Council Agenda Item

Date: May 4, 2023

To: Doug Lewis, City Manager

From: Thomas Hummel, Fire Chief

Topic: Ordinance adding Electric Vehicle Charging Stations to the Fire Code

History: The City has, in its Codified Ordinances, specific items relating to the Fire Code and matters of Fire Safety. With the recent increase in the use and ownership of Electric Vehicles, and the subsequent increase in fires related to the charging of said vehicles, the Fire Department is seeking the addition of a section of the Fire Code to address the safe installation and use of Electric Vehicle Charging Stations (EVCS). Specifically, we are seeking to prohibit the installation of any EVCS inside any enclosed parking structures in the City of Painesville. The attached Ordinance addresses the safe installation of EVCS according to various Codes, and prohibits installation of an EVCS inside any enclosed parking structure, and specifically addresses both Level 2 and Level 3 chargers.

Purchasing: There is no purchasing required for this Ordinance.

Financing: There is no financing required for this Ordinance.

Recommendation: It is recommended that this Ordinance be enacted to protect the citizens of the City of Painesville, and to further safeguard against fires that can occur when Electric Vehicles charge. This Ordinance can go to 3 readings.

Council Agenda Item

Date: May 5, 2023

To: Douglas Lewis, City Manager

From: Sarah A. Sitterle, AICP, Director of Planning

Topic: An Ordinance Amending the District Map and the Setback map referred to in Section 1113.03 of the Painesville Code of 1998 Rezoning Permanent Parcel Numbers 15-C-001-0-00-001-0 located at 100 S. Park Place, and 15-C-001-0-00-026-0 located at 66 S. St. Clair from B-3, Central Business District to a DD, Downtown Development District.

History:
The Victoria Place building was constructed as part of the Urban Renewal program in the late 1960's to early 1970's. It was originally constructed as the New Market Mall and occupied by various retailers. The building has been used for offices since the previous mall use was discontinued. The City's parking lot was previously a parking garage that supported the New Market Mall and the adjacent building such as the Former Dollar Bank Building and the former Carlisle Department store which is now the Dworken and Bernstein Building. The Economic Development Department and the City Manager have been working with the 2019 concept plan that Painesville City Council and administration set for the site at 100 South Park Place, the Victoria Place office building, to secure a mixed-use development. In 2021, Vic Place, LLC received a $1,000,000 grant from Jobs Ohio to redevelop the site and bring 8 new jobs to Ohio. Since that time, there have been concurrent discussions with Renew Partners about an urban redevelopment project and the City entered into a Memorandum of Understanding with Vic Place, LLC in June 2022 to draft a development agreement. Concept plans have been developed, and covenants, conditions and restrictions have been drafted. The City is working on a development agreement with Vic Place, LLC. The City's parking lot property is included in the application to meet the 2-acre minimum required for the Downtown Development District zoning. This is a transformational mixed-use development including a mixed-use commercial office, multifamily, retail, and restaurant development building that will be a catalyst alongside the previous pieces of legislation for other future investments downtown.

The Victoria Place site redevelopment is consistent with the City's adopted Downtown Master Plan and the Comprehensive Plan. An aspect of the City's vision for a mixed-use development was to provide flexibility within the zoning to permit the developer options in designing the site that would meet the market demand. To facilitate future mixed-use developments, the City proposed changes to the DD, Downtown Development District to encourage developments but provide the City and the Planning Commission the level of control that is necessary to support a high-quality design and

investment for any property zoned or rezoned to the DD District. The code changes to the DD District were presented to the Planning Commission in April 2022, and approved by City Council in June 2022.

An important aspect of the DD District is the required covenants and restrictions that must be placed on the property as part of the rezoning. Section 1117.09 (b) of the Unified Development Code Special Provisions for Downtown Development District, requires that "deed covenants and restrictions shall be submitted to ensure that the project is constructed as a unified development project. The covenants and restrictions shall, at a minimum, establish the proposed unit sizes for each type of residential structure, design and architectural guidelines for structures and the site, and maintenance responsibilities. The applicant shall submit the necessary covenants, restrictions and agreements to the City for review and approval so that the City Planning Commission can make the determination that the project is developed as a unified development project." The Declaration of Covenants, Conditions and Restrictions (Covenants) for this site are attached for your review. A second step in the approval process is the requirement for a conditional use permit (CUP) for the mixed use development, should the rezoning be approved. The CUP would set forth the specific development and design for the site that would be in compliance with the Covenants as approved by the Planning Commission and subsequently City Council through this rezoning process. The Covenants will be binding upon any future development. Should the current project not proceed the covenants will remain in place as a requirement of any future development unless revised by the City as the Declarant and approved by both the Planning Commission and City Council.

The site is adequately served by various City services, and other Departments have indicated they have no issues with the rezoning. Additionally, the change in zoning would not impact the adjacent properties, and there are currently no residents in the immediate vicinity. Staff believes the rezone would not significantly impact other businesses in the area.

Finance:
This Resolution will not impact the City's budget.

Purchasing:
No purchasing is required for this Resolution.

Recommendation:

The Downtown Master Plan recommends this area is used to improve the pedestrian experience, reinforce the historic fabric with complimentary development, concentrate shopping and entertainment activity, and encourage mixed-use development to establish a living environment within the downtown core. Staff is of the opinion that rezoning to the DD, Downtown Development District to allow this development would achieve all of the direct objectives of the Downtown Master Plan. This rezoning would also be reasonable and in accordance with the purpose and intent of the Unified Development Code and the Comprehensive Plan. Staff recommends approval of the requested rezoning of B-3, Central Business District to DD, Downtown Development District. This Ordinance can go three readings. A Public Hearing will be scheduled for June 20, 2023.

VIC PLACE REDEVELOPMENT

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

Declarant, Vic Place LLC (hereinafter referred to as the ”Declarant”), is the owner of certain real estate in the City of Painesville, Lake County, of Lake, State of Ohio, and more fully described in Exhibit "A"," attached hereto and incorporated herein by reference (hereinafter referred to as "Property"). The Deed to Vic Place LLC is Recorded in Official Records of Lake County Recorder’s Office , Ohio Document #_____. Declarant intends to redevelop the building commonly known as Victoria Place located on the Property (“Vic Place Redevelopment”).

Declarant hereby declares that the Property shall be held, sold and conveyed subject to the covenants, conditions, restrictions and reservation of easements herein. This Declaration is for the purpose of protecting the value and desirability of the Property and which shall run with the Property submitted hereunder or which may subsequently be added, and shall be binding on all parties having any right, title or interest in the Property, its successors and assigns, and shall inure to the benefit of each owner thereof.

The Declaration of Covenants, Conditions, and Restrictions (CC&Rs) for the Painesville Vic Place Redevelopment is a recorded document which establishes terms and conditions for the development and use of property within the area described in Exhibit A. The CC&Rs run with the land and are legally binding on all property owners. The CC&Rs are intended to enhance and protect the value, desirability, and attractiveness of all lots to their mutual benefit.

The CC&Rs are consistent with or more restrictive than the provisions of the City of Painesville Codified Ordinance with respect to permitted uses and development standards. To ensure compliance, the CC&Rs establish procedures for the review by the City of plans for any proposed development. The CC&Rs also establish procedures and responsibilities for maintenance.

NOW, THEREFORE, Vic Place LLC does hereby establish the covenants, conditions, reservations, and restrictions upon which and subject to which all lots, sublots and portions of such sublots shall be improved or sold and conveyed by the Declarant as owner thereof. Each and every one of these covenants, conditions, reservations, and restrictions is for the benefit of the owner of land in the Vic Place Redevelopment, or any interest therein, and shall inure to and pass with each and every parcel of Vic Place Redevelopment and shall bind the present owner and the respective successors in interest of the present owner thereof. These covenants, conditions, reservations, and restrictions are and each thereof

is imposed upon such lots and/or sublots, all of which are to be construed as restrictive covenants running with the title to such lots and/or sublots and with each and every parcel thereof. The Declaration of Covenants, Conditions, and Restrictions are described as follows:

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

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Article

Recitals

This Declaration, Made this _____day of_____, 2023, by Vic Place LLC, is made with reference to the following facts:

RECITALS

I. ARTICLE I - DEFINITIONS

Unless the context otherwise specifies or requires, the terms defined in this Article I shall, as used in this Declaration, have the meanings herein set forth:

1.1 Architect

The term "Architect" shall mean a person holding a certificate to practice architecture in the state of Ohio.

1.2 Beneficiary

The term "Beneficiary" shall mean a mortgagee under a mortgage, as well as a beneficiary under a deed of trust.

1.3 Declarant

The term “Declarant” shall mean the Vic Place LLC, an Ohio limited liability company, and, to the extent provided in Article X of this Declaration, its successors and assigns.

1.4 Declaration

The term “Declaration” shall mean this Declaration of Covenants, Conditions, and Restrictions for Vic Place Redevelopment, as it may from time to time be amended or supplemented.

1.5 Deed of Trust

The term “Deed of Trust” shall mean a mortgage as well as a deed of trust.

1.5.1 Downtown Development District

The term “Downtown Development District” shall mean the same thing as defined in the City of Painesville Unified Development Code and shall be synonymous with the term “DD District”.

1.6 Improvement-Improvements

The term ‘Improvement’ or “Improvements” shall include but not limited to buildings, outbuildings, road, driveways, parking areas, fences, screening walls and barriers, retaining walls, stairs, decks, water lines, sewers, electrical and gas distribution facilities, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, loading areas, and all other structures, construction, installations, and landscaping of every type and kind, whether above or below the land surface.

1.7 Lot

The term “Lot” shall mean a fractional part of the Subject Property as subdivided on subdivision or parcel maps recorded from time to time in the Office of the Recorder of the County of Lake, State of Ohio.

1.7.1 Market Rate Housing

The term “Market Rate Housing” shall mean housing generated by the real estate market without direct Federal or State subsidy such as the Section 8 Housing Choice Voucher Program or other HUD rental subsidy programs.

1.8 Mortgage

The term “Mortgage” shall mean a deed of trust as well as a mortgage.

1.9 Mortgagee

The term “Mortgagee” shall mean a beneficiary under, or holder of, a deed of trust, as well as a mortgagee under a mortgage.

1.10 Occupant

The term “Occupant” shall mean a lessee or licensee of an Owner, or any other person or entity other than an Owner in lawful possession of a lot with the permission of the Owner.

1.11 Owner

The term "Owner" shall mean: (I) the person or persons holding record fee title to any portion of the Property, or (ii) the lessee of lessees entitled to occupy all of a Parcel under a lease. In the event that the ownership of the Improvements on any Parcel shall ever be severed from the ownership of the land, whether by lease or by deed, only the Owner of the Improvements shall be deemed an Owner hereunder and shall be entitled to act on behalf of the Owner of the land for all purposes hereunder.

1.12 Record-Recorded-Recordation

The terms "Record", "Recorded", or "Recordation" shall mean, with respect to any document, the recordation of said documented in the Office of the Recorder of the County of Lake, State of Ohio.

1.13 Street or Streets

The term "street", or "streets" shall mean any street, highway, road, or thoroughfare within or adjacent to the Subject Property and shown on any recorded subdivision or parcel map, or record or survey, whether designated thereon as street, boulevard, parkway, place, drive, road, court, terrace, way, lane, circle, or otherwise.

1.14 Subject Property

The term "Subject Property" shall be synonymous with the term "Vic Place Redevelopment" and each lot therein, and shall mean all of the real property now or hereafter made subject to this Declaration.

1.15 Visible from Neighboring Property

The term "visible from neighboring property" shall mean, with respect to any given object on a lot, that such object is or would be visible to a person six (6) feet tall, standing on any part of any adjacent lot or other property at an elevation no greater than the elevation of the base of the object being viewed.

1.16 Property Line

The term "property line" shall mean the boundary of every lot.

ARTICLE II - SUBJECT PROPERTY

2.1 General Declaration

Declarant hereby declares that all of the subject real property located in the City of Painesville, County of Lake, State of Ohio, and more particularly described in Exhibit A (will be placed on Vic Place property only) is, and shall be, conveyed, hypothecated, encumbered, leased, occupied, built upon, or otherwise used, improved, or transferred in whole or in part, subject to this Declaration. All of the covenants, conditions, and restrictions set forth herein are declared and agreed to be in furtherance of a specific plan for the Subject Property, improvement, and sale of said real property and are established for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Subject Property and every part thereof. All of said covenants, conditions, and restrictions shall run with all of the Subject Property now or hereafter made subject to this Declaration for all purposes and shall be binding upon and inure to the benefit of Declarant and all Owners, Occupants, and their successors in

interest as set forth in this Declaration.

ARTICLE III - REGULATION OF OPERATIONS AND USES

Vic Place shall have specific permitted uses, as more fully set forth below. Such approved uses shall be performed or carried out entirely within a building (except as may otherwise be permitted by the CCRs) that is so designed and constructed that the enclosed operations and uses do not cause or produce a nuisance to other lots or property, such as, but not limited to, sound, vibration, air or water pollution, dust, emission of odorous, toxic, or nontoxic matter (including steam), nor create a potential for other hazards.

3.1 Uses

Vic Place is designated for certain retail, business and residential uses. The Vic Place is included within the Downtown Development District. The purpose of the Downtown Development District is to provide a location for a greater intensity of development which permits a variety of commercial, business, cultural and recreational activities as a focal point of the community in accordance with the City of Painesville Downtown Master Plan and to encourage flexible zoning guidelines and site design criteria. A use not listed in permitted uses that is similar in nature to other uses permitted or due to new and emerging businesses or industries may request in writing from the Declarant and the City of Painesville a similar use determination to allow for an appropriate use. The applicant will be notified in writing when a similar use determination has been made and if the use is permitted.

Permitted Uses:

a. Retail stores
b. Restaurants, bars and event space
c. Offices, professional, general or medical and Co-work Space
d. Barber and beauty shops and similar personal services
e. Fitness and performance studios
f. Government or Public Use
g. Multi-family residential – market rate
h. Storage, limited to a maximum of 20,000 square feet, in spaces that do not have windows or natural light

Conditional Uses:

a. Similar uses as determined by the City of Painesville Planning Commission

Accessory Uses

a. Uses customary and incidental to a listed permitted use.

3.1.1 Residential Uses

Residential uses shall be permitted in the Vic Place Redevelopment provided that they are designed to be integrated into a single building that contains a commercial component on the main level. No residential units shall be permitted on the first level. No federal, state or locally subsidized housing development shall occur on any part of the property.

Units within the building shall meet all of the following criteria:

a. No unit shall be less than 700 square feet in area; however not more than 10% of all units shall be 700 square feet.

b. No two-bedroom unit shall be less than 1000 square feet in area.

c. The total number of residential units on the Vic Place Redevelopment shall not be less than 70 units and shall not exceed 80 units which shall include a combination of one bedroom units, one bedroom+ units and two bedroom units.;

3.1.2 Commercial Uses

Commercial uses shall at a minimum occupy 90% of the first level of the building.

3.2 Condition of Property

The owner or Occupant of any space shall at all times keep it and the buildings, improvements, and appurtenances thereon in a safe, clean, and wholesome condition and comply as its own expense, in all respects, with all applicable governmental, health, fire, and safety ordinances, regulations, requirements, and directives; and the Owner or Occupant shall at regular and frequent intervals remove at its own expense any rubbish of any character whatsoever which may accumulate upon such lot.

3.3 Maintenance and Repairs

All Improvements thereon, including, on site drains, shall at all times be constructed, kept, and maintained by the Owner or Occupant of the property in first-class condition, repair, and appearance as other owners of high-class properties of similar class and construction in Lake County. All repairs, alterations, replacements, or additions to Improvements shall be at least equal to the original work in class and quality. The necessity and adequacy of such repairs shall be measured by the same standard as set forth above for the original construction and maintenance, and shall be in compliance with the Design Standards

3.4 Refuse Collection Areas

All outdoor refuse collection areas shall be completely enclosed and screened by a constructed wall of masonry to match the exterior building materials not less than six (6) feet by eight (8) feet. No refuse collection areas shall be permitted between a street and the front of the building.

3.5 Public Utilities

All utility connections to the building from S. Park Place, Main Street or S. St Clair Street shall be constructed underground.

3.6 Excavation

No excavation of the subject property shall be made except in connection with construction of an improvement, and upon completion, exposed openings shall be back-filled and disturbed ground shall be graded, leveled and restored to its original condition.

3.7 Special Design Areas

This property is located in the City of Painesville Downtown Historic Design District. Special attention shall be paid to the exterior façade of all sides of the building to make the building compatible with the City of Painesville Downtown Design Standards, while acknowledging the building located on the Property is not a historic structure.

3.8 Other Operations and Uses

Operations and uses which are neither specifically prohibited nor specifically authorized by this Declaration may be permitted in a specific case if operational plans and specifications are submitted to and approved in writing by Declarant and approved by the City of Painesville. Approval or disapproval of such operational plans and specifications shall be based upon the effect of such operations or uses on any other property subject to this Declaration or upon the occupants thereof.

IV. ARTICLE IV - CONSTRUCTION OF IMPROVEMENTS

4.1 Approval of Plans Required

No improvements shall be erected, placed, altered, maintained, or permitted to remain on the premises by any Owner or Occupant until final plans and specifications shall have been submitted to and approved in writing by the Declarant and the City of Painesville. Such final plans and specifications shall be submitted in duplicate over the authorized signature of the Owner or Occupant, or both, or the authorized agent thereof. Such plans and specifications for any commercial or multi-family uses shall be prepared by a certified architect in such form and shall contain such information as may be required by the Declarant, but shall in any event include the following:

4.1.1 A building elevation plan showing dimensions, materials, and exterior color scheme in no less detail than required by the appropriate governmental authority for the issuance of a building permit. Material changes in approved plans must be similarly submitted to, and approved by the Declarant.

4.1.2 Plans shall indicate the proposed use of the space and any interior changes as a result of the application.

4.1.3 Changes shall be consistent with the plans approved by the City of Painesville by a conditional use permit for a mixed-use development. Any significant departure from that approval shall require a modification of the mixed-use Conditional Use prior to approval of any plan.

4.2 Basis for Approval

Approval shall be based, among other things, upon adequacy of structural design, reasonable efforts for conformity, and harmony of external design with neighboring structures, effect of location and use of proposed improvements upon neighboring lots, proper facing of main elevation with respect to nearby streets, adequacy of screening of mechanical, air conditioning, or other rooftop installations, and conformity with the intent of this Declaration., and the complete visual screening of all transformer, terminal, electrical and HVAC equipment. Except as otherwise provided in this Declaration, the Declarant shall have the right to disapprove any plans and specifications submitted hereunder on any reasonable grounds including, but not limited to, the following:

4.2.1 Failure to comply with any of the restrictions set forth in this Declaration;

4.2.2 Failure to include information in such plans and specifications as may have been reasonable requested by the Declarant;

4.2.3 Objection to the exterior design, the appearance of materials, or materials employed in any proposed structure;

4.2.4 Objection on the ground of incompatibility of any proposed structure or use with existing structures or uses upon other lots, or other property in the vicinity of the subject property;

4.2.5 Objection to the color scheme, finish, proportions, style of architecture, height, bulk, or appropriateness of any structure;

4.2.6 Any other matter which, in the judgement of the Declarant would render the proposed improvements or use inharmonious with the general plan for improvement of the subject property, or the Design Standards which Declarant may promulgate from time to time, or with improvements located upon other lots or other property in the vicinity.

4.3 Result of Inaction

If the Declarant fails either to approve or disapprove plans and specifications submitted to it for approval within forty- five (45) days after the same have been submitted, it shall be conclusively presumed that the Declarant has approved said plans and specifications; provided, however, that

if, within the forty-five (45) day period, the Declarant gives written notice of the fact that more time is required for the review of such plans and specifications, there shall be no presumption that the same are approved until the expiration of such reasonable period of time as is set forth in the notice.

4.4 Approval

The Declarant may approve plans and specifications as submitted, or as altered or amended, or it may grant its approval to the same, subject to specific conditions. Upon approval by the Declarant of any plans and specifications submitted, a copy of such plans and specifications, together with any conditions, shall be deposited for permanent record with the Declarant, and a copy of such plans and specifications, bearing such approval together with any conditions, shall be returned to the applicant submitting the same.

4.5 Proceeding with Work

Upon receipt of approval from the Declarant, pursuant to Section 4.4, the Owner or Occupant, or both, to whom the same is given, shall, as soon as practicable, satisfy any and all conditions of such approval and shall diligently proceed with the commencement and completion of all approved excavation, construction, refinishing, and alterations. In all cases, work shall commence within one (1) year from the date the approval, and if work is not so commenced, approval shall be deemed revoked, unless the Declarant, pursuant to written request made and received prior to the expiration of said one (1) year period, extends the period of time within which work must be commenced, which such approval shall not be unreasonably withheld.

4.6 Completion of Work

Any improvement commenced pursuant hereto shall be completed within one (1) year from the date of the Declarant's approval of the plans and specifications therefore, except for so long as such completion is rendered impossible, or unless work upon the proposed improvements would impose a great hardship upon the Owner or Occupant to whom the Declarant's approval is given, due to strike, fire, national emergency, natural disaster, pandemic, supply chain disruption, or other supervening force beyond the control of Owner Occupant. The Declarant may, upon written request made and received prior to the expiration of the one (1) year period, extend the period of time within which work must be completed, which such request shall not be unreasonably withheld. Failure to comply with this Section 4.6 shall constitute a breach of this Declaration and subject the party in breach to the enforcement procedures set forth in Article XII.

4.7 Declarant Not Liable

Declarant shall not be liable for any damage, loss, or prejudice suffered or claimed by any person on account of:

4.7.1 The approval or disapproval of any plans, drawings, and specifications, whether or not in any way defective; or

4.7.2 The construction of any improvement or performance of any work, whether or not pursuant to approved plans, drawings, and specifications.

4.8 Construction without Approval

If any improvement shall be erected, placed, or maintained upon any lot, or the exterior design thereof, or any new use commenced upon any lot, other than in accordance with the approval by the Declarant pursuant to the provisions of this Article IV., such alteration., erection, placement, maintenance or use shall be deemed to have been undertaken in violation of this Declaration; upon written notice from the Declarant, any such improvement so altered; erected, placed, maintained, or used upon any lot in violation of this Declaration shall cease or be amended so as to conform to this Declaration. Should such removal or alteration or cessation or amendment of use not be accomplished within thirty (30) days after receipt of such notice, then the party in breach of this Declaration shall be subject to the enforcement procedures set forth in Article IX.

ARTICLE V SITE DEVELOPMENT STANDARDS

Any improvement to the building shall conform to standards of the City of Painesville Unified Development Code and the standards established by the Downtown Master Plan and Streetscape Plan, taking into consideration the limitations imposed by the building on the Property and the purpose for which the building was originally intended. No exterior improvements shall be made unless approved by the City of Painesville.

5.1 Storage, Service, and Loading Areas

Storage, service, maintenance, and loading areas must be constructed, maintained, and used in accordance with the following conditions:

5.1.1 No materials, supplies, or equipment, including trucks or other motor vehicles, shall be stored upon a site except inside a closed building or behind a masonry wall not less than six (6) feet in height, screening such materials, supplies, or vehicles from adjacent sites so as not to be visible from neighboring properties and streets. No outdoor storage areas shall be permitted, unless otherwise approved in writing by the City of Painesville. No storage areas may extend into a setback area.

5.1.2 Provisions shall be made on each site for any necessary vehicle loading, and no on-street vehicle loading shall be permitted.

5.1.3 No loading areas or docks shall face a street.

5.1.4 All storage, maintenance, and loading areas must be constructed and used in accordance with plans approved by the Declarant. All storage, maintenance, and loading areas must be kept clean and in good condition and repair.

5.2 Refuse Collection Areas

5.2.1 All outdoor refuse containers shall be visually screened within a solid six (6) feet or higher masonry, wood, vinyl, or other material to match the exterior building material enclosure, so as not to be visible from adjacent lots or sites, neighboring properties or streets. No refuse collection areas shall be permitted between Main St., South Park Place or St. Clair Street the building. Provided it meets the requirements of this subsection

5.2.2 Refuse collection areas should be effectively designed to contain all refuse generated on site and deposited between collections. Deposited refuse should not be visible from outside the refuse enclosure.

5.2.3 Refuse collection enclosures should be designed of durable materials with finishes and colors which are unified and harmonious with the overall architectural theme.

5.2.4 Refuse collection areas should be so located upon the lot as to provide clear and convenient access to refuse collection vehicles and thereby minimize wear and tear on on-sit and off-site developments.

5.2.5 Refuse collection areas should be designed and located upon the lot as to be convenient for the deposition of refuse generated on site.

5.3 Screening of Exterior Mechanical Equipment

5.3.1 Exterior components of plumbing, processing, heating, cooling, and ventilating systems (including but not limited to piping, tanks, stacks, collectors, heating, cooling, and ventilating-equipment fans, blowers, ductwork, vents, louvers, meters, compressors, motors, incinerators, ovens, etc.) shall not be directly visible from a height of eight (8) feet above any ground or ground-floor elevations at a distance closer than one hundred (100) feet from the closest building wall on any lot.

5.3.2 It is recommended, in the case of roof-mounted mechanical equipment, that building parapets be of such a height that roof-mounted screening devices may not be required. If building parapets do not provide the required screening, mechanical equipment shall be screened by an unobtrusive screening device that will appear as an integrated part of the overall architectural design.

5.3.4 Any devices employed to screen exterior components of plumbing, processing, heating, cooling, and ventilating systems from direct view shall appear as integrated parts of the architectural design and, as such, shall be constructed of complementary and durable materials and finished in a texture and color scheme complementary to the overall architectural design.

5.3.5 Any exterior components of plumbing, processing, heating, cooling, and ventilating systems and their screening devices which will be visible from upper floors of adjacent buildings shall be kept to a visible minimum, shall be installed in a neat and compact fashion, and shall be painted such a color as to allow their blending with their visual backgrounds.

5.3.6 No exterior components of plumbing, processing, heating, cooling, and ventilating systems shall be mounted on any building wall unless they are integrated architectural design features, and in any case shall be permitted only with the written approval of the Declarant.

5.4 Screening of Exterior Electrical Equipment and Transformers

5.4.1 Transformers or other electrical equipment that may be visible from any primary visual exposure area shall be screened with either plantings or a durable noncombustible enclosure of a design configuration acceptable to the City of Painesville.

5.4.2 Transformer enclosures should be designed of durable materials with finishes and colors which are unified and harmonious with the overall architectural theme.

5.4.3 Exterior-mounted electrical equipment shall be mounted on the interior of a building wherever possible. When interior mounting is not practical, electrical equipment shall be mounted in a location where it is substantially screened from public view. In no case shall exterior electrical equipment be mounted on the street side or primary exposure side of any building.

5.4.4 Exterior-mounted electrical equipment and conduits shall be kept to a visible minimum, where visible shall be installed in a neat and orderly fashion, and shall be painted to blend with their mounting backgrounds.

5.5 Utilities and Communication Devices

5.5.1 All exterior on-site utilities, including but not limited to storm sewers, sanitary sewer systems, gas lines, water lines, and electrical, telephone, and communications wires and equipment, shall be installed and maintained underground.

5.5.2 On-site underground utilities shall be designed and installed to minimize the disruption of off-site utilities, paving, and landscape during construction and maintenance, and shall be of such a design as not to place excessive burdens upon off-site utility systems during the course of use

5.5.3 No antenna or device for transmission or reception of any signals, including but not limited to telephone, television, and radio, shall be placed on any device so that it is visible from five (5) feet above the ground or ground-floor level at a distance of five hundred (100) feet in any direction, unless specific written approval is granted by the Declarant.

5.5.4 Temporary overhead power and telephone facilities are permitted during construction only.

ARTICLE VI ARCHITECTURAL STANDARDS AND DESIGN CRITERIA

6.1 Exterior Design Elements

6.1.1 The exterior of the building shall be in conformance with the approved plans by the City of Painesville. All modifications or changes to the exterior elevations shall be in conformance with the City of Painesville Downtown Historic District Design Review Criteria as outlined in the Unified Development Code or as supplemented or amended by this Declaration.

ARTICLE VII - MAINTENANCE

7.1 Owner's Maintenance Responsibility

7.1.1 Such maintenance and repair shall include, without limitation cleaning, maintenance, and relamping of any external lighting fixtures, except such fixtures which are the property of the City of Painesville.

7.1.2 Performance of necessary maintenance of all landscaping as required within and around the site including the trimming, watering, and fertilization of all grass, groundcover, shrubs and trees; removal of dead or waste material; and replacement of any dead or diseased grass, groundcover, shrubs, or trees.

7.1.3 The removal of trash and rubbish within the common areas of the Site are thereby the responsibility of an Owner.

7.1.4 Maintenance of general public liability insurance for the benefit of Declarant and all Owners and Occupants against claims for bodily injury, death, or property damage occurring on, in or about the Site and the adjoining streets, sidewalks, and passageways, but not within any lot or the improvements thereon or within any building located on a lot or within any other area within the exclusive control of any Owner or Occupant; such insurance to afford protection of not less the $1,000,000 with respect to property damage.

ARTICLE VIII - MODIFICATION AND APPEAL

8.1 Procedure

Except as otherwise provided in this Declaration or any provision hereof, or any covenant, condition, or restriction contained herein, may be terminated, extended, modified, or otherwise amended only with the approval of the City. Any Owner, successor or assign of the Property shall not modify, change, terminate or otherwise amend the covenants and restrictions that are contained in this Declaration without the written consent of the City. No such termination, extension, modification, or other amendment shall be effective until a proper instrument in writing has been executed, acknowledged, and recorded.

8.2 Modification by Declarant

Subject to the provisions that are set forth in Section 9.1 above, for so long as Declarant owns any interest (excepting a leasehold interest) in the Subject Property or any part there of the Declarant acting alone may modify or amend the provisions of this Declaration. No such modification or amendment shall be effective until a proper instrument in writing has been executed, acknowledged, and recorded.

8.3 Approval by the City of Painesville

Any amendment or modification to this Declaration affecting the maintenance obligations of the Owner, or otherwise materially modifying any of the obligations or duties imposed or required by Vic Place or its

successors and assigns shall require the prior written approval of the City Manager, City Planning Commission and City Attorney of the City of Painesville.

8.4 Governmental Regulation

All valid governmental enactments, ordinances, and regulations are deemed to be a part of this Declaration, and to the extent that they conflict with any provision, covenant, condition, or restriction hereof, said conflicting governmental enactment, ordinance, and regulation shall control, and the provision, covenant, condition, or restriction hereof in conflict therewith shall be deemed (I) amended to the extent necessary to bring it into conformity with said enactment, ordinance, or regulation while still preserving the intent and spirit of the provision, covenant, condition, or restriction; or (ii) stricken here from should no amendment conforming to the governmental enactment, ordinance, or regulation be capable of preserving the intent and spirit of said provision, covenant, condition, or restriction.

ARTICLE IX - ENFORCEMENT

9.1 Default and Remedies

The City, Declarant has the right to enforce the covenants, conditions and restrictions contained in this Declaration and in any separate Deed Covenant that was filed with respect to this Property. In the event of any breach, violation, or failure to perform or satisfy any covenant, condition, or restriction which has not been cured within 30 days after written notice to do so, Declarant at its sole option and discretion may enforce any one or more of the following remedies or any other rights or remedies to which Declarant may be entitled by law or equity, whether or not set forth herein. All remedies provided herein or by law or equity shall be cumulative and not mutually exclusive.

9.1.1 Damages. Declarant may bring suit for any compensable breach of or noncompliance with any of the covenants, conditions, or restrictions, or declaratory relief to determine the enforceability of any of these covenants, conditions, or restrictions.

9.1.2 Equity. It is recognized that a Violation by an Owner of one or more of the foregoing covenants, conditions, or restrictions shall cause Declarant to suffer material injury or damage not compensable in money, and that Declarant shall be entitled to bring an action in equity or otherwise for specific performance to enforce compliance with these covenants, conditions, and restrictions or an injunction to enjoin the continuance of any such breach or violation thereof.

9.1.3 Abatement and Lien Rights. Any such breach or violation of these covenants, conditions, and restrictions or any provision hereof is hereby declared to be a nuisance, and Declarant shall be entitled to enter the site or portion of the Subject Property as to which the breach or violation exists and summarily abate and remove, without further legal process, to the maximum extent permitted by law, any structure, thing, or condition that may exist in violation of any of these restrictions; or take those actions which are required of any person or entity which is subject to this Declaration; or to prosecute any remedy allowed by law or equity for the abatement of such nuisance against any person or entity acting or failing to act in violation of these restrictions—all at the sole cost and expense of Owner or any person having possession under Owner. Any costs or expenses paid or incurred by Declarant in abating such nuisance or prosecuting any such

remedy (including all reasonable attorneys' fees and costs of collection), together with interest thereon at the rate of 10% per annum, shall be a charge against the site or portion of the property as to which the breach or violation exists, and shall also be the personal obligation of that person who was Owner when such charges became due or who committed such breach or violation. In addition to any other rights or remedies hereunder, Declarant may deliver to Owner and record with the Lake County Recorder a certificate or notice of claim of lien (which, among other things, may, but need not, recite the nature of the violation, the legal description of the site or portion of the property affected by such violation, the record or reputed Owner thereof, Declarant's name and address, and the remedies being pursued by Declarant or the amount of any such lien claim has not been charged) to Declarant's satisfaction, and if any recited amounts so charged have not been paid within 30 days thereafter, Declarant or its authorized representatives may foreclose such lien by a sale conducted pursuant of the Ohio Civil Code, as amended from time to time or other statutes applicable to the exercise of powers of sale in mortgages or deeds of trust, or in any other manner permitted by law. Declarant, through its authorized representatives, may bid on and acquire any property subject to such lien at any such foreclosure sale. If the violations recited in such lien claim are timely cured and any recited amounts timely paid as provided above, Declarant shall forthwith record an appropriate release of such lien at Owner's sole expense.

9.2 Waiver

No waiver by Declarant of a breach of any of these restrictions, and no delay or failure to enforce any of these restrictions, shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other of these covenants, conditions, and restrictions. No waiver by Declarant of any breach or default hereunder shall be implied from any omission by Declarant to take any action on account of such breach or default if such breach or default persists or is repeated, and no express waiver shall affect a breach or default other than as specified in said waiver. The consent or approval by Declarant to or of any act by an Owner requiring Declarant's consent or approval shall not be deemed to waive or render unnecessary Declarant's consent or approval to or of any similar acts by Owner.

9.3 Costs of Enforcement

In the event any legal or equitable action or proceeding shall be instituted to enforce any provision of these restrictions, the party that is responsible for the breach shall be responsible to pay the City for all of its costs, including court costs and reasonable attorneys' fees

9.4 Non-Exclusive Rights of Enforcement

The rights of enforcement granted to Declarant are non-exclusive and shall be exercisable by Declarant for a period of not less than fifty (50) years for the Subject Property. Concurrently, each Owner and the Declarant are hereby granted all of the rights of enforcement and the remedies provided to Declarant by this Article X. Any such Owner and/or the Declarant may seek enforcement of all remedies in accordance with the provisions of this Article independently of Declarant.

ARTICLE X - ASSIGNMENT

Any and all of the rights, powers, and reservations of Declarant herein contained may be assigned to any person, corporation, or association which will assume the duties of Declarant pertaining to the particular rights, powers, and reservations assigned, and upon any such person, corporation, or association

evidencing its consent in writing to accept such assignment and assume such duties, he or it shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein.

ARTICLE XI - CONSTRUCTIVE NOTICE AND ACCEPTANCE

Every person or entity who now or hereafter owns, occupies, or acquires any right, title, or interest in or to any portion of the Subject Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in the Subject Property.

ARTICLE XII - WAIVER

Neither Declarant nor its successors or assigns shall be liable to any Owner or Occupant of the Subject Property by reason of any mistake in judgement, negligence, nonfeasance, action, or inaction or for the enforcement or failure to enforce any provision of this Declaration. Every Owner or Occupant of any of said property by acquiring its interest therein agrees that it will not bring any action or suit against Declarant to recover any such damages or to seek equitable relief because of same.

ARTICLE XIII - RUNS WITH LAND

All covenants, conditions, restrictions, and agreements herein contained are made for the direct, mutual, and reciprocal benefit of each and every lot of the Subject Property; shall create mutual equitable servitudes upon each lot in favor of every other lot; shall create reciprocal rights and obligations between respective Owners and Occupants of all lots and privacy of contract and estate between all grantees of said lots, their heirs, successors, and assigns, operate as covenants running with the land, for the benefit of all other lots, except as provided otherwise herein.

ARTICLE XIV - CAPTIONS

The captions of articles and sections herein are used for convenience only and are not intended to be a part of this Declaration or in any way to define, limit, or describe the scope and intent of the particular article or section to which they refer.

ARTICLE XV - EFFECT OF INVALIDATION

If any provision of the Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

IN WITNESS WHEREOF, the Vic Place LLC, by and through its Managing Member _____has executed this Declaration of Covenants, Conditions and Restrictions on the _____ day of _____, 2023

Signed and acknowledged in

The Presence of:

Vic Place LLC

_____
Signature

_____
By

_____
Print

_____
Its:

_____
Signature

_____
Print

STATE OF OHIO)
) SS
COUNTY OF LAKE)

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

Before me, a Notary Public in and for said county, personally appeared the above named _____who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed and the free act and deed of the City of Painesville, Ohio.

IN TESTIMONY WHEREOF, I have hereunto affixed my name and official seal at _____, Ohio this _____ day of _____, 2022.

X_____
Notary Public

Council Agenda Item

Date: May 12, 2023

To: Painesville City Council

From: Doug Lewis, City Manager

Topic: Memo establishing a TIF for Victoria Place to encourage redevelopment of the site.

History:

City Council previously approved a Memorandum of Understanding as to Proposed Development Agreement dated July 2, 2022 (as amended, the "Development Agreement"), between the City and Vic Place LLC (the "Developer") for the urban redevelopment of the real property at the former Victoria Place. The developers were approved by Planning Commission to construct a mixed-use residential and commercial project consisting of no less than seventy (70) and no more than eighty (80) residential apartment units, approximately sixty-eight thousand, seven hundred and fifty (68,750) square feet of commercial space, and approximately five thousand, seven hundred and ninety-eight 5,798 square feet of restaurant space (the "Project"). Pursuant to the Development Agreement, the City agreed to provide tax increment financing for the Project in order to enable the redevelopment of the Parcels and the development of the Project. Under the Ohio Revised Code, the "TIF Act" authorizes the Council to declare the improvement to the Parcels to be a public purpose and exempt from taxation, require the owner of the Parcels to make service payments in lieu of taxes, establish an urban redevelopment tax increment equivalent fund for the deposit of those service payments, and specify the purposes for which money in that fund will be expended. As a result, the Painesville City Council passed Resolution 12-23 on February 21, 2023 which authorized the City to obtain the property for urban redevelopment purposes. The property was then transferred back to the Developer.

This legislation will authorized the City to implement a tax increment financing program for the Victoria Place parcels pursuant to the TIF Act and to fulfill its obligations under the Development Agreement and to pay costs of the urban redevelopment of the Parcels and the development of the Project. The City of Painesville and the Painesville City Local School District had previously entered into a Modified School Compensation Agreement dated as of February 13, 2023, as amended, with respect to the Parcels and the Project, whereby the School District approved the exemption to be provided by this Ordinance and waived notice of this Ordinance in exchange for school compensation payments from the Project (the "School Compensation Agreement"). However, as a result of the fact that the Developer has determined

that the TIF payments should be monetized in order to finance the overall project, the City and the Schools must enter into an Amended Modified School Compensation Agreement that is scheduled to be heard by the Painesville City Local School District at their meeting on June 12, 2023. Notices notice of this approved Modified School Agreement have been delivered to the Board of Education of the Auburn Career Center and they will be informed of the Amended version of the Modified School Agreement. The terms of both agreements are exactly the same with the exception that the Developer will now pay service payments.

Purchasing:

None

Financial

Positive. The creation of the Victoria Place TIF District will generate funding to finance the project and in years 15-30 will allow the City to fund public infrastructure improvements within and around the district. Again, the terms of the proposed Amended Modified School Agreement will be no different than what was approved by the Painesville City Local School District under the February 13, 2023 Modified School Agreement.

Recommendation

Approval of the Ordinance authorizing the City Manager to establish the Tax Increment Financing Incentive District for a public purpose. This item MUST go three (3) readings with the final reading on June 20, 2023. The Painesville City Schools must approve the Amended Modified School Agreement first, scheduled for June 12, 2023.

Council Agenda Item

Date: May 12, 2023

To: Painesville City Council

From: Doug Lewis, City Manager

Topic: Memo establishing a TIF for Grand River Walk to encourage redevelopment of the site.

History:

City Council previously approved a Memorandum of Understanding as to Proposed Development Agreement dated July 1, 2022 (as amended, the "Development Agreement"), between the City and Grand River Walk LLC (the "Developer") for the urban redevelopment of the real property located at 257 Main Street ("the Parcels") into a mixed-use residential and commercial project consisting of 120 residential apartment units and approximately 17,031 square feet of commercial space (the "Project"). Pursuant to the Development Agreement and Resolution No. 27-23 approved by this Council on March 6, 2023, the City intends to provide tax increment financing for the Project in order to enable the redevelopment of the Parcels and the development of the Project. Under the Ohio Revised Code, the "TIF Act" authorizes the Council to declare the improvement to the Parcels to be a public purpose and exempt from taxation, require the owner of the Parcels to make service payments in lieu of taxes, establish an urban redevelopment tax increment equivalent fund for the deposit of those service payments, and specify the purposes for which money in that fund will be expended. As required by the TIF Act, the City acquired fee title to the Parcels prior to enacting this Ordinance for urban redevelopment purposes.

This legislation will authorized the City to implement a tax increment financing program for the Victoria Place parcels pursuant to the TIF Act and to fulfill its obligations under the Development Agreement and to pay costs of the urban redevelopment of the Parcels and the development of the Project. The City of Painesville and the Painesville City Local School District had previously entered into a Modified School Compensation Agreement dated as of February 13, 2023, as amended, with respect to the Parcels and the Project, whereby the School District approved the exemption to be provided by this Ordinance and waived notice of this Ordinance in exchange for school compensation payments from the Project (the "School Compensation Agreement"). However, as a result of the fact that the Developer has determined that the TIF payments should be monetized in order to finance the overall project, the City and the Schools must enter into an Amended Modified School Compensation Agreement that is scheduled to be heard by the Painesville City Local School District at their meeting on June 12,

2023. Notices notice of this approved Modified School Agreement have been delivered to the Board of Education of the Auburn Career Center and they will be informed of the Amended version of the Modified School Agreement. The terms of both agreements are exactly the same with the exception that the Developer will now pay service payments.

Purchasing:

None

Financial

Positive. The creation of the Grand River Walk TIF District will generate funding to finance the project and in years 15-30 will allow the City to fund public infrastructure improvements within and around the district. Again, the terms of the proposed Amended Modified School Agreement will be no different than what was approved by the Painesville City Local School District under the February 13, 2023 Modified School Agreement.

Recommendation

Approval of the Ordinance authorizing the City Manager to establish the Tax Increment Financing Incentive District for a public purpose. **This item MUST go three (3) readings with the final reading on June 20, 2023. The Painesville City Schools must approve the Amended Modified School Agreement first, scheduled for June 12, 2023.**

Council Agenda Item

Date: May 30, 2023

To: Doug Lewis

From: Bill Parkinson

Topic: 2024 Tax Budget

History:
This is an annual piece of legislation the Ohio Revised Code requires the City to have a public tax budget hearing and to pass the 2024 tax budget by July 20, 2023. This is the property tax portion of revenues the City will receive in 2023. This shows the County the City needs the property taxes.

Financing:
The City expects the 2024 property tax revenues to be same that they were in 2023. The City projects to receive approximately $2.5 million in property tax revenues in 2024.

Recommendation:
This legislation can go to three readings. A public tax budget hearing has been scheduled for Monday, July 17, 2023.

Council Agenda Item

Date: June 13, 2023

To: Doug Lewis, City Manager

From: Orin McMonigle, Water Superintendent

Topic: Drinking Water Distribution Equipment Grant

History:
Ohio's H2Ohio Direct Assistance grant was made available to Public Water Systems to address water quality priorities. The grant will supply two Fire Hydrant valve exercisers and required fittings.

Purchasing:
(2) Hydrant Buddy Cordless Electric hydrant turner HBXL-HV $4,320.00
(2) OZAT 3/4" -1" adaptor for Hydrant Buddy ANl1612-OZ $84.95
(2) Wachs Telescopic Valve Key - 2" AWJVA 11-408-00- $595.00

Financing
The total for the Fire Hydrant Exercisers is $10,000.00 and requires no expenditure beyond the grant amount. No local match is required.

Recommendation:
We are requesting that this item be passed on first reading because the Ohio EPA requests that the City of Painesville accept it within 30 days of the award. The grant award is currently available to Painesville water.

Council Agenda Item

Date: June 15, 2023

To: Painesville City Council

From: Douglas Lewis, City Manger

Topic: Resolution authorizing the transfer of property to the Lake County Land Reutilization Corporation

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History:
The City of Painesville acquired the property located at 160 South St. Clair Street to ensure the unified development of the former Lake East Hospital Property. We acquired the property in June of 2017 for $28,000 with the intent of selling/transferring the property to a developer interested in developing on the former Lake East Hospital Property.

The Lake County Land Reutilization Corporation ("Land Bank") was informed that the City would be submitting the property for demolition in 2019. As a result, Executive Director John Rogers recommended that we transfer the property over to the Land Bank and they would fund 100% of the demolition through the Neighborhood Initiative Program ("NIP"). When utilizing NIP funding, the Land Bank was required to keep the property three (3) years before it can transfer the property back to the City or developer at no cost. The property was demolished and it has been three years.

The legislation before you authorizes the City Manager to acquire the property from the Lake County Land Reutilization Corporation. We want to acquire the property because we are working with a developer, Payne and Payne, to construct single family houses and townhouses on the site. Additional information will be presented to City Council in the near future.

Purchasing:
None.

Financing:
There will be approximately a $900 in title costs to transfer the property back to the City of Painesville.

Recommendation:
Approval of the Resolution to enter into an agreement with the Lake County Land Reutilization Corporation to acquire the property at 160 South St. Clair Street. This legislation can go 3 readings.

Council Agenda Item

Date: June 13, 2023

To: Painesville City Council

From: Doug Lewis, City Manager

Topic: Resolution authorizing and directing the City Manager to enter into and execute a transfer and indemnification agreement with Vic Place

History:
The City of Painesville, Ohio has been working with Renew Partners to encourage the redevelopment of Victoria Place in Downtown Historic Painesville. The renovation will result in new economic development within the City and create jobs for its residents and increase the City's tax base. The renovation of the building is in accordance with the Downtown Master Plan and a Downtown Transportation and Streetscape Plan.

A Memorandum of Understanding as to Proposed Development Agreement dated July 2, 2022 and approved by this Council pursuant to Resolution 41-22 passed on June 27, 2022, and other City documents, the City is "engaged in urban redevelopment". This legislation enables the City of Painesville to own the property and transfer it back to Renew Partners for the purpose of "urban redevelopment" as required by the Ohio Revised Code. Renew Partners is proposing to construct a mixed-use development. This legislation needs passed prior to the TIF Ordinance.

Purchasing:
None

Financing
There will be a cost of approximately $900.00 for title work to transfer the property.

Recommendation:
We are requesting that this item be passed on first reading because we must be in chain of custody of the property and transfer it back to Renew Partners for the purpose of "urban development". This must be done prior to the passage of the TIF Ordinance. As a result, it is necessary to move forward with the transfer ASAP so that the tabled TIF Ordinance can be approved at the City Council Meeting on July 17, 2023.

Council Agenda Item

Date: June 15, 2023

To: Doug Lewis, City Manager

From: Anthony Zampedro, Assistant City Manager

Topic: Ohio EPA 2023 Community and Litter Grant

Background: The City once again applied for, and received the above referenced grant to be used for our twice annual "Clean Up day" events. The grant runs on a July 1st through June 30th cycle and will be available for our fall 2023 and Spring 2024 Clean Up Day events.

Purchasing:
The City uses said funds to assist in the purchasing of volunteer t-shirts, garbage pickers, and other supplies associated or used in the event.

Amount The total grant is in the amount of $7,280.00 with a local match of 25%. The local match was already budgeted for in this year's budget.

Recommendation:
This legislation should be passed on first reading as an emergency. Passing on first read would allow the city to meet Ohio EPA's request for grant acceptance within 30 days with said funds being available to us on July 1, 2023.