000.

### **Expenditures**

- Most personal services have decreased because there was one more pay as of this time in 2020. However, the following personal service accounts have changes not due to this reason.
  - Community Services Admin Personal Services has decreased 100% due to allocating employee's salaries to different departments in 2021.
  - Public Properties & Park Maintenance Personal Services has increased 7.8% due to a 311.9% increase in overtime. The overtime increase is due to increased mowing demands.
  - Swimming Pools Personal Services have increased 1,791.9% due to the opening of the pool in 2021 which was closed in 2020.

- Planning Department Personal Services has increased 42% due to the hiring of Planning Technician in November 2020 and properly charging the Business Development Manager to the department throughout the year instead of adjusting at year-end.
- Ice Programs Personal Services has decreased 50.2% due to no programs being offered in the winter season of 2021.
- Public Health Administration Other increased 101.9% due to the timing of the payment made to the Board of Health. The remainder of the payment was made in September 2020.
- Swimming Pools Other increased 5,312.6% because the pool was operating in 2021 and water expenditures make up 80.6% of total expenditures for this line item.
- Community Center Other decreased 25.1% due to decreased utility usage.
- Finance Department Other decreased 44.3% as a result of not needing an Interim Finance Director in 2021.
- Police Administration Other increased 41.3% due to increased payments for crossing guards.
- Joint Dispatch increased 34.4% due to encumbering the full year's anticipated payments to HHCC.
- Building Department Other decreased 43% as a result of less being owed to SafeBuilt. The City pays a percentage of building permit revenue to SafeBuilt and as noted above the City has received less in building permit revenue in 2021 compared to 2020.
- Refuse Collection Other increased 51.4% due to new costs associated with recycling and landfill.
- Vehicle Maintenance Other increased 9.6% due to encumbering expected gasoline purchases.
- General Operations Other increased 54.9% due to the payment for liability insurance which Council approved at the end of December 2020 and greater insurance claims in 2021.
- County Fiscal Officer Deductions increased 70.1% due to the timing of the second half property tax settlement. It was received in August 2021 versus in September 2020.
- Law Department Other increased 65.2% due to higher than average use of legal counsel.
- Transfers and Advances increased due to the advance to the Financed Capital Projects fund to pre-fund refuse capital purchases.

### **Review of All Funds**

Overall, the negative unencumbered fund balances mean the City has not received enough revenue to cover the expenditures plus encumbrances currently incurred. These negative balances will be corrected by year end, unless they are related to grants or another revenue source that has yet to be received.

- CDBG Resource fund balance decreased due to encumbering contracts for yearly programs including Home Repair Resource Center, FutureHeights, and Open Doors.
- Street Lighting, Tree fund, and G.O. Bond Retirement fund balances all increased due to the final second half collection being received in August 2021 versus in September in 2020.
- Financed Capital Projects fund balance decreased because a PO was cancelled.
- Water fund balance increased because the City received the advance from the City of Cleveland for the Shannon Road Water Line project.
- Sewer fund balance increased due to the collection of 2nd quarter billings.

**UNENCUMBERED BALANCES FOR ALL FUNDS  
AS OF AUGUST 31, 2021**

FUND NUMBER	FUND NAME	UNENCUMBERED BALANCE AS OF 1/1/21		YTD EXPENDITURES + ENCUMBRANCES	12/31/2020 ENCUMBRANCES	UNENCUMBERED BALANCE AS OF 8/31/2021
		YTD REVENUE	ENCUMBRANCES			
101	GENERAL	\$18,147,004	\$36,853,250.67	\$34,962,965	\$660,671	\$20,697,961
102	BUDGET STABILIZATION ACCOUNT	\$100,000	\$0	\$0	\$0	\$100,000
201	STREET CONSTRUCTION	\$1,301,343	\$1,420,893	\$1,551,607	\$366,338	\$1,536,967
202	FOUNDATION GRANTS	(\$50,138)	\$192,635	\$215,036	\$0	(\$72,540)
203	FIRST SUBURBS CONSORTIUM	\$2,501	\$0	\$0	\$0	\$2,501
204	COMMUNICATION SYSTEMS OPERATION	(\$73,642)	\$0	\$0	\$0	(\$73,642)
205	PUBLIC WORKS FACILITY IMPROVEMENT	\$423	\$0	\$0	\$0	\$423
206	LAW ENFORCEMENT TRUST	\$161,775	\$44,697	\$59,365	\$11,858	\$158,965
207	DRUG LAW ENFORCEMENT TRUST	\$107,575	\$221,624	\$94,322	\$463	\$235,339
208	CDBG RESOURCE	(\$671,920)	\$1,534,911	\$1,867,705	\$111,901	(\$892,813)
210	EPA BROWNFIELD GRANT	\$0	\$0	\$0	\$0	\$0
211	HOME PROGRAM	\$246,352	\$89,809	\$133,955	\$350	\$202,556
212	FEMA	\$159,866	\$24,678	\$44,372	\$19,375	\$159,547
213	POLICE FACILITY IMPROVEMENT	\$3,533	\$280	\$13,837	\$10,303	\$279
214	LOCAL TV PROGRAMMING	\$953,085	\$370,124	\$526,383	\$2,856	\$799,682
215	CAIN PARK	\$5,080	\$184,832	\$366,141	\$0	(\$176,229)
216	RECREATION FACILITY IMPROVEMENT	\$494,921	\$646,314	\$637,264	\$33,371	\$537,342
217	PUBLIC RIGHT OF WAY	\$164,932	\$0	\$0	\$0	\$164,932
221	INDIGENT DUI TREATMENT	\$271,196	\$13,224	\$0	\$0	\$284,420
222	MUNICIPAL COURT COMPUTERIZATION	\$56,017	\$39,094	\$13,526	\$0	\$81,585
223	DUI - ENFORCEMENT/EDUCATION	\$121,432	\$3,312	\$0	\$0	\$124,744
225	MUNI COURT - SPECIAL PROJECTS	\$2,130,836	\$65,331	\$15,378	\$1,241	\$2,182,031
226	LEAD SAFE PROGRAM - CUYAHOGA CNTY	(\$111,820)	\$183,677	\$100,440	\$0	(\$28,583)
227	NEIGHBORHOOD STABILIZATION PRGM	\$123,584	\$0	\$0	\$0	\$123,584
228	CDBG-COVID	(\$165,286)	\$106,829	\$363,894	\$15,000	(\$407,351)
230	STREET LIGHTING	\$1,301,403	\$981,157	\$578,436	\$0	\$1,704,124
231	TREE FUND	\$529,493	\$1,134,567	\$700,577	\$73,622	\$1,037,105
232	POLICE PENSION	\$143,750	\$236,392	\$781,267	\$0	(\$401,125)
233	FIRE PENSION	\$43,893	\$236,392	\$1,113,061	\$0	(\$832,776)
234	EARNED BENEFITS	\$476,987	\$2,163	\$393,371	\$0	\$85,779
237	FIRST SUBURBS DEVELOPMENT COUNCIL	\$57,754	\$0	\$0	\$0	\$57,754
238	CORONAVIRUS RELIEF FUND	\$26,659	\$40,286	\$461,320	\$458,264	\$63,890
239	REFUSE GRANT FUND	\$0	\$100,000	\$0	\$0	\$100,000
240	FEDERAL MISCELLANEOUS GRANTS	\$0	\$342,028	\$140,321	\$0	\$201,707
241	LOCAL FISCAL RECOVERY	\$0	\$19,408,531	\$177,538	\$0	\$19,230,994
301	G.O. BOND RETIREMENT	\$558,728	\$3,824,787	\$3,229,504	\$0	\$1,154,011
402	FINANCED CAPITAL PROJECTS	\$914,836	\$4,414,126	\$1,437,406	\$0	\$3,891,556
411	ECONOMIC DEVELOPMENT	\$1,095,857	\$57,397	\$205,252	\$125,725	\$1,073,727
412	CITY HALL MAINTENANCE AND REPAIR	\$100,949	\$17,020	\$14,922	\$0	\$103,047
415	SEVERANCE RING ROAD RECONSTRUCTION	\$35,045	\$0	\$0	\$0	\$35,045
416	REFUSE CAPITAL FUND	\$0	\$7,744	\$0	\$0	\$7,744
601	WATER	\$705,213	\$2,211,305	\$1,270,765	\$76,506	\$1,722,259
602	SEWER	\$4,669,776	\$3,409,799	\$4,586,682	\$664,055	\$4,156,948
603	PARKING	\$218,194	\$223,767	\$705,559	\$11,521	(\$252,077)
605	REFUSE FUND	\$0	\$0	\$0	\$0	\$0
606	AMBULANCE SERVICES	\$1,321,006	\$554,703	\$595,795	\$21,710	\$1,301,624
701	HOSPITALIZATION	\$1,568,362	\$4,697,346	\$4,697,346	\$0	\$1,568,362
703	WORKERS COMPENSATION	\$204,767	\$0	\$0	\$0	\$204,767
804	OFFICE ON AGING	\$14,311	\$7,314	\$1,919	\$0	\$19,706
808	YOUTH RECREATION SCHOLARSHIP	\$59,826	\$140	\$0	\$0	\$59,966
809	POLICE MEMORIAL TRUST FUND	\$11,808	\$0	\$0	\$0	\$11,808
810	YOUTH ADVISORY COMMISSION	\$71	\$0	\$0	\$0	\$71
811	JUVENILE DIVERSION PROGRAM	\$6,903	\$3,858	\$0	\$0	\$10,760
857	SALES TAX	\$535	\$208	\$346	\$0	\$397
858	MISCELLANEOUS AGENCY	\$2,020,412	\$201,003	\$471,449	\$0	\$1,749,967
864	NEORSD	\$214	\$0	(\$63)	\$0	\$278

## TOTALS

\$39,565,401

\$84,107,548

\$62,528,962

\$2,665,132

\$63,809,119

**CITY OF CLEVELAND HEIGHTS  
REVIEW OF GENERAL FUND  
AS OF AUGUST 31, 2021**

<b>REVENUES:</b>	8/31/2020 Actual	2021 Budget	8/31/2021 Actual	Percentage 2021 Budget	Difference 2021 vs 2020
Property Taxes	\$5,728,005	\$7,175,859	\$7,568,399	105%	\$1,840,394
Municipal Income Tax	\$19,817,604	\$28,000,000	\$21,506,857	77%	\$1,689,253
Other Local Taxes	\$12,177	\$50,000	\$0	0%	(\$12,177)
State Levied/Shared Taxes	\$1,102,133	\$1,554,900	\$1,281,096	82%	\$178,963
Intergovernmental Grants & Contracts	\$1,418,217	\$910,000	\$562,158	62%	(\$856,059)
Charges For Services	\$2,212,451	\$3,100,000	\$2,133,172	69%	(\$79,279)
Fees, Licenses, Permits	\$2,400,630	\$2,295,000	\$1,941,501	85%	(\$459,129)
Interest Earnings	\$211,385	\$200,000	\$27,714	14%	(\$183,671)
Fines and Forfeitures	\$828,413	\$1,720,000	\$997,674	58%	\$169,261
All Other Revenue	\$280,840	\$786,500	\$823,781	105%	\$542,941
Sale of Assets	\$15,975	\$0	\$10,900	0%	(\$5,075)
<b>Total Revenues</b>	<b>\$34,027,829</b>	<b>\$45,792,259</b>	<b>\$36,853,251</b>	<b>80%</b>	<b>\$2,825,421</b>

<b>EXPENDITURES:</b>	8/31/2020	8/31/2021			
	Expenditures + Community Services	2021 Expenditures + Encumbrances	Expenditures + Budget Amended	Percentage 2021 Budget	Difference 2021 vs 2020

Commission on Aging	\$0	\$0	\$0	0%	\$0
Community Relations Personal Services	\$20,405	\$14,237	\$0	0%	(\$20,405)
Community Relations Other	\$6,633	\$1,800	\$1,014	56%	(\$5,620)
Public Relations Personal Services	\$148,674	\$177,912	\$115,906	65%	(\$32,768)
Public Relations Other	\$29,943	\$117,000	\$63,241	54%	\$33,299
Community Services Admin Personal Services	\$145,607	\$0	\$0	0%	(\$145,607)
Community Services Administration Other	\$330	\$6,600	\$0	0%	(\$330)
Public Health Administration	\$127,465	\$257,309	\$257,309	100%	\$129,845
<b>Total Community Services</b>	<b>\$479,057</b>	<b>\$574,858</b>	<b>\$437,470</b>	<b>76%</b>	<b>(\$41,588)</b>

**Parks and Recreation**

Public Properties & Park Maint Personal Services	\$725,953	\$1,171,812	\$782,252	67%	\$56,299
Public Properties & Park Maintenance Other	\$849,220	\$1,085,309	\$856,817	79%	\$7,597
Parks & Recreation Admin Personal Services	\$165,012	\$322,485	\$209,755	65%	\$44,743
Parks & Recreation Administration Other	\$6,668	\$37,388	\$8,990	24%	\$2,322
Swimming Pools Personal Services	\$12,832	\$276,421	\$242,764	88%	\$229,932
Swimming Pools Other	\$2,247	\$131,450	\$121,635	93%	\$119,388
Cain Park (Transfer)	\$0	\$0	\$0	0%	\$0
Ice Programs Personal Services	\$109,248	\$251,788	\$54,343	22%	(\$54,905)
Ice Programs Other	\$8,402	\$19,928	\$4,911	25%	(\$3,491)
General Recreation Programs Personal Services	\$43,673	\$145,037	\$37,993	26%	(\$5,680)
General Recreation Programs Other	\$12,428	\$34,300	\$18,969	55%	\$6,542
Sports Programs Personal Services	\$30,540	\$126,995	\$61,511	48%	\$30,971
Sports Programs Other	\$24,023	\$105,100	\$26,998	26%	\$2,975
Community Center Personal Services	\$328,866	\$660,419	\$273,960	41%	(\$54,906)
Community Center Other	\$249,053	\$496,258	\$186,641	38%	(\$62,412)
Office on Aging Personal Services	\$86,075	\$171,423	\$72,021	42%	(\$14,054)
Office on Aging Other	\$30,103	\$34,300	\$9,687	28%	(\$20,416)
<b>Total Parks and Recreation</b>	<b>\$2,684,343</b>	<b>\$5,070,413</b>	<b>\$2,969,248</b>	<b>59%</b>	<b>\$284,905</b>

**Finance Department**

Finance Department Personal Services	\$254,606	\$460,845	\$262,077	57%	\$7,471
Finance Department Other	\$162,899	\$194,300	\$90,784	47%	(\$72,115)
Income Tax	\$738,597	\$1,015,000	\$708,940	70%	(\$29,658)
<b>Total Finance Department</b>	<b>\$1,156,103</b>	<b>\$1,670,145</b>	<b>\$1,061,801</b>	<b>64%</b>	<b>(\$94,301)</b>

**Planning & Development**

Landmark Commission	\$31	\$15,600	\$0	0%	(\$31)
Planning Department Personal Services	\$171,108	\$473,012	\$242,894	51%	\$71,786
Planning Department Other	\$5,473	\$33,000	\$18,122	55%	\$12,649
Planning Commission Personal Services	\$1,938	\$8,138	\$3,391	42%	\$1,453
Planning Commission Other	\$2,521	\$3,900	\$1,196	31%	(\$1,324)
Architectural Board of Review Personal Services	\$4,069	\$11,492	\$4,166	36%	\$97
Architectural Board of Review Other	\$145	\$500	\$0	0%	(\$145)
Board of Zoning Appeals Personal Services	\$2,422	\$5,813	\$3,100	53%	\$678
Board of Zoning Appeals Other	\$1,286	\$2,975	\$1,055	35%	(\$231)
<b>Total Planning &amp; Development</b>	<b>\$188,994</b>	<b>\$554,431</b>	<b>\$273,925</b>	<b>49%</b>	<b>\$84,931</b>

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**CITY OF CLEVELAND HEIGHTS**  
**REVIEW OF GENERAL FUND**  
**AS OF AUGUST 31, 2021**

<b>Public Safety</b>	8/31/2020 Expenditures + Encumbrances	2021 Budget Amended	8/31/2021 Expenditures + Encumbrances	Percentage 2021 Budget	Difference 2021 vs 2020
Traffic Signs & Signals Personal Services	\$39,957	\$61,039	\$39,458	65%	(\$499)
Traffic Signs & Signals Other	\$119,043	\$146,450	\$123,805	85%	\$4,763
Police Administration Personal Services	\$5,661,985	\$9,291,954	\$5,184,188	56%	(\$477,797)
Police Administration Other	\$349,300	\$1,204,011	\$493,482	41%	\$144,182
Police Academy Personal Services	\$1,937	\$0	\$0	0%	(\$1,937)
Police Academy Other	\$63,614	\$41,736	\$35,950	86%	(\$27,664)
Police Vehicle Maintenance Personal Services	\$0	\$0	\$0	0%	\$0
Police Vehicle Maintenance Other	\$0	\$0	\$0	0%	\$0
Fire Administration Personal Services	\$4,561,958	\$6,800,509	\$4,486,245	66%	(\$75,714)
Fire Administration Other	\$179,657	\$289,820	\$228,062	79%	\$48,405
Joint Dispatch (Transfer)	\$0	\$0	\$0	0%	\$0
Joint Dispatch	\$1,116,323	\$1,500,000	\$1,500,000	100%	\$383,677
Fire Prevention Personal Services	\$67,479	\$107,908	\$71,407	66%	\$3,928
Fire Prevention Other	\$225	\$6,200	\$453	7%	\$228
Building Department Personal Services	\$0	\$0	\$0	0%	\$0
Building Department Other	\$1,136,740	\$845,700	\$648,354	77%	(\$488,386)
Housing Inspections Personal Services	\$282,402	\$553,126	\$243,138	44%	(\$39,265)
Housing Inspections Other	\$49,427	\$130,800	\$82,173	63%	\$32,746
Street Lighting (Transfer)	\$0	\$0	\$0	0%	\$0
Animal Control Personal Services	\$50,069	\$75,783	\$49,813	66%	(\$256)
Animal Control Other	\$25,000	\$33,934	\$26,934	79%	\$1,934
<b>Total Public Safety</b>	<b>\$13,705,116</b>	<b>\$21,088,970</b>	<b>\$13,213,461</b>	<b>63%</b>	<b>(\$491,655)</b>

**Public Works**

Service Administration Personal Services	\$111,141	\$231,671	\$147,480	64%	\$36,340
Service Administration Other	\$2,496	\$8,992	\$2,582	29%	\$86
Capital Projects Administration Personal Services	\$0	\$0	\$0	0%	\$0
Capital Projects Administration Other	\$21,000	\$23,000	\$23,000	100%	\$2,000
Refuse Collection Personal Services	\$1,076,563	\$1,768,619	\$1,012,195	57%	(\$64,369)
Refuse Collection Other	\$454,939	\$1,004,140	\$688,698	69%	\$233,760
Vehicle Maintenance Personal Services	\$579,909	\$874,971	\$501,219	57%	(\$78,690)
Vehicle Maintenance Other	\$945,320	\$1,524,809	\$1,035,621	68%	\$90,301
Street Maintenance Personal Services	\$772,820	\$1,319,987	\$663,378	50%	(\$109,442)
Street Maintenance Other	\$330,313	\$345,818	\$255,929	74%	(\$74,383)
Forestry (Transfer)	\$0	\$0	\$0	0%	\$0
<b>Total Public Works</b>	<b>\$4,294,501</b>	<b>\$7,102,006</b>	<b>\$4,330,103</b>	<b>61%</b>	<b>\$35,602</b>

**General Government**

City Council Personal Services	\$47,972	\$77,884	\$48,042	62%	\$71
City Council Other	\$4,856	\$8,063	\$6,363	79%	\$1,507
City Manager Personal Services	\$306,562	\$578,945	\$274,016	47%	(\$32,546)
City Manager Other	\$12,833	\$19,612	\$15,244	78%	\$2,411
Civil Service Commission Personal Services	\$388	\$2,381	\$1,938	81%	\$1,550
Civil Service Commission Other	\$4,867	\$46,300	\$25,426	55%	\$20,559
General Operations Personal Services	\$268,114	\$412,202	\$311,326	76%	\$43,212
General Operations Other	\$1,030,189	\$1,661,451	\$1,595,417	96%	\$565,228
Management Information Systems Personal Services	\$184,695	\$348,943	\$195,598	56%	\$10,903
Management Information Systems Other	\$70,643	\$248,261	\$113,649	46%	\$43,006
County Fiscal Officer Deductions	\$103,314	\$215,731	\$175,731	81%	\$72,416
Law Department Personal Services	\$363,950	\$616,034	\$376,834	61%	\$12,884
Law Department Other	\$290,887	\$525,518	\$480,477	91%	\$189,590
Special Improvement Districts	\$392,033	\$396,981	\$376,722	95%	(\$15,311)
Municipal Court Personal Services	\$665,399	\$1,022,471	\$616,528	60%	(\$48,871)
Municipal Court Other	\$73,985	\$192,043	\$119,678	62%	\$45,693
<b>Total General Government</b>	<b>\$3,820,687</b>	<b>\$6,372,820</b>	<b>\$4,732,988</b>	<b>74%</b>	<b>\$912,300</b>

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 CITY OF CLEVELAND HEIGHTS  
 REVIEW OF GENERAL FUND  
 AS OF AUGUST 31, 2021

Other	8/31/2020		8/31/2021		Percentage 2021 Budget	Difference 2021 vs 2020
	Expenditures + Encumbrances	2021 Budget Amended	Expenditures + Encumbrances	2021 Budget		
Transfers & Advances	\$0	\$9,450,000	\$4,400,000	47%	\$4,400,000	
Hospitalization	\$3,374,631	\$6,838,953	\$3,543,969	52%	\$169,338	
<b>Total Other</b>	<b>\$3,374,631</b>	<b>\$16,288,953</b>	<b>\$7,943,969</b>	<b>49%</b>	<b>\$4,569,338</b>	
<b>TOTAL GENERAL FUND EXPENDITURES</b>	<b>\$29,703,433</b>	<b>\$58,722,596</b>	<b>\$34,962,965</b>	<b>60%</b>	<b>\$5,259,533</b>	
Excess Revenue Over/(Under) Expenses	<u>\$4,324,397</u>		<u>\$1,890,285</u>			
Unencumbered Balance Beginning of Year	\$10,436,981		\$18,147,004			
Add: Prior Year Encumbrances	<u>\$1,266</u>		<u>\$660,671</u>			
Estimated Unencumbered Balance	<u>\$14,762,644</u>		<u>\$20,697,960</u>			



# CLEVELAND HEIGHTS

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To: Susanna Niermann O'Neil, City Manager  
From: Chief Dave Freeman, Cleveland Heights Fire Department  
Subject: Fire Department Update  
Date: October 12, 2021

Fire Department Update:

1. 2 new hires started on 10/11.
2. Assistant Chief test was given on 10/8, three took the test, should have results this week.
3. Continuing to work on bids for new Ladder Truck.



# CLEVELAND HEIGHTS

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## Memorandum

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**To:** Susanna Niermann O'Neil, City Manager  
**From:** Ryan Prosser, IT Director  
**Subject:** IT Department Update  
**Date:** October 13, 2021

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The IT Department, formerly recognized as the MIS department, has closed out the transitioning phase and the focus is now on efficient and value driven Information Technology services.

The City phone system replacement project is in full swing. All telephones and service lines are being inventoried and audited for a full replacement. Equipment is expected to arrive by next week, and service migration is scheduled for November 15, 2021.

Emergency call boxes, which were popular before the adaptation of cell phones, are being audited as well. They provide a device which automatically dials out to 911 when a handset is lifted or a button is pressed. Many of the devices remaining today are not working, as they relied on radio and telephone technology that is being decommissioned by the carriers and the FCC. Any devices deemed irreparable and counterproductive to public safety will be removed.

Out of date email servers and spam filter appliances will be upgraded later this year. Utility billing and time-and-attendance software auditing is progressing, with continued identification of new trends and features. On demand meetings and demonstrations between various vendors and the IT and Utility departments, are ongoing.



## MEMORANDUM

**To:** Susanna Niermann O'Neil, City Manager

**From:** Eric Zamft, Planning Director

**Date:** October 13, 2021

**Subject:** Bi-Weekly Planning Department Update

## HIGHLIGHTS OF PLANNING INITIATIVES

### **HISTORIC PRESERVATION DESIGN GUIDELINES**

The Historic Preservation Design Guidelines were approved by the State Historic Preservation Office (SHPO) prior to the September 30, 2021 grant deadline. Staff has been working with SHPO to close the grant out. The Landmark Commission adopted the Design Guidelines on October 11, 2021. The Design Guidelines will be utilized not just by the Landmark Commission, but the ABR as well as "best practices" for design. Information about the project, including the presentations and the guidelines, can be found here: <https://www.clevelandheights.com/1435/Historic-Preservation-Design-Guidelines>

### **CEDAR-LEE-MEADOWBROOK REDEVELOPMENT**

The site planning and design phase of the project has begun. Staff has met internally to discuss public and staff comments to be integrated in the plan. Staff has met and will continue to meet on a weekly basis with the development partner's design team to ensure that integration. Staff has coordinated with Paul Volpe on site planning and design considerations via a number of meetings. The public is encouraged to comment early and often, utilizing the project webpage comment form or emailing directly to [planning@clvhts.com](mailto:planning@clvhts.com). Parking and traffic studies are ongoing. The existing conditions parking memorandum has been posted to the project website and staff is working with the consultant teams on their recommendations for improvements, as well as their evaluation of the proposed project. Staff will continue to update the webpage (<https://www.clevelandheights.com/1154/Cedar-Lee-Meadowbrook>) and provide more information in upcoming bi-weekly Planning Department reports.

### **ZONING**

A public hearing on proposed changes to the Zoning Code with regards to garages and other ancillary changes was scheduled for September 30, 2021, but was cancelled due to a lack of a quorum. The public hearing has been rescheduled for November 1, 2021 at 6 PM. More information, including the most recent draft of the proposed zoning amendments, can be found here: <https://www.clevelandheights.com/183/Planning-Department>

Other zoning related matters include:

- *First Suburbs Single-Family Housing Zoning project* – The Phase One presentation by the County Planning Commission to First Suburbs has been uploaded to the Planning Department webpage: <https://www.clevelandheights.com/183/Planning-Department>
- *On-Going Review of the Zoning Code* – Staff continues to work with the Planning Commission, the Law Department, Council and others to identify, discuss, and, ultimately, propose additional changes to the Zoning Code, including rain gardens/rain barrels, additional parking revisions, and accessory dwelling units (ADUs). If the public has any ideas regarding further zoning changes, please email those to [planning@clvhts.com](mailto:planning@clvhts.com).

### **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME ADMINISTRATION**

FY 2021 CDBG funding has been released, allowing the City to submit reimbursement requests. The CAC and City Staff are currently in the process of developing recommendations for City Council to review and finalize in preparation for the Year 48 (2022) Annual Action Plan. Staff will be attending the Ohio Conference of Community Development (OCCD) Fall Quarterly meeting on October 28, 2021 and the Planning Director will be on a panel discussing neighborhood planning.

### **TRANSPORTATION**

The City has been hard at work on transportation issues:

- *Cuyahoga County Shared Micro-Mobility Initiative* – Staff continues to work with the County, the SIDs, neighborhood groups, other City staff, and the scooter vendors on the implementation of the County-wide micro-mobility network, which includes e-scooters. Staff has received a number of complaints, including from accessibility advocacy groups and is spearheading the efforts to have the scooter vendors and the County address those concerns not only in Cleveland Heights, but throughout the network.
- *Complete and Green Streets Checklist* – Planning staff is working closely with the Department of Public Works and Transportation and Environmental Sustainability Advisory Committee (T&ES) on finalizing a Complete and Green Streets Checklist.
- *Compton Road Greenway* – Staff is working on the implementation of the Compton Road Greenway study. Staff is soliciting proposals from engineers to provide a preliminary design of the Greenway elements, which would allow for further engagement with the community.
- *South of Cedar Parking and Traffic Study Implementation* – Staff met with residents of Hardcourt Drive on October 7, 2021 to discuss traffic calming principles. The result is that the City will be testing temporary traffic calming measures on the street this fall.
- *NOACA TLCI Grant Application* – NOACA's annual Transportation for Livable Communities Initiative (TLCI) Grant Application is open through October 15, 2021. However, based upon coordination with NOACA, this year's grant cycle is focused on large-scale transportation implementation projects – of which Cleveland Heights does not have at

this time. NOACA indicated that the smaller, planning grants will be available next year. Staff will be developing a public engagement process to solicit input on an appropriate project for next year's cycle.

### **PLACEMAKING & PARK PLANNING; SUSTAINABILITY**

Planning is helping to guide a number of placemaking activities, working collaboratively with the Manager's Office and other departments. The Planning Department, Parks and Recreation Department, and GIS are working together to identify open space and recreation opportunities, develop recommended inquiry process and policies, and understand budgetary and staffing impacts to provide recommendations to the City Manager. These recommendations will be shared by the internal Vacant Lots working group, who is developing a process to present to the City Manager and eventually Council regarding the disposition of vacant City-owned lots, including individual properties. Planning staff and Parks and Recreation staff met with the Cedar-Fairmont SID to discuss open space opportunities in the District. Staff is working with FutureHeights on next steps with regards to the Cedar-Lee Mini Park. As part of all of these efforts, staff is looking for additional opportunities for passive and active spaces, community gardens, and additional tree plantings (in collaboration with Heights Tree People).

### **REDEVELOPMENT OPPORTUNITIES**

The Park Synagogue selected Sustainable Community Associates (SCA) as the developer of the Park Synagogue site. Staff was introduced to SCA, including establishing a line of communication. SCA has established a website for the public to submit ideas, comments, and concerns on the master planning of the site: <https://sustainableca.com/park/>. Staff has also been coordinating with FutureHeights and their Severance Town Center working group, as well as Community Engagement Committee.

### **OTHER**

- *Grants* – Staff examines opportunities for funding as they arise. This effort, in many cases, involves coordinating with other City departments and/or outside agencies. As these planning-related grant and funding opportunities materialize, they will be presented in the bi-weekly Planning Department reports.
- *Role as Zoning Administrator and Administrative Approvals* – Planning staff serves as the Zoning Administrator and provides administrative approvals for a number of permitted activities. These include: fence permits, Temporary Expansion Area (TEA) permits, mini-split air conditioning systems, and chicken coops, among others. Also, in this role, zoning-related complaints are reviewed and action is taken, if necessary. Finally, in this role, education is important, to work with other departments, property owners, and merchants on aspects of the Zoning Code – for example the City's Commercial and Mixed-Use District Design Standards/Window Transparency.

## COORDINATION WITH ECONOMIC DEVELOPMENT DEPARTMENT INITIATIVES

- *Neighborhood Redevelopment Program (NRP), Phase 1* – Start Right CDC has appeared before the Architectural Board of Review (ABR) for a preliminary review of a proposed model home to be constructed on 961 Nelaview Road. Staff is working with Start Right on coordinating their upcoming October 20, 2021 appearance at the Board of Zoning Appeals (BZA). If they are approved for variances, they would return to the ABR at a meeting in November for consideration of final ABR approval.
- *Cedar-Lee-Meadowbrook Redevelopment* – See above.
- *Unitarian Church Redevelopment* – Planning staff has been participating in discussions regarding the potential redevelopment of the Unitarian Church site and adjacent properties, including the potential implications with regards to public parking and the zoning of the redevelopment site.
- *Other Economic Development Initiatives* – Planning staff provides input and support on other initiatives, including additional NRP phases, the Taylor-Tudor Plaza properties, the Storefront program, solid waste needs for businesses, other redevelopment opportunities, developing additional funding mechanisms within the City, Top of the Hill landscaping plan, etc.

## BOARDS AND COMMISSIONS

The Department of Planning assists the activities of the Architectural Board of Review (ABR), Board of Control, Board of Zoning Appeals (BZA), Landmark Commission, and Planning Commission, and provides staff assistance to the Citizens Advisory Committee (CAC), Racial Justice Task Force, Transportation & Environmental Sustainability Advisory Committee (T&ES), and City Council (when needed). Below are tables of both active and recently approved applications managed by the Department.

*Note that there are a number of vacancies on the City's boards and commissions. Residents are encouraged to volunteer for these very important civic bodies. See <https://www.clevelandheights.com/1169/Boards-and-Commissions-Application> for more information.*

### **ARCHITECTURAL BOARD OF REVIEW (ABR) – 1<sup>st</sup> and 3<sup>rd</sup> Tuesday**

The next ABR meeting will be held on September 21, 2021. The agenda from the meeting can be found at: <https://www.clevelandheights.com/DocumentCenter/View/9831>. The results of the meeting will be provided in the next bi-weekly Planning Department report.

### **BOARD OF CONTROL (As needed for the S-1 District)**

There was no recent activity involving the Board of Control.

**BOARD OF ZONING APPEALS (BZA) – 3<sup>rd</sup> Wednesday**

The next ABR meeting will be held on September 21, 2021. The agenda from the meeting can be found at: <https://www.clevelandheights.com/DocumentCenter/View/9831>. The results of the meeting will be provided in the next bi-weekly Planning Department report.

**LANDMARK COMMISSION – 1<sup>st</sup> Tuesday of Odd Numbered Months**

The Landmark Commission held a special meeting October 11, 2021. At the meeting the Landmark Commission adopted the Historic Preservation Design Guidelines. The Landmark Commission also discussed potentially landmarking the following properties:

- Cinder Path, Bradford Road – voted to refer to Planning Commission for review
- 3417 Fairmount Boulevard – no action at this time
- 2181 North Taylor Road – voted to refer to Planning Commission for review

Finally, they approved the signage for the following locations:

- Church of the Saviour, 2537 Lee Road
- 3216 Silsby Road (retail space within the Silsby Road Fire House)

The next regularly scheduled Landmark Commission meeting will be held on November 2, 2021. A link to the agenda will be provided prior to the meeting date.

**PLANNING COMMISSION – 2<sup>nd</sup> Wednesday**

The Planning Commission meeting will have been held on October 13, 2021 virtually. More information about the meeting, including the virtual meeting link, the agenda, and the cases, can be found here:

<https://www.clevelandheights.com/Calendar.aspx?EID=1197&month=10&year=2021&day=7&calendarType=0>

The next Planning Commission meeting will be held on November 10, 2021. A link to the agenda and cases will be provided closer to the meeting date.

**TRANSPORTATION & ENVIRONMENTAL SUSTAINABILITY ADVISORY COMMITTEE (T&ES) – 4<sup>th</sup> Wednesday**

The next T&ES meeting will be held on October 21, 2021. The agenda will be posted and a link will be included in a future bi-weekly Director's Report.

**CITIZENS ADVISORY COMMITTEE (CAC) – 3<sup>rd</sup> Tuesday**

The CAC Subcommittees presented their recommendations for Year 48 CDBG funding at its September 9, 2021 meeting. The next step will be for the CAC to determine their recommendations to Council following the presentation of the City Administration's recommendations.

**RACIAL JUSTICE TASK FORCE**

The Racial Justice Task Force and its three subcommittees have continued to refine their work plans. The Public Safety Subcommittee met on October 13<sup>th</sup>. The Housing and Economic Opportunity Subcommittee will meet on October 20<sup>th</sup> to discuss issues facing renters. The Health, Wellness and Education Subcommittee will meet prior to the October main Racial Justice Task Force on October 27<sup>th</sup>. All virtual meeting links will be available on the City's website calendar.



# CLEVELAND HEIGHTS

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To: Susanna Niermann-O'Neil, City Manager

From: Annette M. Mecklenburg, Chief of Police

Date: October 12, 2021

Subject: Police Department Update

## **Crime Update**

On October 6, 2021, at 8:03 pm 19 year old Kyler Bland was walking in the area of Goodnor and Berkshire when he was approached by an unknown subject who fired three gunshots at him. At least one round struck Kyler who then ran to his house. Officers arrived on the scene and provided aid until EMS arrived and transported him to the hospital, where he succumbed to his injuries. At this time there are no known suspects in this incident and Detectives are investigating. Anyone with information is asked to contact the CHPD at 216-321-1234 or CrimeStoppers at 216-252-7463. Reward money for information is available and tipsters will remain anonymous.

On October 6, 2021, at 9:40 pm officers responded to a report of a robbery at Cedar and Surrey. Upon arrival officers learned from the victim that she was returning to her vehicle after picking up her food when she was approached by two suspects. As the victim began to start her vehicle, one of the suspects opened her passenger and grabbed her purse. The suspect also indicated that he was in possession of a gun. The victim then exited her vehicle and attempted to flag down a passing vehicle for assistance. When the other vehicle turned, the victim was grabbed from behind and the suspect took her car keys. Both suspects got into her vehicle, a 2016 gray Nissan Rogue OH Lic/FWY3454, and drove towards Euclid Heights Blvd. Suspect #1 is described as a shorter black male, 17-20 years old, about 5'3"-5'4" tall. Suspect #2 is described as a skinnier black male, 19-20 years old, about 5'6"-5'8" tall, and carrying a backpack. Detectives are investigating.

On October 8, 2021, around 9:49 pm an attempted robbery was reported at Guy's Pizza, 1838 Coventry. An employee reported that the suspect approached the counter and handed him a note telling him to give him all the money from the register. The victim observed what he thought was the butt of a handgun sticking out of his pocket. The victim ran to the back of the store to tell another employee to call the police, at which time the suspect fled out the front door of the store. The suspect is described a black male, approximately 20 years old, 5'9"-5'10" tall, wearing black jeans, a black hoodie and a blue mask. Detectives are investigating.

On October 12, 2021, around 3:14 am officers responded to a call from a resident in the 2700 block of Hampshire reporting that a male was underneath a vehicle possibly attempting to steal the catalytic converter. The male then got into white Nissan Rogue and fled the area. An officer

located the Nissan on Kenilworth, occupied by four people. The suspect was determined to be the driver and was positively identified by the witness. Preliminary investigation determined that the suspect was unable to get the converter from the vehicle on Hampshire. However, a saw and another catalytic converter was found in the vehicle. The driver was arrested and the Detective Bureau is investigating.

Information has been pushed out to residents and others in our community via social media asking for assistance in locating a missing endangered adult. 48 year old Jennifer Howard as last seen at her residence in the 3000 block of Monticello on the evening of October 8, 2021. Her family is concerned due to the fact that she takes medication which she did not take with her. She also did not take her vehicle or phone and is believed to be on foot. There is no known clothing description. Anyone with information on her whereabouts or anyone who sees her is asked to contact the CHPD at 216-291-1234.

Beginning next week and over the course of the next few weeks, all members of the Police Department will receive an 8 hours of legal update training. The training will consist of the most recent laws pertaining to laws of arrest and search and seizure. This training is very important to ensure that all officers have a good understanding of the most current law in these areas.

### **Community Events**

The Police Department in conjunction with the Fire Department and Bryan's Marathon are hosting a safety night on October 14, 2021 from 5:00 – 7:00 pm. During this event residents can stop by with their vehicles for a safety inspection and they will also receive safety tips for their residences. While no work or repairs will be made during this event, it is a great opportunity to have your vehicle inspected to ensure that all equipment is functioning properly.

This year the Police Department will be participating National Prescription Drug Take Back Day on Saturday, October 23, 2021 from 10:00 am – 2:00 pm. While the POD has a drug drop off box in the lobby that is available 24/7 to residents, this is a great opportunity to remind the community of the dangers associated with unused prescription drugs and provide them the opportunity to ensure that they are disposed of properly.

# DEA NATIONAL RX TAKEBACK



**Saturday, October 23**  
**10 a.m.–2 p.m.**

**Keep them safe. Clean them out. Take them back.**

Visit **DEATakeBack.com** for a collection site near you.



Date: October 12, 2021

To: Susanna Niermann-O'Neil, City Manager  
From: Collette Clinkscale, Director of Public Works  
Subject: Public Works Update

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### **Important Refuse and Recycling Automation Update**

Last week on Thursday, Bell Equipment and Environmental Solutions Group (Heil) representatives, visited our offices to explain they were encountering problems with receiving the chassis for the automated front loaders needed to complete the build of the trucks for automation by the promised December 1<sup>st</sup> date. They informed me they would continue to pursue this matter with AutoCar chassis. However, we have been informed that due to chassis delays, the trucks will not be delivered by the deadline (see attached). Therefore, the City will not be able to implement the automated refuse and recycling program this year. Once I receive concrete delivery information, we will be able to provide a new implementation date. In preparation of a December 13<sup>th</sup> start date, Public Works had been working with Public Relations to keep our residents up to date with publicizing this information. We will work with Public Relations to update the community with this latest update.

In coordination with the Recycling Partnership, MSW will still perform the baseline recycling audit next week. The delayed start date will not affect the pre-study. MSW will randomly select 125 homes (which equates to 5 residences from each route, each day) to see how they recycle. The post audit will be conducted after the automated program is implemented. The company will have identification and an authorization letter in the event any resident is wondering who is picking up their trash.

### **Other**

Public Works opened bids for the Superior Road (between Washington and South Taylor) rehabilitation project on Friday, October 8, 2021. There were four (4) bidders as listed below:

**SUPERIOR ROAD REHABILITATION  
CITY OF CLEVELAND HEIGHTS  
PROJECT #21-06  
BID SUMMARY**

Terrace Construction, Inc.	<b>\$671,616.51</b>
Fabrizi Trucking & Paving, Inc.	<b>\$720,380.98</b>
Perk Company, Inc.	<b>\$737,722.99</b>
Catts Construction	<b>\$758,718.83</b>

A portion of this project is being made possible via a \$302,140 grant from the Cleveland Water Department's Suburban Water Main Renewal (SWMR) Program.



**Michigan**  
78 Northpointe Drive  
Lake Orion, MI 48359  
Phone: 248-370-0000  
Fax: 248-370-0011

**Ohio**  
1045 Taylor Rd.  
Gahanna, OH 43230  
Phone: 614-655-0022  
Fax: 614-655-0022

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October 11, 2021

Collette Clinkscale  
Director of Public Works  
City of Cleveland Heights  
40 Severance Circle  
Cleveland Heights, OH 44118

RE: PO# 2021-00000594  
( 6 ) Heil Automated Front Loaders Mounted on AutoCar Chassis

Ms. Clinkscale,

This letter is to inform you of the continued delivery challenges the industry is experiencing and the delay of the Heil Automated Front Loaders you have on order with Bell Equipment.

In June, I notified you of a delay with the AutoCar chassis. Originally, per our quote and issuance of your PO, chassis' were scheduled to arrive at the Heil factory the middle of August, 2021. The chassis' had been delayed until mid to end of September. This pushed our delivery out to you until December 1, 2021.

Unfortunately, I need to advise the chassis' delivery has again been delayed. AutoCar is expecting the chassis will deliver to Heil Oct. 18 – 27, 2021. Heil can not commit to delivery until chassis' actually arrive at the plant. Because of these delays, we can not commit to a December 1, 2021. I will continue to work with Heil and AutoCar and keep you informed on the delivery progress.

I have attached a letter from Heil outlining some of the delivery challenges they are experiencing and I expect AutoCar has some of the same challenges.

Thank You  
A handwritten signature in black ink, appearing to read "David Johnson".  
David Johnson  
Bell Equipment



**Environmental  
Solutions Group**

A  DOVER COMPANY



August 4, 2021

To:

From: Ken Chandler  
VP Operations and Supply Chain  
Environmental Solutions Group

Re: 2021 Delivery Challenges

The impact of Covid 19 on Heil's operations and supply base has significantly impacted delivery of product to customers. Due to the pandemic, Heil has had difficulty getting parts from suppliers and adding labor back to into operations to support production increases. These issues are consistent global issues that are not related specifically to Heil.

The Heil team is working diligently to address these issues on all fronts and have adjusted plant run rates to reflect the reality of labor and part availability constraints. As the run rates are adjusted, we make every effort to ensure customers understand impacts on delivery dates. If hiring and parts supply improves, there is an opportunity to improve delivery performance.

There have been shortages across all commodity groups - hydraulics and electronics supply has been particularly challenging. The shortages have been driven by supplier capacity constraints and logistics issues. While there has been improvement in some commodity groups, others are not likely to improve in the year as suppliers are also struggling. To help mitigate the supply issues Heil has extended planning lead times, increased part orders with current suppliers, and continued to work to bring on alternative sources to supplement supply. As suppliers respond, the number of stockouts are reducing.

Part shortages have led to processing trucks inconsistently through the plant causing additional burden on the labor force. The Ft Payne plant has worked significant levels of overtime to navigate the part and labor shortages. While Heil has had to work extended hours to support customer demand, we remain focused on the safety of our employees and follow all CV19 protocols as well as place reasonable limits on the amount of overtime employees can work.

Heil has attacked the labor shortage issue on multiple fronts, offering referral and signing bonuses, adjusting pay rates, aggressively reaching out into the community for workers and recruiting non-traditional workers. Despite the effort, it is still difficult to find new team members.

We appreciate your patience during these unprecedented times and please understand that the Heil team is doing all it can to improve capacity to support your orders.



# CLEVELAND HEIGHTS

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## Committee of the Whole

**October 18, 2021**

**6:30 p.m.**

**Agenda**

1. Legislation overview
2. ARPA discussion
3. Other

# Memo

**To:** Susanna Niermann O'Neil, City Manager

**From:** Amy Himmeltein, Finance Director

**Date:** August 24, 2021

**Re:** ARPA Survey Results and Proposed Programs

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Earlier this year the City was awarded \$38 million in federal funds via the American Rescue Plan Act (ARPA). The money can only be used for certain expenditures within the City. In an effort to determine how the citizens of the City would like to see the money used, a survey was put on the website in July. The survey listed allowable categories of expenditures and citizens were asked to rank their top 3 categories. I have attached a summary of these categories and their uses as a refresher.

We received 979 votes on the survey. The answers were evaluated and given a weighted average to determine the citizen's priorities. The survey results are attached. As you can see the top three categories were:

1. Sewer repair/replacement
2. Addressing Educational Disparities in Disproportionately Impacted Neighborhoods
3. Small Business Assistance

Based on these answers and an evaluation of the needs of the City I am proposing projects that are allowable uses of ARPA monies. These proposed projects are also listed on the attached and matched to the appropriate category. The top three proposed projects are:

1. Subsidize replacement of aging sewer system.
2. Reinstate student services program within the City to mentor/support students.
3. Provide relief to small businesses by reimbursing expenditures related to COVID. This includes rental relief.

Currently, there is \$5 million of unallocated funds. This is purposeful because there are needs within the City that are not addressed by the current guidance from the U.S. Treasury. These needs include a ladder fire truck, police patrol vehicles, dump trucks for snow removal, and new sewer billing software. I have reached out to the U.S. Treasury to obtain guidance on these projects and am awaiting their response.

I am requesting your support and in turn Council's support of these projects as they will benefit all within the City.

## ARPA Funds Survey Results

Category	% of Vote	Proposed Program	Proposed Allocation
Sewer Repair/Replacement - repairing/replacing sewer lines identified as required to be replaced	15.02%	Subsidize replacement of aging sewer system.	28,000,000
Addressing Educational Disparities in Disproportionately Impacted Neighborhoods - after school programs, tutoring, support for student social, emotional and mental health needs	11.97%	Reinstate student services program within the City to mentor/support students.	1,000,000
Small Business Assistance - grants for decline in revenue or impact of business closures, rental/mortgage or utility assistance	11.70%	Provide relief to small businesses by reimbursing expenditures related to COVID. This includes rental relief.	1,000,000
Family Assistance - rental/mortgage assistance, utility assistance, food assistance	10.50%	Provide rental/mortgage relief to households.	1,000,000
Investing in Housing and Neighborhoods in Disproportionately Impacted Neighborhoods - affordable housing development, relocation assistance, homelessness assistance	9.98%	Expand current housing repair program.	500,000
Public Health and Safety Staff - payroll for police, firefighters/paramedics, and senior service staff related to responding to COVID-19	9.52%	Premium pay to fire fighters for service during COVID.	355,075
Addressing Health Disparities in Disproportionately Impacted Neighborhoods - remediation of lead paint or other lead hazards, community violence intervention programs	7.81%	Expand current lead remediation program.	500,000
Behavioral Healthcare - City services to meet mental health, substance use and other behavioral health needs	7.73%		
Promoting Healthy Childhood Environments in Disproportionately Impacted Neighborhoods - child care, services for child welfare-involved families and foster youth	5.77%		
Worker Assistance - job training for unemployed workers, programs to reduce unemployment within the City	4.02%		
Replace Lost Revenues - replace community center revenue lost due to COVID-19 shutdown	2.79%		
COVID-19 Mitigation and Containment - vaccination programs, testing, ventilation improvements to City buildings	2.01%	Improve ventilation in City buildings including areas where citizens congregate.	1,000,000
Impacted Industry Assistance - aid to tourism, travel and hospitality businesses to safely reopen	1.19%		
			Total Proposed Allocation 33,355,075
			Total Award 38,817,062
			Total Unallocated 5,461,987

(Total of 979 votes)

## Support the Public Health Response



This funding may be used to meet and address emergent public health needs.

- 1 COVID-19 Mitigation & Containment**
  - A broad range of services and programming that are needed to contain COVID-19
- 2 Medical Expenses**
  - Provide care and services to address COVID-19 public health needs, risks presented by new variants, and long-term effects of the virus
- 3 Behavioral Healthcare**
  - New or enhanced state and local government services that may be needed to meet mental health, substance use, and other behavioral health needs
- 4 Public Health & Safety Staff**
  - Responding to the public health and negative economic impacts of the pandemic requires a substantial commitment of human resources

## Address Negative Economic Impacts



Recipients may use these funds to respond to the negative economic impacts of the COVID-19 public health emergency.

- 1 Workers & Families**
  - Assistance to unemployed workers and job training
  - Food, housing, cash, and other assistance to households
  - Survivor's benefits for family members of COVID-19 victims
- 2 Small Businesses**
  - Loans and grants to mitigate financial hardship
  - Loans, grants, and in-kind assistance to implement COVID-19 prevention or mitigation tactics
  - Technical assistance
- 3 Public Sector**
  - Rehire staff
  - Replenish state unemployment insurance funds
  - Administer economic relief programs
- 4 Impacted Industries**
  - Tourism, travel, and hospitality sectors
  - Other similarly affected sectors

## Provide Equity-Focused Services



Treasury will presume the following additional activities are eligible uses when provided within disproportionately impacted communities.

### 1 Addressing Health Disparities

- Community health workers and public benefits navigators
- Remediation of lead paint and other lead hazards
- Community violence intervention programs

### 2 Investing in Housing & Neighborhoods

- Services to support individuals experiencing homelessness
- Affordable housing development
- Housing vouchers, residential counseling, navigation assistance

### 3 Addressing Educational Disparities

- New or expanded early learning services
- Expanded resources for high-poverty school districts
- Educational services like tutoring and afterschool programs, as well as supports for social, emotional, and mental health needs

### 4 Promoting Healthy Childhood Environments

- New or expanded high quality childcare
- Home visiting programs for families with young children
- Services for child welfare-involved families and foster youth

## Replace Public Sector Revenue Loss



Recipients may use this funding to provide government services to the extent of the reduction in revenue experienced due to the COVID-19 public health emergency.

- Provide continuity of vital government services by filling budget shortfalls
- Revenue loss is calculated relative to the expected trend, beginning with the last full fiscal year pre-pandemic and adjusted annually for growth
- Recipients may re-calculate revenue loss at multiple points during the program, supporting those entities that experience revenue loss with a lag
- Once a reduction in revenue is identified, recipients have broad latitude to use these funds to support government services (with some exceptions, described later)

The Interim Final Rule establishes a clear and consistent methodology that each recipient can use to calculate its reduction in revenue

Calculation – approach allows to measure predictions/budgeted - flexible approaches to meet size of revenue loss.

## Premium Pay for Essential Employees



Recipients may use this funding to provide premium pay to eligible workers performing essential work, either in public sector roles or through grants to third-party employers.

### Example professions eligible for premium pay:

- ✓ Staff at nursing homes, hospitals, and home-care settings
- ✓ Workers at farms, food production facilities, grocery stores, and restaurants
- ✓ Janitors and sanitation workers
- ✓ Truck drivers, transit staff, and warehouse workers
- ✓ Public health and safety staff
- ✓ Childcare workers, educators, and school staff
- ✓ Social service and human services staff

}

- Essential work involves regular in-person interactions or physical handling of items that were also handled by others
- Recipients have discretion to designate additional sectors

Premium pay should prioritize low- and moderate-income workers, who face the greatest mismatch between employment-related health risks and compensation.

## Water, Sewer, and Broadband Infrastructure



Recipients may use these funds to make necessary investments in water, sewer, and broadband infrastructure.

### Water and Sewer Infrastructure

- ✓ Includes improvements to infrastructure, such as building or upgrading facilities and transmission, distribution, and storage systems
- ✓ Eligible uses aligned to Environmental Protection Agency project categories across the:
  - Clean Water State Revolving Fund
  - Drinking Water State Revolving Fund

### Broadband Infrastructure

- ✓ Focus on households and businesses without a wireline connection capable of reliably delivering 25 Mbps download / 3 Mbps upload
- ✓ Fund projects that deliver reliable service
  - Minimum 100 Mbps download / 100 Mbps upload speeds unless impracticable
- ✓ Complement broadband investments made through the separate Capital Projects Fund

May use “revenue loss” provision for investment in other infrastructure needs

# American Rescue Plan Act (ARPA) Qualified Census Tracts

Cleveland

East  
Cleveland

South  
Euclid

Qualified Census Tracts

1403.01 - 71 Vacant Parcels

1407.01 - 66 Vacant Parcels

1407.02 - 14 Vacant Parcels

1410.00 - 19 Vacant Parcels

Vacant Parcels

Layer21

Cleveland Heights Boundary

Community Boundaries

Major Roads

Minor Roads

Cleveland

University  
Heights

Shaker Heights

1410

1412

1411

1407.01

1407.02

1409

1414

1415

1416.02

1416.01

1417

1413

FAIRMOUNT BLVD  
N PARK BLVD

LARCHMERE BLVD

SHAKER BLVD

BUCKEYE RD

S PARK BLVD  
SHAKER BLVD

WARRENSVILLE CENTER RD

BUCKEYE RD

COTT AVE  
EUCLID AVE

FOREST HILLS BLVD

MAYFIELD RD  
EUCLID HEIGHTS BLVD

CEDAR RD

COVENTRY RD  
WASHINGTON BLVD

MAYFIELD RD  
S TAYLOR RD  
SUPERIOR RD  
CEDAR RD

LEE RD

LEE RD

FAIRMOUNT BLVD

LEE RD

# Memo

**To:** City Council

**From:** Amy Himmeltein, Finance Director

**Date:** October 14, 2021

**Re:** Six Month Financial Update

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Following this memo are slides from a presentation I had prepared providing information on the City's financial status as of June 30, 2021. I was unable to give this presentation on the scheduled night. I am providing it now because it gives context that will be helpful for the budget hearing scheduled on Monday, October 25.

The key point is that we are projecting the general fund balance at December 31, 2021 to be approximately, \$4.7 million. This is a \$13.5 million decrease from December 31, 2020. Best practice requires a \$10 million fund balance. There are various reasons this occurred in 2021 which are touched on in the slides. The decrease in the general fund balance has significantly affected how we are budgeting for 2022.

# SIX MONTH FINANCIAL UPDATE

City of Cleveland  
Heights

Finance Committee

August 30, 2021

## CURRENT STATUS GENERAL FUND

- Revenue is 56% of budgeted
  - Income tax up 23.54% from 2020; down 3.7% from 2019
  - Property tax up 2.58% from 2020; up 5% from 2019
- Expenditures plus encumbrances are 46% of budgeted
- Current unencumbered fund balance is \$17,641,893
  - 58% higher than June 2020

## PROJECTED DECEMBER STATUS GENERAL FUND

- Total revenue projected = \$44,610,084
  - Decrease of \$6.77 million from 2020
- Total expenditures projected = \$58,721,701 (current budget)
  - Increase of \$15 million from 2020
- Projected unencumbered fund balance = \$4,696,058 \*\*\*
  - Decrease of \$13.5 million from 2020

\*\*\* \$4.4 million transfer was made to capital fund for refuse automation equipment. Amount will be returned when loan proceeds are received from OWDA. Anticipated return date is spring 2022.
- Target fund balance = \$9,982,689 (17% of expenditures)
  - \$5.3 million more than current estimate
    - If \$4.4 million owed from capital fund is included, still \$900,000 short of target 17%

## CURRENT STATUS OTHER OPERATING FUNDS

	Revenue	Expenditures	Unencumbered Fund Balance
Local Programming	\$214,377	\$479,538	\$690,781
Tree	\$640,032	\$564,908	\$678,238
Sewer	\$1,927,102	\$3,824,377	\$3,436,556
Parking	\$197,944	\$394,562	\$33,097
Ambulance	\$451,946	\$498,840	\$1,295,822

## PROJECTED DECEMBER STATUS OTHER OPERATING FUNDS

	Revenue	Expenditures	Unencumbered Fund Balance	% Change from 2020
Local Programming	\$505,540	\$738,648	\$722,833	(32.2%)
Tree	\$1,075,000	\$1,174,983	\$503,131	(5.0%)
Sewer	\$6,278,063	\$7,671,542	\$3,940,352	(15.6%)
Parking	\$455,000	\$1,232,409	(\$547,694)	(351.0%)
Ambulance	\$900,000	\$1,384,285	\$858,429	(35.0%)

## HOW DID WE GET HERE?

- Less revenue received than anticipated
  - Not a big bounce back in 2021
    - 2020 was a good year despite COVID
- Different methodology in budgeting for positions
  - Previously, positions were budgeted and purposefully held vacant
    - This created savings
  - In 2021 previously vacant positions are trying to be filled
- Large unanticipated purchases



## WHERE DO WE GO FROM HERE?

- Evaluate purchases
  - Get quotes if possible
  - Are grant funds available
- Evaluate positions
  - Can we wait to fill a position until 2022
  - How did we operate when position was held vacant
- Evaluate revenues
  - Do services warrant an increase in fees
- 2022 budget preparation
  - Only positions that will be filled will be budgeted
  - More diligence is presenting a budget that meets the required reserve



## CLEVELAND HEIGHTS

### **AGENDA (tentative) - CLEVELAND HEIGHTS CITY COUNCIL MEETING**

**Monday, October 18, 2021**  
**Regular Meeting**  
**7:30 p.m.**

**Cleveland Heights City Hall**  
**Council Chambers**  
**40 Severance Circle**  
**Cleveland Heights, Ohio**

- 1) Meeting called to order by Council President**
- 2) Roll Call of Council Members**
- 3) Excuse absent members**
- 4) Approval of the minutes of the Council meetings held on June 28, September 13, and September 20, 2021**
- 5) Personal communications from citizens**
- 6) Report of the City Manager**

Notify Council that sealed bids were received on October 8th, for project #21-06 – Superior Road Rehabilitation, and Terrace Construction, Inc. of Cleveland, Ohio's bid of \$671,616.51 has been found to be the lowest and best responsive and responsible bid.

#### **Matter of Record**

Notify Council of Contract Change Order No. 1 for project #20-06 – Delamere Drive Basement Flooding Relief Project increasing the original contract amount of \$895,134.50 to \$1,026,998.73.

#### **Matter of Record**

- 7) Report of the Clerk of Council**
- 8) Committee Reports**
  - a.) MUNICIPAL SERVICES COMMITTEE**

**RESOLUTION NO. 134-2021 (MS), *First Reading*.** A Resolution authorizing the Ohio Department of Transportation (“ODOT”) to complete a project improving sidewalks and pedestrian crossing facilities within Cleveland Heights; and declaring an emergency.

Introduced by Council Member \_\_\_\_\_

Vote \_\_\_\_\_  
For \_\_\_\_\_ Against \_\_\_\_\_ No. Reading \_\_\_\_\_

- b.) PLANNING AND DEVELOPMENT COMMITTEE**
- c.) PUBLIC SAFETY AND HEALTH COMMITTEE**
- d.) ADMINISTRATIVE SERVICES COMMITTEE**
- e.) COMMUNITY RELATIONS AND RECREATION COMMITTEE**

**RESOLUTION NO. 135-2021 (CRR), *First Reading*.** A Resolution authorizing the City Manager to accept a grant from GameTime Company and to enter into an agreement for the purchase and installation of new playground equipment at Denison Park; and declaring an emergency.

Introduced by Council Member \_\_\_\_\_

Vote \_\_\_\_\_  
For \_\_\_\_\_ Against \_\_\_\_\_ No. Reading \_\_\_\_\_

- f.) FINANCE COMMITTEE**

**ORDINANCE NO. 136-2021 (F), *First Reading*.** An Ordinance to amend certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances, relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021 and declaring an emergency.

Introduced by Council Member \_\_\_\_\_

Vote \_\_\_\_\_  
For \_\_\_\_\_ Against \_\_\_\_\_ No. Reading \_\_\_\_\_

**9) Council President's Report**

**10) Adjournment**

**NEXT MEETING OF COUNCIL: MONDAY, NOVEMBER 1, 2021**

Proposed: 10/18/2021

RESOLUTION NO. 134-2021 (MS)

By Council Member

A Resolution authorizing the Ohio Department of Transportation (“ODOT”) to complete a project improving sidewalks and pedestrian crossing facilities within Cleveland Heights; and declaring an emergency.

WHEREAS, the State of Ohio has identified the need for the following described project: SRTS Infrastructure Project to improve walking and biking to the Cleveland Heights/University Heights schools. Project will install ADA compliant curb ramps and high visibility ladder style crosswalk markings at two mid-block crossings and four intersections and will install bike racks with concrete pads in the City of Cleveland Heights; and

WHEREAS, this Council has determined that it is in the best interests of the City and its residents to participate in said project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council hereby gives consent to the Director of Transportation for the State of Ohio to complete the following described project: SRTS Infrastructure Project to improve walking and biking to the Cleveland Heights/University Heights schools. Project will install ADA compliant curb ramps and high visibility ladder style crosswalk markings at two mid-block crossings and four intersections and will install bike racks with concrete pads in the City of Cleveland Heights (hereafter the “Project”).

SECTION 2. The City shall cooperate with the Director of Transportation in the Project as follows:

The City agrees to assume and contribute the entire cost and expense of the improvement less the amount of Federal-aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, United States Department of Transportation. The City agrees to assume and bear one hundred percent (100%) of the cost of preliminary engineering, right-of-way and environmental documentation.

The City agrees to assume and contribute one hundred percent (100%) of the cost of any work included in the construction contract, at the request of the City, which is determined by the Director not to be part of or made necessary by the improvement.

The City further agrees that change orders and extra work contracts required to fulfill the construction contracts shall be processed as needed. The State shall not approve a change order

RESOLUTION NO. 134-2021 (MS)

or extra work contract until it first gives notice, in writing, to the City. The City shall contribute its share of the cost of these items in accordance with other sections herein.

The City agrees that if Federal Funds are used to pay the cost of any consultant contract, the City shall comply with 23 CFR 172 in the selection of its consultant and administration of the consultant contract. Further, the City agrees to incorporate ODOT's "Specifications for Consulting Services" as a contract document in all of its consultant contracts. The City agrees to require, as a scope of services clause, that all plans prepared by the consultant must conform to ODOT's current design standards and that the consultant shall be responsible for ongoing consultant involvement during the construction phase of the Project. The City agrees to include a completion schedule acceptable to ODOT and to assist ODOT in rating the consultant's performance through ODOT's Consultant Evaluation System.

SECTION 3. The City agrees to acquire and/or make available to Ohio Department of Transportation ("ODOT"), in accordance with current State and Federal regulations, all necessary right-of-way required for the described Project. The City also understands that right-of-way costs include eligible utility costs. The City agrees to be responsible for all utility accommodation, relocation, and reimbursement and agrees that all such accommodations, relocations, and reimbursements shall comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

SECTION 4. Upon completion of the described Project, and unless otherwise agreed, the City shall: (1) provide adequate maintenance for the described Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) provide ample financial provisions, as necessary, for the maintenance of the described Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

SECTION 5. The City Manager is hereby empowered on behalf of the City to enter into any and all agreements with the Ohio Director of Transportation, and any related agreements, necessary to complete the above-described Project, subject to approval as to form, of the Director of Law.

SECTION 6. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 7. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to meet ODOT deadlines and to expedite the project in order to improve pedestrian traffic safety at the earliest time possible. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or

RESOLUTION NO. 134-2021 (MS)

appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

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JASON S. STEIN  
President of Council

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AMY HIMMELEIN  
Clerk of Council

PASSED:

CFDA 20.205

CUY SRTS FY2022 CLEVELAND Hts  
COUNTY-ROUTE-SECTION

110908

PID NUMBER

36878

AGREEMENT NUMBER

DUNS NUMBER

## LPA FEDERAL ODOT-LET PROJECT AGREEMENT

**THIS AGREEMENT** is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the **City of Cleveland Heights, 40 Severance Circle, Cleveland Heights, Ohio 44118** hereinafter referred to as the LPA..

### 1. PURPOSE

- 1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (hereinafter referred to as FHWA) designated ODOT as the agency in Ohio to administer FHWA's Federal funding programs.
- 1.2 Section 5501.03 (D) of the **Ohio Revised Code** (hereinafter referred to as ORC) provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.
- 1.3 The **CUY-SRTS-FY2022 Cleveland Hts (PID 110908)** (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.
- 1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities of ODOT and the LPA for administration of the PROJECT.

### 2. LEGAL REFERENCES AND COMPLIANCE

- 2.1 This Agreement is authorized and/or governed by the following statutes and/or policies, which are incorporated, by reference, in their entirety:

#### A. FEDERAL

- 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- 23 CFR 172 "Administration of Engineering and Design Related Design Related Service Contracts"
- 23 CFR 630.106 – Authorization to Proceed
- 23 CFR 636.116 - Organizational Conflict of Interest Requirements for Design-Build Projects
- 23 CFR 645 - Utilities
- 48 CFR Part 31 – Federal Acquisition Regulations
- 49 CFR PART 26 - Participation by Disadvantaged Business Enterprises “DBE” in Department of Transportation Financial Assistance Programs
- 23 USC 112 "Letting of Contracts"

- 40 USC Subtitle I, Chapter 11, Sections 1101-1104, the "Brooks Act." – "Selection of Architects and Engineers"
- Federal Funding Accountability and Transparency Act (FFATA)

B. STATE

- ORC 153.65 through 153.71
- ORC 5501.03(D)
- OAC 4733-35-05

C. ODOT

- ODOT's Manual for Administration of Contracts for Professional Services
- ODOT's Specifications for Consulting Services – 2016 Edition
- ODOT's Consultant Prequalification Requirements and Procedures
- State of Ohio Department of Transportation Construction and Material Specifications Manual
- State of Ohio Department of Transportation Construction Administration Manual of Procedures

2.2 The LPA shall comply with all applicable Federal and State laws, regulations, executive orders, and applicable ODOT manuals and guidelines. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

3. FUNDING AND PAYMENT

3.1 The total cost for the PROJECT is estimated to be \$ 200,000.00 as set forth in Attachment 1.

ODOT shall provide to the LPA 100 percent of the eligible costs, up to a maximum of \$ 200,000 in Federal (4SC7) funds which includes 20 percent Toll Revenue Credit, up to a maximum of \$ 40,000. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager. Unless otherwise provided, funds through ODOT shall be applied on any phase of the project.

3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all 100 percent Locally-funded work, and all cost overruns and contractor claims in excess of the maximum(s) indicated in 3.1 above.

3.3 All funding from ODOT under this Agreement operates on a reimbursement basis. The LPA shall review and/or approve all contractor invoices for materials, equipment and labor prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT.

3.4 The LPA shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The **LPA** must submit to ODOT a written request for reimbursement of the state share of the expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed on a daily basis as the items of work are completed and accepted.

3.5 ODOT shall pay, or reimburse, the LPA or, at the request of the LPA and with concurrence of ODOT, pay directly to the LPA's construction contractor ("Contractor"), the eligible items of expense in accordance with the cost-sharing provisions of this Agreement. If the LPA requests to have the Contractor paid directly, Attachment 2 to this Agreement shall be completed and submitted with the project bid tabulations, and the Contractor shall be required to establish Electronic Funds Transfer with the State of Ohio. ODOT shall pay the Contractor or reimburse the LPA within thirty (30) days of receipt of the approved Contractor's invoice from the LPA.

3.6 The LPA shall certify in writing that the PROJECT was developed and delivered in compliance with the terms, conditions and requirements of the PROJECT Agreement with his/her Professional Engineer's seal and signature. The LPA shall then provide the final report to the ODOT District within 6 months of the physical completion date of the PROJECT so that the report may be audited and approved for payment. If the deadline cannot be met, a written explanation must be provided to the District prior to the end of the 6 months documenting the reason and the new anticipated date of completion. If the extended deadline is not met, then this process must be repeated until the PROJECT is completed. Failure to follow this process may result in the immediate close-out of the PROJECT and loss of further funding.

3.7 Payment or reimbursement to the LPA shall be submitted to:

<b>City of Cleveland Heights</b>
<b>40 Severance Circle</b>
<b>Cleveland Heights, Ohio 44118</b>

4. **PROJECT DEVELOPMENT**

4.1 The LPA and ODOT agree that the LPA has received funding approval for the PROJECT from the applicable ODOT Program Manager having responsibility for monitoring such projects using the Federal funds involved.

4.2 Project Development shall follow ODOT's Project Development Process and all ODOT standards for environmental evaluations, design, plan preparation, right of way acquisition, utility relocation and other processes as set out in the Department's Design Reference Resource Center, available on ODOT's website ([www.dot.state.oh.us/drrc/Pages/default.aspx](http://www.dot.state.oh.us/drrc/Pages/default.aspx)). Responsibilities for development of the PROJECT shall be as follows and further described herein:

## **LPA ODOT Let Project Responsibility Assignments**

		Responsibility		
PDP Phase	Activity	LPA	ODOT	Commentary
Planning	All	X		ODOT to provide coordination as needed
Preliminary Engineering	All	X		ODOT to: 1) Provide coordination as needed 2) Review all plans and documents and provide comments
Environmental Engineering	Stage 1 Plans	X		ODOT to review all plans and documents and provide comments.
	Stage 2 Plans	X		ODOT to review all plans and documents and provide comments.

Final Engineering & R/W	Value Engineering		X	ODOT will coordinate Value Engineering if required. Refer to Section 4.7.
	Cost Estimates	X		LPA/Consultant shall prepare in Estimator format.
	NEPA	X		ODOT will coordinate NEPA approval. Refer to Section 4.7 for Environmental Responsibilities.
	Permits		X	ODOT will obtain permits needed to construct the PROJECT.
	R/W Plans	X		ODOT to review all plans and documents and provide comments.
	Public/Stakeholder Involvement	X		ODOT to review all PI plans and materials and provide comments.
	R/W Acquisition & Relocation	X		Refer to Section 6 for detailed requirements.
	Utility Relocation	X		Refer to Section 6.6 for additional details.
	Railroad Coordination and Agreements		X	Refer to Section 6.8 for additional details.
	Stage 3 Plans	X		ODOT to review all plans and documents and provide comments.
Construction	Cost Estimates	X		LPA shall prepare in Estimator format.
	Final Plan Package	X		ODOT to review all plans and documents and provide comments.
Construction	Mitigation		X	ODOT will coordinate any required mitigation efforts.
	Public/Stakeholder Involvement	X		ODOT to review all PI plans and materials and provide comments.
	Advertise		X	LPA and consultants to assist in responding to bidder questions and preparation of any addenda.
	Award		X	ODOT Awards Committee

	Administer Construction Contract		X	ODOT will administer the construction contract. The LPA and LPA's consultants shall respond promptly to requests for information or other construction issues.
	Public/Stakeholder Involvement	X	X	ODOT to coordinate in cooperation with the LPA.
All Phases	Federal Authorizations		X	ODOT will coordinate and obtain all needed FHWA Authorizations and notify the LPA upon approval.
All Phases	Encumbrance of Funds		X	ODOT will encumber funds in accordance with this Agreement.

4.3 The LPA shall designate an LPA employee to act as the LPA Project Manager and act as the point of contact for all communications with ODOT.

4.4 If Federal funds are used for a phase of project development and the LPA executes an agreement with a consultant prior to the receipt of the "Authorization" notification from ODOT, ODOT may terminate this Agreement and cease all Federal funding commitments.

4.5 ODOT reserves the right to move this PROJECT into a future sale year if the LPA does not adhere to the established PROJECT schedule, regardless of any funding commitments.

4.6 Environmental Responsibilities

- A. In the administration of this PROJECT, the Permittee shall be responsible for conducting any required public involvement activities, for preparing all required documents, reports and other supporting materials needed for addressing applicable environmental assessment, for clearance responsibilities for the PROJECT pursuant to the National Environmental Policy Act and related regulations, including the requirements of the National Historic Preservation Act.
- B. If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire a consultant in accordance with Section 5.
- C. ODOT shall be responsible for the review of all environmental documents and reports, and shall complete all needed coordination activities with State and Federal regulatory agencies toward securing environmental clearance.
- D. Whichever party obtains the Project's environmental clearance or permits shall be responsible for assuring compliance with all commitments made as part of such clearance or permit requirements during the construction of the PROJECT.
- E. The LPA shall require its consultant to prepare a final environmental document pursuant to the requirements of the National Environmental Policy Act.

- F. The LPA shall require its consultant to execute a copy of a disclosure statement specifying that the consultant has no financial or other interest in the outcome of the PROJECT.
- G. The LPA shall provide a letter indicating the proposed Best Management Practices (BMPs) to be utilized for post construction storm water management in accordance with the Ohio EPA National Pollutant Discharge Elimination System (NPDES) Construction General Permit. If no BMPs are proposed, a letter stating concurrence is required from the Ohio EPA.

#### 4.7 Use of ODOT Consultant Agreements

- A. ODOT may provide services through ODOT held consultant agreements at its discretion subject to funding participation by the LPA. Agreements that may be available for use include the following:
  1. If the LPA chooses to utilize the CEOA task order contract for environmental services, the parties agree that the total cost shall be shared based on the following percentages: 80 percent federal/state funds and 20 percent local funds. The LPA agrees to pay its share of the estimated cost upon receipt of an invoice from ODOT prior to the issuance of any acquisition authorization. Once the Project is completed and the final costs determined, the LPA shall be refunded any excess amount paid if the total cost is below the estimated cost, or it shall be invoiced for its share of any increased cost above the estimated cost. The LPA agrees that it shall participate at the same funding percentage if the final costs exceed the estimated cost.
  2. If the LPA chooses to utilize the CEOA task order contract for right-of-way acquisition services, the parties agree that the total cost shall be shared based on the following percentages: 80 percent federal/state funds and 20 percent local funds. The LPA agrees to pay its share of the estimated cost upon receipt of an invoice from ODOT prior to the issuance of any acquisition authorization. Once the Project is completed and the final costs determined, the LPA shall be refunded any excess amount paid if the total cost is below the estimated cost, or it shall be invoiced for its share of any increased cost above the estimated cost. The LPA agrees that it shall participate at the same funding percentage if the final costs exceed the estimated cost.
  3. Value Engineering. If Value Engineering is required, the Department may elect to use an ODOT held agreement to assist in administering the Value Engineering process. If Value Engineering is required, the LPA shall require its consultants to participate as needed.

### 5. CONSULTANT SELECTION AND ADMINISTRATION

#### 5.1 General Requirements

- A. The LPA must select a consultant/ consultant team that is prequalified by ODOT for all services to be performed by the consultant and subconsultants.
- B. The LPA must incorporate ODOT's "Specifications for Consulting Services – 2016 Edition" as a contract document in all of its consultant contracts.
- C. The LPA must require, as a scope of services clause, that project development follow ODOT's Project Development Process, and that all documents and plans prepared by the consultant must conform to ODOT's current standards, including the electronic deliverable

requirements of ODOT's CADD Engineering Standards Manual, and Location and Design Manual Volume 3, Section 1500.

- D. The LPA consultant agreement must provide for ongoing consultant involvement during the construction phase of the Project.
- E. The LPA consultant agreement must include a completion schedule acceptable to ODOT.
- F. The LPA must assist ODOT in rating the consultant's performance through ODOT's Consultant Evaluation System.
- G. The LPA must cooperate with ODOT in directing additional or corrective work, and to recover damages due to errors or omissions.
- H. If Federal Funds are used to pay the cost of any contract for professional services, the LPA must comply with 23 CFR 172, Sections 153.65 through 153.71 of the Ohio Revised Code and Section 5.2 below in the selection of consultants, and administer consultant agreements in accordance with ODOT's Manual for Administration of Contracts for Professional Services. Professional services, as defined in Sections 5526.01 and 153.65(C) of the Ohio Revised Code, include the practice of engineering (including inspection of construction), the practice of surveying, the practice of architecture including landscape architecture, evaluation of environmental impacts, right-of-way acquisition services and administration of construction contract claims.

## 5.2 Procedures for LPA Selection of Consultants for Agreements that Include Federal Funds in Preliminary Engineering

### A. Policies in Selection of Consultants

#### 1. Restrictions Concerning LPA Preferences

The LPA **shall not** offer direction to consultants concerning preferences (or informal sanctions) for certain subconsultants or team arrangements. These arrangements are business decisions that must be made by consultants without direction from the LPA. The LPA must make selection decisions on the basis of proposed teams without advance "steering" of teams.

#### 2. Communications Restrictions

Please note the following policy concerning communication between Consultants and the LPA during the announcement and selection process:

During the time period between advertisement and the announcement of final consultant selections for the Programmatic Selection Process, communication with consultants (or their agents) shall be limited as follows:

##### a. Communications which are strictly prohibited:

- (1) Communication with the LPA: Any marketing or similar discussions of the specific project if the consultant has submitted or plans to submit a letter of interest, or is included as a subconsultant on a submittal by another firm.

##### b. Allowable communications include:

- (1) Project administration activities for authorized agreements, scope and negotiation activities for projects selected but not under contract.
- (2) Technical or scope of services questions specific to projects posted with a programmatic group.

c. When completed selections must be publicly announced.

3. Advertisement

For selection procedures that require public notification, Requests for Letters of Interest "RFLol" must be advertised on the Consultant Services page of ODOT's website.

4. Disclosure of Selection Information

All selection information including consultant letters of interest shall be available for public disclosure upon completion of the selection.

Information that is not subject to public disclosure at any time includes financial statements and other confidential financial information submitted by a consultant.

5. Supporting Documentation

Documentation supporting the solicitation, proposal, evaluation, and selection of the consultant shall be retained.

6. Prohibited Selection Factors

- a. Price shall not be used as a factor in the evaluation, ranking, and selection phase. All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.
- b. In-State or local **preference** shall not be used as a factor in the evaluation, ranking, and selection phase. State licensing laws are not preempted by this provision and professional licensure within a jurisdiction may be established as a requirement for the minimum qualifications and competence of a consultant to perform the solicited services.

Refer to Section 5.2.C.1.n. below for additional guidance concerning the use of local **presence** as a nominal evaluation factor where appropriate.

B. Consultant Selection Processes

The LPA may use any one of five consultant selection processes permitted by 23 CFR 172 and ORC 153.65 – 153.71, the use of which depends on the complexity of the project, estimated total fee, the number of available qualified consultants and whether an emergency exists. The Programmatic and Technical Proposal selection processes are competitive qualifications based selection processes governed by 23 CFR 172.7(a)(1) and ORC 153.65 – 153.71. These selection processes require solicitation, evaluation, ranking, selection, and negotiation in accordance with the qualifications-based selection procurement procedures for architectural and engineering services codified under 40 U.S.C. 1101-1104, commonly referred to as the Brooks Act or Selection of Architects and Engineers.

The Small Purchase selection process is a non-competitive selection process governed by 23 CFR 172.7(a)(2) and ORC 153.71(A). Agreements with total fees less than \$50,000 are eligible for this selection process.

The Emergency and Special Expertise selection processes are non-competitive selection processes governed by 23 CFR 172.7(a)(3) and ORC 153.71.

#### 1. Programmatic Selection Process

The Programmatic Selection Process is a one-step selection process intended to shorten the selection/authorization process for non-complex projects while reducing paperwork and administrative costs for both consultants and the State. In this process consultants are selected based on standard letter of interest content, and a standard Selection Rating Form.. The “Programmatic” selection process should be used for most projects that do not meet the criteria for the more elaborate Technical Proposal Selection Process.

#### 2. Technical Proposal Selection Process

The technical proposal selection process is a two-step process intended for use on larger, more complex projects for which a more informed selection decision can be made based on additional information received through the submittal of a (more elaborate) Technical Proposal, and/or presentations/interviews. The Technical Proposal Selection Process is appropriate to use under the following circumstances:

- a. Complex projects involving multiple PDP steps and multiple disciplines including planning, environmental and design services.
- b. Projects that include complex project management challenges in which the role of the consultant project manager will be crucial to project success, and may require extensive public involvement activities.
- c. Specialized services for which the LPA has limited experience and performance records for past projects.
- d. Generally any project for which a single submittal does not provide sufficient information to make a well informed selection decision.

The technical proposal selection process includes the initial submittal of a letter of interest similar to the Programmatic Selection Process, and then “shortlisting” to at least three of the most highly qualified firms. The standard letter of interest content may be revised to include increased page limits and project specific content. The shortlisted firms are then required to submit additional written information (technical proposal) and/or participate in additional discussions or presentation/interview. The content of the technical proposal and the format of interviews can be tailored to fit the requirements of specific projects.

Discussions, if required by the RFLol, may be written, by telephone, video conference, or by oral presentation/interview and shall be with at least three of the most highly qualified consultants to clarify the technical approach, qualifications, and capabilities provided in response to the RFLol.

The process for shortlisting at least three consultants is identical to that of the Programmatic Selection Process. The final selection of a single consultant also follows the same process but considers the written technical proposal and/or presentation/interview along with the initial letter of interest.

### 3. Emergency Selection Process

The LPA may directly select a consultant for a project determined by the Director of Transportation to be an emergency which will not permit the time necessary to conduct a competitive selection process. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT's Consultant Contract Administration.

### 4. Small Purchase Selection Process

The LPA may directly select consultants without solicitation for projects with an estimated total fee of less than \$50,000. The scope of work, project phases, and contract requirements shall not be broken down into smaller components merely to permit the use of fee exempt procedures. The following requirements apply:

- a. The qualifications of a minimum of three consultants must be reviewed prior to selection. The consultants considered for selection and the reasons for selecting the most qualified consultant shall be documented.

In instances where two or fewer consultants are considered qualified, the LPA may proceed with evaluation and selection if it is determined that the project requirements did not contain conditions or requirements that arbitrarily limited competition. The reasons for proceeding with the selection shall be documented.

- b. The full amount of any contract modification that would cause the total contract amount to exceed \$50,000 is ineligible for Federal-aid funding. The FHWA may withdraw all Federal-aid from a contract if Federal funds are used in modifying an agreement above the \$50,000 simplified acquisition threshold.
- c. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT's Consultant Contract Administration.

### 5. Special Expertise Selection Process

The LPA may directly select consultants for projects for which the service is available only from a single source. Contract costs shall be negotiated in accordance with Chapter 3, Section 3.9 of ODOT's Consultant Contract Administration.

## C. Selection Procedures – Programmatic Selection Process

### 1. Letter of Interest Content

Requests for Letters of Interest (RFLoI) shall include the following:

- a. Project name from Ellis (County-Route-Section);

- b. A description of the project including the location.
- c. A description of the selection process to be used, including the number of steps (direct selection based on the information provided, or a two-step process with a short list and technical proposal and/or interviews, etc.), and the selection rating criteria to be used. The standard selection rating form included herein should be used for most projects.
- d. Any restrictions on communicating with government officials during the selection process.
- e. Any restrictions concerning suspended or debarred firms.
- f. Date that the letter of interest is due. The minimum response time shall be two weeks from the initial posting date.
- g. The approximate construction cost if available.
- h. Any special provisions or contract requirements associated with the services.
- i. The following notification:

*The [LPA] in accordance with Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all bidders including disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex (including pregnancy, gender identity and sexual orientation), age, disability, low-income status, or limited English proficiency in consideration for an award.*

- j. The DBE Goal requirements and related selection procedures.
- k. Major work elements involved.
- l. A detailed scope of services for the agreement.
- m. The ODOT prequalification(s) required to provide the services;
- n. Subfactors - Any important aspects of a project, if any, that will play a large role in the consultant selection process.

In-State or local preference shall not be used as a selection factor or subfactor, however a local presence may be used as a nominal evaluation factor where appropriate. This criteria shall not be based on political or jurisdictional boundaries and may be applied on a project-by-project basis for contracts where a need has been established for a consultant to provide a local presence, a local presence will add value to the quality and efficiency of the project, and application of this criteria leaves an appropriate number of qualified consultants, given the nature and size of

the project. If a consultant from outside of the locality area indicates as part of a proposal that it will satisfy the criteria in some manner, such as establishing a local project office, that commitment shall be considered to have satisfied the local presence criteria.

- o. The contract type and payment method(s) anticipated to contract for the solicited services. Refer to Chapter 4 of ODOT's Consultant Contract Administration for detailed explanations of contract types and payment methods.
- p. Estimated date of authorization.
- q. Time period in which the work must be completed.
- r. Instructions for submitting a letter of interest including content and required format. The information requested should be consistent with the rating criteria.
- s. Required content of the letter of interest (RFLol) including:
  - (1) The firm's general qualifications.
  - (2) Proposed key staff including key subconsultant staff and project approach.
  - (3) A listing of subconsultants including project responsibility.
  - (4) Whether resumes of key staff members must be submitted.
  - (5) Other information needed to make an informed selection decision.

## 2. Evaluation Process

- a. Initially evaluate all firms for compliance with the following requirements, advise Districts of the firms that must be eliminated from further consideration and the reason for elimination:
  - (1) Compliance with general Lol requirements, current negligence issues, and ongoing performance issues identified through CES, overall low CES rating, insufficient staff, excessive workload, or any other significant issues relative to a firm's performance.
  - (2) Inclusion on the list of firms suspended or debarred by the Federal Government.
  - (3) For projects noted as having DBE Goals, ODOT will determine whether the consultant made a good faith effort to meet the goal in accordance with 49 CFR 26.53 and Appendix A to Part 26. The letter of interest must show that the consultant has made good faith efforts to meet the goal. Good faith efforts may include: (1) Documentation that the consultant has obtained enough DBE or EDGE (Encouraging Diversity, Growth and Equity) participation to meet the goal; or (2) Documentation that it made adequate good faith efforts, as defined in 49 CFR 26.53, to meet the goal, even though it did not succeed in obtaining enough DBE/EDGE

participation to do so. Consultants that do not show good faith efforts to meet the Goal will not be eligible for selection.

- b. Compliance with prequalification requirements.
- c. Reduce the number of firms to 3-6 for each project through a process of elimination, based on the selection rating factors included in the Consultant Selection Rating Form. Firms may be eliminated due to fatal flaws, overall weakness of team relative to other firms, weak project approach, etc. Provide written documentation concerning the reasons for eliminating a firm from consideration.

In instances where two or fewer consultants respond to the RFLol, or two or fewer consultants are considered qualified to be shortlisted, the LPA may proceed with evaluation and selection if it is determined that the solicitation did not contain conditions or requirements that arbitrarily limited competition. The reasons for proceeding with the selection shall be documented.

- d. For each project, rate each shortlisted firm using the selection rating form.

Supplement the numerical ratings with written comments that explain the differential scoring. The highest rated firm shall be selected.

### 3. Selection Rating Procedures

- a. ODOT's standard consultant selection rating form is shown below. The LPA may use a modified selection rating form that meets the requirements of 23 CFR 172 and ORC 153.65 – 153.71.
- b. Selection evaluations should be based on collaborative discussions of the selection committee members concerning the overall strengths and weaknesses of the teams, including the relative importance of the various selection rating factors relative to the specific requirements of the project. Numerical weights are a guide as to what is important but the selection should not be a mathematical exercise consisting of the addition of scores determined by individual team members. The selection team members should work to reach consensus in determining a single selection rating including written comments that document the reasons for the numerical scores.
- c. For each selection rating factor, each short listed firm shall be ranked, with the highest ranked firm receiving the maximum number of points, and lower ranked firms receiving commensurately lower scores. If firms are considered to be equally qualified, the firms may receive the same score for that selection rating factor. The rankings and scores should be based on each firm's specific proposal and project approach, including the named project manager, staff and subconsultants. Experience on similar projects, past performance for the LPA and other agencies should be considered. The selection committee may contact other ODOT Districts and outside agencies if necessary. Any subfactors identified in the RFLol should be weighed heavily in the differential scoring.

Differential scoring should consider the relative importance of a selection factor in the success of a given project. The project manager's role in a

simple project may be less important than for a complex project, and differential scoring should reflect this, with higher differential scores assigned to projects that require a larger role for the project manager. Similar consideration should be given to all selection factors

4. ODOT's Consultant Selection Rating Form and Selection Rating Notes

Category	Total Value	Scoring Criteria	Score
<b>Management &amp; Team</b>			
Project Manager	10	See Note a. below	
Strength/Experience of Assigned Staff including Subconsultants	25	See Note b. below	
Firm's Current Workload/ Availability of Personnel	10	See Note c. below	
<b>Consultant's Past Performance</b>			
<b>Project Approach</b>			
<b>Total</b>	100		

The following discussion addresses each selection rating factor including scoring methodology, appropriate sources of information and factors that may not be considered.

a. Project Manager

The proposed project manager for each consultant shall be ranked, with the highest ranked project manager receiving the greatest number of points, and lower ranked project managers receiving commensurately lower scores. The rankings and scores should be based on each project manager's experience on similar projects and past performance for the LPA. The selection committee may contact ODOT and outside agencies if necessary. Any subfactors identified should be weighed heavily in the differential scoring.

Differential scoring should consider the relative importance of the project manager's role in the success of a given project. The project manager's role in a simple project may be less important than for a complex project, and differential scoring should reflect this, with higher differentials assigned to projects that require a larger role for the project manager.

b. Strength/Experience of Assigned Staff including Subconsultants

The experience and strength of the assigned staff, including subconsultant staff, should be ranked and scored as noted for Number 1 above, with higher differential scores assigned on more difficult projects. Any subfactors identified in the project notification should be weighed heavily in the differential scoring.

As above, ODOT and other agencies may be contacted.

c. Firm's Current Workload/ Availability of Personnel (Considered at statewide meeting)

In instances when consultant's current workload may impact their ability to complete the work as proposed, the firm's current workload and availability of qualified personnel shall be considered.

d. Consultant's Past Performance

The consultants' past performance on similar projects, including subconsultant performance, shall be ranked and scored on a relative, differential scoring type basis, with the highest ranked consultant receiving a commensurately greater number of points. The selection team should consider ODOT CES performance ratings if available, and consult other ODOT Districts, ODOT Central Offices, and other agencies as appropriate. The use of CES ratings shall place emphasis on the specific type of services requested.

The differential scoring should consider the complexity of the project and any subfactors identified in the project notification.

e. Project Approach

Evaluation of the firm's project approach shall consider:

- (1) The firm's technical approach and understanding of the project.
- (2) The firm's qualifications for the project including knowledge and experience concerning relevant ODOT standards, procedures and guidance documents.
- (3) Any innovative ideas.

When considering this factor in rating firms, the type of project and the relevance of this factor to the project must be considered. For task order and construction inspection projects, and small uncomplicated design projects, the possibility for innovation may be very limited. Larger more complex projects will generally offer more opportunities for innovation. Consultants that identify truly innovative ideas should receive credit in the selection rating, but this factor can be disregarded when projects offer little opportunity for innovation.

- (4) The firm's project specific plan for ensuring increased quality, reduced project delivery time and reduced project costs.

These factors will be relatively more important and relevant to a complex PDP project, and much less important for a construction inspection or task order contract. Please remember that Federal rules prohibit consideration of overhead rates, wage rates or any other cost data submitted voluntarily by the consultant.

D. Negotiation of Consultant Agreements

Agreements shall be negotiated in accordance with ODOT's Manual for Administration of Contracts for Professional Services, Volume 1 Consultant Contract Administration, Section 3.9.

E. Agreements

ODOT will prepare the LPA/Consultant Agreement between the Consultant and LPA. The agreement will be transmitted to the LPA by the ODOT District Office. A copy of the executed LPA/Consultant Agreement shall be returned to the District Office.

F. Documentation of Consultant Selections

The LPA shall maintain a consultant selection file that includes the following information, and provide copies of all documents to the District for their files.

1. A copy of the Request for Proposal and the date posted on ODOT's website;
2. A listing of firms that submitted Letters of Interest;
3. Letters of Interest from all firms that submitted;
4. Selection rating forms and any supporting notes and documentation, including membership of the selection committee;
5. A listing of firms selected to submit technical proposals (if applicable), copies of the technical proposals, and related correspondence;
6. Selected consultant's Price Proposal;
7. Negotiation records; and
8. A copy of the Agreement, Scope of Services, authorization letter, Invoice and Project Schedule, and any other documents relevant to the agreement.

6. RIGHT OF WAY/ UTILITIES/ RAILROAD COORDINATION

6.1 All right-of-way acquisition activities shall be performed by the LPA in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646) as amended by 49 CFR Part 24 (hereinafter referred to as Uniform Act), any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. Refer to Sections 4.2 and 4.4 concerning Federal authorization.

6.2 If existing and newly-acquired right of way is required for this PROJECT, the LPA shall certify that the all right of way has been acquired in conformity with Federal and State laws, regulations, policies, and guidelines. Per ODOT's Office of Real Estate, any LPA staff who perform real estate functions shall be prequalified. If the LPA does not have the qualified staff to perform any or all of the respective right of way functions, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The LPA shall not hire the same consultant to perform both the appraisal and appraisal review functions. Appraisal review shall be performed by an independent staff or fee reviewer and shall be hired directly by the LPA. Likewise, a consultant hired to perform right of way acquisition work is not permitted to perform both the relocation and relocation review functions. Relocation review shall be performed by an independent staff or fee reviewer.

6.3 If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.

6.4 All relocation assistance activities shall be performed by the LPA in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. The LPA shall not hire a consultant to

perform both the relocation and relocation review functions nor shall the LPA hire a sub-consultant for relocation and another sub-consultant for relocation review. Relocation review shall be performed by an independent staff person or independent fee reviewer and shall be hired directly by the LPA.

- 6.5 The LPA shall provide the ODOT District Office with its certification that all right of way property rights necessary for the PROJECT are under the LPA's control, that all right of way has been cleared of encroachments, and that utility facilities have been appropriately relocated or accounted for so as not to interfere with PROJECT construction activities. ODOT shall make use of the LPA's Right of Way Certification, as well as evaluate the LPA's and/or consultant's performance of the PROJECT real estate activities under Titles II and III of the Uniform Act, and, as appropriate, certify compliance to the FHWA. The LPA shall be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.
- 6.6 The **LPA** will coordinate with utilities, complete RE-75 forms, establish encumbrances towards each utility if needed, prepare an invoice to the LPA for the local share, and pay the State share as needed. In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a utility relocation agreement with each utility prior to the letting of construction. In the event that a utility is delaying the relocation of its facilities, the LPA shall take any action necessary to order and cause the removal and relocation of such utility. No reimbursable costs shall be incurred prior to the receipt of Federal Authorization for Right of Way from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.
- 6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT and FHWA for approval.
- 6.8 ODOT shall be responsible for any necessary railroad coordination and agreements in accordance with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the ORC regarding all activities relating to Railroad-Highway projects.
- 6.9 Consistent with sections 10.1 and 10.4 of this Agreement, the LPA shall assure that, if any property acquired for this PROJECT is subsequently sold for less than fair market value, all Title VI requirements are included in the instrument which transfers the property. Consistent with sections 10.1 and 10.4 of this Agreement, the LPA shall assure that if the LPA grants a permit or license for the property acquired for this PROJECT that the license or permit require the licensee or permit holder to adhere to all Title VI requirements.

## 7. ADVERTISING, SALE AND AWARD

- 7.1 ODOT will prepare the State's estimate and manage the advertising, sale and award process. The LPA and its consultant shall assist in responding to bidder questions, preparation of any addenda and other coordination as needed. ODOT's Awards Committee shall determine award of the contract.

## 8. CONSTRUCTION CONTRACT ADMINISTRATION

- 8.1 ODOT will administer the construction contract in accordance with ODOT's Construction Administration Manual of Procedures. The LPA and LPA's consultants shall respond promptly to requests for information or other construction issues. The LPA shall review and approve all change orders. The LPA and LPA's consultant shall assist in defending ODOT against any contractor claims.

## **9. CERTIFICATION AND RECAPTURE OF FUNDS**

- 9.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management, as required by ORC section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.
- 9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it has received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the PROJECT, any funds recovered from contractor performance and payment bond(s) and consultant insurance shall be used to offset the Federal dollars reimbursed to FHWA.

## **10. NONDISCRIMINATION**

- 10.1 In carrying out this Agreement, the LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex (including pregnancy, gender identification and sexual orientation), national origin, ancestry, age, disability as that term is defined in the American with Disabilities Act, military status (past, present, or future), or genetic information. The LPA shall ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex (including pregnancy, gender identification and sexual orientation), national origin, ancestry, age, disability, military status, or genetic information. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 10.2 The LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex (including pregnancy, gender identification and sexual orientation), national origin, ancestry, age, disability, military status, or genetic information. The LPA shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the PROJECT (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such PROJECT work.
- 10.3 The LPA shall ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. For a PROJECT upon which a DBE goal is assigned, the LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

Disadvantaged Business Enterprise (DBE) Requirement. DBE participation goals (subcontracts, materials, supplies) have been set on this PROJECT for those certified as DBEs pursuant to Title 23, U.S.C. section 140(c) and 49 CFR, Part 26, and where applicable qualified to bid with ODOT under Chapter 5525 of the ORC.

Pursuant to 49 CFR 26.13(b), the LPA agrees not to discriminate on the basis of race, color, national origin, or sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status, or limited English proficiency in the performance of this Agreement. The LPA agrees to carry out applicable requirements of 49 CFR Part 26 in the award and

administration of DOT-assisted contracts. The LPA understands that failure to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as ODOT deems appropriate.

10.4 During the performance of this contract, the LPA, for itself, its assignees and successors in interest") agrees as follows:

(a) **Compliance with Regulations:** The LPA will comply with the regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (hereinafter "U.S. DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

In addition, the LPA will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as "ADA/504").

(b) **Nondiscrimination:** The LPA, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status, or limited English proficiency, in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The LPA will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.

(c) **Solicitations for Professional Services:** In all solicitations for professional services made by the LPA for work to be performed under a contract or subcontract, each potential consultant will be notified by the LPA of the LPA's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status, or limited English proficiency.

(d) **Information and Reports:** The LPA will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

(e) **Sanctions for Noncompliance:** In the event of the LPA's noncompliance with the nondiscrimination provisions of this contract, the STATE will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:

(1) withholding of payments to the LPA under the contract until the LPA complies, and/or  
(2) cancellation, termination or suspension of the contract, in whole or in part.

(f) **Incorporation of Provisions:** The LPA will include the provisions of paragraphs 10.4 (a) through (e) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The LPA will take such action with respect to any contractor or subcontractor procurement as the STATE or FHWA may direct as a means of enforcing

such provisions including sanctions for noncompliance; provided, however, that, in the event the LPA becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the LPA may request the STATE to enter into such litigation to protect the interests of the STATE, and, in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

- 11.1 The LPA shall ensure that any designs, specifications, processes, devices or other intellectual properties specifically devised for the PROJECT by its consultants or contractors performing work become the property of the LPA, and that when requested, such designs, specifications, processes, devices or other intellectual properties shall become available to ODOT and FHWA with an unrestricted right to reproduce, distribute, modify, maintain, and use. The LPA's consultants and contractors shall not seek or obtain copyrights, patents, or other forms of proprietary protection for such designs, specifications, processes, devices or other intellectual properties, and in providing them to the PROJECT, shall relinquish any such protections should they exist.
- 11.2 The LPA shall not allow its consultants or contractors to utilize within the development of the PROJECT any copyrighted, patented or similarly protected design, specification, process, device or other intellectual property unless the consultant or contractor has provided for such use by suitable legal agreement with the owner of such copyright, patent or similar protection. A consultant or contractor making use of such protected items for the PROJECT shall indemnify and save harmless the LPA and any affected third party from any and all claims of infringement on such protections, including any costs, expenses, and damages which it may be obliged to pay by reason of infringement, at any time during the prosecution or after the completion of work on the PROJECT.
- 11.3 In the case of patented pavements or wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the LPA, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented pavements or wearing courses may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

- 12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such failure or neglect are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the LPA's control. If a default has occurred, ODOT may terminate this Agreement with thirty (30) days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with sections 12.2 through 12.4 of this Agreement.
- 12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the LPA shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the LPA shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.

12.3 The LPA, upon receiving a notice of termination from ODOT for default, shall cease work on the terminated activities covered under this Agreement. If so requested by ODOT, the LPA shall assign to ODOT all its rights, title, and interest to any contracts it has with any consultants or contractors. Otherwise, the LPA shall terminate all contracts and other agreements it has entered into relating to such covered activities, take all necessary and appropriate steps to limit disbursements and minimize any remaining costs. At the request of ODOT, the LPA may be required to furnish a report describing the status of PROJECT activities as of the date of its receipt of notice of termination, including results accomplished and other matters as ODOT may require.

12.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the LPA shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.

12.5 This Agreement and obligation of the parties herein may be terminated by either party with thirty days written notice to the other party. In the event of termination, the LPA shall cease work, terminate all subcontracts relating to such terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish all data results, reports, and other materials describing all work under this contract, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODOT may require.

12.6 In the event of termination for convenience, the LPA shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination, less any funds previously paid by or on behalf of ODOT. ODOT shall not be liable for any further claims, and the claims submitted by the LPA shall not exceed the total amount of consideration stated in this agreement. In the event of termination, any payments made by ODOT in which services have not been rendered by the LPA shall be returned to ODOT.

### 13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS

13.1 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, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the ORC.

13.2 The LPA hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the LPA's obligations made or agreed to herein.

### 14. NOTICE

14.1 Notice under this Agreement shall be directed as follows:

If to the LPA:

If to ODOT:

Susanna Niermann O'Neil, City Manager	John P. Picuri, P.E. , District Deputy Director
City of Cleveland Heights	Ohio Department of Transportation, D-12
40 Severance Circle	5500 Transportation Boulevard
Cleveland Heights, Ohio 44118	Garfield Heights, Ohio 44125

## 15. GENERAL PROVISIONS

### 15.1 *Recovery of LPA's allocable project Direct Labor, Fringe Benefits, and/or Indirect Costs:*

To be eligible to recover any costs associated with the LPA's internal labor forces allocable to this PROJECT, the LPA shall make an appropriate selection below: [LPA official must initial the option selected.]

#### **1. No cost recovery of LPA's project direct labor, fringe benefits, or overhead costs.**

- (A) The LPA **does not** currently maintain an ODOT approved federally compliant time-tracking system<sup>1</sup>, **and**
- (B) The LPA **does not** intend to have a federally compliant time-tracking system developed, implemented, and approved by ODOT prior to the period of performance of this PROJECT, **and/or**
- (C) The LPA **does not** intend to pursue recovery of these project direct labor, fringe benefits, or overhead costs during the period of performance of this PROJECT Agreement.

#### **2. Direct labor plus indirect costs calculated using the Federal 10% De Minimis Indirect Cost Rate.<sup>2</sup>**

- (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, **and**
- (B) The LPA **does not** currently have, and **does not** intend to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT.

#### **3. Direct labor, plus fringe benefits costs calculated using the LPA's ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the Federal 10% De Minimis Indirect Cost Rate.<sup>3</sup>**

- (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, **and**
- (B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT.

1 A "federally compliant time-tracking system" is supported by a system of internal controls and record-keeping that accurately reflects the work performed; which provides reasonable assurance that the time being charged is accurate, allowable, and properly allocated; is incorporated in official records such as payroll records; reasonably reflects the employee's total activity; provides a time or percentage breakdown on all activities, both Federally funded and non-Federally funded for the employee and complies with the LPA's pre-established accounting practices and procedures.

2 [Also be sure to read footnote # 1] The De Minimis Indirect Cost Rate is 10 percent of modified total direct costs (MTDC) per 2 CFR §200.414. The definition of MTDC is provided in the regulation at 2 CFR §200.68. Any questions regarding the calculation of MTDC for a specific project should be directed to the Office of Local Programs. Further, regardless of whether the LPA subrecipient negotiates overhead rates with ODOT or uses the 10-percent de minimis rate, LPAs are required to maintain Federally-compliant time-tracking systems. Accordingly, LPAs are permitted to bill for labor costs, and then potentially associated fringe/indirect costs, only if the labor costs are accumulated, tracked, and allocated in accordance with compliant systems. Before an LPA is eligible to invoice ODOT for and recover the 10% de minimis indirect cost rate on any project, the LPA's time-tracking system and methods for tracking other project costs must be reviewed and approved by the ODOT Office of External Audits. A non-Federal entity that elects to charge the de minimis rate must meet the requirements in 2 CFR 200 Appendix VII Section D, Part 1, paragraph b.

3 [Also be sure to read footnotes # 1 and 2] The fringe benefits rate billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the ODOT Office of External Audits. The fiscal period when the LPA's direct labor costs are paid will be matched with the ODOT approved rate for that fiscal year to determine which rate is



4. Direct labor, plus fringe benefits costs calculated using the LPA's ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the LPA's ODOT approved Indirect Cost Rate.<sup>4</sup>
  - (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, **and**
  - (B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT, **and**
  - (C) Instead of using the Federal 10% De Minimis Indirect Cost Rate, the LPA currently has, or intends to negotiate, an ODOT approved indirect cost rate prior to the period of performance of this PROJECT.

For any allocable project labor costs to be eligible for reimbursement with Federal and/or State funds, the LPA must maintain compliance with all timekeeping requirements specified in 2 CFR Part 200 and the ODOT LPA Cost Recovery Guidance, including ODOT Questions and Answers and related supplementary guidance, as applicable. Additionally, if the LPA elects to recover fringe and/or indirect costs, the LPA shall maintain compliance with Appendix VII of 2 CFR Part 200 and the LATP Manual of Procedures.

- 15.2 If the LPA decides to change its indirect cost recovery option, the change shall not become effective until this Agreement is amended pursuant to section 15.12 below to reflect the indirect cost recovery option utilized by the LPA on the PROJECT.
- 15.3 *Financial Reporting and Audit Requirements:* If one or more phases of this AGREEMENT include a sub-award of federal funds to the LPA, the LPA shall comply with the financial reporting and audit requirements of 2 CFR Part 200. If not, the financial reporting and audit requirements remain with ODOT.

All non-federal entities, including ODOT's LPA subrecipients, that have aggregate federal awards expenditures from all sources of \$750,000 or more in the non-federal entity's fiscal year must have a Single Audit, or program-specific audit, conducted for that year in accordance with the provisions of 2 CFR Part 200.

LPAs that expend Federal and State funds in the Preliminary Engineering and/or Right of Way phases of the Project must track these payments throughout the life of the in order to ensure an accurate Schedule of Expenditures of Federal Award (hereinafter referred to as SEFA) is prepared annually for all *Applicable Federal Funds*. *Applicable Federal Funds* are those that are identified with the various project phases of this Agreement as a subaward. *Applicable Federal Funds* include not only those LPA project expenditures that ODOT subsequently reimburses with Federal funds, but also those Federal funds project expenditures that are disbursed directly by ODOT upon the request of the LPA.

The LPA must separately identify each ODOT PID and/or Project and the corresponding expenditures on its SEFA. LPAs are responsible for ensuring funds related to this PROJECT are reported when the activity related to the Federal award occurs.<sup>5</sup> Further, the LPA may make this

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applicable. Accordingly, the fringe benefits rate applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rate.

4 [Also be sure to read footnote # 1] The fringe benefits and indirect cost rates billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the Office of External Audits. The fiscal period when the LPA's direct labor costs are paid will be matched with the ODOT approved rates for that fiscal year to determine which rates are applicable. Accordingly, the rates applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rates.

<sup>5</sup> Per 2 CFR §200.502

determination consistent with 2 CFR §200.502 and its established accounting method to determine expenditures including accrual, modified accrual or cash basis.

When project expenditures are not accurately reported on the SEFA, the LPA may be required to make corrections to and republish the SEFA to ensure Federal funds are accurately reported in the correct fiscal year. An ODOT request for the restatement of a previously published SEFA will be coordinated with the Ohio Auditor of State.

15.4 *Record Retention:* The LPA, when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT and the United States government, its records and financial statements as necessary relating to the LPA's obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three years after FHWA approves the LPA's final Federal voucher for reimbursement of PROJECT expenses. In the event that an audit-related dispute should arise during this retention period, any such books, documents, and records that are related to the disputed matter shall be preserved for the term of that dispute. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

As the LPA, ODOT or the United States government may legitimately request from time to time, the contractor agrees to make available for inspection and/or reproduction by the LPA, ODOT or United States government, all records, books, and documents of every kind and description that relate to this contract.

Nothing contained in this Agreement shall in any way modify the LPA's legal duties and obligations to maintain and/or retain its records under Ohio public records laws.

15.5 *Ohio Ethics Laws:* LPA agrees they are currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the ORC.

15.6 *State Property Drug-Free Workplace Compliance:* In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.

15.7 *Trade:* Pursuant to the federal Export Administration Act and Ohio Revised Code 9.76(B), the LPA and any contractor or sub-contractor shall warrant that they are not boycotting any jurisdiction with whom the United States and the State of Ohio can enjoy open trade, including Israel, and will not do so during the term of this Agreement.

The State of Ohio does not acquire supplies or services that cannot be imported lawfully into the United States. The LPA certifies that it, its Contractors, subcontractors, and any agent of the Contractor or its subcontractors, acquire any supplies or services in accordance with all trade control laws, regulations or orders of the United States, including the prohibited source regulations set forth in subpart 25.7, Prohibited Sources, of the Federal Acquisition Regulation and any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control. A list of those sanctions by country can be found at <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>. These sanctions generally preclude acquiring any supplies or services that originate from sources within, or that were located in or transported from or through Cuba, Iran, Libya, North Korea, Syria, or the Crimea region of Ukraine.

15.8 *Lobbying:* Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, PL 104-65 (2 U.S.C. §1601, et seq.). LPA agrees that it will not use any funds for Lobbying, 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of

Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S. C. 1352. Each tier shall comply with Federal statutory provisions or the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence congress to a State legislature on legislation or appropriations, except through proper official channels. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

- 15.9 *Debarment.* LPA represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either R.C. 153.02 or R.C. 125.25 or by the Federal Government pursuant to 2 CFR Part 1200 and 2 CFR Part 180.
- 15.10 *Governing Law:* This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- 15.11 *Assignment:* Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
- 15.12 *Merger and Modification:* This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 15.13 *Severability:* If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.
- 15.14 *Signatures:* Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.
- 15.15 *Facsimile Signatures:* Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile or electronic signature on any other party delivered in such a manner as if such signature were an original.

The parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

<b>LPA: CITY OF CLEVELAND HEIGHTS</b>	<b>STATE OF OHIO OHIO DEPARTMENT OF TRANSPORTATION</b>
By:	By:
Susanna Niermann O'Neil City Manager	Jack Marchbanks Director
Date:	Date:

**Attachment 1****PROJECT BUDGET – SOURCES AND USES OF FUNDS**

USES	SOURCES			LPA FUNDS			FHWA FUNDS			TOLL REVENUE CREDIT			TOTAL
	Amount	%	SAC	Amount	%	SAC	Amount	%	SAC	Amount	%	SAC	
PRELIMINARY DEVELOPMENT													
FINAL DESIGN, CONSTRUCTION PLANS & SPECIFICATIONS													
ACQUISITION OF RIGHT OF WAY & UTILITY RELOCATION													
PROJECT CONSTRUCTION COSTS													
TOTALS				\$160,000.00	80%	4SC7	\$40,000	20%	4BG7				\$200,000.00

**CUY SRTS FY2022 CLEVELAND HTS**  
COUNTY-ROUTE-SECTION

**Attachment 2**

**110908**

PID NUMBER

**36878**

AGREEMENT NUMBER

DUNS NUMBER

**DIRECT PAYMENT OF CONSULTANT**

At the direction of the LPA and upon approval of ODOT, payments for work performed under the terms of the Agreement by the LPA's consultant shall be paid directly to the consultant in the pro-rata share of Federal/State participation. The invoice package shall be prepared by the LPA as previously defined in this Agreement, and shall indicate that the payment is to be made to the consultant. In addition, the invoice must state the consultant's name, mailing address and OAKS Vendor ID. Separate invoices shall be submitted for payments that are to be made to the consultant and those that are to be made to the LPA.

When ODOT uses Federal funds to make payment to the consultant, all such payments are considered to be expenditures of Federal funds received and also expended by the LPA (subrecipient). Accordingly, the LPA is responsible for tracking the receipts and payments and reporting the payments Federal (Receipts) Expenditures on the Schedule of Expenditures of Federal Awards (SEFA). An LPA that fails to report these funds accurately and timely may be required to restate the SEFA to comply with Federal reporting requirements.

We City of Cleveland Heights (NAME OF LPA) request that all payments for the Federal/State share of the

consultant costs of this agreement performed by

(CONSULTANT'S NAME)

be paid directly to

(CONSULTANT'S NAME)

VENDOR Name:	
Oaks Vendor ID:	
Mailing Address:	
LPA signature:	

LPA Name:	City of Cleveland Heights
Oaks Vendor ID:	
Mailing Address:	40 Severance Circle
	Cleveland Heights, Ohio 44118
ODOT Approval signature:	

Proposed: 10/18/2021

RESOLUTION NO. 135-2021 (CRR)

By Council Member

A Resolution authorizing the City Manager to accept a grant from GameTime Company and to enter into an agreement for the purchase and installation of new playground equipment at Denison Park; and declaring an emergency.

WHEREAS, Ohio Revised Code Sections 9.48 permits political subdivisions to participate in joint purchasing programs operated by or through a national association of political subdivisions for the purchase of equipment, material, supplies or services without fulfilling competitive selection requirements; and

WHEREAS, OMNIA Cooperative Purchasing Program is a joint purchasing program operated by or through a national association of political subdivisions; and

WHEREAS, the participation in the OMNIA Cooperative Purchasing Program could result in cost savings and be of benefit to the City and its citizens.

WHEREAS, GameTime Company, through the OMNIA Cooperative Purchase Program, has awarded a grant to the City of Cleveland Heights in the amount of Thirty-Nine Thousand Four Hundred Eighty Dollars and Fifty Cents (\$39,480.50) for the purchase and installation of new playground equipment at Denison Park; and

WHEREAS, GameTime Company requires a match of funding in the amount of Seventy-Four Thousand Nine Hundred Ninety-Six Dollars and Thirty-Four Center (\$74,996.34) for acceptance of the grant for the purchase and installation of new playground equipment at Denison Park; and

WHEREAS, acceptance of said grant and matching of funding will benefit the City and its residents.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The City Manager be, and she is hereby, authorized to take all actions necessary for acceptance of a grant in the amount of Thirty-Nine Thousand Four Hundred Eighty Dollars and Fifty Cents (\$39,480.50) from GameTime Company for the purchase and installation of new playground equipment at Denison Park.

SECTION 2. The City Manager be, and she is hereby, authorized to execute any and all agreements with GameTime Company for the purchase and installation of new playground equipment at Denison Park through the OMNIA Cooperative Purchase Program, pursuant to Ohio Revised Code 9.48. The purchase price for said equipment shall not exceed the sum of Seventy-

RESOLUTION NO. 135-2021 (CRR)

Four Thousand Nine Hundred Ninety-Six Dollars and Thirty-Four Cents (\$74,996.34). All agreements hereunder shall be approved as to form by the Director of Law

SECTION 3. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 4. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to timely accept the grant funds described herein, and proceed with the project, at the earliest time possible. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

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JASON S. STEIN  
President of the Council

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AMY HIMMELEIN  
Clerk of Council

PASSED:

# Memorandum

To: Susanna Niermann O'Neil, City Manager

From: Joseph P. McRae, Parks and Recreation Director

Subject: Approval of new playground equipment for Denison Park

Date: Wednesday, October 6, 2021

## **Recommended Action**

Staff requests City Council approval of the purchase of new playground equipment for Denison Park in the total amount of \$74,996.34. The City applied for and received the Gametime Cares Playground Grant which provides \$39,480.50 in matching funds for the new playground equipment. The total cost for the project is \$114,476.84.

The purchase is being made via Omnia Partners, which is a national collaborative purchasing program that establishes best available prices for quality playground equipment. The City of Cleveland Heights is a member and DWA Gametime is a contract vendor of the program.

## **Discussion**

In collaboration with Councilwoman Davida Russell, who serves as the Chair of the Community Relations and Recreation Committee, staff applied for the annual Gametime Cares Playground Matching Fund Grant to update the existing playground equipment at Denison Park. Councilwoman Russell and Parks staff met with DWA Gametime staff in September to design a potential new playground for Denison Park. Shortly after the submission, we were informed that our playground design and application were approved for matching grant funds.

The new playground design is attached. Councilwoman Russell led the design efforts picking vibrant colors to make the equipment standout. The equipment purchase includes a new 5-12 year-old play unit and 12 inches of new wood fiber mulch for the play area. The new equipment would be installed in the Spring of 2022, weather and pandemic conditions permitting. Staff would demo and remove the existing playground equipment to save on project costs. The city would also look to add possible seating to the playground area as well.

The Denison Park Playground Project will be the fourth playground upgrade since 2017. Other playground upgrades include Turtle Tot Lot (2017), Barbara Boyd Park (2018) and Forest Hill Park (2021). Playground upgrades for the remaining parks (Cain Park, Cumberland Park, and Kenilworth Park) have been included in the proposed 2022-2026 Capital Improvement Plan.



## CERTIFICATE OF GRANT AWARD

This certificate entitles

City of Cleveland Heights

to a GameTime Cares® Playground Grant Funding Award of

**\$39,480.50**

Funds must be claimed, and orders must be received no later than November 2, 2021, and must accompany a qualifying play system purchase. Award may not be combined with any other order or special offer. Other terms and conditions apply. Contact your local GameTime representative at 800-235-2440 for complete details about this grant award.

A handwritten signature in black ink that reads "S. Spencer Cheak". The signature is fluid and cursive, with "S. Spencer" on the top line and "Cheak" on the bottom line.

S. Spencer Cheak  
President, GameTime



Timing	N/A	Age Range	5 - 12 years
Background	<p>The City of Cleveland Heights is a local government agency with several low-income areas in need of playground upgrades to better serve the communities in need. Our goal is to improve those areas with upgraded fun and creative playground equipment over the next 5 years pending available funding. This grant would allow the city to make a large-scale improvement to the Noble Road neighborhood portion of town. The city has made it a priority to improve the quality of life of the residents that live there by investing in economic development, infrastructure, and park improvements over the next 5-10 years. Denison Park is the primary community gathering space for the area and would benefit greatly from an updated playground to coincide with other future planned improvements such as a splash pad to which will likely be installed in the summer of 2022.</p>	Dollar Amount You Want Gametime To Match	\$75,000
Fax	I Need A Playground With These Components Or Activities Play unit with lots of activities, swings, tall slides, components encourage play, problem-solving and most importantly - fun. Must be ADA compliant and inclusive of kids of different abilities.		
Is The Site Level	Yes	Join Our Email List	
Project Address	1015 Quarry Drive	Project City	Cleveland Heights
Project Name	Denison Park Playground	Project Zipcode	44121
Project Country	United States	Special Site Conditions	The playground area is confined to a finite space near the turf field and multipurpose path at Denison Park. The parameter is concrete. Some thought would need to be given to making it more ADA accessible.
Project State	OH	Select the Types of Funding You're Requesting	Up to 100% Matching Funds on Play Systems



P.O. Box 208 Harrison, OH 45030  
Toll Free 800-762-7936  
Fax 330-821-4505  
www.dwarec.com  
info@dwarec.com

09/07/2021  
Quote #102436-01-01

## 2021 GameTime Matching Funds Grant – Cleveland Heights – Denison Park

Cleveland Heights, City of  
Attn: Joseph McRae  
1015 Quarry Drive  
Cleveland Heights, OH 44121  
Phone: 216-691-7260  
jmcrae@clvhts.com

Project # 102436  
Job # 102436-01  
Ship to Zip 44601

Quantity	Part #	Description	Unit Price	Amount
1	RDU	GameTime - PowerScape Play Structure (TCLEHGT-DENISON)- Ages 5-12 with Aluminum Uprights	\$78,961.00	\$78,961.00
1	EWF-12	GT-Impax - 1,736 Sq Ft (86 CY) of Engineered Wood Fiber at a 12" Compacted Depth	\$1,745.00	\$1,745.00
1	RDU	GameTime - Installation of The Structure and EWF	\$20,265.00	\$20,265.00
Contract: OMNIA			Sub Total	\$100,971.00
			Grant	(\$39,480.50)
			Material Surcharge	\$10,955.84
			Freight	\$2,550.00
			Total	\$74,996.34

### Comments

Pricing Reflects GameTime's "Playground Grant" on your Play Structure/s – Check (made payable to GameTime) must be submitted at the time of order to receive this Grant Price.

Grant Ends November 2, 2021. Signed Quote and form of payment must be received by this date. Equipment must ship by December 31, 2021.

Customer to remove existing equipment  
Customer to excavate to depth of 12"

### Material Surcharge:

Note: Due to the increase in Raw Material charges, a Material Surcharge has been added as of March 12, 2021.

-----  
Due to the current COVID-19 crisis, shipping times might be extended beyond what is noted.

### 2021 Matching Funds Playground Grant Terms:

The above contract allowance is available through GameTime's "2021 Playground Grant" program and represents a 100% Matching Fund Grant for the play structure quoted. The 100% Matching Funds are contingent upon supplying payment (check or cash) for the equipment at the time the order is placed. Inability to provide payment will result in 60% Matching Funds in lieu of the 100% Matching Funds.

This grant is only valid for GameTime Modular or Pre-Designed play structures in the PowerScape, PrimeTime, IONiX and Xscape product lines. GFRC Landmark Design, Play Trails, TuffForms, and Freestanding products are not eligible for Matching Funds - even when attached to a qualifying play structure. Please see the Grant Brochure for complete terms and conditions governing the grant program. No other offers, discounts or special/purchasing programs may be combined with this grant program.

The 2021 Playground Grant program payments must be made payable to GameTime. Payments made payable to DWA Recreation, Inc. are not eligible for the matching grant program.

The 2021 Playground Grant program ends November 2nd, 2021. Orders accepted by GameTime must ship by December 31st, 2021.

Payment terms: Payment in full, net 30 days subject to credit approval. A 1.5% per month finance charge will be imposed on all past due accounts. Equipment will be invoiced separately from other services and shall be payable in advance of those services and project completion.



P.O. Box 208 Harrison, OH 45030  
Toll Free 800-762-7936  
Fax 330-821-4505  
www.dwarec.com  
info@dwarec.com

09/07/2021  
Quote #102436-01-01

## 2021 GameTime Matching Funds Grant – Cleveland Heights – Denison Park

OMNIA Partners Contract Number: 2017001134

To order: Please complete the acceptance portion of this quotation and provide color selections, purchase order copy and other key information requested.

This quote does not include any state or local sales taxes. Sales tax will be added to the order if required, unless otherwise noted.

Acceptance of this proposal indicates your agreement to the terms and conditions stated herein.

Omnia Partners Purchase Orders must be made out to:  
GameTime  
c/o DWA Recreation, Inc.  
P.O. Box 208  
Harrison, OH 45030

Once equipment is ordered, the owner assumes that the equipment is being installed according to the ASTM standards for layout and design. Additionally, the owner shall check to make sure that all appropriate fall zones are current and compliant. In the event that the owner has to return the equipment, both inbound and outbound freight will be charged along with a 25% restocking fee.

GameTime Shipping Time: Current shipping time for GameTime is approximately 12 weeks. Please allow an additional 7-10 days for transit.

Short Ship Claims: Purchaser has 14 days from receipt of equipment to file a short ship report in writing to our office. Company reserves right to not honor claims made after this time.

GTImpax Engineered Wood Fiber Delivery Time: Typical lead time for delivery is minimum 2 weeks. Delivery is based on a single delivery to one location per truck, additional drops not included unless specifically noted above. Please confirm current delivery time when placing order.

Note: Delayed shipping permitted up to 4 months, at which time surfacing needs to be delivered or paid in full.

Bulk material ships via semi-truck/trailer with a live floor system in trailer which allows driver to deposit EWF directly onto a specific area provided proper access is available. Driver has final say whether the site has proper access. Site restoration is not included and will be the responsibility of the owner/owner's representative.

Shipping Time: Estimated Ship time is 12-18 weeks for certain items on this quote. Please verify current lead time when placing order. Allow 7-10 days for actual transit time.

Short Ship Claims: Purchaser has 14 days from receipt of equipment to file a short ship report in writing to our office. Company reserves right to not honor claims made after this time.

### Installation Terms:

- The above pricing is based on installation over natural earth and does not include any site work, unless otherwise noted on this quote.
- This pricing does include receiving and storage of the equipment prior to installation.
- Any existing wood chips, asphalt, or playground equipment, in the area where the new structure will be located, must be removed by the owner unless otherwise noted on this quote.
- The play area site would need to be level prior to installation.
- An area will need to be provided for the disposal of excess dirt created when augering holes. Spoils to be left on site unless otherwise noted.
- Access to a dumpster will need to be provided for the disposal of packaging materials.
- The above pricing is based on non-prevailing wage rates.

Please note, you are required by Ohio law to contact "Ohio Utilities Protection Service" at 1-800-362-2764 before any excavation or installation takes place. Because their questions will relate to the location of the site, we ask you to please contact them personally. This should be done within a two week period but not less than four days prior to installation, as they will need 48 hours to mark off the site.



P.O. Box 208 Harrison, OH 45030  
Toll Free 800-762-7936  
Fax 330-821-4505  
www.dwarec.com  
info@dwarec.com

09/07/2021  
Quote #102436-01-01

## 2021 GameTime Matching Funds Grant – Cleveland Heights – Denison Park

### GameTime Standard Colors

-- Accent/Basic/Metal Colors: Yellow, Butterscotch, Orange, Red, Burgundy, Royal Purple, Periwinkle, Sky Blue, Blue, Spring Green, Light Green, Green, Dark Green, Brown, Beige, Bronze, Black, Starlight, Metallic, Champagne, White

-- Deck Colors: Red, Gray, Blue, Brown

-- Plastic Colors: Yellow, Orange, Red, Burgundy, Royal Purple, Periwinkle, Sky Blue, Blue, Dark Blue, Spring Green, Light Green, Green, Beige, Champagne

-- HDPE Colors: Yellow, Orange, Red, Burgundy, Purple, Sky Blue, Blue, Spring Green, Green, Brown, Beige, Black, Dolphin Gray

-- 2 Color HDPE: Yellow/Black, Red/White, Sky Blue/White, Blue/Beige, Spring Green/White, Green/White, Green/Beige, Brown/Beige, Beige/Green, Black/White, Dolphin Gray/Black, White/Black

You may view Additional Color options and pre-designed play palettes on <https://www.gametime.com/resources/colors-and-color-palettes>

### Acceptance of Colors from 3D Rendering

Please initial here if ordering colors from 3D Rendering: \_\_\_\_\_

### Order Information:

Bill To: \_\_\_\_\_

Ship To: \_\_\_\_\_

Contact: \_\_\_\_\_

Contact: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Tel: \_\_\_\_\_

Tel: \_\_\_\_\_

Fax: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

eMail: \_\_\_\_\_

Fax: \_\_\_\_\_

eMail: \_\_\_\_\_

Project/Site Location: \_\_\_\_\_

Contact: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Tel: \_\_\_\_\_

Fax: \_\_\_\_\_

eMail: \_\_\_\_\_

Coordinates or Description of Location: \_\_\_\_\_



A **PLAYCORE** Company

P.O. Box 208 Harrison, OH 45030  
Toll Free 800-762-7936  
Fax 330-821-4505  
www.dwarec.com  
info@dwarec.com

09/07/2021  
Quote #102436-01-01

## 2021 GameTime Matching Funds Grant – Cleveland Heights – Denison Park

Acceptance of quotation:

Accepted By (printed): \_\_\_\_\_

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

Title: \_\_\_\_\_

P.O. No: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

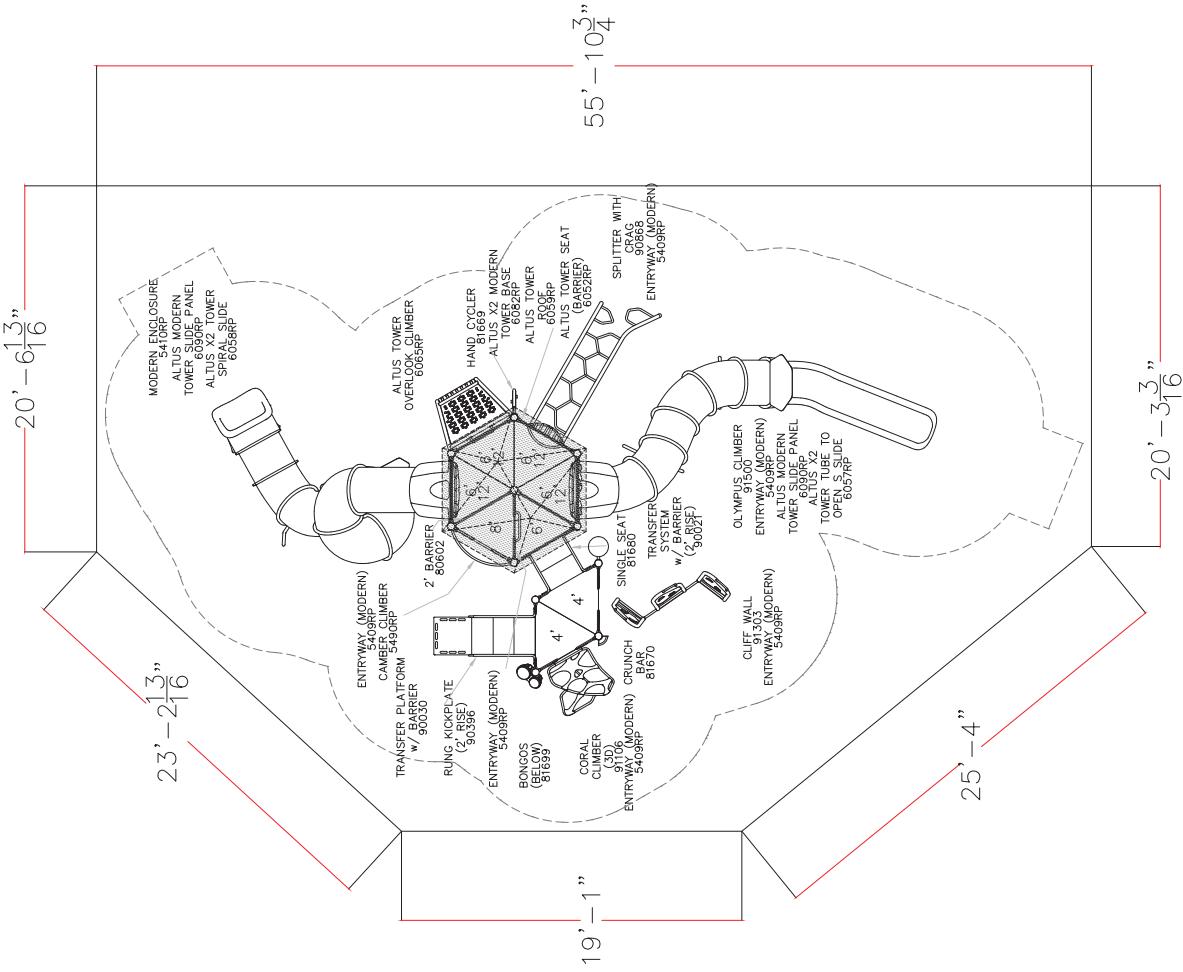
Purchase Amount: \$74,996.34

SALES TAX EXEMPTION CERTIFICATE #: \_\_\_\_\_ (PLEASE PROVIDE A COPY OF CERTIFICATE)

Customer Signature

Quote prepared by: Courtney Swartz

Sales Representative: Taylor Kolanko - taylor.k@dwarec.com - 330-206-5453



**CITY OF CLEVELAND HEIGHTS  
DENISON PARK  
CLEVELAND HEIGHTS, OH**  
Representative  
**DWA RECREATION**

**GameTime**  
ISO  
9.0.0  
CERTIFIED  
150 PlayCore Drive SE  
Fort Payne, AL 35967  
www.gametime.com

Total Elevated Play Components	10	Required	0
Total Elevated Play Components Accessible By Ramp	6	Required	0
Total Elevated Components Accessible By Transfer	4	Required	4
Total Accessible Ground Level Components Shown	4	Required	4
Total Different Types of Ground Level Components	4	Required	3

**Minimum Area Required:**  
Scale: 1" = 6'-0"  
This drawing can be scaled only when in an 18" x 24" format

**Drawn By:**  
**TK**  
**Date:**  
09.02.2021  
**Drawing Name:**  
**TCLHGHT-DENISON**  
**Standard CANCSA-Z-614**

**IMPORTANT:** Soft resilient surfacing should be placed in the use zones of all equipment, and at depths to meet the critical fall heights as specified by the U.S. consumer Product Safety Commission, ASTM Standard F 1487 and Canadian Standard CANCSA-Z-614

# Revision 1 - Cleveland Heights - Denison Park

Intellectual property of GameTime, a PlayCore Company. The site shown in rendering is an interpretation and may not reflect exact site conditions.



# Best Price. No Hassles. Guaranteed.

GameTime was awarded the OMNIA Partners, Public Sector Playground Equipment and Solutions Contract through a competitive bid process by Lead Public Agency City of Charlotte/ Mecklenburg County, North Carolina.



**GameTime®**

A **PLAYCORE** Company

**OMNIA**  
PARTNERS

NATIONALIPA

U U.S. COMMUNITIES

No Cost. No Fees.

*No Kidding.*

#### WHO IS OMNIA PARTNERS, PUBLIC SECTOR?

A National Collaborative Purchasing Program that establishes the best available price for the highest quality products. OMNIA Partners, Public Sector is the largest and most experienced cooperative purchasing organization dedicated to public sector procurement. Their immense purchasing power and world-class suppliers have produced a comprehensive portfolio of cooperative contracts and partnerships. OMNIA Partners, Public Sector reduces the cost of purchased goods by combining the purchasing power of buyers like yourself. A competitive bid was solicited by Charlotte/ Mecklenburg, then made available to other agencies to piggyback. The contract is updated yearly and allows you to save all the steps required in the bid.

#### WHO USES OMNIA PARTNERS?

Over 60,000 participants, buying everything from playground equipment to office furniture! Making OMNIA Partners the most values and trusted resources for organizations nationwide.

Over 60,000 participants are

*Already Saving!*



#### WHO IS ELIGIBLE TO PARTICIPATE?

All state and public agencies, except Federal, having the authority to purchase from another public agency's competitively solicited contract. Federal Government agencies utilize GSA contracts. For information on our GSA contracts contact your local representative.

#### WHAT KIND OF AGENCIES PARTICIPATE?

- All public government agencies (except Federal)
- Counties, Cities, Special Districts & Authorities
- State agencies
- Schools
- Universities
- Private institutions that receive public funds
- Non-profit Agencies (providing services on behalf of government)
- Public hospitals & clinics

#### WHY SHOULD I USE OMNIA PARTNERS?

- Complete more projects within existing budgets
- Reduce bid and solicitation costs
- Consolidate contracts
- Save time and money
- Expands purchasing choices beyond state boundaries
- Directed by public purchasing professionals
- No cost to participate

#### WHAT CAN GAMETIME OFFER ME?

All products offered by GameTime are eligible for the OMNIA Partners, Public Sector program. We are part of a Full-Service, "Turn-Key" Contract, including:

- Playground Equipment
- Playground Accessories
- Site Furnishings
- Playground Surfacing
- Shade Structures
- Water Spray Parks
- Fitness & Sports Equipment
- Park Equipment
- Installation

We have an extensive network of sales professionals to assist you with design, selection and installation. Let us help make your playground project smooth and easy!

#### HOW DO I GET STARTED?

It's quick and easy to join OMNIA Partners, Public Sector. Visit [www.omniapartners.com](http://www.omniapartners.com) and click "register".

- A single registration allows participation in all OMNIA Partners, Public Sector contracts.
- Electronically execute MICPA (Master Intergovernmental Cooperative Purchasing Agreement)
- All OMNIA Partners, Public Sector contracts are competitively solicited by a lead public agency.
- No cost, No fees to participate.



**GameTime®**

A **PLAYCORE** Company

[gametime.com/omnia](http://gametime.com/omnia)  
800-235-2440

Proposed: 10/18/2021

ORDINANCE NO. 136-2021 (F)

By Council Member

An Ordinance to amend certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances, relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021 and declaring an emergency.

BE IT ORDAINED by the Council of the City of Cleveland Heights that:

SECTION 1. Certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances all relating to appropriations for the current expenses and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021 be, and the same hereby are increased, decreased and/or transferred in the amounts set forth in Exhibit 1.

SECTION 2. All expenditures of the City of Cleveland Heights within the fiscal year ending December 31, 2021, shall be made within the appropriations herein provided. "Appropriation" as used herein means the total amount appropriated for the individual fund. Notwithstanding the financial detail herein presented within an individual fund, the City Manager is authorized to transfer budgeted amounts within each fund, so long as the total amount appropriated for each individual fund is not exceeded.

SECTION 3. Notice of the passage of this ordinance shall be given by publishing the title and abstract of contents, prepared by the Director of Law, once in one paper of general circulation in the city of Cleveland Heights.

SECTION 4. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of public peace, health, and safety of the inhabitants of the City of Cleveland Heights, such emergency being the ongoing and continuous need to preserve the faith and credit of the City. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

---

JASON S. STEIN  
President of the Council

---

AMY HIMMELEIN  
Clerk of Council

PASSED:

Exhibit 1

Fund	Department	Object	Reason	Approved Budget	Requested Change	Revised Budget
101 - General	8201 - Public Prop/Park Maint	Personal Services	Transfer for overtime and maintenance expenses.	1,171,812.39	(1,899.77)	1,169,912.62
		O.T.P.S.	Transfer for overtime and maintenance expenses.	1,066,420.00	14,000.00	1,080,420.00
	8411 - Community Center Admin	Personal Services	Transfer for overtime and maintenance expenses.	660,418.95	(2,100.23)	658,318.72
		O.T.P.S.	Transfer for overtime and maintenance expenses.	495,800.00	(10,000.00)	485,800.00
	8601 - Public Health Admin	O.T.P.S.	Increase for indigent burial expenses.	257,309.00	1,190.00	258,499.00
301 - G.O. Bond Retirement	3101 - Finance	O.T.P.S.	Increase for refunded Ring Road debt.	4,609,857.04	1,659,904.50	6,269,761.54
402 - Financed Capital Projects	3101 - Finance	Capital	Transfer for police vehicle upfitting.	153,671.31	(26,641.52)	127,029.79
	7201 - Police Admin	Capital	Transfer for police vehicle upfitting.	221,306.40	26,641.52	247,947.92
857 - Sales Tax	3101 - Finance	O.T.P.S.	Increase for payment of sales tax related to sales of merchandise.	346.09	47.38	393.47
<b>Total</b>				<b>8,636,941.18</b>	<b>1,661,141.88</b>	<b>10,298,083.06</b>



Monday, June 28, 2021 Minutes

City Council Meeting

7:37 - 9:55 p.m.

COUNCIL PRESENT:

Jason Stein, President  
Kahlil Seren, Vice President  
Craig Cobb  
Mary Dunbar  
Melody Hart  
Davida Russell  
Mike Ungar

ALSO PRESENT:

Susanna Niermann O'Neil, City Manager  
Amy Himmelein, Clerk of Council  
William Hanna, Director of Law

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## 1 PROCEEDINGS

2 (Starting at 13:26 minutes)

3 \*\*\*\*\*

4 PRESIDENT STEIN: Welcome to Cleveland  
5 Heights Special City Council Meeting, June 28,  
6 2021. This meeting is called to order.

7 Ms. Himmelein, please call the roll.

8 MS. HIMMELEIN: Cobb?

9 MR. COBB: Did I hear Cobb?

10 MS. HIMMELEIN: Cobb, correct.

11 MR. COBB: Present.

12 MS. HIMMELEIN: Dunbar?

13 MS. DUNBAR: Present.

14 MS. HIMMELEIN: Hart?

15 MS. HART: Present.

16 MS. HIMMELEIN: Russell?

17 MS. RUSSELL: Here.

18 MS. HIMMELEIN: Seren?

19 MR. SEREN: Here.

20 MS. HIMMELEIN: Stein?

21 PRESIDENT STEIN: Present.

22 MS. HIMMELEIN: Ungar?

23 MR. UNGAR: Here.

24 MS. HIMMELEIN: Everyone present,

25 your Honor, we have a quorum.

1 PRESIDENT STEIN: Thank you. We have  
2 no members to excuse as we're all present.

5 MS. NIERMANN-O'NEIL: Thank you. As  
6 everyone knows, we are starting up our July  
7 recess and I wanted to give a couple of  
8 updates on some of the things that will be  
9 going on during July. One of the things that  
10 is probably most important is our work on the  
11 ARP funds and zeroing in on what is eligible  
12 for their use. We are putting a survey.  
13 It'll go up tomorrow on our website with the  
14 various things that are eligible and asking  
15 our residents to go on there, look at it,  
16 really think about the community and rate  
17 them. So we will have that data.

1                   Also, we have a few block parties. I  
2                   thought I would mention to Council that we are  
3                   moving into gradually having block parties  
4                   after our COVID year, and just for your  
5                   information, on this weekend, Saturday, July  
6                   3rd, Wellington is having their block party.  
7                   Then on Sunday, which is the 4th of July, the  
8                   annual Somerton block party is going forward;  
9                   the annual Kingston parade block party is  
10                  going forward; and Ashton and East Fairfax.  
11                  It's really heartwarming to see these coming  
12                  back because some of them have been going on  
13                  for many, many years in our city.

14                  Then the other thing, during our July  
15                  recess, Cain Park is going to open in the  
16                  middle of July. Of course, all of this will  
17                  be on our website, but we're going to open  
18                  Cain Park with Cain Park Arts Festival, July  
19                  9th, 10th and 11th. This year there is no  
20                  admission fee. The festival itself is  
21                  somewhat pared down. You know, we usually  
22                  have about 150 artists. This year we're going  
23                  to have about 90, because we want to respect  
24                  the social distancing, both as people are on  
25                  the path with the artists and also we'll be

1                   doing social distancing in the Evans, because  
2                   there will be free concerts in there.

3                   So kind of nice to see the community  
4                   opening up again. We're going to do it little  
5                   by little so we don't overwhelm it.

6                   So those are some of the things in  
7                   terms of the recess and, obviously, staff will  
8                   be here. Any inquiries or issues that City  
9                   Council, as always, if City Council wants us  
10                  to look into something, please email. Let me  
11                  know and we'll get on it as best we can.

12                  Any questions about any of that?

13                  (No response.)

14                  I'm going to briefly go over the  
15                  legislation, in case you have any questions  
16                  about that. First one, 93-2021. That is the  
17                  Finance Director's budget appropriation and  
18                  expenditures and we have been doing those on a  
19                  regular basis. Amy does a great job with  
20                  that.

21                  94-2021 is we're extending the  
22                  suspension of the Admission Tax. This was put  
23                  in place, really, in a lot of cities around  
24                  the country when COVID hit. Because places  
25                  like Dobama and Cedar Lee Theater are trying

1 to get their feet wet again and open up, and  
2 remind people they are there, we thought it  
3 was common sense to ask Council to suspend the  
4 Admission Tax until the end of the year. So  
5 that's what 94-2021 is about.

6 95-2021 is our looking at the new  
7 purchases for the Police Department. We  
8 talked over the last couple of months about  
9 the equipment the police have and some of the  
10 maintenance issues with their vehicles. We  
11 thought in finding the funds for this, we  
12 thought this was a good time to order them,  
13 because you don't get them immediately, but  
14 wanted to get on that in 2021, so that as they  
15 come in, we're ready for them. So that's what  
16 one is about.

17 I also want to add we have had some  
18 discussions about the areas where our police  
19 are here at City Hall, the lower area. We did  
20 go out to bid on that and we have someone who  
21 will be coming in and upgrading in terms of  
22 painting, the electrical, the whole  
23 entwinement of what has not been the best area  
24 for our police. So we're working on that.

25 Also, we've been down to the dairy and

1           we are looking at places to remove some of the  
2           things that are there, and find places here at  
3           City Hall, so we can start emptying out the  
4           building. Because we need to be realistic  
5           about the conditions there. So I'm hoping  
6           over the month of July, a lot of that  
7           transferring will be going on, and of course,  
8           we'll look to Council with that.

9           Also Vision Zero, which came out of TAC  
10          and Mary Dunbar's commitment. This is  
11          basically a statement that says, people who  
12          are running, people who are bicycling, we want  
13          to have all of this tucked together in a very  
14          safe fashion, so that we have zero fatalities.  
15          So everything the City does in cooperation  
16          with TAC, some of the ideas that we all come  
17          together about. Vision Zero allows us to  
18          actually make a statement about that. So  
19          that's what that is about.

20          97-2021 is very exciting. Berkowitz-  
21          Kumin that is an anchor on Taylor Road and has  
22          been for many, many years, right at the corner  
23          of Superior and Taylor, have decided to stay  
24          in Cleveland Heights and are making a \$3  
25          million commitment to the extension of their

1 building along the back. This is very  
2 exciting news for Taylor Road, the Taylor  
3 neighborhood, actually all of Cleveland  
4 Heights. I think we all know that the owners  
5 over the years, I just spoke with one of them  
6 the other day, grew up in Cleveland Heights,  
7 knows the Heights, wants to stay here. So  
8 Brian Anderson did a terrific job on going  
9 through all the pieces of it and put an  
10 excellent memo in the packet explaining the  
11 ins and outs of it, and I really appreciate  
12 the work that he did on that.

13 98-2021 is the memorandum of  
14 understanding with Start Right. We've been  
15 talking about this over the last two weeks and  
16 I really want to compliment staff and the  
17 people from Start Right on the amount of work  
18 that went into our reaching, really, the  
19 deadline. Because if we hadn't met it by now,  
20 we would have to wait until August. I think  
21 we're all in agreement that we want this to go  
22 forward.

23 Then 99-2021 is also a memorandum of  
24 understanding regarding the Cedar  
25 Lee-Meadowbrook development. We feel that we

1 have done, staff and working -- again, working  
2 with them, have put together a good MOU for  
3 consideration.

4 So that is what we have on our plate  
5 tonight.

6 PRESIDENT STEIN: Thank you. Moving on  
7 to the Board of the Clerk of Council,  
8 Mrs. Himmelein.

9 MS. HIMMELEIN: Thank you. I'd like  
10 to note by Council that notices have been  
11 received from the Ohio Department of Liquor  
12 Control advising that applications have been  
13 made by the following: Monica's Carry-Out,  
14 LLC, 2569 Noble Road, Cleveland Heights, Ohio  
15 44121, for a new C-2 Permit; Haunted House  
16 Restaurant, LLC, 13463 Cedar Road, Cleveland  
17 Heights, Ohio, 44118, for a transfer of D-1,  
18 D-2, D-3, D-3A and D-6 permits from Melt Bar  
19 & Grill, Inc., 13463 Cedar Road, Cleveland  
20 Heights, Ohio 44118; and that's a matter of  
21 record and all I have tonight.

22 PRESIDENT STEIN: Thank you. That's  
23 been made a matter of record and refer it to  
24 Public Safety and Health Committee and  
25 Council, the City Manager and the Director of

1 Law.

2 Moving on to our Committee reports.

3 First is Finance Committee. Councilperson  
4 Hart, please.

5 MS. HART: Okay. We have  
6 Ordinance 93-2021 and before I read it, Amy  
7 could you please give a synopsis for people?

8 PRESIDENT STEIN: Hold on, wait. The  
9 City Manager is asking for a moment.

10 MS. NIERMANN-O'NEIL: I believe we're  
11 going into Executive Session for the agenda,  
12 correct Law Director?

13 MR. HANNA: That is the next  
14 Agenda Item on the updated agenda that's on  
15 the website, which was distributed to Council on  
16 Friday. It's to consider the terms of  
17 purchase of real property for public  
18 purchases, to consider the sale or lease of  
19 city owned real property, and to discuss with  
20 an attorney for the --

21 PRESIDENT STEIN: We just lost Bill.  
22 Did someone want to make that motion?

23 MS. DUNBAR: I will make the  
24 motion to go into Executive Session to  
25 consider the terms of purchase of real

1                   property for public purchases, to consider the  
2                   sale or lease of city owned real property, and  
3                   finally to discuss with an attorney for the  
4                   public body claims or disputes involving the  
5                   public body that are the subject of pending  
6                   court action.

7                   Is there a second?

8                   MS. HART:                   Second.

9                   PRESIDENT STEIN:    Thank you.

10                  Mrs. Himmelein?

11                  MS. HIMMELEIN:       Dunbar?

12                  MS. DUNBAR:           Aye.

13                  MS. HIMMELEIN:       Hart?

14                  MS. HART:              Aye.

15                  MS. HIMMELEIN:       Russell?

16                  MS. RUSSELL:          Aye.

17                  MS. HIMMELEIN:       Seren?

18                  MR. SEREN:            Aye.

19                  MS. HIMMELEIN:       Stein?

20                  PRESIDENT STEIN:    Aye.

21                  MS. HIMMELEIN:       Ungar?

22                  MR. UNGAR:           Aye.

23                  MS. HIMMELEIN:       Cobb?

24                  MR. COBB:             Aye.

25                  MS. HIMMELEIN:       Seven ayes your

1 Honor.

2 PRESIDENT STEIN: We're going to go  
3 into Executive Session now. Please stay  
4 tuned. When we come back, we will continue  
5 our Council meeting from where we left off.

6 (Executive session held.)

7 MS. HIMMELEIN: We are out of  
8 Executive Session.

9 PRESIDENT STEIN: Welcome back to our  
10 Special Cleveland Heights Council Meeting.  
11 We're going to continue to the Committee  
12 reports now. First is Finance Committee.  
13 Councilperson Hart, please.

14 MS. HART: Okay. My first  
15 Ordinance is 93-2021. Before I read it, it's  
16 one of those, again, where we're adjusting the  
17 budget, so Amy, could you please give a  
18 description?

19 MS. HIMMELEIN: Certainly. So this  
20 amendment is basically -- the biggest item is  
21 to purchase the police vehicles that are on  
22 Council's agenda later on tonight. It's also  
23 to make some improvements to the police  
24 facilities, as well as (inaudible) to Coventry  
25 garage.

1                   MS. HART:                   Thank you. So  
2                   Ordinance No. 93-2021(F), an ordinance to  
3                   amend certain subparagraphs of Ordinance  
4                   127-2020(F) and subsequent amending ordinances  
5                   relating to appropriations and other  
6                   expenditures of the City of Cleveland Heights,  
7                   Ohio for the fiscal year ending December 31,  
8                   2021.

9                   PRESIDENT STEIN:           Is there a second?

10                  MR. COBB:                   Second.

11                  PRESIDENT STEIN:           Thank you. Any  
12                  discussion?

13                  (No response.)

14                  Mrs. Himmelein?

15                  MS. HIMMELEIN:           Russell?

16                  MS. RUSSELL:               Aye.

17                  MS. HIMMELEIN:           Seren?

18                  MR. SEREN:               Aye.

19                  MS. HIMMELEIN:           Stein?

20                  PRESIDENT STEIN:       Aye.

21                  MS. HIMMELEIN:           Ungar?

22                  MR. UNGAR:               Aye.

23                  MS. HIMMELEIN:           Cobb?

24                  MR. COBB:               Aye.

25                  MS. HIMMELEIN:           Dunbar?

1                   MS. DUNBAR:           Aye.  
2                   MS. HIMMELEIN:        Hart?  
3                   MS. HART:              Aye.  
4                   MS. HIMMELEIN:        Seven ayes, your  
5                   Honor.

6                   PRESIDENT STEIN:     It's unanimous.  
7                   MS. HART:              My next Ordinance,  
8                   and for those who tuned in late didn't hear  
9                   the explanation that Susanna gave earlier,  
10                  this is Admissions Tax, which is -- it's to  
11                  help out Dobama. So for instance, they're  
12                  starting to try to have plays again, and we're  
13                  trying to make it a little easier for them by  
14                  not having an Admissions Tax until the end of  
15                  the year.

16                  So it's Ordinance No. 94-2121(F), an  
17                  Ordinance amending Ordinances No. 81-2020 and  
18                  133-2020, to extend the extension upon the  
19                  levy of Admissions Tax under Chapter 155,  
20                  Admissions Tax, of Part I of Administrative  
21                  Code of the Codified Ordinances of the City of  
22                  Cleveland Heights, to extend the moratorium on  
23                  the collection and remittance of the same.

24                  PRESIDENT STEIN:        Is there a second?  
25                  MS. DUNBAR:              Second.

1                   PRESIDENT STEIN:    Thank you. Any  
2 discussion? Kahlil, you're on mute.

3                   MR. SEREN:            I have a question.  
4                   Thank you. First a quick comment, I'm totally  
5                   in favor of this. I think that especially  
6                   coming out of this pandemic, we need to  
7                   provide the kinds of support like this to our  
8                   -- and I think Cleveland Heights is one of  
9                   those places that has a lot of these locations  
10                  that need this kind of support with the  
11                  Admissions Tax being suspended. But I'd like  
12                  to know, do we have or did we make any kind of  
13                  forecast about how much revenue we'd be  
14                  foregoing by suspending this for the rest of  
15                  the year?

16                  MS. HIMMELEIN:        I can actually  
17                  somewhat answer that. We made about \$50,000,  
18                  I believe in 2019. So in total this year,  
19                  that's about how much we would forego between  
20                  everything for Admissions Tax.

21                  MR. SEREN:            Thank you, Director.

22                  PRESIDENT STEIN:     Okay, Mrs. Himmlein,  
23                  please call the roll.

24                  MS. HIMMELEIN:        Seren?

25                  MR. SEREN:            Aye.

1 MS. HIMMELEIN: Stein?  
2 PRESIDENT STEIN: Aye.  
3 MS. HIMMELEIN: Ungar?  
4 MR. UNGAR: Yes.  
5 MS. HIMMELEIN: Cobb?  
6 MR. COBB: Aye.  
7 MS. HIMMELEIN: Dunbar?  
8 MS. DUNBAR: Aye.  
9 MS. HIMMELEIN: Hart?  
10 MS. HART: Aye.  
11 MS. HIMMELEIN: Russell?  
12 MS. RUSSELL: Aye.  
13 MS. HIMMELEIN: Seven ayes, your  
14 Honor.  
15 PRESIDENT STEIN: It's unanimous.  
16 Anything else?  
17 MS. HART: I want to wish  
18 everyone to have a good July. We are off, as  
19 you've probably heard earlier, because the  
20 Council will be off during that time, but I'll  
21 probably see you around town, because I'm not  
22 going anywhere, actually. So I hope everyone  
23 has a good Summer.  
24 PRESIDENT STEIN: Thank you. Next the  
25 Civil Services Committee. Councilperson

1 | Dunbar?

2 MS. DUNBAR: I have two pieces of  
3 legislation. The first is Resolution No.  
4 95-2021. It's a resolution authorizing an  
5 agreement with Ganley Ford, Inc., for the  
6 purchase of eleven 2021 Ford Utility Police  
7 Interceptors for the Police Department. I  
8 move that we approve this because these are  
9 badly needed.

10 MS. HART: Second.

11 PRESIDENT STEIN: Thank you. Any  
12 discussion? Kahlil?

23 MS. NIERMANN-O'NEIL: I know we did.

24 We briefly looked at that, but realistically  
25 going forward, we did not choose electric or

1                   hybrid. It was just a basic decision for the  
2                   fleet.

3                   MR. SEREN:                   So was there a  
4                   rationale for it? I think electric, maybe,  
5                   I can see some sort of hesitancy there, but  
6                   the hybrid, you know, looking at 318  
7                   horsepower, I'm wondering what the rationale  
8                   was for that.

9                   MS. NIERMANN-O'NEIL: You know,  
10                  I really cannot completely answer that. It  
11                  was something that came out of staff and the  
12                  Chief looking at vehicles and I accepted the  
13                  recommendation, knowing that we wanted the  
14                  basic car and we wanted to improve the fleet.  
15                  So that's my answer and I don't think the  
16                  Chief is on right now. I apologize.

17                  MR. SEREN:                   Certainly. If  
18                  there's any possibility moving forward, I know  
19                  that we sort of just entered into this  
20                  partnership with Power and Clean Future Ohio,  
21                  and one of the things that they're committed  
22                  to doing is helping municipalities navigate  
23                  these kinds of decisions. If we can start  
24                  sort of working with them, we might be able to  
25                  get a jump on our admissions goals and reduce

1                   our fuel costs and even maintenance costs and  
2                   that kind of thing. Just for the future.

3                   MS. NIERMANN-O'NEIL: Thank you. Okay.

4                   PRESIDENT STEIN: Mike.

5                   MR. UNGAR:                   Just a quick follow-  
6                   up question Susanna. Is this part of from an  
7                   ongoing fleet replenishment program and, if  
8                   so, any sense of how much of a dent these  
9                   eleven new vehicles will make in the recurring  
10                  issues that this council has heard about with  
11                  respect to the vehicles in the force?

12                  MS. NIERMANN-O'NEIL: We're all aware  
13                  of the fact that we did not do our due  
14                  diligence over the past few years of buying  
15                  two or three a year. We just didn't do it and  
16                  we ended up in a situation where the  
17                  maintenance on the vehicles that we did have  
18                  was taking them out of commission, also  
19                  the cost of the maintenance. So in terms of  
20                  putting a dent in it, you know, earlier we got  
21                  four and now eleven, so we'll be at 15 new  
22                  vehicles, but the fleet has a ways to go. I  
23                  would say this is only a 30 to 35 percent  
24                  improvement on the fleet. It got down to  
25                  financials.

1                   MR. UNGAR:           So but the plan is to  
2                   continue. This is part of program then to  
3                   fully replenish the fleet on a rolling basis?

4                   MS. NIERMANN-O'NEIL: Yes, I hope --

5                   MR. UNGAR:           So we should be  
6                   seeing (inaudible) expenditures along --

7                   MS. NIERMANN-O'NEIL: I hope going into  
8                   the future, whoever's making the decisions  
9                   realizes that maintaining with new vehicles on  
10                   a rotating basis is the way to save money.

11                   That's just a fact. So yes, it's the  
12                   beginning.

13                   MR. UNGAR:           Okay. Well, thank  
14                   you for doing this.

15                   PRESIDENT STEIN: Thank you, Susanna,  
16                   for making these purchases, these much needed  
17                   purchases for our police department. The City  
18                   thanks you.

19                   Mrs. Himmelein, please call the roll?

20                   MS. HIMMELEIN: Stein?

21                   PRESIDENT STEIN: Aye.

22                   MS. HIMMELEIN: Ungar?

23                   MR. UNGAR:           Aye.

24                   MS. HIMMELEIN: Cobb?

25                   MR. COBB:           Aye.

1 MS. HIMMELEIN: Dunbar?

2 MS. DUNBAR: Aye.

3 MS. HIMMELEIN: Hart?

4 MS. HART: Aye.

5 MS. HIMMELEIN: Russell?

6 MS. RUSSELL: Aye.

7 MS. HIMMELEIN: Seren?

8 MR. SEREN: Aye.

9 MS. HIMMELEIN: Seven ayes, your

10 Honor.

11 PRESIDENT STEIN: It's unanimous.

12 | Anything else?

13 MS. DUNBAR: There is one more  
14 resolution tonight for the Municipal Services  
15 Committee, which is Resolution No. 96-2021 and  
16 it's on, first reading, a resolution adopting  
17 and supporting the ideals, principals and  
18 concepts of Vision Zero for the City of  
19 Cleveland Heights. I personally feel that  
20 this is a no-brainer. Vision Zero emphasizes  
21 safety in all users of roadways, so it's all  
22 users of roadways should be safe in our City,  
23 by the design of how the roadways are done.  
24 That's what this is about. We will, I guess,  
25 vote on it the second reading in August.

1                   PRESIDENT STEIN:    Thank you.  Did you  
2 have anything else?

3                   MS. DUNBAR:           Just that there will  
4 be a meeting of the Transportation Advisory  
5 Committee on Wednesday evening and those are  
6 broadcast, I believe.

7                   PRESIDENT STEIN:    Thank you.  Moving on  
8 -- actually, Councilperson Russell wanted to  
9 be recognized.  Councilperson Russell?

10                  MS. RUSSELL:          Thank you.  You  
11 caught me off guard there.  Basically, I  
12 didn't want anything.  I just wanted to say  
13 happy Fourth of July for all of our residents.  
14 I wanted them to enjoy a wonderful July and  
15 I won't be here, so you won't be seeing me  
16 around until maybe the end of July.  Maybe  
17 Susanna, if you could email us any future  
18 block parties and then I can just pick them up  
19 once I come back in town.  I just really  
20 wanted to tell our residents, our staff, to  
21 please enjoy the month of July and celebrate  
22 with your family.  Make sure you spread a lot  
23 of love into our community as we open up and  
24 be together.

25                  So thank you, Jason, for recognizing

1 me.

2 PRESIDENT STEIN: Thank you.

3 I'm going to recognize Vice President  
4 Seren.

5 MR. SEREN: Thank you,

6 Mr. President. So I guess I wanted to take  
7 this opportunity. I know we're not doing  
8 committee reports exactly, but I wanted to  
9 take this opportunity, of course, to these  
10 last days of Pride Month, to hope everybody  
11 had a very happy Pride Month, and also  
12 recognize that every month should be Pride  
13 Month and that Pride was a riot. Let's not  
14 forget that.

15 I also want to say happy Fourth of  
16 July. We just celebrated Juneteenth, Freedom  
17 Day. Independence Day, I think, is a piece of  
18 that. Of course, what is July 4th to the  
19 slave and all, but Freedom Day and July 4th, I  
20 think, together maybe, we can move on that  
21 track toward real equality.

22 I also wanted to make a real  
23 substantive announcement as well, just a quick  
24 legislative update. You should be looking  
25 forward to a few pieces of legislation. Two

1 of which I will cosponsoring with Councilwoman  
2 Davida Russell. Thank you so much for your  
3 help with this, Davida. One of them has to do  
4 with prevailing wage requirements in our  
5 contracts. The other one has to do with  
6 creating a labor peace requirement for support  
7 on development deals and that kind of thing.  
8 The last one is a -- you might have seen the  
9 Administrative Services Committee meeting on  
10 this, but a parental and childbirth leave  
11 policy that will update our policy that hasn't  
12 been updated since 1977, and will sort of  
13 create a more inclusive family leave policy  
14 for the City. I expect that that will be  
15 introduced in August. We're going to take a  
16 really deep dive into the effect on staffing,  
17 the effect, potentially, on recruitment, the  
18 effect on our finances. I welcome all of  
19 Council to take a look at that draft and  
20 provide some input if you'd like. We'll be  
21 talking about this a lot more, but I wanted to  
22 let the public know to be aware and to look  
23 out for that in the future.

24 With that, have a lovely evening.

25 MS. RUSSELL: Jason, may I thank

1 Susanna. I just really need to thank you her  
2 now. I really, really appreciate your report  
3 on updating the Police Department and their  
4 area, and moving things out of the dairy. You  
5 made my exit for July very happy and I wanted  
6 you to know that, because there's a lot of  
7 things that's happening over there and I just  
8 appreciate you slowly moving on it, and I  
9 truly, truly appreciate it. People in this  
10 area are very excited about that. So I just  
11 really wanted to tell you thank you, thank  
12 you, thank you.

13 PRESIDENT STEIN: Melody?

14 MS. HART: Yeah, I just want to  
15 second that. It was an eye-opener when I went  
16 to go see the facilities, and I'm glad to see  
17 that we're moving on that and we're moving on  
18 the cars. I think it's much needed. And I'm  
19 sure the officers are going to be very happy.  
20 Thank you, very much, very much, Susanna.

21 PRESIDENT STEIN: Okay. Continuing  
22 with our agenda, next is Planning and  
23 Development Committee. Councilperson Ungar  
24 please?

25 MR. UNGAR: I feel like I've been

1           set up here. All these cheery things, now I'm  
2           going to talk about a funeral home. I really  
3           appreciate that, you know. Thanks colleagues.

4           All kidding aside, it's actually my  
5           pleasure to propose this evening, Ordinance  
6           97-2021, which is an ordinance that'll  
7           authorize Susanna Niermann-O'Neil, as our City  
8           Manager, to enter into an agreement with  
9           Berkowitz-Kumin for the provision of  
10           incentives available under 3735 of the Ohio  
11           Revised Code, for the construction of a  
12           significant new addition totally 3500 square  
13           feet, and renovation of an existing facility  
14           within the Cleveland Heights Community  
15           Reinvestment Area.

16           I'm sure that most -- I'm sure everyone  
17           on Council knows and those that are watching  
18           this evening, probably most everyone knows the  
19           Berkowitz-Kumin facility has been in our  
20           community for many, many years. It's a very  
21           highly respected Jewish funeral home. It  
22           happens to be located in a very sensitive  
23           commercial district, one that is subject to  
24           our Commercial Community Reinvestment Area  
25           dollars and opportunities. I consider I want

1 to commend our staff as well, sort of jump on  
2 the commanding our staff train. I think this  
3 is an excellent deployment of our Commercial  
4 Community Reinvestment Area tax strategies.

5 Just to give folks a sense of what this  
6 might bring, because I think it's exciting.  
7 Our staff did an excellent job, Tim Boland and  
8 his staff did an excellent job of summarizing  
9 for us in our Council packets this week, and  
10 I assume it's available online. Some of the  
11 highlights of this thing, as I mentioned, it's  
12 a significant addition. For those that are  
13 wondering, even with the tax advantages  
14 associated with a CRA, I'm fond of saying more  
15 is more. This is an example of that. 50  
16 percent of the new taxes, associated with the  
17 new value from the project would be abated,  
18 and that amounts to \$43,898, but the total new  
19 property taxes under the abatement would be  
20 \$92,000, with approximately 70 percent of  
21 those funds going directly to our schools.  
22 Translation, the schools get approximately  
23 just shy of 65,000 a year, if the project  
24 moves forward, versus the \$33,923 that they  
25 currently receive. Those that are quick with

1                   math know that's a \$31,000 delta in the right  
2                   direction.

3                   They're also, per usual, are job  
4                   opportunities associated with this kind of  
5                   community reinvestment. In this case, the  
6                   project is estimated to yield a retention of  
7                   17 full time and four part time jobs. The  
8                   reason for that, this is not a threat or  
9                   anything like that, but this is a company that  
10                  would be sought after by any community. They  
11                  choose to exist in Cleveland Heights and  
12                  they're choosing to remain in Cleveland  
13                  Heights, and that's something that we should  
14                  celebrate because as they choose to remain  
15                  here, so do those employees and so does an  
16                  annual payroll of just shy of two million  
17                  bucks stays right here in Cleveland Heights.

18                  So again, I think this is something to  
19                  celebrate. The fact that we're using the CRA  
20                  in this type of a way in a commercial way and  
21                  I'm appreciative of it. With that, I would  
22                  move approval of Ordinance 97-2021.

23                  MS. DUNBAR:                   Second.

24                  PRESIDENT STEIN:            Thank you any  
25                  discussion?

1 (No response.)

2 Seeing none, I also support this. This  
3 is an iconic and important business in  
4 Cleveland Heights and that we are keeping them  
5 and appreciating them, and they are investing  
6 a lot of money in there to stay here and they  
7 are going to be paying a lot more taxes as  
8 well. It's a win all around and  
9 Mrs. Himmelein, please call the roll.

10 MS. HIMMELEIN: Ungar?

11 MR. UNGAR: Aye.

12 MS. HIMMELEIN: Cobb?

13 MR. COBB: Aye.

14 MS. HIMMELEIN: Dunbar?

15 MS. DUNBAR: Aye.

16 MS. HIMMELEIN: Hart?

17 MS. HART: Aye.

18 MS. HIMMELEIN: Russell?

19 MS. RUSSELL: Aye.

20 MS. HIMMELEIN: Seren?

21 MR. SEREN: Aye.

22 MS. HIMMELEIN: Stein?

23 PRESIDENT STEIN: Aye.

24 MS. HIMMELEIN: Seven ayes, your  
25 Honor.

1                   PRESIDENT STEIN: It's unanimous.

2                   MR. UNGAR:            Okay, moving on from  
3                   funeral homes to more exciting discussions  
4                   (unintelligible) we are sitting, including in  
5                   full housing and development of a commercial  
6                   district.

7                   First, I have Resolution 98-2021.  
8                   That's a resolution that will authorize our  
9                   City Manager to sine a non-binding MOU,  
10                   Memorandum of Understanding, with our CDC  
11                   partners, Start Right Community Development  
12                   Incorporation, which is a not for profit, for  
13                   the redevelopment of vacant residential lots  
14                   owned or controlled by the City, with new,  
15                   single family homes. For those that may have  
16                   scrutinized the draft MOU that you have, that  
17                   there is -- and the proposed legislation this  
18                   evening -- there is one important amendment  
19                   which will find its way into our directive,  
20                   with respect to the MOU both here and with  
21                   respect to the other MOU legislation that we  
22                   have this evening, and I understand will  
23                   become a bit of a more permanent fixture.

24                   That is that all these MOUs that we  
25                   enter into are subject to the approval of our

1 very capable Law Director, Mr. Hanna. But  
2 also, we're going to specifically reference --  
3 we're not going to reference all the City's  
4 laws, but we are going to reference our City's  
5 robust anti-discrimination laws, and our Law  
6 Director is going to be very careful as he  
7 negotiates the MOU and comes back to Council  
8 for a recommendation to approve the execution  
9 of both the MOU and the development agreements  
10 that anybody with whom we are doing business  
11 is going to abide by, adhere to, our robust  
12 anti-discrimination laws.

13 So with that, I would offer the  
14 Resolution for approval this evening.

15 PRESIDENT STEIN: Is there a second?

16 MS. DUNBAR: Second.

17 MS. RUSSELL: I'll second.

18 PRESIDENT STEIN: Thank you. Any  
19 discussion? Kahil?

1                   are non-binding, but I also have enough  
2                   experience with these things to know that when  
3                   you decide on an MOU, that generally is  
4                   roughly the shape of the development  
5                   agreement. And I don't see anything that has  
6                   changed certain salient points from the  
7                   original presentation that we received, when  
8                   we received presentations from these  
9                   contractors.

10                  So in our packet, we received more  
11                  information that reiterated the need on this  
12                  project for \$250,000 from the City to aid in  
13                  the development of these homes. Of course, I  
14                  think, the \$100 lot idea, maybe that's a more  
15                  standard situation, but I do want to point out  
16                  that upwards of \$300,000 in potential for  
17                  down payment assistance that is being  
18                  requested from the City, I think that that's  
19                  something that we should be a little bit more  
20                  concerned about.

21                  Beyond that, the commercially  
22                  reasonable request for prevailing wage on  
23                  these contracting jobs, I think that that's  
24                  just unconscionable at this stage. I think we  
25                  went through this already. We compromised on

1 a notable construction project in this City to  
2 a, I believe, a 30 percent prevailing wage on  
3 a large project. I hoped that we learned from  
4 that to bake these things in at the outset, so  
5 developers wouldn't be caught by surprise.

6 But beyond that, I think that it's also  
7 important to note that this particular lead  
8 developer is fully inexperienced in the realm  
9 of home building. Now that's not to take away  
10 from the experience that they do have and it's  
11 not to take away from the experience of their  
12 partners, but we are contracting with the lead  
13 developer on this, and the experience gives me  
14 pause. More than that, I want to speak  
15 directly to the residents of that neighborhood  
16 as well. I think that the City, in this  
17 instance, could have done better and I think  
18 that you deserve better than our efforts to  
19 attract developers to that location.

20 Something that I noted that I don't  
21 think has been brought up in this discussion  
22 is the opportunity zone that these parcels are  
23 squarely within, providing an additional tax  
24 benefit to investors who are apparently  
25 expecting to receive a 24 percent return on

1 investment in this deal according to the last  
2 information that we got. I know, and I hope,  
3 I do hope that I will be happily surprised by  
4 the shape of the development agreement, but  
5 all of the information that I've received thus  
6 far, gives me a great deal of concern and that  
7 is on top of the very personal -- like I said,  
8 happy Pride Month everybody - the very  
9 personal concern that I have about the signal  
10 that we are sending to the residents of this  
11 City in doing business with an organization  
12 and providing them such benefit of the doubt,  
13 when they are led by someone who has sued the  
14 City to stop us from providing the scraps of  
15 equality in the form of a domestic partner  
16 registry for our LGBTQ residents. I think  
17 that that should give us all pause. It should  
18 certainly be a factor in our thoughts.

19 But beyond that, I think that the  
20 structure of the deal is concerning, and for  
21 that reason, I can't put my yes vote on this.  
22 I really do hope that there is somehow some  
23 change made and I can be happily surprised by  
24 an ultimate development agreement, but based  
25 on my experience that does not seem likely.

1 PRESIDENT STEIN: Okay.

2 Ms. Himmelein, please call the roll.

3 MS. HIMMELEIN: Cobb?

4 MR. COBB: Aye.

5 MS. HIMMELEIN: Dunbar?

6 MS. DUNBAR: Aye.

7 MS. HIMMELEIN: Hart?

8 MS. HART: Aye.

9 MS. HIMMELEIN: Russell?

10 MS. RUSSELL: Aye, and I want to  
11 explain my vote. I want to talk to the  
12 residents that's in that area and I want to  
13 talk to the LGBTQ community as well.

14 PRESIDENT STEIN: Davida, I'm really  
15 sorry to cut you off, but as soon as we're  
16 done with the vote, I'll recognize you to  
17 speak, okay?

18 MS. RUSSELL: Thank you.

19 PRESIDENT STEIN: Mrs. Himmelein.

20 MS. HIMMELEIN: Seren?

21 MR. SEREN: No.

22 MS. HIMMELEIN: Stein?

23 PRESIDENT STEIN: Aye.

24 MS. HIMMELEIN: Ungar?

25 MR. UNGAR: Aye.

1                   MS. HIMMELEIN:       Six ayes, your Honor,  
2                   and one no.

3                   PRESIDENT STEIN:    Okay, it passes.  
4                   Councilperson Russell, please?

5                   MS. RUSSELL:        Yes. I want to make  
6                   a clarification of my vote. I'm voting yes  
7                   for this for many different reasons. I've  
8                   heard some things that happened 20 years ago.  
9                   I was not privy to it, was not aware of it.  
10                  The LBG community know how I feel about them,  
11                  but so do the residents of Caledonia.  
12                  Caledonia has not had any attention in over 40  
13                  years. If people were interested in doing any  
14                  business of doing any development in Cleveland  
15                  Heights in the Caledonia area, we would not  
16                  have to wait until we got to this point today.

17                  So I look at that area as a distressed  
18                  area in need. I don't see a lot of people  
19                  coming to the rescue of that area. I don't  
20                  see a lot of developers coming to the rescue  
21                  of that area. The people in that area need  
22                  help. The people in that area can't afford to  
23                  wait. If it was many developers that wanted  
24                  to develop in that area, they had plenty of  
25                  time to come. I can't talk about anybody's

1 personal views, because I'm a person, I  
2 believe, a child of God and a child of loving  
3 each other. We are all welcome. We have to  
4 practice that. We have to make sure that we  
5 understand that.

6 I understand there are some tough  
7 feelings here. I don't know what they are,  
8 because I was not privy to it. All I do know  
9 is that a part of our City is in desperate  
10 need, and I know that all of the votes here  
11 voted for three contractors to come in to help  
12 develop that area. Now we have three  
13 contracts. Our Law Director has already  
14 informed us this contract is not binding.  
15 This contract had to be dealt with and we have  
16 to make changes and arrangements and still go  
17 back and negotiate some changes. Council had  
18 also informed the Law Director what changes  
19 we're looking for and what we want.

20 I've also spoke to the LGBT community  
21 and said, they informed me that as long as  
22 there was a non-discrimination clause that was  
23 in this agreement, they had no issues. So I'm  
24 just asking the residents of Cleveland Heights  
25 to understand that a part of our (inaudible)

1       needs help and we need help now. We can no  
2       longer wait for another ten years for another  
3       developer come by and try to help build this  
4       City. If this part of the City was so  
5       important, we wouldn't be here today. We  
6       would have had and filled housing five years  
7       ago, ten years ago.

8           I'm the one on Council who's been  
9       hollering about all the areas of Noble and  
10       Taylor. I don't care about people jumping on  
11       my bandwagon or not jumping on my bandwagon.  
12       But I am very frustrated and I am tired. I am  
13       tired of looking at a distressed area, where  
14       African Americans and Jewish people live, and  
15       nobody gives a hoot about them. I am tired of  
16       people saying, oh, yes, we can get some other  
17       developers. Well, where are they? Where have  
18       they been? There's nobody coming to the  
19       rescue of this community and I'm not going to  
20       stop talking and advocating for that community  
21       until we're all welcome. Gay and lesbian,  
22       black and white and Jewish, we are all welcome  
23       here in every area of this City, live and  
24       work, and need to be respected in the same  
25       way.

1                   So if anyone has a problem with my  
2 vote, please call me directly. Thank you.

3                   PRESIDENT STEIN: Thank you.  
4 Councilman Ungar, please continue.

5                   MR. UNGAR:           Amy, did you just  
6 unmute me? Wow, I'm spoiled. Thank you.

7                   Last, but certainly not least, on the  
8 Planning and Development agenda this evening  
9 is a resolution that, once again, will  
10 authorize Susanna, our City Manager, to sign a  
11 non-binding MOU with Flaherty and Collins  
12 Development, concerning what we all  
13 affectionately refer to it as the Cedar-Lee  
14 Meadowbrook development. Same caveat or  
15 amendment as last time, this will be subject  
16 to our Law Director ensuring that there will  
17 be appropriate reference in any agreements to  
18 our City's robust anti-discrimination laws.

19                   With that, I offer for passage Resolution  
20 99-2021.

21                   MS. DUNBAR:           Second.

22                   PRESIDENT STEIN: Any discussion?  
23 Melody?

24                   MS. HART:           As we move forward on  
25 this and have, eventually, a development

1 agreement, I want to make sure that we get tax  
2 reporting that's appropriate that Amy  
3 Himmelein agrees to, so that we make sure we  
4 getting all the income taxes from this that we  
5 should be, including from subcontractors, that  
6 we are not only pedestrian friendly, but  
7 bicycle friendly, that the entity join the  
8 City and that we have a robust public input.

9 Thank you.

10 PRESIDENT STEIN: Kahilil?

11 MR. SEREN: `thank you, Council  
12 President. So again, I guess, I'd like to  
13 take a brief moment to explain the rationale  
14 behind my vote on this item.

15 I recognize that our city is not a  
16 monolith, and there are a wide variety of  
17 opinions about what should and could be done  
18 with this particular property. And we're not  
19 always going to agree on the best and highest  
20 use for this property, but, I did want to  
21 point out that I recognize that not everybody  
22 is going to be happy about this vote. It is  
23 my opinion that the better use, the best use  
24 for this property is to develop residential  
25 and retail space on this property to close a

1 gap in an important business district, to add  
2 residents to our city, to add consumers to our  
3 business district, and support a lot of the  
4 businesses and small independent businesses  
5 that have been hit really hard during this  
6 pandemic and will need some help in the coming  
7 years, and I think that the residents that  
8 will add to this location will do that.

9 I do however want to say that I really  
10 hope that we've learned from the last sort of  
11 negotiated compromise on prevailing wage that  
12 we can do better than 30 percent. Unless  
13 there is a substantial commitment to  
14 prevailing wage on this on this project, I  
15 don't see me going forward on this.

16 So, I wanted to point that out and just  
17 provide that as a piece of guidance going  
18 forward. Thank you.

19 PRESIDENT STEIN: Craig?

20 MR. COBB: Thank you. I think  
21 it's important to point out that this  
22 legislation is a memorandum of understanding,  
23 which is going to allow the City Manager to  
24 proceed with negotiating with this developer.  
25 And before any development deal is signed,

1                   there will be a public hearing on the  
2                   developer's proposed plan. The same thing  
3                   happened with Top of the Hill.

4                   So, we had a memorandum of  
5                   understanding there was a public presentation  
6                   and there was the opportunity for the public  
7                   to question to developer. And so there's been  
8                   some criticism that this legislation is  
9                   somehow cutting off the public's right to be  
10                  heard on this project, and so I want to assure  
11                  the public that they will have an opportunity  
12                  to be heard on this project before Council  
13                  approves any development deal.

14                  Thank you.

15                  PRESIDENT STEIN: Davida?

16                  MS. RUSSELL:        Yes. I just want to  
17                  ditto to Kahlil as well as Craig and Melody to  
18                  let everyone know that they are not being left  
19                  out. There will be some public hearing and  
20                  discussion. This is only an MOU and we have  
21                  been told already that the MOU is not  
22                  permanent, that there will be some changes and  
23                  can be some changes. I agree with Kahlil. I  
24                  am always looking for prevailing wage and  
25                  diversity in the workforce.

1                   So I will be voting yes for this  
2 legislation and we will make sure that the  
3 public have input on it.

4                   PRESIDENT STEIN: This is going to be a  
5 very exciting development for Lee Road  
6 district. It's just what we need at the right  
7 time, and I'm really excited to be able to  
8 partner again with a great developer, F&C.  
9 They were great with Top of the Health; still  
10 going on, so going up, still building and  
11 they're going be building, hopefully soon, in  
12 another part of our city, and this is just --  
13 this is good things for Cleveland Heights.

14                  So Mrs. Himmelein, please call the  
15 roll.

16                  MS. HIMMELEIN:       Dunbar?

17                  MS. DUNBAR:        Aye.

18                  MS. HIMMELEIN:       Hart?

19                  MS. HART:           Aye.

20                  MS. HIMMELEIN:       Russell?

21                  MS. RUSSELL:        Aye.

22                  MS. HIMMELEIN:       Seren?

23                  MR. SEREN:           Aye.

24                  MS. HIMMELEIN:       Stein?

25                  PRESIDENT STEIN:    Aye.

1                   MS. HIMMELEIN:       Ungar?  
2                   MR. UNGAR:           Aye.  
3                   MS. HIMMELEIN:       Cobb?  
4                   MR. COBB:           Aye.  
5                   MS. HIMMELEIN:       Seven ayes, your  
6                   Honor.

7                   PRESIDENT STEIN:     It's unanimous.  
8                   Anything else?

9                   MR. UNGAR:           Nope, that's it. I  
10                  just want to join the chorus in wishing  
11                  everybody a good Fourth and I would also just  
12                  urge caution with respect to fireworks, not  
13                  the kind of fireworks you see here at  
14                  Cleveland Heights City Council, but the real  
15                  fireworks. I want everybody to be careful out  
16                  there.

17                  PRESIDENT STEIN:     Good point, good  
18                  point. Thank you.

19                  MR. UNGAR:           Have a good holiday  
20                  everybody. Thank you.

21                  MS. RUSSELL:        And to all my  
22                  colleagues, you all enjoy your month off.  
23                  Don't call me, I won't call you, because I  
24                  won't be here.

25                  PRESIDENT STEIN:     All right, next is

1                   Council President's report.

2                   Just enjoy your July 4th weekend. This  
3                   meeting is adjourned. Next meeting of  
4                   Council will be Monday August 2nd, 2021.

5                   Have a great month everyone. Take  
6                   care.

7                   MS. HART:                   Thanks.

8                   (Meeting adjourned.)

9                   (End of recording.)

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Respectfully submitted,

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Jason S. Stein, President of Council

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Amy Himmlein, Clerk of Council

**NEXT MEETING OF COUNCIL: MONDAY, AUGUST 2, 2021**



# CLEVELAND HEIGHTS

## Monday, September 13, 2021 Minutes

## **CITY COUNCIL**

7:47 – 8:58 p.m.

## President Stein presiding

Roll Call: Present: Stein, Cobb, Hart, Seren, Ungar  
Excused: Russell

Staff present: Boland, Hanna, Himmelein, Mecklenburg, Niermann O'Neil

Judge Costello wrote a letter to Chief Mecklenburg regarding Sgt. Chris Skok's heroic actions outside of the workplace. Sgt. Skok was volunteering as an assistant coach on Judge Costello's son's baseball team. After making it to the championship, the team had a party to celebrate their great season. This party took place at a house with a swimming pool and the adults were supervising the children. Judge Costello and the homeowner noticed a child struggling in the water. Before anyone else could react, Sgt. Skok was already in the pool, saving the child from drowning. Judge Costello and Chief Mecklenburg presented Sgt. Skok with a Lifesaving Award for his actions on August 22, 2021.

Ms. Brown Triplett, the mother of the child who was saved by Sgt. Skok's actions, praised Sgt. Skok for being an awesome coach and a great person. She described what occurred that day and how her daughter had seen her brother struggling in the water and jumped in to help him. She started struggling in the water and Sgt. Skok immediately leapt into the pool to save her. Ms. Brown-Triplett expressed her gratitude for Sgt. Skok's actions that day.

## Personal communications from citizens

Diane Hallum defined “systemic racism” and alleged that members of the City’s staff have perpetuated systemic racism. She accused the Director of Parks & Recreation of putting black toddlers at risk by not adhering to the federally mandated mulch standards at the playground in her area. She also accused the CDBG Coordinator of ignoring HUD regulations related to the allocation of CDBG funds. Ms. Hallum submitted a formal complaint to the City.

Gail Larson watched the Public Safety and Health Commission meeting on August 26<sup>th</sup> and is in favor of the Novak report's recommendation of creating a community liaison position. One of the responsibilities of this position would be to listen and respond to

complaints and service requests. She would appreciate having a staff person dedicated to assisting residents with these matters. Ms. Larson described her neighbor's housing situation and how she is also negatively affected by it. She has tried to contact staff at City Hall regarding this potential housing case but it would be a lot easier if there was a community liaison to contact.

The City Manager said she would have someone from the Housing Department follow up with Ms. Larson as soon as possible regarding her housing issue.

Paul Volpe made a citizen's report regarding the status of the Cedar-Lee-Meadowbrook project. He thanked members of Council for attending the forum and stressed that there was a lot of productive dialogue. Mr. Volpe does not believe parking should be an issue, depending on the number and type of units built. He does not feel including a swimming pool or a park is necessary. Instead of a park, perhaps they can incorporate twice as much green space throughout the development in unique and beautiful ways. He would like Cleveland Heights to be the first city in the area to have a true "shared street" and believes the new street in the plan can be a shared street. He stated that the large buildings to the east are too tall and too close to the single-family homes. The property on Cedar needs to be addressed and integrated into the plan. The pedestrian connections need to be improved so the area is open, public, and permeable. He does not want this to end up feeling like a gated community. Mr. Volpe's last point was lack of diversity in the residential unit prototypes. He believes the housing should reflect our diversity, whether it be economically, culturally, etc. Mr. Volpe came up with three alternative plans that he would like reviewed and he would like to meet with the Planning Director to discuss his ideas.

President Stein requested that Mr. Volpe also email his plans and ideas to members of Council.

Blanche Valancy represents the League of Woman Voters and they have three candidate forums coming up. These forums will be live streamed as well as recorded for future viewing. On September 23<sup>rd</sup>, there will be a forum for candidates running for Mayor and City Council positions. On September 30<sup>th</sup>, there will be a forum for those running for Mayor and Council for University Heights. On October 7<sup>th</sup>, there will be a forum for those who are running for the Board of Education for Cleveland Heights – University Heights School District. These forums are from 7-9pm. Information and links to these forums can be found at [lwvgreatercleveland.org](http://lwvgreatercleveland.org)

Council Member Ungar voiced his support for the Director of Parks & Recreation as well as the CDBG Coordinator. He felt that Ms. Hallum's earlier comments were unfair and misrepresent the situations. Council Member Ungar stated that it is awful that both of these City employees are now having their names smeared on a public record. He stressed that he voted against putting Diane Hallum on the Citizens Advisory Committee. He said nothing that she said was true and it is wrong to say such things without having a reasonable basis for these accusations.

President Stein also voiced his support for the Director of Parks & Recreation and the CDBG Coordinator. He said that Diane Hallum's attacks on the Director and staff in general is wrong and he agrees with Council Member Ungar.

### **Report of the City Manager**

Request a motion to approve an emergency agreement made pursuant to Chapter 171.02 of the Cleveland Heights Codified Ordinances to secure a 36-month rate for power supply through Dynegy Energy Services.

#### **Matter of Record**

Moved by Council Member Cobb, Seconded by Council Member Ungar

Roll Call:                   Ayes: Hart, Seren, Stein, Cobb  
                                 Nays: None

#### **Motion Passed**

Request a motion to approve an emergency agreement made pursuant to Chapter 171.02 of the Cleveland Heights Codified Ordinances to secure a 36-month rate for natural gas supply through VolunteerEnergy.

#### **Matter of Record**

Moved by Council Member Hart, Seconded by Council Member Cobb

Roll Call:                   Ayes: Seren, Stein, Ungar, Cobb, Hart  
                                 Nays: None

#### **Motion Passed**

Susanna Niermann O'Neil also voiced her support for the Director of Parks & Recreation as well as the CDBG Coordinator, who work diligently and do their very best for the City.

### **Report of the Clerk of Council**

Amy Himmeltein had nothing to report.

### **ADMINISTRATIVE SERVICES COMMITTEE**

**ORDINANCE NO. 123-2021 (AS), *First Reading*.** An Ordinance approving and authorizing members of certain public bodies of the City of Cleveland Heights to hold and attend meetings, conduct and attend hearings, to be counted for purposes of the quorum for such body, and to vote on matters before such body, by means of teleconference, video conference or other similar electronic technology; amending Section 107.01(b) of the Codified Ordinances of the City of Cleveland Heights; and declaring an emergency.

Introduced by Council Member Seren, Seconded by Council Member Hart

Roll Call:                   Ayes: Stein, Ungar, Cobb, Hart, Seren  
                                  Nays: None

**Legislation Passed**

**\*MOTION** to amend Ordinance No. 123-2021 to include language in Section 2(b) inserting “unless otherwise provided in the Charter, until April 1, 2022, may hold meetings and members may attend”

Moved by Council Member Cobb, Seconded by President Stein

Roll Call:                   Ayes: Stein Ungar, Cobb, Hart, Seren,  
                                  Nays: None

**Motion Passed**

Council Member Cobb expressed his concerns regarding the absence of a sunset provision within Ordinance 123-2021. He does not believe this should go on indefinitely and makes the argument that there is value in having in-person meetings. Law Director Bill Hanna explained the reasoning behind not including a sunset provision in the legislation. President Stein inquired as to whether there was consideration for a six-month renewal provision in the legislation. Mr. Hanna said this had been considered but ultimately, they thought they would leave it for a future council to amend or repeal since there is so much uncertainty at this point in time in regards to the pandemic. Council Member Hart agreed with Mr. Hanna that Council may forget to renew the legislation if a six-month renewal provision is implemented and then they would be in violation. Vice President Seren suggested additional legislation be drafted to amend this ordinance to add a sunset provision and this could be determined in the next month or so. President Stein suggested passing a motion to amend the legislation at this council meeting but Vice President Seren pointed out that adding a sunset provision to the legislation does not need to be rushed. Council Member Ungar said he agreed with both President Stein and Vice President Seren but suggested they refer to the Law Director for advice. Mr. Hanna recommended April 1, 2022 as the sunset date if they want to implement a 6-month renewal provision. The motion to amend was passed by Council.

Vice President Seren suggested expanding video recording to the Boards & Commissions meetings so the public can more easily access the meetings on YouTube. President Stein pointed out that the City Manager has had cameras installed in the Executive Conference room so they are able to video record meetings. Furthermore, Susanna said they have cameras they can use to record for meetings and events held in the atrium.

Vice President Seren also commended Sgt. Skok for his split-second action that saved the life of a child. He expressed that he was very moved by the story and had experienced a similar situation when he was a child. He said not everybody is capable of taking such action even when they have the means and responsibility to act. Vice President Seren also acknowledged that while the City appreciates the work of the developer and the architect, they also appreciate the expertise and engagement of the residents in regards to the Cedar-Lee-Meadowbrook project. He encouraged residents to vote in the primary on September 14<sup>th</sup>.

## **COMMUNITY RELATIONS AND RECREATION COMMITTEE**

**ORDINANCE NO. 117-2021 (CRR), *Second Reading*.** An Ordinance repealing Chapter 141, “Recreation Advisory Board,” of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights, and adopting a replacement Chapter 141, “Parks and Recreation Advisory Board.”

Introduced by Council Member Seren, Seconded by Council Member Ungar

Roll Call:                   Ayes: Cobb, Hart, Seren, Stein, Ungar  
                                  Nays: None

**Legislation Passed**

## **FINANCE COMMITTEE**

**RESOLUTION NO. 124-2021 (F), *First Reading*.** A Resolution requesting the County Fiscal Officer to advance taxes from the proceeds of the 2021 tax year collection pursuant to Section 321.34 of the Ohio Revised Code; and declaring an emergency.

Introduced by Council Member Hart, Seconded by Council Member Cobb

Roll Call:                   Ayes: Hart, Seren, Stein, Ungar, Cobb  
                                  Nays: None

**Legislation Passed**

**RESOLUTION NO. 125-2021 (F), *First Reading*.** A Resolution accepting the amounts and rates as determined by the Budget Commission; authorizing the necessary tax levies and certifying them to the County Fiscal Officer; and declaring an emergency.

Introduced by Council Member Hart, Seconded by Council Member Cobb

Roll Call:                   Ayes: Seren, Stein, Ungar, Cobb, Hart  
                                  Nays: None

**Legislation Passed**

**RESOLUTION NO. 126-2021 (F), *First Reading*.** An Ordinance to amend certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances, relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021 and declaring an emergency.

Introduced by Council Member Hart, Seconded by Council Member Cobb

Roll Call:                   Ayes: Stein, Ungar, Cobb, Hart, Seren  
                                  Nays: None

**Legislation Passed**

## **MUNICIPAL SERVICES COMMITTEE**

**RESOLUTION NO. 127-2021 (MS), *First Reading*.** A Resolution authorizing an agreement with Hall Public Safety Upfitters for the purchase of upfitting equipment for Police Department vehicles; and declaring an emergency.

Introduced by Council Member Hart, Seconded by Council Member Ungar

Roll Call:                   Ayes: Ungar, Cobb, Hart, Seren, Stein  
                                  Nays: None

**Legislation Passed**

Council Member Hart voiced her support for the Director of Parks & Recreation as well as the CDBG Coordinator. She also encouraged residents to go out and vote in the primary on September 14<sup>th</sup>.

## **PLANNING AND DEVELOPMENT COMMITTEE**

**RESOLUTION NO. 128-2021 (PD), *First Reading*.** A Resolution recognizing September 17, 2021 as Car Free Day and Park(ing) Day 2021 in Cleveland Heights and supporting Cleveland State University APA's celebration of Park(ing) Day on September 20, 2021 and Greater Cleveland Regional Transit Authority's celebration of Car Free Day on September 22, 2021; and declaring an emergency.

Introduced by Council Member Ungar, Seconded by Council Member Hart

Roll Call:                   Ayes: Cobb, Hart, Seren, Stein, Ungar  
                                  Nays: None

**Legislation Passed**

Council Member Ungar thanked Ms. Valancy for her comments earlier and appreciates her civic contributions. He also encouraged residents to go out and vote in the primary

for the first elected mayor of Cleveland Heights. Council Member Ungar also thanked Eric Zamft and his colleagues for putting together a focus group meeting on September 1<sup>st</sup>. He encouraged residents to watch the meeting.

## **PUBLIC SAFETY AND HEALTH COMMITTEE**

Council Member Cobb informed Council that he was part of the Public Health and Safety Committee meeting on August 26<sup>th</sup> involving the Housing Department regarding the recommendations of the Novak report. He received a lot of comments from the public, including requests for follow up, and he is working with the City Manager and the Housing Director to get answers. Council Member Cobb also encouraged residents to vote in the primary election on September 14<sup>th</sup>.

## **NEXT MEETING OF COUNCIL: MONDAY, SEPTEMBER 20, 2021**

Respectfully submitted,

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Jason S. Stein  
President of Council

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Amy Himmlein  
Clerk of Council



## CLEVELAND HEIGHTS

**Monday, September 20, 2021 Minutes**

### **CITY COUNCIL**

7:30 – 7:46 p.m.

Vice President Seren presiding

Roll Call:    Present: Cobb, Hart, Seren, Ungar  
                  Excused: Russell, Stein

Staff present: Roessner, Himmeltein, Niermann O'Neil

### **Approval of the minutes of the Council meetings held on August 2 and August 16, 2021**

Minutes were approved without any objections.

### **Matter of Record**

### **Personal communications from citizens**

John Fleshon voiced concerns regarding the Cedar-Lee-Meadowbrook project. He is worried about the loss of green space and does not believe the people who live on the street are supportive of the plan since it will dramatically alter their quiet, residential street. Mr. Fleshon thinks everything is happening too quickly and the City should slow down. He also said that Fran Mentch was unable to attend the meeting but they have over half of the signatures needed on their petition.

### **Report of the City Manager**

Susanna reminded everyone that City Hall remains closed due to the COVID pandemic. However, an accommodation has been made for the Housing and Building Departments. A table has been set up in the atrium with limited hours so residents can sit down with a staff member and fill out the appropriate forms/applications. All employees must wear masks when in contact with residents or other staff members.

The next regular Council meeting is scheduled for October 4<sup>th</sup>. Due to religious holidays, there is no meeting scheduled for September 27<sup>th</sup>. On Thursday, September 30<sup>th</sup> at 7pm,

there is a Zoning Hearing. Planning Director Eric Zamft will be presenting and Council will hear about various changes regarding garages and property lines, etc.

## **Report of the Clerk of Council**

Amy Himmelstein had nothing to report at this time.

## COMMUNITY RELATIONS AND RECREATION COMMITTEE

Nothing to report at this time.

## FINANCE COMMITTEE

**ORDINANCE NO. 129-2021 (F), *First Reading.*** An Ordinance to amend certain subparagraphs of Ordinance No. 127-2020 (F) and subsequent amending ordinances, relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2021; and declaring an emergency.

**\*MOTION** to remove Ordinance No. 129-2021 from the agenda

Council Member Hart stated Ordinance No. 129-2021 should be removed from the agenda since they do not have five members of Council present to vote on legislation. Instead, it will be combined with legislation that will be presented at the next Council meeting.

Moved by Council Member Hart, Seconded by Council Member Cobb

Roll Call: Ayes: Ungar, Cobb, Hart, Seren,  
Nays: None

## **Motion Passed**

Council Member Hart announced that a diversion program for homeowners has been implemented by the Court.

## MUNICIPAL SERVICES COMMITTEE

Nothing to report at this time.

## PLANNING AND DEVELOPMENT COMMITTEE

Nothing formal to report at this time. Council Member Ungar remarked on John Fleshon's earlier comments. He stated that contrary to Mr. Fleshon's insinuations, the plans for the Cedar-Lee-Meadowbrook project were not decided behind closed doors, nor was it a rushed process. He said there are numerous videos of meetings that took place discussing the project. The Council and the City has done their best to be transparent throughout this entire process and they welcome public input. Council Member Ungar encouraged the public to reach out to Planning Director Eric Zamft and went on to provide his own contact information as well.

#### **PUBLIC SAFETY AND HEALTH COMMITTEE**

Nothing to report at this time.

#### **ADMINISTRATIVE SERVICES COMMITTEE**

Nothing formal to report at this time. Vice President Seren encouraged everyone to wear a mask if they are around people and to get vaccinated.

#### **NEXT MEETING OF COUNCIL: MONDAY, OCTOBER 4, 2021**

Respectfully submitted,

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Jason S. Stein  
President of Council

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Amy Himmlein  
Clerk of Council