

P/C  
CA PC10P 11-17-20  
1st R 11-17-20  
2nd R 12-8-20  
3rd R 12-15-20  
B/C \_\_\_\_\_

CITY OF BROOK PARK, OHIO

ORDINANCE NO: 11173-2020

INTRODUCED BY: COUNCILMAN POINDEXTER

AN ORDINANCE

AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH DRIVEOHIO, AND DECLARING AN EMERGENCY

WHEREAS, Executive Order 2019-26D created DriveOhio as the smart mobility center for the State of Ohio within the Ohio Department of Transportation, tasked with promoting the development of autonomous and commented vehicle technology; and

WHEREAS, Executive Order 2018-04K established the Autonomous Vehicle Pilot Program (AVPP) to link municipalities interested in promoting autonomous vehicle testing to industry; and

WHEREAS, Executive Order 2018-04K tasks DriveOhio with partnering with municipalities that volunteer to participate in the AVPP, to identify the unique testing attributes to the Municipality; and

WHEREAS, Section 5501.03(A(3)) of the Ohio Revised Code provides the Director of Transportation may coordinate the activities of the Department of Transportation with other appropriate public authorities, to enter into contracts with such authorities as necessary to carry out its duties; and

WHEREAS, the City of Brook Park has volunteered to be part of the AVPP.

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

SECTION 1: The Mayor is hereby authorized to enter into a memorandum of agreement with DriveOhio, the obligations and responsibilities of both parties are attached hereto and incorporated herein as Exhibit "A".

SECTION 2: 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 3:** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare in the City, and for the further reason authorize the Mayor to enter into a memorandum of agreement with DriveOhio; 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 from and after its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: December 15, 2020

M. P. Vecchio  
PRESIDENT OF COUNCIL

ATTEST: Michelle Blazak  
Clerk of Council

APPROVED: [Signature]  
MAYOR  
12/16/2020  
DATE

CERTIFICATE

Michelle Blazak, Clerk of Council, of the City of Brook Park, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ordinance/Resolution No. 11173-2020

passed on the 15<sup>th</sup> day of December 2020 by said council.

Michelle Blazak  
Clerk of Council

I, Michelle Blazak, Clerk of Council for the City of Brook Park, State of Ohio, do hereby certify that there is no newspaper of general circulation in the municipality and that publication of the foregoing ordinances/resolutions was made by posting true copies at five of the most public places in said municipality as determined by Ordinance No. 4838-1975; location City Hall 6161 Engle Road, Police Station 17401 Holland Road, #2 Fire Station 22530 Ruple Parkway, #3 Fire Station 17401 Holland Road, Brook Park Library 6165 Engle Road, for a period of fifteen days.

commencing December 17, 2020  
Michelle Blazak  
MICHELLE BLAZAK  
Clerk of Council

	Yea	Nay
Troyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mencini	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Orcutt	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Scott	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schmuck	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Poindexter	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Salvatore	<input type="checkbox"/>	<input checked="" type="checkbox"/>

I HEREBY APPROVE THE WITHIN INSTRUMENT AS TO LEGAL FORM AND CORRECTNESS

[Signature]  
DIRECTOR OF LAW



**MEMORANDUM OF AGREEMENT BETWEEN  
DRIVEOHIO  
AND  
BROOK PARK, OHIO**

THIS MEMORANDUM OF AGREEMENT (Agreement) is made between DriveOhio, acting by and through the Executive Director (hereinafter referred to as DRIVEOHIO), 1980 West Broad Street, Columbus, Ohio 43223 and Brook Park, Ohio acting by and through their Mayor (hereinafter referred to as "the Municipality"), ( located at 6161 Engle Road, Brook Park, Ohio 44142).

**WHEREAS**, Executive Order 2019-26D created DriveOhio as the smart mobility center for the State of Ohio, housed within the Ohio Department of Transportation, tasked with promoting the development of autonomous and connected vehicle technology;

**WHEREAS**, Executive Order 2018-04K established the Autonomous Vehicle Pilot Program (AVPP), to link municipalities interested in promoting autonomous vehicle testing to industry;

**WHEREAS**, Executive Order 2018-04K tasks DriveOhio with partnering with municipalities that volunteer to participate in the AVPP, to identify the unique testing attributes of the Municipality;

**WHEREAS**, Section 5501.03(A)(3) of the Ohio Revised Code provides the Director of Transportation may coordinate the activities of the Department of Transportation with other appropriate public authorities, to enter into contracts with such authorities as necessary to carry out its duties;

**WHEREAS** the Municipality has volunteered to be a part of the AVPP by (passing an ordinance, executive order, etc.); and

**NOW THEREFORE**, for and in consideration of the mutual covenants hereinafter stipulated to be kept and performed, it is agreed by the parties as follows:

**SECTION I: RECITALS**

The foregoing recitals are hereby incorporated as a material part of this Agreement

**SECTION II: PURPOSE**

This Agreement outlines the obligations and responsibilities of the Municipality and DriveOhio with regard to autonomous vehicle testing within the boundaries of the Municipality.

### **SECTION III: MUNICIPALITY OBLIGATIONS**

1. The Municipality will determine, in coordination with DriveOhio, those areas the Municipality would like to promote as autonomous vehicle testing sites. These testing sites will not exclude autonomous vehicle testing in other areas, but will be those sites that the Municipality seeks to actively encourage testing. This can include:
  - a. Areas that have a specific need, i.e. first mile/last mile applications
  - b. Areas that are specific districts, i.e. entertainment or commercial districts
2. The Municipality will determine, in consultation with DriveOhio, the unique attributes of the Municipality that can be used to promote testing within the Municipality. These attributes may include:
  - a. Specific weather patterns
  - b. The availability of connected vehicle infrastructure
  - c. Population density
  - d. Geography
  - e. The presence of signalized intersection, roundabout, etc.
  - f. Any other unique attribute
3. The Municipality agrees that it will work with DriveOhio to help educate law enforcement that has authority within the jurisdiction of the Municipality as to the presence of autonomous vehicles. The Municipality will assist in educating law enforcement as to how to interact with the autonomous vehicles and how to react to public inquiries about the autonomous vehicles.

### **SECTION III: DRIVEOHIO OBLIGATIONS**

1. DriveOhio agrees to publish the partnership status of the Municipality on its website and in any materials DriveOhio distributes to autonomous vehicle testers.
2. DriveOhio agrees to promote the unique attributes of the Municipality to all partner autonomous vehicle testers and to attempt to match autonomous vehicle testers with the Municipality based upon the attributes the tester is seeking.
3. DriveOhio will notify the Municipality, by contacting the contact person listed above, when any autonomous vehicle tester becomes a partner with DriveOhio, and will identify the unique attributes that tester is seeking.

4. DriveOhio will coordinate with the Municipality to continue to upgrade the unique attributes the Municipality possesses as it receives input from autonomous vehicle testers
5. DriveOhio will coordinate with the Municipality to educate law enforcement as to how to interact with Autonomous Vehicles.
6. DriveOhio will coordinate with the Municipality on any efforts to educate the public about the presence of autonomous vehicles within the Municipality.

#### **SECTION IV: FINANCIAL RESOURCES**

Nothing in this Agreement constitutes an obligation by DriveOhio, the Ohio Department of Transportation or the Municipality to provide any financial resources. Any agreement to provide financial resources will need to be stated in a separate document, signed by both parties.

#### **SECTION V: TERM AND TERMINATION**

This Agreement shall continue until the parties elect to terminate the Agreement. Either party may terminate the Agreement by giving ninety (90) days written notice to the other party.

#### **SECTION VI: NOTICE**

Notice under this agreement Municipality shall be directed as follows:

As to ODOT:

Executive Director  
DriveOhio  
1980 West Broad Street  
Columbus, OH 43223

Email:

Telephone:

Municipality: Brook Park, Ohio

Name: Mayor Michael Gammella  
Address: 6161 Engle Road  
City, State, ZIP: 6161 Engle Road Brook Park OH 44142

Email: Mayor@cityofbrookpark.com

Telephone: (216)433-1300

Alternate Contact Name: Anthony D'Amico

Email: adamico@cityofbrookpark.com  
Telephone: (216) 433-1300

## **SECTION VII: MISCELLANEOUS PROVISIONS**

1. Entire Agreement. This Agreement constitutes the entire agreement between the Parties. No understandings, agreements, or representations, oral or written, not specified within this Agreement will be valid provisions of this Agreement. This Agreement may not be modified, supplemented or amended, in any manner, except by written agreement signed by both Parties.
2. Governing Law. This Agreement shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio. To the extent that ODOT is a party to any litigation arising out of, or relating in any way to, this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
3. Records Retention. All records regarding this Agreement shall be maintained for at least three years after the completion of this Agreement.
4. Severability. Any provision of this Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Agreement.
5. Assignment. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by either Party hereto without the prior express written consent of the other Party.
6. The Parties agree that no agency, employment, joint venture or partnership has been or will be created between DriveOhio or the Ohio Department of Transportation and the Municipality
7. Compliance with Laws.
  - A. Each of the Parties shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations there under, after execution of this Agreement shall be reviewed by the State and the Parties to determine whether the provisions of this Agreement require formal modification.
  - B. Each of the Parties represents and warrants that the Parties and their subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities under this agreement. Failure to do so may be deemed a material breach of this Agreement and grounds for termination and denial of further work with the State.

C. Negligent Acts or Omissions. To the extent permitted by Ohio law, including but not limited to the Ohio Constitution, Ohio Revised Code Chapter 2743 et seq. and Ohio Revised Code Section 3345.40, each Party agrees to be responsible for those damages or losses, which arise directly from the negligent acts or omissions of its own employees in performance of the agreement.

9. Title to inventions conceived or reduced to practice by Drive Ohio or its personnel related to, pertaining to, or in connection with this Agreement shall be the property of Drive Ohio. The copyright to all materials prepared by Drive Ohio shall belong to Drive Ohio. Drive Ohio shall notify Municipality prior to the incorporation of Municipality materials or services in reference to materials developed by Drive Ohio that mention or reference Municipality services.
10. Any list of attributes or testing sites provided by the city can become attachments to this agreement once provided to DriveOhio, if not already exhibits.

**SECTION VIII: SIGNATURES**

Any person executing this agreement in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this agreement on such principal's behalf.

Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature of any other party delivered in such a manner as if such signature were an original.

The parties hereunto have cause Agreement to be duly executed in duplicate as of the day and year last written below.

**ODOT**

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

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

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


**City of Brook Park, Ohio**

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

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

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

I HEREBY APPROVE THE WITHIN  
INSTRUMENT AS TO LEGAL FORM  
AND CORRECTNESS



\_\_\_\_\_  
DIRECTOR OF LAW