

**DOCKET
OF A MEETING OF
THE LAKEWOOD CITY COUNCIL
TO BE HELD IN THE COUNCIL CHAMBERS
LAKEWOOD CITY HALL - 12650 DETROIT AVENUE
DECEMBER 21, 2015
7:30 P.M.**

The Regular Meetings of Lakewood City Council shall be held on the first and third Mondays of each month at 7:30 P.M., except that when such meeting date falls on a holiday such meeting shall instead be held on the following day. A Docket and Agenda of the business proposed to be transacted by Council will be available in the Clerk's Office and on the City's website www.onelakewood.com as soon after 4 PM on the Friday before a Council meeting as possible.

Section 121.08 of the Codified Ordinances of the City of Lakewood establishes rules for the public to follow when speaking before Council:

ADDRESSING COUNCIL – The President may recognize any non-member for addressing Council on any question then pending. In such cases, the person recognized shall address the chair, state his or her name and address and the subject matter he or she desires to discuss. Speakers must be courteous in their language and avoid personalities. When addressed by the Chair, the speaker must yield the floor and comply with all rulings of the chair, said rulings not being open to debate. Except with permission of Council specifically given, speakers shall be limited to five minutes. No person who has had the floor shall again be recognized until all others desiring an opportunity to speak have been given an opportunity to do so.

AGENDA ITEMS PROTOCOL:

The Clerk at the beginning of the meeting will present the AGENDA ITEMS sign-in sheet to the President of Council. Speakers will be called to address Council by the Chair. A citizen must first write his or her name, address and agenda item number on the designated sign-in sheet in order to be recognized.

PUBLIC COMMENT PROTOCOL:

The clerk at the end of the meeting will present the PUBLIC COMMENT sign-in sheet to the President of Council. Public Comment will be welcomed at the end of a Council Meeting on miscellaneous issues or issues other than agenda items. A citizen must first write his or her name, address and topic on the designated sign-in sheet in order to be recognized. The forum is not designed to be a question and answer session.

- I. Pledge of Allegiance
 - II. Moment of Silence
 - III. Roll Call
- Reading & disposal of the minutes of the Regular Meeting of Council held December 7, 2015.
Reading & disposal of the minutes of the Special Meeting of Council held December 14, 2015
Reports, legislation and communications from Members of Council, the Mayor and other City Officials.

****OLD BUSINESS****

1. Committee of the Whole Report regarding Committee Meeting 12/21/15 ; Ms. Madigan; Chair (To Be Provided)
2. **ORDINANCE NO. 49-15** AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the execution and delivery of an agreement by and between the City of Lakewood, Ohio, a municipal corporation and political subdivision in and of the State of Ohio (the "City"), the Lakewood Hospital Association, an Ohio nonprofit corporation ("LHA"), and The Cleveland Clinic Foundation, an Ohio nonprofit corporation (the "Clinic"); and authorizing and approving related matters. (PLACED ON 1ST READING & REFERRED TO THE COMMITTEE OF THE WHOLE 12/7/15, PLACED ON 2ND READING 12/14/15) (Pg. 7)
3. Finance Committee Report regarding the following Finance legislation as noted. Mr. Nowlin; Chair (TO BE PROVIDED)
4. **ORDINANCE NO. 31-15** - AN ORDINANCE to take effect on January 1, 2016 provided it receives the vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, amending Chapter 128, Municipal Income Tax, of the Codified Ordinances of the City of Lakewood for the purpose of meeting the mandates for municipal tax codes contained in Sub. H.B. 5, in which the 130th General Assembly comprehensively amended Chapter 718 of the Ohio Revised Code and reformed the imposition of municipal income taxes. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 10/19/15, 2ND READING 11/2/15),. (Pg. 57)
5. **ORDINANCE NO. 33-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, to establish appropriations for current expenses and other expenditures of the City of Lakewood, State of Ohio, for the fiscal year ending December 31, 2015. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15) (Pg. 99)
6. **ORDINANCE NO. 34-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the transfer and advance of certain funds. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15) (Pg. 112)
7. **ORDINANCE NO. 35-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, to establish appropriations

for current expenses and other expenditures of the City of Lakewood, State of Ohio, for the fiscal year ending December 31, 2016. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15) (Pg. 114)

8. **ORDINANCE NO. 36-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for professional services, and to advertise for bids and enter into contracts for the purchase of repair maintenance of operating supplies, services and equipment as authorized by the 2016 Appropriation Ordinance and the Administrative Code of the City of Lakewood with the lowest and best bidder or bidders or as otherwise provided by law. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15) (Pg. 127)
9. **ORDINANCE NO. 37-15** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into service contracts in accordance with the Administrative Code of the City of Lakewood for the Department of Planning & Development in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15) (Pg. 131)
10. **ORDINANCE NO. 38-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, and authorizing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for **Memberships** as authorized by the 2016 Appropriation Ordinance and the Administrative Code of the City of Lakewood contracts not to exceed \$60,000 without separate Ordinance of Council. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15) (Pg. 134)
11. **ORDINANCE NO. 39-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, amending section 902.04, Rates and Charges, of the Codified Ordinances of the City of Lakewood for the purpose of adjusting sewer rates charged against each lot, parcel of land or premises which may have an active sewer connection with the Municipal wastewater disposal system or which may otherwise discharge wastewater either directly or indirectly into such system and any

part thereof. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15)(Pg. 138)

12. **ORDINANCE NO. 40-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for **Street Infrastructure Improvements** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15) (Pg. 140)
13. **ORDINANCE NO. 41-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manger to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for the **Wastewater System and Treatment Improvement Program** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15) (Pg. 142)
14. **ORDINANCE NO. 42-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manger to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for the **Water System Replacement Program** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15) (Pg. 144)
15. **ORDINANCE NO. 43-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manger to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for **C.D.B.G. Fund Infrastructure Improvements** in accordance

with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15) (Pg. 146)

16. **ORDINANCE NO. 44-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manger to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for **Vehicles, Machinery and Equipment** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15) (Pg. 148)
17. **ORDINANCE NO. 45-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manger to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for **Buildings & Facilities Improvements** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15) (Pg. 150)
18. **ORDINANCE NO. 46-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manger to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for **Traffic Signs & Signals** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2ND READING 12/7/15) (Pg. 152)
19. **ORDINANCE NO. 47-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manger to advertise for bid and enter into

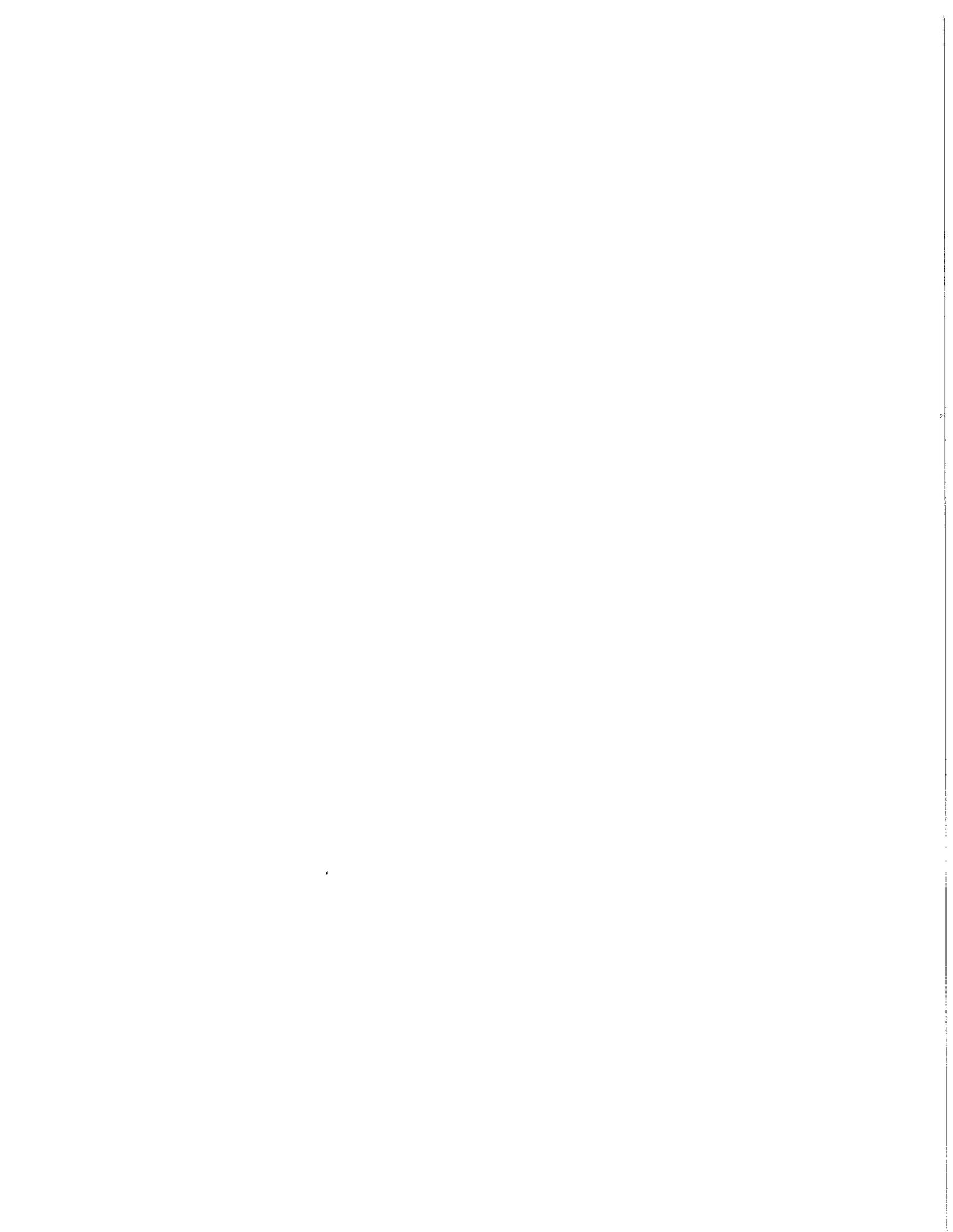
a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for **Parks & Pools Improvements** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2nd READING 12/7/15) (Pg. 154)

20. **ORDINANCE NO. 48-15** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manger to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for **Sidewalk Improvement Program** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15, 2nd READING 12/7/15) (Pg. 156)
21. Public Safety Committee Report regarding Resolution 8825-15. Mr. Bullock; Chair (To Be Provided)
22. **RESOLUTION NO. 8825-15** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, to authorize the Mayor, as Director of Public Safety, to enter into an agreement between the City of Cleveland and the State of Ohio for the interchange of public safety services for the 2016 Republican National Convention in Cleveland, Ohio. (REFERRED TO PUBLIC SAFETY COMMITTEE 10/5/15, DEFERRED 12/7/15) (Pg. 158)
23. Rules & Ordinances Committee Report regarding Ordinance No. 27-15. (TO BE PROVIDED). Mr. O’Leary; Chair.
24. **ORDINANCE NO. 27-15** – AN ORDINANCE enacting Chapter 721, Donation Boxes, of the Codified Ordinances of the City of Lakewood, and establishing related fees. (**PLEASE SUBSTITUTE** for Ordinance No. 27-15 and referred to the Rules & Ordinances Committee September 8, 2015, 2ND Reading 9/21/15). (Pg. 173)

****NEW BUSINESS****

25. **RESOLUTION NO. 8838-15** - A RESOLUTION commending Mary Louise Madigan for her service as a member of Lakewood City Council. (To Be Provided)
26. **RESOLUTION NO. 8839-15** A RESOLUTION commending Shawn Juris for his service as a member of Lakewood City Council. (To Be Provided)
27. Communication from Mayor Summers regarding Mayoral Commission Appointments. (Pg.177)

28. Communication from Planning & Development Director Siley regarding Planning Commission; St. Charles Green Park. (Pg. 178)



Placed on first reading and referred to
Committee of the Whole Dec. 7, 2015. Please
substitute for the original.
Second Reading at Special Meeting: 12/14/15.

ORDINANCE NO. 49-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the execution and delivery of an agreement by and between the City of Lakewood, Ohio, a municipal corporation and political subdivision in and of the State of Ohio (the "City"), the Lakewood Hospital Association, an Ohio nonprofit corporation ("LHA"), and The Cleveland Clinic Foundation, an Ohio nonprofit corporation (the "Clinic"); and authorizing and approving related matters.

WHEREAS, this Council recognizes that healthcare delivery is moving away from a hospital-based model focused on "sick care" to a population-based model of comprehensive healthcare; and

WHEREAS, consistent with this understanding, the City, LHA and the Clinic have a shared vision to invest in comprehensive ambulatory (outpatient)-based programs, wellness activities and outreach services that will help people live healthier lives and treat health conditions early so as to prevent chronic disease, with the primary focus of these investments being a new family health center owned and operated by the Clinic and a new community health foundation; and

WHEREAS, after an extensive period of due diligence and public input, this Council has determined that it is in the best interests of the residents and taxpayers of the City that a master agreement between the City, LHA and the Clinic be entered into, in substantially the same form attached hereto as Exhibit 1 ("Master Agreement"), as approved by the Director of Law, and in the spirit of the key highlights of the Master Agreement attached hereto as Exhibit 2, in order to carry out this shared vision; and

WHEREAS, pursuant to the Constitution of the State of Ohio, the Ohio Revised Code and the Second Amended Charter of the City of Lakewood, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality, and to provide for local self-government; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect immediately, as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in that the parties wish to effectuate the terms of the Master Agreement immediately in order to preserve the assets of and maximize the benefits to the parties; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The City authorizes the execution and delivery of the Master Agreement by and between the City, LHA and the Clinic in substantially the same form attached hereto as Exhibit 1, as approved by the Director of Law.

Section 2. The Mayor is hereby authorized and directed to execute the Master Agreement, and any and all among the Mayor, President of Council, Director of Finance, Director of Law and Director of Planning and Development are hereby authorized and directed to execute such other related and ancillary documents, including those related to closing, and to take such other actions as are necessary and appropriate to give effect to the Master Agreement and any other related and ancillary documents.

Section 3. All provisions of Chapter 155 of the Codified Ordinances with respect to the sale or lease of City-owned property are deemed to have been met or superseded by this ordinance inasmuch as that chapter may apply to the real property transactions contemplated under the terms of the Master Agreement.

Section 4. To the extent this ordinance is inconsistent with any other ordinance or resolution previously adopted by Council with respect to the provision or operation of Lakewood Hospital, the purchase of property by the City or the sale or lease of property owned by the City, this ordinance is meant to and shall supersede such previously-adopted legislation.

Section 5. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

Section 6. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least five members of Council this ordinance shall take effect and be in force immediately, or otherwise shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

PRESIDENT

CLERK

Approved: _____

MAYOR

EXHIBIT 1

Master Agreement

(See following pages)

**MASTER AGREEMENT
AMONG
CITY OF LAKEWOOD, LAKEWOOD HOSPITAL ASSOCIATION, AND THE
CLEVELAND CLINIC FOUNDATION REGARDING THE FUTURE OF HEALTH
CARE SERVICES IN THE LAKEWOOD COMMUNITY**

This MASTER AGREEMENT ("Master Agreement") is made as of this day of December, 2015 (the "Effective Date"), by and among the City of Lakewood, Ohio, a municipal corporation and political subdivision in and of the State of Ohio (the "City"); Lakewood Hospital Association, an Ohio nonprofit corporation ("LHA"); and The Cleveland Clinic Foundation, an Ohio nonprofit corporation (the "Clinic") (the foregoing are sometimes referred to herein individually as a "party" and collectively as the "parties").

RECITALS

WHEREAS, the City and LHA are parties to a lease agreement dated as of December 23, 1996 (the "Original Lease"; the Original Lease, together with any amendments thereto, is referred to herein as the "1996 Lease") under which the City leases to LHA certain real property and personal property, including such real and personal property associated with that certain facility commonly known as Lakewood Hospital (the "Hospital");

WHEREAS, LHA operates the Hospital as a community hospital located in the City of Lakewood, Ohio that provides hospital and health care services to residents of the City of Lakewood and its surrounding communities;

WHEREAS, the Clinic operates a multi-specialty academic medical center that integrates clinical and hospital care with research and education, and the Clinic's health system is comprised of community hospitals, affiliate hospitals, and family health centers with a northeast Ohio, national and international presence;

WHEREAS, the Clinic and LHA have entered into a Definitive Agreement executed on December 19, 1996 (the "1996 Definitive Agreement") that is related to the operation of the Hospital and that terminates upon the expiration or termination of the 1996 Lease;

WHEREAS, each of LHA and the Clinic is exempt from federal income tax under Section 501(a) by reason of being described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

WHEREAS, the City, LHA and the Clinic understand that, at both the national and local levels, health care is in the midst of an unprecedented transformation from an inpatient hospital-based model, designed to care for the sick, to a population-based model of comprehensive healthcare delivered primarily in outpatient and home settings designed to improve the health of an entire community by helping people live healthier lives and treating their health conditions early to prevent chronic diseases;

construction and equipping of the FHC (including on-site parking) will be approximately \$34,000,000. As of the Effective Date, the parties contemplate a construction schedule that would allow the FHC to open by June 2018.

(b) The Clinic contemplates that the FHC will embrace architecturally noteworthy design, consistent with the innovative and comprehensive design aesthetic adopted by the Clinic beginning in 2008. The FHC's planned architectural style and building layout are intended to create a calming environment for patients and their families and to be sensitive to patient, family, and staff needs. The structure is intended to serve as a primary component of a vibrant new Lakewood business district.

2.2 Parking. On-site, adjacent and proximate parking is critical to the success of the FHC. The Clinic contemplates the FHC will need the support of 325 parking spaces, which spaces will be obtained as set forth below.

(a) The Clinic contemplates constructing a parking structure on the FHC Site that will accommodate approximately 120 parking spots. The parties agree that the Wind-Down Costs (as defined in Section 3.3(b)) shall include \$2.5 million to fund the construction of such structure and the work contemplated by the Parking Lot Lease.

(b) The Clinic shall have the option, on or before the FHC Commencement Date, to enter into a lease (the "Parking Lot Lease") with the City for a period commencing on the termination of the 1996 Lease for use of the existing Emergency Department lot on the east side of Belle Avenue, as shown on Exhibit A, which may be, at the Clinic's option, expanded to include the property highlighted in green on Exhibit A (the "ER Parking Lot") at fair market rental rates and the other material terms and conditions set forth on Exhibit B. The Clinic will have the right, at its expense, to restrip and reconfigure the ER Parking Lot. It is anticipated that the ER Parking Lot will accommodate approximately 75 parking spaces. During the hours that the FHC is not operating (other than providing emergency services), the Clinic agrees to make the ER Parking Lot available for public parking.

(c) In the event that the Current Hospital Site (as defined in Section 3.3(c)) includes additional parking spaces made available for parking for the FHC (i) at fair market rental rates and (ii) that is reasonably deemed by the Clinic to be an appropriate replacement for the ER Parking Lot spaces, the spaces leased to the Clinic under the Parking Lot Lease will be proportionately reduced and the City and the Clinic will appropriately modify and/or terminate the Parking Lot Lease.

(d) In the event that the City makes additional parking spaces available adjacent to the FHC (i) at fair market rental rates and (ii) that is reasonably deemed by the Clinic to be an appropriate replacement for the ER Parking Lot spaces, the spaces leased to the Clinic under the Parking Lot Lease, and depicted in green on Exhibit A, may be proportionately reduced by up to 25 spaces and the City and the Clinic will appropriately modify the Parking Lot Lease. For the purpose of this Sections 2.2(d), "adjacent" shall mean property located south of Detroit Avenue and within one block of the FHC (with one block being measured by the distance between Belle and Marlowe along Detroit Avenue).

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WHEREAS, the City, LHA and the Clinic share a vision that, by embracing the transformation in health care and making pioneering investments in comprehensive ambulatory (outpatient)-based health care services, wellness activities and outreach services rooted in population health management principles and supported by a comprehensive health system, Lakewood can become the healthiest city in America; and

WHEREAS, in furtherance of the foregoing, the City, LHA and the Clinic have agreed to cooperatively take such steps as are necessary to embrace the transformation in health care and undertake the transition of certain services at the Hospital to a family health center to be constructed (the "Transition") and certain other actions, each as set forth in this Master Agreement.

AGREEMENT

NOW, THEREFORE, the parties hereto, intending to be legally bound, and in consideration of the premises and the mutual covenants, representations and warranties set forth in this Master Agreement, as well as other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, do hereby agree as follows:

ARTICLE I

Master Agreement and Ancillary Agreement Overview

This Master Agreement sets forth the definitive agreement of the parties and the framework for the Transition and related transactions. This Master Agreement also cross references the following agreements: Termination of 1996 Definitive Agreement (as defined in Section 3.4), the FHC Site Sale Agreement (as defined in Section 5.1), the \$50 Columbia Road Sale Agreement (as defined in Section 5.4), the 1996 Lease, the Parking Lot Lease (as defined in Section 2.2(b)), and any agreements executed in connection with the sale of the real property described in Section 5.6 (collectively, the "Ancillary Agreements"), which set forth detailed terms for transactions related to and necessary to accomplish the Transition. Subject to the terms and conditions of this Master Agreement, the terms set forth herein are effective as of the Effective Date.

ARTICLE II

Cleveland Clinic Family Health Center at Lakewood

2.1 Construction of Family Health Center at Lakewood.

(a) The Clinic will construct a new comprehensive Cleveland Clinic Family Health Center (the "FHC") of approximately 62,100 gross square feet on approximately 1.7 acres of land owned by the City located at the southwest corner of Belle Avenue and Detroit Avenue in Lakewood as more particularly described in the FHC Site Sale Agreement (as defined in Section 5.1) (the "FHC Site"). Pursuant to the FHC Site Sale Agreement, the City will convey the FHC Site to the Clinic for the FHC. The Clinic's capital commitment for the design,

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(e) In the event that the Clinic acquires or leases additional property contiguous to the FHC Site to be used to make additional parking spaces available to the FHC that is reasonably deemed by the Clinic to be an appropriate replacement for the ER Parking Lot spaces, the spaces leased to the Clinic under the Parking Lot Lease, and depicted in green on Exhibit A, may be proportionately reduced by up to 2.5 spaces and the City and the Clinic will appropriately modify the Parking Lot Lease.

(f) The Clinic contemplates continuing to lease parking spaces in the North Garage or will make alternative arrangement to accommodate a portion of the parking needs of the FHC.

2.3 Post-Construction Obligation of the Clinic to Operate FHC. The Clinic will open the FHC as soon as reasonably practicable in the judgment of the Clinic taking into account patient safety, legal requirements, prudent planning, construction considerations and other facts and circumstances. Upon opening, the Clinic will staff, own, operate, and manage the FHC. While the Clinic owns and operates the FHC, the Clinic will expend the capital required to maintain the safety and appearance of the FHC in a manner consistent with the Clinic's other family health centers. The Clinic contemplates that the services available at the FHC upon the commencement of FHC operations will initially consist of the services described on Exhibit C. As determined by ongoing evaluation of community need and utilization, the FHC may offer extended hours and weekend availability for certain services. Due to the uncertainty regarding and the potentially rapidly changing nature of the approach to delivering health care services, the parties acknowledge that it will be necessary for the Clinic to continually re-evaluate the services provided at the FHC. Part of the Clinic's process in monitoring and evaluation of health care needs of the Lakewood community and its residents will include the Fairview Hospital Community Health Needs Assessment, which will include a separate section on the City of Lakewood. Therefore, based upon the Clinic's assessment utilization of health care services and regulatory concerns, and in consultation with the FHC Community Advisory Board (defined below), as appropriate, the Clinic may modify the services listed on Exhibit C as necessary to address the results of such evaluation, subject to Section 2.4.

2.4 Emergency Services at the FHC. The parties recognize and agree that there is a present need for an emergency department in Lakewood, available on a 24 hours a day, 7 days a week, 365 days a year basis ("24/7/365 basis"). The Clinic will address this need by opening the FHC with an emergency department that operates (a) on a 24/7/365 basis that has capabilities to treat emergency medical conditions, which are those conditions that rise to a level that manifest themselves by acute symptoms of sufficient severity such that immediate medical attention is necessary, and (b) at a level of service generally consistent with (or greater than) the level of service that is being offered in the Hospital's emergency department as of the Effective Date. The need for emergency services may change with time and, given current industry circumstances, it is difficult to predict such change. The ongoing evaluation of emergency services will be done consistently with Section 2.3 above. For so long as the Clinic owns and operates the FHC, the Clinic agrees to provide emergency services on a 24/7/365 basis in Lakewood.

2.5 Population Health Management Programs: LGBT Clinic.

(a) The FHC's activities will include a focus on population health management programs aimed at improving the health of the FHC's patients and the community that the FHC serves. The parties contemplate creating population health management programs through partnerships with City government and the community related to outreach programs and home health care models. As part of the commitment to population health management, the Clinic and the City contemplate reporting population health statistics and metrics to the community that have been compiled by the Clinic in connection with the FHC's operations. While effective population health management programs are tailored to the specifics of the demographics and needs of the particular community, the Clinic contemplates that the population health management programs will (i) recognize and appreciate the diverse cultures in the community, including LGBT and persons of various ethnicities; (ii) address the needs of those with unique issues such as those in the senior population; and (iii) provide care for those who are currently underserved. Population health management programs often consist of programs such as population-based chronic disease management, specialty emergency services, group visits, specialized programs/services/clinics, and prevention and wellness programs. Through the development of care models and population health management programs through the FHC, the Clinic will be developing future models for population health management for other communities.

(b) LGBT is recognized as an underserved population with specialized health needs, many rooted in primary care. As part of the population health model embraced by the FHC, the Clinic will establish an LGBT-focused primary care clinic within the FHC. The Clinic intends that the FHC will be its hub for LGBT care and referrals on the west side of greater Cleveland. The Clinic contemplates that the Lakewood LGBT Clinic would (i) be structured to meet the primary care needs of the LGBT population by providing individualized care, high quality services, and proven efficiencies to remove barriers to the delivery of high quality health care services that are related to sexual orientation and (ii) provide LGBT-welcoming primary care and implement and measure the effect of proven quality and innovations.

2.6 Mobile Stroke Unit. The Clinic's mobile stroke unit is acclaimed for its innovative, high-tech approach to the diagnosis and rapid treatment of strokes. Due to resource, regulatory and operational constraints, the mobile stroke unit is only deployed currently in a limited number of municipalities within Cuyahoga County. The parties intend to extend the deployment of the Clinic's mobile stroke unit to include Lakewood. Accordingly, promptly following the Effective Date, the Clinic and the City will begin negotiation of the required protocols to permit the use of the Clinic's mobile stroke unit within the City's borders at rates consistent with those charged to other municipalities by the Clinic for use of the mobile stroke unit. The parties acknowledge that, as of the Effective Date, there is no charge imposed on other municipalities by the Clinic for use of the mobile stroke unit. The deployment of the Clinic's mobile stroke unit within the City will reinforce the City's status as a local leader in stroke care.

2.7 Relocation of Fairview/Cleveland Clinic Family Medicine Residency. No later than six (6) months after the opening of the FHC, the Clinic will relocate the Fairview/Cleveland Clinic Family Medicine Residency, which is currently at the Fairview Center for Family Medicine, to the FHC campus. The Clinic agrees that, as long as the Clinic operates a Family Medicine Residency program, the Clinic will operate a Family Medicine Residency program at the FHC campus while the Clinic owns and operates the FHC. As used in this Master Agreement,

bound to agree to a decision that they in good faith believe is contrary to their fiduciary obligations to LHA.

3.3 Financial Issues Related to LHA's Wind-Down.

- (a) Operating Revenues and Expenses. LHA will receive all revenues and incur all expenses, whether direct or allocated, associated with the continuing existence and operations of LHA between the Effective Date and the final dissolution of LHA.
- (b) Wind-Down Costs. LHA will bear all costs of terminating and winding down its patient and other operations at the Hospital through LHA's dissolution (the "Wind-Down Costs"), up to the maximum of LHA's net asset value excluding the value (if any) on LHA's balance sheet that is attributable to the assets described in Sections 3.3(d)(1) through 3.3(d)(5), which are committed to be returned to the City upon or prior to LHA's dissolution ("Net Asset Value"). Any Wind-Down Costs in excess of LHA's Net Asset Value will be borne by the Clinic. The parties acknowledge and agree that (i) Wind-Down Costs may exceed the remaining LHA assets, and (ii) LHA may incur additional losses prior to and during the wind-down. The Clinic agrees to fund any shortfall in LHA assets out of the Clinic assets, which the parties acknowledge constitutes a significant assumption of risk by the Clinic. Wind-Down Costs shall include, without limitation, requisite capital expenditures, lease payments under the Lease Amendment (as defined in Section 5.5), payments on notes payable, retirement plan and/or pension costs, Current Hospital Site demolition and redevelopment expenses related to the FHC Site, Sections 3.3(c) and 6.2, demolition, abatement and relocation expenses described in Section 9.12, a employee severance and retention costs, insurance costs as described in Section 2.2, \$2,500,000 allocation for funding a parking solution for the FHC consistent with Section 2.2, costs to fulfill LHA's commitments under this Master Agreement, costs to complete the dissolution of LHA, costs to fulfill any LHA obligations (including obligations that survive its dissolution) and post-closure closing costs.

(c) Demolition and/or Redevelopment of the Current Hospital Site. The parties acknowledge that the demolition and/or redevelopment of the Hospital building and other structures located on the 5.7 acres depicted on Exhibit D (the "Current Hospital Site") in whole or in part will be the responsibility and at the option of the City in its sole discretion. The Clinic and/or LHA will contribute the funds described in Section 6.2 for use in the demolition and/or redevelopment of the Current Hospital Site as determined by the City in its sole discretion. From the Effective Date through the termination of the 1996 Lease, the City will have reasonable access to the Hospital building in order to evaluate demolition and redevelopment options, provided such access will not interfere with patient care and not materially interfere with any other ongoing operations at the Hospital site and will be undertaken at the City's sole expense and risk.

(d) Dissolution Distribution. Notwithstanding the provisions of Article Seven of LHA's articles of incorporation prior to amendment in accordance with Section 3.2(a) or any similar provisions elsewhere and in recognition of the payments described in Section 6.1(a), upon LHA's dissolution, as part of the transactions contemplated by the Transition including the Clinic's payments under ARTICLE VI, the parties agree and acknowledge that all of LHA's property of every nature and description, and any and all personal property, equipment and

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the "opening of the FHC" means the date on which the Clinic commences the provision of patient care at the FHC.

2.8 FHC Community Advisory Board. The Clinic will establish an advisory board for the FHC, consisting of at least ten (10) community members (the "FHC Community Advisory Board"). The FHC Community Advisory Board will provide advice and counsel to the Medical Director of the FHC. The charter for the FHC Community Advisory Board will be developed by the Clinic within six (6) months of the opening of the FHC with input from the City and LHA.

ARTICLE III

Wind-Down and Dissolution of LHA

3.1 Wind-Down and Dissolution Plan.

(a) The parties acknowledge and agree that, following the execution of this Master Agreement, LHA will direct the Clinic to take immediate steps on its behalf to cease inpatient hospital operations and wind-down other operations in compliance with all legal requirements, subject to Section 3.1(b). In consideration of the Clinic's commitments to the New Foundation reflected in this Master Agreement and the significant assumption of risk by the Clinic as more fully described in Section 3.3(b), the manner and timing of the wind-down of hospital operations shall be determined by the Clinic and the dissolution of LHA shall be determined in accordance with LHA's Code of Regulations, as amended. Patient safety, quality and experience will be the primary guiding principles throughout the wind-down of the Hospital's operations and the dissolution of LHA. Other guiding principles for the Transition, will include (i) treating all Hospital caregivers with dignity and respect during the Transition, (ii) striving to maintain positive community support during the process, particularly with the Hospital's residential and commercial neighbors, (iii) being sensitive to the needs of private practice physicians who serve the Hospital's patients, and (iv) establishing a communication plan to inform stakeholders of important issues and events related to the wind-down.

(b) In recognition of the need for uninterrupted emergency department care in Lakewood, notwithstanding the cessation of inpatient hospital operations and wind-down of other hospital operations, LHA will continue to operate an emergency department (including an emergency room and related ancillary services) at the Hospital on a 24/7/365 basis until the opening of the emergency department at the FHC as described in Section 2.4. Further, LHA currently contemplates continuing to provide a limited set of outpatient services at the Hospital following the cessation of inpatient hospital operations, including diabetes care services, congestive heart failure clinic and certain cardio pulmonary services.

3.2 Governance of LHA During Wind-Down.

(a) Amendment of LHA's Governing Documents. The Articles of Incorporation and Code of Regulations of LHA will be amended as of the Effective Date to facilitate the Transition and the transactions contemplated by this Master Agreement.

(b) Cooperation of LHA Board of Trustees. The members of the LHA Board of Trustees will cooperate with and support the decisions of the Clinic except that they are not

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fixtures at the Hospital, shall be transferred to the Clinic. Notwithstanding the foregoing, the parties agree that the following will not be transferred to the Clinic:

- (1) LHA's "Beneficial interest in Lakewood Hospital Foundation, Inc." as reflected on LHA's balance sheet.
- (2) Any right LHA may have to the real property and improvements owned by the City and leased by LHA pursuant to the 1996 Lease, which shall remain the property of the City, subject to the Lease Amendment.
- (3) The Curtis Block building on the corner of Detroit Avenue and Marlowe Avenue, Lakewood, Ohio, and any residential homes owned by LHA, which will be transferred to the City as described in Section 5.6.
- (4) All plaques, donor walls and works of art located within Lakewood Hospital that are not owned by the Clinic and described on Exhibit E, which items will be transferred to the Lakewood Hospital Foundation for appropriate care and disposition (collectively the "Excluded Personal Property"). A representative of Lakewood Hospital Foundation is confirming the inventory set forth on Exhibit E, and the parties agree the same shall be supplemented as necessary.
- (5) Any right LHA may have to the following items described on Exhibit C of the 1996 Lease, which shall remain the property of the City and shall not be transferred to the Clinic: (i) residential homes (whether or not explicitly described in Exhibit C of the 1996 Lease), and (ii) paved parking lots (whether or not explicitly described in Exhibit C of the 1996 Lease).
- (6) Donor restricted assets reflected on LHA's balance sheet.

3.4 Termination of 1996 Definitive Agreement. Attached hereto as Exhibit F is the termination agreement between LHA and the Clinic, pursuant to which the 1996 Definitive Agreement is terminated as of the Effective Date (the "Termination of 1996 Definitive Agreement").

ARTICLE IV

Health and Wellness Foundation

4.1 Creation of New Foundation. Within twelve (12) months following the Effective Date, the City and LHA will (i) jointly agree upon a process for the creation of a new Ohio nonprofit corporation that is formed for the purpose of addressing community health and wellness needs in the City of Lakewood ("New Foundation"); (ii) develop New Foundation's governing documents; (iii) file articles of incorporation for New Foundation with the Ohio Secretary of State; (iv) select New Foundation's initial board; and (v) cause New Foundation to apply for federal tax-exempt status with the Internal Revenue Service.

4.2 Representation on Governing Board. The Clinic will have the right to appoint two (2) voting members on the governing board of New Foundation, which shall have not less than

five (5) nor more than twenty-one (21) members. The Clinic's rights under this Section 4.2 will survive until the later of (i) one (1) year after the final Clinic's Annual Contribution payment described in Section 6.1(b), and (ii) the period during which the Clinic owns and operates the FHC.

4.3 Funding of New Foundation. In connection with the transactions contemplated by the Transition and in support of the health and wellness activities supported by New Foundation, the Clinic will provide funding for the activities of New Foundation through (i) the payments described in Section 6.1(e), and (ii) the Clinic's Annual Contribution payments described in Section 6.1(b). New Foundation will place the Clinic's Annual Contribution amount, and any interest thereon, into a segregated fund within New Foundation to address the rights described in Section 4.4.

4.4 Use of New Foundation Funds.

(a) Use of the funds contributed to the New Foundation, including, without limitation, any contributions governed by this Master Agreement, shall be at the discretion of the New Foundation and subject to (i) the New Foundations' articles of incorporation and other governing documents created pursuant to Section 4.1 and (ii) Section 4.4(b).

(b) In recognition of the Clinic's Annual Contributions, the New Foundation will provide the Clinic with suitable naming opportunities and a right of first refusal with respect to programming or activities funded using the Clinic's Annual Contributions or partial distributions of such funds. The New Foundation and the Clinic agree that the naming opportunities will apply to New Foundation's programs, not the name of New Foundation's corporate entity. The Clinic's naming and right of first refusal rights under this Section 4.4 will survive until the earlier of (i) one (1) year after the final Clinic's Annual Contribution payment described in Section 6.1(b), and (ii) the period during which the Clinic owns and operates the FHC.

ARTICLE V

REAL ESTATE MATTERS

5.1 Sale of FHC Site. Attached hereto as Exhibit G is a purchase and sale agreement ("FHC Site Sale Agreement"), pursuant to which the City will convey the FHC Site to the Clinic for a fair market value purchase price determined by a mutually agreed upon appraiser, who will value the FHC Site as vacant land.

5.2 City Repurchase Option. The City shall have a repurchase option with respect to the FHC Site, as described in the deed attached to the FHC Site Sale Agreement.

5.3 Use Protection on Current Hospital Site. As part of the consideration for the Clinic's acquisition of the FHC Site and its commitments regarding the FHC and no later than the termination date of the 1996 Lease with respect to the Current Hospital Site, a restrictive covenant (the "Covenant") will be placed on the Current Hospital Site. Pursuant to the Covenant, (i) no Covered Hospital (defined below) may be operated on the Current Hospital Site and (ii) no Health Care System Provider (defined below) will be permitted to operate or manage a health care

ARTICLE VI

FINANCIAL OBLIGATIONS

6.1 Funding of the New Foundation.

(a) Initial \$24.4 Million Cash Payment to New Foundation. The parties agree and acknowledge that the payments under this Section 6.1 constitute (i) an exchange for the right to receive LHA's assets upon its dissolution (as described in Section 3.3(d)), and (ii) to the extent the value of such assets is less than the payment amount, a contribution to the New Foundation to be used in the furtherance of New Foundation's tax-exempt purposes. In recognition of the parties' intention that these payments be used for the benefit of the Lakewood community and its residents and to support New Foundation's tax-exempt purposes, the Clinic and/or LHA will transfer or contribute a total of Twenty-Four Million Four Hundred Thousand Dollars (\$24,400,000) to New Foundation (using LHA funds to the extent available as contemplated in Section 3.3(b)) as follows:

- (1) Transfer/contribute Two Hundred Thousand Dollars (\$200,000) to New Foundation in immediately available funds on or before March 1, 2016;
- (2) Transfer/contribute Seven Million Six Hundred Dollars (\$7,600,000) to New Foundation in immediately available funds on the date of the commencement of operations and provision of patient care at the FHC (the "FHC Commencement Date");
- (3) Transfer/contribute Four Million Three Hundred Thousand Dollars (\$4,300,000) to New Foundation in immediately available funds on the second anniversary of the FHC Commencement Date;
- (4) Transfer/contribute Four Million, One Hundred Thousand Dollars (\$4,100,000) to New Foundation in immediately available funds on the fourth anniversary of the FHC Commencement Date;
- (5) Transfer/contribute Four Million, One Hundred Thousand Dollars (\$4,100,000) to New Foundation in immediately available funds on the sixth anniversary of the FHC Commencement Date; and
- (6) Transfer/contribute Four Million, One Hundred Thousand Dollars (\$4,100,000) to New Foundation in immediately available funds on the eighth anniversary of the FHC Commencement Date.

(b) Annual Contributions to New Foundation Totalling \$8 Million. In support of the furtherance of the purposes of New Foundation, the Clinic will make sixteen (16) annual payments to New Foundation of Five Hundred Thousand Dollars (\$500,000) each, with the first payment being made on the FHC Commencement Date and subsequent payments being made on each anniversary of the FHC Commencement Date for fifteen (15) consecutive years (each, a "Clinic's Annual Contribution").

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facility or service, and no signage identifying such Health Care System Provider will be permitted, on the Current Hospital Site without the Clinic's prior written consent while the Clinic owns and operates the FHC. For purposes of clarity, the parties agree that (a) clause (ii) above does not restrict the activities of independent physician groups, licensed provider groups or other non-Health Care System Providers, and (b) the Covenant does not restrict any activity of Covered Hospitals, Health Care System Providers or any other party at any location other than the Current Hospital Site. For purposes of this paragraph, a "Covered Hospital" means the following types of hospitals as described by The Joint Commission in its publicly available material: general, oncology, and specialty and "Health Care System Provider" means an organization that owns, operates or manages one or more Covered Hospitals. In the event the Clinic ceases to own or operate the FHC, the Covenant shall terminate and the Clinic shall execute all documents reasonably necessary to release the Covenant, including executing a release to be recorded in the real property records.

5.4 Sale of Property at 850 Columbia Road. Attached hereto as Exhibit H is the purchase and sale agreement between LHA and the Clinic ("850 Columbia Road Sale Agreement"), pursuant to which LHA will sell the land and improvements located at 850 Columbia Road, Westlake, Ohio property, as more particularly described in the 850 Columbia Road Sale Agreement, to the Clinic for a purchase price of Eight Million Two Hundred Thousand Dollars (\$8,200,000) (the "Columbia Purchase Price"). In recognition of the early termination of the 1996 Lease and the loss of income tax revenue from Lakewood Hospital employees, LHA will direct that the Columbia Purchase Price (subject to any adjustments described in the 850 Columbia Road Sale Agreement) be paid by the Clinic to the City. As provided in the 850 Columbia Road Sale Agreement, Six Million Eight Hundred Thousand Dollars (\$6,800,000) of the Columbia Purchase Price will be paid at the closing of the 850 Columbia Road Sale Agreement. The remaining One Million Four Hundred Thousand Dollars (\$1,400,000) of the Columbia Purchase Price will be evidenced by a promissory note, which will be assigned to the City, and will be paid on the FHC Commencement Date, as defined in Section 6.1(b).

5.5 Amendment to 1996 Lease. Attached hereto as Exhibit I (the "Lease Amendment") is an amendment to the 1996 Lease between the City and LHA, pursuant to which the City will (i) permit the termination of the Required Services (as defined in the 1996 Lease), other than emergency department operations, (ii) permit the wind down of all other inpatient and other services at the Hospital, (iii) provide for the termination of the 1996 Lease on or about the FHC Commencement Date, (iv) release the FHC Site from the 1996 Lease, and (v) address other provisions necessary for the Transition. The Lease Amendment also shall provide that LHA will make the additional payments due under the 1996 Lease until cessation of all of LHA's clinical operations on the Current Hospital Site, including the emergency department operations, up to a maximum aggregate amount of \$2,887,500.

5.6 Curtis Block Building. Concurrently or promptly after the closing of the sale of the FHC Site, LHA will convey the property known as the Curtis Block building (permanent parcel number 314-07-007) and any residential homes owned by LHA to the City for a purchase price of \$1. LHA and the City shall work collaboratively to agree upon any purchase or closing documentation reasonably required in connection with the aforementioned conveyance.

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(c) Delayed Wind-Down of Hospital Operations. The commitments made by the parties in this Master Agreement, including the significant risk assumed by the Clinic with respect to LHA's Net Asset Value as described in Section 3.3(b), presume the cessation of inpatient hospital operations in a timely fashion. If LHA is unable to cease inpatient operations on or before March 1, 2016 (the "Outside Inpatient Hospital Operations Cessation Date") as a result of action taken by a judicial or quasi-judicial body or a governmental body or agency (other than a governmental body or agency whose primary function is oversight of health care providers) and the operations of LHA generate an EBIDA loss, the \$24,400,000 payment obligations described in Section 6.1(a) will be reduced by the aggregate amount of such EBIDA losses beginning as of the Outside Inpatient Hospital Operations Cessation Date through the cessation of the Hospital's inpatient operations. For purpose of this Section 6.1(c), the operation of the emergency department at the Hospital will not be deemed to be inpatient Hospital operations. For the purpose of this Section 6.1(c), the term "EBIDA" means earnings before interest, depreciation, and amortization expenses. In accordance with LHA current financial reporting practices (e.g. Financial Reporting Practices applied for 2014 Audited Statements), the term "earnings" in the preceding sentences means LHA's operating income or loss. For clarity regarding the meaning of EBIDA, the parties agree that LHA's EBIDA was as follows: (i) \$3,690,000 for the ten-month period ended October 31, 2014; (ii) \$5,944,000 for the year ended December 31, 2014; and (iii) negative \$4,931,000 for the ten-month period ended October 31, 2015. The parties further agree that the date the Hospital ceases inpatient operations shall be deemed to be the first date the Hospital declines to accept new inpatients. To the extent the payment obligations described in Section 6.1(a) need to be reduced pursuant to this Section 6.1(c), the amount of such reduction shall be applied proportionately throughout the payment schedule contemplated by Section 6.1(e).

6.2 Funding of Demolition or Redevelopment Costs. The City will be paid Seven Million Dollars (\$7,000,000) for the demolition and/or redevelopment of the Hospital building and other structures on the Current Hospital Site as contemplated by Section 3.3(c), which may be utilized as determined by the City in its sole discretion. This amount will be transferred to the City by the Clinic and/or LHA (using LHA funds to the extent available as contemplated in Section 3.3(b)) as follows: (i) Five Hundred Thousand Dollars (\$500,000) on the date that the FHC Site is transferred to the Clinic under the FHC Site Sale Agreement; and (ii) Six Million Five Hundred Thousand Dollars (\$6,500,000) on the FHC Commencement Date.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES

7.1 Mutual Representations and Warranties. Each party represents and warrants to the other parties that the statements contained in this Section 7.1 are true and correct as of the Effective Date.

(a) Authorization, Enforceability. Each party represents and warrants that it has all requisite power, authority and capacity to execute and deliver this Master Agreement and any other agreements to be entered into by it in connection with the Transition as contemplated hereby and to perform its obligations under this Master Agreement and any such other agreements, and to consummate all transactions contemplated hereby. The execution and

delivery of this Master Agreement, and the performance of the transactions contemplated hereby, have been duly and validly authorized by the applicable governing board or bodies of such party, and all action (corporate, legislative or otherwise) necessary for the authorization and consummation of the transactions contemplated this Master Agreement has been taken. This Master Agreement has been duly executed and delivered by such party, and constitutes a valid and binding obligation of such party, enforceable against such party in accordance with its terms subject to (i) bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally, and (ii) general principles of equity, including the availability of specific performance, and public policy.

(b) Absence of Conflicts. Each party represents and warrants that its execution, delivery and performance of this Master Agreement will not (i) result in the breach or violation of any term or provision of or constitute a default under or conflict with any terms or provision of: its articles of incorporation, code of regulations, charter, bylaws, or any other of its organizational or governing documents, or any contract, agreement, lease, mortgage, license, permit, authorization, or other obligation to which it or any of its Affiliates is a party, or by which it or any of its Affiliates is bound, (ii) constitute such an event that with notice, lapse of time, or both, would result in any such breach, violation or default, (iii) conflict with or result in any violation by such party or any of its Affiliates of any constitution, statute, rule, regulation, ordinance, code, order, judgment, writ, injunction, decree or award, or constitute an event that with notice, lapse of time, or both, would result in any such violation or (iv) result in the creation or imposition of any lien, charge or encumbrance upon or with respect to the assets or property of such party or any of its Affiliates.

(c) Consents. Each party represents and warrants that it has (i) obtained all material consents, approvals, authorizations and clearances of governmental authorities required of it to consummate the transactions contemplated hereby; (ii) provided such information and communications to governmental authorities as such governmental authorities may reasonably request; and (iii) assisted and cooperated with the other parties' efforts to obtain all consents, licenses, permits, approvals, authorizations and clearances of governmental authorities that the parties reasonably deem necessary or appropriate and to prepare any document or other information reasonably required of it by any such governmental authorities to consummate the transactions contemplated herein. Each party represents and warrants that neither it nor any of its Affiliates have entered into any agreement with any governmental authority to delay the consummation of or not consummate the transactions contemplated by this Master Agreement.

(d) No Litigation. Except *Edward Graham, et al. v. City of Lakewood, et al.* pending in the Cuyahoga County Court of Common Pleas, Case No. CV-15-846212, each party represents and warrants that no action, suit or proceeding has been instituted or, to its knowledge, is threatened in writing to restrain, prohibit, delay or otherwise challenge the legality or validity of any of the transactions contemplated by this Master Agreement or which would reasonably be expected to have a material adverse effect such party.

(e) Donor Restrictions. Each party represents and warrants that, to its knowledge and except as recorded in the public records, there are no restrictions imposed by any donor affecting any material real estate or other material assets of a party that would prohibit,

limit or restrict such party's ability to enter into this Master Agreement or to consummate any of the transactions contemplated hereby.

(f) No Misrepresentation. Each party represents and warrants that, to its knowledge, none of the representations and warranties made by it in this ARTICLE VII contains any untrue statement of a material fact or omits to state a material fact necessary in order to make such representation and warranty not misleading.

7.2 Representations and Warranties of the Clinic and LHA. Each of the Clinic and LHA represents and warrants to the other parties that the statements contained in this Section 7.2 are true and correct as of the Effective Date.

(a) Organization and Standing. Each of the Clinic and LHA represents and warrants that it is an Ohio nonprofit corporation duly organized and validly existing under the Chapter 1702 of the Ohio Revised Code, and in good standing under the laws of the State of Ohio.

(b) Tax Status.

(1) The Clinic represents and warrants that it is recognized as exempt from federal income taxation under Section 501(a) of the Code as an organization described in Section 501(c)(3) of the Code. The Clinic has no knowledge of any action by the Internal Revenue Service to revoke or terminate the tax status of the Clinic.

(2) LHA represents and warrants that it is recognized as exempt from federal income taxation under Section 501(a) of the Code as an organization described in Section 501(c)(3) of the Code. LHA has no knowledge of any action by the Internal Revenue Service to revoke or terminate the tax status of LHA.

7.3 Knowledge. As used in this ARTICLE VII, the term "Knowledge" means, (a) with respect to LHA and the Clinic, to the actual knowledge of the party's officers and the members of a party's governing board or body, and (b) with respect to the City, to the actual knowledge of Michael P. Summers, Mayor and Kevin M. Butler, Law Director.

ARTICLE VIII

EFFECTIVE DATE

8.1 Effective Date. The parties agree that this Master Agreement will become effective on the Effective Date when signed by duly authorized representatives of each party. The parties acknowledge and agree that each of the Ancillary Agreements will become effective in accordance with their respective terms and may have closing dates after the Effective Date.

8.2 The Clinic's Deliveries as of the Effective Date. Upon the final required signature of this Master Agreement, in addition to any other documents specifically required to be delivered pursuant to this Master Agreement, the Clinic shall deliver the following:

(a) certified copies of resolutions of the Clinic's Board, duly adopted and in full force and effect as of the Effective Date, authorizing and approving Clinic's performance of the transactions contemplated under this Master Agreement and the execution and delivery of the documents described herein;

(b) originals of the following agreements executed by a duly authorized officer of the Clinic: the FHC Site Sale Agreement; the 850 Columbia Road Sale Agreement; and the Termination of 1996 Definitive Agreement; and

(c) such other instruments and documents as the parties reasonably deem necessary to effect the transactions contemplated by this Master Agreement, including all completed Exhibits and Schedules to this Master Agreement.

8.3 LHA's Deliveries as of the Effective Date. Upon the final required signature of this Master Agreement, in addition to any other documents specifically required to be delivered pursuant to this Master Agreement, LHA shall deliver the following:

(a) certified copies of resolutions of the LHA Board, duly adopted and in full force and effect as of the Effective Date, authorizing and approving LHA's performance of the transactions contemplated under this Master Agreement, including adopting the amended and restated articles of incorporation and code of regulations of LHA, and the execution and delivery of the documents described herein;

(b) originals of the following agreements executed by a duly authorized officer of LHA: the 850 Columbia Road Sale Agreement, the Termination of 1996 Definitive Agreement; and the Lease Amendment; and

(c) such other instruments and documents as the parties reasonably deem necessary to effect the transactions contemplated by this Master Agreement, including all completed Exhibits and Schedules to this Master Agreement.

8.4 The City's Deliveries as of the Effective Date. Upon the final required signature of this Master Agreement, in addition to any other documents specifically required to be delivered pursuant to this Master Agreement, the City shall deliver the following:

(a) certified copies of legislation duly adopted by the City Council of Lakewood and in full force and effect as of the Effective Date, authorizing and approving the City's performance of the transactions contemplated by the Master Agreement and the execution and delivery of this Master Agreement and the documents described herein.

(b) originals of the following agreements executed by a duly authorized officer of the City: FHC Site Sale Agreement; and the Lease Amendment; and

(c) such other instruments and documents as the parties reasonably deem necessary to effect the transactions contemplated by this Master Agreement, including all completed Exhibits and Schedules to this Master Agreement.

ARTICLE IX

Post-Effective Date Obligations

9.1 Consents. Each party shall use its commercially reasonable efforts to, and shall cooperate with the other parties to (i) promptly apply for and use all reasonable efforts to obtain as soon as practicable all consents, approvals, authorizations and clearances of governmental authorities required of it to consummate the transactions contemplated hereby; (ii) provide such information and communications to governmental authorities as another party or such governmental authorities may reasonably request; and (iii) assist and cooperate with the parties' efforts to obtain all consents, licenses, permits, approvals, authorizations and clearances of governmental authorities that the parties reasonably deem necessary or appropriate and to prepare any document or other information reasonably required of it by any such governmental authorities to consummate the transactions contemplated herein. Each party shall notify the other parties promptly upon receiving any written request for additional information from any governmental authorities in connection with the transactions contemplated by this Master Agreement, and shall use commercially reasonable efforts to comply with such request as soon as possible. Each party shall keep the other parties promptly informed of all developments regarding such filings, requests and responses referred to in this Section 9.1. No party or any Affiliate (defined below) thereof shall enter into any agreement with any governmental authority not to consummate or to delay consummation of the transactions contemplated by this Master Agreement, except with the prior written consent of the other parties. If any administrative or judicial action or proceeding is instituted, each party shall each use its commercially reasonable efforts to defend such action or proceeding.

9.2 Clinic Payment Obligations. To the extent LHA does not have sufficient funds to meet any of its payment obligations under this Master Agreement, the Clinic shall fulfill such obligations.

9.3 LHA Record Retention. Upon LHA's cessation of operations, the Clinic will maintain and administer the archival recordkeeping operations of LHA, complying with applicable laws, pursuant to the Clinic's record retention policies.

9.4 Mutual Waiver.

(a) The City, on its own behalf and on behalf of the Mayor, City Council, and its directors (each in their representative capacity only), and its successors and assigns (collectively, the "City Parties"), hereby forever waives, releases and discharges LHA and the Clinic and their respective Affiliates, members, officers, directors, trustees, employees, agents, attorneys, donors, successors and assigns (the "Hospital Parties"), from any and all known and unknown claims, demands, injuries, damages, actions, costs, expenses, attorneys' fees, liability and suits in equity or law, known or unknown (collectively, "Claims") and hereby agrees to not bring suit against the Hospital Parties for causes of action that arise out of or relate to the Original Lease, the Definitive Agreement, the operation and management of the Hospital prior to the Effective Date, or the Transition, including closing of the Hospital, the cessation of services or programs at the Hospital, and the potential demolition, abatement and/or redevelopment of the Hospital building. Notwithstanding the foregoing, the City Parties and LHA agree that Section

9.9 of the 1996 Lease, if applicable, shall remain in full force and effect through the pendency of any suit pending in the Cuyahoga County Court of Common Pleas, any appeals concerning the same, and any other litigation which may arise as a result of the Transition, including closing of the Hospital and the cessation of services or programs at the Hospital.

(b) Each of the Hospital Parties hereby forever waives, releases and discharges the City Parties and the other Hospital Parties, from any and all known and unknown Claims and hereby agrees to not bring suit against the City Parties or the other Hospital Parties for causes of action that arise out of or relate to the Original Lease, the Definitive Agreement, the operation and management of the Hospital prior to the Effective Date, or the Transition, including closing of the Hospital or the cessation of services or programs at the Hospital.

(c) Nothing in this Section 9.4 shall be deemed to relieve any party of any of its obligations, or waive any party's rights, under this Master Agreement or any of the Ancillary Agreements.

9.5 Cooperation in Orderly Cessation of Services at the Hospital and Dissolution of LHA. Each of the parties agrees to cooperate to effect an orderly and efficient closure of the Hospital and the transition of patient care. Each of the parties agrees it will not take any action that is intended to (i) delay, stop, reverse or otherwise impede any of the parties from taking the actions contemplated by the Transition, or (ii) delay, stop, reverse or otherwise impede the dissolution of LHA. All parties further agree to cooperate in good faith to oppose any action by a judicial or quasi-judicial body or governmental body or agency intended to stop, reverse or otherwise impede the Transition or any other obligations set forth in this Master Agreement or any Ancillary Agreement. Notwithstanding anything contained herein to the contrary, nothing in this Section 9.5 shall be deemed to obligate the City to amend, modify or waive any legal requirement or established processes.

9.6 Priority Hiring of Lakewood Hospital Employees and the Clinic's Employees at the Hospital. In recognition of the commitment to the provision of high quality patient care shown by those Hospital employees and the Clinic employees working at the Hospital, the Clinic agrees that if circumstances arising from the Transition result in the job of a Hospital employee or a Clinic employee working at the Hospital being eliminated, the Clinic will offer such individual another job opportunity within the Clinic's health system. The Clinic's human resource team will work with such individuals to provide information and guidance about opportunities at the FHC or other Clinic health system locations. Such individuals will be given top priority for open positions within the Clinic's health system.

9.7 Transition of Physician Offices. To the extent necessitated by the construction of the FHC and subject to applicable legal requirements, the parties will coordinate the relocation of existing tenants in the professional office building on the FHC Site and will work collaboratively to effectively transition independent physicians and other tenants of such professional office building to new locations; provided, however, the City's assistance in such relocation efforts shall be at no additional cost to the City.

9.8 Negotiations between Lakewood and Avon. The Clinic will use its best efforts to facilitate negotiations between the City of Avon and the City of Lakewood to compensate the City

of Lakewood for the loss of payroll taxes consistent with the payroll tax revenue sharing agreement that the City of Avon entered into with other nearby municipalities in 2005.

9.9 Transportation Grants. Promptly following the Effective Date, the City and the Clinic will collaborate on an application for a planning grant from the Lakewood Hospital Foundation or another appropriate foundation agreed to by the parties to address transportation needs during the Transition and following the opening of the FHC.

9.10 Wind-Down and Dissolution Activities. LHA will undertake the activities described in ARTICLE III.

9.11 Transfer of Real Property. To the extent necessary, LHA will cooperate in transferring to the City any real estate rights that it may have in the Current Hospital Site and any residential homes owned by LHA or pursuant to the 1996 Lease. In connection with the sale of the FHC Site, LHA will assign and the Clinic will assume any leases or other occupancy agreements currently encumbering the FHC Site and LHA shall execute any other affidavits or documents as may be required to deliver title to the FHC site to the Clinic in the condition required by the FHC Site Sale Agreement.

9.12 Insurance. In consideration for insurance premiums (estimated fair market value of \$2.5 million) paid by or allocated to LHA, the Clinic will provide insurance protection (indemnity and defense), including without limitation professional liability and directors and officers insurance, for the officers, trustees, employees, and other agents of LHA, for LHA-related occurrences both prior to and subsequent to the dissolution of LHA.

9.13 Approvals. The City will cooperate with the Clinic's efforts to obtain all zoning, architectural, construction, engineering, regulatory, tax-exemption or other approvals within its authority as requested by the Clinic in the design, construction, and maintenance of the FHC, provided that (a) the Clinic properly follows established processes for obtaining such approvals and (b) the City shall not be obligated to waive, amend or modify any legal requirements or established processes for obtaining such approvals.

9.14 City Obligations.

(a) In addition to the other obligations in this ARTICLE IX, the City shall meet its obligations described in Section 2.2 and its obligations under the Covenant described in Section 5.3.

(b) The City will make reasonable efforts to include among its employee benefits at least one health plan with Tier 1 and/or preferred provider access to the Cleveland Clinic, to the extent reasonably practicable and permissible under existing agreements.

9.15 FHC Commencement Date. In the event that the FHC is not open and operating by June 30, 2019, all references in this Master Agreement to the FHC Commencement Date shall be deemed to be June 30, 2019.

9.16 Defaults.

(a) It shall be an event of default hereunder or under any Ancillary Agreement that does not separately define "default" or "event of default" (each an "Event of Default") if any party shall:

- (1) Fail to perform any monetary obligation set forth in this Master Agreement within ten (10) days of written notice that such obligation has not been performed;
- (2) Fail to perform any non-monetary obligation set forth in this Master Agreement within thirty (30) days of written notice that such obligation has not been performed or such longer period of time as may be reasonably required to perform such obligation, provided the defaulting party commences performance within such thirty (30) day period and thereafter diligently pursues such performance to completion;
- (3) Make an assignment of the property of such party for the benefit of creditors;
- (4) Have (whether voluntarily or involuntarily) a receiver, trustee or assignee appointed for such party with respect to all or substantially all of its assets;
- (5) Declare bankruptcy or insolvency; or
- (6) Commence bankruptcy proceedings or have bankruptcy proceedings commenced against it, provided, however, the commencement of an involuntary proceeding against a party shall not be an Event of Default if dismissed within sixty (60) days following commencement.

9.17 Remedies. Upon the occurrence of an Event of Default, the non-defaulting party (or parties) shall have the right to exercise all rights and remedies available at law or in equity arising from such Event of Default, including, without limitation, specific performance.

ARTICLE X

Dispute Resolution

10.1 Covered Disputes. All controversies and claims arising under or relating to this Master Agreement and the Ancillary Agreements shall be resolved in accordance with this ARTICLE X. The parties shall negotiate all matters of joint concern in good faith, with the intention of resolving issues between them in a mutually satisfactory manner. If a disagreement between or among the parties cannot be resolved through informal discussions, it shall be deemed a "Dispute" upon one party (the "Declaring Party") declaring, by the delivery of a written notice (the "Notice") to the other parties, that a Dispute exists. The Notice shall specify the nature and cause of the Dispute and the action that the Declaring Party deems necessary to resolve the Dispute. Following receipt of the Notice, the authorized representatives of the parties shall use good faith efforts to resolve the Dispute. If a Dispute is not resolved by the officers within thirty (30) days of the date of the Notice, the matter shall be referred to the LHA Board chair, the President of Lakewood City Council and the Chair of the Executive Committee of the Cleveland Clinic Regional Hospitals. If a Dispute is not resolved between such designees of the respective

parties within thirty (30) days of the date of submission thereto, the parties shall have the remedies provided in Section 9.17 or as separately provided in an Ancillary Agreement.

10.2 General. The parties agree that all aspects of the informal dispute resolution process contemplated by Section 10.1 shall be conducted in confidence. The parties agree that all statements made in connection with informal dispute resolution efforts shall not be considered admissions or statements against interest by either party. The parties further agree that they will not attempt to introduce such statements at any later trial or mediation between the parties. Notwithstanding any language in this ARTICLE X to the contrary, the parties agree that any records that are public pursuant to state or local records laws shall not be subject to the aforementioned requirements. **EACH PARTY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING.**

ARTICLE XI

Miscellaneous Provisions

11.1 Definitions. The term "Affiliate" when used in connection with a particular entity means any Person directly or indirectly controlled by or under common control with such entity. "Control" or "controlled by" shall mean the power to elect through membership, ownership, contract, or otherwise, fifty percent (50%) or more of the board of trustees, directors or managers (or others performing similar functions) of a Person. "Control" also includes the power to direct or cause the direction of the policies and management of an entity, whether through contract, membership interests, ownership of voting securities, a lease, a management agreement, or other arrangement. The term "Person" means any individual, partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or other association or any other entity.

11.2 Survival. The representations and warranties of the parties shall survive for a period of twelve months after the Effective Date. No representations and warranties shall survive the termination of this Master Agreement. All covenants and agreements that contemplate performance thereof following the Effective Date will survive the Effective Date in accordance with their respective terms as described herein.

11.3 Waivers and Amendments. This Master Agreement may not be amended or modified and compliance herewith may not be waived (either generally or in a particular instance and either retroactively or prospectively) except with the written consent of both parties hereto.

11.4 No Third Party Beneficiaries. This Master Agreement is intended solely for the benefit of the parties hereto and not for the benefit of any other person or entity.

11.5 Enforcement of Remedies. To the extent a party's obligation under this Master Agreement is explicitly directed to one or more, but not all, of the parties, any party(ies) shall have the ability to enforce such obligation. Further, to the extent any terms of this Master Agreement conflict with the terms of an Ancillary Agreement, the terms of the Ancillary Agreement shall govern. If a dispute arises under an Ancillary Agreement, only the parties to

such agreement will be entitled to enforce remedies thereunder and the other parties to this Master Agreement are not third party beneficiaries by virtue of this Master Agreement.

11.6 Estoppel. At any time and from time to time, each party agrees, upon a written request from any other party, to execute and deliver to the requesting party, within fifteen (15) days of request, a written statement certifying: (i) that this Master Agreement is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications); (ii) that the certifying party knows of no default or any act or omission that with the passage of time would constitute a default under the Master Agreement by any other party to the Master Agreement (or stating any such default, act or omission); (iii) that the certifying party has not received written notice from any other party to the Master Agreement alleging that the certifying party is in default under the Master Agreement (or identifying such notice); and (iv) such other information as the requesting party may reasonably request.

11.7 Binding Effect. Except as provided otherwise, all of the terms and provisions of this Master Agreement shall be binding upon and inure to the benefit of and be enforceable by the duly authorized successors and assigns of the parties hereto.

11.8 Headings. The headings contained in this Master Agreement, in any Exhibit hereto are for reference purposes only and shall not affect in any way the meaning or interpretation of this Master Agreement. All Exhibits annexed hereto or referred to herein are hereby incorporated in and made a part of this Master Agreement as if set forth in full herein. Any capitalized terms used in any Exhibit but not otherwise defined therein, shall have the meaning as defined in this Master Agreement. When a reference is made in this Master Agreement to a Section or Exhibit such reference shall be to a Section of, or an Exhibit to, this Master Agreement unless otherwise indicated.

11.9 Entire Agreement. The parties agree that this Master Agreement, including the Exhibits hereto, which are incorporated herein by reference, and the Ancillary Agreements represent the complete and exclusive statement of the agreement among them with respect to the subject matter hereof and supersedees all other agreements, oral or written, between them relating to the subject matter of this Master Agreement and the Ancillary Agreements.

11.10 Assignment. No party shall assign this Master Agreement or any of its rights or obligations hereunder (including by operation of law in connection with a merger or consolidation) without the prior written consent of the other parties. Any attempt at assignment of this Master Agreement in violation of this Section 11.10 shall be void and of no effect.

11.11 Notices. Any and all notices and other communications made or given pursuant to this Master Agreement shall be in writing and shall be sufficiently made or given if transmitted by hand delivery with receipt therefor, by certified or registered mail, postage prepaid, return receipt requested, or by a national overnight delivery service with guaranteed next-day delivery with receipt therefor, addressed as provided below; or, if the receiving party consents in advance, transmitted and received via telecopy or via such other electronic transmission mechanism as may be available to the parties. If a notice or communication is transmitted by hand delivery, certified

Thompson Hine LLP
3900 Key Center
127 Public Square
Cleveland, Ohio 44114
Attn: Robyn Minter Smyets, Esq.

or such other address as the party may designate in writing to the other party from time to time.
Notices and communications shall be effective when received.

11.12 Counterparts. This Master Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

11.13 Governing Law. This Master Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

11.14 Severability. If any of the terms or provisions of this Master Agreement or the application thereof to any person or this Master Agreement or the application thereof to any person or circumstance shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Master Agreement and the application of such terms or provisions to other persons or circumstances shall not be affected thereby, but rather shall be enforceable to the greatest extent permitted by law. In substitution for any provision of this Master Agreement held unlawful, invalid or unenforceable, there shall be substituted a provision of similar import reflecting the original intent of the parties hereto to the fullest extent permissible under law.

11.15 Expenses. Each party hereto shall pay its own legal, accounting, out-of-pocket and other expenses incident to this Master Agreement.

11.16 Further Assurances. Each party will, whenever and as often as it shall be reasonably requested by any other party, for no additional monetary remuneration, take or cause to be taken all actions and execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments and documents, as may be reasonably necessary in order to carry out the terms and conditions of this Master Agreement and the Ancillary Agreements and to consummate and make effective transactions herein and therein contemplated and shall do any and all other acts as may be reasonably requested in order to carry out the intent and purpose of this Master Agreement and the Ancillary Agreements.

11.17 Time of Essence. Time is of the essence in the performance of this Master Agreement. This Section may be waived only in a writing expressly referring hereto.

[The remainder of this page intentionally left blank.]

or registered mail or Federal Express or other delivery service, as provided above, then such notice or communication shall be addressed as follows:

If to the Clinic:

The Cleveland Clinic Foundation
Office of the Chief Executive Officer and President
9500 Euclid Avenue
Cleveland, OH 44195
Attn: Delos M. Cosgrove, M.D., Chief Executive Officer and President

With a copy to:

The Cleveland Clinic Foundation
Law Department
3030 Science Park Drive, AC3-21
Beachwood, Ohio 44122
Attn: David W. Rowan, Chief Legal Officer

If to LHA:

14519 Detroit Avenue
Lakewood, Ohio 44107
Attn: Chairman of the Board of Trustees

With a copy to:

Jeffrey R. Humsberger, Esq.
McDonald Hopkins LLC
600 Superior Avenue, Suite 2100
Cleveland, Ohio 44114

If to the City:

City of Lakewood
12650 Detroit Ave.
Lakewood, Ohio 44107
Attn: Mayor

With a copy to:

City of Lakewood
12650 Detroit Ave.
Lakewood, Ohio 44107
Attention: Law Director

And a copy to:

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto have executed this Master Agreement as of the date first written above.

THE CITY OF LAKEWOOD

By: _____
Name: Michael P. Summers
Title: Mayor

THE CLEVELAND CLINIC FOUNDATION

By: _____
Name: _____
Title: _____

LAKWOOD HOSPITAL ASSOCIATION

By: _____
Name: _____
Title: _____

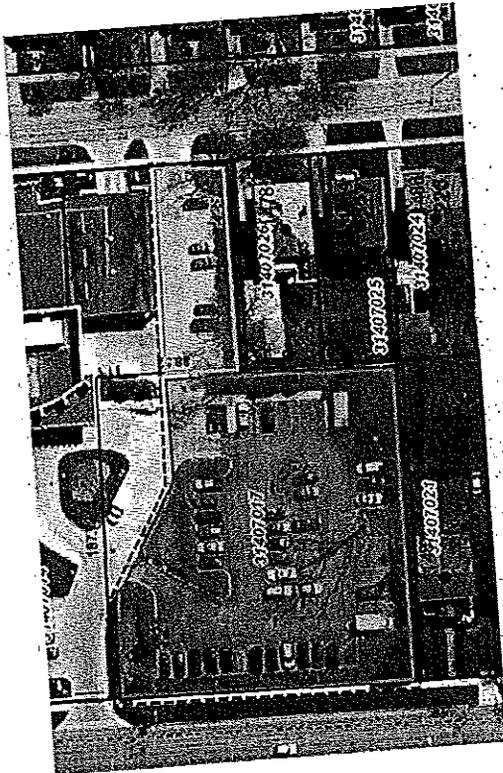
Exhibits

- Exhibit A - Depiction of ER Parking Lot
- Exhibit B - Material Terms of Parking Lot Lease
- Exhibit C - Initial FHC Services
- Exhibit D - Depiction of Current Hospital Site
- Exhibit E - List of Excluded Personal Property
- Exhibit F - Termination of 1996 Definitive Agreement
- Exhibit G - FHC Site Sale Agreement
- Exhibit H - 850 Columbia Road Sale Agreement
- Exhibit I - Lease Amendment

The legal form and correctness of this instrument is hereby approved:

By: _____
Name: Kevin M. Butler
Title: Director of Law

Exhibit A
Depiction of ER Parking Lot



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Exhibit B

Material Terms of Parking Lot Lease

- Term:** 10 year initial term, plus eight 5-year options to extend, unless sooner terminated pursuant to the terms of the lease
- Rent:** Fair market rental rate, taking into account the allocation of maintenance and other responsibilities between the parties
- Maintenance:** The Clinic will be solely responsible for the maintenance and security of the parking lot, including snow removal
- Insurance:** The Clinic will be solely responsible for maintaining all insurance on the parking lot
- Triple Net:** The lease shall be an absolutely triple net lease
- Expansion/Reconfiguration:** The Clinic will be solely responsible for completing any restriping or other improvements necessary to increase capacity to approximately 75 parking spaces
- Public Use:** During the hours that the FHC is not operating (other than providing emergency services), the parking lot shall be available for public parking
- Controlled Access:** The Clinic will be permitted to construct access gates to limit access to the parking lot during FHC hours of operation

B-1

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Exhibit C

List of Services initially available at the FHC

- Emergency Department (24/7/365)
- Family Medicine/Pediatrics
- Women's Health (incl. Midwifery)
- Diabetes Care
- Musculoskeletal Care
- Ophthalmology/Optomety
- Brain Health/Behavioral Health
- Pulmonology
- Neurology
- Cardiac Care
- Geriatrics
- Digestive Diseases
- Chronic Disease Clinics
- Pharmacy
- Physical/Occupational Therapy
- Primary Care featuring an advanced medical home model
- Radiology and Lab Services
- Home Care coordinated with Fairview Hospital e Visits/My Chart

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Exhibit D
Depiction of Current Hospital Site



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D-1

Plaque and Artwork Inventory

LOCATION	DESCRIPTION / IN HONOR/MEMORY OF ...	GIVEN BY ...
Belle Lobby	Charles Brunner	Family and Friends
Belle Lobby	Dr. Robert Giegulis	
Belle Lobby	Mr. Russell Jones	Friends
Belle Lobby	Mary Ann Briggs Johnson & William Briggs Johnson	
Belle Lobby	Raymond Lawrence	Wife Gertrude & Son Ray
Belle Lobby	Wayne Bill Reynolds, MD	
Belle Lobby	Carl & Frances Foster	
Belle Lobby	Elizabeth & Edward DeMooy (DeMooy Laboratory)	
Belle Lobby	William H. & Elizabeth Sherrer Miller	
Belle Lobby	Mary Jane Brunner Kirk	Family & Friends
Belle Lobby	Homer Yoder, MD	
Belle Lobby	K. Cameron, RN, L. Kalman, RN, Sharon Westerfield, RN	Grateful Patients
Belle Lobby	Emanuel & Irene Vasilio	In celebration of his 80 th b-day
Belle Lobby	Future Cardiac Patients	Former Cardiac Patients
Belle Lobby	Lakewood Rotary Club	
Belle Lobby	James Lehman, MD	Staff of Biometrics Dept.
Belle Lobby	German Neri, Jr. MD	Mr. & Mrs. Paul Weisenberger

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Exhibit E
List of Excluded Personal Property

[see attached]

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Belle Lobby	Louis P. Smith	
Belle Lobby	Mrs. Doris Gamble (Honor)	
Belle Lobby	Elizabeth Kirk	Family
Belle Lobby	Mr. & Mrs. Earl Foster	
Belle Lobby	Mrs. Ardys Yoder	Family & Friends
Belle Lobby	Mildred M. & Walter J. Rubin	
Belle Lobby	Arthur Frey	LHF
Belle Lobby	Ralph Briggs	LHF
Belle Lobby	William Fairgrieve	LHF
Belle Lobby Desk	Volunteers with over 5000 hours of service	Volunteer Association
Auditorium	John C. Wasmer Family	
Gift Shop Entrance	Lillian Platt	
Community Health Center Lobby	CHC Campaign 1991	
2B	Oncology Nurses on 2B	Neal O'Donnell Family
Across from Cafe	Comprehensive Donor Recognition 2006	
Emergency Room Lobby	ER Campaign 2002	
2B	Nurses of 2B	Family of Patsy Tolbert
Surgical Waiting Area	George & Helen Hall	Graham & Carol Hall
Surgical Waiting Area	John Callinan, MD	Department of Pulmonary Medicine
Surgery	Norman William Theissen, MD	Members of Medical Staff

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Belle Lobby	Construction & Renovation Project	
Belle Lobby	Medical Staff	Lakewood Hospital Foundation
Belle Lobby	John & Vivian Arnold	LHF
Belle Lobby	George Horsley	Leona Horsley & Family
Belle Lobby	82-85 Construction & Renovation Program	Lakewood Hospital
Belle Lobby	Marie Voneman	
Belle Lobby	Jack Arnold	Wife Vivian
Belle Lobby	James Ledman, Md	Mr. & Mrs. Theodore Faxon
Belle Lobby	1972 Construction & Renovation Program	Board of Trustees
Belle Lobby	Jacqueline Davis	
Belle Lobby	1982-85 Construction & Renovation Program	Board of Trustees
Belle Lobby	Bill & Colette Townsend	
Belle Lobby	Harold Gustin	Family & Friends
Belle Lobby	Ray & Viola Piess (Honor)	
Belle Lobby	Mr. & Mrs. Anthony Rini (Honor)	
Belle Lobby	Paul Harvey Correll, MD (Honor)	Mr. & Mrs. John Kirk
Belle Lobby	Employees' support of Building Campaign (Honor)	Lakewood Hospital
Belle Lobby	F. Wilson Chockley, Jr. (Honor)	LHF
Belle Lobby	Marian K. VanLuit	
Belle Lobby	Children's Board Courtyard (Honor)	
Belle Lobby	Hospital's Corp of Volunteers (Honor)	LHF

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Exhibit F
Termination of 1996 Definitive Agreement

AGREEMENT TO TERMINATE DEFINITIVE AGREEMENT

THIS AGREEMENT TO TERMINATE DEFINITIVE AGREEMENT (this "Termination Agreement") is effective as of the 21st day of December, 2015 (the "Effective Date") by and between THE CLEVELAND CLINIC FOUNDATION, an Ohio nonprofit corporation (the "Clinic"), and LAKEWOOD HOSPITAL ASSOCIATION, an Ohio nonprofit corporation ("LHA").

RECITALS

- A. The Clinic and LHA entered into a Definitive Agreement executed on December 19, 1996, in connection with Lakewood Hospital, a community hospital located in the City of Lakewood that provides hospital and health care services to residents of the City of Lakewood and its surrounding communities;
- B. This Termination Agreement is an Ancillary Agreement required by the Master Agreement Among City of Lakewood, LHA, and the Clinic effective as of the Effective Date (the "Master Agreement"); and
- C. Subject to the terms and conditions hereinafter set forth, the parties desire to terminate and cancel the Definitive Agreement and any continuing obligations described therein effective as of the Effective Date and to release each other from their respective obligations under the Lease.

AGREEMENTS

IN CONSIDERATION of the foregoing Recitals and the mutual covenants and agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Termination.** The Definitive Agreement shall be, and is, hereby terminated and cancelled in its entirety effective as of the Effective Date and the Clinic and LHA hereby forever release and discharge each other from all of their respective obligations and claims arising under, or in connection with the Definitive Agreement. LHA and the Clinic specifically agree and acknowledge that, notwithstanding any language to the contrary in the Definitive Agreement, none of their respective obligations or claims, including those originally intended to survive the termination thereof, survive this termination of the Definitive Agreement.
2. **Binding Effect.** All of the terms and provisions of this Termination Agreement shall inure to the benefit of, be enforceable by and be binding upon the parties hereto and their respective heirs and personal representatives, successors and assigns.

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ICU Waiting Area	Dr. & Mrs. Larry Hammerburg (Honor)	Sara H. Lints
4B-room 423	Senior Patients	Women's Board
SNF-room 463	LaVerne & Lloyd Douglas	
4E-room 481	Dr. T. Rey Rivera	Emanuel & Irene Vasilion
Basement	Dr. Lee Graber (portrait)	
3 rd Floor Atrium	Flower Market Painting	Dr. & Mrs. Robert Kapp
3 rd Floor Atrium	Sunflower and Glass Blocks Painting	Mrs. John L. Callinan & Friends
1B Lounge	Late Afternoon Painting	Ms. Helen Libens & Family
Belle Lobby Lounge	Study of White Roses	Mr. Mark Teaster
Basement	Dr. Russell Crawford (portrait)	

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3. Miscellaneous. This Termination Agreement may be executed in any one or more counterparts, all of which taken together shall constitute one instrument. This Termination Agreement shall be governed by and construed under the laws of the State of Ohio. Each party shall cooperate and take such action and execute such other and further documents as reasonably may be requested from time to time after the Effective Date by any other party to carry out the terms and provisions and intent of this Termination Agreement.

4. Entire Agreement. This Termination Agreement contains the entire agreement between the parties hereto as to the subject matter hereof, and it is understood and agreed that there are no other covenants, representations or warranties other than those contained herein, in the documents referred to herein, and in the Master Agreement.

IN WITNESS WHEREOF, the parties have executed this Termination Agreement as of the 21st day of December, 2015.

THE CLEVELAND CLINIC
FOUNDATION

By: _____
Print Name: _____
Its: _____

LAKWOOD HOSPITAL ASSOCIATION

By: _____
Print Name: _____
Its: _____

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Exhibit G
FHC Site Sale Agreement

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is entered into as of the _____ day of December, 2015 (the "Effective Date"), by and between the City of Lakewood, Ohio, a municipal corporation and political subdivision in and of the State of Ohio ("Seller"), and The Cleveland Clinic Foundation, an Ohio non-profit corporation ("Buyer").

RECITALS

A. Buyer and Seller are parties to that certain Master Agreement dated as of December 2015 (the "Master Agreement") by and among Buyer, Seller and Lakewood Hospital Association ("LHA").

B. Pursuant to the Master Agreement, Seller has agreed to sell and convey to Buyer, and Buyer has agreed to purchase from Seller, in accordance with the terms and conditions of this Agreement, that property located in Lakewood, Ohio, as more particularly described in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

AGREEMENT:

1. The Property. Upon and subject to the terms and conditions contained herein, Buyer agrees to purchase from Seller, and Seller agrees to sell to Buyer, the following (collectively, the "Property"):

(a) the land depicted on Schedule I(a) attached hereto, located in the City of Lakewood, County of Cuyahoga, State of Ohio, together with all easements, rights and privileges appurtenant thereto, and all of Seller's right, title and interest, if any, in and to any land lying in the bed of any street, avenue or alley, open or closed, in front of, abutting or adjoining such parcel of real property (the "Land");

(b) all improvements of every kind and description located on the Land, including, without limitation, all buildings and structures located thereon, together with all building fixtures and appurtenances located in and affixed to such improvements on the date hereof (collectively, the "Improvements"); and

¹ The parties acknowledge that the Land as depicted on Schedule I(a) does not consist of current conveyable parcels. Seller shall, at its cost and expense, commission a survey of the site and cause a for split/consolidation plat to be prepared in order to create one tax parcel and legal description which will be used for purpose of the Deed. The closing will be conditioned upon receipt of any necessary approvals for lot splits and/or consolidations (the "Lot Split Approval").

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RELATING TO THIS PROPERTY, INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL CONDITIONS.

Buyer hereby acknowledges, agrees, represents and warrants to Seller that various factual matters unknown to Buyer may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses and other claims and liabilities that are currently unknown and unanticipated to or by Buyer, and Buyer further acknowledges, agrees, represents and warrants to Seller that the waivers and releases given herein have been negotiated by the parties and agreed to by Buyer notwithstanding any such lack of knowledge of or anticipation by Buyer, and that Buyer nevertheless hereby releases, discharges and acquits, Seller from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses and other claims and liabilities. The provisions of this Section 3(b) shall survive, without time limitation, the Closing or any termination of this Agreement without a Closing, and shall not merge with the Deed (defined below) or any other document to be delivered at Closing.

4. **Conveyance Documents.** Seller shall convey to Buyer (a) the Land and the Improvements by quitclaim deed in the form of Schedule 4(a) attached hereto (the "Deed"), and (b) the Warranties and Documents by general assignment in the form of Schedule 4(b) attached hereto (the "General Assignment").

5. **Title.** (a) It shall be a condition to Buyer's obligation to consummate the transaction contemplated hereby that, upon the recording of the Deed, the Title Company shall issue to Buyer an ALTA Owner's Policy of Title Insurance (2006 Form), with an effective date and time as of the date and time of the recording of the Deed (the "Title Policy") in the amount of the Purchase Price, insuring title to the Land and Improvements in Buyer, free and clear of all encumbrances other than the Permitted Exceptions (defined below) with customary endorsements as reasonably requested by Buyer. Seller agrees to deliver to the Title Company, on or prior to Closing Date, any affidavit reasonably required by the Title Company to cause the Title Company to delete the so-called "standard exceptions" from the Title Policy (the "Title Company Affidavit").

(b) For the purposes hereof, the term "Permitted Exceptions" means (i) real estate taxes and assessments which are a lien but not yet due and payable, (ii) building and zoning ordinances and regulations, (iii) any matters disclosed on the Title Commitment dated November 13, 2015 (the "Commitment"), a copy of which has been delivered to Buyer, and (v) the Leases (defined below), any other occupancy agreements and any rights of parties in possession.

6. **Warranties and Representations of Buyer.** Buyer hereby represents and warrants to Seller as follows as of the Effective Date and as of the Closing Date:
(a) **Organization: Authority.** Buyer is a duly formed and validly existing non-profit corporation under the laws of the State of Ohio. Buyer has the legal power, right and authority to enter into this Agreement and to execute and deliver the instruments and documents referenced herein, and to consummate the transaction contemplated hereby.

(b) **Due Authorization: Binding Agreement.** The execution, delivery and performance of this Agreement by Buyer has been duly and validly authorized by all necessary action of Buyer. This Agreement has been duly executed and delivered by Buyer and constitutes

(c) all warranties, guarantees, permits, licenses, architectural and engineering plans and reports, books, records, financial data, computer data, tenant files, and other files and documents owned by Seller to the extent relating to the use, operation, maintenance or repair of the Land or the Improvements (collectively, the "Warranties and Documents").

2. **Purchase Price.** Buyer shall pay to Seller as the total purchase price (the "Purchase Price") for the Property the sum of _____ Dollars (NOTE: FMV _____), which shall be payable at Closing (defined below). [NOTE: FMV OF VACANT LAND TO BE DETERMINED BY APPRAISAL.]

(a) The Purchase Price shall be deposited with the Escrow Agent (defined below) on not later than 11:00 A.M. (local time within the time zone in which the Property is located) on the Closing Date (defined below) in immediately available federal funds, subject to the adjustments and prorations hereinafter provided. It shall not be a condition to Buyer's obligation to consummate the transaction contemplated by this Agreement that Buyer obtain financing for all or any portion of the Purchase Price.

(b) For the purposes hereof, the term "Escrow Agent" means the Cleveland office of First American Title Insurance Company; attention: LeAnn Davis; telephone number: 216.802.3505; email: LeAnn.Davis@firstam.com. The "Escrow Agent" shall also serve as the "Title Company" for purposes of this Agreement. This Agreement shall serve as escrow (the instructions, together with Escrow Agent's standard conditions of acceptance of escrow (the "Standard Conditions of Escrow"); provided, however, that in the event of any inconsistency between the Standard Conditions of Escrow and this Agreement, this Agreement shall govern and control. For the purposes hereof, the term "Business Day" means all days, excluding (i) Saturday and Sunday, and (ii) any day that is a national holiday in the United States or a state holiday in the State in which the Land is located.

3. **Condition of Property: Inspection.** (a) Buyer acknowledges and agrees that, except as otherwise set forth in this Agreement, including the representations set forth in Section 7 of this Agreement, (i) Seller has made no representation or warranty whatsoever, express or implied, as to the condition, quantity or quality of the Property, or any portion thereof, and (ii) Buyer agrees to accept the Property and all portions thereof in "AS IS" condition as of the date hereof, subject to ordinary wear and tear and damage by casualty.

(b) EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT SELLER IS SELLING AND BUYER IS PURCHASING THE PROPERTY ON AN "AS IS" "WHERE IS" AND "WITH ALL FAULTS" BASIS IN ITS CURRENT CONDITION, INCLUDING ALL ZONING, SUBDIVISION, AND ENVIRONMENTAL CONDITIONS, AND SELLER DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT FOR THE AGREEMENT, EXCEPT FOR LIABILITY ARISING FROM BREACH OF SUCH REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE BY SELLER IN THIS AGREEMENT, BUYER HEREBY RELEASES SELLER FROM ANY AND ALL LIABILITY

the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with the terms hereof, subject to bankruptcy, insolvency, reorganization, moratorium and other laws of general applicability relating to or affecting creditors' rights. Buyer has taken all actions required to be taken under the laws of the State of Ohio and under Buyer's articles of incorporation and by-laws or articles of organization and operating agreement, as the case may be, to approve or authorize the execution and delivery of this Agreement and consummation of the transaction contemplated by this Agreement.

(c) Authority to Close. Buyer is acting as principal in this transaction with authority to close the transaction.

7. Warranties and Representations of Seller. Seller hereby represents and warrants to Buyer as follows as of the Effective Date and as of the Closing Date:

(a) Organization; Authority. Seller is a duly formed and validly existing municipal corporation and political subdivision under the laws of the State of Ohio. Seller has the legal power, right and authority to enter into this Agreement and to execute and deliver the instruments and documents referenced herein, and to consummate the transaction contemplated hereby.

(b) Due Authorization; Binding Agreement. The execution, delivery and performance of this Agreement by Seller has been duly and validly authorized by all necessary action of Seller. This Agreement has been duly executed and delivered by Seller, and constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with the terms hereof, subject to bankruptcy, insolvency, reorganization, moratorium and other laws of general applicability relating to or affecting creditors' rights. Seller has taken all actions required to be taken under the laws of the State of Ohio and under Seller's articles of incorporation and by-laws or articles of organization and operating agreement, as the case may be, to approve or authorize the execution and delivery of this Agreement and consummation of the transaction contemplated by this Agreement.

(c) Non-Foreign Status. Seller is not a "foreign person" within the meaning of Section 1445(f) of the Internal Revenue Code (the "Code") and is not a "foreign partner" within the meaning of Section 1446 of the Code.

8. Closing. (a) The closing of the transactions contemplated hereby (the "Closing") shall take place in escrow on a date mutually agreeable to Seller and Buyer not later than five (5) days following receipt of the Lot Split Approval, or on such other date as may be established in accordance with the provisions of this Agreement or otherwise agreed to by the parties in writing (the closing date, as the same may be so adjusted or extended, is herein referred to as the "Closing Date").

(b) Purchaser's obligation to consummate the transactions contemplated by this Agreement is subject to the satisfaction at or prior to the Closing of each of the following conditions:

(i) As provided by Section 16, effective as of Closing, LHA has assigned the Leases to Buyer, the rents have been prorated and any security deposits have been delivered to Buyer; and

(ii) No order or injunction of any court or administrative agency of competent jurisdiction nor any statute, rule, regulation or executive order promulgated by any governmental authority of competent jurisdiction shall be in effect as of the Closing which restrains or prohibits the transfer of the Property or the consummation of any other transaction contemplated hereby.

(c) Seller's obligation to consummate the transactions contemplated by this Agreement is subject to the satisfaction at or prior to the Closing of the following condition:

(i) No order or injunction of any court or administrative agency of competent jurisdiction nor any statute, rule, regulation or executive order promulgated by any governmental authority of competent jurisdiction shall be in effect as of the Closing which restrains or prohibits the transfer of the Property or the consummation of any other transaction contemplated hereby.

(d) Seller and Buyer hereby appoint the Escrow Agent to act as escrow agent for the Closing of this transaction. A signed counterpart of this document shall serve as the escrow instructions to the Escrow Agent.

(e) On the Closing Date, and provided that Buyer simultaneously performs its obligations hereunder, Seller shall deposit with the Escrow Agent all of the items listed below, properly executed by Seller, as applicable:

(i) the Deed;

(ii) the General Assignment;

(iii) an executed copy of the Closing Statement referred to in Section 9(d) below;

(iv) the Title Company Affidavit in favor of the Title Company pursuant to Section 5(a) above;

(v) any other documents or instruments required by the terms of this Agreement.

(f) On the Closing Date, and provided that Seller simultaneously performs its obligations hereunder, Buyer shall deposit with the Escrow Agent all of the items listed below, properly executed by Buyer, as applicable:

(i) the Purchase Price, subject to the adjustments and provisions as hereinafter provided;

10. **Prorations, Apportionments and Payments.** On the Closing Date, Seller shall cause to be paid any Taxes relating to the Property which are then due and payable. Taxes relating to the period prior to the Closing Date which are not due and payable until after the Closing Date shall be prorated between the parties by the Escrow Agent as of the Closing Date, based upon the latest available tax bill; any taxes paid in advance for any period following the Closing Date shall also be prorated by the Escrow Agent based upon actual Taxes paid. On the Closing Date, Seller shall also cause to be paid any and all utility and related charges accruing during its ownership of the Property.

11. **Possession.** Possession of the Property shall be delivered by Seller to Buyer on the Closing Date, subject to the Permitted Exceptions.

12. **Notices.** (a) All notices, requests and other communications hereunder shall be in writing and shall be (i) personally delivered, (ii) sent by national overnight delivery service (with evidence of delivery), or (iii) sent by facsimile or other electronic transmission with concurrent delivery by overnight delivery service (with evidence of delivery), addressed to the following addresses, or to such other address of which Seller or Buyer shall have given notice to the other as herein provided:

City of Lakewood
Lakewood City Hall
12650 Detroit Avenue
Lakewood, Ohio 44107
Attn: Mayor of Lakewood

City of Lakewood
Lakewood Law Department
12650 Detroit Avenue
Lakewood, Ohio 44107
Attn: Kevin M. Butler, Director of Law

Thompson Hine LLP
3900 Key Center
127 Public Square
Cleveland, Ohio 44114
Attn: Robyn Minter Smyers, Esq.

The Cleveland Clinic Foundation
Office of the Chief Executive Officer and President
9500 Euclid Avenue
Cleveland, OH 44195
Attn: Delos M. Cosgrove, M.D., Chief Executive Officer and President

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(ii) an executed copy of the Closing Statement referred to in Section 9(d), and

(iii) a real property conveyance fee statement and all other documents or items required by the terms of this Agreement.

(g) On the Closing Date, the Escrow Agent shall complete this transaction by:

(i) causing the Deed to be filed for record with the Cuyahoga County Recorder;

(ii) issuing the Title Policy to Buyer;

(iii) charging Buyer and Seller for those costs and expenses to be paid by each;

(iv) delivering to each party the documents to be delivered to Buyer and Seller, respectively, and disbursing the Purchase Price to Seller, after deducting any sums, charges and prorations as required hereunder; and

(v) preparing and forwarding to each party one signed copy of the Closing Statement showing all of the receipts and disbursements of the escrow.

(h) In the event the Escrow Agent is unable to simultaneously perform all of the instructions set forth above, it shall so notify Buyer and Seller and retain all funds and documents in its possession pending receipt of further instructions jointly issued by Buyer and Seller.

9. **Expenses.** (a) Provided the Closing occurs pursuant to Section 8 hereof, Buyer shall pay (i) the cost of the title examination of the Property and issuance of and updates to the Commitment, the premium charge for the Title Policy and the cost of any endorsements requested by Buyer, (ii) the cost of any survey that Buyer may elect to obtain with respect to the Property, (iii) all recording costs to record the Deed, (iv) all escrow fees, and (v) all real estate conveyance fees.

(b) The Escrow Agent shall prorate real estate taxes and assessments, both general and special ("Taxes"), if any, and any utility and related charges accruing during Seller's ownership of the Property, in accordance with Section 10 below.

(c) Each party shall bear its own legal expenses incurred in connection with the negotiation, documentation and Closing of this transaction.

(d) The Escrow Agent shall prepare and deliver to the parties, prior to the Closing Date, a proposed escrow settlement statement ("Closing Statement") in reasonable detail reflecting the prorations and adjustments to be made on the Closing Date pursuant to this Section 9 and Section 10, which Closing Statement shall be subject to the approval of each of Buyer and Seller.

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With a copy to:

The Cleveland Clinic Foundation
Law Department
3050 Science Park Drive, ACS-21
Beachwood, Ohio 44122
Attn: David W. Rowan, Chief Legal Officer

And a copy to:

Jones Day
901 Lakeside Avenue
Cleveland, Ohio 44114
Attn: Jeffrey L. Kapp and William A. Herzberger

or at such other address as may be designated by either of the parties in a written notice given in accordance with the provisions of this Section.

(b) All such notices, requests and other communications shall be deemed to have been sufficiently given and received for all purposes hereof on the date of actual receipt thereof, or on the date of refusal of delivery by the addressee.

13. **Remedies.** (a) If either party defaults in the performance of its obligations hereunder, the non-defaulting party shall have the rights and remedies available to it under the Master Agreement.

(b) No failure by either party to insist upon strict performance by the other party of any provision hereof shall constitute a waiver of strict performance thereof, and no express waiver shall be deemed to apply to any other existing or subsequent failure of performance whether similar or dissimilar.

(c) No delay or omission by either party to exercise any right accruing to either party upon any such failure by the other party shall impair any such right of the non-failing party or be construed as a waiver of such failure or any acquiescence therein.

14. **Broker Fees.** Each of Seller and Buyer hereby represents and warrants to the other that it has not dealt with any real estate broker or agent in connection with this transaction.

15. **Miscellaneous(a) Modification/Amendment.** None of the provisions hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

(b) **Assignment.** This Agreement shall be binding upon, and inure to the benefit of, Seller and Buyer and their respective successors and assigns and no other person shall be a third party beneficiary under, or have any rights or remedies under or with respect to, this Agreement, provided, that Buyer shall not transfer or assign this Agreement, or any of its rights or obligations hereunder, without the prior written consent of Seller, which consent may be withheld in Seller's sole discretion, and any attempt to do so without such consent shall be void and confer no rights upon any third person; and provided further, however, that with prior written notification but without the consent of Seller, Buyer may assign its rights under this

Agreement to an Affiliate (defined below) of Buyer, or Buyer may designate an Affiliate to be the grantee(s) under the Deed and all other instruments of transfer related thereto or contemplated by this Agreement. Notwithstanding any such assignment, Buyer shall nevertheless remain liable for all of its assignees obligations hereunder. If Buyer shall make such assignment prior to Closing, Buyer shall deliver to Seller a copy of each instrument effecting any assignment by Buyer to such Affiliate, together with an agreement of the assignee(s) assuming all of the terms and conditions of this Agreement to be performed by it, in form reasonably satisfactory to Seller. For the purposes thereof, the term "Affiliate" means with respect to any party to this Agreement, any other person which controls, is controlled by or is under common control with such person, whether by ownership of equity interests or voting power.

(c) **Governing Law, Waiver of Jury Trial.** This Agreement shall be governed by the laws of the State of Ohio. The parties hereby waive any right to trial by jury. In the event that either party hereto shall commence litigation against the other in connection herewith, the losing party in such action shall reimburse the reasonable attorneys' fees of the prevailing party in such action. If one party prevails on certain claims but the other party prevails on other claims, the award of attorney fees shall be determined at the discretion of the court.

(d) **Interpretation.** All Section headings and other titles and captions herein are for convenience only, do not form a substantive part of this Agreement and shall not restrict or enlarge any substantive provisions hereof or thereof. The term "including," when used in this Agreement, means "including, without limitation," and shall be construed as a term of illustration, and not a term of limitation. Whenever reference is made to a number of "days" in the computation of time hereunder, such reference shall mean "calendar days" unless otherwise indicated. Wherever any period of time is specified herein for the taking of any action or the giving of any notice, the period shall be computed by excluding the day upon which the period is specified to commence and including the last day of the period specified. Whenever the time for performance of an obligation occurs or expires on a day other than a Business Day, the time for performance thereof shall be extended to the next Business Day.

(e) **Time.** Time is of the essence in the performance of each and every term, condition and covenant contained in this Agreement.

(f) **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and both of which together shall form a single instrument. The execution of this Agreement by facsimile or other electronic form (e.g. PDF) of signature shall be binding and enforceable as an original, provided, that any party delivering a facsimile or electronic document shall thereafter execute and deliver to the other party an original instrument, as soon as reasonably possible thereafter.

(g) **Reporting.** The Escrow Agent is hereby designated the "real estate reporting person" for purposes of Section 6045 of Title 26 of the United States Code and Treasury Regulation 1.6045-4, if applicable. Following the Closing, Buyer shall cause to be filed a Form 1099 information return (or other applicable form) by the date required by Law. Seller shall cooperate with Buyer in connection with all real estate reporting requirements. This Section shall survive the Closing.

(h) **Construction.** This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that each of Seller and Buyer have contributed substantially and materially to the preparation of this Agreement.

(i) **Severability.** If any one or more of the provisions hereof shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

(j) **Further Assurances.** Subject to the express terms and conditions of this Agreement, each party shall take such actions and provide to the other such assurances as may be reasonably requested to consummate the transactions contemplated hereby, including providing such further documents or instruments reasonably requested by the other party as may be reasonably necessary to effect the purpose of this Agreement and carry out its provisions. The provisions of this Section shall not operate to expand or enlarge the specific obligations of either Buyer or Seller expressly set forth in this Agreement.

(k) **Survival.** The parties agree that, except as otherwise specifically provided herein, each of the covenants, representations and warranties set forth in this Agreement shall not merge with the deed and shall survive the Closing for a period of six (6) months.

16. **Tenant Leases.** The Property is currently encumbered by the 1996 Lease (as defined in the Master Agreement) under which Seller leases the Property along with additional properties, to LHA. At Closing, Seller and LHA shall cause the 1996 Lease to be terminated as it affects the Property (it being acknowledged that the 1996 Lease may continue, as contemplated by the Master Agreement, with respect to other properties leased thereunder). Buyer acknowledges that the Property currently is encumbered by subleases (the "Leases") and at Closing, (a) LHA will assign the Leases to Buyer, pursuant to the terms of the Master Agreement, (b) any rent paid or payable by tenants under the Leases in connection with their occupancy of the Property shall be prorated, and (c) any security deposits held by LHA under the Leases shall be delivered to Buyer.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Buyer and Seller have each caused this Agreement to be duly executed as of the Effective Date.

SELLER:

CITY OF LAKEWOOD, OHIO,
a municipal corporation and political subdivision in
and of the State of Ohio

By: _____
Name: _____
Title: _____

BUYER:

THE CLEVELAND CLINIC FOUNDATION,
a non-profit corporation

By: _____
Name: _____
Title: _____

The undersigned Escrow Agent hereby agrees to be bound by the provisions of this Agreement which are applicable to Escrow Agent.

FIRST AMERICAN TITLE INSURANCE COMPANY

By: _____
Name: LeAnn Davis
Title: Underwriting Counsel and Commercial Escrow Officer

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Schedule 4(a)

Form of Deed

QUITCLAIM DEED

KNOW ALL PERSONS BY THESE PRESENTS, that the CITY OF LAKEWOOD, OHIO, a municipal corporation and political subdivision in and of the State of Ohio ("Grantor"), for TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does by these presents absolutely grant, bargain, sell and convey unto THE CLEVELAND CLINIC FOUNDATION, an Ohio non-profit corporation ("Grantee"), whose tax mailing address is _____, the real property located in the City of Lakewood, County of Cuyahoga, State of Ohio, and more fully described on Exhibit A, attached hereto and made a part hereof by reference (the "Land"), together with all buildings, fixtures and improvements thereon and all easements, rights and hereditaments appurtenant thereto (collectively, the "Improvements"; the Land and Improvements are collectively referred to herein as the "Property").

The Property is conveyed subject to the repurchase option described on Exhibit B attached hereto and made a part hereof by this reference. The Repurchase Option (as defined in Exhibit B); subject to the terms thereof, shall (i) run with the land, (ii) be binding upon Grantee and Grantee's heirs, personal representatives, successors and assigns, and (iii) inure to the benefit of and be enforceable by actions at law or in equity by Grantor or Grantor's successors. By accepting this Quitclaim Deed, Grantee agrees to be bound by the provisions of the Repurchase Option.

TO HAVE AND TO HOLD the Property unto the Grantee, its successors and assigns, forever.

[signatures appear on following page]

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IN WITNESS WHEREOF, the undersigned has executed this instrument this _____ day of _____, 20____.

GRANTOR:

CITY OF LAKEWOOD, OHIO,
a municipal corporation and political
subdivision in and of the State of Ohio

By: _____
Name: _____
Title: _____

STATE OF OHIO

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ of the **CITY OF LAKEWOOD, OHIO**, a municipal corporation and political subdivision in and of the State of Ohio, on behalf of such municipal corporation and political subdivision.

Notary Public

This instrument prepared by:
Robyn Minter Snyers, Esq.
Thompson Hine LLP
3900 Key Center
127 Public Square
Cleveland, Ohio 44114-1216

[Add Exhibit A - Description of Land]

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EXHIBIT B

Repurchase Option

If Grantee no longer wishes to own and operate the Cleveland Clinic Family Health Center which Grantee has constructed upon the Property, Grantor shall have the option to repurchase the Land and Improvements or only the Land (the "Repurchase Option") upon the following terms and conditions:

1. Grantee shall provide a written offer to Grantor to convey the Property to Grantor. Grantor shall have a period of thirty (30) days after the determination of Fair Market Value (defined below) pursuant to Section 7 below, to notify Grantee in writing that Grantor has elected (a) not to exercise the Repurchase Option; (b) to exercise the Repurchase Option as to the Land and Improvements, in which event the purchase price shall be the Fair Market Value of the Land and Improvements; or (c) to exercise the Repurchase Option as to the Land only, in which event the purchase price shall be the lesser of (i) the price paid by Grantee to acquire the Land and (ii) the Fair Market Value of the Land. The purchase price to be paid by Grantor pursuant to this Section 1 is hereinafter referred to as the "Option Price". If Grantee fails to respond within the thirty (30)-day period described above, Grantee shall be deemed to have elected not to exercise the Repurchase Option. In the event that Grantor has not elected (or has been deemed to have not elected) to exercise the Repurchase Option, (x) Grantee shall be free to market and sell the Property to a third party and this Repurchase Option shall terminate and be of no further force and effect upon the closing of any such sale, unless Grantee shall not have closed a sale of the Property to an unrelated third party within two (2) years of such election (or deemed election), in which event this Repurchase Option shall be reinstated and, thereafter, Grantee will be required to once again comply with the terms of this provision, and (y) Grantor agrees, at or upon the closing of any sale of the Property by Grantee to an unrelated third party, to execute and deliver to Grantee an instrument (in recordable form) evidencing the termination of the Repurchase Option.
2. If Grantor elects to exercise the Repurchase Option pursuant to Section 1(b), title to Property shall be conveyed to Grantor by quitclaim deed, subject only to (a) taxes and assessments, both general and special, that are a lien but are not then due and payable; (b) zoning ordinances, if any; (c) reasonable easements and covenants; (d) matters of record that are in existence on the date of this Quitclaim Deed; and (e) such other encumbrances as may be approved in writing by Grantor.
3. If Grantor elects to exercise the Repurchase Option pursuant to Section 1(c), title to the Land shall be conveyed to Grantor as provided in Section 2 above, and Grantor shall enter into a ground lease for the Improvements with Grantee or a third party purchaser of the Improvements upon commercially reasonable terms and at a rent not to exceed Fair Market Value (the "Ground Lease"). The Ground Lease shall, without limitation, contain provisions permitting the mortgaging of the tenant's interest in the Ground Lease along with market protections in favor of the tenant's lender.

4. If Grantor exercises the Repurchase Option, Grantor may, at its sole cost and expense, obtain as of the date of transfer of title an ALTA Owner's Fee Policy of Title Insurance (the "Title Policy") in the amount of the Option Price and issued by a title company specified by Grantor (the "Title Company") insuring fee simple indefeasible and marketable title to be vested in Grantor subject only to the matters set forth in Section 2.
5. If the Repurchase Option is so exercised, all funds and documents necessary to convey title to the Land and/or the Property and the Ground Lease, if applicable, shall be deposited in escrow with the Title Company within sixty (60) days following the exercise of the Repurchase Option. On the condition that the Title Company can and will issue the Title Policy as specified above, the Title Company shall complete the transaction within such sixty (60)-day period upon receipt of all funds and documents. If a defect in title appears which is not permitted hereunder, Grantee shall have thirty (30) days after actual notice of such defect to cause such defect to be removed. If the defect is not removed, then Grantor shall have the right, at its option, to either (a) proceed with the closing of the acquisition without reduction of the Option Price or (b) revoke the exercise of the Repurchase Option, whereupon all funds and documents deposited in escrow shall be returned to the depositing party and all escrow fees and other charges incurred in anticipation of transfer of title to Grantor shall be paid or satisfied by Grantee.
6. The Title Company shall charge Grantee and pay out of escrow all recording fees for documents to cure title defects, conveyance tax and transfer fee and one-half of the escrow fee. The Title Company shall charge Grantor the fee for filing the deed for record, the Title Policy premium, and the remaining one-half of the escrow fee. On the closing date, Grantee shall cause to be paid any real estate taxes and assessments, both general and special ("Taxes") relating to the Property which are then due and payable. Taxes relating to the period prior to the closing date which are not due and payable after the closing date shall be prorated between the parties by the Title Company as of the closing date, based upon the latest available tax bill; any taxes paid in advance for any period following the closing date shall also be prorated by the Title Company based upon actual Taxes paid. On the closing date, Grantee shall also cause to be paid any and all utility and related charges accruing during its ownership of the Property.
7. For the purposes of the Repurchase Option, "Fair Market Value" shall mean the fair market value of the Land, the Property or a ground leasehold estate, as applicable, as determined pursuant to the following procedure:
 - a. Within a ten (10) day period after Grantee notifies Grantor of its desire to market the Property to an unrelated third party, the parties shall confer and attempt to reach agreement as to Fair Market Value. In the event Grantor and Grantee cannot within the ten (10) day conference period reach a determination of Fair Market Value, then, within ten (10) days after such ten (10) day conference period, Grantor and Grantee will each select and retain an appraiser, with the qualifications set forth below. Each selected appraiser will be paid by the party employing the appraiser and will furnish each party a written appraisal within thirty (30) days of being retained. If the appraisals of the two (2) selected appraisers are within ten percent (10%) of each other, Fair Market Value will be

Schedule 4(b)

Form of General Assignment

GENERAL ASSIGNMENT

This General Assignment (the "Assignment") is executed as of _____, 2016, by CITY OF LAKEWOOD, OHIO, a municipal corporation and political subdivision in and of the State of Ohio ("Assignor"), in favor of THE CLEVELAND CLINIC FOUNDATION, an Ohio nonprofit corporation ("Assignee").

RECITALS

- A. Assignor and Assignee are parties to that certain Purchase and Sale Agreement entered into as of the ____ day of December, 2015 (the "Purchase Agreement").
- B. Pursuant to the terms of the Purchase Agreement, Assignor has agreed to assign to Assignee, all its right, title and interest in the Warranties and Documents (as defined in the Purchase Agreement). This Assignment is being entered into to effectuate the assignment of such items.

ASSIGNMENT

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Assignors and Assignee hereby agree as follows:

1. **Assignment.** Assignor hereby assigns, conveys, transfers and sets over unto Assignee, all of Assignor's right, title and interest in and to the Warranties and Documents. Assignee acknowledges that the Warranties and Documents shall be assigned to Assignee "as is" "where is" and "with all faults" and Assignor disclaims any representations, express or implied, with respect to the Warranties and Documents.
2. **Further Assurances.** Assignor agrees to execute and deliver to Assignee, upon demand, such further documents, instruments or conveyances and shall take such further actions as are reasonably necessary to effectuate this Assignment.
3. **Successors and Assigns.** This Assignment shall inure to the benefit of and be binding upon, the successors, executors, administrators, legal representatives and assigns of the parties hereto.
4. **Counterparts.** This Assignment may be executed in counterparts (including email and pdf), each of which shall be an original, but all of which together shall constitute one agreement.

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the average of the two appraisals and such amount shall be the Option Price (or the ground lease rent, as applicable). If the two (2) selected appraisers do not agree within ten percent (10%) on a Fair Market Value, then a third independent appraiser, with the qualifications set forth below, will be appointed within ten (10) days by the two (2) selected appraisers. The appointed appraiser will be paid equally by each party and will independently appraise the Land, the Property and the ground leasehold estate, as applicable, and submit a written appraisal within thirty (30) days to each party. Fair Market Value will be determined by averaging the two (2) most close in value appraisals of the three (3) appraisers and such amount will be the Option Price (or the ground lease rent, as applicable).

b. If either party shall fail or refuse to select an appraiser when required under the provisions of Section 7(a), then the determination of Fair Market Value made by the appraiser selected by the other party shall be binding on both parties and shall be the Option Price (or the ground lease rent, as applicable). If the appraisers selected by the parties shall fail or refuse to agree upon the appointment of a third appraiser when required under the provisions of this Section, then each party will cause the appraiser selected by it to supply the name of one (1) independent appraiser, with the qualifications set forth below, and a representative of Grantor shall draw one (1) name of the two (2) provided, in the presence of a representative of Grantee. In the event the appraiser selected by only one (1) party supplies the name of an independent appraiser when required under the provisions of this Section, the independent appraiser named by such appraiser shall be the appointed third appraiser.

c. Each appraiser referred to above shall be independent and shall be certified as an MAI appraiser and shall have had at least ten years' experience within the previous twenty years as a real estate appraiser working with commercial properties within the metropolitan area where the Property is located, with knowledge of market values and practices. The third appraiser shall be deemed "independent" if that appraiser has not previously acted in any capacity for either party in connection with the Property within the preceding two (2) years.

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IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto have executed this General Assignment as of the date first written above.

ASSIGNOR:

CITY OF LAKEWOOD, OHIO,
a municipal corporation and political subdivision in
and of the State of Ohio

By: _____
Name: _____
Title: _____

ASSIGNEE:

THE CLEVELAND CLINIC FOUNDATION,
a non-profit corporation

By: _____
Name: _____
Title: _____

Exhibit H
850 Columbia Road Sale Agreement

850 COLUMBIA ROAD SALE AGREEMENT

THIS 850 COLUMBIA ROAD SALE AGREEMENT (this "Agreement") is made and dated as of _____, 2015 (the "Effective Date"), by and between Lakewood Hospital Association, an Ohio nonprofit corporation ("Seller"), and The Cleveland Clinic Foundation, an Ohio nonprofit corporation (together with its respective successors and assigns, "Purchaser").

RECITALS

WHEREAS, Seller is the owner of a professional medical services building that has tenants who provide health care services to residents of the City of Westlake, Ohio and its surrounding communities;

WHEREAS, contemporaneously with the execution of this Agreement, Seller, Purchaser, and the City of Lakewood, Ohio (the "City") are entering into that certain Master Agreement regarding the future of health care services in the Lakewood community (the "Master Agreement");

WHEREAS, this Agreement is an Ancillary Agreement required by the Master Agreement; and

WHEREAS, the Master Agreement provides that Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, the Property (defined below), all upon the terms and subject to the conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and in reliance upon the representations and warranties contained herein, the parties hereto covenant and agree as follows:

ARTICLE 1
DEFINITIONS

As used in this Agreement, the following terms shall have the following designated meanings:

"Agreement" has the meaning set forth in the introductory paragraph hereof.

"Applicable Law" means all statutes, laws, common law, rules, regulations, ordinances, codes or other legal requirements of any Governmental Authority, board of fire underwriters and similar quasi-governmental agencies or entities, and any judgment, injunction, order, directive, decree or other judicial or regulatory requirement of any court or Governmental Authority of competent jurisdiction affecting or relating to the Person or Property in question.

Property, (d) any interests of tenants under the Leases and any tenants in possession, and (e) all matters set forth on Exhibit B to the Deed attached hereto.

"Person" means any natural person, corporation, general partnership, limited partnership, limited liability partnership, limited liability company, trust, union, association, court, agency, government, tribunal, instrumentality, or other entity or authority.

"Personal Property" means any of Seller's right, title and interest in and to the tangible personal property, including any trade fixtures, equipment or similar property, located upon the Land or within the Improvements on the Closing Date.

"Property" means, collectively, the Land, the Improvements, the Personal Property and the Leases.

"Purchase Price" has the meaning set forth in Section 2.2 hereof.

"Purchaser" has the meaning set forth in the first paragraph hereof.

"Seller" has the meaning set forth in the first paragraph hereof.

"Title Policy" means an ALTA 2006 owner's title insurance policy, in the amount of the Purchase Price, issued by the Escrow Agent, as agent for a national title underwriter acceptable to Purchaser, insuring that Purchaser has good and marketable title to the Land free and clear of all Liens other than Permitted Exceptions, with the standard pre-printed exceptions deleted and with customary endorsements as reasonably requested by Purchaser.

ARTICLE 2 THE TRANSACTION

2.1 **Purchase and Sale of Property.** On the terms and subject to the conditions contained in this Agreement, on the Closing Date, Purchaser shall purchase from Seller, and Seller shall sell, convey, assign, transfer and deliver to Purchaser, free and clear of all Liens created by or through Seller, other than Permitted Exceptions, all of Seller's right, title and interest in and to the Property.

2.2 **Purchase Price.** The aggregate purchase price (the "Purchase Price") for the Property shall be cash in an amount equal to \$8,200,000. At Closing, Purchaser shall (i) pay to Seller \$6,800,000 in immediately available funds (after adjusting for prorations and Closing costs in accordance with the terms hereof) (the "Initial Proceeds") and (ii) deliver to Seller a negotiable promissory note in the amount of \$1,400,000 in a form reasonably acceptable to Purchaser (the "Note"). For consideration of certain transactions contemplated by the Master Agreement, Seller hereby directs Purchaser to pay the Initial Proceeds to the City.

ARTICLE 3 THE CLOSING

3.1 **Place of Closing.** The consummation of the transactions provided for in this Agreement including delivery of the Deeds for recording in the Official Records of Cuyahoga

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"Bill of Sale" has the meaning set forth in Section 3.2(b) hereof.

"Business Day" means any day, other than a Saturday, Sunday or "legal holiday."

"Claim Notice" has the meaning set forth in Section 5.3(d) hereof.

"Closing" has the meaning set forth in Section 3.1 hereof.

"Closing Date" means a date mutually agreeable to Seller and Purchaser for the Closing, not later than thirty (30) days following the Effective Date; provided, however, that Purchaser, by not less than five (5) days' advance notice to Seller, may elect to accelerate the Closing to no later than December 31, 2015.

"Deed" has the meaning set forth in Section 3.2(a) hereof.

"Escrow Agent" shall mean Surety Title Agency, Inc., 526 Superior Ave., Cleveland, Ohio 44114.

"Governmental Authority" shall mean any federal, state or local government or other political subdivision thereof, including, without limitation, any agency or entity exercising executive, legislative, judicial, regulatory or administrative governmental powers or functions, in each case to the extent the same has jurisdiction over the Person or property in question.

"Improvements" means Seller's right, title and interest in and to any buildings, structures, fixtures and improvements on the Land.

"Land" means Seller's right, title and interest in and to the real property more particularly described on Exhibit A attached hereto, together with all and singular the rights and appurtenances pertaining to such property, including any right, title and interest in and to adjacent streets, alleys, easements and rights-of-way.

"Leases" means all real property leases pertaining to the Improvements or the Land.

"Liens" means all liens, charges, claims, security interests, title defects, title exceptions, and other encumbrances (but excluding encumbrances that will be released at Closing by payment and, with respect to recorded encumbrances, by an instrument sufficient to cause such encumbrances to be released of record under applicable law).

"Losses" has the meaning set forth in Section 5.3(b) hereof.

"Master Agreement" has the meaning set forth in the second WHEREAS clause above.

"Permitted Exceptions" means, collectively: (a) Liens of record, (b) exceptions for taxes and other governmental charges and assessments (including special assessments) that are not yet due and payable and any and all supplemental taxes, if any (c) local, county, state and federal laws, ordinances or governmental regulations now or hereafter in effect relating to the

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County, Ohio (the "Closing") shall be an escrow closing through the Escrow Agent on the Closing Date, but subject to satisfaction of all of the conditions to Closing set forth in Article IV hereof, and elsewhere in this Agreement and the Master Agreement.

3.2 Deliveries by Seller. At the Closing, Seller shall deliver to Purchaser the following:

- (a) a limited warranty deed in the form attached hereto as Exhibit B (a "Deed"), conveying to Purchaser all of Seller's right, title and interest in and to the Land and Improvements located thereon;
- (b) a bill of sale, substantially in the form attached hereto as Exhibit C (a "Bill of Sale"), conveying to Purchaser all of Seller's right, title and interest in and to the Personal Property;
- (c) an assignment and assumption of Seller's interest in the Leases (an "Assignment of Leases") duly executed by Seller in substantially the form of Exhibit D attached hereto;
- (d) a signed counterpart of the closing statement provided by the Escrow Agent;

(e) [intentionally deleted];

(f) any other documents, instruments and writings (either executed counterparts or otherwise) required or reasonably requested by Purchaser or Escrow Agent to be delivered by Seller pursuant to this Agreement for the due transfer of the Property to Purchaser, free and clear of all Liens, other than Permitted Exceptions, each in form and substance reasonably satisfactory to Purchaser;

(g) to the extent requested by Escrow Agent, (a) evidence sufficient to establish (i) the legal existence of Seller and (ii) the authority of the respective signatories of Seller (or other entity signing on behalf of Seller), and (b) a certificate of good standing of Seller; and

(h) if and to the extent requested by Escrow Agent, an owner's title affidavit and a gap indemnity in a form reasonably acceptable to Escrow Agent in order for the Escrow Agent to be able to issue the Title Policy to Purchaser at Closing.

3.3 Deliveries by Purchaser. At the Closing, Purchaser shall deliver the following:

(a) the Purchase Price (after adjusting for prorations and Closing costs in accordance with the terms herein) consisting of (i) \$6,800,000 in cash in immediately available funds and (ii) the Note;

(b) a single counterpart of the closing statement provided by the Escrow Agent;

(c) the Assignment of Leases duly executed by Purchaser;

(d) [intentionally deleted];

(e) any other documents, instruments and writings (either executed counterparts or otherwise) required or reasonably requested by Seller to be delivered by Purchaser pursuant to this Agreement for the due transfer of the Property to Purchaser, free and clear of all Liens, other than Permitted Exceptions, each in form and substance reasonably satisfactory to Purchaser.

3.4 Possession. Seller shall deliver possession of the Property, and Purchaser shall have the right to take possession of the Property, upon Closing, subject to the Leases and tenants in possession.

3.5 Closing Costs. Purchaser shall pay for the preparation of the Deeds, the Bills of Sale, the Assignment of Leases and other closing documents deemed necessary by Purchaser. Purchaser shall pay for any title insurance premiums (including any endorsements) and examination or search fees necessary or in connection with the issuance of the Title Policy, any mortgage or stamp tax, transfer taxes and fees, the costs of a land survey. Other costs associated with the Closing and transactions contemplated under this Agreement shall be allocated as provided elsewhere in this Agreement or the Master Agreement.

ARTICLE 4 CLOSING CONDITIONS

Purchaser's obligation to consummate the transactions contemplated by this Agreement is subject to the satisfaction at or prior to the Closing of each of the following conditions:

(a) Seller shall have performed all agreements and covenants required by this Agreement to be performed by it prior to or at the Closing Date in all material respects.

(b) [intentionally deleted].

(c) All representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects.

(d) No order or injunction of any court or administrative agency of competent jurisdiction nor any statute, rule, regulation or executive order promulgated by any Governmental Authority of competent jurisdiction shall be in effect as of the Closing which restrains or prohibits the transfer of the Property or the consummation of any other transaction contemplated hereby.

(e) Purchaser shall have received all of the documents required to be delivered by Seller under Section 3.2.

(f) Escrow Agent shall have delivered the Title Policy to Purchaser (or a binding agreement to issue such Title Policy upon payment of the premium therefor).

ARTICLE 5
REPRESENTATIONS AND WARRANTIES

5.1 Purchaser's Representations and Warranties. Purchaser hereby represents and warrants to Seller as follows as of the Effective Date:

(a) Due Incorporation. Purchaser is a nonprofit corporation and in good standing under the laws of the State of Ohio.

(b) Authorization, No Conflicts. Purchaser has the requisite power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution, delivery and performance of this Agreement by Purchaser and the consummation by Purchaser of the transactions contemplated hereby have been duly authorized by all requisite corporate action. This Agreement has been duly and validly executed and delivered by Purchaser and constitutes a valid and binding agreement of Purchaser, enforceable against Purchaser in accordance with its terms.

(c) Consents and Approvals. No consent, approval or authorization of, or declaration, filing, or registration with, any United States federal or state governmental or regulatory authority is required to be made or obtained by Purchaser in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.

(d) Engaging in Transaction. To Purchaser's knowledge, there are no circumstances or facts that would prevent Purchaser from engaging in the transactions contemplated in this Agreement.

5.2 Seller's Representations and Warranties. Seller hereby represents and warrants to Purchaser as follows as of the Effective Date:

(a) Authorization. (i) Seller has the requisite corporate power and authority to enter into this Agreement and to carry out its obligations hereunder, (ii) the execution, delivery and performance of this Agreement by Seller and the consummation by Seller of the transactions contemplated hereby have been duly authorized by all requisite corporate action and (iii) this Agreement has been duly and validly executed and delivered by Seller and (assuming this Agreement constitutes a valid and binding obligation of Purchaser) constitutes a valid and binding agreement of Seller, enforceable against Seller in accordance with its terms.

(b) Consents and Approvals. No consent, approval or authorization of, or declaration, filing, or registration with, any United States federal or state governmental or regulatory authority is required to be made or obtained by Seller in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, except for consents, approvals, authorizations, declarations, filings or registrations, which, if not obtained, would not, individually or in the aggregate, have a material adverse effect on the transactions contemplated by this Agreement.

(c) No Conflicts. The execution, delivery and compliance with, and performance of the terms and provisions of, this Agreement, and the sale of the Property, will not

(i) conflict with or result in any violation of its organizational documents, (ii) conflict with or result in any violation of any provision of any bond, note or other instrument of indebtedness, contract, indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which Seller is a party in its individual capacity, or (iii) violate any existing term or provision of any order, writ, judgment, injunction, decree, statute, law, rule or regulation applicable to Seller or its assets or properties in any material respect.

5.3 Survival, Breach. The representations and warranties contained in this Agreement shall survive for a period of six (6) months after the Closing. The indemnity provisions of this Agreement shall survive Closing indefinitely.

ARTICLE 6
PRORATIONS

All real estate taxes, utilities and other amounts customarily prorated in real estate transactions similar to the transaction contemplated by this Agreement (based upon the most recent ascertainable bills if current bills and/or information are not available) shall be prorated at Closing such that all such amounts relating to the Property (a) which relate to periods prior to the Closing shall be the responsibility of Seller and (b) which relate to periods from and after the Closing shall be the responsibility of Purchaser. Any rent paid or payable by tenants under the Leases in connection with their occupancy of the Property shall be adjusted and prorated on a per diem basis on an if, as and when collected basis. Purchaser shall receive a credit for all prepaid rents, if any, paid by the tenants with respect to the period after the Closing Date. The actual amounts of the security deposits held by the landlord under the Leases shall be a credit to Purchaser against the balance of the Purchase Price. Any such security deposits in form other than cash (including letters of credit) shall be transferred to Purchaser on the Closing Date by way of appropriate instruments of transfer or assignment. All prorations shall be final. At Closing, Seller shall have the right to net any amounts owed by Seller with respect to the foregoing against the Purchase Price.

ARTICLE 7
MISCELLANEOUS

7.1 Assignment.

(a) This Agreement will inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto and their respective successors and assigns, except as provided in subsections (b) and (c) below.

(b) Seller may not assign any of its duties or obligations hereunder without the prior written consent of Purchaser, which consent shall not be unreasonably withheld.

(c) Purchaser may assign any of its rights, duties or obligations hereunder in whole or in part without Seller's consent, provided that, notwithstanding any such assignment, Purchaser shall continue to be obligated and liable for all of Purchaser's obligations and liabilities under this Agreement.

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7.2 Notices. All notices and other communications hereunder shall be delivered in accordance with the notice provisions set forth in the Master Agreement.

7.3 Expenses. Except as otherwise provided in this Agreement, each party hereto shall pay its own expenses, including attorneys' and accountants' fees, in connection with this Agreement, the performance of its obligations hereunder and the consummation of the transactions contemplated hereby.

7.4 Brokerage Commissions and Fees. Purchaser warrants and represents that it has not engaged any real estate broker(s) in connection with the transactions contemplated by this Agreement, and agrees that should any claim be made for commissions or fees by any broker(s) claiming through Purchaser against Seller, Purchaser will indemnify and hold Seller free and harmless from and against any and all loss, liability and expenses in connection therewith. Seller warrants and represents that it has not engaged any real estate broker(s) in connection with the transactions contemplated by this Agreement, and agrees that should any claim be made for commissions or fees by any broker(s) claiming through Seller against Purchaser, Seller will indemnify and hold Purchaser free and harmless from and against any and all loss, liability and expenses in connection therewith. In connection with the foregoing, the parties understand and acknowledge that any real estate broker engaged by or representing Purchaser shall not be entitled to share any portion of the commission or fees that are being paid by Seller to its broker in connection with this Agreement and the transactions contemplated herein. Notwithstanding anything contained herein to the contrary, the provisions of this Section 7.4 shall survive Closing.

7.5 Master Agreement. To the extent there is any conflict with the terms of this Agreement and the terms of the Master Agreement, the terms of the Master Agreement shall govern.

7.6 Waiver. Unless otherwise set forth herein, any term or condition of this Agreement may be waived at any time by the party which is entitled to the benefit thereof. Unless specified otherwise elsewhere in this Agreement, to be effective, such waiver shall be in writing, shall specifically refer to this Agreement, and the term or condition being waived, and shall be executed by an authorized agent of such party. A waiver on one occasion shall not be deemed to be a waiver of the same or any other breach on a future occasion. A waiver hereunder shall be effective without notice to any Person, in relation to such waiver.

7.7 Amendment. This Agreement may be modified or amended only in a writing duly executed by or on behalf of each of the parties hereto, which writing shall make specific reference to this Agreement.

7.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.9 Headings, Gender, Etc. The headings used in this Agreement have been inserted for convenience and do not constitute matter to be construed or interpreted in connection with this Agreement. Unless the context of this Agreement otherwise requires, (a) words of any

gender shall be deemed to include each other gender, (b) words using the singular or plural number shall also include the plural or singular number, respectively, (c) references to "hereof," herein, "hereby" and similar terms shall refer to this entire Agreement, and (d) each reference to Seller shall be a reference to any of its subsidiaries and predecessors and each representation, warranty, covenant and other agreement made herein with respect to Seller shall be deemed made with respect to all such subsidiaries and predecessors. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent and no rule of strict construction shall be applied against any Person.

7.10 Choice of Law. This Agreement shall be construed, interpreted and the rights of the parties determined in accordance with the laws of the State of Ohio, without regard to conflicts-of-laws principles thereof.

7.11 Third-Party Beneficiary. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any Person, firm or legal entity of any kind, other than the parties hereto and their respective permitted successors and assigns, any rights or remedies under or by reason of this Agreement, provided, however, notwithstanding the foregoing, the parties hereto agree that the City shall be a third-party beneficiary of all of the rights hereunder that inure to the benefit of the Seller including, without limitation, the right to have the Initial Proceeds delivered directly to the City as provided by Section 2.2.

7.12 TIME IS OF THE ESSENCE. TIME IS OF THE ESSENCE WITH RESPECT TO ALL OF PURCHASER'S OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, PROCEEDING TO CLOSING ON THE CLOSING DATE.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, each of the parties hereto has caused this 850
Columbia Road Sale Agreement to be duly executed as of the date first written above.

SELLER:

LAKEWOOD HOSPITAL
ASSOCIATION, an Ohio nonprofit
corporation

By: _____

Name: _____
Its: _____

PURCHASER:

THE CLEVELAND CLINIC
FOUNDATION, an Ohio nonprofit
corporation

By: _____

Name: _____
Its: _____

[Exhibit A - Legal Description of Land - to be inserted]

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EXHIBIT B

Form of Deed

LIMITED WARRANTY DEED

_____, a _____, GRANTOR, of
_____, GRANTS, WITH LIMITED WARRANTY, of _____, County of
_____, COVENANTS, to _____, GRANTEE, of _____, County of
_____, State of _____, for the sum of Ten Dollars (\$10.00) and other good and
valuable consideration, the following described tract of land in Cuyahoga County, State of Ohio:

See Exhibit A attached hereto and made a part hereof.

SUBJECT TO the matters set forth in Exhibit B attached hereto.

[SIGNATURE APPEARS ON FOLLOWING PAGE]

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EXHIBIT C

QUITCLAIM BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that concurrently with the execution and delivery hereof, _____ a _____ ("Seller"), is conveying to _____ a _____ ("Purchaser"), by that certain Limited Warranty Deed of even date herewith, that certain parcel of real property described on Exhibit A attached hereto (the "Real Estate").

NOW, THEREFORE, in consideration of the receipt of TEN DOLLARS (\$10.00) and other good and valuable consideration, in hand paid by Purchaser to Seller, the receipt and sufficiency of which are hereby acknowledged by Seller, Seller does hereby CONVEY AND QUITCLAIM UNTO Purchaser all of Seller's right, title and interest, if any, in any personal property, fixtures and improvements located on the Real Estate as of the date hereof (the "Property").

TO HAVE AND TO HOLD the same unto Purchaser, its successors and assigns, forever.

The Personal Property is hereby conveyed and quitclaimed and this Bill of Sale is made, and is accepted by Purchaser on an "AS IS, WHERE IS" basis without covenants, representations or warranties of any kind, whether expressed or implied, and all warranties that might have existed or been applied under common law are hereby excluded.

[Remainder of page intentionally left blank; signature block continued on next page]

IN WITNESS WHEREOF, Seller has caused this Quitclaim Bill of Sale to be executed as of the _____ day of _____, 2015.

SELLER

By: _____
Name: _____
Its: _____

STATE OF _____) SS:
COUNTY OF _____)

BEFORE ME, a Notary Public in and for said County and State, personally appeared _____, who acknowledged that he did execute the foregoing instrument on behalf of _____, a municipal corporation and political subdivision in and of the State of Ohio, and that the same was his/her free act and deed individually and in his/her capacity indicated above, and the free act and deed of the corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at this _____ day of _____, 2015.

Notary Public
Name: _____
My Commission Expires: _____

EXHIBIT D

ASSIGNMENT AND ASSUMPTION OF LEASES

This ASSIGNMENT AND ASSUMPTION OF LEASES ("Assignment") is made and entered into as of the ___ day of _____, 2015 between Lakewood Hospital Association, an Ohio nonprofit corporation ("Assignor") and The Cleveland Clinic Foundation, an Ohio nonprofit corporation ("Assignee").

RECITALS

This Assignment is made with reference to the following facts:

A. Concurrently with this Assignment, Assignor is selling to Assignee, and Assignee is purchasing from Assignor, that real property and related improvements, fixtures and personal property described in Exhibit A, attached hereto (the "Property"), pursuant to that certain 850 Columbia Road Sale Agreement dated as of the date hereof, (the "Agreement").

B. In connection with such Agreement, Assignor desires to assign and delegate to Assignee, and Assignee desires to assume, all of Assignor's right, title, interest, duties and obligations in, to and under the various tenant leases more specifically set out on Exhibit B attached hereto (the "Leases").

NOW, THEREFORE, in consideration of the purchase price paid by Assignee to Assignor for the Property and the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment of Leases. Assignor hereby assigns and delegates to Assignee, and Assignee hereby assumes, all of Assignor's right, title, interest, duties and obligations as landlord in, to and under the Leases, but only to the extent that such rights, duties and obligations first arose or accrued on or after the date hereof or to the extent that Assignee has been given a credit therefor.
2. No Representations. This Assignment is made without warranty or representation, express or implied, by, or recourse against, any Assignor of any kind or nature whatsoever except as expressly provided in the Agreement.
3. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
4. Governing Law. This Assignment shall in all respects be governed by, and construed in accordance with, the laws of the State of Ohio.
5. Counterparts. This Assignment may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

6. Amendments. This Assignment shall not be altered, amended, changed, waived, terminated or otherwise modified in any respect unless the same shall be in writing and signed by or on behalf of the party to be charged therewith.

[Signatures Appear on Following Page]

Exhibit I
Lease Amendment

FIRST AMENDMENT TO AMENDED AND RESTATED LEASE

THIS FIRST AMENDMENT TO AMENDED AND RESTATED LEASE (this "First Amendment") is entered into as of December 23, 2015 by and between CITY OF LAKEWOOD, OHIO, a municipal corporation and political subdivision in and of the State of Ohio (the "City") and LAKEWOOD HOSPITAL ASSOCIATION, an Ohio nonprofit corporation ("Lessee").

RECITALS

- A. The City and Lessee entered into that certain Amended and Restated Lease dated as of December 23, 1996 and recorded in Volume 97-02063, Page 16 of the Cuyahoga County, Ohio real property records (the "Lease"), pursuant to which the City leased to Lessee, and Lessee leased from the City certain real and personal property for the operation of the Hospital.
- B. The City and Lessee are parties to that certain Master Agreement dated as of December 23, 2015 (the "Master Agreement") by and among the City, Lessee and the Cleveland Clinic Foundation, an Ohio nonprofit corporation ("CCF").
- C. As provided in the Master Agreement, the City, Lessee and CCF have agreed to permit the cessation of inpatient hospital operations and all other operations at the Hospital (the "Closure") pursuant to the terms of the Master Agreement.
- D. The City and Lessee wish to amend certain provisions of the Lease as provided by the Master Agreement.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

- 1. Defined Terms. Unless specifically defined herein, all capitalized terms used in this First Amendment shall have the meaning assigned to them in the Lease.
- 2. Statement of Intent. The Statement of Intent set forth on pages 1-3 of the Lease are hereby deleted in their entirety.
- 3. Definitions. Section 1.2 of the Lease is hereby amended as follows:
 - a. The definition of "Leased Real Premises" set forth in the Lease shall be deleted in its entirety and replaced with the following:

"Leased Real Premises" means the City's real property interest in the FHC Site and in the Current Hospital Site, each as defined in the Master Agreement.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the date written above.

ASSIGNOR:

LAKEWOOD HOSPITAL ASSOCIATION, an Ohio nonprofit corporation

By: _____
Name: _____
Title: _____

ASSIGNEE:

THE CLEVELAND CLINIC FOUNDATION, an Ohio nonprofit corporation

By: _____
Name: _____
Title: _____

[Exhibit A - Property - to be inserted]
[Exhibit B - Leases - to be inserted]

b. The definition of "Termination Date" set forth in the Lease shall be deleted in its entirety and replaced with the following:

"Termination Date" means the earlier of (i) the date that is thirty (30) days after the FHC Commencement Date (as defined in the Master Agreement) and (ii) October 31, 2018; provided, however, if the FHC Commencement Date has not occurred by October 31, 2018, notwithstanding the good faith efforts by CCF to open the FHC, the Termination Date may be extended in additional three (3)-month increments by providing not less than thirty (30) days' notice to the City, but in no event shall the Termination Date be later than June 30, 2019.

c. The following definitions shall be inserted:

"Emergency Department Services" means the operation of an emergency department on a 24 hours a day, 7 days a week, 365 days a year basis on the Leased Premises substantially similar to the emergency department being operated at the Leased Premises as of the date of the First Amendment.

"First Amendment" means that certain First Amendment to Amended and Restated Lease dated as of December ____, 2015 by and between the City and Lessee.

"Master Agreement" means that certain Master Agreement dated as of December ____, 2015, by and among the City, Lessee and CCF.

4. Extension of Lease. Section 2.5 of the Lease is hereby deleted in its entirety and replaced with the following: "Intentionally deleted."

5. Base Rent. Section 3.1 of the Lease is hereby deleted in its entirety and replaced with the following: "Intentionally deleted."

6. Additional Payments. Notwithstanding anything in the Lease to the contrary, Lessee shall, from and after the date hereof, make Additional Payments under the Lease in the amounts and on the dates set forth on Schedule 1 attached hereto (it being understood that, notwithstanding anything to the contrary contained in Section 3.2 or elsewhere in the Lease, Lessee's obligation to pay the Additional Payments shall not exceed \$2,887,500.00, regardless of the ultimate Termination Date).

7. Personal Property. Notwithstanding anything to the contrary contained in Section 4.4 or elsewhere in the Lease, Lessee shall not be required to obtain, maintain or replace worn out or obsolete movable furnishings, equipment or other personal property.

8. Maintenance. Notwithstanding anything to the contrary contained in Section 6.1 or elsewhere in the Lease, Lessee's obligation to maintain and repair the Leased Premises shall be limited to maintenance that is required (a) to keep the Leased Premises in suitable condition to

provide the Emergency Department Services and any other services being provided by Lessee at the Leased Premises and (b) to keep the remainder of the Leased Premises in "mothballed" condition, which shall mean preserving the structural stability of the building, exterminating or controlling pests, protecting the exterior from moisture penetration (which shall include repairing or roof leaks but not requiring complete replacement of any roofing system), securing the building to prevent vandalism and break-ins, providing adequate ventilation to the interior, securing and preserving all utilities and mechanical systems (which shall include ordinary and regular maintenance but not capital replacements).

9. Release of Property. The FHC Site (as defined in the Master Agreement) is hereby released from the provisions of the Lease and, accordingly, removed from the definition of Leased Premises, effective on the closing of the FHC Site Sale Agreement (as defined in the Master Agreement), which closing shall be evidenced by the recording of a deed executed by the City conveying the FHC Site. The parties shall record a written release of the FHC Site on the closing of the FHC Site Sale Agreement.

10. Charitable Hospital Purpose. Section 9.2(c) of the Lease is hereby deleted in its entirety and replaced with the following: "Intentionally deleted."

11. Community Advisory Committee. Section 9.2(f) of the Lease is hereby deleted in its entirety and replaced with the following: "Intentionally deleted."

12. Governing Agreements and Composition of Governing Board. Section 9.2(j) of the Lease is hereby deleted in its entirety and replaced with the following: "Intentionally deleted."

13. Operation of the Leased Premises. In furtherance of the Closure, Lessee shall not be required to fulfill any of the covenants set forth in Section 2.2 and in Section 9.11(a), (b), (d) and (e) of the Lease; provided, however, that Lessee shall, as it relates to or is necessary to provide the Emergency Department Services and any other services Lessee, in its sole discretion, elects to provide at the Leased Premises, comply with the covenants set forth in Section 9.11(a) and (b).

14. Required Services/Emergency Department Services. Lessee shall provide the Emergency Department Services at the Leased Premises and shall not be required to provide any of the Required Services, as defined in the Lease. In furtherance thereof, Section 9.16 of the Lease is hereby deleted in its entirety and replaced with the following: "Intentionally deleted."

15. Assignment and Subleasing. Section 11.1 of the Lease is hereby deleted in its entirety and replaced with the following:

Section 11.1. Subleasing, Assignment and Right to Use. Lessee may not assign this Lease or sublet the Leased Premises without the written permission of the City, which will not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary in this Section 11.1, Lessee shall be permitted to enter into (i) short-term subleases with current tenants of the FHC Site (as defined in the Master Agreement) without the City's consent in order to facilitate the redevelopment of the FHC Site (including, without limitation,

1:098585.9

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23. Successors and Assigns. This First Amendment shall be binding upon and shall inure to the benefit of the successors and assigns of the parties.

24. Conflicts. In the event of a conflict between the provisions of this First Amendment and the provisions of the Lease, the provisions of this First Amendment shall control. In the event of a conflict between the provisions of the Lease, as herein amended and modified, and the Master Agreement, the provisions of the Master Agreement shall control.

25. Ratification. Except as expressly amended or modified herein, all of the terms, covenants and conditions of the Lease, including and incorporating those as amended herein, shall remain unchanged and in full force and effect; and the Lease, as herein amended and modified, is hereby ratified and confirmed.

26. No Third Party Beneficiaries. This First Amendment is intended solely for the benefit of the parties hereto and not for the benefit of any other person or entity.

27. Counterparts. This First Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

[Signatures appear on following page.]

granting licenses to CCF with respect to the emergency department parking lot for purposes consistent with the development of the FHC) and (ii) subleases with third-parties for portions of the FHC Site, provided that, in each case, such subleases terminate on or before the Termination Date.

16. Termination of and Substitution for Lease. Article XII of the Lease is hereby deleted in its entirety and replaced with the following: "Intentionally deleted."

17. Remedies, Etc. Section 13.2, 13.3, 13.4, 13.5, 13.6, 13.7, 13.8, 13.9, 13.10 and 13.11 are hereby deleted in their entirety and replaced with the following: "Intentionally deleted." The terms of Article X of the Master Agreement shall apply to any dispute arising under the Lease.

18. Surrender of Leased Premises. Section 14.1 of the Lease is hereby deleted in its entirety and replaced with the following:

Section 14.1. Surrender of Leased Premises. On the Termination Date or earlier termination of this Lease, the Lessee covenants and agrees to surrender the Leased Premises to the City peaceably and promptly, together with all appurtenances thereto, in the condition required by Section 8 of the First Amendment. For the avoidance of doubt, Lessee shall not be required to surrender to Lessor any movable equipment, furnishings or other personal property in or on the Leased Premises and Lessee shall have removed all such items from the Leased Premises, as its sole cost and expense, on or before the Termination Date and repaired any damage caused by such removal.

19. Definitive Agreement and Indenture Obligations. Sections 14.13, 14.15 and 14.16 of the Lease each are hereby deleted in their entirety and each replaced with the following: "Intentionally deleted."

20. Disposition of Assets. Notwithstanding anything to the contrary contained in the Lease, Lessee (a) shall be permitted to transfer its assets to CCF upon its dissolution in accordance with the terms and conditions of the Master Agreement, (b) shall be permitted to transfer all movable equipment, furnishings and other personal property to CCF upon the termination of the Lease, and (c) shall not be required to return any movable equipment, furnishings, other personal property and Intangible Assets to the City on the Termination Date.

21. Indemnification. Notwithstanding anything contained herein to the contrary, the City and Lessee agree that Section 9.9 of the Lease shall remain in full force and effect through the pendency of the suit styled *Edward Graham, et al. v. City of Lakewood, et al.*, pending in the Cuyahoga County Court of Common Pleas, Case No. CV-15-846212, any appeals concerning the same, and any other litigation which may arise as a result of this First Amendment and/or the Closure, including closing of the Hospital and the cessation of services or programs at the Hospital.

22. Termination of Lease. On or about the Termination Date, the parties shall execute and record with the Cuyahoga County, Ohio Recorder, a written termination and release of this Lease.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment on the day and year first above written.

THE CITY:

CITY OF LAKEWOOD, OHIO, a municipal corporation and political subdivision in and of the State of Ohio

By: Michael P. Summers, Mayor

LESSEE:

LAKEWOOD HOSPITAL ASSOCIATION, an Ohio nonprofit corporation

By: _____
Name: _____
Title: _____

The legal form and correctness of this instrument is hereby approved:

By: Kevin M. Butler, Director of Law

STATE OF OHIO)
) SS:)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Michael P. Summers, the Mayor of **CITY OF LAKEWOOD, OHIO**, a municipal corporation and political subdivision in and of the State of Ohio, on behalf of the municipal corporation.

Notary Public

STATE OF _____)

COUNTY OF _____)
) SS:)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by _____ the **LAKEWOOD HOSPITAL ASSOCIATION**, an Ohio nonprofit corporation, on behalf of the non profit corporation.

Notary Public

EXHIBIT 2

Key Highlights of Master Agreement
(See following pages)

Schedule 1
Additional Payments

DATE	AMOUNT
MARCH 31, 2016	383,333.33
JUNE 30, 2016	383,333.33
SEPTEMBER 30, 2016	383,333.34
MARCH 31, 2017	383,333.33
JUNE 30, 2017	383,333.33
SEPTEMBER 30, 2017	383,333.34
JANUARY 31, 2018	130,555.89
FEBRUARY 28, 2018	130,555.89
MARCH 31, 2018	130,555.89
APRIL 30, 2018	65,277.44
MAY 31, 2018	65,277.44
JUNE 30, 2018	65,277.45
Total	2,887,500.00

FUTURE OF HEALTHCARE IN LAKEWOOD

Key Highlights of Master Agreement

Summarized below are the key highlights of a proposed binding agreement (the "Master Agreement") that have been discussed among the City of Lakewood (the "City"), Lakewood Hospital Association ("LHA") and the Cleveland Clinic Foundation (the "Clinic") to address the future healthcare needs of the City of Lakewood and the related goals described below. Subject to approval by Lakewood City Council, with the consent and agreement of the Mayor of Lakewood, LHA and the Clinic, the parties anticipate entering into a Master Agreement along the terms outlined in this summary.

1. **Shared Vision** – The City, LHA and the Clinic share the understanding that healthcare delivery is moving away from a hospital-based model focused on "sick care" to a population-based model of comprehensive healthcare. Consistent with this understanding, the City, LHA and the Clinic desire to invest in comprehensive ambulatory (outpatient)-based programs, wellness activities and outreach services that will help people live healthier lives and treat health conditions early so as to prevent chronic disease. The primary focus of these investments will be a new family health center owned and operated by the Clinic (the "Lakewood Family Health Center") and a new community health foundation.

2. **Construction and Operation of Lakewood Family Health Center**

a. **Construction and Location** – The Clinic will commit approximately \$34 million in capital to the construction of the Lakewood Family Health Center, which will consist of approximately 62,100 square feet located on the approximately 1.7 acre site of the existing Professional Office Building and Parking Garage located on the southwest corner of Belle and Detroit Avenues (the "PHC Site"). The Clinic contemplates that the Lakewood Family Health Center will embrace architecturally noteworthy design, consistent with the innovative and comprehensive design aesthetic adopted by the Clinic beginning in 2008. The Lakewood Family Health Center's planned architectural style and building layout are intended to create a calming environment for patients and their families and to be sensitive to patient, family, and staff needs. The structure is intended to serve as a primary component of a vibrant new Lakewood business district. The parties contemplate a construction schedule that would allow the Lakewood Family Health Center to open by June 2018. This schedule assumes no unexpected delays and requires the cooperation and commitment of all parties in a spirit of partnership.

b. **Commitment to Population Health Management** – The Lakewood Family Health Center's activities will include a focus on population health management programs aimed at improving the health of the Lakewood Family Health Center's patients and the community that the Lakewood Family Health Center serves. The parties contemplate creating population health management programs through partnerships with City government and the community related to outreach

programs and home health care models. As part of the commitment to population health management, the Clinic and the City contemplate reporting on population health statistics and metrics compiled by the Clinic in connection with the Lakewood Family Health Center's operations.

c. **Emergency Department and Other Services to be Provided** – The parties recognize that there is a present need for an emergency department in Lakewood on a 24 hours a day, 7 days a week, 365 days a year basis. The Clinic will address this need upon the opening of the Lakewood Family Health Center. The Clinic further contemplates that the services available at the Lakewood Family Health Center will initially consist of the services described on Exhibit A. Additionally, the Clinic will incorporate Lakewood into regularly performed community health needs assessments.

d. **Family Residency Program** – Promptly after the opening of the Lakewood Family Health Center, the family residency program currently located at Fairview Hospital will be relocated to the Lakewood Family Health Center. For so long as the Clinic operates a family medicine residency program, the Clinic will operate a family medicine residency program at the Lakewood Family Health Center's campus while the Clinic owns and operates the Lakewood Family Health Center.

e. **LGBT Primary Care Clinic** – As part of the population health model embraced by the Lakewood Family Health Center, the Clinic will establish an LGBT-focused primary care clinic within the Lakewood Family Health Center and will make the Lakewood Family Health Center its Westside hub for LGBT care and referrals.

f. **Mobile Stroke Unit** – The Clinic's mobile stroke unit is acclaimed for its innovative, high-tech approach to the diagnosis and rapid treatment of strokes. Subject to negotiation of the required protocols, the Clinic will provide Lakewood with access to the mobile stroke unit. The deployment of the Clinic's mobile stroke unit within the City will reinforce the City's status as a local leader in stroke care.

g. **Community Involvement** – The Clinic will create a community advisory panel to support the Lakewood Family Health Center by providing advice and counsel to the Medical Director of the Lakewood Family Health Center.

3. **Community Health Foundation**

a. **Initial Contribution** – \$24.4 million will be contributed to a new community health foundation to support future healthcare needs in Lakewood. This contribution is intended to be funded by the value of LHA's assets as of its dissolution. To the extent LHA assets upon dissolution are not sufficient to fund the full commitment, the Clinic will fund any difference between remaining LHA assets and the \$24.4 million commitment. The \$24.4 million contribution will be paid to the new foundation on the following schedule: \$200,000 on or before March 31, 2016 to fund the initial creation of the foundation; \$7.6 million

Hospital following the cessation of inpatient hospital operations, including diabetes care services, congestive heart failure clinic and certain cardio pulmonary services.

b. *Control of Wind Down* - The wind down will occur pursuant to the guiding principles for the wind down described in the Master Agreement. The wind down plan shall instruct the Clinic to wind down Lakewood Hospital's operations (excluding emergency department services and certain outpatient services) as quickly as practicable, taking into consideration patient safety and the preservation of LHA's assets. The manner and timing of the wind down shall be determined solely by the Clinic in consideration of its promises pertaining to the new community health foundation. LHA will be the recipient of all revenues and incur all expenses, whether direct or allocated, associated with the continuing existence of LHA between the execution of the Master Agreement and the ultimate dissolution of LHA.

c. *Lease Payments* - Until the opening of the Lakewood Family Health Center and vacation by LHA of the Lakewood Hospital property, LHA will continue to make the additional payments due under the existing lease up to a maximum of \$2,877,500.

d. *LHA Assets and Obligations* - As described more fully in the Master Agreement, LHA will bear all costs of terminating and winding down its patient and other operations at the current Lakewood Hospital site and all costs of demolition to prepare the land west of Belle Avenue for the construction of the Lakewood Family Health Center, up to the maximum amount of LHA's net asset value, less the Excluded Assets (defined below). The parties acknowledge and agree that (i) the current wind down budget may exceed the remaining LHA assets and (ii) LHA may incur additional losses prior to and during the wind down. The Clinic has agreed to fund any shortfall in LHA assets out of the Clinic assets, which constitutes a significant assumption of risk by the Clinic. Upon the completion of the wind down, all remaining LHA assets will be transferred to the Clinic, except for the excluded assets described on Exhibit B (the "Excluded Assets"), and the Clinic will retain the obligation to fund the community health foundation and the redevelopment reserve to the City out of the LHA assets of its own assets, as well as any other LHA obligations that may survive its dissolution, including severance payments and pension obligations.

e. *Employees* - If circumstances arising from the transactions related to the Master Agreement result in the job of a Lakewood Hospital employee or a Clinic employee working at the Lakewood Hospital being eliminated, the Clinic will offer such individual another job opportunity within the Clinic's health system. The Clinic's human resource team will work with such individuals to provide information and guidance about opportunities at Clinic health system locations, including the proposed Lakewood Family Health Center. Such individuals will be given top priority for open positions within the Clinic's health system.

contributed on the opening date of the Lakewood Family Health Center; \$4.3 million contributed on the second anniversary of the opening; \$4.1 million contributed on the fourth anniversary of the opening; \$4.1 million contributed on the sixth anniversary of the opening; \$4.1 million contributed on the eighth anniversary of the opening. The financial terms expressed above are premised upon a timely cessation of inpatient operations at the Lakewood Hospital. To ensure that these intentions are met, if LHA is unable to cease inpatient operations by an agreed upon date in early 2016 after the effective date of the Master Agreement due to action taken by a judicial or quasi-judicial body or a governmental body or agency (other than a governmental body or agency whose primary function is oversight of health care providers) and the operations of Lakewood Hospital generate an EBIDA loss, the \$24,400,000 payment obligation will be reduced by the aggregate amount of such EBIDA losses incurred between the agreed upon date and the cessation of Lakewood Hospital's inpatient operations.

b. *Annual Contribution from the Clinic* - Commencing with the opening of the Lakewood Family Health Center, the Clinic will make annual contributions of \$500,000 to the community health foundation for 16 years.

c. *Use of Community Health Foundation Funds* - Use of the funds contributed to the community health foundation shall be at the foundation's discretion, subject to the bylaws and other guidelines of the foundation. The foundation will establish a mutually agreeable approach with respect to naming rights and first refusal rights associated with programming funded using the Clinic's annual contributions or partial distributions of such funds. The Clinic will have the reasonable rights to name programs funded using the Clinic's annual contributions and a right of first refusal on programming funded using the Clinic annual contributions.

d. *Governance* - Promptly following execution of the Master Agreement, the City and LHA will jointly agree upon a process for the formation of the community health foundation, the development of the governing documents and the selection of the initial board. The board of the community health foundation shall not exceed 21 voting members. The Clinic will have the right to appoint up to 2 voting members to the board.

4. **Hospital and LHA Wind Down**

a. *Wind down of Lakewood Hospital; Continuation of Emergency Department* - Following the execution of the Master Agreement, LHA and the Clinic will commence the termination of services (excluding emergency department services and certain outpatient services) at Lakewood Hospital and the wind down and dissolution of LHA. LHA will continue to operate an emergency department (including emergency room and related ancillary services) at Lakewood Hospital on a 24/7/365 basis until the emergency department (including emergency room) at the Lakewood Family Health Center is open and operating. LHA also contemplates continuing to provide some outpatient services at Lakewood

f. *Insurance Protection* – In consideration for insurance premiums with an estimated fair market value of \$2.5 million paid by or allocated to LHA, the Clinic will provide insurance protection (indemnity and defense), including professional liability and directors and officer insurance, for the officers, trustees, employees and other agents of LHA for LHA occurrences both prior to and subsequent to the wind down and dissolution of LHA.

g. *Documentation* – Upon the execution of the Master Agreement, the existing lease between the City and LHA will be modified as necessary to reflect the terms and understandings of the Master Agreement.

5. Transfer of Real Estate

a. *Existing Hospital Site and Related Hospital Property* – The City will retain ownership of the existing Lakewood Hospital site and all other property currently leased to LHA (other than the Professional Office Building and Belle Garage, as described below). The Lakewood Hospital site (consisting of approximately 5.7 acres) will be available for redevelopment.

b. *FHC Site* – Promptly following execution of the Master Agreement, the Clinic will purchase the FHC Site for fair market value, to be determined by an appraiser acceptable to the City and the Clinic, who will value the sites as vacant land. The costs associated with the demolition of the existing Professional Office Building and Belle Garage will be part of the LHA wind down budget. The Clinic will coordinate the relocation of existing tenants in the Professional Office Building and will work collaboratively with the City to successfully transition independent physicians and other tenants of the Professional Office Building to new locations. Costs incurred in connection with relocation of Professional Office Building tenants will be included in the LHA wind down budget.

c. *City Repurchase Option* – If the Clinic elects to sell the Lakewood Family Health Center property, the City will have an option to repurchase the land or the land and buildings.

d. *850 Columbia Road* – Promptly following execution of the Master Agreement, LHA will convey the 850 Columbia Road property to the Clinic for \$8.2 million. In recognition of the transactions contemplated by the Master Agreement, LHA will direct the Clinic to pay the proceeds of this sale to the City. The Clinic will pay \$6.8 million (the appraised value in the Summer of 2015) at the closing of the sale agreement and the additional \$1.4 million will be evidenced by a note payable upon the opening of the Lakewood Family Health Center.

e. *Curtis Block Building* – Promptly following the closing sale of the FHC Site, LHA will convey title to the Curtis Block building to the City for \$1.

6. Parking for Lakewood Family Health Center

a. *Onsite and Adjacent Parking* – The Clinic contemplates constructing a parking structure on the Lakewood Family Health Center property that will accommodate approximately 120 parking spots. To the extent available following wind down, \$2.5 million of LHA's assets will be used to finance the construction of such structure. In addition, the City will lease the existing Emergency Department lot on the east side of Belle Avenue (expanded and reconfigured to provide 75 parking spaces) to the Clinic at fair market rental rates that reflect the parties' responsibilities (e.g., security and maintenance, etc.). In certain circumstances to be specified in the Master Agreement, the number of parking spaces in the lease between the City and the Clinic may be reduced from 75 parking spaces if reasonably acceptable alternative parking becomes available.

b. *Additional Parking* – The Clinic contemplates making additional arrangements to accommodate its employee parking needs.

7. Redevelopment of Hospital Site

a. *Demolition/Redevelopment Fund* – The City will be paid \$7 million for the demolition and/or redevelopment of the Hospital building and other structures on the Lakewood Hospital site. This amount will be transferred to the City by LHA and/or the Clinic (using LHA funds to the extent available) as follows: \$500,000 on the date of the transfer of the FHC Site to the Clinic and the remaining \$6.5 million will be funded on the opening of the Lakewood Family Health Center.

b. *Access to Hospital Site* – During the wind down period, the City will have reasonable access to the Lakewood Hospital building in order to evaluate demolition and redevelopment options, provided such access will not interfere with patient care or materially interfere with any other ongoing operations at the site.

c. *Use Protection* – In exchange for the operation of the Lakewood Family Health Center, the City will agree that for so long as the Clinic operates the Lakewood Family Health Center, the 5.7 acre Lakewood Hospital site will be restricted to provide that (i) no general, oncology or specialty hospital (as defined by the Joint Commission) may be operated and (ii) no organization that owns, operates or manages one or more general, oncology or specialty hospitals will be permitted to operate or manage a health care facility or service or have signage identifying such organization will be permitted on the 5.7 acre Lakewood Hospital Site. The limitation in subparagraph (ii) would not restrict the activities of independent physician groups, licensed provider groups or other non-health care system providers (i.e. an organization that owns operates or manages a general, oncology or specialty hospital). The use limitation will be effective only as long as the Clinic operates the Lakewood Family Health Center and, if the Clinic ceases operation of a 24/7/365 emergency room at the Lakewood Family Health Center, the restriction will be amended to allow another party to operate an emergency room on the 5.7 acre Lakewood Hospital site.

8. Miscellaneous

- a. *Transportation* – Promptly following execution of the Master Agreement, the City and the Clinic will collaborate on an application for a planning grant from the Lakewood Hospital Foundation or any other foundation agreed to by the parties to address transportation needs during the transition and following the opening of the Lakewood Family Health Center.
- b. *Insurance Programs* – The City will include among its employee benefits at least one health plan with Tier I and/or preferred provider access to the Clinic to the extent reasonably practicable.
- c. *FHC Construction* – The Master Agreement contains provisions to address the unlikely event that the FHC is not constructed due to the default of any of the parties or due to causes beyond the control of the parties.

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EXHIBIT A

Description of Initially Contemplated Services

Emergency Department (24/7/365)
Family Medicine/Pediatrics
Women's Health (incl. Midwifery)
Diabetes Care
Musculoskeletal Care
Ophthalmology /Optometry
Brain Health/ Behavioral Health
Pulmonology
Neurology
Cardiac Care
Geriatrics
Digestive Diseases
Chronic Disease Clinics
Pharmacy
Physical/Occupational Therapy
Primary Care featuring an advanced medical home model
Radiology and Lab Services
Home Care coordinated with Fairview Hospital
eVisits/My Chart

EXHIBIT E

Excluded Assets

- Curtis Block building
- All real property leased from the City (other than the Professional Office Building and the Belle Garage)
- LHA's "Beneficial interest in Lakewood Hospital Foundation, Inc." as reflected on the LHA balance sheet
- All residential properties owned by LHA and not leased from the City
- All plaques, donor walls and works of art located within Lakewood Hospital that are not owned by the Clinic and specified as excluded on a schedule to the Master Agreement

PLACED ON 1ST READING & REFERRED TO THE
FINANCE COMMITTEE 10/19/15.
SECOND READING 11/2/15.

ORDINANCE NO. 31-15

BY:

AN ORDINANCE to take effect on January 1, 2016 provided it receives the vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law,, amending Chapter 128, Municipal Income Tax, of the Codified Ordinances of the City of Lakewood for the purpose of meeting the mandates for municipal tax codes contained in Sub. H.B. 5, in which the 130th General Assembly comprehensively amended Chapter 718 of the Ohio Revised Code and reformed the imposition of municipal income taxes.

WHEREAS, the home rule amendment of the Ohio Constitution, Article XVIII, Section 3, provides that “[m]unicipalities shall have authority to exercise all powers of local self-government,” and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipalities power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that “laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes”; and

WHEREAS, the General Assembly has determined that it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal income tax codes in Ohio; and

WHEREAS, more specifically, the General Assembly enacted Sub. H. B. 5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is “levied in accordance with the provisions and limitations specified in [Chapter 718];” and

WHEREAS, upon a detailed review of Sub. H. B. 5 and the Codified Ordinances of the City of Lakewood, this ordinance is found and determined by this Council to enact the amendments required prior to the January 1, 2016 deadline to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code; and

WHEREAS, Council also finds and determines that the constitutionality of certain provisions of the state-mandated code may have been put in question by recent decisions of the Ohio Supreme Court regarding, among other things, taxation of professional athletes, but these provisions must be included if the municipal income tax code is to be “levied in accordance with the provisions and limitations specified in [Chapter 718]” and thus reluctantly are adopted by this Council but are disclaimed to the extent they are unlawful or unconstitutional; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure and that it shall take effect on January 1, 2016 as set forth in

PLACED ON 1ST READING & REFERRED TO THE
FINANCE COMMITTEE 10/19/15.
SECOND READING 11/2/15.

ORDINANCE NO. 31-15

BY:

AN ORDINANCE to take effect on January 1, 2016 provided it receives the vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, amending Chapter 128, Municipal Income Tax, of the Codified Ordinances of the City of Lakewood for the purpose of meeting the mandates for municipal tax codes contained in Sub. H.B. 5, in which the 130th General Assembly comprehensively amended Chapter 718 of the Ohio Revised Code and reformed the imposition of municipal income taxes.

WHEREAS, the home rule amendment of the Ohio Constitution, Article XVIII, Section 3, provides that "[m]unicipalities shall have authority to exercise all powers of local self-government," and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipalities power of taxation to the extent necessary to prevent abuse of such power; and Article XVIII, Section 13 of the Ohio Constitution states that "laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes"; and

WHEREAS, the General Assembly has determined that it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal income tax codes in Ohio; and

WHEREAS, more specifically, the General Assembly enacted Sub. H. B. 5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is "levied in accordance with the provisions and limitations specified in [Chapter 718];" and

WHEREAS, upon a detailed review of Sub. H. B. 5 and the Codified Ordinances of the City of Lakewood, this ordinance is found and determined by this Council to enact the amendments required prior to the January 1, 2016 deadline to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code; and

WHEREAS, Council also finds and determines that the constitutionality of certain provisions of the state-mandated code may have been put in question by recent decisions of the Supreme Court regarding, among other things, taxation of professional athletes, but these provisions must be included if the municipal income tax code is to be "levied in accordance with the provisions and limitations specified in [Chapter 718]" and thus reluctantly are adopted by this Council but are disclaimed to the extent they are unlawful or unconstitutional; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure and that it shall take effect on January 1, 2016 as set forth in

Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments in that the City must make this new chapter effective in accordance with state law; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Chapter 128, Municipal Income Tax, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

CHAPTER 128
Municipal Income Tax

ENACTMENT

128.0101 PURPOSE OF LEVY OF INCOME TAX.
To provide funds for the purposes of general municipal functions of the City, there shall be and is hereby levied a tax on all income, salaries, qualifying profits, commissions and other compensations, and on net profits as hereinafter provided. (Ord. 71-10, Passed 11-1-10.)

DEFINITIONS

128.0301 DEFINITIONS GENERALLY.

For the purposes of this chapter, the terms, phrases, words and their derivatives shall have the meanings given in the next succeeding sections. The singular shall include the plural, and the masculine shall include the feminine and the neuter. (Ord. 71-10, Passed 11-1-10.)

128.03011 ADJUSTED FEDERAL TAXABLE INCOME

"Adjusted federal taxable income" means a "C" corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required federal deductions and deductions. Pass-through entities must compute "adjusted federal taxable income" as if the pass-through entity was a "C" corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) Section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004. (Ord. 71-10, Passed 11-1-10.)

128.0302 ADMINISTRATOR

"Administrator" means the individual designated to administer and enforce the provisions of the City income tax. (Ord. 71-10, Passed 11-1-10.)

128.0303 ASSOCIATION

"Association" means any partnership, limited partnership, limited liability company, Subchapter S Corporation or any other form of unincorporated enterprise, owned by one or more persons. (Ord. 71-10, Passed 11-1-10.)

128.0304 BOARD OF REVIEW

"Board of Review" means the Board created by and constituted as provided in Section 128.2501. (Ord. 71-10, Passed 11-1-10.)

128.0305 BUSINESS

"Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an indi-

vidual, partnership, association, corporation or any other entity excluding, however, the portion of all nonprofit corporations which is exempt from the payment of Federal Income Tax. (Ord. 71-1-10. Passed 11-1-10.)

128.03051 CITY.

"City" means the City of Lakewood, Ohio. (Ord. 71-1-10. Passed 11-1-10.)

128.0306 CORPORATION.

"Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency, but does not include Subchapter S Corporations. (Ord. 71-1-10. Passed 11-1-10.)

128.03061 DOMICILE.

"Domicile" means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile. (Ord. 71-1-10. Passed 11-1-10.)

128.0307 EMPLOYEE.

"Employee" means one who works for income, wages, salary, commission or other type of compensation in the service of and under the control of an employer. (Ord. 71-1-10. Passed 11-1-10.)

128.0308 EMPLOYER.

"Employer" means an individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on an income, salary, wage, commission or other basis of compensation. (Ord. 71-1-10. Passed 11-1-10.)

128.0309 FISCAL YEAR.

"Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31. (Ord. 71-1-10. Passed 11-1-10.)

128.03091 FUNDAMENTAL CHANGE.

"Fundamental change" means any substantial alteration by an employer including liquidations, dissolution, bankruptcy, reorganizations such as merger, consolidation, acquisition, transfer or change in identity, form or organization. (Ord. 71-1-10. Passed 11-1-10.)

128.03092 GENERIC FORM.

"Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or separate requests for refunds that contain all the information required on Lakewood's regular tax return and estimated payment forms and are in a similar format that will allow processing of the generic forms without altering Lakewood's procedures for processing forms. (Ord. 71-1-10. Passed 11-1-10.)

128.0310 GROSS RECEIPTS.

"Gross receipts" means the total income from any source whatever revenue derived from sales, work done, or service rendered. (Ord. 71-1-10. Passed 11-1-10.)

128.03101 INCOME.

"Income" means all monies and compensation in any form, subject to limitations imposed by ORC 718, derived from any source whatsoever, including but not limited to:

(a) All income, qualifying wages, commissions, other compensation and other income from whatever source received by residents of Lakewood.

(b) All salaries, wages, commissions, other compensation and other income from whatever source received by nonresidents for work done or services performed or rendered or activities conducted in Lakewood.

(c) The portion attributable to the City of the net profits of all businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in Lakewood. (Ord. 71-1-10. Passed 11-1-10.)

128.03102 MANAGER.

"Manager" means any of the employer's officers, responsible persons, employees having control or supervision and employees charged with the responsibility of filing the return, paying taxes and otherwise complying with the provisions of this chapter. (Ord. 71-1-10. Passed 11-1-10.)

128.0311 NET PROFITS.

"Net profits" means, for taxable years prior to 2004, a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting (that is, cash or accrual) system used by the taxpayer for federal income tax purposes without deduction of taxes imposed by this chapter, federal, state and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners and other owners. (For taxable years 2004 and later, see "adjusted federal taxable income".) (Ord. 71-1-10. Passed 11-1-10.)

128.0312 NONRESIDENT.

"Nonresident" means an individual domiciled outside the City of Lakewood. (Ord. 71-1-10. Passed 11-1-10.)

128.0313 NONRESIDENT UNINCORPORATED BUSINESS ENTITY.

"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of Lakewood. (Ord. 71-1-10. Passed 11-1-10.)

128.03131 PASS-THROUGH ENTITY.

"Pass-through entity" means a partnership, S corporation, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code. Unless otherwise specified, for purposes of this chapter, the tax treatment for pass-throughs is the same as "association". (Ord. 71-1-10. Passed 11-1-10.)

128.0314 PERSON.

"Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations the officers thereof. (Ord. 71-1-10. Passed 11-1-10.)

128.0315 PLACE OF BUSINESS.

"Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance. (Ord. 71-1-10. Passed 11-1-10.)

128.03151 QUALIFYING WAGE.

"Qualifying wage" means wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "Qualifying wages" represent

sants employees' income from which municipal tax shall be deducted by the employer, and any wages not considered a part of "qualifying wage" shall not be taxed by a municipality. This definition is effective January 1, 2004, for taxable years 2004 and later. (Ord. 71-10. Passed 11-1-10.)

128.0316 RESIDENT.

"Resident" means an individual domiciled in the City of Lakewood, but shall not include those individuals attending an accredited college or university on a full-time basis who reside within the City sixteen weeks or less during the taxable year. (Ord. 71-10. Passed 11-1-10.)

128.0317 RESIDENT UNINCORPORATED BUSINESS ENTITY.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Lakewood. (Ord. 71-10. Passed 11-1-10.)

128.0317S CORPORATION.

"S Corporation" or "Subchapter S Corporation" means any association that has made an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year. (Ord. 71-10. Passed 11-1-10.)

128.0318 TAXABLE INCOME.

"Taxable income" means income minus the deductions and credits allowed by this chapter. (See "Income"). (Ord. 71-10. Passed 11-1-10.)

128.0319 TAXABLE YEAR.

"Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter, and in the case of a fractional part of a year, the period for which such return is required to be made. (Ord. 71-10. Passed 11-1-10.)

128.0320 TAXPAYER.

"Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax. (Ord. 71-10. Passed 11-1-10.)

IMPOSITION OF INCOME TAX

128.0501 RATE AND INCOME TAXABLE.

An annual tax for the purposes specified in Section 128.01 shall be imposed on and after January 1, 1981, at the rate of one and one-half percent (1-1/2%) per annum upon the following:

(a) On all income, salaries, qualifying wages, commissions and other compensation earned and/or received on and after January 1, 1981, by residents of the City. For clarification "income" includes, but is not limited to, lottery, gambling and sports winnings, and games of chance.

(1) If the taxpayer is considered a professional gambler for federal income tax purposes, related deductions as permitted by the Internal Revenue Code shall be allowed against gambling and sports winnings.

(2) If the taxpayer is not considered a professional gambler for federal income tax purposes, a deduction equal to the amount of up to \$600 of income computed from lottery, gambling and sports winnings, and games of chance, or a deduction of \$600, whichever is less, shall be allowed, provided that in no case shall the deduction exceed the amount of combined income from lottery, gambling and sports winnings, and games of chance. If said income is payable to the taxpayer in more than one year, the deduction applies only in the first year in which the income is received.

(b) On all income, salaries, qualifying wages, commissions and other compensation earned and/or received on and after January 1, 1981, by nonresidents of the City for work done or services performed or rendered within the City. Separation pay, termination pay, reduction-in-force pay, and other compensation paid as a result of an employee leaving the service of an employer shall be allowable only to the City.

(1) Lakewood shall not, however, tax the compensation of a non-resident individual who will be deemed to be an occasional entrant if all of the following apply:

A. The compensation is paid for personal services performed by the individual in the City on twelve or fewer days during the calendar year, in which case the individual shall be considered an occasional entrant for purposes of the City income tax. A day is a full day or any fractional part of a day.

B. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the City and the individualness of the individual is described in Section 128.0501(6) to the municipality pays tax on compensation described in Section 128.0501(6) is located, and no by, if any, in which the employer's principal place of business is located, the portion of that tax is refunded to the individual.

C. The individual is not a professional entertainer or professional athlete, the promoter, all as may be reasonably defined by the City.

(2) Beginning with the thirteenth day an individual declared to have been an occasional entrant to the City performs services within the City, the employer of said individual shall begin withholding the City income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the City in accordance with the requirements of this chapter.

Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the year, the employer is further required to remit taxes on income earned in the City by the individual for the first twelve days.

(3) If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the City.

(4) (1) On the portion attributable to the City on the net profits earned on and after January 1, 1981, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.

(2) On the portion of the distributive share of the net profits earned or received on and after January 1, 1981, of a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity by the City. The tax imposed on the individual members or owners of a resident unincorporated business entity shall be collected by the resident unincorporated business entity, and remitted on behalf of the individual members or owners.

(d) (1) On the portion attributable to the City of the net profits earned on or after January 1, 1981, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the City, formed or not such unincorporated business entity has an office or place of business in the City.

(2) On the portion of the distributive share of the net profits earned or received on or after January 1, 1981, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity by the City.

(e) Effective for tax years 2004 and later, the distributive share of income paid to an S corporation shareholder shall be taxable in the following manner:

(1) If no portion of the net profits of the S corporation are allocated or apportioned to the State of Ohio, the distributive share is taxable only to the extent that it represents wages or net earnings from self-employment.

- (2) If any portion of the net profits of the S corporation are allocated or apportioned to the State of Ohio, the full amount of the distributive share is taxable.
- (f) On the portion attributable to the City of the net profits earned on and after January 1, 1981, of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.
- (g) On the portion attributable to this Municipality pursuant to the terms of this chapter and including "Royalty Income", which means income earned from a royalty interest in the production of an oil or gas well. (Ord. 71-10, Passed 11-1-10.)

128.0502 EFFECTIVE PERIOD.

Such tax shall be levied, collected and paid with respect to the income, salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1981. (Ord. 71-10, Passed 11-1-10.)

DETERMINATION OF ALLOCATION OF TAX

128.0701 METHOD OF DETERMINATION.

Net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of municipal income taxation in the same proportion as the average ratio of:

- (a) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average original cost of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in this section, real property includes property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
- (b) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed. For tax year 2004 and subsequent tax years, wages, salaries, and other compensation shall be included to the extent that they represent qualifying wages.
- (c) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
- In the event that the foregoing allocation formula does not produce an equitable result, another basis (including the books and records method) may, under uniform regulations, be substituted so as to produce such result. (Ord. 71-10, Passed 11-1-10.)

128.0702 SALES MADE IN THE CITY.

As used in Section 128.0701(c), "sales made in the City" means:

- (a) All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City.
- (b) All sales of tangible personal property which is delivered within the City regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.

- (c) All sales of tangible personal property which is shipped from a place within the City to purchasers outside of the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made. (Ord. 71-10, Passed 11-1-10.)

128.0703 TOTAL ALLOCATION.

Add together the percentages determined in accordance with subsections (a), (b) and (c) of Section 128.0701, or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving such total in order to obtain the business allocation percentages referred to in Section 128.0701. A factor is applicable even though it may be allocable entirely in or outside the City. (Ord. 71-10, Passed 11-1-10.)

128.0704 RENTALS.

- (a) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under subsections (c), (d) and (e) of Section 128.0501, only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived (whether so rented, managed or operated by a taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part if it does not constitute a business activity, the income is taxable simply as other income.

- (b) Where the gross monthly rental of any and all real properties regardless of number and value, aggregated in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month; in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month; the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month. (Ord. 71-10, Passed 11-1-10.)

128.0705 OPERATING LOSS CARRY FORWARD.

- (a) The portion of a net operating loss sustained in any taxable year subsequent to July 1, 1967, allocable to the City may be applied against the portion of the profit of succeeding tax years allocable to the City, until exhausted but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.
- (b) The portion of net operating loss sustained shall be allocated to the City in the same manner as provided herein for allocating net profits to the City.
- (c) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry forward shall be determined. (Ord. 71-10, Passed 11-1-10.)

EXEMPTIONS

128.0901 SOURCES OF INCOME NOT TAXED.

The tax provided for herein shall not be levied on the following:

(a) Pay or allowance of active members of the armed forces of the United States and of members of their reserve components, including the National Guard.

- (b) The income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities.
- (c) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, state or federal governments or charitable, religious or educational organizations.
- (d) Proceeds of insurance paid by the death of the insured, payments from pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (e) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from seasonal or casual entertainment, amusement, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.
- (f) Alimony received.
- (g) Personal earnings of any natural person under eighteen years of age.
- (h) Compensation for personal injuries or for damages to property by way of insurance or otherwise. This exclusion does not apply to compensation paid for lost salaries or wages or to compensation from punitive damages.
- (i) Compensation paid to a precinct election official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually.
- (j) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained clergy's compensation. The clergy must be duly ordained.

commissioned, or licensed by a religious body constituting a religious denomination, and must have authority to perform all sacraments of the religious body.

(k) Interest, dividends and other revenue from intangible property.

(l) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio from which the City is specifically prohibited from taxing, and income from the decedent's estate during the period of administration (except such income from the operation of a business).

(m) Taxpayers are permitted to deduct expenses on federal Form 2106 in accordance with federal guidelines for Form 2106. Expenses reported on Form 2106 are subject to audit and approval by the Administrator.

(n) Income, salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.

(o) Income, salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the City to impose net income taxes. (Ord. 71-10, Passed 11-1-10)

RETURNS

128.1101 WHEN RETURN REQUIRED TO BE MADE.

- (a) Each taxpayer shall, whether or not a municipal income tax is due thereon to Lakewood, make and file a return on or before April 15 of each year, thereafter, effective date of this chapter and on or before April 15 of each year, thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the 15th day of the fourth month following the end of such fiscal year or period.
- (b) Any person who has no income taxable to Lakewood need not file an annual return, and shall be considered exempt. Any person who has is exempt income must file a return, an exemption certificate each year and declare to the Administrator the nature of his exemption. The taxpayer that is exempt shall inform the

administrator within thirty (30) days if at any point the taxpayer again receives begins receiving income taxable to Lakewood. (Ord. 71-10, Passed 11-1-10)

128.1102 FORM AND CONTENT OF RETURN.

- The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, or on an acceptable generic form as defined in this chapter, setting forth:
 - (a) The aggregate amounts of income, salaries, wages, commissions and other compensation earned or received and gross income receipts from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax;
 - (b) The amount of the tax imposed by this chapter on such earnings and profits; and
 - (c) Such other pertinent statements, information returns or other information as the Administrator may require, including but not limited to copies of all W-2 forms, 1099 Miscellaneous Income forms, page one of Form 1040, page one and two of Form 1120, 1120s (including (K-1), 2106, 1065, Schedule C (including cost of goods manufactured and/or sold), Schedule E, Schedule F and any other federal schedules, if applicable. (Ord. 71-10, Passed 11-1-10)

128.1103 EXTENSION OF TIME FOR FILING RETURNS.

For tax years prior to 2004, the Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. For taxable years 2004 and later, the extended due date for individuals shall be the last day of the month following the month to which the federal income tax due date has been extended. For businesses, if the extension is filed through the Ohio Business Gateway the extended due date shall be the last day of the month to which the federal income tax return has been extended. If not filed through the Ohio Business Gateway the extended due date shall be the last day of the month following the month to which the due date of the federal income tax return has been extended. The Tax Commissioner may deny the extension if the taxpayer fails to file the request timely, fails to file a copy of the federal extension request, or if the taxpayer's income tax account with the City is delinquent in any way. The Administrator may require a tentative return, accompanied by a payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended. (Ord. 71-10, Passed 11-1-10)

128.1104 CONSOLIDATED RETURNS.

- (a) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the Municipality.
- (b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are not properly allocated to the City. If the Administrator finds that net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City. (Ord. 71-10, Passed 11-1-10)

128.1105 AMENDED RETURNS.

(a) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in Sections 128.1701, 128.1702, 128.1703 and 128.1902. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting (that is, cash or accrual) or report amount of net profit after the due date for filing the original return.

(b) Within three months from the final determination of any federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City return showing income subject to the City tax based upon such final determination of federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment. (Ord. 71-10, Passed 11-1-10.)

128.1106 BUSINESS LOSSES.

Each taxpayer may offset business losses against business net profits from any business

conducted in the Municipality or in any Municipality that does not levy an income tax on net profits therefrom. However, a loss from the operation of a business may not be used to offset the income on a taxpayer's W-2 and/or 1099 forms. (Ord. 71-10, Passed 11-1-10.)

128.1107 REPORTING A NET LOSS.

Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this chapter. (Ord. 71-10, Passed 11-1-10.)

PAYMENT OF TAX

128.1301 PAYMENT OF TAX ON FILING OF RETURNS.

(a) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon provided, however, that:

(1) Where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 128.1302 or,

(2) Where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 128.1303 or,

(3) Where an income tax has been paid on the same income to another municipality, credit for the amount so deducted or paid, or credit to the extent provided for in Section 128.1902, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

(b) A taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder, or, at his election, indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than five dollars (\$5.00) shall be collected or refunded.

(c) If any employer which is liable for tax obligations imposed by this chapter undergoes a fundamental change, then the employer and its manager shall be liable for taxes due up to the date of the fundamental change. Taxes and final tax returns shall be due immediately after the fundamental change. Any successor employer shall withhold from any purchase price that the successor owes to the predecessor an amount sufficient to pay all unpaid taxes, interest and penalty which the predecessor employer owes pursuant to this chapter. The successor employer shall make such withholding until such time that the predecessor employer has paid such taxes, interest and penalties. If the successor fails to withhold such amount, then the successor, and in a personal manner, the successor's

manager shall be jointly and severally liable for the payment of such taxes, interest and penalty. (Ord. 71-10, Passed 11-1-10.)

128.1302 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City shall deduct at the time of the payment of such income, salary, wages, commission or other compensation, the tax of one and one-half percent (1-1/2%) per annum of the gross income, salaries, wages, commissions or other compensation due by the employer to each employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month. However, if the amount of the tax so deducted by an employer in any one month is less than one hundred dollars (\$100.00) per month based on the previous tax year's quarterly averages, the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Such returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. The employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have, in fact, been withheld.

(c) The employer in collecting the tax shall be deemed to hold the same until payment is made by such employer to the City as a trustee for the benefit of the City, and any such tax collected by such employer from his employees shall, until the same is paid to the City be deemed a trust fund in the hands of such employer.

(d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the City, but such employee shall be subject to all of the requirements of this chapter.

(e) Manager's Obligation.

(1) Every manager is deemed to be a trustee of this Municipality in collecting funds and holding the tax required under ordinance to be withheld, and the funds so collected by such withholding are deemed to be trust funds. Every manager is liable directly to this Municipality for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to this Municipality, whether or not the employer actually remits the tax to this Municipality for purposes of determining employee payments or credits.

(2) All managers shall be personally liable to the extent of the tax, interest, and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.

(3) No change in structure by an employer, including a fundamental change, discharges its managers from liability for the employees' or manager's failure to remit funds held in trust, to file a tax return or to pay taxes.

(4) On or before February 28 of each year, beginning with the year 1986, each employer shall file a withholding return setting forth the names, addresses and social security numbers of all employees from whose compensation the tax was withheld during the preceding calendar year, the amount of tax withheld from this or her employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator.

(5) On or before February 28 of each year all individuals, businesses, employers, brokers or other who engage persons, either on a fee or commission basis or as independent contractors and not employees (those who are not subject to withholding) must provide the Municipality with copies of all 1099 miscellaneous income forms and/or a list of names, addresses, Social Security Numbers or

federal identification numbers and a total amount of earnings, payments, bonuses, commissions and/or fees paid to each person.

(b) All employers that provide any contractual service within the City, and who employ subcontractors in conjunction with that service shall, prior to commencement of the service, provide the City the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax employer requirements under this chapter. (Ord. 71-10. Passed 11-1-10.)

128.1303 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.

(a) Every person who anticipates any taxable income which is not subject to Section 128.1902 and/or from which tax will not be fully withheld at Lakerwood's tax rate, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 128.0501, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity, together with the estimated tax due thereon, if any, and shall make the estimated payments required herein.

(b) If the estimated tax for the current year, less the tax to be withheld and less the tax credit allowed in Section 128.1902, is less than one hundred dollars (\$100.00), no declaration or payment of estimated tax is required. (Ord. 71-10. Passed 11-1-10.)

128.1304 FILING OF DECLARATION

(a) The declaration required by Section 128.1303 shall be filed on or before the April 15 of each year during the effective period set forth in Section 128.0502 or within one hundred five (105) days of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month following the end of such fiscal year or period. (Ord. 71-10. Passed 11-1-10.)

128.1305 FORM OF DECLARATION

(a) The declaration required by Section 128.1303 shall be filed upon a form furnished by or obtainable from the Administrator, or on an acceptable generic form as defined in this chapter. Credit shall be taken for the City tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of Section 128.1902.

(b) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein. (Ord. 71-10. Passed 11-1-10.)

128.1306 PAYMENT TO ACCOMPANY DECLARATION

Such declaration of estimated tax to be paid to the City shall be accompanied by a payment of at least one-fourth of the estimated non-withheld and/or underwithheld tax due, and at least a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning of the taxable year, and on or before the last day of the first month of the succeeding year following the taxable year. However, if an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(a) If the taxpayer is an individual, at least a similar amount shall be paid on or before the last day of the seventh (7th), tenth (10th), and thirteenth (13th) months after the beginning of the taxpayer's taxable year, provided that in case an amended declaration has been filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(b) If the taxpayer is a corporation or association, at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(c) No penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the City on the first day of January in the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent (100%) of the previous year's tax liability, provided that the previous year reflected a twelve-month period and the taxpayer filed a return for that year, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to ninety percent (90%) of the final tax liability for the tax year due on or before April 15th of the current year. (Ord. 71-10. Passed 11-1-10.)

128.1307 ANNUAL RETURN

On or before the fifteenth day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid thereon in accordance with the provisions of Section 128.1301. (Ord. 71-10. Passed 11-1-10.)

INTEREST AND PENALTIES

128.1501 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this chapter and remaining unpaid after they become due, shall bear interest at the rate of eight percent (8%) per annum. (Ord. 71-10. Passed 11-1-10.)

128.1502 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 128.1501, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

(a) For failure to pay taxes or estimated taxes due, other than taxes withheld one percent (1%) per month or fraction of a month thereof, but not less than twenty-five dollars (\$25.00).

(b) For failure to remit taxes withheld from employers; ten percent (10%) per month or fraction of a month thereof, but the accumulated penalty shall not exceed fifty percent (50%) upon any unpaid amount and shall not be less than twenty-five dollars (\$25.00).

(c) A penalty of twenty-five dollars (\$25.00) shall be assessed for failure to file an income tax return. This penalty shall be in addition to any other penalties that may be assessed. (Ord. 71-10. Passed 11-1-10.)

128.1503 EXCEPTIONS.

A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator, and in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three months after a final determination of the federal tax liability. (Ord. 71-10. Passed 11-1-10.)

128.1504 ABATEMENT OF INTEREST AND PENALTY.

Either the Administrator hereunder or the Board of Review may abate penalty or interest, or both, for good cause shown. (Ord. 71-10, Passed 11-1-10.)

128.1505 VIOLATIONS.

Any person who shall:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (b) Make any incomplete, false or fraudulent return; or
- (c) Intentionally or willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (d) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
- (e) Refuse to permit the Administrator, or any duly authorized agent or employee to examine his books, records, papers and federal and State income tax returns relating to the income or net profits of a taxpayer; or
- (f) Fail to appear before the Administrator and to produce his books, records, papers or federal and State income tax returns relating to the income or net profits of a taxpayer upon order of subpoena of the Administrator; or
- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (i) Give to an employer false information as to his true name, correct social security number and residence address or fail to promptly notify an employer of any change in residence address and date thereof; or
- (j) Fail to use ordinary diligence in maintaining proper records of employees residence addresses, total wages paid and City tax withheld, or to knowingly give the Administrator false information; or
- (k) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter; shall be guilty of a first-degree misdemeanor and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense. (Ord. 71-10, Passed 11-1-10.)

128.1506 LIMITATION ON PROSECUTION.

All prosecutions under this section must be commenced within three (3) years from the time of the offense complained of, except in the case of failure to file a return or in the case of filing a false or fraudulent return or a return having an omission of twenty-five percent (25%) or more of income subject to this tax, in which event the limitation of time within which prosecution must be commenced shall be six (6) years from the date the return was due or the date the false or fraudulent return was filed. (Ord. 71-10, Passed 11-1-10.)

128.1507 FAILURE TO PROCURE FORMS NOT EXCUSE.

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, or declaration, from filing such form, or from paying the tax. (Ord. 71-10, Passed 11-1-10.)

COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

128.1701 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. All legal actions to recover municipal income taxes and penalties and interest there-

on shall be brought within three (3) years after the tax was due or the return was filed, whichever is later, except in the case of fraud, or omission of twenty-five percent (25%) or more of income subject to this tax, or of failure to file a return, an additional assessment shall not be made or legal action initiated after six (6) years from the time the return was due or filed, whichever is later. However, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the federal tax liability. (Ord. 71-10, Passed 11-1-10.)

128.1702 REFUNDS OF TAXES ERRONEOUSLY PAID.

- (a) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date which such payment was made or the return was due, or within three months after the final determination of the federal tax liability, whichever is later. In addition, the following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):
 - (1) A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from a NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss is sustained if no distribution of money and property will be made by the NDCP.
 - (2) A taxpayer who receives income as a result of payments from a NDCP and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates applied to the tax years in which deferrals, a weighted average of the different tax rates will be used to compute the refund amount.
 - (3) Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified compensation.
 - (b) Income tax that has been deposited with the City of Lakewood, but should have been deposited with another municipality, is allowable by the City of Lakewood as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the City of Lakewood, but was deposited with another municipality, shall be subject to recovery by the City of Lakewood. The City of Lakewood will allow a non-refundable credit for any amount owed the City of Lakewood that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or higher than the City of Lakewood's tax rate. If the City of Lakewood's tax rate is higher, the tax representing the net difference of the rates is also subject to collection by the City of Lakewood.
 - (c) Overpayments of withheld tax that have resulted due to incorrect withholding of an employee by an employer, and are not due as a result of excess withholding requested by the employee, shall be refunded to the employer. It shall be the responsibility of the employer, and not the City of Lakewood, to refund such overpayment to the employee. However, nothing in this subparagraph shall affect the right of a non-resident employee to apply directly to the City of Lakewood for refund of income tax withheld for days worked out of Lakewood.
 - (d) Payments on delinquent amounts shall be applied in the following manner:
 - (1) To unpaid tax, then to penalty and interest assessments, on a year-by-year order beginning with the oldest year for which delinquencies are due.

(2) To the taxpayer's current estimated tax liability. (Ord. 71-10. Passed 11-1-10.)

128.1793 AMOUNTS OF LESS THAN FIVE DOLLARS.
Amounts of less than five dollars (\$5.00) shall not be collected or refunded. (Ord. 71-10. Passed 11-1-10.)

CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

128.1901 NONRESIDENT TAXPAYERS.
Section 128.1901 was repealed by Ordinance 73-71, passed December 20, 1971. (Ord. 71-10. Passed 11-1-10.)

128.1902 TAX CREDIT.

(a) When the taxable income of a resident of the City of Lakewood is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income by such other municipality, equal to fifty percent (50%) of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the City of Lakewood by the taxable income earned in or attributable to the municipality of employment or business activity but, in any event, such credit shall not be applied to a rate in excess of one percent (1%) of the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. In the event such Lakewood resident fails, neglects, or refuses to file an annual return or declaration on the form prescribed by the Administrator, he shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file a return. (Ord. 71-10. Passed 11-1-10.)

128.1903 CLAIM FOR CREDIT.

Section 128.1903 was repealed by Ordinance 73-71, passed December 20, 1971. (Ord. 71-10. Passed 11-1-10.)

DISBURSEMENT OF RECEIPTS OF TAX COLLECTION

128.2101 DISBURSEMENT OF FUNDS COLLECTED.
The funds collected under the provisions of this chapter shall be disbursed in the following manner:

(a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund for municipal purposes. (Ord. 71-10. Passed 11-1-10.)

DUTIES AND AUTHORITY OF THE ADMINISTRATOR

128.2301 DUTY TO RECEIVE TAX IMPOSED.

It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, to keep an accurate record thereof, and to report all moneys so received. (Ord. 71-10. Passed 11-1-10.)

128.2302 DUTY TO ENFORCE COLLECTION.

It shall be the duty of the Administrator to enforce payment of all taxes owing to the City, to keep accurate records for a minimum of six (6) years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld, and to show the dates and amounts of payments thereof. (Ord. 71-10. Passed 11-1-10.)

128.2303 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.

The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns. Taxpayers are hereby required to comply with the requirements of this chapter and the rules and regulations. (Ord. 71-10. Passed 11-1-10.)

128.2304 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has provided to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter. Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 128.1505 and 128.1701 shall apply. (Ord. 71-10. Passed 11-1-10.)

128.2305 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

(a) If the taxpayer fails to file a tax return which is required by this chapter within the time prescribed, but consents to disclose all information necessary to the preparation thereof, then the Administrator may prepare such return which, after being signed by such person, may be received by the Administrator as the return of such person.

(b) If any taxpayer fails to file a tax return which is required by this chapter within the time prescribed therefore, or makes willfully or otherwise, a false or fraudulent return, then the Administrator shall make in a reasonable manner such return from his own knowledge and from such information as he can obtain throughout testimony or otherwise.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due this City from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. Such determination may be modified or amended based upon information or data subsequently secured.

(d) Neither the Tax Administrator's execution of a return nor the Tax Administrator's assessment of a taxpayer shall start the running of the period of limitation on prosecutions set forth elsewhere in this chapter. (Ord. 71-10. Passed 11-1-10.)

128.2306 AUTHORITY TO MAKE INVESTIGATIONS.

The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal and State income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the

accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, within ten (10) calendar days following a upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized. (Ord. 71-1-10, Passed 11-1-10.)

128.2307 AUTHORITY TO COMPEL PRODUCTIONS OF RECORDS.

The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal and State income tax returns and the attendance of all persons before him whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry. (Ord. 71-1-10, Passed 11-1-10.)

128.2308 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and federal and State income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee, of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 128.1505. (Ord. 71-1-10, Passed 11-1-10.)

128.2309 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

(a) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter, including returns or return information received from Federal, state or local taxing authorities pursuant to part (b) of this section, shall be confidential except for official tax purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this Section, shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the City who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(b) The Director of Finance is hereby authorized to enter into agreements with the United States Commissioner of the Internal Revenue Service, an Internal Revenue Service District Director, the State of Ohio Tax Commissioner, and the heads of other state and local taxing authorities, to provide for the disclosure and exchange by the Director of Finance and each of the aforementioned officials, of returns or return information under the jurisdiction of such officials, for tax collection purposes. The Director of Finance is further authorized to pay the costs of services, materials or information received pursuant to such agreements, and to charge such officials for services, materials or information supplied. (Ord. 71-1-10, Passed 11-1-10.)

128.2310 TAXPAYER REQUIRED TO RETAIN RECORDS.

Every taxpayer shall retain all records necessary to compute his tax liability for a period of six (6) years from the date his return is filed, or the withholding tax-
ese are paid. (Ord. 71-1-10, Passed 11-1-10.)

128.2311 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES. (Repealed)

BOARD OF REVIEW

128.2301 BOARD OF REVIEW ESTABLISHED.

(a) A Board of Review, consisting of five members who are electors of the City, is hereby created. Three members shall be appointed by the Mayor, and two members shall be appointed by Council. The members shall serve overlapping terms of three years, with the first two members appointed for one year, one of those members being appointed by Council and one by the Mayor; the second two members appointed for two years, one of those members being appointed by the Council and one by the Mayor; and the fifth member for three years, appointed by the Mayor. Each subsequent appointment shall be for a full three year term.

(b) The Board shall select, each year for a one year term, one of its members to serve as Chairman and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions.

(c) No member of the Board shall take part in any hearing or determination in which he has a personal or financial interest. The members of the Board shall receive no compensation, and may be removed for Cause by the Mayor.

(d) The provisions of Section 128.2309 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal. (Ord. 71-1-10, Passed 11-1-10.)

128.2302 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS.

All rules and regulations and amendments or changes thereto which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation. (Ord. 71-1-10, Passed 11-1-10.)

128.2303 RIGHT OF APPEAL.

(a) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter and the rules and regulations, and who has filed the required returns or other documents pertaining to the contested issue, may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. The Board must schedule a hearing within forty-five (45) calendar days of receiving the appeal. The Board must issue a written decision within ninety (90) days after the final hearing and send a notice of its decision by ordinary mail to the taxpayer within 15 days after issuing the decision.

(b) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Appeal may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals. (Ord. 71-1-10, Passed 11-1-10.)

OTHER PROVISIONS

128.2701 DECLARATION OF LEGISLATIVE INTENT.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein is found to be unconstitutional

itional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutionality, illegality or invalid sentence, clause, section or part thereof not been included herein. (Ord. 71-10, Passed 11-1-10.)

128.2702 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.
(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 128.1505 to 128.1507 and 128.1701 to 128.1703.
(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 128.1101 and 128.1302 as though the same were continuing. (Ord. 71-10, Passed 11-1-10.)

128.2703 LIABILITY FOR NON-PAYMENT BY CONSTRUCTION CONTRACTORS, SUBCONTRACTORS, INDEPENDENT CONTRACTORS, AND OWNERS.

(a) Any individual or entity that contracts or subcontracts, for any portion of work on a construction project in the City of Lakewood, (for purposes of this section, hereafter "the contractor"), to another individual or entity for the performance of construction work ("the subcontractor"), shall be liable for any liability of the subcontractor to pay or forward for payment all taxes required to be withheld or paid under provisions of this Chapter, together with applicable penalties and interest for nonpayment as provided in Section 128.1501 and 128.1502 above. It is the intention to impose liability for non-payment of taxes, and any applicable interest and penalties, upon the entire chain of construction employment and contracting, from wage worker or independent contractor up through each subcontractor, contractor, general contractor, and even to the owner, except as that owner may be exempt under subsection (b) herein, to ensure that income taxes on construction projects are paid as required. No good faith exception under Section 128.1503 shall be permitted to limit liability under this section. Issuance of an IRS Form 1099 is not a defense, but may be evidence of liability under this section.

(b) Notwithstanding the foregoing, the owner or owners of residential premises and who also occupy those premises shall be exempt from liability under this section if the total cost of the project at the residence is fifty thousand dollars (\$50,000) or less and the owner or owners have obtained written confirmation that the contractor employed for the project is registered with the City of Lakewood prior to the commencement of work.

(c) The City will not issue any type of building, occupancy or construction permit to any individual or entity unless first presented with documentation from the Administrator that all taxes required to be paid or withheld under this Chapter have been paid to the City.
(d) The City will not release draws for work performed on any construction project undertaken by the City to any individual or entity working on such project until presented with documentation from the Tax Administrator that all taxes required to be paid or withheld under this Chapter have been paid and forwarded to the City. (Ord. 71-10, Passed 11-1-10.)

shall be and hereby is repealed only with respect to municipal income tax liability created on or after January 1, 2016.

Section 2. New Chapter 128, Municipal Income Tax, shall be enacted to read as follows:

**CHAPTER 128
Municipal Income Tax**

128.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE
128.011 AUTHORITY TO LEVY TAX

(a) The tax on income and the withholding tax established by this Chapter 128 of the codified ordinances of the City of Lakewood are authorized by Article XVII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter are deemed to be levied in accordance with and to be consistent with, the provisions and limitations of Chapter 718 of the Ohio Revised Code. This Chapter is deemed to incorporate the provisions of Chapter 718 of the Ohio Revised Code. To the extent any provision of this Chapter conflicts with Chapter 718 of the Ohio Revised Code, said Chapter 718's provisions shall prevail.

(b) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the City of Lakewood, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein. (ORC 718.04)

128.012 PURPOSES OF TAX; RATE

(a) To provide funds for the purposes of general municipal operations, maintenance, new equipment and capital improvements of the City there is hereby levied a tax on salaries, wages, commissions net profits, lottery, gambling, sports winnings, income from games of chance and other compensation as hereinafter provided.

(b) An annual tax for the purposes specified in Chapter XXXXX shall be and is hereby imposed commencing on January 1, 1981, and continuing thereafter at the rate of one and one-half percent (1-1/2%) per annum on all taxable income. (ORC 718.04)

128.013 ALLOCATION OF FUNDS

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

(a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund for municipal purposes.

128.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX

(e) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub HB 5, passed by the 130th General Assembly, and signed by Governor Kasich on December 19, 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.

(f) As mandated by H.B. 5, municipal income tax Ordinance 2015-XX, effective January 1, 2016, comprehensively amends Chapter 128 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality.

128.02 EFFECTIVE DATE

(a) Ordinance 2015-XX, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 128 apply to taxable years beginning 2016 and succeeding taxable years.

(b) Ordinance 2015-XX does not repeal the existing sections of Chapter 128 for any taxable year prior to 2016, but rather amends Chapter 128 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016.

(Unmodified Section 2 of Am Sub HB 5, passed Dec 2014; ORC 718.04)

128.03 DEFINITIONS

Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless the context clearly indicates or requires a different meaning. If a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

For purposes of this Section, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

As used in this chapter:

(a) "ADJUSTED FEDERAL TAXABLE INCOME" for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(D) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(B) Add an amount equal to five per cent of intangible income deducted under division (1)(A) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

(C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(D) Except as provided in division (1)(D)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (1)(D)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(E) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

(G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;

(H) Except as limited by divisions (1)(H)(ii), (ii) and (v) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.

The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(ii) No person shall use the deduction allowed by division (1)(H) of this section to offset qualifying wages.

(iii) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (1)(H)(i) of this section.

(b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (1)(H)(i) of this section.

(V) Any pre-2017 net operating loss carry-forward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to division (1)(H) of this section.

(V) Nothing in division (1)(E)(ii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (1)(E)(ii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (1)(E)(ii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (1)(E)(ii)(a) of this section shall apply to the amount carried forward.

(V) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section XXX.063 of this Chapter.

(V) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of Section 128.063 of this Chapter.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B) of this section, is not a publicly traded partnership that has made the election described in division (23)(C) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except that income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in conformance with the Internal Revenue Code or United States Treasury Regulations. A deduction for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States Treasury Regulations, or amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

(2)(a) "Assessment" means a written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 21, and has "ASSESSMENT" written in all capital letters at the top of such finding.

(b) "Assessment" does not include a notice denying a request for refund issued under division (c)(3) of Section 9, a billing statement notifying a taxpayer of

current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence by division person or taxpayer that does not meet the criteria prescribed by division (c)(2)(A) of this section.

(3) "AUDIT" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.

(4) "BOARD OF REVIEW" has same meaning as "Local Board of Tax Review".

(5) "CALENDAR QUARTER" means the three-month period ending on the last day of March, June, September, or December.

(7) "CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE," and similar terms include any delivery service authorized pursuant to section 5703.056 of the Ohio Revised Code.

(8) "COMPENSATION" means any form of remuneration paid to an employee for personal services.

(9) "DISREGARDED ENTITY" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(10) "DOMICILE" means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return. A taxpayer, even if having more than one residence, may only have one domicile. This term is further defined in Section 128 of this Chapter.

(11) "EXEMPT INCOME" means all of the following:

(A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;

(B) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee in similar payments made to an employee or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.

(C) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(D) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may still be subject to taxation by a municipal corporation. A municipal corporation shall not

require the payer of such compensation to withhold any tax from that compensation.

(E) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;

(F) Alimony and child support received;

(G) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;

(H) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code. Division (1)(I) of this section does not apply for purposes of Chapter 5745, of the Ohio Revised Code.

(I) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;

(J) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;

(K) Employee compensation that is not qualifying wages as defined in division (34) of this section;

(L) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.

(M) All of the municipal taxable income earned by individuals while they are under eighteen years of age.

(N) (i) Except as provided in divisions (1)(P)(ii), (iii), and (iv) of this section, qualifying wages described in division (b)(1) or (c) of Section 128.052 of this Chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.

(ii) The exemption provided in division (1)(P)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(iii) The exemption provided in division (1)(P)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (c)(2) of Section 128.052 of this Chapter.

(iv) The exemption provided in division (1)(P)(i) of this section does not apply to qualifying wages if both of the following conditions apply:

(a) For qualifying wages described in division (b)(1) of Section 128.052 of this Chapter, the employer's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of Section 128.052 of this Chapter, the employer's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

(b) The employee receives a refund of the tax described in division (1)(P)(v)(a) of this section on the basis of the employee not performing services in that municipal corporation.

(c) (i) Except as provided in division (1)(Q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than twenty days in a taxable year.

(ii) The exemption provided in division (1)(Q)(i) of this section does not apply under either of the following circumstances:

(a) The individual's base of operation is located in the Municipality;

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (1)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 128.052 of this Chapter.

(iii) Compensation to which division (1)(Q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

(iv) For purposes of division (1)(Q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(P) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the municipal corporation pursuant to section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

(Q) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (1) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(12) "FORM 2106" means Internal Revenue Service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(13) "GENERAL FORM" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.

(14) "INCOME" means the following:

(A) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (23)(D) of this section.

(ii) For the purposes of division (14)(A)(i) of this section:

(a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (14)(A)(v) of this section.

(b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

(iii) Division (14)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholder's distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 14(E) of this Section.

(iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(C) For taxpayers that are not individuals, net profit of the taxpayer.

(D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses

and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 128.081 of this Chapter.

(E) For residents, an S corporation shareholder's distributive share of net profits of the S corporation to the extent the distributive share would be allocated or apportioned to this state under divisions (B)(1) and (2) of section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to taxes imposed under Chapter 5733 of the Ohio Revised Code, and the tax shall apply to the distributive share of a shareholder of an S corporation in the hands of the shareholder of the S corporation.

(F) "INTANGIBLE INCOME" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, interests in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

(G) "INTERNAL REVENUE CODE" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(H) "LIMITED LIABILITY COMPANY" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(I) "LOCAL BOARD OF TAX REVIEW" and "BOARD OF TAX REVIEW" means the entity created under Section 128.18 of this Chapter.

(J) "MUNICIPAL CORPORATION" means, in general terms, a status conferred upon a local government unit by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax, under section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.

(K) "MUNICIPAL TAXABLE INCOME" means the following:

(1) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or phased to the Municipality under Section 128.062 of this Chapter, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.

(2) (a) For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(b) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by de-

ductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Ohio Revised Code.

(jii) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or shifted to the Municipality under Section 128.062 of this Chapter, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(e) or (ii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(21) "MUNICIPALITY" means the City of Lakewood.

(22) "NET OPERATING LOSS" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(23) (A) "NET PROFIT" for a person other than an individual means adjusted federal taxable income.

(B) "NET PROFIT" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reported by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (1)(H) of this section.

(C) For the purposes of this chapter, and notwithstanding division (23)(A) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(D) (i) For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

(ii) For the purposes of this chapter, and not withstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partner-

ship were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

(iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (2)(iv) of this section.

(iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (D)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.

(v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (D) of this section applies to all municipal corporations in which an individual owner of the partnership resides.

(vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(24) "NONRESIDENT" means an individual that is not a resident of the Municipality.

(25) "OHIO BUSINESS GATEWAY" means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(26) "OTHER COMPENSATION" all forms of earned income including but not limited to tips, tax shelter plans, gift of any type for services rendered, vacation and holiday pay, wage continuation benefits, director's fees, jury duty fees, stock options granted in connection with the performance of service and not designated as capital gains, property in lieu of cash, sick pay, bonuses, incentive payments in whatever form, company closing benefits, earnings designated as deferred compensation or compensation paid by an employer in whatever form for services rendered, employer paid premiums for group-term insurance in excess of fifty thousand dollars (\$50,000), strike benefits, depreciation recapture, ordinary income shown on the federal form 4797, and a resident partner's or stockholder's distributive share of a nonresident partnership or S-corporation net profits.

(27) "OTHER PAYER" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the fed-

eral gross income of the individual. "Other payee" includes casino operators and video lottery terminal sales agents.

(28) "PASS-THROUGH ENTITY" means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor or a grantor trust, or disregarded entity.

(29) "PENSION" means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to non-qualified deferred compensation plans reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.

(30) "PERSON" includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(31) "POSTAL SERVICE" means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

(32) "POSTMARK DATE" "DATE OF POSTMARK" and similar terms include the date recorded and marked by a delivery service and recorded electronically in a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery.

(33) (A) "PRE-2017 NET OPERATING LOSS CARRYFORWARD" means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.

(B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(34) "QUALIFYING WAGES" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

- (A) Deduct the following amounts:
 - (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
 - (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payee.

(iii) Any amount included in wages that is exempt income.

(35) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(b), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(c)(2) of the Internal Revenue Code and not included in wages.

(v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.

(vi) Any amount not included in wages if all of the following apply:

(a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;

(b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;

(c) For no succeeding taxable year will the amount constitute wages; and

(d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

(35) "RELATED ENTITY" means any of the following:

(A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(C) A corporation or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock.

(D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.

(36) "RELATED MEMBER" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" whenever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

(37) "RESIDENT" means an individual who is domiciled in the Municipality as determined under Section 128.042 of this Chapter.

(38) "S CORPORATION" means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(39) "SCHEDULE C" means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(40) "SCHEDULE E" means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) "SCHEDULE F" means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(42) "SINGLE MEMBER LIMITED LIABILITY COMPANY" means a limited liability company that has one direct member.

(43) "SMALL EMPLOYER" means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains; dividends; and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government, any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(44) "TAX ADMINISTRATOR" means the Director of Finance or designee who is charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:

(A) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency where the authority granted in this Chapter is extended to those agencies through a written agreement.

(45) "TAX RETURN PREPARER" means any individual described in section 7701(e)(36) of the Internal Revenue Code AND 26 C.F.R. 301.7701-15.

(46) "TAXABLE YEAR" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(47) (A) "TAXPAYER" means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.

(B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003. If all of the following conditions are met:

(a) The limited liability company's single member is also a limited liability company.

(b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.

(c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (i) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.

(d) The limited liability company was not formed for the purpose of avoiding or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.

(e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.

(i) For purposes of division (47)(B)(c) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.

(48) "TAXPAYERS' RIGHTS AND RESPONSIBILITIES" means the rights provided to taxpayers in sections 718.11, 718.12, 718.19, 718.23, 718.26, 718.37, 718.38, 5717.011, and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(49) "VIDEO LOTTERY TERMINAL" has the same meaning as in section 3770.21 of the Ohio Revised Code.

(50) "VIDEO LOTTERY TERMINAL SALES AGENT" means a lottery sales agent licensed under Chapter 3770. of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code. (ORC 718.01)

128.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS

128.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS

(a) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 128.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(A) "Income" is defined in Section 128.03 (14) of this Chapter.

(i) "Qualifying Wages" is defined in Section 128.03(34).

(ii) "Net profit" is included in "income" and is defined in Section 128.03 (23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(b) of Section 128.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 128.062(e).

(iii) Section 128.03(4) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(i)(b); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).

(iv) "Pass Through Entity" is defined in Section 128.03(28).

(B) "Exempt Income" is defined in Section 128.03 (11) of this Chapter.

(C) Allowable employee business expense deduction is described in (20)(B) of Section 128.03 of this Chapter, and is subject to the limitations provided in that section.

(D) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 128.03 (33) of this Chapter.

(b) "Municipal Taxable Income" for a nonresident of the Municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or attributed to the Municipality as provided in Section 128.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 128.03 of

this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(A) "Income" is defined in Section 128.03(14) of this Chapter.

(i) "Qualifying Wages" is defined in Section 128.03(34).

(ii) "Net profit" is included in "income" and is defined in Section 128.03(23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(b) of Section 128.03. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.

(iii) "Pass Through Entity" is defined in Section 128.03(28).

(B) "Exempt Income" is defined in Section 128.03(11) of this Chapter.

(C) "Apportioned or attributed to the Municipality as provided in Section 128.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 128.062(E).

(D) "Allowable employee business expense deduction" as described in (20)(B) of Section 128.03 of this Chapter, is subject to the limitations provided in the section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.

(E) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 128.03(33) of this Chapter.

128.042 DOMICILE

(a) As used in this section:

(1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent the taxpayer intends to return. A taxpayer, even if having more than one residence, may only have one domicile.

(2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.

(3) An individual may rebut the presumption of domicile described in division (2) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.

(b) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:

(1) The individual's domicile in other taxable years.

- (2) The location at which the individual is registered to vote;
- (3) The address on the individual's driver's license;
- (4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
- (5) The location and value of abodes owned or leased by the individual;
- (6) Declaration, written or oral, made by the individual regarding the individual's residency;
- (7) The primary location at which the individual is employed.

(8) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located.

(9) The number of contact periods the individual has with the Municipality. For the purposes of this division, an individual has one "contact period" with the Municipality if the individual is away overnight from the individual's abode located outside of the Municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Municipality. For purposes of this section, the State's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.

(10) All applicable factors are provided in Ohio Revised Code Section 718.012, (ORC 718.012)

128.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES

(a) Only the municipal corporation of residence shall be permitted to levy a tax on the income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

(b) Only the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge. (ORC 718.50)

128.05 COLLECTION AT SOURCE

128.051 COLLECTION AT SOURCE: WITHHOLDING FROM QUALITY-WAGE WAGES

(a) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount

equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under section 128.052 of this Chapter or division (d) or (f) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

(2) In addition to withholding the amounts required under division (a)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.

(b) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:

(A) Any employer, agent of an employer, or other payer not required to make payments under division (b)(1)(B) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the fifteenth day of the month following the end of each calendar quarter.

(B) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (b)(1)(B) of this section shall be made so that the payment is received by the Tax Administrator not later than fifteen days after the last day of each month.

(C) An employer, agent of an employer or other payer may be required to make payment by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the employees for remittance to the Municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the Municipality shall be remitted to the Municipality at the same time that the federal tax withholding payment is due.

(c) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator.

(d) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying dispos-

tion of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

- (2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee called with the employer, agent, or other payer in connection with the failure to remit the tax withheld.
- (3) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation is paid or distributed.
- (4) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the Tax Administrator.
- (5) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld. If any, qualifying wages tax was withheld or should have been withheld, the amount of tax withheld, if any, during the preceding calendar year, the total amount of qualifying wages from each such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.
- (6) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.
- (7) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the employee pays the tip or gratuity by credit card, debit card, or other electronic means.
- (8) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld

by this Chapter to be tax required to be withheld and remitted for the purposes of this section. (ORC 718.03)

128.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT

- (a) The following terms as used in this section:
 - (1) "Employer" includes a person that is a related member to or of an employer.
 - (2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
 - (3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
 - (4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
 - (5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
 - (6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.
 - (7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employer's employer.
- If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (b)(1)(A) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section. For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (b)(2) of this section, except that "location" shall be substituted for "municipal corporation" whenever "municipal corporation" appears in that division.
- (b) (1) Subject to divisions (c), (d), (e), and (f) of this section, an employer is

not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:

- (A) The employee's principal place of work is located in the Municipality.
- (B) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:
 - (i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;
 - (ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.
- (C) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in section 128.051 of this Chapter.
- (D) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.
- (E) For the purposes of division (B)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:
 - (A) Traveling to the location at which the employee will first perform services for the employer for the day;
 - (B) Traveling from a location at which the employee was performing services for the employer to any other location;
 - (C) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refinished, processed, remanufactured, or improved by the employee's employer;
 - (D) Transporting or delivering property described in division (B)(2)(C) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;
 - (E) Traveling from the location at which the employee makes the employee's

final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

- (F) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this chapter, the exemption from withholding requirements described in division (B)(1) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.
- (G) (1) Except as provided in division (G)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.
- (2) An employer required to begin withholding tax for a municipal corporation under division (G)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.
- (3) If an employer makes the election described in division (G)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.
- (4) Without regard to the number of days in a calendar year on which an employer performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 128.03 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.
- (5) Divisions (B)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of section 128.051 of this Chapter.
- (6) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the City, but such employee shall be subject to all of the requirements of this chapter. (ORC 718.011; ORC 718.01)

128.053 COLLECTION AT SOURCE: VLT

- (a) The Municipality shall require a casino facility or a casino operator, as defined in Section 6(C)(9) of Article XV, Ohio Constitution, and section 3772.01 of the Ohio Revised Code, respectively, or a lottery sales agent conducting video lottery terminals sales on behalf of the state to withhold and remit municipal in-

come tax with respect to amounts other than qualifying wages as provided in this section.

(b) If a person's prize award from a video lottery terminal is an amount for which reporting to the internal revenue service is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold municipal income tax from the person's prize award at the rate of the tax imposed by the municipal corporation in which the video lottery terminal facility is located.

(c) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the municipal corporation to which the tax is owed.

(1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.

(2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall transmit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.

(3) A video lottery sales agent shall maintain a record of all receipts issued under division (e) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the Ohio Revised Code and any rules adopted pursuant thereto.

(4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall transmit electronically with the annual return any amount that was deducted and withheld and that was not previously transmitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was certified on a monthly return for that reporting period, that information shall be indicated on the annual return.

(5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.

(6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld

and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(4) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:

(1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;

(2) A certificate from the Tax Administrator indicating that no amounts are due. If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(3) The failure of a video lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve that person from liability for the municipal income tax with respect to that prize award.

(4) If a lottery sales agent files a return late, fails to file a return, remits amounts deducted and withheld late, or fails to remit amounts deducted and withheld as required under this section, the Tax Administrator of a municipal corporation may impose the following applicable penalty:

(1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent of the tax deducted and withheld;

(2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Ohio Revised Code.

(3) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of section 128.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

(4) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section. (ORC 718.031)

128.06 INCOME SUBJECT TO NET-PROFIT TAX

128.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS

"Municipal Taxable Income" for a taxpayer who is not an individual for the Municipality is calculated as follows: "Income" reduced by "Exempt Income" to the extent otherwise included in income multiplied by apportionment further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.

(1) "Net Profit" for a person other than an individual is defined in Section 128.03(23).

(2) "Adjusted Federal Taxable Income" is defined in Section 128.03(1) of this Chapter.

(b) "Exempt Income" is defined in Section 128.03(11) of this Chapter.

(c) "Apportionment" means the apportionment as determined by Section 128.062 of this Chapter.

(d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 128.03(22) of this Chapter. (ORC 718.01)

128.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT

This section applies to any taxpayer engaged in a business or profession in the Municipality unless the taxpayer is an individual who resides in the Municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 3745 of the Ohio Revised Code.

(a) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, whichever is greater.

As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under section 128.052 of this Chapter.

(3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(b) (1) If the apportionment factors described in division (a) of this section do not fairly represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the

following:

(A) Separate accounting;

(B) The exclusion of one or more of the factors;

(C) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;

(D) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (a) of Section 128.19 of this Chapter.

(3) A The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (b)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (a) of Section 128.19 of this Chapter.

(4) Nothing in division (b) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(c) As used in division (a)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

(A) The employer;

(B) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

(C) A vendor, customer, client, or patient of a person described in division (a)(1)(B) of this section, or a related member of such a vendor, customer, client, or patient.

(2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employer's presence at the location directly or indirectly benefits the employer.

(3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (a)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(d) For the purposes of division (a)(3) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

(1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:

(A) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.

(B) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.

(C) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(2) Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.

(3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.

(4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.

(5) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(6) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

(7) Except as provided in division (9)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(8) An individual who is a resident of a municipal corporation that imposes a

municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 128.081 of this Chapter.

(9) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (1)(C), (1)(D), and (34)(A)(iv) of Section 128.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

(10) When calculating the ratios described in division (4) of this section for the purposes of that division or division (5) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity. (ORC 718.02)

128.063 CONSOLIDATED FEDERAL INCOME TAX RETURN

(a) As used in this section:

(1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

(2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

(3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (8)(1) of this section.

(4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.

(5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

(6) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated

ed municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.

(A) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under Federal law.

(B) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (b)(2) of this section, or

(C) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

(2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (b)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.

(3) An election made under division (b)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(a) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortion of income or expenses with respect to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

(d) A taxpayer shall prepare a consolidated municipal income tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

(e) (1) Except as otherwise provided in divisions (e)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in section 128.03(1) of this Chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporations" for "a C corporation" wherever "a C corporation" appears in that division.

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 128.03 of this Chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(A) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 128.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(B) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 128.062 of this Chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(A) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 128.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation.

(B) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(C) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 128.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(E) Each corporation filing a consolidated municipal income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by a municipal corporation in accordance with this chapter on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

- (b) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016. (ORC 718.06)

128.07 DECLARATION OF ESTIMATED TAX

(a) As used in this section:

- (1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.
- (2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from an older taxable year.
- (b) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:
- (A) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.
- (B) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
- (C) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
- (D) Taxes withheld by a casino operator or by a lottery sales agent under section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.
- (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.
- (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (c) of Section 128.091 of this Chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.
- (4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

- (5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.

(a) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

- (A) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the tax liability for the taxable year.
- (B) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the tax liability for the taxable year.
- (C) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the tax liability for the taxable year.
- (D) On or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the taxable year.
- (2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (c)(1)(A) through (D) of this section.
- (3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with section 128.091 of this Chapter.
- (4) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (5) of section 5747.08 of the Revised Code.
- (5) For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.
- (4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.
- (d) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to section 128.10 of this Chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (c) of this section. The amount of the underpayment shall be determined as follows:
- (A) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

- (B) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (C) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (D) For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment previously required to be paid to avoid any penalty.
- (e) An underpayment of any portion of tax liability determined under division (d) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:
 - (1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
 - (2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 128.091 of this Chapter for that year.
 - (3) The taxpayer is an individual who resides in the Municipality but was not domiciled here on the first day of January of the calendar year that includes the first day of the taxable year.
 - (F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors. (ORC 718.03)

128.08 CREDIT FOR TAX PAID

(a) When the taxable income of a resident of the City of Lakewood is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to fifty per cent (50%) of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the City of Lakewood by the taxable income earned in or attributable to the Municipality of Lakewood by the business income but, in any event, such credit shall not be applied to a rate in excess of one per cent (1%) of the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity. (b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regu-

lation provide. In the event such Lakewood resident fails, neglects, or refuses to file an annual return or declaration on the form prescribed by the Administrator, he shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file a return.

128.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS

- (a) As used in this section:
 - (1) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
 - (2) (A) Except as provided in division (a)(2)(B) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.
 - (B) If for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (a)(2)(A) of this section computed without regard to division (a)(2)(B) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
 - (C) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.
 - (3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.
 - (b) (1) Except as provided in division (d) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.
 - (2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.
 - (3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit

that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.

(5) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.

(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

(d) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

- (1) The insolvency or bankruptcy of the employer who had established the non-qualified deferred compensation plan; or
- (2) The employer's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation. (ORC 718.021)

128.083 CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE

A Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to Section 128.081 of this Chapter. (ORC 718.16)

128.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING RE-FUND

(a) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on re-funds as provided in Section 128.096 of this Chapter.

(b) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in section 128.096, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(c) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 128.096 of this Chapter.

(4) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 128.081 of this Chapter regarding any limitation on credit shall prevail. (ORC 718.121)

128.09 ANNUAL RETURN

128.091 RETURN AND PAYMENT OF TAX

(a) (1) An annual return with respect to the income tax levied on Municipal Taxable Income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

(2) The Tax Administrator shall accept on behalf of all nonresident and resident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under subsection 128.051(C) of this Chapter when the nonresident or resident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.

(3) All resident individual taxpayers, 18 years of age and older, shall file an annual municipal income tax return with the Municipality, regardless of income or liability.

(b) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(c) If an individual is unable to complete and file a return or notice required by the Municipality in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.

(d) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.

(e) Spouses shall be permitted to file a joint return.

(f) (1) Each return required to be filed under this section must contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social

security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

(4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by the Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.

(5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (2) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing or disallowance by the Tax Administrator of undocumented credits or losses.

(6a) (1) (A) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (5) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality.

(B) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an indi-

vidual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality.

(C) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.

(2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(3) With respect to taxpayers to whom Section 128.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 128.092 of this Chapter, the provision in Section 128.092 of this Chapter prevails.

(b) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars or less.

(2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (b)(1) of this section shall file with the Municipality an annual net profit return under division (3)(3) and (4) of this section.

(i) This division shall not apply to payments required to be made under division (b)(1)(B) of Section 128.051 of this Chapter.

(1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.

(i) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in section 128.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to

the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(3) Each return required by the Municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return and the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, omissions, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

(4) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this Chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the Municipality's Ordinance or resolution governing the filing of returns, reports, or documents.

(m) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

(n) (1) As used in this division, "worksite location" has the same meaning as in section 128.052 of this chapter.

(2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

(A) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.

(B) The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise be-

come subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

(C) If a person submits an affidavit described in division (N)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (N) of this section prohibits the tax administrator from performing an audit of the person. (ORC 718.05)

128.092 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE

(a) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the Municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Municipality in accordance with this chapter during the period of the member's or civilian's duty service and for one hundred eighty days thereafter. The application shall be filed on or before the one hundred eighty day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(b) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (b)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

(2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file a return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under division (b)(1) of this section are not delinquent. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period.

(c) (1) Nothing in this division denies to any person described in this division the application of divisions (a) and (b) of this section.

(2) (A) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this chapter. The length of any extension granted under division (c)(2)(A) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(B) Taxes the payment of which is extended in accordance with division (c)(2)(A) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (c)(2)(A) of this section in calculating the penalty or interest due on any unpaid tax.

(C) For each taxable year to which division (a), (b), or (c) of this section applies to a taxpayer, the provisions of divisions (b)(2) and (3) or (c) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year. (ORC 718.052)

128.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED

(a) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file any municipal income tax return or estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(b) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(c) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.

(d) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(e) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax. (ORC 718.051)

128.094 EXTENSION OF TIME TO FILE

(a) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an ex-

ension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(b) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

(c) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.

(d) An extension of time to file under this chapter is not an extension of the time to pay any tax due.

(e) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (3) of section 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return. (ORC 718.05)

128.095 AMENDED RETURNS

(a) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this chapter must be altered.

(2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.

(3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return, where otherwise permitted by this Chapter.

(b) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (3)(2) of this section, the amended return shall not respect those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under section 128.19 of this Chapter has not expired for a

previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.

(3) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (a)(2) of section 128.19 of this Chapter for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (3)(2) of this section, a request filed under this division shall claim refund of overpayments by the Municipality to only those facts, figures, computations, or attachments required from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in section 128.096 of this Chapter. Except as set forth in division (3)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. (ORC 718.12, 718.41)

128.096 REFUNDS

(a) Upon receipt of a request for a refund, the Tax Administrator of the Municipality, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the Municipality:

(1) Overpayments of more than ten dollars;

(2) Amounts paid erroneously if the refund requested exceeds ten dollars.

(b) (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due for paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.

(2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal controller official for payment. Except as provided in division (b)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

(3) If a the Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 128.18 of this Chapter.

(a) A request for a refund that is received after the last day for filing specified in division (b) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

(1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(4) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (a)(4) of Section 128.10 of this Chapter.

(a) As used in this section, "withholding tax" has the same meaning as in section 128.10 of this Chapter. (ORC 718.19, 128.)

128.10 PENALTY, INTEREST, FEES, AND CHARGES

(a) As used in this section:

(1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax" and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (a) of this section" means the federal short-term rate, rounded to the nearest whole number per cent, plus five per cent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division

(a)(2) of this section.

- (3) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
- (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
- (7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
- (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
- (9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.
- (b) (1) This section shall apply to the following:
 - (A) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
 - (B) Income tax, estimated income tax, and withholding tax required to be paid or withheld on or after January 1, 2016 for taxable years beginning on or after January 1, 2016;
 - (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules, as adopted from time to time before January 1, 2016 of this Municipality.
 - (c) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality, any return required to be filed.
 - (1) Interest shall be imposed at the rate defined as "interest rate as described in division (a) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.
 - (2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.
 - (3) With respect to any unpaid withholding tax, a penalty equal to fifty percent of the amount not timely paid shall be imposed.
 - (4) With respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month.

or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.

(d) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(e) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(f) The Municipality shall impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees. (ORC 718.27)

128.11 AUDIT

(a) At or before the commencement of an audit, as defined in Section 128.03(3) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(b) Except in cases involving suspected criminal activity, the Tax Administrator shall be required to conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(c) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.

(d) A taxpayer may record, electronically or otherwise, the audit examination.

(e) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case. (ORC 718.36)

128.12 ROUNDING

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document. (ORC 718.25)

128.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR

128.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this Chapter, including without limitation:

- (a) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders and subpoenas for the production of books, accounts, papers, records, depositions, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under this chapter or otherwise authorized by Council;
- (b) Appoint agents and prescribe their powers and duties;
- (c) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;
- (d) Exercise the authority provided by law, including orders from bankruptcy court, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assignee, or legal representative as provided in this chapter;
- (e) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (f) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with section 128.062 of this Chapter;
- (g) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to those limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an

appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

(h) Destroy any or all returns or other tax documents in the manner authorized by law;

(i) Enter into an agreement with a taxpayer to simplify the withholding obligations described in section 128.051 of this Chapter. (ORC 718.24)

128.132 AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME

(a) As used in this section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this chapter.

(b) The Tax Administrator may do either of the following if such section is in the best interests of the Municipality:

- (1) Compromise a claim;
 - (2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.
 - (c) The Tax Administrator's rejection of a compromise or payment agreement proposed by a person with respect to a claim shall be not appealable.
 - (d) A compromise or payment agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement, and shall not extinguish or otherwise affect the liability of any other person.
 - (e) (1) A compromise or payment agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.
 - (2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment agreement.
 - (f) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment agreement. (ORC 718.23)
- #### 128.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE
- (a) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter for the purpose

of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(b) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.

(c) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(d) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply. (ORC 718.23)

128.134 AUTHORITY OF TAX ADMINISTRATOR, REQUIRING IDENTIFYING INFORMATION

(a) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

(b) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to section 128.10 of this Chapter, in addition to any applicable penalty described in section 128.99 of this Chapter.

(2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (a) of this section within thirty days after

filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to section 128.10 of this Chapter.

(3) The penalties provided for under divisions (b)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in section 128.99 of this Chapter for a violation of 128.15 of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law. (ORC 718.26)

128.14 CONFIDENTIALITY

(a) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or ordinance of the Municipality is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by ORC 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(b) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers. (ORC 718.13)

128.15 FRAUD

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the Municipality or the Tax Administrator. (ORC 718.35)

128.16 OPINION OF THE TAX ADMINISTRATOR

(a) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(b) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator in accordance with divisions (c), (d), and (h) of this section, provided all of the following conditions are satisfied:

- (1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.

(2) The request relates to a tax imposed by the Municipality in accordance with this Chapter.

(3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(c) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the delivery or transmission specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

(1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later.

(2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, unmodified state law, or the Municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator.

(3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, unmodified state law, or the Municipality's income tax ordinance.

(4) If the opinion of the Tax Administrator was based on the interpretation of Federal law, the effective date of any change in the relevant Federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to Federal statutes or regulations.

(5) The effective date of any change in the taxpayer's material facts or circumstances.

(6) The effective date of the expiration of the opinion, if specified in the opinion.

(d) (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of section 128.15 of this Chapter.

(e) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:

(1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (c) of this section;

(2) It is the duty of the taxpayer to be aware of such changes.

(f) A Tax Administrator may refuse to offer an opinion on any request received

under this section.

(g) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.

(h) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.

(i) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

(j) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under division (f) may not be appealed. (ORC 718.38)

128.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY

(a) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under section 5703.055 of the Ohio Revised Code.

(2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.

(3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is prima facie evidence that delivery is complete and that the assessment is served.

(b) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addresser's business.

(2) If a person elects to appeal an assessment on the basis described in division (b)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of

either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review. (ORC 718.18)

128.18 LOCAL BOARD OF TAX REVIEW, APPEAL TO LOCAL BOARD OF TAX REVIEW

(a) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718.

(2) The Local Board of Tax Review shall consist of three members who must be domiciled in the Municipality.

Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the Municipality shall serve at the discretion of the administrative official.

(4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Revised Code.

(5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.

(6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.

(7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.

(9) A member of a Local Board of Tax Review shall not be appointed to or serve on another such board simultaneously.

(b) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

(c) Any person who has been issued an assessment may appeal the assessment to the board by filing a request with the board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty days after the taxpayer receives the assessment.

(d) The Local Board of Tax Review shall schedule a hearing to be held within sixty days after receiving an appeal or an assessment under division (c) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and/or may be represented by an attorney at law, certified public accountant, or other representative. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.

(e) The board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The board shall issue a final determination on the appeal within ninety days after the board's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal, within fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the board's final determination as provided in section 5717.011 of the Ohio Revised Code.

(f) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing. (ORC 718.11)

128.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS

(a) (1) (A) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:

- (i) Three years after the tax was due or the return was filed, whichever is later; or
- (ii) One year after the conclusion of the qualifying deferral period, if any.

(B) The time limit described in division (a)(1)(A) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the

employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (c) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

(A) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in Section 128.18 of this Chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(B) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(b) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(c) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 128.096 of this Chapter.

(d) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 128.18 of this Chapter, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by Section 128.096 of this Chapter, with interest on that amount as provided by division (d) of this section.

(e) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

(1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;

(2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending. (ORC 718.12)

128.20 ADOPTION OF RULES

(a) Pursuant to Section 718.30 of the Revised Code, the Tax Administrator is hereby authorized to adopt rules and regulations consistent with this Chapter to carry out the functions of the position.

(b) All rules adopted under this section shall be published and posted on the internet. (ORC 718.30)

128.97 COLLECTION AFTER TERMINATION OF CHAPTER

(a) This chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the deferral period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 128.19.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 128.091 as though the same were continuing.

128.98 SAVINGS CLAUSE

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not effect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.

128.99 VIOLATIONS; PENALTY

(a) Except as provided in division (b) of this section, whoever violates Section 128.13 of this Chapter, division (a) of Section 128.14 of this Chapter, or Section 128.051 of this Chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(b) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony under that code. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(c) Each instance of excess or disclosure in violation of division (a) of Section 128.14 of this Chapter constitutes a separate offense.

(d) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the first degree. By way of an illustrative enumeration, violations of this Chapter shall include but not be limited to the following acts, conduct, and/or omissions:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Chapter; or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 128.051; or
- (5) Neglect or refuse to withhold or remit municipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or
- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or
- (11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or
- (12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or
- (13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter;
- (14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.
- (15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 128.03, include in the case of a corporation, asso-

ciation, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter. (ORC 713.59)

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

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in its preamble, and provided it receives the affirmative vote of at least five members of Council this ordinance shall take effect and be in force on January 1, 2016, or otherwise shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Mayor

Approved: _____

33

PLACED ON 1ST READING & REFERRED TO THE FINANCE
COMMITTEE 11/16/15.
SECOND READING 12/7/15.

ORDINANCE NO. 33-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, to establish appropriations for current expenses and other expenditures of the City of Lakewood, State of Ohio, for the fiscal year ending December 31, 2015.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that the City must record all financial transactions within the appropriate fiscal period; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. To provide for the personal services and other appropriations of the City of Lakewood for the fiscal year ending December 31, 2015, the sums summarized on the attached Exhibit A, incorporated herein by reference, are hereby appropriated and authorized for encumbrance and/or expenditure as provided herein.

Section 2. Further, all existing encumbrances in all funds of the City of Lakewood shall be carried forward.

Section 3. The approval of the Municipal Court Budget includes approval of any amendment to the salaries of the Clerk of Court and the Probation Officer in accordance with Sections 1901.31 and 1901.33 of the Ohio Revised Code.

Section 4. All expenditures hereinbefore authorized and to the amount authorized shall be made in accordance with the line items of Exhibit B as adopted by the Council of the City of Lakewood and made a part hereof, and that any disbursements within any line item set forth in Exhibit B may be paid out of the appropriation.

Section 5. Any amount encumbered in a year prior to fiscal year 2015 in any and all funds of the City of Lakewood are hereby appropriated for the purpose of expenditure in 2014 or thereafter.

Section 6. The Director of Finance be and is hereby authorized to draw checks upon the City depository's for the amounts appropriated in this ordinance whenever claims are presented, properly approved by the head of the department for which the indebtedness is incurred.

Section 7. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 8. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

City of Lakewood
 2015 Permanent Appropriations - Year End
 Exhibit A

Fund	Dec. 2014	Dec. 2015	Year-End	Variance
	2015	2015	2015	
	Appropriations	Appropriations	Appropriations	
	\$ 36,978,932	\$ 40,072,920	\$ 3,093,988	
General Fund				
Special Revenue Funds				
State Highway Improvement Fund	175,000	346,000	\$ 171,000	
Street Const., Maint., & Repair Fund	2,364,351	2,110,733	\$ (253,618)	
Litter Control Grant Fund	4,000	4,000	\$ -	
Community Festival Fund	4,059	4,141	\$ 82	
Police Pension Fund	1,473,018	1,530,000	\$ 56,982	
Firemen's Pension Fund	1,528,310	1,495,000	\$ (33,310)	
Law Enforcement Trust Fund	141,450	135,575	\$ (5,875)	
Federal Forfeiture Fund	1,250	1,250	\$ -	
Indigent Driver's Alcohol Treatment Fund	20,000	38,350	\$ 18,350	
Enforcement & Education Fund	20,520	20,520	\$ -	
Political Subdivision Fund	14,000	14,000	\$ -	
Computer Maintenance Fund	40,000	40,000	\$ -	
Court Special Projects Fund	78,659	78,659	\$ -	
Court Probation Services Fund	26,681	29,481	\$ 2,800	
Indigent Drivers Interlock & Alcohol Monitoring Fund	60,000	60,000	\$ -	
Community Development Block Grant Fund	2,563,319	2,792,807	\$ 229,488	
Emergency Shelter Grant Fund	133,595	206,725	\$ 73,130	
HOME Investment Partnerships Program Fund	253,000	336,000	\$ 83,000	
Neighborhood Stabilization Fund	400,000	383,000	\$ (17,000)	
Homeless Prevention and Rapid Rehousing	0	0	\$ -	
Energy Efficiency Block Grant	0	0	\$ -	
Office on Aging IIB Fund	983,719	910,435	\$ (73,284)	
Lakewood Hospital S.R. Fund	2,584,972	2,247,850	\$ (337,122)	
Help To Others Fund	37,256	62,608	\$ 25,352	
Byrne Memorial Grant Fund	0	0	\$ -	
Juvenile Diversion Program Fund	17,318	22,576	\$ 5,258	
FEMA Fund	0	0	\$ -	
Family to Family Fund	343,304	369,027	\$ 25,723	
Total Special Revenue Funds	\$ 13,267,781	\$ 13,238,737	\$ (29,044)	
Bond Retirement Fund	15,801,664	16,533,204	\$ 731,540	
TIF Bond Retirement Fund	454,280	398,000	\$ (56,280)	
Total Debt Service Funds	\$ 16,255,944	\$ 16,931,204	\$ 675,260	
Capital Improvement Fund	6,150,000	6,055,586	\$ (94,414)	
Land Acquisition Fund	0	0	\$ -	
City Park Improvement Fund	75,000	10,000	\$ (65,000)	
TIF Capital Improvement Fund	223,211	0	\$ (223,211)	
Total Capital Projects Funds	\$ 6,448,211	\$ 6,065,586	\$ (382,625)	
Water Operating Fund	12,524,765	13,205,052	\$ 680,287	
Wastewater Collection Fund	6,748,371	10,494,952	\$ 3,746,581	
Wastewater Treatment Fund	4,480,746	4,089,335	\$ (391,411)	
Wastewater Improvement Fund	1,600,000	1,600,000	\$ -	
Parking Facilities Fund	392,534	410,980	\$ 18,446	
Winterhurst Ice Rink Fund	415,000	480,613	\$ 65,613	
Total Enterprise Funds	\$ 26,161,417	\$ 30,280,933	\$ 4,119,516	
Hospitalization Fund	5,343,956	6,883,000	\$ 1,539,044	
Workers Compensation Fund	445,800	325,002	\$ (120,798)	
Total Internal Service Funds	\$ 5,789,756	\$ 7,208,002	\$ 1,418,246	
TOTALS	\$ 104,902,040	\$ 113,797,381	\$ 8,895,341	

City of Lakewood
 2015 Permanent Appropriation
 - Year End
 Exhibit B

	Dec. 2014 2015 Appropriation	Dec. 2015 Year-End 2015 Appropriation	2015 Variance
General Fund			
General Government			
<i>Council</i>			
Personal Services	160,243	156,829	(3,414)
Other	14,456	14,727	271
Division Total	174,699	171,556	(3,143)
<i>Municipal Court</i>			
Personal Services	1,028,355	1,028,355	-
Other	151,500	151,500	-
Division Total	1,179,855	1,179,855	-
<i>Civil Service</i>			
Personal Services	75,490	76,130	640
Other	30,775	19,300	(11,475)
Division Total	106,265	95,430	(10,835)
<i>Mayor's Office</i>			
Personal Services	235,885	240,681	4,796
Other	17,025	14,875	(2,150)
Division Total	252,910	255,556	2,646
<i>Human Resources</i>			
Personal Services	237,691	237,691	-
Other	42,150	38,917	(3,233)
Division Total	279,841	276,608	(3,233)
<i>Community Relations</i>			
Personal Services	74,296	74,296	-
Other	23,485	22,050	(1,435)
Division Total	97,781	96,346	(1,435)
<i>Finance Department</i>			
Personal Services	547,387	548,334	947
Other	82,550	80,700	(1,850)
Division Total	629,937	629,034	(903)
<i>Income Tax</i>			
Personal Services	555,929	507,521	(48,408)
Other	730,880	704,715	(26,165)
Division Total	1,286,809	1,212,236	(74,573)
<i>Information Technology</i>			
Personal Services	389,617	385,264	(4,253)
Other	760,775	780,025	19,250
Division Total	1,150,292	1,165,289	14,997
<i>General Administration</i>			
Personal Services	248,050	201,916	(46,134)
Other	2,341,479	5,567,946	3,226,467
Division Total	2,589,529	5,769,862	3,180,333
<i>Law Department</i>			
Personal Services	443,436	424,487	(18,949)
Other	79,360	195,025	115,665
Division Total	522,796	619,512	96,716
<i>Planning & Development</i>			
Personal Services	279,940	273,291	(6,649)
Other	212,695	357,865	145,170
Division Total	492,635	631,156	138,521

	Dec. 2014 2015 Appropriation	Dec. 2015 Year-End 2015 Appropriation	2015 Variance
Public Safety			
<i>Police & Law Enforcement</i>			
Personal Services	9,350,330	9,232,135	(118,195)
Other	682,425	500,000	(182,425)
Division Total	10,032,755	9,732,135	(300,620)
<i>Police & Fire Communications (Dispatch)</i>			
Personal Services	759,335	764,441	(4,894)
Other	29,450	21,585	(7,865)
Division Total	788,785	776,026	(12,759)
<i>Support of Prisoners</i>			
Personal Services	164,685	154,333	(10,352)
Other	258,800	199,185	(59,615)
Division Total	423,485	353,518	(69,967)
<i>Animal Control</i>			
Personal Services	181,544	184,204	2,660
Other	18,109	16,694	(1,415)
Division Total	199,653	200,898	1,245
<i>School Guards</i>			
Personal Services	199,820	202,200	2,380
Other	550	750	200
Division Total	200,370	202,950	2,580
<i>Firefighting, Prevention & Inspection</i>			
Personal Services	6,348,624	6,600,807	252,183
Other	300,635	296,855	(3,780)
Division Total	6,649,259	6,897,662	248,403
<i>Building & Housing</i>			
Personal Services	931,361	934,848	3,487
Other	264,750	258,100	(6,650)
Division Total	1,196,111	1,192,948	(3,163)

	Dec. 2014 2015 Appropriation	Dec. 2015 Year-End 2015 Appropriation	2015 Variance
Public Works			
<i>Public Works Administration</i>			
Personal Services	29,276	39,297	10,022
Other	4,920	5,215	295
Division Total	34,195	44,512	10,317
<i>Street Lighting</i>			
Other	635,000	650,000	15,000
Division Total	635,000	650,000	15,000
<i>Parks & Public Property</i>			
Personal Services	1,315,467	1,335,085	19,618
Other	663,210	644,423	(18,787)
Division Total	1,978,677	1,979,508	831
<i>Buildings & Facilities / Security</i>			
Personal Services	109,989	132,700	22,711
Other	-	-	-
Division Total	109,989	132,700	22,711
<i>Band Concerts</i>			
Personal Services	5,090	5,090	-
Other	12,500	9,723	(2,777)
Division Total	17,590	14,813	(2,777)
<i>Museums</i>			
Other	11,500	7,900	(3,600)
Division Total	11,500	7,900	(3,600)
<i>July 4th Festival</i>			
Personal Services	11,545	11,545	-
Other	38,500	40,384	1,884
Division Total	50,045	51,929	1,884
<i>Tennis Courts</i>			
Other	5,600	5,600	-
Division Total	5,600	5,600	-
<i>Forestry</i>			
Personal Services	307,307	306,080	(1,227)
Other	288,876	270,881	(17,995)
Division Total	596,183	576,961	(19,222)
<i>Refuse & Recycling</i>			
Personal Services	2,090,320	2,164,274	73,954
Other	1,034,340	938,115	(96,225)
Division Total	3,124,660	3,102,389	(22,271)
<i>Fleet Management</i>			
Personal Services	818,007	734,405	(83,602)
Other	716,136	657,820	(58,316)
Division Total	1,534,143	1,392,225	(141,918)
<i>Engineering</i>			
Personal Services	161,782	170,972	9,190
Other	40,190	34,015	(6,175)
Division Total	201,972	204,987	3,015

City of Lakewood
 2015 Permanent Appropriation
 - Year End
 Exhibit B

	Dec. 2014 2015 Appropriation	Dec. 2015 Year-End 2015 Appropriation	2015 Variance
Human Services			
<i>Human Services Administration</i>			
Personal Services	187,051	186,995	(56)
Other	1,850	1,875	25
Division Total	188,901	188,870	(31)
<i>Early Childhood</i>			
Personal Services	49,157	57,171	8,014
Other	1,585	1,635	50
Division Total	50,742	58,806	8,064
<i>Youth Services</i>			
Personal Services	173,873	188,698	14,825
Other	12,095	14,445	2,350
Division Total	185,968	203,143	17,175
Total General Fund			
Personal Services	27,470,781	27,550,075	79,294
Other	9,508,151	12,522,845	3,014,694
Totals	36,978,932	40,072,920	3,093,988

City of Lakewood
 2015 Permanent Appropriation
 - Year End
 Exhibit B

	Dec. 2014 2015 Appropriation	Dec. 2015 Year-End 2015 Appropriation	2015 Variance
Special Revenue Funds			
State Highway Improvement Fund			
Other	175,000	346,000	171,000
Division Total	175,000	346,000	171,000
Fund Total	175,000	346,000	171,000
Street Const., Maint. Repair Fund			
Personal Services	1,295,767	1,330,937	35,170
Other	1,068,584	779,796	(288,788)
Division Total	2,364,351	2,110,733	(253,618)
Fund Total	2,364,351	2,110,733	(253,618)
Litter Control Grant Fund			
Other	4,000	4,000	-
Division Total	4,000	4,000	-
Fund Total	4,000	4,000	-
Community Festival Fund			
Personal Services	4,059	4,141	82
Division Total	4,059	4,141	82
Fund Total	4,059	4,141	82
Police Pension Fund			
Personal Services	1,473,018	1,530,000	56,982
Other	-	-	-
Division Total	1,473,018	1,530,000	56,982
Fund Total	1,473,018	1,530,000	56,982
Firemen Pension Fund			
Personal Services	1,528,310	1,495,000	(33,310)
Other	-	-	-
Division Total	1,528,310	1,495,000	(33,310)
Fund Total	1,528,310	1,495,000	(33,310)
Law Enforcement Trust Fund			
Personal Services	4,100	4,100	-
Other	137,350	131,475	(5,875)
Division Total	141,450	135,575	(5,875)
Fund Total	141,450	135,575	(5,875)
Federal Forfeiture Fund			
Other	1,250	1,250	-
Division Total	1,250	1,250	-
Fund Total	1,250	1,250	-
Indigent Drivers' Alcohol Treatment Fund			
Other	20,000	38,350	18,350
Division Total	20,000	38,350	18,350
Fund Total	20,000	38,350	18,350

City of Lakewood
 2015 Permanent Appropriation
 - Year End
 Exhibit B

	Dec. 2014 2015 Appropriation	Dec. 2015 Year-End 2015 Appropriation	2015 Variance
Enforcement & Education Fund			
Other	20,520	20,520	-
Division Total	20,520	20,520	-
Fund Total	20,520	20,520	-
Political Subdivision Fund			
Other	14,000	14,000	-
Division Total	14,000	14,000	-
Fund Total	14,000	14,000	-
Computer Maintenance Fund			
Other	40,000	40,000	-
Division Total	40,000	40,000	-
Fund Total	40,000	40,000	-
Court Special Projects Fund			
Personal Services	8,659	8,659	-
Other	70,000	70,000	-
Division Total	78,659	78,659	-
Fund Total	78,659	78,659	-
Court Probation Services Fund			
Personal Services	17,318	17,318	-
Other	9,363	12,163	2,800
Division Total	26,681	29,481	2,800
Fund Total	26,681	29,481	2,800
Indigent Drivers InterloCN and Alcohol Monitoring Fund			
Other	60,000	60,000	-
Division Total	60,000	60,000	-
Fund Total	60,000	60,000	-
Community Development BioCN Grant			
Personal Services	449,901	452,532	2,631
Other	2,113,418	2,340,275	226,857
Division Total	2,563,319	2,792,807	229,488
Fund Total	2,563,319	2,792,807	229,488
Emergency Shelter Grant Fund			
Personal Services	5,770	8,725	2,955
Other	127,825	198,000	70,175
Division Total	133,595	206,725	73,130
Fund Total	133,595	206,725	73,130
HOME Investment Partnerships Program Fund			
Personal Services		336,000	83,000
Other	253,000	336,000	83,000
Division Total	253,000	336,000	83,000
Fund Total	253,000	336,000	83,000
Neighborhood Stabilization Fund			
Personal Services		383,000	(17,000)
Other	400,000	383,000	(17,000)
Division Total	400,000	383,000	(17,000)
Fund Total	400,000	383,000	(17,000)

	Dec. 2014 2015 Appropriation	Dec. 2015 Year-End 2015 Appropriation	2015 Variance
Energy Efficiency BloCN Grant			
Personal Services			-
Other			-
Division Total			
Fund Total			
Homeless Prevention and Rapid Rehousing			
Personal Services			-
Other			-
Division Total			
Fund Total			
Office on Aging Fund			
Personal Services	778,818	735,499	(43,319)
Other	204,901	174,936	(29,965)
Division Total	983,719	910,435	(73,284)
Fund Total	983,719	910,435	(73,284)
Lakewood Hospital S.R. Fund			
<i>EMS</i>			
Personal Services	1,887,020	1,470,144	(216,876)
Other	515,532	396,119	(119,413)
Division Total	2,202,552	1,866,263	(336,289)
<i>Health</i>			
Personal Services	162,455	163,042	587
Other	219,965	218,545	(1,420)
Division Total	382,420	381,587	(833)
Fund Total	2,584,972	2,247,850	(337,122)
Byrne Memorial Grant Fund			
Personal Services			-
Other			-
Division Total			
Fund Total			
Help To Others Fund			
Personal Services	31,851	33,513	1,662
Other	5,405	29,095	23,690
Division Total	37,256	62,608	25,352
Fund Total	37,256	62,608	25,352
Juvenile Diversion Program Fund			
Personal Services	17,318	22,000	4,682
Other		576	576
Division Total	17,318	22,576	5,258
Fund Total	17,318	22,576	5,258
FEMA Fund			
Other			-
Division Total			
Fund Total			
Family to Family Fund			
Personal Services	304,010	317,199	13,189
Other	39,294	51,828	12,534
Division Total	343,304	369,027	25,723
Fund Total	343,304	369,027	25,723
Total Special Revenue Funds			
Personal Services	7,768,374	7,592,809	(175,565)
Other	5,499,407	6,645,928	146,521
Totals	13,267,781	13,238,737	(29,044)

	Dec. 2014 2015 Appropriation	Dec. 2015 Year-End 2015 Appropriation	2015 Variance
Debt Service Funds			
Bond Retirement Fund			
Other	15,801,664	16,533,204	731,540
Division Total	15,801,664	16,533,204	731,540
Fund Total	15,801,664	16,533,204	731,540
TIF Bond Retirement Fund			
Other	454,280	398,000	(56,280)
Division Total	454,280	398,000	(56,280)
Fund Total	454,280	398,000	(56,280)
Total Debt Service Funds			
Personal Services	16,255,944	16,931,204	675,260
Other	16,255,944	16,931,204	675,260
Totals	16,255,944	16,931,204	675,260
Capital Projects Funds			
Capital Improvement Fund			
Other	6,150,000	6,055,586	(94,414)
Division Total	6,150,000	6,055,586	(94,414)
Fund Total	6,150,000	6,055,586	(94,414)
Land Acquisition Fund			
Other	-	-	-
Division Total	-	-	-
Fund Total	-	-	-
City Park Improvement Fund			
Other	75,000	10,000	(65,000)
Division Total	75,000	10,000	(65,000)
Fund Total	75,000	10,000	(65,000)
TIF Capital Improvement Fund			
Other	223,211	-	(223,211)
Division Total	223,211	-	(223,211)
Fund Total	223,211	-	(223,211)
Total Capital Improvement Funds			
Other	6,448,211	6,065,586	(382,625)
Totals	6,448,211	6,065,586	(382,625)

City of Lakewood
 2015 Permanent Appropriation
 - Year End
 Exhibit B

	Dec. 2014 2015 Appropriation	Dec. 2015 Year-End 2015 Appropriation	2015 Variance
Enterprise Funds			
Water Operating Fund			
<i>Water Administration</i>			
Personal Services	194,571	187,091	(7,480)
Other	2,205,260	2,229,440	24,160
Division Total	2,399,851	2,416,531	16,680
<i>Water Distribution</i>			
Personal Services	457,621	491,776	34,155
Other	8,990,000	9,619,350	629,350
Division Total	9,447,621	10,111,126	663,505
<i>Water Metering</i>			
Personal Services	432,043	462,873	30,830
Other	245,250	214,522	(30,728)
Division Total	677,293	677,395	102
Fund Total	12,524,765	13,205,052	680,287
Wastewater Collection Fund			
Personal Services	1,009,324	1,006,391	(2,933)
Other	5,739,047	9,488,561	3,749,514
Division Total	6,748,371	10,494,952	3,746,581
Fund Total	6,748,371	10,494,952	3,746,581
Wastewater Treatment Fund			
Personal Services	1,785,771	1,685,619	(101,152)
Other	2,693,975	2,403,716	(290,259)
Division Total	4,480,746	4,089,335	(391,411)
Fund Total	4,480,746	4,089,335	(391,411)
Wastewater Improvement Fund			
Other	1,600,000	1,600,000	-
Division Total	1,600,000	1,600,000	-
Fund Total	1,600,000	1,600,000	-
Parking Facilities Fund			
Personal Services	164,097	163,979	(118)
Other	228,437	247,001	18,564
Division Total	392,534	410,980	18,446
Fund Total	392,534	410,980	18,446
Winterhurst Ice Rink Fund			
Personal Services	-	-	-
Other	415,000	480,613	65,613
Division Total	415,000	480,613	65,613
Fund Total	415,000	480,613	65,613
Total Enterprise Funds			
Personal Services	4,044,427	3,997,729	(46,698)
Other	22,116,989	26,283,203	4,166,214
Totals	26,161,416	30,280,932	4,119,516

City of Lakewood
 2015 Permanent Appropriation
 - Year End
 Exhibit B

	Dec. 2014 2015 Appropriation	Dec. 2015 Year-End 2015 Appropriation	2015 Variance
Internal Services Funds			
Hospitalization Fund			
Personal Services	5,285,956	6,805,000	1,519,044
Other	58,000	78,000	20,000
Division Total	5,343,956	6,883,000	1,539,044
Fund Total	5,343,956	6,883,000	1,539,044
Workers' Compensation Fund			
Personal Services	300,000	216,713	(83,287)
Other	145,800	108,289	(37,511)
Division Total	445,800	325,002	(120,798)
Fund Total	445,800	325,002	(120,798)
Total Internal Service Funds			
Personal Services	5,585,956	7,021,713	1,435,757
Other	203,800	186,289	(17,511)
Totals	5,789,756	7,208,002	1,418,246
FUND TOTALS	104,902,040	113,797,381	8,895,341

PLACED ON 1ST READING & REFERRED TO THE
FINANCE COMMITTEE 11/16/15.
SECOND READING 12/7/15.

ORDINANCE NO. 34-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, law authorizing the transfer and advance of certain funds.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments to provide for the usual daily operation of the City in that the City must record all financial transactions within the appropriate fiscal period; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Director of Finance be and is hereby authorized to make the following transfers and advances:

		2015	
		4th Quarter	
	Fund	Transfers Out	Transfers In
101	General Fund	\$ 3,026,396	
	Special Revenue Funds		
250	Office on Aging IIIB		\$ 90,000
	Internal Service Funds		
600	Hospitalization		\$ 2,831,233
601	Workers' Compensation		\$ 105,163
	Debt Service Payments		
101	General Fund (HB 300 Lease)	\$ 55,000	
211	SCMR (HB 300 Lease)	\$ 6,250	
260	Lakewood Hosptl (HB 300 Lease)	\$ 300	
501	Water (HB 300 Lease)	\$ 3,813	
510	WWC (HB 300 Lease)	\$ 800	
511	WWTP (HB 300 Lease)	\$ 18,750	
520	Parking (HB 300 Lease)	\$ 1,125	
530	Winterhurst (HB 300 Lease)	\$ 20,000	
301	Debt Service Fund	\$ -	\$ 106,038
512	WWTP Improvements	\$ 400,000	
301	Debt Service Fund		\$ 400,000
301	Debt Service Fund	\$ 675,000	
401	Capital Improvement Fund		\$ 675,000
	Fund	Advances Out	Advances In
101	General Fund	\$ 500,000	
	Varying Amounts to the CDBG Fund and Winterhurst Fund and other Funds as determined by year-end need.		\$ 500,000

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 3. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

30

PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15.
second reading 12/7/15.

ORDINANCE NO. 35-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, to establish appropriations for current expenses and other expenditures of the City of Lakewood, State of Ohio, for the fiscal year ending December 31, 2016.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that the City must record all financial transactions within the appropriate fiscal period; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. To provide for the personal services and other appropriations of the City of Lakewood for the fiscal year ending December 31, 2016, the sums summarized on the attached Exhibit A, incorporated herein by reference, are hereby appropriated and authorized for encumbrance and/or expenditure as provided herein.

Section 2. Further, all existing encumbrances in all funds of the City of Lakewood shall be carried forward.

Section 3. The approval of the Municipal Court Budget includes approval of any amendment to the salaries of the Clerk of Court and the Probation Officer in accordance with Sections 1901.31 and 1901.33 of the Ohio Revised Code.

Section 4. All expenditures hereinbefore authorized and to the amount authorized shall be made in accordance with the line items of Exhibit B as adopted by the Council of the City of Lakewood and made a part hereof, and that any disbursements within any line item set forth in Exhibit B may be paid out of the appropriation.

Section 5. Any amount encumbered in a year prior to fiscal year 2016 in any and all funds of the City of Lakewood are hereby appropriated for the purpose of expenditure in 2014 or thereafter.

Section 6. The Director of Finance be and is hereby authorized to draw checks upon the City depository's for the amounts appropriated in this ordinance whenever claims are presented, properly approved by the head of the department for which the indebtedness is incurred.

Section 7. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 8. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

City of Lakewood
 2016 Permanent Appropriations
 Exhibit A

Fund	Original Introduced 2016 Appropriation
General Fund	\$ 38,129,813
Special Revenue Funds	
State Highway Improvement Fund	140,000
Street Const., Maint., & Repair Fund	2,363,663
Litter Control Grant Fund	4,000
Community Festival Fund	4,058
Police Pension Fund	1,487,214
Firemen's Pension Fund	1,559,623
Law Enforcement Trust Fund	121,100
Federal Forfeiture Fund	17,000
Indigent Driver's Alcohol Treatment Fund	150,000
Enforcement & Education Fund	20,520
Political Subdivision Fund	17,000
Computer Maintenance Fund	40,000
Court Special Projects Fund	78,659
Court Probation Services Fund	25,173
Indigent Drivers Interlock & Alcohol Monitoring Fund	60,000
Community Development Block Grant Fund	2,312,470
Emergency Shelter Grant Fund	210,732
HOME Investment Partnerships Program Fund	455,000
Neighborhood Stabilization Fund	300,000
Homeless Prevention and Rapid Rehousing	0
Energy Efficiency Block Grant	0
Office on Aging III B Fund	940,470
Lakewood Hospital S.R. Fund	2,592,584
Help To Others Fund	39,863
Byrne Memorial Grant Fund	0
Juvenile Diversion Program Fund	18,001
FEMA Fund	0
Family to Family Fund	362,347
Total Special Revenue Funds	\$ 13,319,476
Bond Retirement Fund	19,165,448
TIF Bond Retirement Fund	487,716
Total Debt Service Funds	\$ 19,653,164
Capital Improvement Fund	3,455,000
Land Acquisition Fund	0
City Park Improvement Fund	75,000
TIF Capital Improvement Fund	223,211
Total Capital Projects Funds	\$ 3,753,211
Water Operating Fund	12,628,776
Wastewater Collection Fund	17,220,521
Wastewater Treatment Fund	6,423,934
Wastewater Improvement Fund	1,600,000
Parking Facilities Fund	400,325
Winterhurst Ice Rink Fund	580,000
Total Enterprise Funds	\$ 38,853,557
Hospitalization Fund	6,147,344
Workers Compensation Fund	353,800
Total Internal Service Funds	\$ 6,501,144
TOTALS	\$ 120,210,365

	Original Introduced 2016 Appropriation
General Fund	
General Government	
Council	
Personal Services	185,047
Other	13,650
Division Total	198,697
Municipal Court	
Personal Services	1,042,828
Other	152,500
Division Total	1,195,328
Civil Service	
Personal Services	75,078
Other	37,775
Division Total	112,853
Mayor's Office	
Personal Services	260,021
Other	14,825
Division Total	274,846
Human Resources	
Personal Services	235,807
Other	40,395
Division Total	276,202
Community Relations	
Personal Services	75,207
Other	23,835
Division Total	99,042
Finance Department	
Personal Services	540,658
Other	83,400
Division Total	624,058
Income Tax	
Personal Services	541,236
Other	571,111
Division Total	1,112,347
Information Technology	
Personal Services	384,050
Other	590,820
Division Total	974,870
General Administration	
Personal Services	230,427
Other	2,310,370
Division Total	2,540,797
Law Department	
Personal Services	447,524
Other	280,337
Division Total	727,861
Planning & Development	
Personal Services	347,798
Other	208,860
Division Total	556,658

	Original Introduced 2016 Appropriation
Public Safety	
<i>Police & Law Enforcement</i>	
Personal Services	9,545,802
Other	588,760
Division Total	10,134,562
<i>Police & Fire Communications (Dispatch)</i>	
Personal Services	787,498
Other	22,160
Division Total	809,646
<i>Support of Prisoners</i>	
Personal Services	167,013
Other	254,985
Division Total	421,998
<i>Animal Control</i>	
Personal Services	185,505
Other	19,669
Division Total	205,174
<i>School Guards</i>	
Personal Services	266,149
Other	550
Division Total	266,699
<i>Firefighting, Prevention & Inspection</i>	
Personal Services	6,880,197
Other	338,710
Division Total	7,218,907
<i>Building & Housing</i>	
Personal Services	983,189
Other	241,220
Division Total	1,224,409

	Original Introduced 2016 Appropriation
Public Works	
<i>Public Works Administration</i>	
Personal Services	98,251
Other	5,270
Division Total	103,521
<i>Street Lighting</i>	
Other	650,000
Division Total	650,000
<i>Parks & Public Property</i>	
Personal Services	1,327,125
Other	974,025
Division Total	2,301,150
<i>Buildings & Facilities / Security</i>	
Personal Services	115,450
Other	
Division Total	115,450
<i>Band Concerts</i>	
Personal Services	289
Other	12,500
Division Total	12,789
<i>Museums</i>	
Other	11,600
Division Total	11,600
<i>July 4th Festival</i>	
Personal Services	11,545
Other	41,000
Division Total	52,545
<i>Tennis Courts</i>	
Other	5,600
Division Total	5,600
<i>Forestry</i>	
Personal Services	307,645
Other	180,750
Division Total	488,395
<i>Refuse & Recycling</i>	
Personal Services	2,058,613
Other	1,025,840
Division Total	3,084,453
<i>Fleet Management</i>	
Personal Services	817,576
Other	766,515
Division Total	1,524,091
<i>Engineering</i>	
Personal Services	166,846
Other	66,905
Division Total	233,751

	Original Introduced 2016 Appropriation
Human Services	
<i>Human Services Administration</i>	
Personal Services	185,636
Other	1,850
Division Total	187,486
<i>Early Childhood</i>	
Personal Services	53,144
Other	1,460
Division Total	54,604
<i>Youth Services</i>	
Personal Services	175,537
Other	13,895
Division Total	189,432
Total General Fund	
Personal Services	28,498,691
Other	9,631,122
Totals	38,129,813

	Original Introduced 2016 Appropriation
Special Revenue Funds	
State Highway Improvement Fund	
Other	140,000
Division Total	140,000
Fund Total	140,000
Street Const., Maint. Repair Fund	
Personal Services	1,348,653
Other	1,015,010
Division Total	2,363,663
Fund Total	2,363,663
Litter Control Grant Fund	
Other	4,000
Division Total	4,000
Fund Total	4,000
Community Festival Fund	
Personal Services	4,058
Division Total	4,058
Fund Total	4,058
Police Pension Fund	
Personal Services	1,487,214
Other	1,487,214
Division Total	1,487,214
Fund Total	1,487,214
Firemen Pension Fund	
Personal Services	1,559,623
Other	1,559,623
Division Total	1,559,623
Fund Total	1,559,623
Law Enforcement Trust Fund	
Personal Services	4,100
Other	117,000
Division Total	121,100
Fund Total	121,100
Federal Forfeiture Fund	
Other	17,000
Division Total	17,000
Fund Total	17,000
Indigent Drivers' Alcohol Treatment Fund	
Other	150,000
Division Total	150,000
Fund Total	150,000

City of Lakewood
 2016 Permanent Appropriation
 Exhibit B

	Original Introduced 2016 Appropriation
Enforcement & Education Fund	
Other	20,520
Division Total	20,520
Fund Total	20,520
Political Subdivision Fund	
Other	17,000
Division Total	17,000
Fund Total	17,000
Computer Maintenance Fund	
Other	40,000
Division Total	40,000
Fund Total	40,000
Court Special Projects Fund	
Personal Services	8,659
Other	70,000
Division Total	78,659
Fund Total	78,659
Court Probation Services Fund	
Personal Services	17,318
Other	7,855
Division Total	25,173
Fund Total	25,173
Indigent Drivers InterloCN and Alcohol Monitoring Fund	
Other	60,000
Division Total	60,000
Fund Total	60,000
Community Development BloCN Grant	
Personal Services	477,675
Other	1,834,795
Division Total	2,312,470
Fund Total	2,312,470
Emergency Shelter Grant Fund	
Personal Services	9,232
Other	201,500
Division Total	210,732
Fund Total	210,732
HOME Investment Partnerships Program Fund	
Personal Services	
Other	455,000
Division Total	455,000
Fund Total	455,000
Neighborhood Stabilization Fund	
Personal Services	
Other	300,000
Division Total	300,000
Fund Total	300,000

	Original Introduced 2016 Appropriation
Energy Efficiency BloCN Grant	
Personal Services	
Other	
Division Total	
Fund Total	
Homeless Prevention and Rapid Rehousing	
Personal Services	
Other	
Division Total	
Fund Total	
Office on Aging Fund	
Personal Services	777,230
Other	163,240
Division Total	940,470
Fund Total	940,470
Lakewood Hospital S.R. Fund	
<i>EMS</i>	
Personal Services	1,384,875
Other	843,982
Division Total	2,228,857
<i>Health</i>	
Personal Services	143,037
Other	220,690
Division Total	363,727
Fund Total	2,592,584
Byrne Memorial Grant Fund	
Personal Services	
Other	
Division Total	
Fund Total	
Help To Others Fund	
Personal Services	34,058
Other	5,805
Division Total	39,863
Fund Total	39,863
Juvenile Diversion Program Fund	
Personal Services	17,401
Other	600
Division Total	18,001
Fund Total	18,001
FEMA Fund	
Other	
Division Total	
Fund Total	
Family to Family Fund	
Personal Services	312,003
Other	50,344
Division Total	362,347
Fund Total	362,347
Total Special Revenue Funds	
Personal Services	7,585,136
Other	5,734,341
Totals	13,319,476

	Original Introduced 2016 Appropriation
Debt Service Funds	
Bond Retirement Fund	
Other	19,165,448
Division Total	19,165,448
Fund Total	19,165,448
TIF Bond Retirement Fund	
Other	487,716
Division Total	487,716
Fund Total	487,716
Total Debt Service Funds	
Personal Services	
Other	19,653,164
Totals	19,653,164
Capital Projects Funds	
Capital Improvement Fund	
Other	3,455,000
Division Total	3,455,000
Fund Total	3,455,000
Land Acquisition Fund	
Other	
Division Total	
Fund Total	
City Park Improvement Fund	
Other	75,000
Division Total	75,000
Fund Total	75,000
TIF Capital Improvement Fund	
Other	223,211
Division Total	223,211
Fund Total	223,211
Total Capital Improvement Funds	
Other	3,753,211
Totals	3,753,211

	Original Introduced 2016 Appropriation
Enterprise Funds	
Water Operating Fund	
<i>Water Administration</i>	
Personal Services	195,258
Other	2,128,969
Division Total	2,324,226
<i>Water Distribution</i>	
Personal Services	527,448
Other	9,069,879
Division Total	9,597,325
<i>Water Metering</i>	
Personal Services	467,675
Other	239,550
Division Total	707,225
Fund Total	12,628,776
Wastewater Collection Fund	
Personal Services	980,519
Other	16,240,002
Division Total	17,220,521
Fund Total	17,220,521
Wastewater Treatment Fund	
Personal Services	1,771,147
Other	4,652,787
Division Total	6,423,934
Fund Total	6,423,934
Wastewater Improvement Fund	
Other	1,600,000
Division Total	1,600,000
Fund Total	1,600,000
Parking Facilities Fund	
Personal Services	164,205
Other	236,120
Division Total	400,325
Fund Total	400,325
Winterhurst Ice Rink Fund	
Personal Services	580,000
Other	580,000
Division Total	580,000
Fund Total	580,000
Total Enterprise Funds	
Personal Services	4,106,249
Other	34,747,307
Totals	38,853,556

City of Lakewood
 2016 Permanent Appropriation
 Exhibit B

	Original Introduced 2016 Appropriation
Internal Services Funds	
Hospitalization Fund	
Personal Services	6,085,344
Other	62,000
Division Total	6,147,344
Fund Total	6,147,344
Workers' Compensation Fund	
Personal Services	240,000
Other	113,800
Division Total	353,800
Fund Total	353,800
Total Internal Service Funds	
Personal Services	6,325,344
Other	175,800
Totals	6,501,144
FUND TOTALS	120,210,365

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PLACED ON FIRST READING & REFERRED TO THE
FINANCE COMMITTEE 11/16/15. SECOND READING
12/7/15. 193

ORDINANCE NO. 36-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for professional services, and to advertise for bids and enter into contracts for the purchase of repair maintenance and operating supplies, services and equipment as authorized by the 2016 Appropriation Ordinance and the Administrative Code of the City of Lakewood with the lowest and best bidder or bidders or as otherwise provided by law.

WHEREAS, this Council desires to provide the authorization to the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for professional services, and to advertise for bids and enter into contracts for the purchase of repair maintenance and operating supplies, services and equipment as authorized by the 2016 Appropriation Ordinance and the Administrative Code of the City of Lakewood with the lowest and best bidder or bidders or as otherwise provided by law, and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that delay could impair the City's ability to provide necessary services in a timely manner; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager be and are hereby authorized and directed to enter into a contract or contracts for supplies, services and equipment with the lowest and best bidder or bidders or as otherwise provided by law, as follows:

Professional services contracts included in the 2016 Budget are as follows:

- 1) Legal Services.....750,000
- 2) Recodification of Ordinances12,500
- 3) Financial Audit75,000
- 4) Hospitalization and Health Care Benefit Consulting Services45,000
- 5) Consultant for Workers Compensation30,000
- 6) Risk Management Consulting Services13,000

7) Healthcare, Physicals, Drug & Alcohol Testing	25,000
8) Employee Assistance Program	13,000
9) Supervisor / Manager / Employee Training	125,000
10) Exams for Classified Positions	75,000
11) Housing and Building Plans Examinations	45,000
12) Lakewood Jail Medical Services	75,000
13) Band Concerts	15,000
14) Municipal Engineering Consultant	60,000
15) Debt Issuance Costs	225,000
16) Forensic Services	10,000
17) Long Term Control Plan and Storm Water Professional Services	100,000
18) Administrative Professional Services	300,000
Sub-Total	\$1,993,000

Services contracts included in the 2016 Budget are as follows:

1) Government Agreements (WEB)	105,000
2) Government Agreements (Bd of Ed/Pools).....	210,000
3) Financial Institution Service Charges	50,000
4) Electronic Payment Services.....	200,000
5) Property & Liability Insurance Contracts	450,000
6) Workers' Comp Stop Loss Insurance	85,000
7) Life Insurance.....	20,000
8) Hospitalization and Health Care Benefit Services.....	7,000,000
9) Medical Claims Billing Service	100,000
10) Sentenced Prisoners Full Jail Service	300,000
11) Home Delivered Meals	45,000
12) Distribution System Leak Survey	40,000
13) Disposal of Screenings and Grit (WWTP)	15,000
14) Excavation Spoils Removal.....	100,000
15) Roll of Box for Street Sweeping.....	50,000
16) Solid-Waste Disposal Site.....	900,000
17) Waste Collections – Condominiums	95,000
18) Biosolids Disposal	90,000
19) Roll-Off Box for Construction Debris.....	60,000
20) Lab Analysis Service	25,000
21) Citywide Computer Hrdwr Op. Sys., & Software Maint Contracts	350,000
22) Communications Services	50,000
23) Water Meter Program Maintenance.....	50,000
24) Telephone Service.....	150,000
25) Cellular Phone Service	85,000
26) Laundry Service-Police Department.....	12,000
27) HVAC Maintenance	75,000
28) Elevator Maintenance	25,000

29) Fire Alarm Maintenance	60,000
30) Copier Maintenance Service	25,000
31) Postage, Mailing Services, Equipment Lease/Maintenance	250,000
32) Rental and Laundry of Uniforms	15,000
33) Advertising	30,000
34) Printing Services	115,000
35) CRIS/LEADS Fees	35,000
36) Parking Citation Billing Service	50,000
37) Fireworks Display	35,000
38) Transportation Services	35,000
Sub-Total	\$11,387,000

Materials, supplies, and equipment authorized for purchase under the 2015 Budget are as follows:

1) Sand and Aggregate	30,000
2) Concrete Supplies	50,000
3) Asphalt Materials	50,000
4) Asphalt Cold Patch	25,000
5) Crack Sealant	40,000
6) Road Salt (Sodium Chloride).....	450,000
7) Fire Hydrants, Sewer and Water Appurtenances	100,000
8) Water Meter Supplies & Materials	150,000
9) Sign Shop-Supplies, Blanks & Reflective Material.....	100,000
10) Polymer Flocculants	25,000
11) Wastewater Treatment Chemicals	120,000
12) Tires and Road Service	80,000
13) Automotive Repairs, Parts and Supplies	600,000
14) Oil and Lubricants	45,000
15) Fuel (Gasoline and Diesel)	500,000
16) Purchase of Uniforms and Gear	40,000
17) Electrical Supplies	50,000
18) Hardware Supplies	35,000
19) Janitorial Supplies.....	45,000
20) Landscape Materials	25,000
21) Lumber Supplies	90,000
22) Plumbing Supplies	40,000
23) Pool Supplies – Chemicals	45,000
24) Small Tools and Equipment.....	110,000
25) Prisoner Food Supplies	40,000
26) Purchase Uniforms & Gear – Safety Forces	60,000
27) Ammunition.....	25,000
28) Office Supplies	35,000
29) Computer Supplies.....	10,000

30) Computer Software.....	10,000
31) Communications Equipment.....	75,000
32) Paper Supplies.....	15,000
33) Lease Copier Equipment.....	37,000
34) Subscriptions/Publications.....	35,000
35) Reforestation.....	130,000
36) Police Operating Equipment.....	200,000
37) Fire/EMS Operating Equipment.....	200,000
38) Waste Water Treatment Plant Operating Equipment.....	150,000
Sub-Total	\$3,867,000
Total	\$17,247,500

Section 2. Contracts for supplies, services and equipment in excess of \$7,500 and for professional services in excess of \$5,000 shall not be awarded except as approved herein or further approved by Resolution of Council.

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

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

PLACED ON 1ST READING & REFERRED TO THE
FINANCE COMMITTEE 11/16/15.
SECOND READING 12/7/15.

ORDINANCE NO. 37-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into service contracts in accordance with the Administrative Code of the City of Lakewood for the Department of Planning & Development in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that delay could impair the City's ability to provide necessary services in a timely manner; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to enter into contracts in accordance with the Administrative Code of the City of Lakewood, for the Division of Planning & Development, contracts not to exceed the specified amounts shown, except as hereinafter provided:

- | | |
|---|--------------------|
| Service Contracts | \$4,400,000 |
| Building Code Enforcement | |
| Childcare Scholarship Assistance Program | |
| Cleveland Tenants Organization: Landlord Tenant Services | |
| Commercial Property Revitalization (Storefront Renovation) Program | |
| Cuyahoga County Planning Commission | |
| Domestic Violence & Child Advocacy Center: Victim Advocacy Services | |
| Economic Development Loan Fund | |
| First Time Homebuyer Down Payment Assistance Program (CDBG & HOME) | |
| Greater Cleveland Regional Transit Authority | |
| Home Improvement Grant Program (HIG) | |
| Home Investment Partnerships Program (HOME) | |
| Home Weatherization Assistance Program | |
| Housing Research & Advocacy Center: Fair Housing Services | |

LakewoodAlive: Housing Outreach & Paint Rebate Programs
Lakewood Community Services Center: Case Management, Emergency Shelter
Employment Services, Food Pantry & Homelessness Prevention Programs
Loan Service Fees: Low-Interest Loan, Nuisance Demolition, Nuisance Rehabilitation,
RAMP & Weatherization Programs
Low-Interest Housing Rehabilitation Loan Program (LIL)
Neighborhood Stabilization Program (NSP): Acquisition, Rehabilitation & Demolition
North Coast Health: Health Services
Nuisance Demolition Program
Nuisance Rehabilitation Program
Property Revitalization Program; Acquisition & Rehabilitation
Public Infrastructure Improvements: Sidewalk Repair/Replacement, Street Resurfacing,
Streetscape Enhancements, Transit Waiting Environments & Water Main
Replacement
Repair Accessibility & Maintenance Program (RAMP)
Section 108 Loan Repayment
SEED Small Business Loan Program: Loan Service Fees
Senior Supportive Services

Section 2. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to enter into contracts as set forth above in amounts not to exceed the specified amounts without further action from Council; and to enter into contracts in excess of specified amounts only upon consent of Council evidenced by adoption of a resolution specifying the authorized amount.

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

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

PLACED ON 1ST READING & REFERRED TO THE
FINANCE COMMITTEE 11/16/15.
SECOND READING 12/7/15.

ORDINANCE NO. 38-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, and authorizing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for **Memberships** as authorized by the 2016 Appropriation Ordinance and the Administrative Code of the City of Lakewood, contracts not to exceed \$60,000 without separate Ordinance of Council.

WHEREAS, this Council desires to provide the authorization to the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for Memberships as authorized by the 2016 Appropriation Ordinance and the Administrative Code of the City of Lakewood as otherwise provided by law, and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal department in that delay could impair the City's ability to provide necessary services in a timely manner; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager be and are hereby authorized and directed to enter into contracts with organizations for the following memberships, contracts not to exceed \$60,000, except as hereinafter provided:

- American Association of Police Polygraphists
- American Institute of Certified Planners
- American Payroll Association
- American Planning Association
- American Polygraph Association
- American Public Works Association
- American Society for Industrial Security (ASIS)
- American Society of Civil Engineers
- American Society of Sanitary Engineers
- American Water Works Association (AWWA)
- Association of Municipal-County Judges of Ohio, Inc.
- Association of Public Treasurers of the US & Canada
- Building Officials Conference of Northeastern Ohio (BOCONEO)

Cleveland Metropolitan Bar Association
Cuyahoga Animal Wardens Society (CAWS)
Cuyahoga County Fire Chief's Association
Cuyahoga County Fire Officers Association
Cuyahoga County Mayors and City Managers Association
Cuyahoga County Police Chiefs Association

EnviroCert

Family to Family Administrators Council (Murtis Taylor Human Services System)
FBI National Academy Associates
First Suburb Consortium
First Suburb Development Council

Government Finance Officers Association of U.S. & Canada
Greater Cleveland Partnership

Heritage Ohio
High Technology Crime Investigation Association International

Institute of Traffic Engineers
International Association of Arson Investigators
International Association of Arson Investigators, Ohio Chapter
International Association of Bomb Technicians & Investigators (IABTI)
International Association of Chiefs of Police
International Association of Electrical Inspectors (IAEI)
International Association of Electrical Inspectors - Western Reserve Division
International Association of Financial Crimes Investigators
International Association of Fire Chiefs
International Code Council
International Law Enforcement Educators and Trainers Association
International Municipal Signal Association
International Police Mountain Bike Association
International Society of Arboriculture

Keep America Beautiful

Lakewood Chamber of Commerce
League of American Bicyclists

Middle Atlantic-Great Lakes Organized Crime Law
Enforcement Network (MAGLOCLLEN)
Municipal Engineers Association of Northeast Ohio
Municipal Finance Officers Association of Northeast Ohio (MFOA)

National Association for the Education of Young Children (NAEYC)
National Association of Housing & Redevelopment Officials (NAHRO)
National Community Development Association
National Fire Protection Association
National Institute of Governmental Purchasing (NIGP)
National League of Cities
National Tactical Officers Association
North Central Ohio Building Officials Association
North Coast Corrections Managers Association
Northeast Ohio Areawide Coordinating Agency

Northeast Ohio Fire Chiefs Association (NEOFCA)
Northeast Ohio Fire Prevention Association
Northeast Ohio Law Directors Association
Northeast Ohio Municipal Prosecutors Association
Northeastern Ohio Municipal Court Clerks Association
Northern Ohio Municipal Judges Association
Northern Ohio Probation Officer's Association
Northern Ohio Service Directors Association

Ohio Association of Arson Investigations
Ohio Association of Chiefs of Police
Ohio Association of Magistrates
Ohio Association of Municipal Court Clerks
Ohio Association of Plumbing Inspectors
Ohio Association of Polygraph Examiners
Ohio Association of Public Treasurer's
Ohio Association of Tax Administrators
Ohio Auto Theft Association
Ohio Conference of Community Development
Ohio Crime Prevention Association
Ohio D.A.R.E. Officers Association
Ohio EMS
Ohio Fire Chiefs Association
Ohio Identification Officers Association
Ohio Judicial Conference
Ohio Municipal Judges Association
Ohio Municipal League
Ohio Police Juvenile Association
Ohio School Resource Officers Association
Ohio State Bar Association
Ohio Tactical Officers Association

Public Purchasers Association of Northern Ohio

Real Estate Management

Sewer Pipe Users Group (SPUG)
Society for Human Resource Management
Society for Human Resource Management – Greater Cleveland Chapter
Solid Waste Association of North America
Street Maintenance and Sanitation Officials of Ohio

Team Crisis Negotiator
TransUnion of Northeast Ohio, Inc.
Treasurer, State of Ohio Cooperative Purchasing Program
Tree City USA

U.S. Conference of Mayors

Water Environment Federation
We Share

Section 2. Contracts for memberships in excess of \$60,000 shall not be awarded except as approved herein or further approved by Council.

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

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

PLACED ON 1ST READING & REFERRED TO THE
FINANCE COMMITTEE 11/16/15.
SECOND READING 12/7/15.

ORDINANCE NO. 39-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, amending section 902.04, Rates and Charges, of the Codified Ordinances of the City of Lakewood for the purpose of adjusting sewer rates charged against each lot, parcel of land or premises which may have an active sewer connection with the Municipal wastewater disposal system or which may otherwise discharge wastewater either directly or indirectly into such system or any part thereof.

WHEREAS, the current sewer rate is insufficient to allow the Wastewater Treatment Fund and Wastewater Collections System Fund to continue to be self-supporting; and

WHEREAS, in order to offset the continuing general increases in capital costs of the wastewater collections and treatment facilities it is necessary for the City to increase the rates charged to the users of the wastewater disposal system as well as provide for the anticipated annual capital needs for the wastewater collection and treatment system; and

WHEREAS, Chapter 902 of the Codified Ordinances authorizes the City to set sewer rates to distribute the costs of operation and maintenance of the wastewater disposal system and the costs to maintain compliance with applicable standards and regulations of the U.S. E.P.A. proportionately upon all users of said system; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that these rates and charges must be in place for the 2016 fiscal year; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1: Section 902.04, Rates and Charges, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

902.04 RATES AND CHARGES.

- (a) The Director of Finance is hereby authorized to annually establish sewer rates charged by the Division of Utility Billing.
 - (1) Such charges and rates shall be made against each lot parcel of land or premises which may have an active sewer connection with the Municipal wastewater disposal system or which may otherwise discharge wastewater either directly or indirectly into such system or any part thereof.

- (2) Such charges and rates shall be based on all water used during each one month billing period.
- (3) Such rates shall be charged monthly.
- (b) Any lot parcel of land or premises discharging into the sanitary sewer but not using City water wholly or partly shall at his or her own expense be required to install meters or other measuring devices approved by the City Engineer to measure either the water or the discharge to the sanitary sewer.
- (c) Any lot parcel of land or premises desiring credit for water consumed for purposes where the water is not returned to the sanitary sewer shall at his or her own expense separately meter the water for such uses.
- (d) Effective January 1, 2015, sewer rates charged by the Lakewood Division Utility Billing shall be billed at a rate of not more \$4.96 per one hundred cubic feet of metered water consumption.

shall be and is hereby amended to read as follows:

902.04 RATES AND CHARGES.

- (d) Effective January 1, ~~2015~~ 2016, sewer rates charged by the Lakewood Division Utility Billing shall be billed at a rate of not more ~~\$4.96~~ \$5.58 per one hundred cubic feet of metered water consumption.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 3. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

ORDINANCE NO. 40-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for **Street Infrastructure Improvements** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that certain capital improvements projects are to be undertaken beginning on or after January 1, 2016 in accordance with the Capital Improvement Plan for fiscal year 2016; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to engage architectural and/or engineering firms to provide professional services for the design, preparation of specifications, construction inspection, contract administration and to advertise for bids and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood, for the following Infrastructure Improvements, contracts not to exceed the specified amounts shown, except as hereinafter provided:

Street Infrastructure Improvements

\$2,000,000

Section 2. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to enter into contracts as set forth above in amounts not to exceed the specified amounts without further action from Council; and to enter into contracts in excess of specified amounts only upon consent of Council evidenced by adoption of a resolution specifying the authorized amount.

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

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

41
PLACED ON 1ST READING & REFERRED TO THE
FINANCE COMMITTEE 11/16/15.

SECOND READING 12/7/15.

ORDINANCE NO. 41-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for the **Wastewater System and Treatment Improvement Program** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that certain capital improvements projects are to be undertaken beginning on or after January 1, 2016 in accordance with the Capital Improvement Plan for fiscal year 2016, now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to engage architectural and/or engineering firms to provide professional services for the design, preparation of specifications, construction inspection, contract administration and to advertise for bids and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood, for the following Infrastructure Improvements, contracts not to exceed the specified amounts shown, except as hereinafter provided:

Wastewater System and Treatment Improvement Program

\$8,500,000

Section 2. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to enter into contracts as set forth above in amounts not to exceed the specified amounts without further action from Council; and to enter into contracts in excess of specified amounts only upon consent of Council evidenced by adoption of a resolution specifying the authorized amount.

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

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

PLACED ON 1ST READING & REFERRED TO THE
FINANCE COMMITTEE 11/16/15.
SECOND READING 12/7/15.

ORDINANCE NO. 42-15 BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for the **Water System Replacement Program** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that certain capital improvements projects are to be undertaken beginning on or after January 1, 2016 in accordance with the Capital Improvement Plan for fiscal year 2016; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to engage architectural and/or engineering firms to provide professional services for the design, preparation of specifications, construction inspection, contract administration and to advertise for bids and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood, for the following Infrastructure Improvements, contracts not to exceed the specified amounts shown, except as hereinafter provided:

Water System Replacement Program

\$2,500,000

Section 2. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to enter into contracts as set forth above in amounts not to exceed the specified amounts without further action from Council; and to enter into contracts in excess of specified amounts only upon consent of Council evidenced by adoption of a resolution specifying the authorized amount.

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

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

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PLACED ON 1ST READING & REFERRED TO THE
FINANCE COMMITTEE 11/16/15.
SECOND READING 12/7/15.

ORDINANCE NO. 43-15

BY: _____

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for **C.D.B.G. Fund Infrastructure Improvements** in accordance with the administrative code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that certain capital improvements projects are to be undertaken beginning on or after January 1, 2016 in accordance with the Capital Improvement Plan for fiscal year 2016; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to engage architectural and/or engineering firms to provide professional services for the design, preparation of specifications, construction inspection, contract administration and to advertise for bids and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood, for the following Infrastructure Improvements, contracts not to exceed the specified amounts shown, except as hereinafter provided:

C.D.B.G. Infrastructure Projects

\$600,000

Section 2. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to enter into contracts as set forth above in amounts not to exceed the specified amounts without further action from Council; and to enter into contracts in excess of specified amounts only upon consent of Council evidenced by adoption of a resolution specifying the authorized amount.

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

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

PLACED ON 1ST READING & REFERRED TO THE
FINANCE COMMITTEE 11/16/15.

SECOND READING 12/7/15.

ORDINANCE NO. 44-15 BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for the purchase of **Vehicles, Machinery and Equipment** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that certain capital improvements projects are to be undertaken beginning on or after January 1, 2016 in accordance with the Capital Improvement Plan for fiscal year 2016; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor (Director of Public Safety), the Director of Public Works, and the Director of Finance are hereby authorized and directed to advertise for bids and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood, for the following vehicles and equipment, contracts not to exceed the specified amounts shown, except as hereinafter provided:

Vehicles, Machinery and Equipment	\$4,000,000
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Section 2. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to enter into contracts as set forth above in amounts not to exceed the specified amounts without further action from Council; and to enter into contracts in excess of specified amounts only upon consent of Council evidenced by adoption of a resolution specifying the authorized amount.

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

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

PLACED ON 1ST READING & REFERRED TO THE
FINANCE COMMITTEE 11/16/15.

SECOND READING 12/7/15.

ORDINANCE NO. 45-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for **Buildings & Facilities Improvements** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that certain capital improvements projects are to be undertaken beginning on or after January 1, 2016 in accordance with the Capital Improvement Plan for fiscal year 2016; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to engage architectural and/or engineering firms to provide professional services for the design, preparation of specifications, construction inspection, contract administration and to advertise for bids and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood, for the following Infrastructure Improvements, contracts not to exceed the specified amounts shown, except as hereinafter provided:

Buildings & Facilities Improvements

\$550,000

Section 2. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to enter into contracts as set forth above in amounts not to exceed the specified amounts without further action from Council; and to enter into contracts in excess of specified amounts only upon consent of Council evidenced by adoption of a resolution specifying the authorized amount.

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

Section 4:- This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

46
PLACED ON 1ST READING & REFERRED TO THE
FINANCE COMMITTEE 11/16/15.

SECOND READING 12/7/15.

BY:

ORDINANCE NO. 46-15

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for **Traffic Signs & Signals** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that certain capital improvements projects are to be undertaken beginning on or after January 1, 2016 in accordance with the Capital Improvement Plan for fiscal year 2016; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to engage architectural and/or engineering firms to provide professional services for the design, preparation of specifications, construction inspection, contract administration and to advertise for bids and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood, for the following Infrastructure Improvements, contracts not to exceed the specified amounts shown, except as hereinafter provided:

Traffic Signs & Signals

\$1,250,000

Section 2. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to enter into contracts as set forth above in amounts not to exceed the specified amounts without further action from Council; and to enter into contracts in excess of specified amounts only upon consent of Council evidenced by adoption of a resolution specifying the authorized amount.

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

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15.

SECOND READING 12/7/15.

ORDINANCE NO. 47-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for **Parks & Pools Improvements** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that certain capital improvements projects are to be undertaken beginning on or after January 1, 2016 in accordance with the Capital Improvement Plan for fiscal year 2016; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to engage architectural and/or engineering firms to provide professional services for the design, preparation of specifications, construction inspection, contract administration and to advertise for bids and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood, for the following Infrastructure Improvements, contracts not to exceed the specified amounts shown, except as hereinafter provided:

Parks & Pools Improvement

\$1,500,000

Section 2. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to enter into contracts as set forth above in amounts not to exceed the specified amounts without further action from Council; and to enter into contracts in excess of specified amounts only upon consent of Council evidenced by adoption of a resolution specifying the authorized amount.

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

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 11/16/15.

SECOND READING 12/7/15.

ORDINANCE NO. 48-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to advertise for bid and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood for the **Sidewalk Improvement Program** in accordance with the Administrative Code of the City of Lakewood, contracts not to exceed the specified amounts shown without separate resolution of Council.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that certain capital improvements projects are to be undertaken beginning on or after January 1, 2016 in accordance with the Capital Improvement Plan for fiscal year 2016; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to engage architectural and/or engineering firms to provide professional services for the design, preparation of specifications, construction inspection, contract administration and to advertise for bids and enter into a contract with the lowest and best bidder in accordance with the Administrative Code of the City of Lakewood, for the following Infrastructure Improvements, contracts not to exceed the specified amounts shown, except as hereinafter provided:

Sidewalk Improvement Program

\$800,000

Section 2. The Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager is hereby authorized and directed to enter into contracts as set forth above in amounts not to exceed the specified amounts without further action from Council; and to enter into contracts in excess of specified amounts only upon consent of Council evidenced by adoption of a resolution specifying the authorized amount.

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

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

DEFERRED 10/19/15. Deferred 12/7/15.
BY:

RESOLUTION NO. 8825-15

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, to authorize the Mayor, as Director of Public Safety, to enter into an agreement between the City of Cleveland and the State of Ohio for the interchange of public safety services for the 2016 Republican National Convention in Cleveland, Ohio.

WHEREAS, the Cities of Lakewood and Cleveland and the State of Ohio wish to allow all police and law enforcement officers to perform any police function, exercise any police power, or render any police service within the jurisdiction of any of the contracting entities; and

WHEREAS, Ohio Revised Code §737.04 provides authority for municipalities and political subdivisions to contract for the interchange of police services; and

WHEREAS, in order to collaboratively provide police protection and reduce crime, it is the desire of the parties to this agreement to provide for and join in providing for mutual assistance and the interchange of their respective personnel and equipment; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in that this agreement is necessary to immediately provide for mutual aid and related training between and among the party subdivisions; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor, as Director of Public Safety, to enter into an agreement between the City of Cleveland and the State of Ohio for the interchange of public safety services for the 2016 Republican National Convention in Cleveland, Ohio in substantially the same form as the agreement attached as Exhibit A.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council,

and that all such deliberation of the Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

**INTERGOVERNMENTAL COOPERATIVE/MUTUAL AID AGREEMENT
FOR
OPERATIONAL ASSISTANCE IN PROVIDING SECURITY FOR
THE 2016 REPUBLICAN NATIONAL CONVENTION
IN CLEVELAND, OHIO**

THIS INTERGOVERNMENTAL COOPERATIVE/MUTUAL AID AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 20____, ("Effective Date"), by and between the CITY OF CLEVELAND, ("City"), a municipal corporation of the State of Ohio, through its Director of the Department of Public Safety, and _____ ("Agency"), a political subdivision or agency of the city/county of _____ and State of _____, through its authorized representative.

RECITALS

WHEREAS, the City of Cleveland, Ohio, has been selected to host the 2016 Republican National Convention (RNC) during the week of July 18, 2016; and

WHEREAS, the RNC has been designated a National Special Security Event (NSSE) due to the event's significance to the United States and the inherent challenge of ensuring the safety and security of all event participants; and

WHEREAS, pursuant to this NSSE classification, the United States Secret Service is the authorized lead for the design and implementation of the official operational security plan pertaining to the RNC; and

WHEREAS, the City of Cleveland through its Division of Police (CDP) in the Department of Public Safety is responsible for coordinating local law enforcement efforts for the RNC; and

WHEREAS, the RNC is expected to attract in excess of 50,000 visitors that will include persons who will engage in their constitutional rights of free speech; and

WHEREAS, the City of Cleveland has applied or will apply to the United States Department of Justice for a federal grant to help defray the expense of providing a secure venue for the RNC delegates and for ensuring the opportunity for the lawful exercise of constitutional rights by all persons; and

WHEREAS, law enforcement officers from all levels of government throughout the State of Ohio and in other states will be needed to provide law enforcement services for the event; and

WHEREAS, law enforcement agencies providing personnel for the RNC are considered to be subrecipients of the federal grant and eligible for reimbursement for personnel and other costs subject to the terms of both this Agreement and the grant; and

WHEREAS, Ohio Revised Code §737.04 provides authority for a municipal corporation to enter into agreements to obtain additional police protection from a municipal corporation,

township, township police districts, joint police districts, county sheriffs, park districts, or port authorities; and

WHEREAS, Ohio Revised Code §9.482 provides authority for a political subdivision, upon authorization of its legislature, to enter into an agreement with another political subdivision to render services for the political subdivision that the other political subdivision is otherwise legally authorized to perform or render; and

WHEREAS, Ohio Revised Code §5502.41 provides for the Ohio Mutual Aid Compact to complement existing mutual aid agreements to allow a political subdivision to request assistance with planned events such as the RNC and receive assistance from any other political subdivision in the state; and

WHEREAS, Ohio Revised Code §5502.29 permits an Ohio political subdivision to enter into mutual aid agreements with political subdivisions in Ohio and in neighboring states for assistance with a planned event; and

WHEREAS, at the request of the City of Cleveland, the law enforcement agency identified above in this Agreement ("Agency") is authorized to and willing to provide the assistance of law enforcement personnel and/or equipment for public safety-related aid and assistance during the RNC; and

WHEREAS, the City of Cleveland and Agency desire to outline the terms and scope of the assistance to be provided during the RNC.

NOW, THEREFORE, in consideration of the mutual covenants expressed herein the undersigned parties agree as follows:

I. INCORPORATION OF RECITALS

The above recitals are incorporated herein by reference.

II. PARTIES

A. The various provisions and covenants of this Agreement run between the City of Cleveland ("City") and Agency, not between or among any other law enforcement agency the City of Cleveland may also have entered into or will enter into a similar cooperative or mutual aid agreement with. Nothing in this Agreement is intended to and shall not be interpreted to create any rights in any third party.

B. Agency represents that it possesses the legal authority, pursuant to proper, appropriate statute, ordinance, official motion, resolution or action passed or taken or required to enter into this Agreement.

1. The City of Cleveland is authorized to enter into this Agreement pursuant to Ordinance No. 880-14 passed by Cleveland City Council on July 16, 2014.

2. Agency certifies it is authorized to enter into this Agreement. The person or persons signing and executing this Agreement on behalf of Agency hereby represents that he/she has been fully authorized by such party to execute this Agreement on behalf of Agency and to validly and legally bind Agency to all the terms, conditions, performances and provisions herein.

C. The City of Cleveland shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of either the Agency or the person signing the Agreement on behalf of Agency to enter into this Agreement.

III. APPLICABILITY

A. This Agreement applies to the RNC event to be held primarily in Cleveland, Ohio, and scheduled to convene July 18, 2016 and conclude on July 21, 2016, ("the actual event"), with main events to be held at Quicken Loans Arena ("the Q") in downtown Cleveland with major supporting venues to include the Cleveland Convention Center and the Renaissance Cleveland Hotel, all within walking distance of the Q. It pertains to the actual event as well as pre-event training and preparations and post-event clean up a period to commence on Sunday, July 17, 2016, at 8:00 AM for pre-event training, until concluding on Friday, July 22, 2016, at 11:59 PM (referred to as the "entire event" or the "RNC event period").

B. The actual RNC event dates may be extended by the RNC for a period exceeding the RNC event period's conclusion if it is required to complete the RNC nomination process. In such a circumstance, the Cleveland Division of Police (CDP) will notify Agency that its aid continues to be needed past the RNC event period conclusion and will provide its best estimate of the additional time period such aid will be needed. Agency will immediately advise the CDP whether or not it will continue to assist for the remainder of the extended RNC event period.

C. For activities directly connected with RNC security, this Agreement temporarily supersedes any existing mutual aid agreement or memorandum of understanding between the City of Cleveland and any of the parties hereto to the extent of any conflict between the respective agreements.

IV. REQUESTED OPERATIONAL ASSISTANCE

A. The City of Cleveland Division of Police (CDP) hereby requests the operational assistance of Agency for RNC security planning, training, execution, and pre and post-event law enforcement operations.

B. Although Agency is asked for a firm commitment of personnel, CDP recognizes that circumstances may require Agency to deviate from the committed number of officers and/or equipment. The final decision of the number of officers and equipment to be dedicated to the RNC by Agency rests solely with the Agency's sheriff or chief. However, all participating officers will be issued individual credentials and receive specialized training and instructions. Accordingly, it is important that officers committed to the RNC security assistance will be available for the entire event. CDP will continuously monitor circumstances and will release officers from RNC duty as quickly as possible.

C. Agency will, or has, advised CDP of the specific number of personnel and the type of specialized equipment, if any, Agency will commit to the RNC event. Agency may provide officers only or may provide officers and supervisors. Prior to the event, Agency will be advised of the specific assignments allocated to its personnel. Whenever practical, direct supervision of Agency's personnel will be accomplished by or through that Agency's own supervisors when such supervisors are provided. However, due to the scale of the event and the large number of assisting agencies participating, at times it is likely that supervision will occur or direction will be given by supervisors of another agency. Prior to the event, each participating officer will be aware of his or her specific

chain of command. In any case, overall control of all law enforcement activities will be the responsibility of the CDP.

D. No participating law enforcement officer will be ordered, required or requested to perform any act that would be prohibited by that officer's Agency rules and regulations. Assisting Agency personnel will, or have, receive(d) training specific to their assigned function. Issues regarding conflicts in rules and regulations or preferred response to anticipated situations should be raised during the training.

E. Pursuant to Ohio Revised Code §5502.41(F)(3), responding law enforcement officers acting pursuant to this section have the same authority to enforce the law as when acting within the territory of their regular employment. The provisions of Ohio Revised Code §5502.41(H) and Ohio Revised Code §§737.04 and 9.482 regarding police department members/employees acting outside the subdivision in which they are employed are applicable to their security assistance with the RNC event. If these statutes do not apply to Agency, Agency shall notify CDP.

V. ORGANIZATIONAL STRUCTURE

A. Agency acknowledges and agrees that at all times during any joint training sessions prior to the RNC and during the RNC event period, including deployment of any police officers (as defined below), regardless of such officer's rank or job title within the Agency, he or she shall be subject to a structure of supervision, command and control coordinated through a unified law enforcement command composed of federal, state, and local public safety personnel and following unified command principles and practices established throughout the law enforcement community.

B. The CDP is the lead local law enforcement agency associated with the RNC law enforcement. All functions and duties to be performed by the Agency's personnel under this Agreement will conform to the RNC Operational Plan with specific assignments to be communicated to the Agency by the "Commanding Officer" (as defined below) or his designee. The Agency will be provided with briefings from the CDP, as necessary, regarding its assignments.

C. For purposes of the RNC event, the CDP's "Commanding Officer" will be City of Cleveland Division of Police Chief Calvin Williams.

D. Agency officers performing services pursuant to this Agreement will abide by applicable CDP policies, which will be provided to it in one or more RNC event information and training packets ("RNC Preparatory Materials") prior to the RNC event. Agency shall disseminate the RNC Preparatory Materials to its officer providing services hereunder. In the event of a conflict between the Agency's policies and CDP's applicable policies, Agency agrees to follow CDP policies with respect to any RNC event services provided hereunder and shall instruct its officers to do likewise. By signing this Agreement, Agency certifies that all officers provided hereunder are or will be trained on the provided CDP policies before the RNC event.

E. Nothing in this Agreement shall affect the statutory or common law authority of the parties or their personnel, nor shall this Agreement limit or enhance the respective liabilities and immunities of the parties. Responsibility for the conduct of Agency personnel, both personally and professionally, shall remain with the Agency.

VI. AGENCY RESPONSIBILITIES

Agency agrees to the following terms in preparation for and during and following the RNC event:

A. Upon reasonable advance notice from CDP, Agency's officers being deployed at the RNC event shall participate in RNC event training activities that are coordinated or conducted by Agency and the CDP or its designee. For purposes of this Agreement, training activities will include RNC Preparatory Materials and In-person training on Sunday, July 17, 2016 beginning at 8 AM, for all Agency officers providing services during the RNC event period; and

B. Upon reasonable advance written notification from the CDP to the Agency, each Agency officer deployed at the RNC event shall provide services assigned by the CDP during the RNC event period; and

C. Each Agency officer agrees to be placed by the CDP in an "on call" status in which the officer is physically near a specified RNC event location within the City of Cleveland or the County of Cuyahoga, so as to be able to physically report in a timely manner to such duty post assigned by the CDP and be prepared to undertake the specific job task or responsibility assigned to the Agency's officer by the CDP.

D. At the request of the CDP, each Agency officer shall participate in and/or provide information to and otherwise cooperate with the CDP in any "after action activities" following the conclusion of the RNC event period. This may include debriefings of information and experiences, completion of surveys and questionnaires and assisting and/or participating in any civil and/or criminal legal proceedings.

E. The Agency agrees to cooperate with and provide the City of Cleveland with any other information reasonably requested by the City and that the City deems necessary to facilitate and enable compliance with the terms and conditions contained in this Agreement and grant requirements.

F. The Agency designates the following contacts for operational and administrative purposes under this Agreement:

AGENCY NAME: _____

[List Names, Titles, Contact Information]

[Responsibilities]

_____	_____
_____	_____
_____	_____

G. The names of all officers to be provided by the Agency for the RNC event purposes shall be sent to the CDP in written form upon execution of this Agreement and prior to providing any RNC event services hereunder.

H. Each of the officers provided by the Agency shall meet one of the following criteria (as applicable to the particular Agency):

1. Agency located in the State of Ohio shall ensure all officers provided are OPOTA certified in accordance with all applicable Ohio statutes, rules and regulations.

2. Non-Ohio Agency shall ensure that its officers providing assistance under this Agreement are duly licensed or certified by the authority of the state in which the officer's appointing authority is located. Statutory certification requirements for Agency's officers shall be provided to the CDP with the list of all Agency officers providing RNC services.

I. In addition to the certification/licensure for officers set forth above, Agency agrees that each of the officers provided shall also meet all of the following criteria:

1. Each officer shall by reason of experience, training and physical fitness be capable of performing the duties anticipated to be required by the CDP during the RNC event; and

2. Each officer shall have been employed as a licensed police officer for a minimum of two (2) years in the United States; and

3. Each of the officers provided for the RNC event are officers in good standing with the Agency. Throughout the term of this Agreement, the Agency shall promptly notify the CDP in the event that any officer is no longer an officer in good standing with the Agency; and

4. No officer being provided has been the subject of a lawsuit where the officer has been sued in an individual capacity, or pending and/or sustained Agency internal affairs investigations during the past three (3) years, where such lawsuit or investigation involves allegations of first amendment violation or allegations of excessive/unnecessary/unreasonable use of force, improper conduct or conduct unbecoming of a licensed law enforcement officer.

J. Unless otherwise provided or requested by the CDP, each of the officers being provided shall be equipped and or supplied by Agency at Agency's own expense, with a seasonally appropriate patrol uniform and equipment, including but not limited to service belts with Agency radio equipment, service weapon and personal soft ballistic body armor as required to be worn by the officer while on duty for the Agency. A complete sanctioned uniform and authorized equipment list will be provided to Agency as part of the RNC event Preparatory Materials. If the Agency intends to send any equipment, gear, service weapons or munitions with its officers that are not included in the CDP sanctioned list, it shall notify the CDP in writing not later than July 11, 2016, and must obtain the CDP's written consent prior to its use by an Agency officer during the RNC event period.

K. Agency acknowledges and agrees that at any time during the term of this Agreement the CDP has the sole discretion to decline to accept and/or use an officer without cause or explanation.

L. Agency will exercise its best efforts to assist with the RNC event. However, the parties recognize that resource availability requires Agency to exercise its best judgment in prioritizing and responding to the public safety needs of its own jurisdiction, which may also include the RNC event. That prioritization decision belongs solely to Agency and Agency may recall its officers when Agency so determines it is in its best interest to do so. Agency shall follow the termination procedures set forth in Section XVIII of this Agreement in the event a decision to recall its assistance is made.

M. Except as set forth in this Agreement, Agency shall be responsible for all costs associated with providing officer assistance that are not assumed by City as stated in this Agreement and authorized in writing.

VII. CITY OF CLEVELAND RESPONSIBILITIES

In addition to its lead local law enforcement planning responsibilities for the RNC event, the City of Cleveland agrees to the following:

A. City will provide RNC event training for participating Agency officers, including the provision of RNC event Preparatory Materials for review and in-person training by Agency.

B. City will provide lodging and food for Agency officers performing services under this Agreement. The CDP shall provide lodging and food location assignments to Agency officers in writing prior to the RNC event period.

C. City shall cover approved personnel and transportation expenses of officers providing services during the RNC event period. Agency's estimate of allowable expenses will be itemized on a form or forms, which have been provided to Agency prior to execution of this Agreement. The compensation to Agency for officer services pursuant to this Agreement has been based on this estimate as approved by City, and may not exceed the approved estimate amount unless approved by the City's Director of Public Safety. Agency's approved estimate amount is incorporated into this Agreement by reference as if fully rewritten herein. Agency agrees that all actual payments in an amount equal or less than this amount shall be based on itemized invoices provided to City for services actually provided after the RNC event according to the Payment Terms provided to Agency as part of the RNC Preparatory Materials. Any authorized meals purchased by participating law enforcement personnel outside those provided by City, must not exceed federal 2016 per diem rates for Cuyahoga County. Reimbursement for vehicle mileage cannot exceed the federal 2016 standard mileage rate for cars, trucks and vans. City will only reimburse for mileage to and from Cleveland and not for use of any vehicle during the RNC event period. No other transportation costs will be paid to Agency except upon approval of the City's Director of Public Safety.

VIII. FEDERAL GRANT REQUIREMENTS

A. The United States Bureau of Justice Assistance grant ("the grant") is the primary source of funding for RNC Security operations. All law enforcement agencies providing personnel and equipment in support of RNC security are considered subrecipients under the grant and subject to certain Special conditions specified in the grant. The applicable grant is incorporated into this Agreement by reference as if fully rewritten herein. Except for conditions which by their nature apply exclusively to the grant recipient (City of Cleveland), subrecipients must scrupulously adhere to the requirements of the Special conditions.

1. Although all the Special conditions are material to this Agreement, among the most significant for subrecipients that are or may be included in the grant are:

a) Equal Employment Opportunity Plan (EEO) requirements – Agencies expecting to be reimbursed for expenses exceeding \$25,000 and which have 50 or more employees must have an EEO and make the appropriate certification.

b) Duty to report fraud, conflict of interest, bribery, gratuity or similar misconduct involving grant funds.

c) All grant drawdowns are reimbursement-only basis.

d) No supplanting of local or state funds.

2. As Primary grant recipient the City of Cleveland is obligated to ensure the compliance of all subrecipients with all applicable Special Conditions.

3. Once the grant is obtained by City, City will provide the grant Special Conditions to Agency or direct Agency to the website for Agency to obtain it on-line.

IX. CERTIFICATION OF NON-SUPPLANTING

By execution of this Agreement, all participating agencies certify that grant funds received pursuant to this Agreement will not be used to supplant local and/or state funds.

X. FINAL PAYMENT TERMS

A. Agency shall only be paid for the necessary costs of participating in RNC event-related activities during the RNC event period, and any approved "after action activities" related thereto.

B. Subject to the terms of the Agreement and the prior written approval of the City of Cleveland, the City of Cleveland agrees to provide payment to the Agency for each officer whose services are actually used (including "on-call status" set forth in Section VI) by the CDP during the RNC event period.

C. Unless otherwise agreed to in writing by the City of Cleveland, the City of Cleveland shall only provide reimbursement to the Agency for Personnel Costs if the Agency officer completed the CDP's required training and 1) participated in the RNC event or 2) was ready, willing, available and physically present in the City of Cleveland or Cuyahoga County to participate in the RNC event as required by the CDP hereunder despite the officer not having actually participated in the RNC event.

D. In the event the Agency fails to comply with any terms or conditions of this Agreement or to provide in any manner the work or services as agreed to herein, the City of Cleveland reserves the right to withhold any available payment until the City is satisfied that corrective action has been taken or completed. This option is in addition to and not in lieu of the City's right of termination as provided in this Agreement.

XI. REIMBURSEMENT OF PERSONNEL COSTS

A. The City of Cleveland will reimburse assisting agencies for specified personnel expenses in conformance with the requirements of the federal RNC grant. Because of the strict non-supplanting rule, agencies must request reimbursement of personnel costs based upon one of the following Models:

1. Assisting agencies that do not have traditional jurisdiction in the City of Cleveland may request reimbursement of salary costs for all hours assigned and worked by their personnel as RNC security (both straight time and overtime); or

2. Agencies having traditional jurisdiction inside the City of Cleveland may request reimbursement of salary costs for all overtime hours assigned and worked by their personnel as RNC security.

"Salary costs" include straight time or overtime at the hourly rate of the officer assigned plus Medicare and FICA rates applicable in 2016, and the Agency's actual pension contributions. No other fringe benefits will be reimbursed.

"Personnel" means sworn certified law enforcement officers and supervisors of any rank who are assigned and present in support of the RNC mission. "Hours assigned and worked" means the actual scheduled hours assigned to each officer in support of the RNC mission and actually worked by the officer during the event.

B. Agencies having traditional jurisdiction in the City of Cleveland will absorb all costs for their own assigned personnel for the first forty (40) hours of the respective officer's work week during the RNC. Overtime personnel costs for hours worked beyond forty (40) hours during the RNC will be reimbursed to those agencies pursuant to the terms (specifically Model 2 above) contained herein.

C. All assisting agencies will be provided with a form or forms for collecting data necessary for reimbursement. One of these forms is attached as Appendix 2 to be used for reimbursement of salary costs of participating Agency officers. The forms and supporting documentation should be completed by Agency and returned to the City of Cleveland administrator specified on the form no later than September 1, 2016. The City of Cleveland will make every effort to process the forms and remit payment within forty-five (45) days of receipt of the reimbursement request, fully-completed forms, and supporting documentation. Administrative costs including planning and fiscal functions will not be reimbursed.

D. Agency must provide payroll verification documentation, certify the accuracy of the reimbursement request, and maintain all supporting documentation for a minimum of seven (7) years. Agency specifically agrees to cooperate with any required audit relating to the federal RNC grant and further agrees to reimburse the federal government for any payments received which are subsequently deemed ineligible by any future City of Cleveland or federal audit.

E. Officers from Agency will be housed and fed under arrangements made by, and directly paid for by, the City of Cleveland. Accordingly, no housing costs or per diem will be paid to Agency. Exceptions to this policy may be made for officers who are required to arrive in the Cleveland area prior to the effective date of housing and feeding arrangements.

F. Depending on the availability of funding, if agency's personnel participate in extensive (more than 40 hours) training, Agency may apply for reimbursement of salary costs incurred on an overtime basis for RNC specific training.

XII. LIABILITY INSURANCE

A. The City of Cleveland will obtain a law enforcement liability insurance policy with a coverage limit of Ten Million Dollars (\$10,000,000) insuring Agency as well as all other assisting law enforcement agencies, and all participating law enforcement personnel in their individual capacities while acting within the scope of their employment, against job-related liability claims including torts and constitutional allegations unless the assisting Agency or law enforcement personnel acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety or property. Legal defense of claims and all claims processing will be provided by the City of Cleveland or by the insurer. The City of Cleveland shall have the exclusive right to negotiate and settle claims within policy or retention limits.

B. All assisting agencies agree to cooperate fully in the processing of liability claims to include, without limitation, forwarding to the City of Cleveland or otherwise providing effective notice of all claims or notice of events foreseeably resulting in a claim, providing documents or other potential evidence and ensuring the availability of employees for deposition and trial.

C. Nothing in this Agreement shall be interpreted as waiving or modifying the provisions of Ohio Revised Code Chapter 2744.

XIII. MUTUAL RESPONSIBILITY

A. Each party agrees that it will be responsible for its own acts and/or omissions and those of its officials, employees, representatives and agents in carrying out the terms of this Agreement and the results thereof to the extent authorized by law and shall not be responsible for the acts and/or omissions of the other party and the results thereof.

B. Neither party can nor will indemnify or hold the other harmless nor shall anything in this Agreement be construed to constitute such.

C. The parties understand and agree that each party is relying upon, and has not waived, any rights, defenses, immunities and protections provided by Ohio law or any common-law immunity or limitation of liability, all of which are hereby reserved by the parties hereto.

D. Notwithstanding the foregoing, nothing contained in this Section shall waive, nor shall it be construed to waive, any rights and benefits either party has with regard to its status under the insurance coverage described in Section XII of this Agreement.

XIV. WORKERS' COMPENSATION

Agency hereby certifies that it maintains insurance, self-insurance or coverage equivalent to the Ohio Workers' Compensation. In the event its employee pursues a claim in his or her home jurisdiction, the Agency shall be responsible for all liability and loss related to the claim.

XV. TERM

This Agreement shall be effective upon complete execution of this Agreement by Agency and the City of Cleveland. All operational assistance commitments will cease with the release of Agency's respective personnel from RNC security duty. Covenants and responsibilities articulated herein which are necessarily ongoing in nature including, without limitation, financial obligations and records retention requirements, shall survive and remain effective following termination of the operational assistance commitment.

XVI. MODIFICATIONS

The terms of this Agreement may be modified at any time by written consent of the parties. Modifications to Agreement shall have no force and effect unless such modifications are reduced to writing and signed by an authorized representative of each party.

XVII. MUTUAL BENEFITS TO PARTIES – CONSIDERATION

Other than the items set forth in Section VII, further consideration for this Agreement shall be non-monetary and shall consist of enhanced public safety and improved law enforcement activity in the Cleveland, Ohio area in preparation for, and during the RNC event, and other mutual benefits through the cooperative efforts of the parties to this Agreement.

XVIII. TERMINATION

A. The City of Cleveland may terminate this Agreement without penalty based on the occurrence of any of the following events:

1. Cancellation of the RNC event; or
2. If the City of Cleveland is unable to purchase and provide the insurance coverage described in Section XII of this Agreement in a timely manner; or
3. Failure of the Agency to comply with or perform any material term, condition or obligation contained in this Agreement and failure to cure such default within seven (7) calendar days after the City of Cleveland provides Agency with written notice of such failure.

4. If the City of Cleveland is unable to obtain the United States Bureau of Justice Assistance grant referenced in Article VIII of this Agreement.

B. Agency may terminate this Agreement without penalty based on the occurrence of any of the following events:

1. Cancellation of the RNC event; or

2. If the City of Cleveland is unable to or fails to purchase and provide the insurance coverage described in Section XII of this Agreement in a timely manner; or

3. The Agency determines it does not have the resources available to participate in the RNC event; or

4. Failure of the City of Cleveland to comply with or perform any material term, condition or obligation contained in this Agreement and failure to cure such default within seven (7) calendar days after the Agency provides the City of Cleveland with written notice of such failure.

5. If the City of Cleveland is unable to obtain the United States Bureau of Justice Assistance grant referenced in Article VIII of this Agreement.

XIX. NOTIFICATION

Notices concerning the termination of this Agreement, alleged or actual violations of the terms or conditions of this Agreement, and any and all other notices that may or should be given to either party under this Agreement will be made to each party as follows:

City of Cleveland: Chief of Police, Cleveland Division of Police, 1300 Ontario Avenue, 9th Floor, Cleveland, Ohio 44113; with a copy to Law Director, Department of Law, City of Cleveland, 601 Lakeside Avenue, Room 601, Cleveland, Ohio 44114.

Agency: _____

XX. RECORDS AND DISSEMINATION OF INFORMATION

A. Agency agrees to provide prior notice to the City of Cleveland of any request for and/or release, transmission, or disclosure of information associated with or generated as a result of the work performed under this Agreement.

B. In the event of the need for personnel or other records in criminal and/or civil proceedings, the Agency agrees to provide such records as requested.

XXI. INDEPENDENT CONTRACTOR

A. It is not intended, nor shall it be construed, that any party or any officer, employee, or agent of the Agency is an officer, employee, loaned employee, or agent of the City for purposes of unemployment compensation, workers' compensation, governmental immunity, civil rights, or for any purpose whatsoever. Nothing contained in this Agreement shall be construed so as to find the Agency or its employees to be employees of the City of Cleveland, and the Agency's employees shall be entitled to none of the rights, privileges, or benefits of City of Cleveland employees.

B. Except to the extent covered by the insurance policy acquired by the City as referenced in Section XII and the "not to exceed" compensation amount described in Section VII, Agency

acknowledges that it remains fully responsible for any and all obligations as the employer of its personnel assigned to the RNC Event period including, but not limited to, responsibility for the payment of the earnings, overtime earnings, withholdings, insurance coverage, workers' compensation, death benefits, medical and legal indemnity where appropriate, and all other requirements by law, regulations, ordinance or contract.

C. To the extent an Agency employee individually pursues a third party action and the third party or any other party joins the City as a party to that action:

1. The City shall be immune from subrogation claims pursuant to the exclusive remedy provisions of Ohio's Worker's Compensation Act and/or Agency's state Worker's Compensation Act;

2. The Agency agrees to be responsible to the extent legally liable, for loss from any and all claim or claims made by that Agency's employee, for any alleged active or passive negligence or condition, caused or created in whole or in part by the City of Cleveland.

D. The City shall refer disciplinary matters involving Agency employees to the employing Agency for an investigation that may be jointly conducted by the CDP and the Agency unless, based on the judgment of the City, that a particular matter represents probable cause for the issuance of a criminal complaint, in which case the matter shall be referred directly to an external law enforcement Agency for investigation with appropriate notice to the Agency.

XXII. GOVERNING LAW; COMPLIANCE WITH LAWS

A. Each and every term, condition, or covenant herein is subject to and shall be construed in accordance with Ohio law and applicable federal law. Any action arising from this Agreement shall be brought and maintained in a state or federal court in Cuyahoga County, Ohio, which shall have exclusive jurisdiction of such action. No legal or equitable rights of the parties shall be limited by this Section.

B. Both the City of Cleveland and the Agency agree to comply with applicable federal, Ohio, and City of Cleveland laws or ordinances.

XXIII. MISCELLANEOUS

A. The captions and headings set forth in this Agreement are for convenience of reference only, and shall not be construed as defining or limiting the terms and provisions in this Agreement.

B. If any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the State of Ohio or the Charter of the City of Cleveland, the validity of the remaining portions or provisions shall not be affected, and the rights and obligation of the Agency shall be construed and enforced as if the Agreement did not contain the particular part, term or provision.

C. This Agreement may be executed in two counterparts, each of which shall be deemed to be an original of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date specified.

CITY OF CLEVELAND

Michael McGrath, Director
Department of Public Safety

Date: _____

Calvin Williams, Chief
Division of Police

Date: _____

ASSISTING AGENCY:

Print Name of Agency

Mayor or County Executive -- [Signature]

Print Name and Title

Date: _____

Chief of Police or Sheriff -- [Signature]

Print Name and Title

Date: _____

Approved as to form and correctness:

CITY OF CLEVELAND
BARBARA LANGHENRY, DIRECTOR OF LAW

By: _____

Date: _____

AGENCY _____
LEGAL COUNSEL _____

By: _____

Date: _____

Placed on first reading and referred to the Rules and Ordinances Committee September 8, 2015; second reading September 21, 2015. Substitute recommended for adopted December 14, 2105. Please substitute for the original.

ORDINANCE NO. 27-15

BY:

AN ORDINANCE enacting Chapter 721, Donation Boxes, of the Codified Ordinances of the City of Lakewood, and establishing related fees.

WHEREAS, the proliferation of clothing donation receptacles and other donation boxes within the city warrants the imposition of reasonable regulations by the city as to their placement, maintenance and use; and

WHEREAS, Article 18, Section 3 of the Constitution of the State of Ohio permits municipalities to exercise all powers of local self-government and to adopt and enforce within their limits such as local police, sanitary and other regulations as are not in conflict with general laws; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Chapter 721, Donation Boxes, of the Codified Ordinances of the City of Lakewood shall be and is hereby enacted to read as follows:

CHAPTER 721
Donation Boxes

721.01 DEFINITION.

As used in this chapter, "donation box" means a receptacle designed with a door, slot or other opening that is intended to accept and store donated items including but not limited to clothing or household items. Donation boxes shall not include trailers where persons are present to accept donations at all times that the trailer is present and are accepting donated items.

721.02 REGULATION OF DONATION BOXES.

No owner, tenant or occupant shall place or maintain or permit to be placed or maintained at or on the owner's, tenant's or occupant's premises in the City any donation box except after the following criteria have been met:

- (a) Eligibility. The building commissioner shall not issue an annual permit to any donation box owner who or which is not a tax-exempt organization under the Internal Revenue Code, does not maintain a donation box in accordance with the standards established in this chapter, or has had its permit revoked within the past 12 months.
- (b) Application. The building commissioner shall not issue an annual permit to any donation box owner unless the donation box owner has filed an application with the City that includes all of the following:

- (1) the location of any donation box proposed to be placed by the applicant in the City, including a site plan drawing showing the location of each donation box to be placed;
- (2) the name, address, phone, fax and email contact information of the property owner, tenant or occupant upon whose property a donation box would be placed, along with written authorization of the owner of the property for the placement of the donation box;
- (3) the name, address, phone, fax and email contact information of the donation box owner;
- (4) the name, address, phone, fax and email contact information of a person primarily responsible for placing, emptying, servicing, maintaining and removing the donation box to be placed; and the interval of time within which the person will regularly empty, service and maintain the donation box;
- (5) the payment of an application fee, per donation box to be placed, established by Council.

A permit is valid from the date of issuance through December 31 of each year, is not transferable, and does not automatically renew.

- (c) Conformity with other code. The building commissioner shall not issue a permit unless he or she finds that no provisions of Parts Eleven and Thirteen of the Code, including use restrictions, setback requirements and off-street parking requirements, would be violated by the placement of a donation box.
- (d) Use regulations.
 - (1) No person shall place or maintain or permit to be placed or maintained a donation box in any location that unreasonably obstructs sight lines of vehicular traffic.
 - (2) A donation box shall not exceed 78 inches in height (measured from grade), 60 inches in width and 60 inches in depth.
 - (3) Every donation box shall be maintained in a neat and clean condition and in good repair at all times. Every donation box shall be serviced and maintained so that it is free of rust, corrosion, dirt, grease, chipped, fading, peeling or cracked paint, cracks, dents, blemishes and discoloration.
 - (4) Every donation box shall be emptied, ~~and donated items removed from the areas around the donation box,~~ regularly and, in any event, no more than 48 hours after the City's notification to the donation box owner, or the property owner, tenant or occupant, that the donation box is full. The area around each donation box shall be cleared of donated items at the same time, notwithstanding whether those items are considered litter.
 - (5) Every donation box shall clearly bear the name, address and phone number of the donation box owner, as well as a notice, in bold-faced

text that must be clearly legible to a donor of property, reading as follows:

"Placing donated items outside this box is prohibited and is punishable as littering (L.C.O. 521.08)."

- (6) No more than one donation box shall be permitted on any single parcel of property.
- (7) Any donation box placed or maintained in the City that is not permitted by the City, and any donated items left outside a donation box, shall be subject to impoundment by the City. If impounded, a donation box and donated items may be released to the owner upon the payment of an impound fee established by Council. If impounded for more than 30 days, a donation box and donated items may be sold for scrap or otherwise disposed of by the City.
- (8) The permit issued for any donation box may be revoked, after reasonable notice is attempted to be given to the donation box owner, if the donation box is placed or maintained in violation of this chapter.

721.03 APPEALS.

Any person affected by a decision of the building commissioner under this chapter may appeal from that decision to the Board of Building Standards and Building Appeals within 10 days of receiving notice of the decision. An appeal shall not act as an automatic stay of the decision from which appeal has been made.

721.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor for a first offense, and for a second or subsequent offense, shall be guilty of a misdemeanor of the fourth degree.

Section 2. Council hereby establishes an application fee of \$100.00 per donation box pursuant to Section 721.02(b)(5).

Section 3. Council hereby establishes an impound fee of \$25.00 per day pursuant to Section 721.02(d)(7).

Section 4. Any donation boxes existing in the City as of the effective date of this ordinance shall be subject to the regulations in this ordinance.

Section 5. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

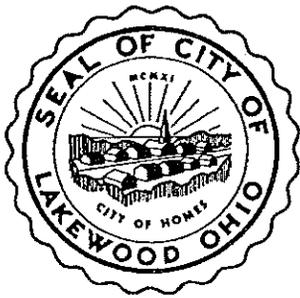
Adopted: _____

PRESIDENT

CLERK

Approved: _____

MAYOR



12650 DETROIT AVENUE • 44107 • 216/521-7580 • fax 216/521-1379
Website: www.onelakewood.com

MICHAEL SUMMERS
MAYOR

December 21, 2015

Lakewood City Council Members
Lakewood, Ohio 44107

Re: Mayoral Commission Appointments

Council Members –

This letter is to serve as notification of my appointments for Planning Commission, Architectural Board of Review and the Board of Zoning Appeals:

Planning Commission

Glenn Coyne, Executive Director, Cuyahoga County Planning Commission
Term: 1/1/2016 through 12/31/2021

Architectural Board of Review

Amy Haney, Development Project Manager at Stark Enterprises
Term: 1/1/2016 through 12/31/2020

Board of Zoning Appeals

Zac Brown, Consultant & Chief Compliance Officer at Courtland Partners, LLC
Term: 1/1/2016 through 12/31/2020

Thank you to these residents for being willing to volunteer their time and talent to help keep Lakewood strong and vibrant.

Very truly yours,

Michael P. Summers, Mayor



DEPARTMENT OF PLANNING & DEVELOPMENT
DRU SILEY, DIRECTOR

12650 Detroit Avenue • 44107 • (216) 529-6630 • FAX (216) 529-5936
www.onelakewood.com/development

December 21, 2015

Lakewood City Council
Lakewood, OH 44107

RE: Communication from Planning Commission regarding St Charles Green Park

Dear Members of Council:

The Planning Commission had the opportunity to review the ordinance to change the name of St. Charles Green to St. Charles Park at its September and November meetings. Based on the information provided the Commission has the following recommendation to City Council:

The Commission is open to the idea of beginning the discussion of these 6 parcels being considered as part of the neighborhood and pocket park network in the Parks Strategic Plan. At this time we wouldn't recommend a formal park designation without more input from community members, and further analysis of the land and needs for a formal park.

The Commission acknowledges that this green provides an amenity to the surrounding neighborhood in its current condition but may warrant additional improvements to better serve Lakewood's residents. However, as with any of the City's greenspace, in order to determine the necessary improvements, if any, public input will be essential.

Please let me know if you have any questions.

Sincerely,

Dru Siley
Director