

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is made as of the _____ day of January, 2019, by and between the **BOARD OF PARK COMMISSIONERS, LORAIN COUNTY METROPOLITAN PARK DISTRICT** ("Park District") and **CITY OF AVON** ("City").

WITNESSETH:

WHEREAS, the parties have previously entered into an agreement whereby the Park District purchased certain property from the City. The Agreement provided the City with the right to exercise its right to material excavated by the Park District as part of the Park District's plan to develop its property for the benefit of the citizens of Lorain County and Avon; and

WHEREAS, the Park District has provided written notice to Avon of its intent to commence its development and Avon has notified the Park District of its exercise of rights to all excavated material; and

WHEREAS, the parties are desirous of working together in the most efficient and expeditious manner to facilitate the excavation and removal of material from the development site and to that end are desirous of entering into this Memorandum of Understanding to specify their duties and obligations relating to this matter.

NOW THEREFORE, in consideration of that intent, and for the benefit to both parties and the community in general, the parties hereto provide as follows:

1. Obligations of the Park District.

Park District shall provide to the City drawings and specifications of the area or areas intended for development, which shall include the locations of any excavation of material from such sites.

Park District shall provide the City with locations of wetlands or other areas which are to be protected from excavation and other construction activity. Park District shall make its wetlands consultant available to the City for consultation and advice relating to soil removal. Park District shall fence or otherwise identify such protected areas.

Park District shall monitor the removal of excavated material to ensure that the excavated material is removed from the designated areas only. In this regard, the Park District will have the right to control the removal and stockpiling of topsoil as well as the spreading of that topsoil following excavation of the various areas specified. Provided however, the Park District shall not control or direct the means and methods of the other material excavated and removed.

2. Obligations of the City.

City shall prepare and submit to the Park District a Storm Water Pollution Prevention Plan (SWPPP) and complete all related paper work and records as may be required under state and federal laws and regulations. As part of its obligations, City shall perform a field survey of areas to be excavated and provide appropriate placement of grading/cut stakes to ensure the proper identification of areas to be excavated.

City shall select the contractor or contractors for the excavation work and as part of such selection shall require all such material not be relocated or deposited in any floodplain areas within Avon or in areas that would, directly or indirectly, effect storm water run-off in Avon, including property owned by the Park District.

City shall comply with Park District drawings and specifications of the area or areas intended for development as received and approved by City, which shall include the locations of any excavated materials from such sites and will use its best efforts to ensure its contractor follows such drawings and specifications.

City shall coordinate construction access and routes in accord with industry standards and best practices and at the same time, in the most cost effective and efficient manner available.

City shall direct its engineer to coordinate and advise the Park District in advance of all work to be done at the excavation locations and to be available to discuss and resolve concerns and issues pertaining to the work that the Park District may have.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

CITY OF AVON

Bryan Jensen, Mayor

**BOARD OF PARK COMMISSIONERS
LORAIN COUNTY METROPOLITAN
PARK DISTRICT**

James Ziemnik, Director-Secretary