

AGENDA

Agenda, Bay Village City Council
Committee Meeting
Conference Room
Paul Koomar, President of Council, Presiding

March 14, 2016
7:30 p.m.

ANNOUNCEMENTS

COMMITTEE OF THE WHOLE

PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE-Lieske

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE-Vincent

**PUBLIC IMPROVEMENTS, STREETS/SEWERS/DRAINAGE COMMITTEE-
Henderson**

Review of Bids for Road Material Contracts for Street Maintenance – 2016

Update on Planning Process for Public Improvement Projects

FINANCE & CLAIMS COMMITTEE – Clark

2016 Budget

SAFEbuilt, Inc. Contract Review

RECREATION & PARK IMPROVEMENT COMMITTEE-Mace

SERVICES, UTILITIES & EQUIPMENT COMMITTEE-Tadych

Westlake-Bay Ecological Composting Facility Agreement

AUDIENCE

MISCELLANEOUS

CAHOON MEMORIAL PARK TRUSTEES

City of Bay Village

Council Minutes, Committee Session
Conference Room
Dwight Clark, Vice President of Council, Presiding

February 29, 2016
7:30 p.m.

Present: Clark, Henderson, Lieske, Mace, Tadych, Vincent, Mayor Sutherland

Excused: President of Council Koomar

Also Present: Finance Director Mahoney, Police Chief Spaetzel, Safety/Service Director Thomas, Recreation Director Enovitch and Operations Manager Landers.

AUDIENCE

The following audience members signed in this evening: Richard Majewski, Conda Boyd, Clair Banasiak, Richard Fink, and Jeff Gallatin.

ANNOUNCEMENTS

Mayor Sutherland advised that on Sunday, February 28, 2016 she attended the Project of the Year Award and the Citizen of the Year reception. There was particular pride in the award of Citizen of the Year to Auxiliary Policeman Jeff Hartz. The Mayor stated that Jeff does a great job as do the auxiliaries who are the unsung heroes of the City.

The Mayor stated that she will be in Columbus, Ohio all day Wednesday, weather permitting, working with a state-wide coalition on the Local Government Fund.

Mr. Clark expanded on the Mayor's comments about the Citizen of the Year reception, noting there was a full crowd at the reception held at BAYarts. There are 24 auxiliary police officers, and Jeff Hartz is a life-long Bay resident, well deserving, as are all the auxiliaries, of all the recognition received. Police Chief Spaetzel had the honors of making the presentation of Jeff Hartz and recognizing the work of the auxiliaries.

AUDIENCE COMMENTS

Conda Boyd stated that she is looking through the documents supporting the Live Scan System on the agenda this evening. She asked the date on the document. Police Chief Spaetzel stated that November 23, 2015 is the date they first received acceptance of the grant. Since that time, the State increased the equipment that will be received. The new date is February 5, 2016. The document with Chief Spaetzel's signature is dated December 8, 2015. Ms. Boyd asked why the Council is considering this acceptance more than two months later of something that has already been accepted by the Police Chief last year. She asked why legal documents are being signed that require Council's approval, without Council's approval. Chief Spaetzel stated that these are application documents; we have not yet received the equipment, and it may not be received for

another month. The document signed is an agreement that we accept their terms under which we will accept the equipment.

Mr. Clark stated that from a Council perspective, this request was originally looked at as something for which funds would be borrowed. The Chief was able to secure a grant, which took the proposed debt amount down about \$12,000. Chief Spaetzel stated that the original agreement was for \$12,000. They offered to provide an updated system with more equipment that actually values at \$21,558. This was originally a Capital item, and then a grant was sought. Because they were looking at the grant, it was removed from the Capital budget and it will be received after the acceptance of the Resolution at some time in the near future.

Ms. Boyd stated that she has no quarrel with the equipment itself, she just thinks that things should go through Council in proper order.

PLANNING, ZONING, PUBLIC BUILDINGS AND GROUNDS COMMITTEE

Mrs. Lieske had no report this evening.

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE

Acceptance of Live Scan System for the Bay Village Police Department from the State of Ohio, Office of the Attorney General.

Chief Spaetzel stated that this is a computerized system that allows the Police Department to gather fingerprint data from arrested persons. That data is automatically shipped down to the Bureau of Criminal Investigation where it is housed. It creates a criminal history, and the Bureau of Criminal Investigation only accepts rolled prints from certain vendors. This is one of the vendors. The information was sent to the state and it was accepted as an agreement to the operating issues. The items included originally were in the amount of \$12,000. In February they increased the equipment to the value of \$21,558. Once the Resolution is passed the equipment will be received and installed. Part of the cost is training in the use of the equipment. There is a yearly maintenance cost of \$2,200 which includes software upgrades. The first year of the maintenance agreement is free; subsequent years will be billed at \$2,200 per year. The vendor gives the equipment to the state and the state provides the grants to the communities.

Mr. Mace asked if all department members, or just specific personnel, will be trained on the use of this equipment. Chief Spaetzel stated that all department members will be trained.

Bureau of Workers' Compensation Workplace Wellness Grant Program.

Finance Director Mahoney stated that this is a four-year grant that provides that each employee that participates receives a health risk assessment and Biometric screening within the first three months of the grant program. The employee participation provides payment to the City, per employee, in the amount of \$300 over a four-year period: \$100 the first year, \$75.00 the second and third year, and \$50.00 the fourth year. There is a maximum award of \$15,000 paid by the Ohio Bureau of Workers' Compensation. The grant stipulation requires contracting with a third

party wellness program, which the City has done. The employee also has to participate in a healthy activity such as smoking cessation, weight loss, walking programs, or exercise classes. The City is hoping this grant will help offset the cost of the wellness program.

PUBLIC IMPROVEMENTS, STREETS, SEWERS AND DRAINAGE COMMITTEE

Mr. Henderson will present a motion at the special evening of Council this evening to authorize the Director of Public Safety/Service to advertise for bids for the 2016 Pavement Maintenance and Resurfacing Project. The Public Improvements, Streets, Sewers and Drainage Committee met on February 22, 2016 to review the streets program, both the pavement, crack sealing and striping. Maps were included in the Council packets last weekend. The two main streets scheduled for 2016 for repaving are Lincoln Road and Naigle Road. These two projects will total approximately \$650,000 of the \$700,000 per year budgeted for road improvements. Extra projects will be included in the event the first two projects come in under budget.

The crack sealing program is budgeted at an additional \$50,000 and is included in the Operating Expense portion of the budget. This will be included in the 2016 projects along with the annual street striping.

The intent is to authorize the advertisement for bids this evening to allow the Director of Public Safety/Service to advertise for bids beginning Friday, March 3, 2016. By seeking bids the first quarter of the year it is more likely to receive a larger number of bids and better crews to accomplish the work.

Mr. Henderson noted that the Public Improvement, Streets, Sewers and Drainage Committee will return very shortly to sewer discussions. Mr. Henderson has conversed with the Mayor and Service Director about how to prioritize time and slot the various projects, particularly Bruce/Russell/Douglas and the Sunset projects. A meeting will be held soon to review details on these projects.

FINANCE AND CLAIMS COMMITTEE

Mr. Tadych advised that the Annual Appropriation Ordinance will be introduced this evening after long involvement with the Finance and Claims Committee. The ordinance will be placed on first reading this evening. There are two recent changes in the budget: the addition of \$5,000 for tree planting and \$13,000 for a floor for the Kiddie Kollege.

Mayor Sutherland stated that the tile is cracking in the floor at Kiddie Kollege. When the state comes in to do their periodic inspections they could write up Kiddie Kollege and then they would have to do the repair within thirty days. Mr. Clark asked if the state actually came in and saw that it could be problematic. Mayor Sutherland said she thinks it is on their check list and is one of the things that they check for periodically. We are trying to get out in front of it before they get penalized.

Mr. Tadych asked if Kiddie Kollege is going to take over that entire building at some point. The Mayor stated that they are working on that right now. They are in discussions. Mr. Clark noted

that the Kiddie Kollege lease expires in May of 2017, and there has been discussion about some adjustment appropriate for them and the City. We certainly don't want this floor to be a safety issue if the administration deems so.

Mr. Tadych asked if the City does the outside maintenance for Kiddie Kollege, such as the snow plowing. The Mayor stated that we just take care of that as part of our property.

Mr. Clark asked Mrs. Mahoney if there is a final cost for the SCAREB composter. Mr. Thomas stated that as of today Westlake still has not made a decision between the two prices. Mr. Clark stated it was his hope that the floor at Bay Lodge could be replaced, which was originally in the budget this year but removed for priority sake. If there are savings on the composter, it would be nice to be able to replace the floor at Bay Lodge, being sensitive to the resources identified as to our available revenues to pay debt service on the borrowing program. Mrs. Mahoney stated that the floor could be added after the SCAREB cost is finalized. Mr. Thomas stated he is hoping the Westlake Council will finalize the SCAREB purchase next week. The cost of the floor is \$13,000 and it would be nice to complete the revitalization project at the Lodge with the new floor.

Mr. Henderson asked about the Capital expenditure of \$20,500 for the engineering costs for the design of a commercial kitchen at the Dwyer Memorial Center. Mrs. Mahoney was going to work with the Community Services Department to provide further details. Mr. Clark stated that it would be appropriate for Director of Community Services Selig to be present before Council for that presentation and speak on behalf of the Community Services Department. Council is supportive in concept but there are further questions regarding the operating side of the kitchen.

Mr. Tadych asked Mr. Henderson to address Section 5 on the appropriation ordinance. Mr. Henderson stated that the intent of Section 5 is to cause the administration to bring before Council requests of Capital expenditures over \$15,000 rather than the current state amount of \$50,000. From talking with other Council, Mr. Henderson has learned that the \$15,000 was the historical number that people had previously used for the threshold. It is not the current policy. The intent is to take us back to that \$15,000 level and to offer increased transparency when and where Capital expenditures, such as the purchase of vehicles, are going to occur and what they might be for.

Mayor Sutherland stated that to add historical perspective, the reason that \$15,000 was the previous level was because that was the state level. Now, the state level has moved up to \$50,000. Mr. Henderson asked when that changed. He was informed that it has been probably five years.

Mr. Clark asked if this \$15,000 is for Capital items. Mrs. Lieske stated that the wording is "no expenditure more than \$15,000" and does not specify Capital items. Mr. Henderson agreed.

Mr. Clark stated that the ordinance will be placed on first reading this evening. There may be amendments as it goes through readings, but it has to be adopted by the end of March. One of the goals for the 2017 Budget is to be done by Christmas of 2016. The 2016 Budget includes many labor contracts that will not be a part of the 2017 Budget. Mr. Tadych noted that one of

Committee Meeting of Council
February 29, 2016

the reasons for early completion of a budget is to enable the purchase of vehicles before the deadline for ordering through the state bidding process. He noted that this is an important consideration.

RECREATION AND PARKS IMPROVEMENT COMMITTEE

Mr. Mace advised that a meeting of the Parks and Recreation Commission will be held on Thursday, March 10, 2016 at 7 p.m. at the Recreation Department. The meeting will review Parks and Recreation 2016 Budget items, and an overview of the survey results that have recently been received. Many of these results were very favorable toward the Parks and Recreation Programs within our community.

SERVICES, UTILITIES AND EQUIPMENT COMMITTEE

Mr. Tadych had no report this evening.

MISCELLANEOUS

There being no further discussion, the meeting adjourned at 7:52 p.m.

Dwight Clark, Vice President of Council

Joan Kemper, Clerk of Council

OFFICIAL PROPOSAL
CITY OF BAY VILLAGE, OHIO

FOR THE FURNISHING OF AGGREGATE AND OTHER GRANULAR MATERIAL FOR ROAD
MAINTENANCE

Date March 3, 2016

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

The undersigned, Shelly Materials, Inc. proposes to do all work and to furnish all materials necessary to deliver to the stock pile certain amounts of aggregate or to deliver same to various streets in the City of Bay Village, Ohio for the year 2016 in accordance with specifications to be determined by the Director of Public Service and Property.

<u>ITEM DESCRIPTION</u>	<u>DELIVERED TO LOCATIONS WITHIN CITY LIMITS</u>
1. #1 Limestone Per Ton	\$ <u>18.90</u>
2. #57 Limestone Per Ton	\$ <u>18.95</u>
3. #8 Limestone Per Ton	\$ <u>19.25</u>
4. #10 Limestone Per Ton	\$ <u>15.05</u>
5. #304 Limestone Per Ton	\$ <u>14.55</u>
6. Fill Sand Per Ton	\$ <u>13.85</u>

Deliveries to be made in 15 ton minimum loads and 25 ton maximum loads.

All materials to meet the current State of Ohio, Department of Highways Construction and Materials Specifications 703-1 for Course Aggregate.

Each bid must be accompanied by a certified or cashier's check in the amount of \$100.00 on some solvent bank as a guarantee that if the bid is accepted, a contract will be entered into and its performance properly secured. The right is expressly reserved to accept or reject any separately itemized proposals or portions of bids.

The City of Bay Village is an Equal Opportunity Employer and does not discriminate against the handicapped.

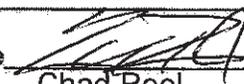
Contractor Shelly Materials, Inc.

Address 8920 Canyon Falls Blvd. Suite 120

Twinsburg, OH 44087

Phone No. 330-425-7861

FAX No. 330-425-3270

Signature 

Chad Reel

Title Vice President

SHELLY CO.
NORTHEAST

jm

FEB 23 2016

OFFICIAL PROPOSAL
CITY OF BAY VILLAGE, OHIO

FOR ASPHALT MATERIALS FOR THE CALENDAR YEAR 2016.

Date March 3, 2015

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

The undersigned, Stoneco, Inc., dba Allied Corporation proposes to furnish asphalt materials, as required, for the following prices:

Asphalt (patching) material at Batching Plant

301	\$	<u>\$ 49.50</u>	Ton
448	\$	<u>\$ 60.75</u>	Ton

All materials to meet the current State of Ohio, Department of Highways, Construction and Materials Specifications for Items 301, and 448. Item 448 will consist of a mix design (JMF) for light or medium duty traffic suitable for use as a road patching material.

A certified or cashier's check in the amount of \$100.00 shall be submitted with each proposal as a guarantee that if the bid be accepted, a contract will be entered into and its performance properly secured.

The right is expressly reserved to accept or reject any separately itemized proposal or portions of bids.

The City will consider the distance to and from the batching plant, as well as the timeframe necessary to complete a round trip.

Amount of material to be installed will be based upon the City's needs during the course of the contract year.

The City of Bay Village is an Equal Opportunity Employer and does not discriminate against the handicapped.

Contractor Stoneco, Inc., dba Allied Corporation

Address 8920 Canyon Falls Blvd. Suite 120

Twinsburg, OH 44087

Phone No. 330-425-7861

FAX No. 330-425-3270

Signature



Title

Chad Reel
Vice President

Jm

SHELLY CO.
NORTHEAST

FEB 22 2016

**OFFICIAL PROPOSAL
CITY OF BAY VILLAGE, OHIO**

**FOR THE FURNISHING OF CONCRETE AS NECESSARY FOR THE
CALENDAR YEAR 2016.**

Date MARCH 2, 2016

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

The undersigned, WESTVIEW CONCRETE CORPORATION proposes to furnish ready mix concrete for various streets within the City of Bay Village for the following prices:

PURPOSE:

The purpose for this bid is to obtain itemized costs for the furnishing of concrete for the calendar year 2016. All concrete is to be delivered to a specified site within the City of Bay Village, utilizing the costs proposed in this bid document.

SCOPE:

The Service Department utilizes the 1-3-5 mixture (4.5 sack cement) for base repairs, footer mixes, and posts.

The Service Department utilizes the Class "C" (O.D.O.T. Spec) concrete with fiber for all residential and commercial flat work, as well as concrete road repairs and curbing. On many of the jobs, Hi-early strength is added in order to open driveways and roadways earlier.

ITEM	DESCRIPTION	COST
1.	Cu. Yd. 1-3-5 mixture (4.5 sacks cement)	\$ 88.00
2.	Cu. Yd. Class "C" (O.D.O.T. specs)	\$ 94.50
	Added cost for residential fiber (1 lb. per yard)	\$ 6.00
	Added cost for commercial fiber (1.5 lb. per yard)	\$ 10.00
	Added cost for Hi-early strength concrete	\$ 6.00
3.	Additional cost for loads below minimum (under-load charges per load)	
	<u>1-2.75</u> Yards	\$ 110.00
	<u>3-3.75</u> Yards	\$ 75.00
	<u>4-4.75</u> Yards	\$ 55.00
	<u>5-5.75</u> Yards	\$ 45.00
	<u>6-7.75</u> Yards	\$ 35.00
	<u> </u> Yards	\$

OFFICIAL PROPOSAL cont.

4. State all additional costs for multiple stops and/or demurrage time.

SEE ATTACHED

5. State normal delivery hours 7:00 A.M. to 3:30 P.M.

6. State all additional costs for delivery other than regular business hours.

\$ 50.00 per load.

7. State all additional costs for delivery on Saturday. \$ 50.00 per load.

All materials to meet current O.D.O.T. specs.

A certified or cashier's check in the amount of \$100.00 shall be submitted with each proposal as a guarantee that, if the bid is accepted, a contract will be entered into and its performance properly secured.

The right is expressly reserved to accept or reject any separately itemized proposals or portions of bids.

The City of Bay Village is an Equal Opportunity Employer and does not discriminate against the handicapped.

Contractor WESTVIEW CONCRETE CORP.

Address 26000 SPRAGUE RD
OLMSTED FALLS OHIO 44138

Phone No. 440-235-1806

FAX No. 440-235-1893

Signature 

Title VICE PRESIDENT

WESTVIEW CONCRETE CORP.
26000 SPRAGUE RD.
OLMSTED FALLS, OHIO 44138

Please make note of the following 2016 additional charges:

Underload Delivery Charges:

1.00 to 2.75 CU.YD \$110.00 per load
3.00 to 3.75 CU.YD. \$75.00 per load
4.00 to 4.75 CU.YD. \$55.00 per load
5.00 to 5.75 CU.YD. \$45.00 per load
6.00 to 7.75 CU.YD. \$35.00 per load

Demurrage Charges:

\$1.50 per minute after an allowed 10 minutes per yard. Maximum 60 minutes per load.

Late Load:

Load after 3:30 pm. - \$50.00 per load

Saturday Delivery:

7:00 am. – 12:00 pm. - \$50.00 per load

Add Stop Charge:

\$25.00 per stop

Dye Clean Up:

\$80.00 per load

Winter Heat:

November 1st – April 30th - \$6.00 per yard

ORDINANCE NO.
INTRODUCED BY:

AN ORDINANCE
**AUTHORIZING THE MAYOR TO RENEW THE LEASE AGREEMENT
WITH SAFEUILT INC., FOR THE REAL ESTATE LOCATED
ON THE LOWER LEVEL AT BAY VILLAGE CITY HALL,
AND DECLARING AN EMERGENCY.**

WHEREAS, the City entered into a professional services agreement for a term of three years with SAFEuilt authorized by Ordinance 13-14 passed March 11, 2013; and

WHEREAS, the current Lease Agreement expires on April 1, 2016; and

WHEREAS, SAFEuilt is operating out of and leasing approximately 1,220 square feet of vacant space located on the lower lever at City Hall; and

BE IT ORDAINED by the Council of the City of Bay Village, Ohio:

SECTION 1. That the Mayor be and she is hereby authorized to renew the Lease Agreement on behalf of the City with SAFEuilt, Inc., Safe Built Colorado, Inc., 3755 Precision Drive, St. 140, Loveland, Colorado, 80538 for the use of approximately 1,220 square feet of real estate located in the lower level at City Hall. Term of said Lease Agreement renewal shall be for two (2) years (in a form approved by the Law Director).

SECTION 2. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason that it is immediately necessary to execute said Lease Agreement, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR

3/11/16 ll

WESTLAKE-BAY ECOLOGICAL COMPOSTING FACILITY AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 2016 by and between the cities of Bay Village and Westlake (hereinafter "Bay" and "Westlake" or "Parties").

WHEREAS, Bay and Westlake, on or about August 7, 1989, established an Ecological Composting Facility at the former Westlake landfill (hereinafter "Facility"); and

WHEREAS, Bay and Westlake jointly purchased a windrow composting machine to implement and operate a community composting program; and

WHEREAS, Bay and Westlake have determined that the health and welfare of the cities would be promoted and preserved by the continued operation and maintenance of said Facility and the continued implementation of composting programs; and

WHEREAS, Bay and Westlake entered into a Westlake-Bay Ecological Compost Facility Agreement which expired February 28, 2009; and

WHEREAS, both communities face a continued need to address leaf disposal.

NOW, THEREFORE, it is hereby agreed by and between the Parties:

1. PURPOSE

- a.) Westlake shall provide the necessary real property for the Facility, which property is located at the Westlake landfill area more fully described in Exhibit "A" attached hereto and made a part hereof as if fully rewritten.
- b.) The Parties shall at all times during this contract, provide for a windrow composting machine, bulldozer, trommel screen and stacking conveyor for use at the site. The existing windrow composting machine shall remain in the joint ownership of the Parties.
- c.) Bay shall equally share with Westlake in the future costs for the replacement purchase of a bulldozer, trommel screen, and stacking conveyor as identified in Exhibit "B" and any other future joint equipment purchases by the Parties, which equipment shall be added to Exhibit "B" by the Parties upon purchase.

2. DISPOSAL AND TIPPING FEES

- a.) Each Party shall have the right to dispose of its leaves at the Facility; however no grass clippings will be accepted or mixed into the leaf material by the Parties or any other city or entity.
- b.) Other municipalities may be permitted to dispose of its leaves by paying the required tipping fee per cubic yard and only with the prior approval of the Mayors of Bay and Westlake. Other municipalities desiring to use the Facility for leaf disposal shall pay Westlake a tipping fee of \$3.50 per cubic yard for disposal. This fee may be increased by the Mayor of Westlake as determined necessary by Westlake.
- c.) Receipts for disposal materials delivered will be totaled by Westlake at the end of each month and invoiced accordingly. Tipping fees collected shall offset expenses incurred to process leaves into leaf humus.

3. COST SHARING AND REPORTING

- a.) Westlake and Bay agree to share equally in all costs related to the operation and maintenance of the Facility, included but not limited to, the windrow composting machine, bulldozer, trammel screen and stacking conveyor, rented equipment, leased equipment, Facility labor, Facility maintenance, Facility materials, fuel, repairs and insurance for all equipment. Each Party shall record labor hours spent working at the Facility and shall supply an annual accounting of same to the other Party. Each Party shall record heavy equipment and truck operation hours at the Facility (not including hours for the windrow machine, bulldozer, trammel screen and stacking conveyor) and shall supply an annual accounting of same to the other Party. Each Party shall record all other costs (as identified in subsection(b)(i-viii) herein) expended and shall supply an annual accounting of the same to the other Party. The annual accountings shall be made on the form attached hereto as Exhibit "C."
- b.) An annual report of all monies generated and/or expended will be supplied by Westlake to Bay. At the conclusion of each fiscal year, a comparison of the following costs or hours incurred by each Party will be made by Westlake:
 - i. Facility maintenance costs;
 - ii. Facility material costs;
 - iv. Repair costs;
 - v. Insurance costs;
 - vi. Labor hours;
 - vii. Heavy equipment and truck hours; and
 - vii. Rented or leased equipment costs.

If a difference of more than ten percent (10%) exists for any one of the items listed above, a monetary adjustment in the costs or hours will be made. Labor hours shall be determined using the actual hourly rate for labor each Party paid. Costs for equipment shall be determined by the most recent FEMA equipment cost guide. Other remaining costs shall be determined at the actual cost expended by the Party.

4. FINAL PRODUCT REVENUES

Leaf compost used or taken from the site by each City will be logged in cubic yard measurement for material tracking purposes. Rates for the leaf compost shall be established by the Council of Westlake. All revenues collected by each Party from the sale of the leaf compost, excluding delivery fees, will be placed in the fund accounts already individually established by Westlake and Bay. All revenues collected by Bay for the sale of leaf compost shall be transferred annually by December 15th from the Bay account to the Westlake account. Revenues shall be used to promote and finance future Facility improvements, including but not limited to, the purchase and maintenance of equipment, the beautification of the landfill area, and any other items required by OEPA compliance regulations.

5. TERM OF AGREEMENT

This Agreement shall be effective on the ____ day of _____, 2016 and shall remain in effect until the 31st day of December, 2026 unless terminated earlier as provided for herein. However, at the end of the initial five (5) year term the parties shall review the contract and mutually agree on any price adjustment going forward for the next five (5) years. This Agreement shall only remain in effect and said joint operation shall only continue while the Facility remains licensed as a Class IV Compost Site under the Ohio Environmental Protection

Agency (OEPA) guidelines. Should the site no longer be licensed for any reason, the Agreement shall be terminated as of the date the Facility is no longer licensed. Furthermore, either Party may terminate this Agreement within 60 days written notice to the other.

6. DISPOSITION OF PROPERTY UPON TERMINATION

Upon termination of the Agreement, Westlake shall arrange for an equipment appraisal of the windrow composting machine and any other equipment jointly purchased by the Parties after the effective date of this Agreement as identified in Exhibit "B." After the appraisal, the machine and equipment will then be sold by Westlake and Bay will be reimbursed its proportionate share for the windrow composting machine and any other equipment jointly purchased as identified in Exhibit "B." The Parties will amend Exhibit "B" in writing, as necessary, to reflect the actual joint purchases made by the Parties in future years of this Agreement. In the event of termination of this Agreement, the non-terminating Party has the right of first refusal for the purchase of the windrow composting machine and any other equipment jointly purchased by the Parties and identified in Exhibit "B," with the value of said machine and equipment to be established by the appraiser selected by Westlake as described above.

7. NOTICES

Notices, invoices and correspondence to Westlake shall be made to the Director of Public Service, City of Westlake, 27700 Hilliard Boulevard, Westlake, Ohio 44145. Notice, invoices and correspondence to Bay shall be made to the Director of Public Safety and Service, City of Bay Village, 350 Dover Center Road, Bay Village, Ohio 44140.

8. ENTIRE AGREEMENT

This written Agreement contains the entire Agreement between the Parties. The Parties acknowledge and agree that neither party has made any representation with respect to the subject matter of this Agreement nor any representation inducing the execution and delivery of the Agreement except as are specifically set forth herein. Any future changes, alterations or modifications of this Agreement or its Exhibits shall be at the joint written agreement of the Parties.

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

CITY OF WESTLAKE

By: _____
Dennis M. Clough, Mayor

CITY OF BAY VILLAGE

By: _____
Deborah Sutherland, Mayor

Approved as to form:

John D. Wheeler
Westlake Director of Law

Gary Ebert
Bay Village Director of Law

EXHIBIT "B"
WESTLAKE-BAY ECOLOGICAL COMPOSTING FACILITY AGREEMENT

EQUIPMENT	COST	REPLACEMENT YEAR	BAY VILLAGE
Windrow Comp. Machine	\$396,650	2016	50%
Bulldozer	\$115,000	2024	40%
Trommel Screen	\$135,000	2019	50%
Stacking Conveyor	\$105,000	2021	37.5%

*Equipment actually purchased, replacement year and cost are estimated and subject to modification in writing by the Parties.

City of Bay Village

Council Minutes, Committee Session
Conference Room
Dwight Clark, Vice President of Council, Presiding

February 29, 2016
7:30 p.m.

Present: Clark, Henderson, Lieske, Mace, Tadych, Vincent, Mayor Sutherland

Excused: President of Council Koomar

Also Present: Finance Director Mahoney, Police Chief Spaetzel, Safety/Service Director Thomas, Recreation Director Enovitch and Operations Manager Landers.

AUDIENCE

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Mr. Clark expanded on the Mayor's comments about the Citizen of the Year reception, noting there was a full crowd at the reception held at BAYarts. There are 24 auxiliary police officers, and Jeff Hartz is a life-long Bay resident, well deserving, as are all the auxiliaries, of all the recognition received. Police Chief Spaetzel had the honors of making the presentation of Jeff Hartz and recognizing the work of the auxiliaries.

AUDIENCE COMMENTS

Conda Boyd stated that she is looking through the documents supporting the Live Scan System on the agenda this evening. She asked the date on the document. Police Chief Spaetzel stated that November 23, 2015 is the date they first received acceptance of the grant. Since that time, the State increased the equipment that will be received. The new date is February 5, 2016. The document with Chief Spaetzel's signature is dated December 8, 2015. Ms. Boyd asked why the Council is considering this acceptance more than two months later of something that has already been accepted by the Police Chief last year. She asked why legal documents are being signed that require Council's approval, without Council's approval. Chief Spaetzel stated that these are application documents; we have not yet received the equipment, and it may not be received for

another month. The document signed is an agreement that we accept their terms under which we will accept the equipment.

Mr. Clark stated that from a Council perspective, this request was originally looked at as something for which funds would be borrowed. The Chief was able to secure a grant, which took the proposed debt amount down about \$12,000. Chief Spaetzel stated that the original agreement was for \$12,000. They offered to provide an updated system with more equipment that actually values at \$21,558. This was originally a Capital item, and then a grant was sought. Because they were looking at the grant, it was removed from the Capital budget and it will be received after the acceptance of the Resolution at some time in the near future.

Ms. Boyd stated that she has no quarrel with the equipment itself, she just thinks that things should go through Council in proper order.

PLANNING, ZONING, PUBLIC BUILDINGS AND GROUNDS COMMITTEE

Mrs. Lieske had no report this evening.

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE

Acceptance of Live Scan System for the Bay Village Police Department from the State of Ohio, Office of the Attorney General.

Chief Spaetzel stated that this is a computerized system that allows the Police Department to gather fingerprint data from arrested persons. That data is automatically shipped down to the Bureau of Criminal Investigation where it is housed. It creates a criminal history, and the Bureau of Criminal Investigation only accepts rolled prints from certain vendors. This is one of the vendors. The information was sent to the state and it was accepted as an agreement to the operating issues. The items included originally were in the amount of \$12,000. In February they increased the equipment to the value of \$21,558. Once the Resolution is passed the equipment will be received and installed. Part of the cost is training in the use of the equipment. There is a yearly maintenance cost of \$2,200 which includes software upgrades. The first year of the maintenance agreement is free; subsequent years will be billed at \$2,200 per year. The vendor gives the equipment to the state and the state provides the grants to the communities.

Mr. Mace asked if all department members, or just specific personnel, will be trained on the use of this equipment. Chief Spaetzel stated that all department members will be trained.

Bureau of Workers' Compensation Workplace Wellness Grant Program.

Finance Director Mahoney stated that this is a four-year grant that provides that each employee that participates receives a health risk assessment and Biometric screening within the first three months of the grant program. The employee participation provides payment to the City, per employee, in the amount of \$300 over a four-year period: \$100 the first year, \$75.00 the second and third year, and \$50.00 the fourth year. There is a maximum award of \$15,000 paid by the Ohio Bureau of Workers' Compensation. The grant stipulation requires contracting with a third

party wellness program, which the City has done. The employee also has to participate in a healthy activity such as smoking cessation, weight loss, walking programs, or exercise classes. The City is hoping this grant will help offset the cost of the wellness program.

PUBLIC IMPROVEMENTS, STREETS, SEWERS AND DRAINAGE COMMITTEE

Mr. Henderson will present a motion at the special evening of Council this evening to authorize the Director of Public Safety/Service to advertise for bids for the 2016 Pavement Maintenance and Resurfacing Project. The Public Improvements, Streets, Sewers and Drainage Committee met on February 22, 2016 to review the streets program, both the pavement, crack sealing and striping. Maps were included in the Council packets last weekend. The two main streets scheduled for 2016 for repaving are Lincoln Road and Naigle Road. These two projects will total approximately \$650,000 of the \$700,000 per year budgeted for road improvements. Extra projects will be included in the event the first two projects come in under budget.

The crack sealing program is budgeted at an additional \$50,000 and is included in the Operating Expense portion of the budget. This will be included in the 2016 projects along with the annual street striping.

The intent is to authorize the advertisement for bids this evening to allow the Director of Public Safety/Service to advertise for bids beginning Friday, March 3, 2016. By seeking bids the first quarter of the year it is more likely to receive a larger number of bids and better crews to accomplish the work.

Mr. Henderson noted that the Public Improvement, Streets, Sewers and Drainage Committee will return very shortly to sewer discussions. Mr. Henderson has conversed with the Mayor and Service Director about how to prioritize time and slot the various projects, particularly Bruce/Russell/Douglas and the Sunset projects. A meeting will be held soon to review details on these projects.

FINANCE AND CLAIMS COMMITTEE

Mr. Tadych advised that the Annual Appropriation Ordinance will be introduced this evening after long involvement with the Finance and Claims Committee. The ordinance will be placed on first reading this evening. There are two recent changes in the budget: the addition of \$5,000 for tree planting and \$13,000 for a floor for the Kiddie Kollege.

Mayor Sutherland stated that the tile is cracking in the floor at Kiddie Kollege. When the state comes in to do their periodic inspections they could write up Kiddie Kollege and then they would have to do the repair within thirty days. Mr. Clark asked if the state actually came in and saw that it could be problematic. Mayor Sutherland said she thinks it is on their check list and is one of the things that they check for periodically. We are trying to get out in front of it before they get penalized.

Mr. Tadych asked if Kiddie Kollege is going to take over that entire building at some point. The Mayor stated that they are working on that right now. They are in discussions. Mr. Clark noted

that the Kiddie Kollege lease expires in May of 2017, and there has been discussion about some adjustment appropriate for them and the City. We certainly don't want this floor to be a safety issue if the administration deems so.

Mr. Tadych asked if the City does the outside maintenance for Kiddie Kollege, such as the snow plowing. The Mayor stated that we just take care of that as part of our property.

Mr. Clark asked Mrs. Mahoney if there is a final cost for the SCAREB composter. Mr. Thomas stated that as of today Westlake still has not made a decision between the two prices. Mr. Clark stated it was his hope that the floor at Bay Lodge could be replaced, which was originally in the budget this year but removed for priority sake. If there are savings on the composter, it would be nice to be able to replace the floor at Bay Lodge, being sensitive to the resources identified as to our available revenues to pay debt service on the borrowing program. Mrs. Mahoney stated that the floor could be added after the SCAREB cost is finalized. Mr. Thomas stated he is hoping the Westlake Council will finalize the SCAREB purchase next week. The cost of the floor is \$13,000 and it would be nice to complete the revitalization project at the Lodge with the new floor.

Mr. Henderson asked about the Capital expenditure of \$20,500 for the engineering costs for the design of a commercial kitchen at the Dwyer Memorial Center. Mrs. Mahoney was going to work with the Community Services Department to provide further details. Mr. Clark stated that it would be appropriate for Director of Community Services Selig to be present before Council for that presentation and speak on behalf of the Community Services Department. Council is supportive in concept but there are further questions regarding the operating side of the kitchen.

Mr. Tadych asked Mr. Henderson to address Section 5 on the appropriation ordinance. Mr. Henderson stated that the intent of Section 5 is to cause the administration to bring before Council requests of Capital expenditures over \$15,000 rather than the current state amount of \$50,000. From talking with other Council, Mr. Henderson has learned that the \$15,000 was the historical number that people had previously used for the threshold. It is not the current policy. The intent is to take us back to that \$15,000 level and to offer increased transparency when and where Capital expenditures, such as the purchase of vehicles, are going to occur and what they might be for.

Mayor Sutherland stated that to add historical perspective, the reason that \$15,000 was the previous level was because that was the state level. Now, the state level has moved up to \$50,000. Mr. Henderson asked when that changed. He was informed that it has been probably five years.

Mr. Clark asked if this \$15,000 is for Capital items. Mrs. Lieske stated that the wording is "no expenditure more than \$15,000" and does not specify Capital items. Mr. Henderson agreed.

Mr. Clark stated that the ordinance will be placed on first reading this evening. There may be amendments as it goes through readings, but it has to be adopted by the end of March. One of the goals for the 2017 Budget is to be done by Christmas of 2016. The 2016 Budget includes many labor contracts that will not be a part of the 2017 Budget. Mr. Tadych noted that one of

Committee Meeting of Council
February 29, 2016

the reasons for early completion of a budget is to enable the purchase of vehicles before the deadline for ordering through the state bidding process. He noted that this is an important consideration.

RECREATION AND PARKS IMPROVEMENT COMMITTEE

Mr. Mace advised that a meeting of the Parks and Recreation Commission will be held on Thursday, March 10, 2016 at 7 p.m. at the Recreation Department. The meeting will review Parks and Recreation 2016 Budget items, and an overview of the survey results that have recently been received. Many of these results were very favorable toward the Parks and Recreation Programs within our community.

SERVICES, UTILITIES AND EQUIPMENT COMMITTEE

Mr. Tadych had no report this evening.

MISCELLANEOUS

There being no further discussion, the meeting adjourned at 7:52 p.m.

Dwight Clark, Vice President of Council

Joan Kemper, Clerk of Council

OFFICIAL PROPOSAL
CITY OF BAY VILLAGE, OHIO

FOR THE FURNISHING OF AGGREGATE AND OTHER GRANULAR MATERIAL FOR ROAD
MAINTENANCE

Date March 3, 2016

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

The undersigned, Shelly Materials, Inc. proposes to do all work and to furnish all materials necessary to deliver to the stock pile certain amounts of aggregate or to deliver same to various streets in the City of Bay Village, Ohio for the year 2016 in accordance with specifications to be determined by the Director of Public Service and Property.

<u>ITEM DESCRIPTION</u>	<u>DELIVERED TO LOCATIONS WITHIN CITY LIMITS</u>
1. #1 Limestone Per Ton	\$ <u>18.90</u>
2. #57 Limestone Per Ton	\$ <u>18.95</u>
3. #8 Limestone Per Ton	\$ <u>19.25</u>
4. #10 Limestone Per Ton	\$ <u>15.05</u>
5. #304 Limestone Per Ton	\$ <u>14.55</u>
6. Fill Sand Per Ton	\$ <u>13.85</u>

Deliveries to be made in 15 ton minimum loads and 25 ton maximum loads.

All materials to meet the current State of Ohio, Department of Highways Construction and Materials Specifications 703-1 for Course Aggregate.

Each bid must be accompanied by a certified or cashier's check in the amount of \$100.00 on some solvent bank as a guarantee that if the bid is accepted, a contract will be entered into and its performance properly secured. The right is expressly reserved to accept or reject any separately itemized proposals or portions of bids.

The City of Bay Village is an Equal Opportunity Employer and does not discriminate against the handicapped.

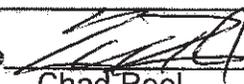
Contractor Shelly Materials, Inc.

Address 8920 Canyon Falls Blvd. Suite 120

Twinsburg, OH 44087

Phone No. 330-425-7861

FAX No. 330-425-3270

Signature 

Chad Reel

Title Vice President

SHELLY CO.
NORTHEAST

jm

FEB 23 2016

**OFFICIAL PROPOSAL
CITY OF BAY VILLAGE, OHIO**

**FOR THE FURNISHING OF CONCRETE AS NECESSARY FOR THE
CALENDAR YEAR 2016.**

Date MARCH 2, 2016

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

The undersigned, WESTVIEW CONCRETE CORPORATION proposes to furnish ready mix concrete for various streets within the City of Bay Village for the following prices:

PURPOSE:

The purpose for this bid is to obtain itemized costs for the furnishing of concrete for the calendar year 2016. All concrete is to be delivered to a specified site within the City of Bay Village, utilizing the costs proposed in this bid document.

SCOPE:

The Service Department utilizes the 1-3-5 mixture (4.5 sack cement) for base repairs, footer mixes, and posts.

The Service Department utilizes the Class "C" (O.D.O.T. Spec) concrete with fiber for all residential and commercial flat work, as well as concrete road repairs and curbing. On many of the jobs, Hi-early strength is added in order to open driveways and roadways earlier.

ITEM	DESCRIPTION	COST
1.	Cu. Yd. 1-3-5 mixture (4.5 sacks cement)	\$ 88.00
2.	Cu. Yd. Class "C" (O.D.O.T. specs)	\$ 94.50
	Added cost for residential fiber (1 lb. per yard)	\$ 6.00
	Added cost for commercial fiber (1.5 lb. per yard)	\$ 10.00
	Added cost for Hi-early strength concrete	\$ 6.00
3.	Additional cost for loads below minimum (under-load charges per load)	
	<u>1-2.75</u> Yards	\$ 110.00
	<u>3-3.75</u> Yards	\$ 75.00
	<u>4-4.75</u> Yards	\$ 55.00
	<u>5-5.75</u> Yards	\$ 45.00
	<u>6-7.75</u> Yards	\$ 35.00
	<u> </u> Yards	\$

OFFICIAL PROPOSAL cont.

4. State all additional costs for multiple stops and/or demurrage time.

SEE ATTACHED

5. State normal delivery hours 7:00 A.M. to 3:30 P.M.

6. State all additional costs for delivery other than regular business hours.

\$ 50.00 per load.

7. State all additional costs for delivery on Saturday. \$ 50.00 per load.

All materials to meet current O.D.O.T. specs.

A certified or cashier's check in the amount of \$100.00 shall be submitted with each proposal as a guarantee that, if the bid is accepted, a contract will be entered into and its performance properly secured.

The right is expressly reserved to accept or reject any separately itemized proposals or portions of bids.

The City of Bay Village is an Equal Opportunity Employer and does not discriminate against the handicapped.

Contractor WESTVIEW CONCRETE CORP.

Address 26000 SPRAGUE RD
OLMSTED FALLS OHIO 44138

Phone No. 440-235-1806

FAX No. 440-235-1893

Signature 

Title VICE PRESIDENT

WESTVIEW CONCRETE CORP.
26000 SPRAGUE RD.
OLMSTED FALLS, OHIO 44138

Please make note of the following 2016 additional charges:

Underload Delivery Charges:

1.00 to 2.75 CU.YD \$110.00 per load
3.00 to 3.75 CU.YD. \$75.00 per load
4.00 to 4.75 CU.YD. \$55.00 per load
5.00 to 5.75 CU.YD. \$45.00 per load
6.00 to 7.75 CU.YD. \$35.00 per load

Demurrage Charges:

\$1.50 per minute after an allowed 10 minutes per yard. Maximum 60 minutes per load.

Late Load:

Load after 3:30 pm. - \$50.00 per load

Saturday Delivery:

7:00 am. – 12:00 pm. - \$50.00 per load

Add Stop Charge:

\$25.00 per stop

Dye Clean Up:

\$80.00 per load

Winter Heat:

November 1st – April 30th - \$6.00 per yard

OFFICIAL PROPOSAL
CITY OF BAY VILLAGE, OHIO

FOR ASPHALT MATERIALS FOR THE CALENDAR YEAR 2016.

Date March 3, 2015

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

The undersigned, Stoneco, Inc., dba Allied Corporation proposes to furnish asphalt materials, as required, for the following prices:

Asphalt (patching) material at Batching Plant

301	\$	<u>\$ 49.50</u>	Ton
448	\$	<u>\$ 60.75</u>	Ton

All materials to meet the current State of Ohio, Department of Highways, Construction and Materials Specifications for Items 301, and 448. Item 448 will consist of a mix design (JMF) for light or medium duty traffic suitable for use as a road patching material.

A certified or cashier's check in the amount of \$100.00 shall be submitted with each proposal as a guarantee that if the bid be accepted, a contract will be entered into and its performance properly secured.

The right is expressly reserved to accept or reject any separately itemized proposal or portions of bids.

The City will consider the distance to and from the batching plant, as well as the timeframe necessary to complete a round trip.

Amount of material to be installed will be based upon the City's needs during the course of the contract year.

The City of Bay Village is an Equal Opportunity Employer and does not discriminate against the handicapped.

Contractor Stoneco, Inc., dba Allied Corporation

Address 8920 Canyon Falls Blvd. Suite 120

Twinsburg, OH 44087

Phone No. 330-425-7861

FAX No. 330-425-3270

Signature



Title

Chad Reel
Vice President

Jm

SHELLY CO.
NORTHEAST

FEB 22 2016

CITY OF BAY VILLAGE, OHIO PROFESSIONAL SERVICES AGREEMENT

This Agreement for Professional Services ("Agreement") is entered into by and between the City of Bay Village, an Ohio municipal corporation, 350 Dover Center Road, Bay Village, OH 44140, ("City") and SAFEbuilt Ohio, Inc., ("SAFEbuilt"). City and SAFEbuilt Ohio, Inc. are individually referred to as a "Party" and may be collectively referenced as the "Parties."

RECITALS AND REPRESENTATIONS

WHEREAS, the City has the responsibility under State laws and City Ordinance to adopt and enforce certain building codes and other ordinances, conduct inspections, review building plans, and conduct other professional services as described in this Agreement; and

WHEREAS, SAFEbuilt has represented to the City that it has substantial knowledge and experience in the interpretation and application of the City's adopted Code of Ordinances with regard to various building construction, including but not limited to, the inspection of buildings to determine compliance with State laws and City ordinances, which include building codes, the review of building plans and other building code services.

WHEREAS, SAFEbuilt represents that SAFEbuilt has the skill, ability, and expertise to perform the services described in this Agreement; and

WHEREAS, the City desires to engage SAFEbuilt to provide the services described in this Agreement subject to the terms and conditions of the Agreement.

NOW, THEREFORE, in consideration of the benefits and obligations of this Agreement, the Parties mutually agree as follows:

1.0 AGREEMENT

1.1 References to "SAFEbuilt" shall include any employees of SAFEbuilt, its contractors, subcontractors, independent contractors.

2.0 SERVICES

2.1 Services. As directed by and under the supervision of the Mayor, or his/her designee, SAFEbuilt shall provide the City with the services described in Exhibit A ("Scope of Services").

2.2 Incumbent Employees. SAFEbuilt will interview all interested incumbent employees. SAFEbuilt is under no obligation to hire or retain current City of Bay Village employees. SAFEbuilt will hire the best candidate for the available positions. SAFEbuilt agrees to conduct all interviews and make all employment determinations as professionally and expediently as is reasonable possible in order to insure the efficiency of the transition.

2.3 Changes to Services. The City may request a change or changes in the Services. Any changes to Services that are mutually agreed upon between the City and SAFEbuilt shall be made in writing which shall specifically designate any changes in compensation for the Services and be made an amendment to the Agreement after approval by City Council. To be effective, any changes must be approved by City Council, and signed by SAFEbuilt and the Mayor.

3.0 COMPENSATION

3.1 Commencement of Services. Following execution of this Agreement by both Parties and on the Effective Date of May 1, 2013, SAFEbuilt shall be authorized to commence performance of the Services subject

to the requirements and limitations on compensation as provided by this Section 3.0 and its subsections. Prior to May 1, 2013, SAFEbuilt agrees to attend transition training provided by the City at no charge to the City. The purpose of this transition period is to allow SAFEbuilt to do what is necessary to become fully functional for the performance of services under this Agreement by May 1, 2013. During this transition period, SAFEbuilt may begin moving into a mutually acceptable space, to review procedure and policies with current staff; confer with the City's designated representative(s) from the Mayor's Office and/or the Finance Department to set up access to the City's software; and to take other actions that are mutually acceptable to both Parties to assure a smooth transition. SAFEbuilt shall move into the existing space occupied by the building department and shall build out that space, and vacant space formerly occupied by the police department in a manner to be mutually determined and agreed upon by the Parties. Square footage and related costs shall be agreed upon by the Parties and set forth in a mutually agreed lease agreement.

3.2 Compensation. SAFEbuilt shall receive a percentage, in accordance with the schedule set forth in Exhibit B, of all building permit fees, electrical permit fees, plumbing permit fees, HVAC permit fees, miscellaneous fees, plan review fees, penalty fees, rental dwelling licensing/inspection fees, contractor registration/licensing fees collected by SAFEbuilt on behalf of the City during the term of this Agreement, and any renewal hereof, until such time as SAFEbuilt has earned total percentage of fee based revenues, including all revenues earned by SAFEbuilt pursuant to any other contract or agreement for professional services entered into by SAFEbuilt with any city or other political subdivision located in Cuyahoga County and/or Lorain County ("Additional Agreement"), of \$1,000,000.00 during a contract year (May 1st through April 30th) of this Agreement. SAFEbuilt shall provide written notice to the City of each Additional Agreement within five (5) days of executing said Additional Agreement. Each month, along with the invoice pursuant to paragraph 3.6, SAFEbuilt shall also submit a revenue report to the City setting forth the cumulative total revenue earned by SAFEbuilt, from this Agreement and any Additional Agreement, over the term of this Agreement. The City shall retain the remaining percentage of the fees as set forth in Exhibit B. SAFEbuilt shall not be permitted to change any fees charged to the public without the prior approval of the city.

3.2.1 Volume Discount. After SAFEbuilt has earned total percentage of fee based revenues of \$1,000,000.00 during a contract year (May 1st through April 30th) from this Agreement and any Additional Agreement(s) in Cuyahoga and Lorain counties, SAFEbuilt shall receive the reduced percentage as set forth in Exhibit B of all building permit fees, electrical permit fees, plumbing permit fees, HVAC permit fees, miscellaneous fees, plan review fees, penalty fees, rental dwelling licensing/inspection fees, contractor registration/licensing fees collected by SAFEbuilt on behalf of the City during the remaining term of this Agreement. The 5% reduction shall be a one-time event, and the reduced rate shall be effective for the remainder of the term of this Agreement, and any renewal hereof, unless the both Parties agree by written amendment to further revise the rates. The City shall retain the remaining percentage of the fees as set forth in Exhibit B.

3.3 Hourly Fees. Upon receipt of proper documentation of time, acceptable to the City in its sole discretion, the City shall be responsible to SAFEbuilt for the hourly rate listed in Exhibit B when SAFEbuilt is required by the City to perform a service which is not included as part of the Scope of Services outlined in Exhibit A, and for Code Enforcement Services and Re-Review of Approved Plans. The City will only be responsible for one hourly fee per violation complaint. Any follow up responses required due to repeated complaints regarding the same violation will be provided at no cost to the City. SAFEbuilt shall obtain written authorization of hours from the Mayor prior to performing, and billing for, services at an hourly rate in accordance with schedule set forth in Exhibit B. The hourly rates listed in Exhibit B include pay rate, overhead, profit, travel necessary to perform the task, and all other costs to SAFEbuilt. All hourly fees charged pursuant to this Agreement shall be reviewed by the Parties on an annual basis, and any modification of the fees shall be implemented by written amendment of this Agreement approved and executed by both Parties.

- 3.4 Responsibility for Outstanding Permits. SAFEbuilt shall be responsible for reviewing all permits in the Building Department that have previously been submitted to the Building Department in which fees have already been paid and to complete the processing of these permits.
- 3.5 Collection of Fees. The Building Department, through SAFEbuilt, shall collect Building Department fees on behalf of the City and shall deliver the collected fees at the end of each day to the City Finance Director or her designee.
- 3.5.1 No Reimbursable Expenses. No "reimbursable expenses" or other fee, cost, charge, or fee for the value or expense of any materials, goods, *travel*, mileage, depreciation, or other item related to the performance of the Services shall be paid by the City. Any cost, charge, fee, or expense incurred by SAFEbuilt in the performance of the Services shall be deemed a non-reimbursable cost and shall be borne by SAFEbuilt and shall not be billed or invoiced to the City and shall not be paid by the City.
- 3.5.2 Reduced Cost Services. The Parties recognize and understand that the City is or may be required by law to waive inspection fees on a limited number of projects during a calendar year or may, at its discretion, waive or reduce inspection fees for certain projects that provide a substantial and direct public benefit (e.g., City owned buildings, school buildings, church buildings, inspection related to court cases or following up services directed by a court of law). The City shall notify SAFEbuilt of such circumstance(s) at the earliest opportunity and the City may require SAFEbuilt to perform building and inspection services at a reduced cost, as set forth in **Exhibit B**, as the situation requires.
- 3.5.3 Increases in Compensation or Addition of Reimbursable Expenses. Any increases or modification of compensation or the addition of a reimbursable expense(s) shall be subject to written amendment of this Agreement approved by the Mayor and the City Council, and executed by both Parties.
- 3.6 Payment Processing. SAFEbuilt shall submit invoices and requests for payment in a form acceptable to the City. Invoices shall be submitted by the 15th of each month unless otherwise approved by this Agreement or in writing by the City. All invoices shall contain sufficient information to account for all SAFEbuilt time (or other appropriate measure(s) of work effort for the Services during the stated period of the invoice. Invoices shall be given to the Mayor, or the Mayor's designee, with a computation of the fees received and a total amount on which the payment request is based. The City shall have thirty (30) days from receipt of the invoice to issue payment to SAFEbuilt's corporate offices at: SAFEbuilt; 3755 Precision Drive, Suite 140; Loveland, CO 80538 unless there is a dispute as to the amount due and owing. If there is a dispute, the parties shall use the procedures set out in paragraph 3.7.
- 3.7 City's Dispute of Amount of Payment. The City may request additional information from SAFEbuilt, including information regarding any Additional Agreements and revenue reports referenced in paragraph 3.2, substantiating any and all compensation sought by SAFEbuilt before accepting the invoice. When additional information is requested by the City, the City shall advise SAFEbuilt in writing, identifying the specific item(s) that are in dispute and giving specific reasons for any request for information. The City shall pay SAFEbuilt within thirty (30) days of the receipt of an invoice for any undisputed charges or, if the City disputes an item or invoice and additional information is requested, within thirty (30) days of acceptance of the item or invoice by the City following receipt of the information requested and resolution of the dispute. In the event the Parties are unable to resolve the dispute within a commercially reasonable time, the Parties agree to resolve the dispute through mediation to be conducted by a mediator mutually agreeable to both Parties. Mediation shall comply with the rules of Ohio's Uniform Mediation Act. To the extent possible, undisputed charges within the same invoice as disputed charges shall be timely paid in accordance with this Agreement. Payment by the City shall be deemed made and completed upon hand delivery to SAFEbuilt or designee of SAFEbuilt or upon deposit of such payment in the U.S. Mail, postage pre-paid, addressed to SAFEbuilt.

4.0 SAFEbuilT'S GENERAL RESPONSIBILITIES

- 4.1 Reference to "SAFEbuilT" under this Section shall include SAFEbuilT employees, contractors, subcontractors, independent contractors, or anyone performing services under this Agreement for SAFEbuilT.
- 4.2 SAFEbuilT shall maintain an office in the City open to the public from 8:30 to 4:30, Monday through Friday (official City holidays excluded), or such other hours as determined by the City, and perform inspections and Services, 5 days per week during the hours mutually agreed by the Parties. SAFEbuilT's ability to access/use City office space after hours and on weekends shall be governed by the terms of the mutually agreed upon lease agreement between the City and SAFEbuilT for the space to be occupied by SAFEbuilT.
- 4.3 The City shall supply SAFEbuilT with individual identification badges ("ID badges") for each SAFEbuilT employee. The City shall have the discretion to determine the type, size and design for those ID badges. SAFEbuilT shall require that all employees have their ID badges visible to the public at all time while performing services under this Agreement. Lost ID badges shall be immediately reported to the Mayor or such other City official as the Mayor may designate in writing.
- 4.4 SAFEbuilT shall provide to the City the work telephone numbers of all employees, including any mobile telephones that will be used while performing services under this Agreement.
- 4.5 The City shall provide copies and amendments of the City Code of Ordinances, Ohio State Building Codes, street maps or other relevant code books or materials to SAFEbuilT. These Code of Ordinances, Ohio State Codes, street maps and all other materials shall remain the property of the City and shall be turned into the City at the termination of this Agreement. SAFEbuilT shall become familiar with those codes and any unusual applications of those codes to City issues. SAFEbuilT is obligated to affirmatively request from the City such information that SAFEbuilT, based on SAFEbuilT's professional experience, should reasonably expect is available and which would be relevant to the performance of the Services.
- 4.6 SAFEbuilT shall perform the Services in accordance with this Agreement and shall promptly inform the City concerning ambiguities and uncertainties related to SAFEbuilT's performance that are not addressed by the Agreement.
- 4.7 SAFEbuilT shall employ a sufficient number of employees sufficiently experienced and knowledgeable to perform the Services in a timely and prompt manner, including outside of normal business hours as may be required during extreme events and/or under emergency conditions. Such employees shall at all times act in a professional, polite, and courteous manner to all persons regardless of the circumstances.
- 4.8 SAFEbuilT shall not allow employees, contractors, or subcontractors that are convicted of specific crimes to do work in the City. Those crimes include, but are not limited to, fraud, theft, criminal sexual conduct, assaultive or violent behavior, serious moral turpitude, gambling, prostitution, weapons violations, tax evasion, controlled substances, or excessive use of alcohol.
- 4.9 SAFEbuilT shall promptly comply with any written City request for the City or any of its duly authorized representatives to reasonably access and review any books, documents, and papers, other than SAFEbuilT's financial records, that are pertinent to SAFEbuilT's performance under this Agreement for the purpose of the City performing an audit, examination, or other review of the Services.
- 4.10 SAFEbuilT shall comply with all applicable federal, state and local laws, ordinances, regulations, and resolutions.
- 4.11 At all times during the term of this Agreement and any renewal hereof, SAFEbuilT shall be duly registered with, and authorized by, the Ohio Secretary of State to conduct business in the State of Ohio. SAFEbuilT shall provide the City with a valid Certificate of Good Standing from the Ohio Secretary of State no later than thirty (30) days prior to the Effective Date.

4.12 SAFEbuilt shall be responsible at SAFEbuilt's expense for obtaining, and maintaining in a valid and effective status, all licenses and permits necessary to perform the Services unless specifically stated otherwise in this Agreement. SAFEbuilt shall supply copies to the City of appropriate licenses and permits for any individual performing services under this Agreement.

4.13 If requested by the City, SAFEbuilt shall, at no cost to the City, make the appropriate employees, contractors, subcontractors, agents and independent contractors available as witnesses, expert witnesses or otherwise, including but not limited to, appearances at pre-trials, bench trials, jury trials, and at all other times requested by the City, for court proceedings instituted by or involving the City in either criminal or civil matters to the extent such matters involve services performed under this Agreement related to the Building Code..

4.14 SAFEbuilt shall, at no cost to the City, make the appropriate employee, contractor, subcontractor, and independent contractor available for consultation with the Mayor and/or the Law Director, or their designees, to discuss issues regarding litigation and/or matters of interest to City Council or the public.

5.0 PERFORMANCE STANDARDS

5.1 In performing the Services, SAFEbuilt shall use that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by members of the same profession practicing or performing the substantially same or similar services in the State of Ohio. SAFEbuilt represents to the City that SAFEbuilt is, and its employees performing such Services are, properly licensed and/or registered within the State of Ohio for the performance of the Services (if licensure and/or registration is required by applicable law) and that SAFEbuilt and employees possess the skills, knowledge, and abilities to competently, timely, and professionally perform the Services in accordance with this Agreement. In addition, more specific standards of SAFEbuilt performance are included within **Exhibit C**.

5.2 In a timely manner, SAFEbuilt shall inform the Building Director (Director of Public Services and Properties) of all oral complaints and submit a copy to the Building Director of all written complaints it receives from third parties against any employee, contractor, subcontractor or independent contractor of SAFEbuilt, and inform the Building Director of any responses to the complaint or of any actions taken.

5.3 The Parties mutually agree that SAFEbuilt's actions reflect on the reputation of the City. It is imperative to the City that SAFEbuilt treats the City and the public with the utmost fairness and respect. SAFEbuilt shall strictly comply with all the terms and conditions set out in this Agreement.

6.0 MISCELLANEOUS INVENTORY & SUPPLIES

6.1 SAFEbuilt shall supply all of its own office supplies and materials, including, but not limited to, postage, paper, envelopes, letterhead and business cards. Any inventory or supplies not specifically set out in this Agreement as included in any lease, rental or use provisions shall be the responsibility of SAFEbuilt. Any time SAFEbuilt uses the name "City of Bay Village" or the City logo on letterhead, documents, envelopes, business cards, or other printed materials, it must also include the SAFEbuilt designation approved by the City as set forth on **Exhibit A**.

6.2 SAFEbuilt shall supply, and be responsible for the maintenance of, any and all vehicles and equipment that may be required for SAFEbuilt to perform the Services in a safe and timely manner pursuant to the terms of this Agreement.

6.3 SAFEbuilt shall be permitted to use the City's telephones to perform the Services. The Parties shall agree in advance as to the permissible use the City telephones and the rate at which the City shall be reimbursed by SAFEbuilt for said use in accordance with the terms of the mutually agreed upon lease agreement between the City and SAFEbuilt for the space to be occupied by SAFEbuilt.

7.0 TERM AND TERMINATION

- 7.1 Term. This Agreement shall be effective on the May 1, 2013 (the "Effective Date") at 12:01 am and shall terminate on April 30, 2016 at 11:59 pm. At the end of the three (3) year period, and upon mutual agreement of the parties as approved by Mayor, this Agreement may be renewed for an additional term of two (2) years. This Agreement may also be terminated as provided in paragraph 7.3.
- 7.2 Continuing Services Required. SAFEbuilt shall perform the Services in accordance with this Agreement commencing on the Effective Date until such Services are terminated or suspended in accordance with this Agreement. SAFEbuilt shall not temporarily delay, postpone, or suspend the performance of the Services without the written consent of the Mayor, or a person expressly authorized in writing to direct SAFEbuilt's services.
- 7.3 City Unilateral Termination. This Agreement may be terminated by the City for any or no reason upon written notice delivered to SAFEbuilt at least ninety (90) days prior to termination. In the event of the City's exercise of the right of unilateral termination as provided by this paragraph:
- 7.3.1 Unless directed to continue performing work during the ninety (90) day period prior to termination or unless otherwise provided in any notice of termination, SAFEbuilt shall provide no further services in connection with this Agreement after receipt of a notice of termination; and
 - 7.3.2 All finished or unfinished documents, data, studies and reports prepared by SAFEbuilt pursuant to this Agreement shall be delivered by SAFEbuilt to the City and shall become the property of the City; and
 - 7.3.3 SAFEbuilt shall submit to the City a final accounting and final invoice of charges for all outstanding and unpaid Services and reimbursable expenses performed prior to SAFEbuilt's receipt of notice of termination and for any services authorized to be performed by the notice of termination as provided by Section 7.3.1. Such final accounting and final invoice shall be delivered to the City within thirty (30) days of the date of termination; thereafter, no other invoice, bill, or other form of statement of charges owing to SAFEbuilt shall be submitted to or accepted by the City.
- 7.4 Termination for Non-Performance. Should a Party to this Agreement fail to materially perform in accordance with the terms and conditions of this Agreement, this Agreement may be terminated by the performing Party if the performing Party first provides written notice to the non-performing Party which notice shall specify the non-performance, provide both a demand to cure the non-performance and reasonable time to cure the non-performance, and state a date upon which the Agreement shall be terminated if there is a failure to timely cure the non-performance. For purpose of this Section 7.4, "reasonable time" shall be not less than five (5) business days. In the event of a failure to timely cure a non-performance and upon the date of the resulting termination for nonperformance, SAFEbuilt shall prepare a final accounting and final invoice of charges for all performed but unpaid Services and authorized reimbursable expenses. Such final accounting and final invoice shall be delivered to the City within fifteen (15) days of the date of termination; thereafter, no other invoice, bill, or other form of statement of charges owing to SAFEbuilt shall be submitted to or accepted by the City. Provided that notice of non-performance is provided in accordance with this Section 7.4, nothing in this Section 7 shall prevent, preclude, or limit any claim or action for default or breach of contract resulting from non-performance by a Party.
- 7.5 Continued Use of Meritage Software Following Termination of SAFEbuilt Services. Following any termination of SAFEbuilt's Services under this Agreement, the City (or its contractors) shall have the right to use and access SAFEbuilt's Meritage software for any open projects in process at the time of termination, and the ability to extract/download all data relating to City work from of their system, for as long as reasonable necessary to complete the open projects and secure and preserve all data belonging to the City. For the first three months following the termination, the City shall be entitled to use the Meritage software at no charge. At the end of this three month period, if the City desires to

continue to use the Meritage software, the City will be required to negotiate a contract with Meritage for such continued use of the software.

7.6 Fees for Services Not Complete at Time of Termination of SAFEbuilt Services by the City. The amount of any fees due to SAFEbuilt with respect to Services not complete at the time Services were terminated pursuant to this Agreement shall be adjusted to reflect the portion of the work completed by SAFEbuilt at the time of termination in accordance with the rate schedule set forth in **Exhibit B**.

7.7 Delivery of Notice of Termination. Any notice of termination permitted by this Section 7 and its subsections shall be deemed given as set out in Section 13.13 of this Agreement titled "Notices".

8.0 INSURANCE

8.1 Insurance Generally. SAFEbuilt shall obtain and shall continuously maintain during the term of this Agreement insurance of the kind and in the amounts specified as follows:

The Contactor, SAFEbuilt, shall secure and maintain the following ("Required Insurance"):

Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Agreement, and Employer's Liability insurance with minimum limits of Two Million Dollars (\$2,000,000) each accident, Two Million Dollars (\$2,000,000) disease - policy limit, and Two Million Dollars (\$2,000,000) disease - each employee. Evidence of qualified self-insured status may be substituted for the worker's compensation requirements of this paragraph. Such insurance shall be endorsed to name the City as Certificate Holder and name the City, and its elected officials, officers, employees and agents as additional insured parties.

Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent Corporations, an Annual Contract Aggregate Limit endorsement, and products and completed operations. The policy shall contain a severability of interest provision, and shall be endorsed to include the Municipality including Architects and Engineers, all elected and appointed officials, all employees and volunteers, boards, commissions and/or authorities and their board members, employees, and volunteers as additional insured. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than of One Million Dollars (\$1,000,000.00) each occurrence with respect to each of SAFEbuilt's owned, hired and non-owned vehicles assigned to or used in performance of the Services. The policy shall contain a severability of interest's provision. Such insurance coverage must extend to all levels of subcontractors. Such coverage must include all automotive equipment used in the performance of the Agreement, both on the work site and off the work site, and such coverage shall include non-ownership and hired cars coverage. Such insurance shall be endorsed to name the City as Certificate Holder and name the City, and its elected officials, officers, employees and agents as additional insured parties.

Professional Liability (errors and omissions) Insurance with a minimum limit of coverage of Five Million Dollars (\$5,000,000) per claim and annual aggregate. Such policy of insurance shall be obtained and maintained for two (2) years following completion of all Services under this Agreement. Such policy of insurance shall be endorsed to include the City as a Certificate Holder.

Umbrella Liability minimum limit of coverage of Five Million Dollars (\$5,000,000) per claim and annual aggregate

The Required Insurance shall be procured and maintained with insurers licensed and admitted in Ohio with an A- or better rating as determined by Best's Key Rating Guide. All Required Insurance shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by SAFEbuilt.

8.2 Additional Requirements for All Policies. In addition to specific requirements imposed on insurance by this Section 10 and its subsections, insurance shall conform to all of the following:

- 8.2.1 Insurance carried or obtained by the City, its officers, or its employees shall be in excess of and not contributory insurance to that provided by SAFEbuilt; provided, however, that the City shall not be obligated to obtain or maintain any insurance whatsoever for any claim, damage, or purpose arising from or related to this Agreement and the Services. SAFEbuilt shall not be an insured party for any City-obtained insurance policy or coverage.
- 8.2.2 SAFEbuilt shall be solely responsible for any deductible losses for Required Insurance.
- 8.2.3 No policy of insurance shall contain any exclusion for bodily injury or property damage arising from completed operations.
- 8.2.4 Every policy of insurance shall provide that the City will receive notice no less than thirty (30) days prior to any cancellation, termination, or a material change in such policy.

8.3 Failure to Obtain or Maintain Insurance. SAFEbuilt's failure to obtain and continuously maintain policies of insurance in accordance with this Section 8 and its subsections shall not limit, prevent, preclude, excuse, or modify any liability, claims, demands, or other obligations of SAFEbuilt arising from performance or non-performance of this Agreement. Failure on the part of SAFEbuilt to obtain and continuously maintain policies providing the required coverage, conditions, restrictions, notices, and minimum limits shall constitute a material breach of this Agreement upon which the City may immediately terminate this Agreement, or, at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by SAFEbuilt to the City immediately upon demand by the City, or at the City's sole discretion, the City may offset the cost of the premiums against any monies due to SAFEbuilt from the City pursuant to this Agreement.

8.4 Insurance Certificates. Prior to commencement of the Services, and each year in connection with any policy renewal, SAFEbuilt shall submit to the City certificates of insurance for all Required Insurance. Insurance limits, term of insurance, insured parties, and other information sufficient to demonstrate conformance with this Section 8 and its subsections shall be indicated on each certificate of insurance. Certificates of insurance shall reference SAFEbuilt / Building Inspection Services. The City may request and SAFEbuilt shall provide within ten (10) business days of such request a current certified copy of any policy of Required Insurance and any endorsement of such policy. The City may, at its election, withhold payment for Services until the requested insurance policies are received and found to be in accordance with the Agreement.

9.0 OWNERSHIP OF DOCUMENTS

9.1 Any work product, materials, and documents produced by SAFEbuilt pursuant to this Agreement shall be and remains property of the City and shall not be made subject to any copyright unless authorized by the City. SAFEbuilt hereby assigns to the City the copyright to all works prepared, developed, or created pursuant to the Services outlined in this Agreement, including the rights to: (1) reproduce the work; (2) prepare derivative works; (3) distribute copies to the public by sale, rental, lease, or lending; (4) perform the works publicly; and (5) to display the work publicly. SAFEbuilt waives its rights to claim authorship of

the works, to prevent its name from being used in connection with the works, and to prevent distortion of the works.

Other materials, methodology and proprietary work used or provided by SAFEbuilt to the City not specifically created and delivered pursuant to the Services outlined in this Agreement may be protected by a copyright held by SAFEbuilt and SAFEbuilt reserves all rights granted to it by any copyright. The City shall not reproduce, sell, or otherwise make copies of any copyrighted material, subject to the following exceptions: (1) for exclusive use internally by City staff and/or employees; or (2) pursuant to a request under the Ohio Freedom of Information Act, Ohio Revised Code (ORC) 121.22 et. seq. and ORC 149.43 et. seq., or any Federal open records act, to the extent that such statutes apply; or (3) pursuant to law, regulation, or court order. SAFEbuilt waives any right to prevent its name from being used in connection with the Services.

9.2 SAFEbuilt will be provided with a copy of the City's Freedom of Information Act ("FOIA") policy. The City is responsible for responses to FOIA requests and SAFEbuilt shall not directly respond to any third parties regarding any received FOIA requests. Upon receipt of a FOIA request, SAFEbuilt shall immediately give that request to the Mayor, the Mayor's designee, with a copy to the Law Director. SAFEbuilt shall provide specific information requested by the City for response to the FOIA request by the date and time requested by the Mayor and/or Law Director and in a specific format if so requested by the Mayor and/or Law Director.

9.3 If SAFEbuilt receives a claim for damages, a Summons or Complaint, a subpoena or other document concerning a request for money damages, a threat of a law suit, or any court action proceeding, SAFEbuilt shall immediately hand deliver these documents to the Mayor, with a copy to the Law Director.

10.0 INDEPENDENT CONTRACTOR.

10.1 SAFEbuilt shall perform the Services as an independent contractor, agrees to execute the waiver required by the Ohio Public Employers Retirement System, and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with the City other than as a contracting party and independent contractor. The City shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for SAFEbuilt or SAFEbuilt's employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: local, state, or federal income or other tax contributions; insurance contributions (e.g., FICA); workers' compensation; disability, injury, or health; professional liability insurance, errors and omissions insurance; or retirement account contributions.

11.0 CONFLICT OF INTEREST

11.1 SAFEbuilt shall refrain from providing services to other persons, firms, or entities that would create a conflict of interest for SAFEbuilt with regard to providing the Services pursuant to this Agreement. SAFEbuilt shall not offer or provide anything of benefit to any City official or employee that would place the official or employee in a position of violating the public trust as provided under the City Charter, City Code of Ordinance, state or federal statute, case law or ethical principles.

12.0 REMEDIES

12.1 In addition to any other remedies provided for in this Agreement, and without limiting its remedies available at law, the City may exercise the following remedial actions if SAFEbuilt substantially fails to perform the duties and obligations of this Agreement. Substantial failure to perform the duties and obligations of this Agreement shall mean a significant, insufficient, incorrect, or improper performance, activities or inactions by SAFEbuilt. The remedial actions include:

- 12.1.1 Suspend SAFEbuilt's performance pending necessary corrective action as specified by the City without SAFEbuilt's entitlement to an adjustment in any charge, fee, rate, price, cost, or schedule; and/or
- 12.1.2 Withhold payment to SAFEbuilt until the necessary services or corrections in performance are satisfactorily completed; and/or
- 12.1.3 Deny payment for those services which have not been satisfactorily performed, and which, due to circumstances caused by SAFEbuilt, cannot be performed, or if performed would be of no value to the City; and/or
- 12.1.4 Terminate this Agreement in accordance with this Agreement.

The foregoing remedies are cumulative and the City, in its sole discretion, may exercise any or all of the remedies individually or simultaneously.

13.0 MISCELLANEOUS PROVISIONS

- 13.1 No Waiver of Rights. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party. The City's approval or acceptance of, or payment for, services shall not be construed to operate as a waiver of any rights or benefits to be provided under this Agreement. No covenant or term of this Agreement shall be deemed to be waived by the City except in writing signed by the City Council or by a person expressly authorized to sign such waiver by resolution of the City Council of the City and any written waiver of a right shall not be construed to be a waiver of any other right or to be a continuing waiver unless specifically stated.
- 13.2 No Waiver of Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the City, its officials, employees, contractors, or agents, volunteers or any other person acting on behalf of the City and, in particular, governmental immunity afforded or available pursuant to Title 27, Chapter 2744, of the Ohio Revised Code.
- 13.3 Affirmative Action. SAFEbuilt will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. SAFEbuilt will take affirmative action to ensure applicants are employed, and employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 13.4 Binding Effect. The Parties agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives, and assigns.
- 13.5 No Third Party Beneficiaries. Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, employee or former employee of the City, Sub-consultant or subcontractor of SAFEbuilt. Absolutely no third party beneficiaries are intended by this Agreement. Any third-party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.
- 13.6 Governing Law, Venue, and Enforcement. This Agreement shall be governed by and interpreted according to the law of the State of Ohio. Venue for any action arising under this Agreement shall be in the County of Cuyahoga. If there is any conflict between the language of this Agreement and any exhibit or attachment, the language of this Agreement shall govern.

- 13.7 Survival of Terms and Conditions. The Parties understand and agree that all terms and conditions of the Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.
- 13.8 No Assignment. Neither Party shall assign all or part of the rights, duties, obligations, responsibilities, or benefits set forth in this Agreement to another party or entity.
- 13.9 Paragraph Captions. The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.
- 13.10 Integration and Amendment. This Agreement represents the entire and integrated agreement between the City and SAFEbuilt and supersedes all prior negotiations, representations, or agreements, either written or oral, unless specified herein. Any amendments to this must be in writing and be signed by both the City and SAFEbuilt.
- 13.11 Severability. Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.
- 13.12 Incorporation of Exhibits. Unless otherwise stated in this Agreement, exhibits, applications, or documents referenced in this Agreement shall be incorporated into this Agreement for all purposes. In the event of a conflict between any incorporated exhibit and this Agreement, the provisions of this Agreement shall govern and control.
- 13.13 Notices. Unless otherwise specifically required by a provision of this Agreement any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given at the address set forth below or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States Mail properly addressed to the intended recipient.

If to the City: Mayor City of Bay Village 350 Dover Center Road Bay Village, OH 44140	If to SAFEbuilt: Mike McCurdie, President SAFEbuilt Corporate Offices 3755 Precision Drive, Suite 140 Loveland, CO 80538
With Copy to: Law Director City of Bay Village 350 Dover Center Road Bay Village, OH 44140	With Copy to: David Thomsen, Vice President SAFEbuilt Corporate Offices 3755 Precision Drive, Suite 140 Loveland, CO 80538

14.0 SPECIAL PROVISIONS

- 14.1 Indemnification and Hold Harmless. To the fullest extent permitted by law, SAFEbuilt agrees to defend, pay on behalf of, indemnify, and hold harmless the City its elected and appointed officials, employees and volunteers and others working on behalf of the City against any and all claims, demands, suits, or loss, including all costs connected therewith, and for any damages which may be asserted, claimed or recovered against or from the City, its elected and appointed officials, employees, volunteers or others working on behalf of the City, by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof which arises out of or is in any way connected or associated with this Agreement. The City shall indemnify SAFEbuilt from any claims

against SAFEbuilt resulting from the gross negligence of the City. At no time does the City waive its right to governmental immunity.

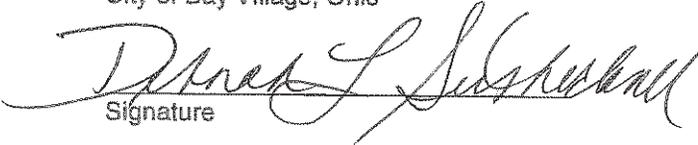
14.2 Force Majeure. Neither SAFEbuilt nor the City shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to extent that, such delay or failure is caused by "force majeure." As used in this Agreement, "force majeure" means acts of God, acts of the public enemy, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed party.

14.3 Authority. The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of City and SAFEbuilt and bind their respective entities.

THIS AGREEMENT is executed and made effective as provided above.

City of Bay Village, Ohio

SAFEbuilt Ohio, Inc.


Signature


Signature

Name: Deborah Sutherland

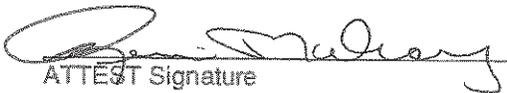
Name: David Thomsen

Title: Mayor

Title: Vice President

Date: 3 / 18 / 2013

Date: 3 / 15 / 13


ATTEST Signature

Renee Mahoney Director of Finance
Name / Title

Date: 3 / 18 / 2013

EXHIBIT A: Scope of Services

Administrative Services

As part of our administrative services SAFEbuilt will:

- ✓ Provide onsite administrative staff
- ✓ Answer questions at the department window; via phone and email; provide ongoing communication as needed
- ✓ Follow up on complaints and provide solutions
- ✓ Administer the City of Bay Village rental licensing and contractor registration programs
- ✓ Handle fee assessment and collection
- ✓ Process applications and prepare memorandum for the Board of Zoning Appeals, Planning Commission, and Architectural Board of Review
- ✓ Provide input, tracking, and reporting
- ✓ Implement performance measurements to ensure agreed upon service levels
- ✓ Provide and complete all agreed upon reports as are required by the City within mutually agreed upon timeframes and frequencies – content and detail to be mutually agreed upon
- ✓ Provide all compliance and licensing reporting to required agencies
- ✓ Receive pre-approval from Mayor or Mayor's designee on all printed materials related to City

Building Department Services

As part of our building department services SAFEbuilt will:

- ✓ Monitor and enforce adopted building codes, related codes, and amendments
- ✓ Demonstrate experience and applied knowledge in the aspects of plan review and building and construction inspections related to historic structures
- ✓ Document areas of non-compliance using written records, electronic communications, photographs or other appropriate means
- ✓ Provide training for our inspectors on City of Bay Village ordinances and amendments
- ✓ Be available for meeting as requested

Plan Review Services

As part of our plan review services SAFEbuilt will:

- ✓ Accept and perform plan review electronically as well as in the traditional paper format
- ✓ Work with applicants on submittal requirements to ensure the process is not held up for minor issues
- ✓ Examine all commercial and residential projects including drawings, specifications, computations, and additional data to determine if plans conform with State of Ohio codes, City of Bay Village local ordinances, and pertinent codes including the National Electrical Code
- ✓ Perform the following reviews: building code, accessibility, mechanical, electrical, plumbing, use and occupancy classification, general building heights and areas, construction type, means of egress, accessibility, energy code, and foundation
- ✓ Be available for pre-submittal meetings to facilitate review timeliness and submittal completeness
- ✓ Coordinate plan review tracking, reporting, and interaction with applicable departments
- ✓ Add resources as needed to keep reviews on schedule and provide needed expertise
- ✓ Provide type written comment letters
- ✓ Review all revisions and be available for consultation after review is completed

Inspection Services

As part of our inspection services SAFEbuilt will:

- ✓ Perform and coordinate all requested electrical, plumbing, mechanical and building code inspections
- ✓ Offer a two hour inspection window along with a 30 minute call ahead notification to homeowners
- ✓ Perform inspections to determine that construction activity complies with approved plans, applicable codes and ordinances
- ✓ Provide onsite inspection consultations to citizens and contractors
- ✓ Observe safety and security procedures and report potentially unsafe conditions
- ✓ Identify and document any areas of non-compliance and suggest alternate means
- ✓ Process and deliver stop-work notices for non-conforming building activities
- ✓ Leave a copy of the inspection notice on-site and input results into permitting/tracking system

Building Official Services

As part of our building official services SAFEbuilt will:

- ✓ Effectively manage all building department activities and staff, including performance issues
- ✓ Meet with the Building Director and/or Mayor on a regular basis and provide coordination with other department managers
- ✓ Implement office and field policies and procedures
- ✓ Review documentation for compliance with state and local requirements
- ✓ Coordinate with City Attorney for timely code adoption and processing
- ✓ Attend staff and council meetings as requested
- ✓ Attend grievance hearings and resolve complaints appropriately
- ✓ Develop staff performance and training plans that aligns with City of Bay Village goals

For the purposes of providing building department services described herein, The City of Bay Village appoints SAFEbuilt as the sole building official and grants SAFEbuilt all rights and privileges established by ordinance, statute or building code for this position.

Front Counter/Administrative Support Services

As part of our front counter/administrative support services SAFEbuilt will:

- ✓ Provide a qualified team member to facilitate the permitting process from permit intake to issuance
- ✓ Maintain and coordinate permit payment receipts with the Bay Village Finance Department
- ✓ Provide inspection scheduling and tracking to ensure code compliance
- ✓ Provide customer service and answer questions at the department window or over the phone
- ✓ Review and provide handouts at the counter
- ✓ Process permits that require minimal or no plan review at time of submittal
- ✓ Administer the City of Bay Village rental licensing and contractor registration programs
- ✓ Respond to citizen complaints and communicate effectively with citizens to minimize impact of building activities on the public and neighborhoods
- ✓ Maintain all current and archived building department records and files

Property Maintenance Complaint Services

The primary focus of any Property Maintenance Complaint Services program is to achieve compliance without confrontation and at minimum cost. An effective program benefits the municipality and its residents by presenting a better image with safer, more attractive neighborhoods and higher property values. We take an educational pro-active approach to property maintenance program and believe that citations should only be issued as a last resort. Our goal is to interact on a level that prevents a dispute from occurring.

As part of our services SAFEbuilt will:

- ✓ Work with the City and its citizens to promote and maintain a safe and desirable community
- ✓ Respond to and investigate code violation complaints as directed
- ✓ Post violation notices and provide initial citizen notifications and follow-up inspections
- ✓ Provide written reports that include digital photos of violations and action taken
- ✓ Prepare cases for court appearances, provide presentations and attend meetings as needed
- ✓ Participate in public educational activities and customer service surveys related to property maintenance
- ✓ Provide statistical, narrative information and detailed reports within mutually agreed upon frequencies

Rental Dwelling Licensing & Inspection Services

As part of our rental dwelling licensing and inspection services SAFEbuilt will:

- ✓ Facilitate the program as established by The Bay Village Rental Dwelling Housing License Code
- ✓ Accept and review license applications forms
- ✓ Determine that license applications comply with annual renewal requirements
- ✓ Inspect building and property to ensure compliance with ordinance requirements
- ✓ Issue licenses for buildings and properties found to be in compliance with ordinance requirements
- ✓ Void existing licenses for buildings and properties found to be in violation of ordinance requirements
- ✓ Provide and complete all agreed upon reports as are required by the City within mutually agreed upon timeframes and frequencies – content and detail to be mutually agreed upon

Contractor Registration & Licensing Services

As part of our contractor registration and licensing services SAFEbuilt will:

- ✓ Facilitate the program as established by the Bay Village ordinance
- ✓ Accept and review registration applications forms
- ✓ Determine that contractors meet insurance requirements during registration review process
- ✓ Determine that registration applications comply with annual renewal requirements
- ✓ Provide and complete all agreed upon reports as are required by the City within mutually agreed upon timeframes and frequencies – content and detail to be mutually agreed upon

Emergency Response

SAFEbuilt staff has been trained for damage assessment. Our response will consist of a rapid assessment of the structural integrity of damaged buildings using appropriate means and methods. The purpose of these evaluations is to determine whether damaged or potentially damaged buildings are safe for use, or if entry should be restricted or prohibited. SAFEbuilt will post the structure with the appropriate placard.

SAFEbuilt provides immediate response to localized emergencies through the use of existing personnel within the office. In the case of large scale emergencies, we work directly with your representative and emergency management personnel to determine an appropriate response and mobilize resources as needed.

Subcontractors

SAFEbuilt will provide and maintain all professional services as described in the request document under "Scope of Services". No portion will be subcontracted without prior approval by the City of Bay Village.

SAFEbuilt/Meritage Building Department Software

SAFEbuilt/Meritage has developed its own internet-based software package that allows workflow tracking for monitoring a permit's progress through the entire permit lifecycle with separate signoff capability for internal and external departments. We have experience with legacy permitting systems and have implemented online permitting, field inspection resulting, electronic plan review, online citizen access, and contractor licensing for many clients. We can also provide a module to help facilitate code enforcement, rental dwelling and contractor registration programs as adopted by the City. These modules provide tracking and reporting of services typically associated with these types of programs. We request the City maintain their current software system for the initial 90 days after service transition to allow a solid understanding of the software prior to system transition. Main features include:

- ✓ Application data tracking, customizable to match existing forms
- ✓ Workflow tracking for monitoring a permit's progress through the entire permit lifecycle
- ✓ Tracks the dates of all actions and reports turn-around times
- ✓ Owner, contractor, and address databases maintained in order to keep accurate records
- ✓ Fee assessment and collection capabilities – including use tax and other Town fee items
- ✓ Separate signoff capability for appropriate departments, both internal and external
- ✓ Document attachment capability for scanned items pertaining to specific permits
- ✓ Web-enabled thin-client accessible with an internet connection 24/7/365
- ✓ Workflow tracking, plan review and inspection status details
- ✓ Standard reporting as well as custom reports written to your specifications
- ✓ Full offsite backup and storage
- ✓ Tracking and reporting of code enforcement and rental dwelling activities
- ✓ Tracking for contractor licensing that alerts user if licensing, registration or insurance is not in place at permit issuance
- ✓ Training on SAFEbuilt's software will be provided

EXHIBIT B: Fee Schedule

SAFEbuilt does not utilize a company-wide fee schedule. A majority of our fees are based on an appropriate percentage of the jurisdictions adopted fee schedule for services being provided by SAFEbuilt. SAFEbuilt proposes services to be performed at the following all inclusive rates with no separate billing for vehicles, mileage, travel time, equipment etc.

Fee Type	SAFEbuilt's Fee
Building Permit Fees	85% of City of Bay Village Fees
Electrical Permit Fees	85% of City of Bay Village Fees
Plumbing Permit Fees	85% of City of Bay Village Fees
HVAC Permit Fees	85% of City of Bay Village Fees
Miscellaneous Fees	85% of City of Bay Village Fees
Plan Review Fees	85% of City of Bay Village Fees
Penalty Fees	85% of City of Bay Village Fees
Rental Dwelling Licensing/Inspection Fee	85% of City of Bay Village Fees
Contractor Registration/Licensing Fee	85% of City of Bay Village Fees
Existing Open Permits (under \$5,000 permit fee)*	40.00 per open permit
Existing Open Permits (over \$5,000 permit fee)**	To be negotiated individually
Property Maintenance Complaint Services***	\$55.00 an hour
Re-Review of Approved Plan Fee****	\$75.00 an hour – 1 hour minimum
Miscellaneous Hourly Fee *****	\$75.00 an hour
Volume Discount*****	5% reduction of percentage of fees only
City Owned Projects	50% of fees based off of valuation and standard Bay Village fee schedule as if a private project
Public School Projects	50% of fees based off of valuation and standard Bay Village fee schedule as if a private project

*Existing open permits under \$5,000 in permit fees will be closed by SAFEbuilt at \$40.00 per permit.

**Existing open permits over \$5,000 in permit fees will be finaled and closed by SAFEbuilt at a negotiated rated to be mutually determined on a case by case basis.

***Property Maintenance Complaint Services not to exceed \$15,000 in first year of agreement unless agreed upon in writing by both parties. Years 2 and 3 not to exceed amounts to be agreed upon in writing at later date

****Re-review of previously approved plans fees should pass through to the applicant.

*****Miscellaneous hourly fee must be pre-approved by Mayor or official designee prior to services being performed and billing by SAFEbuilt.

*****If SAFEbuilt revenue reaches \$1 million from clients in Cuyahoga and Lorain counties during a contract year (May 1st through April 30th) then following year percentage of fees drops from 85% to 80%. 5% drop is a one- time event. Percentage will not increase if next year volume is not \$1 million. Volume discount does not pertain to hourly rates.

EXHIBIT C: Performance Standards

Performance measurement is essential for defining goals, setting objectives, and measuring success of the department. We use a number of performance measures to gauge the effectiveness of our systems and the efficiency of our staff. The most visible of quantitative measures are the following:

Area	Performance Measurement	Goal	Description of How to Achieve each Performance Measurement
Overall Department	Customer Service Ratings	100%	SAFEbuilt will utilize customer service surveys to determine if department activity is satisfactory for the end user and to identify areas of strengths and areas that need improvement.
Administrative Support	Percentage of walk-ins experiencing counter wait times of less than 10 minutes	100%	The front counter log will be reviewed each month to ensure that any customer requests or issues are handled quickly and effectively so as not to be an inconvenience. The data will be compiled into a report.
Administrative	Percentage of phone inquiries/complaints handled within 24 hours	100%	Inquiries and complaints from walk-in traffic, emails and phone calls will be tracked and compiled into a report.
Building Code Plan Review	Residential plan reviews – maximum time to first comment is 5 business days.	100%	SAFEbuilt may utilize its permitting software to provide reporting. Business days' time frames are a maximum time to comments. All plans will be reviewed on an As Soon As Possible (ASAP) basis. Estimate times to completion will be communicated to applicant.
Building Code Plan Review	Multi-family plan reviews maximum time to first comments is 10 business days. Maximum time to second comments is 5 business days	100%	
Building Code Plan Review	Small Commercial (<\$5M in valuation) plan reviews first comments within 10 business days/second comments 5 business days	100%	
Building Code Plan Review	Large Commercial (>\$5M in valuation) plan reviews first comments within 15 business days/second comments 10 business days	100%	
Building Code & Rental Dwelling Inspection	All inspections performed within 24 hours of request unless otherwise requested by applicant	100%	
Property Maintenance Complaints	Percent of property maintenance complaints inspected/reviewed within 48 hours of complaint	100%	SAFEbuilt may utilize its permitting software to provide reporting. The maximum time to complete a scheduled inspection is 48 hours – this does not include non-business days.

ORDINANCE NO. 13-14
INTRODUCED BY: Mr. Clark

First Reading 3-14-13

AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO A PROFESSIONAL SERVICES
AGREEMENT WITH SAFEbuilt FOR A TERM OF THREE YEARS AND DECLARING AN
EMERGENCY.

WHEREAS, the city has negotiated an agreement with SAFEbuilt for professional services for a three (3) year term, as more fully defined in the agreement on file with the City of Bay Village;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bay Village, Ohio;

SECTION 1. That the Mayor be and she is hereby authorized to enter into a professional services agreement with SAFEbuilt, in accordance with the agreement specifying the terms and conditions which is on file with the City of Bay Village.

SECTION 2. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance 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 meeting open to the public in compliance with law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason that the services provided by this agreement will be beneficial to the residents of the City of Bay Village, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED: March 11, 2013


CLERK OF COUNCIL


PRESIDENT OF COUNCIL

APPROVED: March 12, 2013


ACTING MAYOR

to read,
Council of the City of Bay Village, Ohio.
to be posted for a period of fifteen days
at
the three Designated Posting Places

WESTLAKE-BAY ECOLOGICAL COMPOSTING FACILITY AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 2016 by and between the cities of Bay Village and Westlake (hereinafter "Bay" and "Westlake" or "Parties").

WHEREAS, Bay and Westlake, on or about August 7, 1989, established an Ecological Composting Facility at the former Westlake landfill (hereinafter "Facility"); and

WHEREAS, Bay and Westlake jointly purchased a windrow composting machine to implement and operate a community composting program; and

WHEREAS, Bay and Westlake have determined that the health and welfare of the cities would be promoted and preserved by the continued operation and maintenance of said Facility and the continued implementation of composting programs; and

WHEREAS, Bay and Westlake entered into a Westlake-Bay Ecological Compost Facility Agreement which expired February 28, 2009; and

WHEREAS, both communities face a continued need to address leaf disposal.

NOW, THEREFORE, it is hereby agreed by and between the Parties:

1. PURPOSE

- a.) Westlake shall provide the necessary real property for the Facility, which property is located at the Westlake landfill area more fully described in Exhibit "A" attached hereto and made a part hereof as if fully rewritten.
- b.) The Parties shall at all times during this contract, provide for a windrow composting machine, bulldozer, trommel screen and stacking conveyor for use at the site. The existing windrow composting machine shall remain in the joint ownership of the Parties.
- c.) Bay shall equally share with Westlake in the future costs for the replacement purchase of a bulldozer, trommel screen, and stacking conveyor as identified in Exhibit "B" and any other future joint equipment purchases by the Parties, which equipment shall be added to Exhibit "B" by the Parties upon purchase.

2. DISPOSAL AND TIPPING FEES

- a.) Each Party shall have the right to dispose of its leaves at the Facility; however no grass clippings will be accepted or mixed into the leaf material by the Parties or any other city or entity.
- b.) Other municipalities may be permitted to dispose of its leaves by paying the required tipping fee per cubic yard and only with the prior approval of the Mayors of Bay and Westlake. Other municipalities desiring to use the Facility for leaf disposal shall pay Westlake a tipping fee of \$3.50 per cubic yard for disposal. This fee may be increased by the Mayor of Westlake as determined necessary by Westlake.
- c.) Receipts for disposal materials delivered will be totaled by Westlake at the end of each month and invoiced accordingly. Tipping fees collected shall offset expenses incurred to process leaves into leaf humus.

3. COST SHARING AND REPORTING

- a.) Westlake and Bay agree to share equally in all costs related to the operation and maintenance of the Facility, included but not limited to, the windrow composting machine, bulldozer, trammel screen and stacking conveyor, rented equipment, leased equipment, Facility labor, Facility maintenance, Facility materials, fuel, repairs and insurance for all equipment. Each Party shall record labor hours spent working at the Facility and shall supply an annual accounting of same to the other Party. Each Party shall record heavy equipment and truck operation hours at the Facility (not including hours for the windrow machine, bulldozer, trammel screen and stacking conveyor) and shall supply an annual accounting of same to the other Party. Each Party shall record all other costs (as identified in subsection(b)(i-viii) herein) expended and shall supply an annual accounting of the same to the other Party. The annual accountings shall be made on the form attached hereto as Exhibit "C."
- b.) An annual report of all monies generated and/or expended will be supplied by Westlake to Bay. At the conclusion of each fiscal year, a comparison of the following costs or hours incurred by each Party will be made by Westlake:
 - i. Facility maintenance costs;
 - ii. Facility material costs;
 - iv. Repair costs;
 - v. Insurance costs;
 - vi. Labor hours;
 - vii. Heavy equipment and truck hours; and
 - vii. Rented or leased equipment costs.

If a difference of more than ten percent (10%) exists for any one of the items listed above, a monetary adjustment in the costs or hours will be made. Labor hours shall be determined using the actual hourly rate for labor each Party paid. Costs for equipment shall be determined by the most recent FEMA equipment cost guide. Other remaining costs shall be determined at the actual cost expended by the Party.

4. FINAL PRODUCT REVENUES

Leaf compost used or taken from the site by each City will be logged in cubic yard measurement for material tracking purposes. Rates for the leaf compost shall be established by the Council of Westlake. All revenues collected by each Party from the sale of the leaf compost, excluding delivery fees, will be placed in the fund accounts already individually established by Westlake and Bay. All revenues collected by Bay for the sale of leaf compost shall be transferred annually by December 15th from the Bay account to the Westlake account. Revenues shall be used to promote and finance future Facility improvements, including but not limited to, the purchase and maintenance of equipment, the beautification of the landfill area, and any other items required by OEPA compliance regulations.

5. TERM OF AGREEMENT

This Agreement shall be effective on the ____ day of _____, 2016 and shall remain in effect until the 31st day of December, 2026 unless terminated earlier as provided for herein. However, at the end of the initial five (5) year term the parties shall review the contract and mutually agree on any price adjustment going forward for the next five (5) years. This Agreement shall only remain in effect and said joint operation shall only continue while the Facility remains licensed as a Class IV Compost Site under the Ohio Environmental Protection

Agency (OEPA) guidelines. Should the site no longer be licensed for any reason, the Agreement shall be terminated as of the date the Facility is no longer licensed. Furthermore, either Party may terminate this Agreement within 60 days written notice to the other.

6. DISPOSITION OF PROPERTY UPON TERMINATION

Upon termination of the Agreement, Westlake shall arrange for an equipment appraisal of the windrow composting machine and any other equipment jointly purchased by the Parties after the effective date of this Agreement as identified in Exhibit "B." After the appraisal, the machine and equipment will then be sold by Westlake and Bay will be reimbursed its proportionate share for the windrow composting machine and any other equipment jointly purchased as identified in Exhibit "B." The Parties will amend Exhibit "B" in writing, as necessary, to reflect the actual joint purchases made by the Parties in future years of this Agreement. In the event of termination of this Agreement, the non-terminating Party has the right of first refusal for the purchase of the windrow composting machine and any other equipment jointly purchased by the Parties and identified in Exhibit "B," with the value of said machine and equipment to be established by the appraiser selected by Westlake as described above.

7. NOTICES

Notices, invoices and correspondence to Westlake shall be made to the Director of Public Service, City of Westlake, 27700 Hilliard Boulevard, Westlake, Ohio 44145. Notice, invoices and correspondence to Bay shall be made to the Director of Public Safety and Service, City of Bay Village, 350 Dover Center Road, Bay Village, Ohio 44140.

8. ENTIRE AGREEMENT

This written Agreement contains the entire Agreement between the Parties. The Parties acknowledge and agree that neither party has made any representation with respect to the subject matter of this Agreement nor any representation inducing the execution and delivery of the Agreement except as are specifically set forth herein. Any future changes, alterations or modifications of this Agreement or its Exhibits shall be at the joint written agreement of the Parties.

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

CITY OF WESTLAKE

By: _____
Dennis M. Clough, Mayor

CITY OF BAY VILLAGE

By: _____
Deborah Sutherland, Mayor

Approved as to form:

John D. Wheeler
Westlake Director of Law

Gary Ebert
Bay Village Director of Law

EXHIBIT "B"
WESTLAKE-BAY ECOLOGICAL COMPOSTING FACILITY AGREEMENT

EQUIPMENT	COST	REPLACEMENT YEAR	BAY VILLAGE
Windrow Comp. Machine	\$396,650	2016	50%
Bulldozer	\$115,000	2024	40%
Trommel Screen	\$135,000	2019	50%
Stacking Conveyor	\$105,000	2021	37.5%

*Equipment actually purchased, replacement year and cost are estimated and subject to modification in writing by the Parties.