

TO: Village Council

FROM: Scot F. Lahrmer, Village Manager

DATE: December 4, 2014

RE: Risk Management Agreement

ITEM: Professional Services Agreement for property and casualty insurance and risk management advisor.

ACTION REQUESTED: By motion, adopt **Resolution 2014-34** authorizing a professional services agreement with Assured Neace Lukens.

PURPOSE: To secure the services of a risk manager.

Michael Fishel of Assured Neace Lukens has provided risk management services to the Village since 2006. Council typically approves the Village property and casualty insurance package in December of each year based on Mr. Fishel's work and staff's recommendation. The Village insurance premium for 2014 is \$69,552. In addition, Mr. Fishel is compensated \$13,000 annually for his risk management services. Significant savings have been realized, especially in the last 3 years. This year's total risk management premium and consultant fee total is \$82,552 compared to \$111,895 in 2010-11.

Prior to 2012, the Village paid \$14,929 for risk management services. In 2012, the Village reviewed the risk management services and negotiated a 3 year agreement with Assured Neace Lukens in the amount of \$13,000 per year. This was a nearly 15% decrease to handle the Village's risk management program. Michael's services have been fee-based to eliminate the inherent conflict of interest that exists with commission-based programs when one's ultimate goal is to drive insurance premiums down to the lowest possible level.

As the Village enters the final year of the 3 year agreement, the Village is desirous of extending Mr. Fishel's contract for an additional 3 years at the \$13,000 annual fee. Mr. Fishel's risk management services have been outstanding and the Village has benefited from appropriate advice in dealing with risk mitigation efforts. In addition, cost savings have been realized as Mr. Fishel continues to work on the Village's behalf to minimize premium increases.

Approval of Resolution 2014-34 is recommended by the Finance Committee which had the opportunity to discuss this item. If you have any questions, please let me know.

PASSED:
BY:

RESOLUTION NO. 2014-34

RESOLUTION AUTHORIZING THE VILLAGE MANAGER TO ENTER
INTO A CONTRACT WITH ASSURED NEACE LUKENS.
FOR PROFESSIONAL SERVICES RELATED TO PROPERTY
AND CASUALTY INSURANCE

WHEREAS, the Finance Committee met with Michael Fishel of Neace Lukens (aka Assured Neace Lukens), the Village's insurance consultant, to discuss its professional services to the Village in the role of a consultant, broker, and risk manager, as it pertains to the Village's property and casualty insurance;

WHEREAS, Michael Fishel successfully negotiated the cost of insurance premiums and certain deductibles which resulted in savings to the Village;

WHEREAS, the Finance Committee and staff discussed Neace Lukens' agreement to a service fee of \$13,000 per year for a period of three years commencing December 27, 2015 ending December 26, 2018;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF AMBERLEY VILLAGE, STATE OF OHIO, _____ (__) members elected thereto concurring,

SECTION 1: That the Village Manager be, and hereby is, authorized and directed to enter into a contract on behalf of the Village with Assured Neace Lukens for the provision of professional services in accordance with the recommendations of the Finance Committee and pursuant to the terms and conditions set forth in the Professional Services Agreement attached hereto and made a part hereof, including but not limited to a service fee payable to Assured Neace Lukens of \$13,000 per year for three years commencing December 27, 2015.

SECTION 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed this ___ day of _____, 2014.

Mayor Thomas C. Muething

Attest:

Nicole Browder, Clerk of Council

Resolution Vote:

Moved: _____ Second: _____

I, Clerk of Council of Amberley Village, Ohio, certify that on the ____ day of ____
_____ 2014, the forgoing Resolution was published pursuant to Article IX of the
Home Rule Charter by posting true copies of said Resolution at all of the places of public
notice as designated by Sec. 31.40(B), Code of Ordinances.

Nicole Browder, Clerk of Council

1961059.1

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (the "Agreement") is entered into on this ____ day of December, 2014, by and between Amberley Village, 7149 Ridge Rd., Amberley Village Ohio, 45237 and Assured NL Insurance Agency, Inc. ("Neace"), 4000 Smith Rd., Suite 400, Cincinnati, Ohio 45209.

WHEREAS, Amberley Village desires to retain Neace as its property and casualty insurance agent and risk management advisor;

WHEREAS, Neace is willing to serve as Amberley Village's property and casualty insurance agent and risk management advisor;

NOW, THEREFORE, in consideration of the mutual promises and undertakings set forth herein, the parties agree as follows:

- (1) Neace will provide all required services associated with marketing and placement of Amberley Village's property and casualty insurance program. Neace also agrees to consult with Amberley Village and provide risk management services as Amberley Village may from time to time request that Neace provide.
- (2) In return for providing the services described in (1) above, Amberley Village agrees to pay Neace an annual service fee of \$13,000. Said fee shall be due and payable on or before December 31 of each year.
- (3) The term of this Agreement shall be from December 27, 2015 through December 26, 2018. Neace's obligation to render any and all services under this Agreement will terminate as of December 26, 2018. Either party may terminate this Agreement at any time during the term if the other party is in breach of a material obligation under this Agreement, which breach is not cured within 30 days after receipt of a written notice of the breach from the non breaching party.

(4) In order to conform with the disclosure requirements set forth in Ohio Revised Code Section 3905.55, both Amberley Village and Neace acknowledge and agree as follows:

- i. **With the exception of bonds, all insurance placed by Neace for Amberley Village will be done net of standard commission.**
- ii. **As is customary in the insurance industry, all bonds will be placed on a commission basis.**
- iii. All fees have been disclosed to Amberley Village in a manner that separately identifies the fee and the premium;
- iv. Fees are not calculated as a percentage of the premium;
- v. Fees are not refunded, forgiven, waived, offset, or reduced by any commission earned or received for any policy or coverage sold;
- vi. The amount of the fee, and Amberley Village's obligation to pay the fee, are not conditioned upon the occurrence of a future event or condition, such as the purchase, cancellation, lapse, declination, or nonrenewal of insurance;
- vii. Neace has disclosed to Amberley Village that all fees are being charged and collected by Neace and not by the insurance company, and that neither state law nor the insurance company requires the agent to charge the fee, and that the fee is not refundable;
- viii. Amberley Village consents to the fees being charged by Neace;
- ix. Neace, in charging its fees, does not discriminate on the basis of race, sex, national origin, religion, disability, health status, age, marital status, military status as defined in section 4112.01 of the Revised Code or geographic location, and does not unfairly discriminate between persons of essentially the same class and of essentially the same hazard or expectation of life;

- x. In addition to the fees and/or commissions received by Neace for the placement of insurance coverages, Amberley Village acknowledges that Neace may also receive contingent payments or allowances from some insurers. (Note: These payments are: (1) based on factors which are not client-specific, such as aggregate loss experience, or the size or performance of an overall book of business placed with the insurer, and (2) not discussed or disclosed by Neace to the account team personnel who will be responsible for placing Amberley Village's insurance coverage.)
- (5) Throughout the term of this agreement Neace agrees to maintain professional liability insurance in an amount of not less than \$3 million per occurrence and annual aggregate.
- (6) With respect to claims administration and/or loss control/prevention services provided, Neace offers no warranty either expressed or implied that as a result of such services Amberley Village will either receive a specific claim payment or monetary savings. Amberley Village acknowledges that Neace cannot detect or obtain coverage for every loss potential hazard, statutory or code violation, or violation of good practice.
- (7) Amberley Village shall have the responsibility to report and communicate changes in exposure, loss-related data and other material change in writing to Neace who, in turn, shall assume the responsibility of reporting such changes to any insurance carriers.
- (8) When in Neace's professional judgment it is necessary or appropriate, Neace will utilize the services of other intermediaries and/or MGAs to assist in accessing insurance coverages for Amberley Village. Such intermediaries or MGAs may or may not be affiliates of Neace and will be compensated by the insurance company out of paid premiums. Such compensation is excluded from the terms of this Agreement.

(9) In some instances, insurance placements made by Neace on behalf of Amberley Village may require the payment of state surplus lines or other premium taxes and/or fees in addition to the premium itself. Neace will make every effort to identify any such tax and/or fee in advance, but in all instances the payment of these taxes and/or fees will remain the sole responsibility of Amberley Village.

(10) Neace's goal is to procure insurance for Amberley Village with insurers possessing the financial strength to perform in today's economic environment. Toward this objective, Neace monitors publicly available information concerning the financial condition of insurers selected by its clients. The vast majority of Neace's placements are made with insurers which are rated "Excellent" by the A.M. Best professional rating agency. Neace does not guarantee the solvency of any insurers with which we place insurance. Neace encourages Amberley Village to review the publicly available information collected by Neace to make the ultimate decision to accept or reject a particular insurer.

(11) This Agreement contains the entire agreement between Amberley Village and Neace concerning the provision of the services which are the subject of this Agreement. It may be amended only by an agreement in writing signed by both Amberley Village and Neace.

This agreement is entered into this ____ day of December, 2014 between the parties.

(Signature)
Assured NL Insurance Agency Inc.

(Signature)

(Print Name & Title)

Scott Lahrmer, Village Manager
(Print Name & Title)

Date: _____

Date: _____