

**REGULAR COUNCIL MEETING  
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO  
TO BE HELD ON TUESDAY, MARCH 5, 2019**

**A. ROLL CALL OF MEMBERS**

**B. PLEDGE OF ALLEGIANCE**

**C. APPROVAL OF MINUTES OF PRECEDING MEETINGS:**

1. CAUCUS PRIOR TO MEETING HELD ON FEBRUARY 19, 2019.
  
2. REGULAR COUNCIL MEETING HELD ON FEBRUARY 19, 2019.

**D. REPORTS OF STANDING COMMITTEES:**

Aviation & Environmental Committee - Chairman, Poindexter  
Finance Committee - Chairman, Scott  
Legislative Committee - Chairman, Mencini  
Parks & Recreation Committee - Chairman, Salvatore  
Planning Committee - Chairman, Burgio  
Safety Committee - Chairman Stemm  
Service Committee - Chairman, Orcutt  
Board of Zoning Appeals - Chairman, Scott

**E. REPORTS OF SPECIAL COMMITTEES:**

Southwest General Health Center - Trustee, Salvatore  
Berea Board of Education Committee - McDonnell, Poindexter

**F. REPORTS OF BOARDS AND COMMISSIONS:**

**G. INTRODUCTION OF RESOLUTIONS OF COMMENDATION:**

**H. REPORTS AND COMMUNICATIONS FROM THE MAYOR:**

- I. REPORTS AND COMMUNICATIONS FROM DEPARTMENTS, COMMISSIONS, AND OTHER PUBLIC OFFICIALS:**
- J. OTHER COMMUNICATIONS AND PETITIONS, AND VERBAL APPROVAL: (INTRODUCTION OF NEW LEGISLATION):**
- K. MISCELLANEOUS BUSINESS, APPOINTMENTS, CONFIRMATIONS:**
- L. REMARKS FROM THE AUDIENCE ON ANY SUBJECT MATTER:**
- M. INTRODUCTION OF ORDINANCES AND RESOLUTIONS: FIRST READING:**
- N. SECOND READING OF ORDINANCES AND RESOLUTIONS:**
- O. THIRD READING OF ORDINANCES AND RESOLUTIONS:**
  - 1. ORDINANCE NO. 11063-2019, AUTHORIZING THE CONSULTING ENGINEERS OF BROOK PARK AND MIDDLEBURG HEIGHTS TO PREPARE PLANS AND BID DOCUMENTS AND THE MAYOR TO ADVERTISE FOR BIDS AND ENTER INTO A CONTRACT FOR THE SHELDON ROAD RESURFACING PROJECT AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

**NOTE: EXECUTIVE SESSION:**

- 1. PERSONNEL MATTERS - PER COUNCIL PRESIDENT VECCHIO

**P. ADJOURNMENT:**

**SYNOPSIS OF ORDINANCES  
FOR THE COUNCIL MEETING OF MARCH 5, 2019**

**SECOND READING:**  
Ord. 11063-2019

AN ORDINANCE AUTHORIZING THE CONSULTING ENGINEERS OF BROOK PARK AND MIDDLEBURG HEIGHTS TO PREPARE PLANS AND BID DOCUMENTS AND THE MAYOR TO ADVERTISE FOR BIDS, AND ENTER INTO A CONTRACT FOR THE SHELDON ROAD RESURFACING PROJECT AND DECLARING AN EMERGENCY.

SYNOPSIS: An ordinance authorizing the Consulting Engineers to prepare plans and documents for the Sheldon Road Resurfacing Project between the Cities of Brook Park and Middleburg Heights and further authorizing the Mayor to advertise for bids and to enter into a contract for same.

**PREPARED BY THE BROOK PARK LEGAL DEPARTMENT  
March 1, 2019**

CITY OF BROOK PARK, OHIO

P/C 1/22/19 Service  
Caucus Prior 2/5/19  
1<sup>st</sup> R 2/5/19  
2<sup>nd</sup> R 2/17/19  
3<sup>rd</sup> R 3/5/19  
B/C

ORDINANCE NO. 11063-2019

INTRODUCED BY: MAYOR GAMMELLA

AN ORDINANCE  
AUTHORIZING THE CONSULTING ENGINEERS OF BROOK PARK  
AND MIDDLEBURG HEIGHTS TO PREPARE PLANS AND BID  
DOCUMENTS AND THE MAYOR TO ADVERTISE FOR BIDS, AND ENTER  
INTO A CONTRACT FOR THE SHELDON ROAD RESURFACING PROJECT  
AND DECLARING AN EMERGENCY

WHEREAS, the Mayor and all members of City Council agree that the pavement on C.R. 131, Sheldon Road, is in need of repairs/resurfacing and desire to have the Project completed; and

WHEREAS, the Sheldon Road Resurfacing Project will improve public safety, increase property values and make business development more desirable; and

WHEREAS, the Council of Brook Park adopted the Ordinance of Consent in which the Mayor was authorized to execute an Agreement of Cooperation between the County of Cuyahoga, Ohio and the City of Brook Park for the Sheldon Road Resurfacing Project pursuant to Ordinance 11060-2019, passed by the Council of Brook Park on January 22, 2019; and

WHEREAS, the Mayor was authorized to enter into a Cooperative Agreement with the City of Middleburg Heights for the Sheldon Road Resurfacing Project pursuant to Resolution \_\_\_\_\_-20\_\_, passed by the Council of Brook Park on \_\_\_\_\_, 20\_\_; and

WHEREAS, Euthenics, Inc., and Mackay Engineering and Surveying Company submitted a professional engineering services cost proposals for the Sheldon Road Resurfacing Project; and

WHEREAS, the Council and the Mayor of the City of Brook Park desire to enter into a professional services agreements with Euthenics Inc. and Mackay Engineering and Surveying Company, copies of which is attached hereto and marked "Exhibit A" and "Exhibit B".

NOW, THEREFORE BE IT ORDAINED by the Council of the City of Brook Park, State of Ohio, that:

SECTION 1: The Consulting Engineers are hereby authorized to prepare plans and documents, and the Mayor is authorized to

advertise for bids and enter into a contract with lowest and best bidder for the Sheldon Road Resurfacing Project.

**SECTION 2:** The Mayor is hereby authorized to enter into a professional engineering service agreement in accordance with the proposal dated December 12, 2018 submitted by Euthenics In., a copy of which is attached hereto and marked 'Exhibit A'.

**SECTION 3:** That Mayor is hereby authorized to enter into a professional engineering service agreement in accordance with the proposal dated December 6, 2018 submitted by Mackay Engineering and Surveying Company, a copy of which is attached hereto and marked 'Exhibit B'.

**SECTION 4:** The money needed to complete the aforesaid transaction shall be paid from the 2018-2019 Street Improvement Fund No. 545, theretofore, appropriated or to be appropriated for said purpose.

**SECTION 5:** That the Mayor is authorized to execute agreements as may be necessary and appropriate for completing this Project.

**SECTION 6:** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

**SECTION 7:** This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason of that the City desires to complete this work as soon as possible; therefore, provided this ordinance receives the affirmative vote of at least five (5) members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
Clerk of Council

APPROVED: \_\_\_\_\_  
MAYOR

\_\_\_\_\_  
DATE

HEREBY APPROVE THE WITHIN INSTRUMENT AS TO LEGAL FORM AND CORRECTNESS

December 12, 2018

Mayor Michael D. Gammella  
City of Brook Park  
6161 Engle Road  
Brook Park, Ohio 44142

Re: Cities of Brook Park and Middleburg Heights  
Sheldon Road Resurfacing Project  
Final Plans, Bidding and Construction Phase Services

Dear Mayor Gammella:

Euthenics, Inc. is pleased to submit this proposal for providing Engineering and Surveying Services for the development of final plans and specifications for the Sheldon Road Resurfacing Project in the cities of Brook Park and Middleburg Heights. The anticipated work includes the asphalt resurfacing and repair of the roadway on Sheldon Road from 780' east of the Eastland Road intersection to the Engle Road intersection, for an overall length of approximately 4,400 feet. The City of Brook Park has been designated as the lead agency with construction funds being provided by Cuyahoga County (ID #1224) up to \$250,000 and the balance of the Project costs being shared equally with the City of Middleburg Heights.

Our fee for the above work is \$54,372.60 and we expect to complete the survey, the design plans, and complete the bidding documents within two (2) months of the notice to proceed so a construction contract can be advertised in early 2019.

Euthenics welcomes the opportunity to work once again with the City of Brook Park on this project. We will be happy to meet with you and answer any questions or provide additional information upon your request.

Very truly yours,  
EUTHENICS, INC.



Edward R. Piatak, P.E.  
Consulting City Engineer

Encls.

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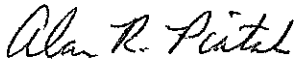
**OFFICERS**

R. S. WASOFSKY, PE, PS, CEO • A. R. PIATAK, PE, PRESIDENT • D. T. BENDER, PE, SECRETARY • J. L. NEVILLE, PE, TREASURER • E. R. PIATAK, PE, VICE PRESIDENT  
ASSOCIATES  
R. A. BENDER, PE • M. E. KIMBERLIN, PE, PS • M. M. PILAT, PE • M. R. COSGRIFE, PE • L. A. BAKER, PE • A. J. MALINAK, PE • S. A. HORAN, PS • A. N. CHUCRAY, PE

Exhibit A

**Professional Services Agreement**

<b>Design Professional:</b> Euthenics, Inc. 8235 Mohawk Drive Strongsville, Ohio 44136	<b>Client:</b> City of Brook Park 6161 Engle Road Brook Park, Ohio 44142  City of Middleburg Heights 15700 Bagley Road Middleburg Heights, Ohio 44130
<b>Project No.:</b> Brook Park Contract 1802	<b>Date:</b> December 12, 2018
<b>Project Name:</b> Sheldon Road Resurfacing Project	
<b>Location:</b> Cities of Brook Park & Middleburg Heights, Ohio	
<b>Scope of Services shall be as described below or in Proposal Letter:</b>  See proposal letter dated December 12, 2018	
<b>Fee Arrangement:</b> Final Plans, Bidding Phase & Contract Award = \$46,372.60 (Lump Sum) Construction Phase = \$8,000.00 (Hourly)	
<b>Rates shall be as shown on attached rate sheet:</b> N/A	
<b>Retainer Amounts:</b> N/A	
<b>Special Conditions:</b> N/A	

<b>Offered By:</b>  Signature	12/12/18 Date	Alan R. Piatak/President Printed Name/Title
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<b>Accepted By: Brook Park</b>	<b>Accepted By:</b>
Signature	Signature
Date	Date
Michael D. Gammella/Mayor Printed Name/Title	  Printed Name/Title

Signature indicates the authority to bind the company/agency to the terms herein

Signature indicates the authority to bind the company/agency to the terms herein

The terms and conditions on the reverse of this form are part of this Agreement.

**Fee:** The total fee, except stated lump sum, shall be understood to be an estimate, based upon Scope of Service, and shall not be exceeded by more than ten percent, without written approval of the Client. Where the fee arrangement is to be on an hourly basis, the rates shall be those that prevail at the time services are rendered. Reimbursable expenses invoiced with a mark-up of no greater than 1.10%.

**Billings/Payments:** Invoices for services and reimbursable expenses shall be submitted, at the Design Professional's option, either upon completion of the services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. A service charge of 1.5% (or the maximum legal rate) per month will be applied to the unpaid balance after 30 days from the invoice date. Design Professional shall have the right to suspend/terminate services if payment is not received within 60 days after the invoice date and the Design Professional shall have no liability for any resultant delays or damages incurred by Client as a result of such suspension/termination. Retainers shall be credited on the final invoice. The Client agrees to pay all costs of collection, including reasonable attorney's fees.

**Standard of Care:** In providing services under this agreement, the Design Professional will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Design Professional will perform its services as expeditiously as is consistent with professional skill and care and the orderly progress of Design Professional's part of the Project. Regardless of any other term or condition of this Agreement, Design Professional makes no express or implied warranty of any sort. All warranties, including warranty of merchantability or warranty of fitness for a particular purpose, are expressly disclaimed.

**Consequential Damages:** Notwithstanding any other provision to the contrary, and to the fullest extent permitted by law, neither the Client nor the Design Professional shall be liable to the other for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or this Agreement. This mutual waiver of consequential damages shall include, but not be limited to, loss of use, loss of profit, loss of business or income or any other consequential damages that either party may have incurred from any cause of action whatsoever.

**Hidden Conditions:** A condition is hidden if concealed by existing finishes or is not capable of investigation by reasonable visual observation. If the Design Professional has reason to believe that such a condition may exist, the Client shall authorize and pay for all costs associated with the investigation of such a condition, if (1) the Client fails to authorize such investigation after such due notification, or (2) the Design Professional has not reason to believe that such a condition exists, the Design Professional shall not be responsible for the existing conditions or any resulting damages or losses resulting therefrom.

**Hazardous Materials/Mold:** The Design Professional shall have no responsibility for the discovery, presence, handling, removal, disposal or exposure of persons to hazardous materials of any form including mold. The existing or constructed building may, as a result of post-construction, use, maintenance, operation or occupation, contain or be caused to contain mold substances which can present health hazards and result in bodily injury, property damage and/or necessary remedial measures and costs for which the Design Professional shall have no responsibility.

**Indemnifications:** The Client agrees, to the fullest extent permitted by law, to indemnify and hold Design Professional and its subconsultants harmless from and against any and all damage, losses or cost (including reasonable attorneys' fees and defense costs) caused in whole or in part by its acts, errors or omissions and those of anyone for whom they are legally liable. The Design Professional further agrees to indemnify the Client for damages arising from its own negligent errors acts or omissions.

**Risk Allocation:** In recognition of the relative risks and benefits of the project to both the Client and the Design Professional, the Client agrees, to the fullest extent permitted by law, to limit the Design Professional's total liability to the Client or anyone making claims through the client, for any and all damages or claim expenses (including attorney's fees) arising out of this Agreement, from any and all clauses, to the total amount of the Design Professional's fee, or another amount agreed upon when added under Special Conditions.

**Termination of Services:** This agreement may be terminated upon 10 days written notice by either party should the other fail to perform their obligations hereunder. In the event of termination, the Client shall pay the Design Professional for all services rendered to the date of termination, all reimbursable expenses, and reasonable termination expenses.

**Ownership of Documents:** All documents produced by the Design Professional under this agreement, including electronic files, shall remain the property of the Design Professional and may not be used by this Client for any other purpose without the written consent of the Design Professional. Any such use or reuse shall be at the sole risk of Client who shall defend, indemnify and hold DESIGN PROFESSIONAL and its subconsultants harmless from any and all claims and/or damages arising therefrom. Electronic files are not contract documents and cannot be relied upon as identical to contract documents because of changes or errors induced by translation, transmission, or alterations while under the control of others. Use of information contained in the electronic files is at the user's sole risk and without liability to Design Professional and its consultants.

**Defects In Service:** The Client shall promptly report to the Design Professional any defects or suspected defects in the Consultant's services. The Client further agrees to impose a similar notification requirement on all contractors in its Client/Contractor contract and shall require all subcontracts at any level to contain a like agreement. Failure by the Client and the Client's contractors or subcontractors to notify the Consultant shall relieve the Consultant of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given when such defects were first discovered.

**Construction Activities:** The Design Professional shall not be responsible for the acts or omissions of any person performing any of the Work or for instructions given by the Client or its representatives to any one performing any of the Work, nor for means and methods or job-site safety.

**Dispute Resolution:** Any claim or dispute between the Client and the Design Professional shall be submitted to non-binding mediation, subject to the parties agreeing to a mediator(s). If the Parties cannot agree upon a mediator the claim or dispute shall be submitted to the American Arbitration Association (AAA) for mediation in accordance with the Construction Arbitration and Mediation Rules of the AAA then in effect. Unless otherwise specified, the laws of the State of Ohio shall govern this agreement.

**Relationship of the Parties:** All services provided by Design Professional are for the sole use and benefit of the Client. Nothing in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or the Design Professional.



**SHELDON ROAD RESURFACING: ENGLE ROAD TO 780' EAST OF EASTLAND ROAD**

**DETAILED ESTIMATED MANHOUR BREAKDOWN**

**FINAL PLAN SUBMITTAL**

**Existing Data Collection**

Existing Plans, Contacting OUPS, etc...	=	8 MH
	<b>Existing Data Collection</b>	<b>= 8 MH</b>

**Survey/Field Work**

Survey/Field Work: (2 People @ 2 Days)	=	40 MH
Identify Owner & Number of Castings/Mon. boxes to be Adjusted or Reconstructed to Grade		
Field Topo Survey - edge of pavement , drive aprons, utility castings within pavement, drive pipes, etc...		
Field Mark Potential Base Repair Areas		
Catch Basin Condition Survey - Photos/Work Task		
Identify Existing Monuments to be Adjusted to Grade		
Check for Sub-Standard Guardrail at 25' Increment along 2 Guardrail Runs (2 People @ 0.5 Day)	=	8 MH
Spreadsheet Documenting Offset & Elev.'s at Edge Line, Edge fo Pavement, Ground @ Face of Rail and Bottom of Rail	=	6 MH
	<b>Survey/Field Work</b>	<b>= 54 MH</b>

**Final Plan Drawings**

Title Sheet	1 Sheet(s) @	10 MH	=	10 MH
Schematic Plan	1 Sheet(s) @	16 MH	=	16 MH
Typical Sections	1 Sheet(s) @	16 MH	=	16 MH
Typical Sections Quantity Table	1 Sheet(s) @	32 MH	=	32 MH
General Notes	8 Sheet(s) @	8 MH	=	64 MH
General Summary	2 Sheet(s) @	12 MH	=	24 MH
Maintenance of Traffic Notes	2 Sheet(s) @	6 MH	=	12 MH
Maintenance of Traffic Details	1 Sheet(s) @	8 MH	=	8 MH
Pavement Repair Details (Partial Depth/Full Depth)	1 Sheet(s) @	8 MH	=	8 MH
Miscellaneous Details	1 Sheet(s) @	8 MH	=	8 MH
Cost Estimates			=	24 MH
Project Manual			=	44 MH
	<b>Final Plan Drawings</b>		<b>=</b>	<b>266 MH</b>

**Final Plan Compliance Submittal**

= 60 MH

**Project Coordination**

Final Plan Review Meeting/Coordination with Middleburg Heights	=	12 MH
Public/Private Utility Coordination and Utility Exhibit	=	8 MH
	<b>Project Coordination</b>	<b>= 20 MH</b>

**Supervision**

= 16 MH

**Deliverables**

Cuyahoga County and Middleburg Heights	=	8 MH
Correspondence - Private Utilities	=	6 MH
	<b>Deliverables</b>	<b>= 14 MH</b>

**FINAL PLAN SUBMITTAL 438 MH**

**SHELDON ROAD RESURFACING: ENGLE ROAD TO 780' EAST OF EASTLAND ROAD  
DETAILED ESTIMATED MANHOUR BREAKDOWN**

**BIDDING PHASE AND CONTRACT AWARD**

**Bidding Phase and Contract Award**

Solicitation and Respond to Pre-Bid Questions	=	12 MH
Prepare and issue Addenda	=	10 MH
Review Bids and Recommendation for Award	=	6 MH
Preparation of Contracts for Execution	=	12 MH
<b>Bidding Phase and Contract Award</b>	=	<b>40 MH</b>

**BIDDING PHASE AND CONTRACT AWARD** 40 MH

**CONSTRUCTION PHASE**

**Construction Phase**

The following hourly rates will be applied to the time worked on the services not included within the tasks listed above, as authorized by the City. These rates will also be applied to the time worked on the following items:

- Pre-Construction Meeting
- Periodic Site Visits and Progress Meetings
- Responding to resident issues and answering construction questions
- Processing Invoices
- Final Inspection and Project Closeout
- Correspondence with Cuyahoga County

Project Manager = \$130/hr  
Project Engineer = \$105/hr  
Professional Engineer = \$95/hr  
Engineering Intern = \$65/hr  
Designer/Technician = \$82/hr

**MACKAY**  
Engineering & Surveying Company

7017 Pearl Road  
Cleveland, Ohio 44130  
www.mackayeng-surv.com

(440) 886-4500  
Fax (440) 886-4590  
Email: info@mackayeng-surv.com

December 6, 2018

City of Brook Park  
Attn: Randy Garner  
6161 Engle Road  
Brook Park, Ohio 44142

Email to: erpiatak@euthenics-inc.com

Re: Construction Administration  
Sheldon Road Resurfacing  
Middleburg Heights and Brook Park

Dear Mr. Garner:

Mackay Engineering and Surveying Company ("Mackay") is pleased to provide you with the following proposal for construction administration services on the above referenced project. The project is for the resurfacing of Sheldon Road in the Cities of Brook Park and Middleburg Heights from approximately 780 feet east of Eastland Road to Engle Road. We will provide the following construction administration services in connection with this project:

1. Review of bids and recommendation of award.
2. Attendance at and coordination of pre-construction meeting.
3. Coordination and oversight of inspection by inspectors employed by Mackay. (Note: Project inspectors will be employed by Mackay and inspector fees will be paid by the contractor.)
4. Answering construction questions and addressing resident issues.
5. Review of quantities and pay requests and preparation of OPWC pay request forms. Review of pay requests will include confirmation of receipt of certified payroll for the pay period. All other prevailing wage requirements will be handled by the City of Brook Park and/or Euthenics.
6. Creation of punchlist.
7. Contract closeout documentation.

Our estimated not to exceed fee for the above listed construction administration services is \$34,000.00.

The following hourly rates will be applied to the time worked on the services included within this not to exceed fee and also for any hourly rate work authorized by you. Payment for the work will be made each month for the services performed that month. These rates are valid through December 31, 2019 and subject to revision thereafter:

Principal Engineer	\$125.08/Hour
Project Manager	\$113.71/Hour
Engineer	\$105.76/Hour
Surveyor	\$ 71.64/Hour

**Exhibit B**

Proposal City of Brookpark Sheldon Rd 100218

CAD Designer	\$ 81.88/Hour
Survey Crew (2 Person)	\$141.00/Hour
Survey Crew (3 Person)	\$166.02/Hour
Printing	Cost

(Printing costs are not included in the above estimated fee.)

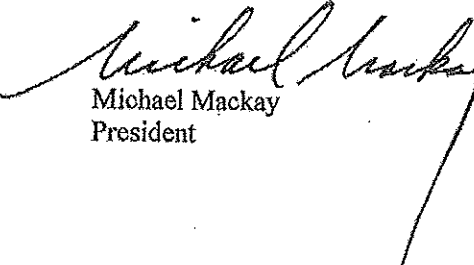
Our fees do not include construction plan design, subsurface or soil investigation, existing pavement coring or analysis, materials testing, laboratory services, environmental design or testing services, traffic engineering studies or services, asbuilts, or construction staking.

Payment for above work shall be made on a monthly basis. Payment for our services actually performed shall be due whether or not the project goes forward so long as our services have been performed in accordance with good engineering practices.

You may indicate your acceptance of this proposal by signing and returning a copy of this letter. This proposal is valid for your acceptance for thirty (30) days from the date hereof. This document shall represent our total agreement and supersedes any prior representations. Any amendment shall be in writing and signed by both parties. This agreement has been made and delivered in the State of Ohio and is to be interpreted and enforced according to the laws of the State of Ohio. Venue is to be in Cuyahoga County, Ohio.

Should you have any questions, please contact me. We look forward to working with you on this project.

Very truly yours,



Michael Mackay  
President

/pmb

Acceptance by City of Brookpark

\_\_\_\_\_  
Signature of Authorization Title

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

\_\_\_\_\_  
Print Name

cc: Jim Herron  
Kim Kerber

**Exhibit B**

Proposal City of Brookpark Sheldon Rd 100218