



# Regular Council Meeting

Tuesday, May 17, 2022 at 7:00 pm

1. Call to Order
2. Pledge of Allegiance
3. Moment of Silence
4. Roll Call
5. Persons having business before Council
6. Mayor's Report
7. Council Comments
8. Legislation

a. **Ordinance 2022-6 Fireworks H.B. 172 Opt-Out**

**Attachments:**

- **Ordinance 2022-6 Fireworks H.B. 172 Opt-Out** (Ordinance\_2022-6\_Fireworks\_HB\_172\_Opt-Out.docx)

b. **Resolution 2022-7 Walton Hills Lake Club Agreement**

**Attachments:**

- **Resolution 2022-7 Walton Hills Lake Club Agreement** (Resolution\_2022-7\_\_Walton\_Hills\_Lake\_Agreement.docx)

c. **Resolution 2022-11 Kimble Recycling and Disposal**

**Attachments:**

- **Resolution 2022-11 Kimble Recycling and Disposal** (Resolution\_2022-11\_Kimble\_Recycling\_and\_Disposal.docx)
- **Kimble Recycling and Disposal Exhibit A** (Resolution\_2022-11\_Kimble\_Recycling\_and\_Disposal\_Exhibit\_A.docx)

d. **Resolution 2022-12 T Jordan and Associates**

**Attachments:**

- **Resolution 2022-12 T Jordan and Associates** (Resolution\_2022-12\_T\_Jordan\_and\_Associates\_2022.docx)
- **T Jordan and Associates Exhibit A** (Resolution\_2022-12\_T\_Jordan\_and\_Associates\_Exhibit\_A.docx)

9. **Old and New Business**

10. **Motion to Enter Into Executive Session to Discuss Pending Litigation and Economic Development 7845 Northfield Road**

**11. Motion to Reconvene From Executive Session**

**12. Adjournment**

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| Agenda published on 05/16/2022 at 4:07 PM

**VILLAGE OF WALTON HILLS, OHIO**

**ORDINANCE NO. 2022-6**

**INTRODUCED BY COUNCILPERSON**

**AN ORDINANCE OPTING OUT OF H.B. 172 AND REAFFIRMING THE BAN ON DISCHARGING, IGNITING, OR EXPLODING FIREWORKS IN THE VILLAGE OF WALTON HILLS, AS SET FORTH IN CHAPTER 678 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF WALTON HILLS, AND DECLARING AN EMERGENCY.**

**WHEREAS**, The Governor recently signed H.B. 172, amending Ohio Revised Code 3743.45, effect July 1, 2022, allowing any person authorized to possess consumer grade fireworks to discharge, ignite, or explode fireworks on their property, or if permitted, on another person's property on certain designated days of the year; and

**WHEREAS**, H.B. 172 also provides that pursuant to home rule authority, a municipality may choose to restrict the days and times that a person may discharge consumer grade fireworks or may impose a complete ban on the use of consumer grade fireworks; and

**WHEREAS**, this Council finds that continuing the ban on the discharge of consumer grade fireworks, as set forth in Chapter 678 of the Codified Ordinances, will best protect the public's right to the quiet enjoyment of their premises; and

**WHEREAS**, this Council finds that the unsafe and illegal discharge of fireworks poses a significant danger to the public that may cause serious injuries as well as significant property damage, especially in densely populated residential and business areas; and

**WHEREAS**, both Fire Chief Schade and Police Chief Jaworski strongly recommend that the Council of the Village of Walton Hills opt-out of H.B. 172 and reaffirm the existing ban on discharging, igniting, or exploding fireworks set forth in Chapter 678 of the Codified Ordinances; and

**WHEREAS**, the Administration and Council of the Village of Walton Hills finds that it is in the best interest of the public to continue to ban the discharge, ignition, and explosion of fireworks otherwise permitted in H.B. 172, as set forth in existing Chapter 678 of the Codified Ordinances of the Village of Walton Hills.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF WALTON HILLS, STATE OF OHIO, THAT:**

**SECTION 1:** That the Council of the Village of Walton Hills expressly opts-out of the provisions set forth in H.B. 172, and reaffirms the ban on discharging, igniting, or exploding fireworks as set forth in Chapter 678 of the Codified Ordinances of the Village of Walton Hills.

**SECTION 2:** That all formal actions of Council relating to the adoption of this ordinance, and all deliberations of Council and any of its committees leading to such action, were in meetings open to the public as required by R.C. 121.22.

**SECTION 3:** That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public health, safety and welfare to expedite the changes; wherefore this Ordinance shall take effect and be in force upon receiving the affirmative vote of two-thirds (2/3) of the Village Council and signature of the Mayor, otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

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DONALD P. KOLOGRAF, MAYOR

PASSED: \_\_\_\_\_, 2022

ATTEST: \_\_\_\_\_

ANGELA REVAY, FISCAL OFFICER

**VILLAGE OF WALTON HILLS, OHIO**

**RESOLUTION NO. 2022-7**

**INTRODUCED BY COUNCILPERSON**

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE WALTON HILLS CLUB CO. (“COMPANY”), AN OHIO CORPORATION D.B.A. WALTON HILLS LAKE, FOR THE PROVISION OF RECREATION SERVICES FOR THE BENEFIT OF THE RESIDENTS OF THE VILLAGE THROUGH THE REMAINDER OF THE CALENDAR YEAR 2022 AND DECLARING AN EMERGENCY**

**WHEREAS**, the Village has entered into a contract with the Walton Hills Club Co. (“Company”), an Ohio Corporation d.b.a. Walton Hills Lake, for certain recreation services for the benefit of the residents of the village; and

**WHEREAS**, the Company agrees to provide such services for a one year period; and

**WHEREAS**, the Council deems it in the best interest of the Village to contract with the company to provide said recreation services as exemplified in the agreement attached hereto as Exhibit “A” and made a part hereof as if fully rewritten herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF WALTON HILLS, COUNTY OF CUYAHOGA AND STATE OF OHIO, THAT:**

**SECTION 1.** The Mayor be and he is hereby authorized to enter into an agreement with Walton Hills Club Co. d.b.a. Walton Hills Lake for the provision of recreation services for the benefit of the residents of the Village through the remainder of the calendar year 2022 as delineated in Exhibit “A” attached hereto and made a part hereof as if fully rewritten herein.

**SECTION 2.** This Council finds and determines that all formal action of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public and in compliance with the law.

**SECTION 3.** This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare for the reason stated in the preamble hereof, and provided it receives the affirmative vote of two-thirds (2/3) of the Village Council and signature of the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

\_\_\_\_\_  
DONALD KOLOGRAF, MAYOR

PASSED: \_\_\_\_\_, 2022

ATTEST: \_\_\_\_\_  
ANGELA REVAY, FISCAL OFFICER

## WALTON HILLS LAKE SERVICE AGREEMENT

This is an Agreement made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2022, by and between Walton Hills Club Co. ("Company"), an Ohio Corporation d.b.a. Walton Hills Lake, located at 7157 Rotary Drive, Walton Hills, Ohio 44146, and the Village of Walton Hills ("Village"), a municipal corporation located at 7595 Walton Road, Walton Hills, Ohio 44146.

WHEREAS, the Village desires to contract with the Company to provide certain recreation services for the benefit of the residents of the Village; and

WHEREAS, the Company agrees to provide such services.

NOW, THEREFORE, in consideration of mutual promises and covenants set forth in this Agreement, the parties do hereby agree as follows:

### Section 1.     SERVICES

The Company hereby agrees to provide recreational services as follows:

1.     Participation and accessibility to the Lake property shall be open to all residents on an equal basis in a limited capacity without membership as stated herein.

2.     Lake Events

A. The following Lake program events shall be open and free of charge to all Walton Hills residents except as noted and all events are subject to change or cancellation based on health guidelines from the CDC and the State government:

Opening day;  
Meet your neighbor night;  
Open House with Entertainment  
July 4<sup>th</sup> (extra charge for concession food may apply);  
Labor Day

B. The following Walton Hills resident program events will be open and free of charge to residents and participating non-residents:

Village Parker Picnic;  
Village Sports Banquet

3. Recreation and swimming services with certified lifeguards on duty during scheduled times shall be provided to all users, subject to inclement weather for the activities stated in paragraph 5 of this agreement. In addition, non-member Village residents can take swimming lessons at Walton Hills Lake for a \$15.00 fee per person per course. A \$25.00 fee will be charged for non-member, non-residents per person per course. Certificates will be awarded upon successful completion of the swimming course. Swim lessons  
  
and/or scheduled times when the Lake will have lifeguards on duty will be subject to the availability of sufficient lifeguards to implement the program to insure safety.
4. Other programs suitable for various age groups at appropriate times and pursuant to interest shall be available to all Village residents so that all interested residents shall have an opportunity to use the facility. Fees may be charged for additional programs not specified as free herein.
5. The Company shall schedule two days per week for the Parker program (Tuesdays and Thursdays) for two hours from 1:30 p.m. to 3:30 p.m. The Village Recreation Director or recreation employee approved by the Lake shall be responsible for monitoring the children in the Parker program with adequate chaperones or Recreation Department personnel (recommended rate of at least one chaperone for each five (5) children).
6. The scope of this contract may be changed during the period of its enforcement, subject to mutual consent by the Village Legislative Authority and the Trustees of the Company. It is also agreed that there will be a coordination of all programs considered for implementation by the Company with the Village Recreation Director. All added services may result in an increased service charge if mutually agreed upon by both parties.
7. All residents shall be subject to the Walton Hills Lake Rules and Regulations. The current Rules and Regulations of the Walton Hills Lake are incorporated into and made a part of this agreement and are attached as Exhibit "A".

Section 2. TERM

This agreement shall commence upon its adoption and execution and shall continue through December 31, 2022.

Section 3. COMPENSATION

Village agrees to compensate Company in the following amount for services rendered upon proper invoice:

2022	\$ 20,000
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Payment will be made in one lump sum on or before June 1 of each year.

The Village shall absorb the tonnage cost for rubbish removal from the Walton Hills Lake facility.

Section 4. NOTICES

All changes and additions to this agreement and notices from one party to the other shall be made to:

<u>Village</u>	<u>Company</u>
Mayor and Council	President and Trustees
Village of Walton Hills	Walton Hills Lake
7595 Walton Road	7157 Rotary Drive
Walton Hills, OH 44146	Walton Hills, OH 44146

Section 5. RECORDS INSPECTION

Upon request by the Village, the Company shall make available for inspection and copying all financial records and trustee meeting minutes of the Company.

Section 6. INDEMNIFICATION

Each party agrees to defend, indemnify and hold each other harmless for any and all losses, liabilities, costs, damages, suits, actions, proceedings and expenses, including but not limited to reasonable attorney's fees, resulting from or related to or attributable to (1) any breach of this agreement committed by them, their employees or agents; (2) any negligent, reckless, wanton or willful act committed by them, their employees or agents.

Section 7. INSURANCE

The Company hereby certifies that during the term of this agreement, it shall maintain general comprehensive liability insurance coverage in the amount of a minimum of One Million Dollars (\$1,000,000.00) and maintain workers compensation coverage as statutorily required.

The Company shall provide the Village with certificates of insurance evidencing the insurance set forth above, identifying the name of the insurance company, the policy number and



expiration date and shall name Village as an additional insured and shall contain a statement that Village shall receive thirty (30) days prior written notice of cancellation or modification of any such insurance policies.

Section 8. RELATIONSHIP

Nothing in this agreement shall be deemed to constitute a joint venture or partnership or any other arrangement, business or financial or otherwise between the parties hereto except as expressly stated herein. Without limiting the foregoing, the parties acknowledge that neither is a partner, agent or legal representative of the other for any purpose and neither party is granted by the terms or execution of this agreement any express right, implied right or authority to assume or create any obligation or responsibility on behalf or in the name of the other or to bind the other in any manner.

Section 9. HEADINGS

The section headings contained in this agreement are for convenience only and shall not in any way affect the interpretation of enforceability of any provision of this agreement.

Section 10. NO WAIVER

No waiver, amendment or modification of any provision of this agreement shall be effective unless in writing and signed by both parties. The failure of a party to insist in any one or more instances on strict performance of any of the terms and conditions of this agreement or failure to exercise any right or remedy contained in this agreement shall not be considered as waiving any such terms, conditions, rights or remedies and the same shall be in full force and effect as if no waiver occurred.

Section 11. ASSIGNMENT

The Company shall not have the right to assign this agreement without the express written consent of Village.

Section 12. EFFECT OF PARTIAL INVALIDITY

If any provision of this agreement is held to be unenforceable, invalid or void to any extent for any reason, that provision shall remain in force and effect to the maximum extent allowable, if any, and the enforceability and validity of the remaining provisions of this agreement shall not be affected thereby.

Section 13. ENTIRE AGREEMENT

This agreement shall constitute the entire agreement of the parties.

Section 14. GOVERNING LAW

This agreement is executed in the State of Ohio and shall be governed and construed in accordance with the law of the State of Ohio.

Section 15. FINANCIAL DISCLOSURE

The Company shall provide to the Village full and complete disclosure of its financial condition, including financial reports, tax records, income and expense records within thirty (30) days of written demand by the Village.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed individually or by their respective officers duly authorized and stated below.

WITNESSES:

THE VILLAGE OF WALTON HILLS

\_\_\_\_\_

\_\_\_\_\_  
Mayor

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Village Fiscal Officer

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

\_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Solicitor

WITNESSES:

WALTON HILLS CLUB CO., dba  
WALTON HILLS LAKE

\_\_\_\_\_

By: \_\_\_\_\_  
Representative

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

\_\_\_\_\_

**VILLAGE OF WALTON HILLS, OHIO**

**RESOLUTION NO. 2022-11**

**INTRODUCED BY COUNCILPERSON**

**A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT THE BID OF KIMBLE RECYCLING & DISPOSAL, INC. FOR SOLID WASTE REMOVAL AND RECYCLING SERVICES AND ENTER INTO AN AGREEMENT FOR SAID SERVICES FOR A FIVE (5) YEAR PERIOD PURSUANT TO SAID BID, AND DECLARING AN EMERGENCY.**

**WHEREAS**, Council is aware that the current contract for solid waste removal for Village residents is due to expire on July 31, 2022; and

**WHEREAS**, the Village Council authorized solid waste removal and recycling services for Village residents to go to bid through the consortium of municipalities that include Bedford, Bedford Heights, Walton Hills and Orange Village, and said bid request was properly advertised, bids were received, opened, tabulated and reported to all municipalities in the consortium; and

**WHEREAS**, Kimble Recycling & Disposal, Inc. submitted the bid that the consortium finds to be the lowest, responsive, responsible and best bid submitted; and

**WHEREAS**, Village Council desires to have the Mayor enter into a contract with Kimble Recycling & Disposal, Inc. for a five (5) year period with the option to extend the contract for (2) additional one year terms pursuant to the bid accepted, attached as Exhibit "A", and pursuant to an agreement substantially similar to the agreement attached as Exhibit "B", wherein the refuse and recycling carts owned by Kimble Recycling & Disposal, Inc. will be assigned to each Village residence.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF WALTON HILLS, STATE OF OHIO, THAT:**

SECTION 1. That the Village Council hereby finds and determines that the bid advertisement for the solid waste collection and recycling services for the residents of the Village of Walton Hills, Ohio was duly made according to law; that bids have been received, opened and reported to Council, and that this Council does hereby accept the bid of Kimble Recycling & Disposal, Inc. as the lowest, responsive, responsible and best bid, and the Mayor is hereby authorized to enter into a contract for said services in accordance with the bid proposal terms.

SECTION 2. This Council finds and determines that all formal action of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public and in compliance with the law.

SECTION 3. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety in the Village of Walton Hills, so as to avoid any interruption in solid waste collection and recycling service to the Village; wherefore this Resolution shall take effect and be in force upon receiving the affirmative vote of two-thirds (2/3) of the Village Council and signature of the Mayor, otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

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DONALD KOLOGRAF, MAYOR

PASSED: \_\_\_\_\_, 2022

ATTEST: \_\_\_\_\_

ANGELA REVAY, FISCAL OFFICER



Village of Walton Hills  
Walton Road • Walton Hills Ohio, 44146  
alman – Street Commissioner/Building Inspector

May 4, 2022

**SOLID WASTE COLLECTION AND RECYCLING PROGRAM BID TABULATION  
AND  
RECOMMENDATION**

Mayor,

On Wednesday April 27, 2022 the City of Bedford opened bids for the Solid Waste collection and recycling program for the Solid Waste Consortium consisting of the City of Bedford, Bedford Heights and the Villages of Orange and Walton Hills. A total of Four (4) bids and (2) alternate bids were received.

The bids were verified by the City of Bedford and are attached.

Walton Hills cost estimates are based on the use of 977 / units and the disposal of 993 tons of solid waste per year collected. Using those numbers, the five (5) year base bid for each bidder is as follows:

<u>Bidder</u>	<u>Unit</u>	<u>Disposal</u>	<u>Total</u>
Rumpke	\$842,721.12	\$242,043.75	\$1,084,764.80
Kimble	\$851,514.12	\$241,874.94	\$1,093,389.00
Republic	\$1,099,945.60	\$273,809.82	\$1,373,755.40
Waste Man	\$1,196,903.10	\$270,264.81	\$1,467,167.90
Republic (ALT)	Combined unit and waste disposal		\$1,350,135.80
Waste Man (ALT)	\$866,754.98	\$267,249.81	\$1,134,004.70

The apparent low bidder is Rumpke with a difference of \$8,624.20 for the five (5) year base contract.

After the review of the contracts and meeting with the consortium members, the Service Directors of the Consortium have unanimously recommended awarding the contract to Kimble Recycling and Disposal Inc. The consortium found that Kimble has no exceptions to the bid for Request for Proposal and the contractor currently has trash and recycle totes distributed to the residents within the communities. Rumpke of Ohio, Inc. Included performance requirements / exceptions and has listed items contained in the bids as unacceptable items. That list includes appliances containing refrigerant and / or freon, TV's larger then 32", tires. The cost for refrigerant / freon removal may exceed \$150 per unit. Rumpke of Ohio, Inc. list of exceptions are attached for your review.

Respectfully,

Rob Kalman  
Street Commissioner



Village of Walton Hills  
Walton Road • Walton Hills Ohio, 44146  
alman – Street Commissioner/Building Inspector

**VILLAGE OF WALTON HILLS, OHIO**

**RESOLUTION NO. 2022-12**

**INTRODUCED BY COUNCILPERSON**

**A RESOLUTION AUTHORIZING THE MAYOR AND THE FISCAL OFFICER OF THE VILLAGE OF WALTON HILLS TO ENTER INTO AN AGREEMENT WITH T. JORDAN AND ASSOCIATES, LLC FOR ECONOMIC DEVELOPMENT, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Village entered into an Agreement on June 18, 2019 with T. Jordan and Associates, LLC and hereby desire to amend said Agreement; and

**WHEREAS**, T. Jordan and Associates, LLC shall give the Village the benefit of Tom Jordan's skill in performing tasks and delivering milestones as described in the attached Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF WALTON HILLS, STATE OF OHIO, THAT:**

**SECTION 1.** The Mayor and the Fiscal Officer of the Village of Walton Hills be and they are hereby authorized and directed to enter into contract with T. Jordan and Associates, LLC for economic development services as is further described in the contract which is attached as Exhibit A.

**SECTION 2.** The Village Council finds and determines that all formal action of this Council concerning and relating to the adoption of this Resolution was taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public and in compliance with the law.

**SECTION 3.** That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety in the Village of Walton Hills, Ohio; and for the further reason to allow the repairs to begin immediately; wherefore this Resolution shall take effect and be in force upon receiving the affirmative vote of two-thirds (2/3) of all members elected to Council, otherwise from and after the earliest period allowed by law.

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DON KOLOGRAF, MAYOR

PASSED: \_\_\_\_\_, 2022

ATTEST: \_\_\_\_\_  
ANGELA REVAY, FISCAL OFFICER

## CONSULTING AGREEMENT

### Amended and Restated

Consulting Agreement (“Agreement”) made this 17<sup>th</sup> day of May, 2022, by and between, Village of Walton Hills a municipal corporation in and of the State of Ohio (the “City”) with a principal place of business at 7595 Walton Road, OH 44146 and T. Jordan & Associates, LLC, a limited liability company with its principal place of business at 15830 Edgecliff Rd., Cleveland Ohio 44111 (the “Consultant”).

1. WHEREAS, the Consultant and the City desire to amend the Consulting Agreement dated June 19, 2019 between the Consultant and the City (the “Original Agreement”) to increase the compensation of the Consultant, the Original Consulting Agreement is hereby amended and restated.

2. Consulting Services. During the term of this Agreement (the “Term”), at the request of the City, the Consultant shall give to the City the benefit of the Consultant's skill in performing the tasks and delivering the milestones, deliverables and other items described in the Project Overview document attached hereto as Schedule A hereto (the “Consulting Services”). The Consultant will devote such time as is reasonably necessary to perform the Consultant's duties and obligations under this Agreement. Consultant will keep the City updated, promptly upon the City's request, of any progress, problems, and/or developments of which Consultant is aware regarding the Services.

3. Compensation. The Consultant's compensation for the satisfactory performance of the Consulting Services rendered under this Agreement shall be as described on Schedule B hereto. In addition, the City shall reimburse the Consultant for reasonable travel expenses that are pre-approved in writing by the City.

4. Term. Unless terminated earlier pursuant to Section 10 below, the Term of the Consultant's engagement shall be for an initial period of 12 months commencing on or about April 1, 2022 and continuing through March 31, 2023; the Term shall be renewed for additional one (1) year periods unless either the Consultant or the City shall give notice of non-renewal to the other party not less than thirty (30) days prior to the end of the immediately prior Term.

5. Assistance. During the Term, the City shall make available to the Consultant such facilities and personnel as are reasonably necessary to enable the Consultant to provide the Consulting Services.

6. Nondisclosure and Trade Secrets.

(a) Prior to the date hereof, and during the term of this Agreement, Consultant has received, and may continue to receive and otherwise be exposed to, “Information”. Information means confidential information (whether or not reduced to writing or other medium) concerning the organization, business or finances of the City or business proposing to do business with the City including, but not limited to, trade secrets or confidential information respecting inventions, products, designs, methods, techniques, systems, processes, engineering



data, software programs, algorithms, formulae, works of authorship, internal organization, employee lists, customer and supplier lists and accounts, pricing and costing methods, projects, plans, proposals and non-public financial information, and all derivatives, improvements, and enhancements to any of the above which are created or developed by Consultant under this Agreement.

(b) Consultant acknowledges that the Information is the sole, exclusive and extremely valuable property of City. Accordingly, Consultant agrees to segregate all Information from information of other municipalities and agrees not to reproduce any of the Information without City's prior written consent, not to make use of knowledge which the Consultant acquires respecting the Information except for and on behalf of the City, and solely within the course and scope of the performance of this Agreement, and not to disclose directly or indirectly all or any part of the Information in any form to any third party, either during or after the term of this Agreement. This obligation shall be in force unless and until such Information becomes generally available to the public by publication or other legal means (but not as a result of breach of this Agreement or other unlawful use or publication). Consultant realizes that the above applies to all confidential information of others entrusted to the City.

(c) Consultant shall not make, use or permit to be used any City Property otherwise than for the benefit of the City. The term "City Property" shall include all notes, notebooks, memoranda, reports, lists, records, drawings, sketches, specifications, software programs, software code, data, graphics, computers, test equipment, models, tools, cellular telephones, pagers, credit and/or calling cards, keys, access cards, documentation or other materials of any nature and in any form, whether written, printed, electronic or in digital format or otherwise, relating to any matter within the scope of the business of the City or concerning any of its dealings or affairs and any other City Property in Consultant's possession, custody or control (whether prepared by Consultant or others). Consultant further agrees that Consultant shall not, after the termination of its engagement hereunder, use or permit others to use any such City Property. Consultant acknowledges and agrees that all City Property shall be and remain the sole and exclusive property of the City. Immediately upon the termination of Consultant's engagement hereunder Consultant shall deliver all City Property in its possession or under its control, and all copies thereof, to the City.

(d) Consultant shall not disclose or otherwise make available to the City in any manner any confidential and proprietary information received by Consultant from third parties. Consultant has not entered into, and agrees to not enter into, any agreement, either written or oral, in conflict herewith.

7. Independent Contractor. In performing the Consulting Services, the Consultant shall be deemed to be, and shall be, an independent contractor, and not a joint venture, partner, employee or agent with or of the City. Neither the City nor the Consultant shall have the power to bind the other, contractually or otherwise.

8. Assignment. The Consultant may not assign any of Consultant's rights or delegate any of its obligations under this Agreement without the prior written consent of the City. Any attempted assignment or delegation in violation of this Section shall be void. The City may assign this Agreement to any third party. This Agreement will be binding on the parties and their permitted successors and assigns hereunder.

9. Termination. This Agreement may be terminated prior to the expiration of the Term by (i) either party if the other breaches any of its obligations hereunder and fails to cure such breach within 10 days of receiving written notice from the other, or (ii) upon mutual agreement of the parties. Upon any termination of this Agreement, neither the Consultant nor the City shall have any further obligation to the other, except the terms and conditions of Sections 3, 6, 7, and 10 will survive termination of this Agreement for any reason.

10. General Provisions.

(a) Waiver of any provision of this Agreement, in whole or in part, in any one instance shall not constitute a waiver of any other provision in the same instance, nor any waiver of the same provision in another instance.

(b) Any notice required or permitted under this agreement shall be given in writing by (i) delivery in hand or (ii) nationally recognized overnight courier such as Federal Express, to the parties at their respective addresses specified above, or at such other address for a party as that party may specify by notice. Notice shall be effective upon receipt.

(c) UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ABSENT GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN ALL CASES, THE MAXIMUM LIABILITY OF EITHER PARTY TO THE OTHER HEREUNDER SHALL BE LIMITED TO THE TOTAL AMOUNT OF CONSULTING FEES THE CITY HAS PAID THE CONSULTANT HEREUNDER.

(d) This Agreement: (i) may be executed in counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument; (ii) shall be governed by and construed under the laws of the State of Ohio exclusive of its choice of law and of conflict of law principles; (iii) constitutes the entire agreement of the parties with respect to its subject matter, superseding all prior oral and written communications, negotiations, representations, courses of dealing, agreements, and the like between the parties in such respect; (iv) may be amended, modified, or terminated, and any right under this Agreement may be waived in whole or in part, only by a writing signed by both parties; (v) contains headings only for convenience, which headings do not form part, and shall not be used in construction, of this Agreement; and (vi) may be enforced only in courts located in Cuyahoga County, Ohio, and the parties hereby agree that such courts shall have venue and exclusive subject matter and personal jurisdiction, and consent to service of process by registered mail, return receipt requested, or by any other manner provided by law.

[Remainder of page intentionally left blank]

Executed as of the date first above written.

CITY

Village of Walton Hills

By: \_\_\_\_\_

Name: Don Kolograf

Title: Mayor

CONSULTANT

T. Jordan and Associates, LLC

By: \_\_\_\_\_

Name: Thomas Jordan

Title: President

**CERTIFICATE OF CITY FISCAL OFFICER**

The undersigned fiscal officer of the City hereby certifies that the moneys required to meet the obligations of the City during the year 2022 under this Consulting Agreement have been lawfully appropriated by the Council of the City for such purposes and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

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

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

## SCHEDULE A

### Project Overview

1. The Consultant shall perform economic development services as directed by the City.
2. The Consultant shall coordinate local county state, incentives for the city's businesses as directed, and assist in the drafting of any related correspondence and/or agreements or offers of incentives.
3. The Consultant shall and coordinate City's application for any public or private grants relating to economic development.
4. The Consultant shall assist in the development of any promotional material or respond to requests for information concerning economic development.
5. The Consultant shall keep informed of all available government and private incentives available to the City.
6. The Consultant shall be available for any public meetings relating to economic development.

## SCHEDULE B

### Compensation

1. The consultant shall be paid \$2,500 a month for services.
2. Any amount of hour in excess of 25 hours in any month shall be charged at \$100.00 an hour.
3. The consultant shall be paid an additional \$50,000.00 commission for each year (up to five years) that the City's net payroll taxes that are derived from the Former Walton Hills Ford Plant PPN #794-38-001 is \$2 million or more. The commission shall be paid on March 1, of each year following a calendar year when the threshold is met. The obligations to pay shall continue until the earlier of payment of \$250,000 or ten years from the date of the first payment. The obligation to make the payments shall survive the termination of this agreement by either party.

SCHEDULE C

Background Technology

The following is a complete list of all Background Technology relevant to Consultant's Services with City:

X No Background Technology  
\_\_\_\_\_ See Below

Background Technology owned by Consultant or provided by sublicense (with copy of licenses attached).

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