CITY COMMISSION MEETING AGENDA

CITY COMMISSION               DAYTON, OHIO               JANUARY 20, 2021

6:00 P.M.

I. AGENDA SCHEDULE

Please register to speak on items 9, 11 and 13 with the Clerk of the Commission.
(Sign-up sheets at entrance of Commission Chambers.)
1. Call Meeting to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Approval of Minutes
6. Communications and Petitions Distribution (if any)
7. Special Awards/Recognition
8. Discussion of City Manager’s Recommendations (See Section II)
9. Citizen Comments on City Manager's Recommendations
10. City Commission Action on City Manager’s Recommendations
11. Public Hearing: (See Section V)
12. Discussion Item: N/A
13. Comments by Citizens - Please register to speak with the Clerk of Commission
   (Non - Calendar items) sign-up sheets at entrance of Commission Chambers
14. Comments by City Manager
15. Comments by City Commission
16. Work Session: N/A
17. Miscellaneous (See Section VI)

II. CITY MANAGER RECOMMENDATIONS (Item #8 above)
   The following recommendations are offered for City Commission approval.

A. Purchase Orders, Agreements and Contracts:
   (All contracts are valid until delivery is complete or through December 31st of the current year).

1. Purchase Orders:

   AVIATION
   A1. Comptech Computer Technologies, Inc. (temporary staffing services as needed through 12-31-23) $60,000.00
1. (Cont’d):

**FINANCE**
B1. **State of Ohio Treasurer** (financial and auditing services as needed through 12-31-21) \$159,920.00

**INFORMATION TECHNOLOGY**
C1. **Vermont Systems, Inc.** (annual software maintenance and support services) 10,648.00

**POLICE**
D1. **Healthcare Claims Solutions, Inc.** (professional third party administration services as needed through 12-31-21) 50,000.00
D2. **State of Ohio** (Law Enforcement Automated Data Services as needed through 12-31-21) 15,000.00

**WATER**
E1. **SAP Public Services, Inc.** (annual computer software maintenance and support services) 16,374.60
E2. **The Safety Company LLC dba M Tech Company** (sewer cleaning, maintenance, repair and supplies as needed through 12-31-21) 20,000.00
E3. **Xylem Water Solutions USA, Inc.** (Flygt pump service and repairs as needed through 12-31-24) 75,000.00
-Depts. of Aviation, Finance, Information Technology, Police, and Water.
Total: $406,942.60

2. **Axon Enterprise Inc. – Contract Modification** – second amendment for in-car cameras – Dept. of Police. $2,389,728.00 (Thru 12/31/23)

3. **OpenGov Inc. – Contract Modification** – for renewal and amendment for the City’s web-based financial data portal, Dayton Open Data – Dept. of Procurement, Management & Budget. $47,066.67 (Thru 06/01/22)

4. **SJN Data Center LLC DBA Encore Technologies – Service Agreement** – to provide remote tier one technology help desk user support – Dept. of Central Services/Information Technology. $20,928.00 (Thru 12/31/21)
IV. LEGISLATION:

Emergency Resolution – First and Second Reading:

5. No. 6562-21 Objecting to the Issuance of Liquor Permit No. 60766850015, Modern Food & Gas LLC, 2951 Salem Ave., Dayton, OH 45406, and Declaring an Emergency.

V. PLANNING ACTION

A. PUBLIC HEARING:

6. To rezone 2013-2027 and 2101 E. Fifth Street from Transitional (T) to Mature Neighborhood Commercial (MNC). The site shall retain its HD-2 Historic District overlay – Case No. PLN2020-00490.

VI. MISCELLANEOUS:

ORDINANCE NO. 31860-21 ADDED
RESOLUTION NO. 6563-21 ADDED
IMPROVEMENT RESOLUTION NO. 3599-21
INFORMAL RESOLUTION NO. 985-21
ORDINANCE NO. 31861-21 ADDED
City Manager’s Report

From 2730 – PMB/Procurement

Supplier, Vendor, Company, Individual

Name See Below
Address See Below

Date January 20, 2021
Expense Type Purchase Order
Total Amount $406,942.60

2021 Purchase Orders

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>See below</td>
<td>See below</td>
<td>See below</td>
</tr>
</tbody>
</table>

Includes Revenue to the City ☑ Yes ☐ No
Affirmative Action Program ☑ Yes ☐ No ☐ N/A

Description

AVIATION

(A1) P0210065 – COMPTECH COMPUTER TECHNOLOGIES, INC., CENTERVILLE, OH

- Temporary staffing services as needed through 12/31/2021.
- These services are required to augment staff to maintain daily operations.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 18066JL with pricing through 12/31/2023.
- The Department of Aviation recommends approval of this order.

<table>
<thead>
<tr>
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<th>Fund Source(s)</th>
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<tr>
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<td>DIA Airport Operations</td>
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<td>$60,000.00</td>
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Signatures/Approval

Melissa A. Wilson, CFPB
Division
Diane L. Pharrum 1/12/2021
Department
C. L. Johnson 1/15/2021

Approved by City Commission

Clerk

Updated 06/2016
FINANCE

(B1) P0210512 – STATE OF OHIO TREASURER, COLUMBUS, OH

- Financial and auditing services as needed through 12/31/2021.
- These services are required for auditing financial information including the Comprehensive Annual Financial Report (CAFR) to ensure the City’s compliance with Generally Accepted Accounting Principles (GAAP).
- State of Ohio Treasurer is recommended in accordance with the State of Ohio directive.
- The Department of Finance recommends approval of this order.

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<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
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<tr>
<td>2021</td>
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<td>10000-2380-1155-51</td>
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INFORMATION TECHNOLOGY

(C1) P0210046 – VERMONT SYSTEMS, INC., ESSEX JUNCTION, VT

- Annual software maintenance and support services.
- These services are required to support the RecTrac and GolfTrac software applications used by the Department of Recreation and Youth Services.
- Vermont Systems, Inc. is recommended as the original software developer and sole source of these proprietary services; therefore, this purchase was negotiated.
- The Departments of Information Technology and Recreation and Youth Services recommend approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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POLICE

(D1) **P0210237 – HEALTHCARE CLAIMS SOLUTIONS, INC., KETTERING, OH**
- Professional third party administration services to audit and reconcile medical services invoices as needed through 12/31/2021.
- These services are required to provide prompt and accurate payment of medical service costs for individuals detained in Dayton Police custody.
- Healthcare Claims Solutions, Inc. is recommended to ensure continuity and quality of onsite performance and related services; therefore, this purchase was negotiated.
- The Department of Police recommends approval of this order.

<table>
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<th>Fiscal Year</th>
<th>Fund Source(s)</th>
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(D2) **P0210236 – STATE OF OHIO, COLUMBUS, OH**
- Law Enforcement Automated Data Services (L.E.A.D.S) as needed through 12/31/2021.
- These services are required to allow law enforcement access to statewide and national data repositories to query on driving records, vehicle ownership, stolen property, missing persons, warrants, and parole status.
- The State of Ohio Treasurer of State L.E.A.D.S. is operated through the Ohio State Highway Patrol and supports all law enforcement agencies in Ohio.
- The Department of Police recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
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WATER – WATER ENGINEERING

(E1) **P0210500 – SAP PUBLIC SERVICES, INC., WASHINGTON, DC**
- Annual computer software maintenance and support services.
- These goods and services are required to maintain and upgrade computer software used to generate management reports.
- SAP Public Services, Inc. is the sole regional distributor of the original software developer for these proprietary services; therefore, this purchase was negotiated.
- The Department of Water recommends approval of this order.

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<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
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WATER – WATER UTILITY FIELD OPERATIONS

(E2) P0210504 – THE SAFETY COMPANY LLC dba M TECH COMPANY, CLEVELAND, OH
- Sewer cleaning, maintenance, repair and supplies as needed through 12/31/2021.
- These goods and services are required for the upkeep of the sewer systems.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB S16063 with pricing extended through 12/31/2021.
- The Department of Water recommends approval of this order.

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<th>Fiscal Year</th>
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<th>Fund Code(s)</th>
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<td>$20,000.00</td>
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</table>

(E3) P0210505 – XYLEM WATER SOLUTIONS USA, INC., MILFORD, OH
- Flygt pump service and repairs as needed through 12/31/2021.
- These services are required to maintain and repair Flygt pumps used in daily operations.
- Xylem Water Solutions USA, Inc. is recommended as the Original Equipment Manufacturer (OEM) for Flygt brand products and repair services in this region; therefore, this purchase was negotiated.
- The Department of Water requests additional authority of $60,000.00 through 12/31/2024.
- The Department of Water recommends approval of this order.

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<thead>
<tr>
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<th>Fund Amount(s)</th>
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</thead>
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<td>2023</td>
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<tr>
<td>2024</td>
<td>Sanitary Sewer Operating</td>
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<td>$20,000.00</td>
</tr>
</tbody>
</table>

The aforementioned departments recommend approval of these orders.
City Manager's Report

From: 6210 - Police Director
Name: Axon Enterprise Inc.
Address: 17800 N. 85th St.
Scottsdale, AZ 85255

Date: January 20, 2021
Expense Type: Contract Modification
Total Amount: $2,389,728.00 (thru 12/31/2023)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Safety Photo Enforcement</td>
<td>16122-6210-1411-71</td>
<td>$ 822,498.00</td>
</tr>
</tbody>
</table>

Includes Revenue to the City: No
Affirmative Action Program: Yes

Description:

Second Amendment to Professional Service Agreement for DPD In-Car Cameras

The Department of Police requests permission to modify the current professional service agreement with Axon Enterprise Inc. The Dayton City Commission approved the agreement and First Amendment on June 27, 2018 and October 10, 2018, respectively. The Department wishes to add the body worn camera hardware and Fleet #3 upgrade to the current plan, at the additional cost of $822,498.00 for the remainder of the contract period.

Axon Enterprise Inc. was one of six vendor responses to RFP 17032-S and was determined to be the lowest and best vendor for the initial project. The service expansion will allow for the addition of body worn cameras to be part of our current video management solution. This modification also upgrades the in car camera system and makes available the expansion of the existing license plate reader (LPR) program. The LPR feature will be deactivated until such time as the LPR program parameters are approved by City Commission.

This contract modification would begin upon approval and extend the current contract period two (2) additional months, ending December 31, 2023.

A certificate of funds is attached for $232,650.00 which will leave $1,165,260.00 of authority to be encumbered in 2022 and 2023.

The Department of Law has approved the Contract Modification as to form and correctness.

Signatures/Approval

Approved by City Commission

Clerk
Date

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

New Contract

Renewal Contract

X Change Order

Contract Start Date: 07/01/18
Expiration Date: 12/31/23

Original Commission Approval: $2,389,728.00
Initial Encumbrance: $991,818.00
Remaining Commission Approval: $1,397,910.00

Original CT/CF: CT18-2051
Increase Encumbrance: $232,650.00
Decrease Encumbrance: $-
Remaining Commission Approval: $1,165,260.00

Required Documentation

- Initial City Manager's Report
- Initial Certificate of Funds
- Initial Agreement/Contract
- Copy of City Manager's Report
- Copy of Original Certificate of Funds

Amount: $232,650.00
Fund Code: 16122 - 6210 - 1411 - 71 - XXXX - XXXX
Fund: - Org: - Acct: - Prog: - Act: - Loc: 

Amount: 
Fund Code: 16122 - 6210 - 1411 - 71 - XXXX - XXXX
Fund: - Org: - Acct: - Prog: - Act: - Loc: 

Attach additional pages for more FOAPALs

Vendor Name: Axon Enterprise Inc.
Vendor Address: 17800 N. 85th St. Scottsdale AZ 85255
Street: City: State: Zipcode + 4
Federal ID: 860741227
Commodity Code: 99842

Purpose:
Reservation of additional 2021 funds for Axon 2nd Amendment to provide body worn cameras (#240) and automated license plate readers in each marked unit (#120).

Yearly subscription invoicing occurs in advance; BWC year 1 additional of $232,650.00 will be due when 2nd Amendment approved.

Funds to be added upon availability each F.Y.

Contact Person: Maj. P. Saunders/1003, M. Beatty/1099
Police/Chief's Off: Department/Division: 1/11/2021 Date: 

Originating Department Director's Signature: 

SECTION II - to be completed by the Finance Department

I hereby certify that the amount of money required to meet the payment(s) called for in the aforesaid request have been lawfully appropriated for such purpose and is in the Treasury, or in the process of collection, to the credit of the fund from which it is to be drawn free and clear from any previous encumbrance.

Finance Director Signature: 
Date: 1/13/2021

CF Prepared by: Tonya Williams
Date: 1/12/2021

CF/CT Number: CD21-2051

Finance Department

October 18, 2011
SECOND AMENDMENT TO AGREEMENT FOR EQUIPMENT AND SUPPORT SERVICES FOR MOBILE VIDEO RECORDING SYSTEMS

This SECOND AMENDMENT ("Second Amendment") is dated this ____ day of __________, 2021, between the City of Dayton, Ohio ("City") and Axon Enterprise, Inc. ("Axon").

WHEREAS, on July 29, 2018, the City entered into an agreement with Axon for equipment and support services for mobile video recording systems ("Agreement"); and

WHEREAS, On October 12, 2018, the City amended the Agreement with Axon to provide additional equipment and services ("First Amendment");

WHEREAS, the City seeks to expand the Agreement and have Axon upgrade the current mobile video recording systems, equip patrol officers with body worn cameras, and equip mobile video recording systems with automatic license plate reading software; and

WHEREAS, the City and Axon agree to amend this Agreement to provide the additional equipment and services.

NOW, THEREFORE, in consideration of the mutual covenants and warranties contained herein, the parties agree to amend the Agreement as follows:

Section 1. Section 1, entitled “Scope of Services” of the Agreement shall be amended to add the following:

Axon shall provide the equipment and services for the period beginning on February 1, 2021 through December 31, 2023 as is more fully described in Exhibit C attached hereto.

Section 2. Section 3, subpart A, entitled “Total Compensation” shall be deleted in its entirety and replaced with the following:

A. TOTAL COST

Total remuneration in this Agreement shall not exceed TWO MILLION THREE HUNDRED EIGHTY-NINE THOUSAND SEVEN HUNDRED TWENTY EIGHT DOLLARS($2,389,728.00). These fees shall be paid as described in Exhibit B through December 31, 2020, and in accordance with Exhibit D for the period of time beginning on February 1, 2021 through December 31, 2023. For the purposes of Exhibit D Year 1 shall be for the period beginning on February 1, 2021 through December 31, 2021; Year 2 shall be for the period beginning on January 1, 2022 through December 31, 2022; and Year 3 shall be for the period beginning on January 1, 2023 and ending on December 31, 2023.
Section 3. The Axon Fleet Appendix attached to the Agreement is hereby deleted and replaced with Exhibit E attached hereto.

Section 4. Except as herein modified, all other provisions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and Contractor, by duly authorized representatives have executed this First Amendment as of the date first above written.

CITY OF DAYTON, OHIO

By: ______________________

City Manager

Print: ______________________

Its: ______________________

APPROVED AS TO FORM AND CORRECTNESS:

1/8/2021

X John Musto for

City Attorney

Signed by: Musto, John

APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO:

_________________________, 2021

Min./Bk. _________ Pg. __________

__________________________

Clerk of Commission
EXHIBIT C
SCOPE OF WORK for SECOND AMENDMENT

1. Overview
Axon (Contractor) shall provide all hardware, software, support and training for a complete body-worn camera ("BWC") solution and In-car camera ("Fleet") solution for the Dayton City Police Department (DPD) use as detailed in this Scope of Work and Exhibit D. In conjunction with the existing Fleet cameras purchased under the Agreement and First Amendment, this additional hardware and services will give DPD a unified platform for gathering, archival, and distribution of video evidence ("System").

2. Deliverables

2.1 Body-Worn Component (To be delivered no later than February 28, 2021)

2.1.1 Contractor shall furnish the following hardware:
- 240 (two hundred forty) Axon Body 3 BWCs for primary use
- 8 (eight) Axon Body 3 BWCs to be used as spares
- 26 (twenty-six) Axon Body 3 8-bay charging/syncing docs
- 240 (two hundred forty) Signal Sidearm Devices

2.1.2 Each camera and dock will be covered by the following support and assurance plans:
- Unlimited Plus TAP program.
- Technology Assurance plan
- Axon Full-Service Plan

Coverage provided the plans listed above are described in the Appendix to the Second Amendment

2.1.3 Contractor shall furnish the following access licenses the cloud-based storage ("Evidence.com"):  
- Pro-level license for 374 users (existing contract), 240 of those will now be associated to BWC users.

2.2 Fleet Component (*estimated timeline of July 2021)

2.2.1 Contractor shall furnish the following hardware:
- 240 Axon Fleet 3 cameras (2 per vehicle)
- 120 Fleet Hubs (1 per vehicle)

- All wiring, brackets, and hardware required for integration of the devices listed above

2.2.2 Installation and configuration:
Axon will be performing the installation of all Axon Fleet vehicle hardware. Installation services purchased from Axon include a “clip” and removal of existing in-car system hardware. This does not include “full removal” of existing wiring. Contractor shall update the Fleet hardware to Axon Fleet 3 model at no additional cost after the release of Fleet 3, based on availability, tentatively in Q2-Q3 2021, in accordance with Quote. ALPR costs are added into Quote attached as this is new software for DPD.

2.2.3 Contractor shall furnish the following licenses:
- Fleet 3 Dashboard App (Actual Name will change) vehicle license.
- Fleet Evidence.com storage, unlimited.
3. Delivery
All shipping costs shall be included in the unit prices.

BWC hardware shall be delivered to:
   Attn: Lt. Andrew Gillig
   335 W. Third St
   Dayton, OH 45402

Fleet hardware shall be delivered to:
   Attn: Lt. Andrew Gillig
   335 W. Third St
   Dayton, OH 45402

4. Training (To be provided no later than March 15, 2021)
Contractor will provide 4 days of training services on BWC project to allow for coverage of DPD’s Shifts
   4.1 Sessions to cover the operation of the Axon Body 3 hardware and associated software for end users.
   4.2 Session focused on your administrators getting familiar with products, system, and training for end users.
   4.3 Sessions will be planned with DPD’s project manager to make sure needs are met to effectively deploy BWC program.

5. Contractor Roles and Key Personnel
Contractor shall assign a Professional Services Manager (PSM) that will provide the expertise to execute a successful deployment and implementation of BWC Project. PSM will have knowledge and experience with all phases of the project management lifecycle and with all application modules being implemented. Contractor will also assign a Customer Success Manager to support the account over the life of the Contract. This Key Personnel will work closely with the DPD Project Officer and project team members and will be responsible for completing the tasks required to meet all contractual obligations.

6. DPD Responsibilities
   6.1 DPD will assign a Project Officer to coordinate the City staff and resources involved in the implementation of the program.
   6.2 DPD will provide the following hardware for the Fleet program (already in place):
       • Mobile Data Terminal
       • 4G mobile internet data connection without data throttling or data cap
       • Indoor parking space for installation of the fleet equipment
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<tr>
<th>Item</th>
<th>Description</th>
<th>Term (Months)</th>
<th>Quantity</th>
<th>List Unit Price</th>
<th>Net Unit Price</th>
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## Year 1 (Continued)

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**Subtotal** 206,954.40

Estimated Shipping 0.00

Estimated Tax 0.00

Total 206,954.40

## Year 1 - Fleet

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<th>Quantity</th>
<th>List Unit Price</th>
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### Spares

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<tr>
<td>73827</td>
<td>AB3 CAMERA TAP WARRANTY</td>
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### Year 2

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Subtotal: 301,524.00  
Estimated Tax: 0.00  
Total: 301,524.00

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<th>Total (USD)</th>
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### Year 3

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<th>Quantity</th>
<th>List Unit Price</th>
<th>Net Unit Price</th>
<th>Total (USD)</th>
</tr>
</thead>
</table>
| Hardware  
87063  | TECH ASSURANCE PLAN BODY 3 CAMERA PAYMENT             | 12            | 240      | 336.00          | 336.00         | 80,640.00   |
87062  | TECH ASSURANCE PLAN 8-BAY BODY 3 DOCK PAYMENT         | 12            | 26       | 354.00          | 354.00         | 9,204.00    |

Other  
73309  | AXON CAMERA REFRESH ONE                              |               | 240      | 0.00            | 0.00           | 0.00         |
73830  | EVIDENCE.COM UNLIMITED AXON DEVICE STORAGE PAYMENT   | 12            | 240      | 288.00          | 288.00         | 69,120.00   |
73666  | RESPOND DEVICE PLUS PAYMENT                          | 12            | 240      | 300.00          | 594.00         | 142,560.00  |
80441  | FLEET 3, ALPR LICENSE, 1 CAMERA, PAYMENT              | 12            | 120      | 588.00          | 0.00           | 0.00         |
73688  | MULTI-BAY BWC DOCK 2ND REFRESH                       | 26            | 0.00     | 0.00            |                | 0.00         |

Subtotal: 301,524.00  
Estimated Tax: 0.00  
Total: 301,524.00
### Year 3 - Existing Payments

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<th>Total (USD)</th>
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<tbody>
<tr>
<td><strong>Axon Plans &amp; Packages</strong></td>
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</tr>
<tr>
<td>80217</td>
<td>FLEET 2 UNLIMITED WITH TAP PAYMENT</td>
<td>12</td>
<td>120</td>
<td>1,548.00</td>
<td>1,099.00</td>
<td>131,880.00</td>
</tr>
<tr>
<td><strong>Other</strong></td>
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<tr>
<td>73837</td>
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Subtotal 281,106.00  
Estimated Tax 0.00  
Total 281,106.00

Grand Total 1,397,910.00
### Discounts (USD)

*Quote Expiration: 01/28/2021*

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*Total excludes applicable taxes*

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<tr>
<td><strong>Grand Total</strong></td>
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Notes
Agency has existing contract #000017764 (originated via Q-168762) and is amending that contract upon the new license start date (2/15/2021) of this quote.
No new routers will be shipped on with this quote. Existing routers will be used.

Tax is subject to change at order processing with valid exemption.

Axon’s Sales Terms and Conditions

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon’s Master Services and Purchasing Agreement (posted at www.axon.com/legal/sales-terms-and-conditions), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature: ___________________________ Date: ___________________________

Name (Print): ___________________________ Title: ___________________________

PO# (Or write N/A): ___________________________

Please sign and email to Geoff Matthews at gmatthews@axon.com or fax to

Thank you for being a valued Axon customer. For your convenience on your next order, please check out our online store buy.axon.com

The trademarks referenced above are the property of their respective owners.

***Axon Internal Use Only***

<table>
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<th>Order Type</th>
<th>RMA #</th>
<th>Address Used</th>
<th>SO #</th>
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<td>Review 1</td>
<td>Review 2</td>
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Comments:
ATTENTION

This order may qualify for freight shipping, please fill out the following information.

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<th>Question</th>
<th>Answer</th>
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<tr>
<td>What are your receiving hours?</td>
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<td>(Monday-Friday)</td>
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<tr>
<td>Is a dock available for this incoming shipment?</td>
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<tr>
<td>Are there any delivery restrictions? (no box trucks, etc.)</td>
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STATEMENT OF WORK & CONFIGURATION DOCUMENT

Axon Fleet In-Car Recording Platform

This document details a proposed system design

Agency Created For: Dayton Police Department

Sold By: Geoff Matthews
Designed By: Matt Karsten
Installed By: Axon Professional Services
### VEHICLE OVERVIEW

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<th>Site Name</th>
<th>Customer Name</th>
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<tr>
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**Total Configured Vehicles**
- 120 Total Vehicles with this Configuration

**Video Capture Sources**
- 240 Total Cameras Deployed
- 1 Fleet Hub(s) Per Vehicle

**Mobile Data Terminal Per Vehicle**
- 1 Located In Each Vehicle

**Mobile Router Per Vehicle**
- 1 IBR900-1200M-B

**Offload Mechanism**
- Wi-Fi

**Evidence Management System**
- Evidence.com

### SYSTEM CONFIGURATION DETAILS

The following sections detail the configuration of the Axon Fleet In-Car System

#### Vehicle Hardware

<table>
<thead>
<tr>
<th>Hardware Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Axon Fleet Cameras</td>
<td>2 units will be installed in each vehicle</td>
</tr>
<tr>
<td>Axon Fleet Hub</td>
<td>1 unit will be installed in each vehicle</td>
</tr>
<tr>
<td>5-in-1 Antenna</td>
<td>1 unit will be installed in each vehicle</td>
</tr>
<tr>
<td>3-in-1 Antenna</td>
<td>1 unit will be installed in each vehicle</td>
</tr>
<tr>
<td>IBR900-1200M-B</td>
<td>1 router will be installed in each vehicle</td>
</tr>
</tbody>
</table>

**Signal Activation Methods**

- The following devices will be configured for Signal activation: Light-Bar, Crash, Speed, Gun Lock. When triggered, the Axon Signal technology in the Fleet 3 Hub will activate the recording mechanism for all configured Axon cameras within Bluetooth range of the vehicle.

**Mobile Data Computer**

- Each vehicle will be equipped with a Mobile Data Computer provided by the customer, which meets or exceeds the specifications provided by Axon.

**Mobile Data Computer Requirements**

- **Operating System:** Windows 7 SP1 or Windows 10 (version 1909 or higher) - x32 or x64 with the most current service packs and updates
- **Hard Drive:** Must have 25GB+ of free disk space
- **RAM/Memory:** for x32: 4GB | for x64: 8GB or greater
- **Ethernet Port:** It is recommended that the MDC have one dedicated and available Ethernet port reserved for an Ethernet cable from the router. The Ethernet port can be located on an electronic and stationary mobile docking station. If a docking station is used, it is the preferred location for the Ethernet port.
- **Wi-Fi Card:** If the MDC is not connected to the router via Ethernet LAN, a WiFi card is required in the MDC. In this case, the WiFi card should meet or exceed the router’s minimum WiFi radio compatibility requirements.
The Cradlepoint router includes the antenna(s) and Cradlecare. For agencies that use a VPN, Axon traffic must be passed through; such that it does not use the VPN tunnel. Customer must provide IT and/or Admin resources at time of installation to ensure data routing if functional for Axon Fleet operation.

In the event an Agency is unable to support the IT requirements associated with the installation, Axon reserves the right to charge the Agency for additional time associated with on-site work completed by an Axon Personnel.

**Hardware Provisioning**

Agency will provide the following router for all vehicles: IBR900-1200M-B

The customer will provide an MDC for each vehicle.

If the customer chooses to provide their own SIM, they must be activated and available at time of installation.

**SIM Location**

SIM will be located in router and can be inserted in router by Cradlepoint if carrier is specified by agency.

## WiFi Offload Considerations

<table>
<thead>
<tr>
<th>WiFi Offload Standards</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Wireless Offload Server(s) are required to facilitate the offload of in-car data to Evidence.com</td>
<td></td>
</tr>
<tr>
<td>Existing Wireless Access Point(s) are required to facilitate the offload of data to Evidence.com</td>
<td></td>
</tr>
<tr>
<td>When in proximity, the IBR900-1200M-B will connect to the agency's wireless access point(s) and initiate the upload of recorded video content</td>
<td></td>
</tr>
<tr>
<td>Axon will not assume any responsibility for the management of/or configuration of an Axon Fleet compatible 3rd party router purchased by the Agency</td>
<td></td>
</tr>
<tr>
<td>Upon completion of solution connectivity, meaning Axon Fleet is operational and appropriately connected to the Agency’s WAP/Network Infrastructure, the Agency will then assume responsibility for their network workflow.</td>
<td></td>
</tr>
<tr>
<td>In the event the Agency has a VPN/APN, Axon requires the appropriate Administrator of the Agency be present during the entire installation of Fleet.</td>
<td></td>
</tr>
<tr>
<td>In the event the Agency is using Wi-Fi Offload and a WOS server is being used, Axon requires the appropriate Administrator of the Agency be present for the installation of Fleet in the initial vehicle.</td>
<td></td>
</tr>
<tr>
<td>Agency will provide all wireless access points for installation.</td>
<td></td>
</tr>
<tr>
<td>Agency will provide all server(s) for this installation.</td>
<td></td>
</tr>
<tr>
<td>An Axon representative will provide the Agency detailed instructions for the WOS server setup and configuration (to include racking the server, setup of the server, and configuration of Axon WOS Software and Microsoft IIS Server). It is the responsibility of the Agency to ensure the WOS Server(s) are operational before the scheduled deployment date. Axon will provide remote assistance per the Agency’s request.</td>
<td></td>
</tr>
</tbody>
</table>
# Professional Services & Training

## Project Management
Axon will assign a Project Manager that will provide the expertise to execute a successful Fleet camera deployment and implementation. The Project Manager will have knowledge and experience with all phases of the project management lifecycle and with all application modules being implemented. He/she will work closely with the customer’s project manager and project team members and will be responsible for completing the tasks required to meet all contract deliverables.

## Vehicle Installation
Customer agrees to have the above mentioned number of intended vehicles available at the time of deployment. Axon will be performing the installation of all Axon Fleet vehicle hardware. Installation services included with Axon Fleet system include a “clip” and removal of existing in-car system hardware, if applicable. This does not include “full removal” of existing wiring. A “full removal” of all existing hardware and wiring is subject to additional fees. Axon provides basic Fleet operation overview to the customer lead and/or Admin at the time of install.

- It is necessary to differentiate between the type of equipment removal to be provided by Axon. Standard Fleet Installation includes hardware removal in a fashion considered “Clip” which means Axon cuts the wires from the old system without removing multiple panels, removing all wiring and parts from the old system. In the case Axon removes the hardware Axon is not responsible for the surplus of hardware or any devices that may have been physically integrated with the removed system. In some situations, radar systems are integrated with the in-car video system and have a cable that connects to the system, if Axon removes the old in-car system then Axon is not responsible for the radar system as part of the removal.
- A “Rip” removal should be contracted through ProLogic directly. The Rip would be similar to a complete and full removal, which is more common when they retire a vehicle from service.

Chosen installation site must have internet access for the Hub, through the router, and MDC for configuration and testing of Fleet 3. Customer must have a resource onsite during installation with Axon Evidence Device Administration permissions to assist with logging into customer MDCs and configuring vehicle software.

## Custom Trigger Installation
The Fleet 3 Hub has multiple trigger configuration options. Any trigger configurations that include a door or magnetic door switch are considered “custom” and may be subject to additional fees. An Axon representative has discussed with the Agency the standard triggers of the Fleet System. Those no-cost triggers include Light-bar, Siren, Speed, Motion Activation and Gun-lock activation. The light-bar must have a controller to allow Axon to interface for the desired position, gun-locks must be installed with existing hardware in the vehicle. Doors are considered “CUSTOM” since they required additional hardware and time for installation, typically requiring the door may need to be taken apart for the installation.

## Training
End-user go-live training provides individual device setup and configuration assistance, training on device use, Evidence.com and AXON Fleet Dashboard. This is included at no additional cost.

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## Network Consideration Agreement

<table>
<thead>
<tr>
<th>Network Consideration Agreement</th>
<th>Customer acknowledges the minimum requirements for the network to support this Statement of Work.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Axon employees performing services under this SOW are CJIS certified.</td>
</tr>
<tr>
<td></td>
<td>If the network provided by Customer does not meet the minimum requirements, or in the event of a requested change in scope of the project, a Change Order will be required and additional fees may apply. Additional fees would also apply if Axon is required to extend the installation time for reasons caused by the customer or the customer network accessibility.</td>
</tr>
</tbody>
</table>
Tax is subject to change at order processing with valid exemption.

Axon’s Sales Terms and Conditions

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon’s Master Services and Purchasing Agreement (posted at www.axon.com/legal/sales-terms-and-conditions), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature: ___________________________ Date: ___________________________

Name (Print): ___________________________ Title: ___________________________

PO# (Or write N/A): ___________________________

Please sign and email to Lauren Klein at lklein@axon.com or fax to

Thank you for being a valued Axon customer. For your convenience on your next order, please check out our online store buy.axon.com

The trademarks referenced above are the property of their respective owners.

<table>
<thead>
<tr>
<th>SFDC Contract#</th>
<th>Order Type</th>
<th>RMA#</th>
</tr>
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<tbody>
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<table>
<thead>
<tr>
<th>Address Used</th>
<th>SO#</th>
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<tbody>
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<table>
<thead>
<tr>
<th>Review 1</th>
<th>Review 2</th>
</tr>
</thead>
</table>

Comments:
Axon Cloud Services Terms of Use Appendix

1 Definitions

"Agency" is the City of Dayton.

"Agency Content" is data uploaded into, ingested by, or created in Axon Cloud Services within Agency's tenant, including media or multimedia uploaded into Axon Cloud Services by Agency. Agency Content includes Evidence but excludes Non-Content Data.

"Evidence" is media or multimedia uploaded into Axon Evidence as 'evidence' by a Agency. Evidence is a subset of Agency Content.

"Non-Content Data" is data, configuration, and usage information about Agency's Axon Cloud Services tenant, Axon Devices and client software, and users that is transmitted or generated when using Axon Devices. Non-Content Data includes data about users captured during account management and customer support activities. Non-Content Data does not include Agency Content.

"Personal Data" means any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

2 Access

Upon Axon granting Agency a subscription to Axon Cloud Services, Agency may access and use Axon Cloud Services to store and manage Agency Content. Agency may not exceed more end users than the Quote specifies. Axon Air requires an Axon Evidence subscription for each drone operator. For Axon Evidence Lite, Agency may access and use Axon Evidence only to store and manage TASER CEW and TASER CAM data ("TASER Data"). Agency may not upload non TASER Data to Axon Evidence Lite.

3 Agency Owns Agency Content

Agency controls and owns all right, title, and interest in Agency Content. Except as outlined herein, Axon obtains no interest in Agency Content, and Agency Content are not business records of Axon. Agency is solely responsible for uploading, sharing, managing, and deleting Agency Content. Axon will have limited access to Agency Content solely for providing and supporting Axon Cloud Services to Agency and Agency end users.

4 Security

Axon will implement commercially reasonable and appropriate measures to secure Agency Content against accidental or unlawful loss, access or disclosure. Axon will maintain a comprehensive information security program to protect Axon Cloud Services and Agency Content including logical, physical access, vulnerability, risk, and configuration management; incident monitoring and response; encryption of uploaded digital evidence; security education; and data protection. Axon agrees to the Federal Bureau of Investigation Criminal Justice Information Services Security Addendum.

5 Agency Responsibilities

Agency is responsible for (a) ensuring Agency owns Agency Content; (b) ensuring no Agency Content or Agency end user's use of Agency Content or Axon Cloud Services violates this Agreement or applicable laws; and (c) maintaining necessary computer equipment and Internet connections for use of Axon Cloud Services. If Agency becomes aware of any violation of this Agreement by an end user, Agency will immediately terminate that end user's access to Axon Cloud Services.
Agency will also maintain the security of end user names and passwords and security and access by end users to Agency Content. Agency is responsible for ensuring the configuration and utilization of Axon Cloud Services meet applicable Agency regulation and standards. Agency may not sell, transfer, or sublicense access to any other entity or person. Agency shall contact Axon immediately if an unauthorized party may be using Agency’s account or Agency Content, or if account information is lost or stolen.

**Privacy.** Axon will not disclose Agency Content or information about Agency except as compelled by a court or administrative body or required by law or regulation. If Axon receives a disclosure request for Agency Content, Axon will give Agency notice, unless legally prohibited from doing so, to allow Agency to file an objection with the court or administrative body. Agency agrees to allow Axon access to certain information from Agency to (a) perform troubleshooting services upon request or as part of regular diagnostic screening; (b) enforce this Agreement or policies governing the use of Axon Evidence; or (c) perform analytic and diagnostic evaluations of the systems.

**Axon Body 3 Wi-Fi Positioning.** Axon Body 3 cameras offer a feature to enhance location services where GPS/GNSS signals may not be available, for instance, within buildings or underground. Agency administrators can manage their choice to use this service within the administrative features of Axon Cloud Services. If Agency chooses to use this service, Axon must also enable the usage of the feature for Agency’s Axon Cloud Services tenant. Axon will not see this option with Axon Cloud Services unless Axon has enabled Wi-Fi Positioning for Agency’s Axon Cloud Services tenant. When Wi-Fi Positioning is enabled by both Axon and Agency, Non-Content and Personal Data will be sent to Skyhook Holdings, Inc. ("Skyhook") to facilitate the Wi-Fi Positioning functionality. Data controlled by Skyhook is outside the scope of the Axon Cloud Services Privacy Policy and is subject to the Skyhook Services Privacy Policy.

**Storage.** For Axon Unlimited Device Storage subscriptions, Agency may store unlimited data in Agency’s Axon Evidence account only if data originates from Axon Capture or the applicable Axon Device. Axon may charge Agency additional fees for exceeding purchased storage amounts. Axon may place Agency Content that Agency has not viewed or accessed for 6 months into archival storage. Agency Content in archival storage will not have immediate availability and may take up to 24 hours to access.

**Location of Storage.** Axon may transfer Agency Content to third-party subcontractors for storage. Axon will determine the locations of data centers for storage of Agency Content. For United States agencies, Axon will ensure all Agency Content stored in Axon Cloud Services remains within the United States. Ownership of Agency Content remains with Agency.

**Suspension.** Axon may temporarily suspend Agency’s or any end user’s right to access or use any portion or all of Axon Cloud Services immediately upon notice, if Agency or end user’s use of or registration for Axon Cloud Services may (a) pose a security risk to Axon Cloud Services or any third-party; (b) adversely impact Axon Cloud Services, the systems, or content of any other customer; (c) subject Axon, Axon’s affiliates, or any third-party to liability; or (d) be fraudulent.

Agency remains responsible for all fees incurred through suspension. Axon will not delete Agency Content because of suspension, except as specified in this Agreement.

**Axon Cloud Services Warranty.** Axon disclaims any warranties or responsibility for data corruption or errors before Agency uploads data to Axon Cloud Services.

**Axon Records.** Axon Records is the software-as-a-service product that is generally available at the time Agency purchases an OSP 7 bundle. During Agency’s Axon Records Subscription Term, Agency will be entitled to receive Axon’s Update and Upgrade releases on an if-and-when available basis.
An “Update” is a generally available release of Axon Records that Axon makes available from time to time. An “Upgrade” includes (i) new versions of Axon Records that enhance features and functionality, as solely determined by Axon; and/or (ii) new versions of Axon Records that provide additional features or perform additional functions. Upgrades exclude new products that Axon introduces and markets as distinct products or applications.

New or additional Axon products and applications, as well as any Axon professional services needed to configure Axon Records, are not included. If Agency purchases Axon Records as part of a bundled offering, the Axon Record subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Records to Agency.

13 **Axon Cloud Services Restrictions.** Agency and Agency end users (including employees, contractors, agents, officers, volunteers, and directors), may not, or may not attempt to: 13.1. copy, modify, tamper with, repair, or create derivative works of any part of Axon Cloud Services; 13.2. reverse engineer, disassemble, or decompile Axon Cloud Services or apply any process to derive any source code included in Axon Cloud Services, or allow others to do the same; 13.3. access or use Axon Cloud Services with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas; 13.4. use trade secret information contained in Axon Cloud Services, except as expressly permitted in this Agreement; 13.5. access Axon Cloud Services to build a competitive device or service or copy any features, functions, or graphics of Axon Cloud Services; 13.6. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon’s or Axon’s licensors on or within Axon Cloud Services; or 13.7. use Axon Cloud Services to store or transmit infringing, libelous, or other unlawful or tortious material; to store or transmit material in violation of third-party privacy rights; or to store or transmit malicious code.

14 **After Termination.** Axon will not delete Agency Content for 90-days following termination. There will be no functionality of Axon Cloud Services during these 90-days other than the ability to retrieve Agency Content. Agency will not incur additional fees if Agency downloads Agency Content from Axon Cloud Services during this time. Axon has no obligation to maintain or provide Agency Content after these 90-days and will thereafter, unless legally prohibited, delete all Agency Content. Upon request, Axon will provide written proof that Axon successfully deleted and fully removed all Agency Content from Axon Cloud Services.

15 **Post-Termination Assistance.** Axon will provide Agency with the same post-termination data retrieval assistance that Axon generally makes available to all customers. Requests for Axon to provide additional assistance in downloading or transferring Agency Content, including requests for Axon’s data egress service, will result in additional fees and Axon will not warrant or guarantee data integrity or readability in the external system.

16 **U.S. Government Rights.** If Agency is a U.S. Federal department or using Axon Cloud Services on behalf of a U.S. Federal department, Axon Cloud Services is provided as a “commercial item,” “commercial computer software,” “commercial computer software documentation,” and “technical data”, as defined in the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement. If Agency is using Axon Cloud Services on behalf of the U.S. Government and these terms fail to meet the U.S. Government’s needs or are inconsistent in any respect with federal law, Agency will immediately discontinue use of Axon Cloud Services.
Survival. Upon any termination of this Agreement, the following sections in this Appendix will survive: Agency Owns Agency Content, Storage, Axon Cloud Services Warranty, and Axon Cloud Services Restrictions.

Technology Assurance Plan Appendix

If Technology Assurance Plan ("TAP") or a bundle including TAP is on the Quote, this appendix applies.

1. **TAP Warranty.** The TAP warranty is an extended warranty that starts at the end of the 1-year Hardware Limited Warranty.

2. **Officer Safety Plan.** If Agency purchases an Officer Safety Plan ("OSP"), Agency will receive the deliverables detailed in the Quote. Agency must accept delivery of the TASER CEW and accessories as soon as available from Axon.

3. **OSP 7 Term.** OSP 7 begins after Axon ships the Axon Body 3 or TASER 7 hardware to Agency. If Axon ships in the first half of the month, OSP 7 starts the 1st of the following month. If Axon ships in the second half of the month, OSP 7 starts the 15th of the following month ("OSP 7 Term").

4. **TAP BWC Upgrade.** If Agency has no outstanding payment obligations and purchased TAP, Axon will provide Agency a new Axon body-worn camera ("BWC Upgrade") as scheduled in the Quote. If Agency purchased TAP Axon will provide a BWC Upgrade that is the same or like Axon Device, at Axon’s option. Axon makes no guarantee the BWC Upgrade will utilize the same accessories or Axon Dock.

5. **TAP Dock Upgrade.** If Agency has no outstanding payment obligations and purchased TAP, Axon will provide Agency a new Axon Dock as scheduled in the Quote ("Dock Upgrade"). Accessories associated with any Dock Upgrades are subject to change at Axon discretion. Dock Upgrades will only include a new Axon Dock bay configuration unless a new Axon Dock core is required for BWC compatibility. If Agency originally purchased a single-bay Axon Dock, the Dock Upgrade will be a single-bay Axon Dock model that is the same or like Axon Device, at Axon’s option. If Agency originally purchased a multi-bay Axon Dock, the Dock Upgrade will be a multi-bay Axon Dock that is the same or like Axon Device, at Axon’s option.

6. **Upgrade Delay.** Axon may ship the BWC and Dock Upgrades as scheduled in the Quote without prior confirmation from Agency unless the Parties agree in writing otherwise at least 90 days in advance. Axon may ship the final BWC and Dock Upgrade as scheduled in the Quote 60 days before the end of the Subscription Term without prior confirmation from Agency.

7. **Upgrade Change.** If Agency wants to change Axon Device models for the offered BWC or Dock Upgrade, Agency must pay the price difference between the MSRP for the offered BWC or Dock Upgrade and the MSRP for the model desired. If the model Agency desires has an MSRP less than the MSRP of the offered BWC Upgrade or Dock Upgrade, Axon will not provide a refund. The MSRP is the MSRP in effect at the time of the upgrade.

8. **Return of Original Axon Device.** Within 30 days of receiving a BWC or Dock Upgrade, Agency must return the original Axon Devices to Axon or destroy the Axon Devices and provide a certificate of destruction to Axon including serial numbers for the destroyed Axon Devices. If Agency does not return or destroy the Axon Devices, Axon will deactivate the serial numbers for the Axon Devices received by Agency.

9. **Termination.** If Agency’s payment for TAP, OSP, or Axon Evidence is more than 30 days past due, Axon may terminate TAP or OSP. Once TAP or OSP terminates for any reason:
9.1. TAP and OSP coverage terminate as of the date of termination and no refunds will be given.

9.2. Axon will not and has no obligation to provide the Upgrade Models.

9.3. Agency must make any missed payments due to the termination before Agency may purchase any future TAP or OSP.

**Axon Fleet Appendix**

1 **Agency Responsibilities.** Agency must ensure its infrastructure and vehicles adhere to the minimum requirements to operate Axon Fleet 2 or Axon Fleet 3 (collectively, “Axon Fleet”) as established by Axon during the qualifier call and on-site assessment at Agency and in any technical qualifying questions. If Agency’s representations are inaccurate, the Quote is subject to change.

2 **Cradlepoint.** If Agency purchases Cradlepoint Enterprise Cloud Manager, Agency will comply with Cradlepoint’s end user license agreement. The term of the Cradlepoint license may differ from the Axon Evidence Subscription. If Agency requires Cradlepoint support, Agency will contact Cradlepoint directly.

3 **Reserved**

4 **Wireless Offload Server.**

4.1 **License Grant.** Axon grants Agency a non-exclusive, royalty-free, worldwide, perpetual license to use Wireless Offload Server ("WOS"). “Use” means storing, loading, installing, or executing WOS solely for data communication with Axon Devices for the number of licenses purchased. The WOS term begins upon the start of the Axon Evidence Subscription.

4.2 **Restrictions.** Agency may not: (a) modify, alter, tamper with, repair, or create derivative works of WOS; (b) reverse engineer, disassemble, or decompile WOS, apply any process to derive the source code of WOS, or allow others to do so; (c) access or use WOS to avoid incurring fees or exceeding usage limits; (d) copy WOS in whole or part; (e) use trade secret information contained in WOS; (f) resell, rent, loan or sublicense WOS; (g) access WOS to build a competitive device or service or copy any features, functions or graphics of WOS; or (h) remove, alter or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon’s licensors on or within WOS.

4.3 **Updates.** If Agency purchases WOS maintenance, Axon will make updates and error corrections to WOS ("WOS Updates") available electronically via the Internet or media as determined by Axon. Agency is responsible for establishing and maintaining adequate Internet access to receive WOS Updates and maintaining computer equipment necessary for use of WOS. The Quote will detail the maintenance term.

4.4 **WOS Support.** Upon request by Axon, Agency will provide Axon with access to Agency’s store and forward servers solely for troubleshooting and maintenance.

5 **Axon Vehicle Software.**

5.1 **License Grant.** Axon grants Agency a non-exclusive, royalty-free, worldwide, perpetual license to use ViewXL or Dashboard (collectively, “Axon Vehicle Software”). “Use” means storing, loading, installing, or executing Axon Vehicle Software solely for data communication with Axon Devices. The Axon Vehicle Software term begins upon the start of the Axon Evidence Subscription.

5.2 **Restrictions.** Agency may not: (a) modify, alter, tamper with, repair, or create derivative works of Axon Vehicle Software; (b) reverse engineer, disassemble, or decompile Axon Vehicle Software, apply any process to derive the source code of Axon Vehicle Software, or allow others to do so; (c) access or use Axon Vehicle Software to avoid incurring fees or exceeding usage limits; (d) copy Axon Vehicle Software in whole or part; (e) use trade
secret information contained in Axon Vehicle Software; (f) resell, rent, loan or sublicense Axon Vehicle Software; (g) access Axon Vehicle Software to build a competitive device or service or copy any features, functions or graphics of Axon Vehicle Software; or (h) remove, alter or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon’s licensors on or within Axon Vehicle Software.

6 **Axon Fleet Upgrade.** If Agency has no outstanding payment obligations and has purchased the “Fleet Technology Assurance Plan” (Fleet TAP), Axon will provide Agency with the same or like model of Fleet hardware (“Fleet Upgrade”) as schedule on the Quote.

If Agency would like to change models for the Axon Fleet Upgrade, Agency must pay the difference between the MSRP for the offered Axon Fleet Upgrade and the MSRP for the model desired. The MSRP is the MSRP in effect at the time of the upgrade. Agency is responsible for the removal of previously installed hardware and installation of the Axon Fleet Upgrade.

Within 30 days of receiving the Axon Fleet Upgrade, Agency must return the original Axon Devices to Axon or destroy the Axon Devices and provide a certificate of destruction to Axon, including serial numbers of the destroyed Axon Devices. If Agency does not destroy or return the Axon Devices to Axon, Axon will deactivate the serial numbers for the Axon Devices received by Agency.

7 **Privacy.** Axon will not disclose Agency Content or any information about Agency except as compelled by a court or administrative body or required by any law or regulation. Axon will give notice if any disclosure request is received for Agency Content, so Agency may file an objection with the court or administrative body. Agency acknowledges and agrees that Axon may access Agency Content to: (a) perform troubleshooting services upon request or as part of Axon’s maintenance or diagnostic screenings; (b) enforce this Agreement or policies governing use of Axon Evidence; (c) generate aggregated data, excluding information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual (collectively, “PII”), to improve, analyze, support, and operate Axon’s current and future devices and services.

8 **Axon Fleet Termination.** Axon may terminate Agency’s Fleet subscription for non-payment. Upon any termination:

8.1 Axon Fleet subscription coverage terminates, and no refunds will be given.

8.2 Axon will not and has no obligation to provide the Axon Fleet Upgrade.

8.3 Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future Fleet TAP.

**Axon Aware Appendix**

This Axon Aware Appendix applies to both Axon Aware and Axon Aware Plus.

1 **Axon Aware Subscription Term.** If Agency purchases Axon Aware as part of a bundled offering, the Axon Aware subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Aware to Agency.

If Agency purchases Axon Aware as a standalone, the Axon Aware subscription begins the later of the (1) date Axon provisions Axon Aware to Agency, or (2) first day of the month following the Effective Date.

The Axon Aware subscription term will end upon the completion of the Axon Evidence Subscription associated with Axon Aware.
2 **Scope of Axon Aware.** The scope of Axon Aware is to assist Agency with real-time situational awareness during critical incidents to improve officer safety, effectiveness, and awareness. In the event Agency uses Axon Aware outside this scope, Axon may initiate good-faith discussions with Agency on upgrading Agency’s Axon Aware to better meet Agency’s needs.

3 **Axon Body 3 LTE Requirements.** Axon Aware is only available and usable with an LTE enabled body-worn camera. Axon is not liable if Agency utilizes the LTE device outside of the coverage area or if the LTE carrier is unavailable. LTE coverage is only available in the United States, including any U.S. territories. Axon may utilize a carrier of Axon’s choice to provide LTE service. Axon may change LTE carriers during the Term without Agency’s consent.

4 **Axon Fleet 3 LTE Requirements.** Axon Aware is only available and usable with a Fleet 3 system configured with LTE modem and service. Agency is responsible for providing LTE service for the modem. Coverage and availability of LTE service is subject to Agency’s LTE carrier.

5 **Axon Aware Service Limitations.** Agency acknowledges that LTE service is made available only within the operating range of the networks. Service may be temporarily refused, interrupted, or limited because of: (a) facilities limitations; (b) transmission limitations caused by atmospheric, terrain, other natural or artificial conditions adversely affecting transmission, weak batteries, system overcapacity, movement outside a service area or gaps in coverage in a service area and other causes reasonably outside of the carrier’s control such as intentional or negligent acts of third parties that damage or impair the network or disrupt service; or (c) equipment modifications, upgrades, relocations, repairs, and other similar activities necessary for the proper or improved operation of service.

With regard to Axon Body 3, Partner networks are made available as-is and the carrier makes no warranties or representations as to the availability or quality of roaming service provided by carrier partners, and the carrier will not be liable in any capacity for any errors, outages, or failures of carrier partner networks. Agency expressly understands and agrees that it has no contractual relationship whatsoever with the underlying wireless service provider or its affiliates or contractors and Agency is not a third-party beneficiary of any agreement between Axon and the underlying carrier.

6 **Termination.** Upon termination of this Agreement, or if Agency stops paying for Axon Aware or bundles that include Axon Aware, Axon will end Aware services, including any Axon-provided LTE service.
City Manager's Report

From: 2720 – PMB/Management & Budget
Supplier, Vendor, Company, Individual: OpenGov Inc.
Address: 955 Charter Street
Redwood City, CA 94063

Date: January 20, 2021
Expense Type: Contract Modification
Total Amount: $47,066.67 thru 6/1/2022

Fund Source(s) Fund Code(s) Fund Amount(s)
General Fund 10000-2720-1159-51 $47,066.67

Includes Revenue to the City Yes ☑ No
Affirmative Action Program Yes ☑ No N/A

Description

Renewal and Amendment to Service Agreement

The Department of Procurement, Management and Budget requests permission for the renewal and amendment of the Service Agreement with OpenGov, Inc. for the City’s web-based financial data portal, Dayton Open Data. In addition to maintaining Dayton Open Data, OpenGov will also provide to the City, Story Builder, a technology solution for completing the annual budget book document. This feature will empower our organization to collaborate, edit, and publish the annual budget book (online and/or in print) without the difficulty of conflicting versions, tedious manual updates, or recreating graphs and tables.

OpenGov is a technology firm that offers cloud-based software services for public sector budgeting, community development and financial management. OpenGov serves over 1,000 cities, counties and state agencies across 48 states with the mission of empowering more effective and accountable government. OpenGov provides a solution that offers internal reporting capabilities combined with intuitive web-based accessibility for the public. This is the seventh year we have provided this financial transparency tool for public use.

The Department of Procurement, Management and Budget recommends approval of increasing the amended contract in the amount of $47,066.67 ($14,566.67 for Story Builder prorated with one-time fee and $32,500.00 for Reporting & Transparency Platform with Story Builder) commencing on February 2, 2021 through June 1, 2022. This brings the total amended contract amount to $71,566.67.

The renewal and amendment has been reviewed by the Law Department as to form and correctness.

A Certificate of Funds and a copy of the renewal and amendment are attached.

Signatures/Approval

Division

Department

City Manager

FORM NO. MS-16

Approved by City Commission

Clerk

Date

Updated 8/2016
# CERTIFICATE OF FUNDS

**SECTION I - to be completed by User Department**

<table>
<thead>
<tr>
<th>X</th>
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<th>Renewal Contract</th>
<th>Change Order</th>
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<td>Remaining Commission Approval</td>
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**Amount:** $47,066.67

**Fund Code**

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**Attach additional pages for more FOAPALS**

**Vendor Name:** OpenGov, Inc.

**Vendor Address:**
955 Charter Street, Redwood, CA 94063

**Federal ID:** 300717374

**Commodity Code:** 946-99

**Purpose:** Technology solution for completing annual budget book document, in addition to maintaining the web-based financial data portal for the City of Dayton

**Contact Person:** Shonda Bryant

**DPMB/M&B Department/Division:**
1/11/2021

**Originating Department Director's Signature:**

**SECTION II - to be completed by the Finance Department**

I hereby certify that the amount of money required to meet the payment(s) called for in the aforesaid request have been lawfully appropriated for such purpose and is in the Treasury, or in the process of collection, to the credit of the fund from which it is to be drawn free and clear from any previous encumbrance.

**Finance Director’s Signature:**

**Date:** 1/12/2021

**CF Prepared by:**

**Date:** 1/12/2021

**CF/CT Number:** CT21-22880

October 18, 2011
City Manager’s Report

From 2720 – PMB/Management & Budget
Supplier, Vendor, Company, Individual
Name OpenGov, Inc.
Address 955 Charter Street
Redwood City, CA 94063

Date May 27, 2020
Expense Type Service Agreement
Total Amount $49,980.00 through 6/1/2022

<table>
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<tr>
<td>General Fund</td>
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<td>$49,980.00</td>
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Includes Revenue to the City ✔ No
Affirmative Action Program ✔ Yes

Description

SERVICE AGREEMENT

City Commission approval is requested for a one year agreement, and a one year renewal, with OpenGov, Inc. ("OpenGov") for the purpose of maintaining the City’s web-based financial data portal, which we have termed Dayton Open Data. OpenGov is a technology firm that offers cloud-based software services for public sector budgeting, community development and financial management. OpenGov serves over 1,000 cities, counties and state agencies across 48 states with the mission of empowering more effective and accountable government. OpenGov provides a solution that offers internal reporting capabilities combined with intuitive web-based accessibility for the public. This is the sixth year we have provided this financial transparency tool for public use.

The Division of Management and Budget recommends approval based on the customer service we have received, but more importantly, the financial transparency that our residents and community partners deserve. In the form of a change order to this agreement, OpenGov will also provide to the City, the Stories Software Services at no additional cost. Stories software is a citizen engagement solution that helps governments more effectively share meaningful information with their residents, businesses, and stakeholders using web-pages that combine data, images, maps, videos, and text.

Management & Budget recommends approval of the contract amount of $24,500.00 for software and related services for the initial 12-month term commencing on June 2, 2020 through June 1, 2021 and $25,480.00 for the optional second year renewal.

The Department of Law has reviewed and approved the agreement as to form and correctness.

A Certificate of Funds for the initial term is attached.

Signatures/Approval

Division

Department

City Manager

FORM NO. MS-16

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
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<td>$ 25,480.00</td>
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<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
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Required Documentation

| Amount: 24,500.00 |
| 10000 - 2720 - 1159 - 51 - XXXX - XXXX |
| Fund Org Acct Prog Act Loc |

| Amount: |
| 10000 - 2720 - 1159 - 51 - XXXX - XXXX |
| Fund Org Acct Prog Act Loc |

| Amount: |
| XXX - XXX - XXX - XXX - XXX - XXX |
| Fund Org Acct Prog Act Loc |

Attach additional pages for more FOAPALs

Vendor Name: OpenGov, Inc.
Vendor Address: 955 Charter Street, Redwood, CA 94063
Federal ID: 300717374
Commodity Code: 64699
Purpose: maintaining web-based financial data portal for City of Dayton

Contact Person: Shonda Bryant
Department/Division: DPMB/M&B
Date: 5/15/2020

SECTION II - to be completed by the Finance Department

I hereby certify that the amount of money required to meet the payment(s) called for in the aforesaid request have been lawfully appropriated for such purpose and is in the Treasury, or in the process of collection, to the credit of the fund from which it is to be drawn free and clear from any previous encumbrance.

Finance Director Signature: [Signature]
Date: 05/19/2020

CF Prepared by: [Signature]
Date: 05/19/2020
CF/CT Number: CT20-2288

October 18, 2011
OpenGov Story Change Order

**Customer:** City of Dayton, OH  
**Project:** Enabling COVID-19 Stories for a Customer  
**Date Requested:** 4/16/2020  
**Requested By:** Abbie Patel-Jones

### Reason for Change

The City of Dayton, OH and OpenGov have determined that the Stories Software Services will add value to the Customer in response to the COVID-19 pandemic. OpenGov agrees to enable these to Customer’s existing Software Services at no additional charge through the earlier of: a) 12/31/2020; b) the end of Customer’s current contract; or c) thirty (30) days after the Notice Date ("Subscription End Date"). At any time after June 1, 2020, OpenGov may terminate this Change Order and Customer’s right to use the Stories Software Services by providing written notice to Customer. Customer agrees that use of modules shall be pursuant to the Terms and Conditions - Software Service Agreement (Direct Purchase with OpenGov) as found at [https://opengov.com/terms-of-service](https://opengov.com/terms-of-service) (the “Agreement”)

### Scope of Change

OpenGov will enable the Stories Software Services modules within the current Software Services purchased by Customer. The Customer is authorized to create and utilize the Stories Software Services and Open Town Hall modules through the Subscription End Date. Training materials will be provided to the Customer with remote guidance on how to use such modules. Should additional assistance with setup and configuration be needed, Customer will need to engage their CSM for full project scoping at additional cost.

### Project Impact (Schedule and Cost)

The Stories Software Services with the ability to create and leverage will be available for no additional charge for use from the signed date by Customer of this Change Order through the Subscription End Date. Thereafter, the Stories Software Services modules will be disabled.
<table>
<thead>
<tr>
<th>Approvals</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>OpenGov, Inc.</strong></td>
</tr>
<tr>
<td>Signature: [Signature Image]</td>
</tr>
<tr>
<td>Name: Paul Denton</td>
</tr>
<tr>
<td>Title: CFO</td>
</tr>
<tr>
<td>Date: 5/14/2020</td>
</tr>
</tbody>
</table>

<table>
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<tr>
<th>Customer:</th>
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</thead>
<tbody>
<tr>
<td>Signature:</td>
</tr>
<tr>
<td>Name:</td>
</tr>
<tr>
<td>Title:</td>
</tr>
<tr>
<td>Date:</td>
</tr>
</tbody>
</table>

- Recoverable Signature

- Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia
Order Form Number: OG-00004529
Created On: 05/04/2020
Order Form Expiration: 06/02/2020
Subscription Start Date: 06/02/2020
Subscription End Date: 06/01/2021

Customer Information
Customer: City of Dayton, OH
Bill To/Ship To: PO Box 22, 101 West Third St.
Dayton, Ohio 45401
United States

Primary Contact: Abhigna Patel-Jones
Email: abhigna.patel-jones@daytonohio.gov
Phone: (937) 681-0290

Billing Contact: Abhigna Patel-Jones
Email: abhigna.patel-jones@daytonohio.gov
Phone: (937) 681-0290

SOFTWARE SERVICES
Product
OpenGov Software
Description
Reporting and Analytics
Start Date 06/02/2020
End Date 06/01/2021
Annual Contract Value $24,500.00

BILLING TABLE

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</table>

Order Form Legal Terms
Welcome to OpenGov! Thanks for using our Software Services. This Order Form is entered into between OpenGov, Inc., with its principal place of business at 955 Charter Street, Redwood City, 94063 ("OpenGov"), and you, the entity identified above ("Customer"), as of the Effective Date. This Order Form includes and incorporates the OpenGov Software Services Agreement ("SSA") executed by the parties, or if no such SSA is executed or attached, the SSA at https://opengov.com/terms-of-service and the applicable Statement of Work ("SOW") incorporated herein in the event Professional Services are purchased. The Order Form, SSA and SOW shall hereafter be referred to as the "Agreement". Unless otherwise specified above, fees for the Software Services and Professional Services shall be due and payable, in advance, on the Effective Date. By signing this Order Form, Customer acknowledges that it has reviewed, and agrees to be legally bound by the Agreement.

City of Dayton, OH
Signature: Shelley Dickstein
Name: Shelley Dickstein
Title: City Manager
Date: 6-8-2020

OpenGov, Inc.
Signature: Paul Denton
Name: Paul Denton
Title: CFO
Date: 5/14/2020

APPROVED AT TO FORM AND CORRECTNESS:

☐ Recoverable Signature

X Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia
OPANGEV SOFTWRE SERVICES AGREEMENT

This Software Services Agreement (this "Agreement") is entered into by OpenGov, Inc., a Delaware corporation with a principal place of business at 955 Charter Street, Redwood City, California 94063 ("OpenGov") and the customer listed on the signature block below ("Customer"), as of the date of last signature below (the "Effective Date"). This Agreement sets forth the terms under which Customer will be permitted to use OpenGov's hosted software services.

1. DEFINITIONS

"Customer Data" means data that is provided by Customer to OpenGov pursuant to this Agreement (for example, by email or through Customer's software systems of record). Customer Data shall not include any confidential personally identifiable information.

"Documentation" means the documentation for the Software Services at the Customer Resource Center page found at https://opengov.zendesk.com.

"Feedback" means suggestions, comments, improvements, ideas, or other feedback or materials regarding the Software Services provided by Customer to OpenGov, including feedback provided through online developer community forums.

"Initial Term" means the initial license term specified in number of years on the Order Form, commencing on the Effective Date.

"Intellectual Property Rights" means all intellectual property rights including all past, present, and future rights associated with works of authorship, including exclusive exploitation rights, copyrights, and moral rights, trademark and trade name rights and similar rights, trade secret rights, patent rights, and any other proprietary rights in intellectual property of every kind and nature.

"Order Form" means OpenGov's Software Services order form that: (a) specifies the Software Services provided by OpenGov; (b) references this Agreement; and (c) is signed by authorized representatives of both parties.

"Renewal Term" means each additional renewal period, which shall be for a period of equal duration as the Initial Term, for which this Agreement is extended pursuant to Section 7.2.

2. SOFTWARE SERVICES, SUPPORT AND PROFESSIONAL SERVICES

2.1 Software Services. Subject to the terms and conditions of this Agreement, OpenGov will use commercially reasonable efforts to perform the software services identified in the applicable Order Form entered into by OpenGov and Customer ("Software Services").

2.2 Support. Customer support is available by email to support@opengov.com or by using the chat messaging functionality of the Software Services, both of which are available during OpenGov's standard business hours. Customer may report issues any time. However, OpenGov will address issues during business hours.

2.3 Professional Services.

(a) If OpenGov or its authorized independent contractors provides professional services to Customer, such as implementation services, then these professional services will be described in a statement of work ("SOW") agreed to by the parties (the "Professional Services"). For Professional Services performed on a time and materials basis, any pre-paid Professional Services Fees must be utilized within one (1) year from the Effective Date. Any unused pre-paid Professional Services Fees shall be forfeited.

(b) Unless the SOW provides otherwise, all reasonable travel expenses, pre-approved by Customer and incurred by OpenGov in performing the professional services will be reimbursed by Customer. Travel expenses include cost of coach airfare travel round trip from the individual’s location to Customer’s location, reasonable hotel accommodations, ground transportation and meals.

3. RESTRICTIONS AND RESPONSIBILITIES

Rev. 2018.01_190221
3.1 Restrictions. Customer may not use the Software Services in any manner or for any purpose other than as expressly permitted by the Agreement. Customer shall not, and shall not permit or enable any third party to: (a) use or access any of the Software Services to build a competitive product or service; (b) modify, disassemble, decompile, reverse engineer or otherwise make any derivative use of the Software Services (except to the extent applicable laws specifically prohibit such restriction); (c) sell, license, rent, lease, assign, distribute, display, host, disclose, outsource, copy or otherwise commercially exploit the Software Services; (d) perform or disclose any benchmarking or performance testing of the Software Services; (e) remove any proprietary notices included with the Software Services; (f) use the Software Services in violation of applicable law; or (g) transfer any confidential personally identifiable information to OpenGov or the Software Services platform.

3.2 Responsibilities. Customer shall be responsible for obtaining and maintaining computers and third party software systems of record (such as Customer’s ERP systems) needed to connect to, access or otherwise use the Software Services. Customer also shall be responsible for: (a) ensuring that such equipment is compatible with the Software Services, (b) maintaining the security of such equipment, user accounts, passwords and files, and (c) all uses of Customer user accounts by any party other than OpenGov.

4. INTELLECTUAL PROPERTY RIGHTS; LICENSE GRANTS; ACCESS TO CUSTOMER DATA

4.1 Software Services. OpenGov retains all right, title, and interest in the Software Services and all Intellectual Property Rights in the Software Services. The look and feel of the Software Services, including any custom fonts, graphics and button icons, are the property of OpenGov and Customer may not copy, imitate, or use them, in whole or in part, without OpenGov’s prior written consent. Subject to Customer’s obligations under this Agreement, OpenGov hereby grants to Customer a non-exclusive, royalty-free license during the Term to use the Software Services.

4.2 Customer Data. Customer retains all right, title, and interest in the Customer Data and all Intellectual Property Rights therein. Customer hereby grants to OpenGov a non-exclusive, royalty-free license to, and permit its partners to, use, store, edit and reformat the Customer Data, and to use Customer Data for purposes of sales, marketing, business development, product enhancement, customer service, or for analyzing such data and publicly disclosing such analysis ("Insights"), provided that in all such uses Customer Data is rendered anonymous such that Customer is no longer identifiable.

4.3 Access to Customer Data. Customer may download the Customer Data from the Software Services at any time during the Term, other than during routine software maintenance periods. OpenGov has no obligation to return Customer Data to Customer.

4.4 Feedback. Customer hereby grants to OpenGov a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license to use and incorporate into the Software Services and Documentation Customer’s Feedback. OpenGov will exclusively own any improvements or modifications to the Software Services and Documentation based on or derived from any of Customer’s Feedback including all Intellectual Property Rights in and to the improvements and modifications.

5. CONFIDENTIALITY

5.1 Each party (the “Receiving Party”) agrees not to disclose any Confidential Information of the other party (the "Disclosing Party") without the Disclosing Party’s prior written consent, except as provided below. The Receiving Party further agrees: (a) to use and disclose the Confidential Information only in connection with this Agreement; and (b) to protect such Confidential Information using the measures that Receiving Party employs with respect to its own Confidential Information of a similar nature, but in no event with less than reasonable care. Notwithstanding the above, the Receiving Party may disclose Confidential Information to the extent required by law or court order, provided that prior written notice of such required disclosure and an opportunity to oppose or limit disclosure is given to the Disclosing Party.

5.2 "Confidential Information" means all confidential business, technical, and financial information of the disclosing party that is marked as “Confidential” or an equivalent designation or that should reasonably be understood to be confidential given the nature of the information and/or the circumstances surrounding the disclosure (including the terms of the applicable Software Agreement). OpenGov’s Confidential Information includes, without limitation, the software underlying the Software Services and all Documentation.
5.3 Notwithstanding the foregoing, "Confidential Information" does not include: (a) "Public Data," which is data that the Customer has previously released to the public, would be required to release to the public, upon request, according to applicable federal, state, or local public records laws, or Customer requests OpenGov make available to the public in conjunction with the Software Services. Confidential Information does not include (b) information that has become publicly known through no breach by the receiving party; (c) information that was rightfully received by the Receiving Party from a third party without restriction on use or disclosure; or (d) information independently developed by the Receiving Party without access to the Disclosing Party’s Confidential Information.

6. PAYMENT OF FEES

6.1 Fees; Invoicing; Payment: Expenses.

(a) Fees. The fees for the Software Services for the Initial Term and any Renewal Term ("Software Services Fees") and the fees for Professional Services ("Professional Services Fees") are set forth in the applicable Order Form. Software Services Fees and Professional Services Fees shall hereafter be referred to as "Fees".

(b) Inflation Adjustment. OpenGov shall increase the Fees payable for the Software Services during any Renewal Term by 4% each year of the Renewal Term.

(c) Invoicing and Payment. OpenGov will invoice the Customer according to the Billing Frequency listed on the Order Form. Customer shall pay all invoices according to the Payment Terms listed on the Order Form.

(d) Travel Expenses. Unless the SOW provides otherwise, OpenGov will invoice Customer for pre-approved travel expenses incurred in connection with each SOW as they are incurred. Customer shall pay all such valid invoices within thirty (30) days of receipt of invoice. Each invoice shall include receipts for the travel expenses listed on the invoice.

6.2 Credit Card Customers. If applicable, Customer will provide OpenGov with valid credit card information and promptly notify OpenGov of any changes necessary to charge the credit card at billing@opengov.com. Please update your credit card information when necessary. The provision of credit card information to OpenGov authorizes OpenGov to charge the credit card for all applicable Fees plus a 3% credit card processing fee. OpenGov processes credit card payments through a secure third party processing partner and does not take receipt of credit card information itself.

6.3 Taxes. All Fees under this Agreement are exclusive of any applicable sales, value-added, use or other taxes ("Sales Taxes"). Customer is solely responsible for any and all Sales Taxes, not including taxes based solely on OpenGov’s net income. If any Sales Taxes related to the Fees under this Agreement are found at any time to be payable, the amount may be billed by OpenGov to, and shall be paid by, Customer. In the event Customer or the transactions contemplated by the Agreement are exempt from Sales Taxes, Customer agrees to provide OpenGov, as evidence of such tax exempt status, proper exemption certificates or other documentation acceptable to OpenGov.

7. TERM & TERMINATION

7.1 Term. Subject to compliance with all terms and conditions, the term of this Agreement shall commence on the Effective Date and shall continue until the Subscription End Date specified on the Order Form (the "Initial Term").

7.2 Renewal. Unless either party terminates this Agreement in writing no less than thirty (30) days before the end of the Initial Term, this Agreement shall renew for one(1) period of the same duration as the Initial Term (the "Renewal Term" and together with the Initial Term, the "Term").

7.3 Termination. If either party materially breaches any term of this Agreement and fails to cure such breach within thirty (30) days after notice by the non-breaching party (ten (10) days in the case of non-payment), the non-breaching party may terminate this Agreement.

7.4 Effect of Termination.

(a) In General. Upon termination or expiration of this Agreement: (a) Customer shall pay in full for all Software Services and Professional Services performed up to and including the effective date of termination, (b) all Software Services provided to Customer hereunder shall immediately terminate; and (c) each party shall return to the other party or, at the other party’s option, destroy all Confidential Information of the other party in its possession.

Rev. 2018.01_190221
OPENGOV SOFTWARE SERVICES AGREEMENT

(b) Deletion of Customer Data. If Customer requests deletion of its Customer Data in writing prior to the date of termination or expiration of this Agreement, then OpenGov will permanently and irrevocably delete Customer Data, excluding any Insights, stored by its cloud hosting provider within ten (10) days of the date of termination or expiration of this Agreement. Such request must be addressed to “OpenGov Vice President, Customer Success” at OpenGov’s address for notice described at Section 10.

7.5 Survival. The following sections of this Agreement shall survive termination: Section 5 (Confidentiality), Section 6 (Payment of Fees), Section 7.4(b) (Deletion of Customer Data), Section 8.3 (Warranty Disclaimer), Section 9 (Limitation of Liability) and Section 10 (Miscellaneous).

8. REPRESENTATIONS AND WARRANTIES; DISCLAIMER

8.1 By OpenGov.

(a) General Warranty. OpenGov represents and warrants that: (i) it has all right and authority necessary to enter into and perform this Agreement; and (ii) the Professional Services, if any, will be performed in a professional and workmanlike manner in accordance with the related statement of work and generally prevailing industry standards. For any breach of the Professional Services warranty, Customer's exclusive remedy and OpenGov's entire liability will be the re-performance of the applicable services. If OpenGov is unable to re-perform all such work as warranted, Customer will be entitled to recover all fees paid to OpenGov for the deficient work. Customer must make any claim under the foregoing warranty to OpenGov in writing within ninety (90) days of performance of such work in order to receive such warranty remedies.

(b) Software Services Warranty. OpenGov further represents and warrants that for a period of ninety (90) days, the Software Services will perform in all material respects in accordance with the Documentation. The foregoing warranty does not apply to any Software Services that have been used in a manner other than as set forth in the Documentation and authorized under this Agreement. OpenGov does not warrant that the Software Services will be uninterrupted or error-free. Any claim submitted under this Section 8.1(b) must be submitted in writing to OpenGov during the Term. OpenGov’s entire liability for any breach of the foregoing warranty is to repair or replace any nonconforming Software Services so that the affected portion of the Software Services operates as warranted or, if OpenGov is unable to do so, terminate the license for such Software Services and refund the pre-paid, unused portion of the Fee for such Software Services.

8.2 By Customer. Customer represents and warrants that (i) it has all right and authority necessary to enter into and perform this Agreement; and (ii) OpenGov's use of the Customer Data pursuant to this Agreement will not infringe, violate or misappropriate the Intellectual Property Rights of any third party.

8.3 Disclaimer. OPENGOV DOES NOT WARRANT THAT THE SOFTWARE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOFTWARE SERVICES. EXCEPT AS SET FORTH IN THIS SECTION 8, THE SOFTWARE SERVICES ARE PROVIDED "AS IS" AND OPENGOV DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

9. LIMITATION OF LIABILITY

9.1 By Type. NEITHER PARTY, NOR ITS SUPPLIERS, OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS OR EMPLOYEES, SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; OR (C) FOR ANY MATTER BEYOND SUCH PARTY'S REASONABLE CONTROL, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
9.2 **By Amount.** In no event shall either party’s aggregate, cumulative liability for any claims arising out of or in any way related to this Agreement exceed the fees paid by customer to Opengov (or, in the case of customer, payable) for the Software Services under this Agreement in the 12 months prior to the act that gave rise to the liability.

9.3 **Limitation of Liability Exclusions.** The limitations of liability set forth in Sections 9.1 and 9.2 above do not apply to, and each party accepts liability to the other for: (a) claims based on either party’s intentional breach of its obligations set forth in Section 5 (Confidentiality), (b) claims arising out of fraud or willful misconduct by either party and (c) either party’s unauthorized use, distribution, or disclosure of the other party’s intellectual property.

9.4 **No Limitation of Liability by Law.** Because some jurisdictions do not allow liability or damages to be limited to the extent set forth above, some of the above limitations may not apply to Customer.

10. **MISCELLANEOUS**

10.1 **Logo Use.** Opengov shall have the right to use and display Customer’s logos and trade names for marketing and promotional purposes in connection with Opengov’s website and marketing materials, subject to Customer’s trademark usage guidelines provided to Opengov.

10.2 **Notice.** Ordinary day-to-day operational communications may be conducted by email, live chat or telephone communications. However, for notices required by the Agreement (in Sections where the word “notice” appears) the parties must communicate more formally in a writing given by personal delivery, by pre-paid first-class mail or by overnight courier to the address specified in the most recent Order Form (or such other address as may be specified in writing in accordance with this Section).

10.3 **Anti-corruption.** Opengov has not offered or provided any bribe, kickback, illegal or improper payment, gift, or thing of value to any Customer personnel in connection with the Agreement, other than reasonable gifts and entertainment provided Customer in the ordinary course of business. If Opengov become aware of any violation of the above restriction then Opengov shall promptly notify Customer.

10.4 **Injunctive Relief.** The parties acknowledge that any breach of the confidentiality provisions or the unauthorized use of a party’s intellectual property may result in serious and irreparable injury to the aggrieved party for which damages may not adequately compensate the aggrieved party. The parties agree, therefore, that, in addition to any other remedy that the aggrieved party may have, it shall be entitled to seek equitable injunctive relief without being required to post a bond or other surety or to prove either actual damages or that damages would be an inadequate remedy.

10.5 **Force Majeure.** Neither party shall be held responsible or liable for any losses arising out of any delay or failure in performance of any part of this Agreement, other than payment obligations, due to any act of god, act of governmental authority, or due to war, riot, labor difficulty, failure of performance by any third-party service, utilities, or equipment provider, or any other cause beyond the reasonable control of the party delayed or prevented from performing.

10.6 **Severability; Waiver.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. Any express waiver or failure to exercise promptly any right under this Agreement will not create a continuing waiver or any expectation of non-enforcement. There are no third-party beneficiaries to this Agreement.

10.7 **Assignment.** Except as set forth in this Section, neither party shall assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations to a third party without the other party’s prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Either party may assign, without such consent but upon written notice, its rights and obligations under this Agreement to: (i) its corporate affiliate; or (ii) any entity that acquires all or substantially all of its capital stock or its assets related to this Agreement, through purchase, merger, consolidation, or otherwise. Any other attempted assignment shall be void. This Agreement shall inure to the benefit of and bind each party’s permitted assigns and successors.

10.8 **Independent Contractors.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither party has any authority of any kind to bind the other party in any respect.
10.9 **Governing Law and Jurisdiction.** This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions. Exclusive jurisdiction for litigation of any dispute, controversy or claim arising out of or in connection with this Agreement shall be only in the Federal or State court with competent jurisdiction located in San Mateo County, California, and the parties hereby submit to the personal jurisdiction and venue therein.

10.10 **Complete Agreement.** This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement. No modification of this Agreement will be binding, unless in writing and signed by an authorized representative of each party.

10.11 OpenGov shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off, termination, rates of pay or other forms of compensation, or selection for training, including apprenticeship.

It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton constitutes a material condition of this Agreement as fully and as if specifically rewritten herein and that failure to comply therewith shall constitute a breach thereof entitling City to terminate this Agreement at its option.

---

**Signatures**

**City of Dayton, OH**

Signature: _____________________________
Name: ________________________________
Title: ________________________________
Date: ________________________________

**OPENGOV, INC.**

Signature: _____________________________
Name: ________________________________
Title: ________________________________
Date: 5/14/2020

---

**APPROVED AT TO FORM AND CORRECTNESS:**

☐ Recoverable Signature

X Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

**APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO:**

___________________________. 2020

Min. / Bk. _____ Pg. _____

Clerk of the Commission
City Manager's Report

From 5560 - CS/Information Technology
Supplier, Vendor, Company, Individual
Name SJN Data Center LLC DBA Encore Technologies
Address 4620 Wesley Avenue
Cincinnati, OH 45212

Date January 20, 2021
Expense Type Service Agreement
Total Amount $20,928.00 (Thru 12/31/2021)

Fund Source(s) Fund Code(s) Fund Amount(s)
General Fund 10000-5560-1159-65 $20,928.00

Includes Revenue to the City ☑ No Affirmative Action Program ☑ Yes ☑ No ☑ N/A

Description

SJN DATA CENTER LLC PROFESSIONAL SERVICES AGREEMENT

The Department of Information Technology requests permission to enter into a Service Agreement with SJN Data Center LLC DBA Encore Technologies in the amount of $20,928.00. Encore Technologies professional services will provide remote tier one technology help desk user support between the hours of 12:00 AM to 6:00 AM, 5 days a week Monday to Friday and on the weekend Saturday and Sunday for the full 24 hours, 365 days a year. The total amount of this agreement is $20,928.00.

Working with the Division of Procurement, this vendor was chosen through a competitive request for proposal (RFP) process. Responses were received and evaluated from three vendors and SJN Data Center LLC was determined to be the lowest and best.

This Agreement shall commence upon execution and it shall terminate on December 31, 2021.

This Agreement has been reviewed by the Department of Law as to form and correctness.

The Certificate of Funds and a copy of the Agreement is attached.

Signatures/Approval

Desa Foster
Division

Jon Rike
Department

City Manager
FORM NO. MS-16

Approved by City Commission

Clerk
Date

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
<th>Required Documentation</th>
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<td>Original Commission Approval: $20,928.00</td>
<td>Initial City Manager's Report</td>
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<td>Initial Encumbrance: $20,928.00</td>
<td>Initial Certificate of Funds</td>
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<td>Decrease Encumbrance: $</td>
<td>Copy of Original Certificate of Funds</td>
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<td>Remaining Commission Approval: $</td>
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<tr>
<th>Amount:</th>
<th>Fund Code: XXXX - XXXX - XXXX - XXXX</th>
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Attach additional pages for more FOAPALs

Vendor Name: SJN Data Center LLC DBA Encore Technologies
Vendor Address: 4620 Wesley Avenue, Cincinnati, Ohio 45212
Federal ID: 472512296
Commodity Code: 93673
Purpose: Professional Services Agreement to provide remote tier one technology helpdesk user support through December 31, 2021.
Contact Person: Desa Foster
Originating Department Director's Signature: Jon Pike

SECTION II - to be completed by the Finance Department

I hereby certify that the amount of money required to meet the payment(s) called for in the aforesaid request have been lawfully appropriated for such purpose and is in the Treasury, or in the process of collection, to the credit of the fund from which it is to be drawn free and clear from any previous encumbrance.

Finance Department

October 18, 2011
CERTIFICATE OF FUNDS

Finance Director Signature

Date

Date

CF/CT Number

Finance Department
MEMORANDUM

JANUARY 5, 2021

TO: Shelley Dickstein, City Manager
    Office of the City Manager

FROM: Dave Johnson, IT Systems Supervisor
      Department of Information Technology

SUBJECT: Professional Services Agreement with SJN Data Center LLC

The Department of Information Technology requests authorization to enter into the attached agreement with SJN Data Center LLC DBA Encore Technologies for tier one help desk services. In addition, attached are the corresponding and required City Manager’s Report (CMR) and Certificate of Funds (CF).

Working with the Division of Procurement, this vendor was chosen through a competitive request for proposal (RFP) process. The agreement for services will commence upon execution and end on December 31, 2021 with an option to renew for three additional one-year terms.

Please feel free to contact me directly at ext. 6323, if you have any questions or concerns.

APPROVED:

Jon Rike

01/07/2021

Jon Rike, CIO\ Director of Information Technology

Attachments
C: file
PROFESSIONAL SERVICES AGREEMENT
FOR
TIER ONE (1) HELP DESK SERVICES

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into on this ____ day of January, 2021, between the City of Dayton, Ohio ("City" or "Customer"), a municipal corporation in and of the State of Ohio, and SJN Data Center LLC dba Encore Technologies. ("Encore Technologies" or "Consultant"), a corporation authorized to conduct business in the State of Ohio.

WITNESSETH THAT:

WHEREAS, The City identified a need for certain professional services; and

WHEREAS, The Consultant represented that it is a skilled, experienced and competent consulting firm, with the personnel and equipment to perform the professional services set forth hereinafter.

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

SECTION 1. SCOPE OF SERVICES

The Consultant shall provide those professional services set forth in Exhibit “A”, titled "SERVICES STATEMENT OF WORK”, which is attached hereto and incorporated herein by reference. The services are for Information Technology Help Desk Services.

These professional services are to provide remote tier one (1) technology help desk user support services. These services will include but not be limited to the following:

- Qualified personnel experienced in technical desktop troubleshooting and providing user support.
- Adequate staffing and resources to meet the City’s operational requirements as related to help desk support services.
- Support availability between the hours of 12:00 AM to 6:00 AM, 5 days a week Monday to Friday and on the weekend Saturday and Sunday for the full 24 hours, 365 days a year, to include inclement weather days and the holidays listed below. Additionally, the contractor must be able to provide emergency service coverage within an hour notification for hours outside of 12:00 AM to 6:00 AM. For context, requests for emergency service coverage have occurred less than twelve times per year.

Additionally, in order to provide the City with the comprehensive services solution as outlined by Encore Technologies within their Scope of Services response to the City’s RFP, the Consultant’s RFP response is attached hereto as Exhibit “B,” titled “Consultant Response,” and incorporated herein by reference.
SECTION 2. BACKGROUND CHECK

Consultant’s personnel may be subject to criminal history background check(s) (including but not restricted to fingerprinting and identify verification).

• SECTION 3. COMPENSATION FOR PROFESSIONAL SERVICES

A. PROFESSIONAL FEES

Total remuneration in this Agreement shall not exceed TWENTY THOUSAND NINE HUNDRED TWENTY-EIGHT DOLLARS AND ZERO CENTS ($20,928.00), inclusive of expenses, for all services provided by the Consultant in accordance with this Agreement.

B. BILLING FREQUENCY

Consultant shall submit an invoice at the completion of each month of services completed as outlined in Exhibit “A”, titled “SERVICES STATEMENT OF WORK” Such invoices shall state the invoice period, City contract number, total amount requested and Services provided during this period. All invoices shall be accompanied by supporting documentation and information substantiating the invoiced amount as may be requested by the City. Unless disputed, the City shall tender payment within thirty (30) days of receipt of the Consultant’s invoice.

• SECTION 4. TERM

This Agreement shall commence upon execution by the City and it shall terminate on December 31, 2021. Any extension of the initial term of this Agreement must be mutually agreed upon by both parties in an amendment. Consultant shall grant to the City the option to renew and extend the executed agreement for up to three (3) additional one (1) year periods upon mutual agreement between the City and Consultant at the agreed upon prices as outlined in Exhibit “A”, titled “SERVICES STATEMENT OF WORK.”

• SECTION 5. CITY’S RESPONSIBILITIES

The City will furnish Consultant, at no cost or expense, all standard operating procedures, system access instructions, reports, records, and data that might be necessary or useful to complete the Services required under this Agreement.

Consultant shall be able to rely on the accuracy and completeness of all information provided by the City, without independent audit or verification thereof (except where any verification is specifically part of the scope of services to be provided).

•

•
SECTION 6. STANDARD OF CARE

Consultant shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily possessed and exercised by a professional under similar circumstances. Consultant shall have no liability for defects in the Services attributable to Consultant's reliance upon or use of data or other information furnished by the City or third parties retained by the City.

If, during the one-year period following completion of the Services, it is shown there is an error in the Services caused by Consultant's failure to meet such standards and City has notified Consultant in writing of any such error within that period, Consultant shall perform, at no additional cost to City, such Services within the original Project as may be necessary to remedy such error.

SECTION 7. CONFIDENTIALITY

All information provided to and/or gathered by Consultant in the course of its performance of Services shall be deemed "confidential" information to the extent that it is classified as "private" under the laws of the State of Ohio or is not independently available to the general public. To the extent permitted by law, Consultant agrees that it shall not disclose such information to any third party without City's written consent. Consultant shall also take all necessary steps to protect against the disclosure of City's confidential information.

Nothing in this Section shall prohibit or limit Consultant's disclosure of confidential information when such disclosure is required by an order of a Court or under state or federal law, or when such disclosure is authorized in writing by City.

SECTION 8. INDEMNIFICATION AND LIABILITY

Consultant shall indemnify and defend the City and its elected officials, officers, employees and agents (collectively, "Indemnities") from and against all third-party claims, losses, damages, and expenses (including reasonable attorneys' fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the negligent acts, omissions, or willful misconduct or fraud of Consultant and its agents, employees, Consultants, sub-Consultants and representatives in undertaking and performing the Services; however, no indemnification will be required for any claims, losses, damages or expenses resulting from any negligence or willful misconduct of the City or any of the other Indemnities. This Article shall survive early termination or expiration of this Agreement.

Notwithstanding the terms of any other provisions, (I) the total liability of Consultant and its subsidiaries, officers, employees, and agents for all claims of any kind arising out of Consultant's services, whether in contract, tort, or otherwise, shall be limited to the total fees paid to Consultant under this agreement; and (II) neither party shall in any event be liable for any indirect, consequential, or punitive damages, even if it has been advised of the possibility of such damages.
SECTION 9. INSURANCE

During the term of this Agreement, Consultant shall maintain, at its sole cost and expense, no less than the following insurance issued by an insurance company authorized to conduct business in the State of Ohio and having an "A" rating or better by A.M. Best:

1. General Liability Insurance, having a combined single limit of $1,000,000 for each occurrence and $1,000,000 in the aggregate.
2. Automobile Liability Insurance, having a combined single limit of $1,000,000 for each person and $1,000,000 for each accident.
3. Employers’ Liability Insurance, having a limit of $500,000 for each occurrence.
4. Professional Liability Insurance, having a limit of $1,000,000 annual aggregate.
5. Consultant shall maintain errors and omissions insurance in the amount of $1,000,000.

Current certificates of insurance for all policies and concurrent policies required to be maintained by Consultant pursuant to this Article shall be furnished to the City. All such insurance policies, excluding Professional Liability Insurance, shall name the City, its elected officials, officers, agents, employees, and volunteers as additional insureds, but only to the extent of the extent of the policy limits stated herein. Consultant shall endeavor to provide a minimum of thirty (30) days advance written notice to the City in the event of cancellation or diminution of coverage below the amounts required hereunder.

Consultant also shall maintain Workers' Compensation Insurance in such amounts as required by law for all employees, and shall furnish to the City evidence of same.

SECTION 10. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Except as otherwise provided in this Agreement, documents and reports prepared by the Consultant as part of the Services shall become the sole and exclusive property of the City upon payment. However, Consultant shall have the right to their use with prior written consent of the City, which consent shall not be unreasonably withheld.

Consultant shall retain its rights in pre-existing and standard scripts, databases, computer software, and other proprietary property. Rights to intellectual property that are not specifically designed or created exclusively for the City in the performance of this Agreement shall also remain the property of Consultant.

All of Consultant's deliverables shall be for the exclusive use of the City for its internal business purposes and any specific purposes set forth in this Agreement, and for no other purposes without the prior written consent of Consultant. Consultant shall have no liability to any third parties who rely on any of its deliverables.

SECTION 11. TERMINATION

This Agreement may be immediately terminated by the City upon written notice in the event of substantial failure by Consultant to perform in accordance with the terms of this Agreement. Consultant shall have thirty (30) calendar days from the date of the termination notice to cure or
submit a plan for cure acceptable to the City.

The City may terminate or suspend performance of this Agreement for the City's convenience upon thirty (30) days prior to written notice to Consultant. In the event of termination by the City hereunder, the City will pay Consultant for Services actually provided up to the date of termination.

Any such termination shall not relieve the Consultant of any liability to the City for damages sustained by virtue of any breach by the Consultant. The City will be under no further monetary obligation or commitment to the Consultant.

In the event of termination, the City may, at its option, exercise any remedy available to it, including the Uniform Commercial Code, according to Ohio law.

• SECTION 12. GENERAL PROVISIONS

A. FORCE MAJEURE

Neither the City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either the City or Consultant under this Agreement, provided the aforementioned circumstances are not due to the negligence or fault of the asserting party or any of its agents, employees, Consultants, sub-Consultants and/or representatives.

Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

B. GOVERNING LAW AND VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws. Any arbitration, litigation or other legal matter regarding this Agreement or performance by either party must be brought in a court of competent jurisdiction in Montgomery County, Ohio.

C. COMMUNICATIONS

Any written communication or notice required or permitted by this Agreement shall be made in writing and shall be delivered personally, sent by express delivery, certified mail or first class U.S. mail, postage pre-paid to the address specified below:
City:
City of Dayton, Ohio
101 West Third Street
Dayton, Ohio 45402
Attn: Jon Rike, Department of Information Technology

Consultant:
SJN Data Center, LLC / Encore Technologies
4620 Wesley Avenue
Cincinnati, OH 45212
Attention: General Counsel

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of Consultant and the City.

D. EQUAL EMPLOYMENT OPPORTUNITY

Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off, termination, rates of pay or other forms of compensation, or selection for training, including apprenticeship.

It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton constitutes a material condition of this Agreement as fully and as if specifically rewritten herein and that failure to comply therewith shall constitute a breach thereof entitling the City to terminate this Agreement at its option and may bar Consultant from receiving future City contracts.

E. WAIVER

A waiver by the City or Consultant of any breach of this Agreement shall be in writing. Such a waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect the waiving party's rights with respect to any other or further breach.

F. SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the void, unenforceable, invalid or illegal provision shall be deemed severed from this Agreement, Any void, unenforceable, invalid or illegal provisions shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision.

G. INDEPENDENT CONSULTANT
By executing this Agreement for professional services, Consultant acknowledges and agrees that it will be providing services to the City as an "Independent Consultant". As an Independent Consultant for the City, Consultant shall be prohibited from representing or allowing others to construe the parties' relationship in a manner inconsistent with this Article. Consultant shall have no authority to assume or create any obligation on behalf of, or in the name of the City, without the express prior written approval of a duly authorized representative of the City.

Consultant, its employees and any persons retained or hired by Consultant to perform the duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Consultant acknowledges its employees are not "public employees" for the purpose of membership and/or participation in the Ohio Public Employees Retirement System ("OPERS"). Further, Consultant shall be responsible to withhold and pay, or cause such agents, Consultants and sub-Consultants to withhold and pay, all applicable local, state and federal taxes.

H. ASSIGNMENT

Consultant shall not assign any rights or duties under this Agreement without the prior written consent of the City. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent Consultant from employing independent consultants, associates, and sub-consultants to assist in the performance of the Services.

I. THIRD PARTY RIGHTS

Except as expressly provided in this Agreement, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Consultant.

J. AMENDMENT

The parties may mutually agree to amend this Agreement. However, no such amendment shall be effective unless it is reduced to a writing, which references this Agreement, executed by a duly authorized representative of each party and, if applicable or required, approved by the Commission of the City of Dayton, Ohio.

K. POLITICAL CONTRIBUTIONS

Consultant affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.
L. INTEGRATION

This Agreement represents the entire and integrated agreement between the City and Consultant. This Agreement supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement shall control over conflicting provisions in the attached Exhibit A.

IN WITNESS WHEREOF, the City and Consultant, each by a duly authorized representative, have executed this Agreement as of the date first set forth above.

CITY OF DAYTON, OHIO

________________________
City Manager

SJN DATA CENTER, LLC
(Encore Technologies)

By: Rick Dobson 12/30/2020

Print: Rick Dobson

Its: SVP, Enterprise Solutions

APPROVED AS TO FORM AND CORRECTNESS:

12/29/2020

X John Musto for
City Attorney

Signed by: Musto, John

APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO

________________________, 2021

Min./Bk. _______ Pg. _______

________________________
Clerk of Commission
EXHIBIT – A
Services Statement of Work

DAYTON
Enterprise Services Statement of Work

Global Service Desk

SOW ID #: OPP0003651 • 21 December 2020

4620 Wesley Ave, Cincinnati, Ohio 45212 • www.encore.tech
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## Appendix

### A. Authorized Contacts

### B. Customer Equipment and Software

### C. Contract Change Request/Order Form

### D. Service Issue Resolution Form

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Error! Bookmark not defined.
1.0 Entire Agreement
This Statement of Work ("SOW"), together with the Agreement and the Exhibits, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all proposals, oral or written, all negotiations, discussions, and all past dealings between the parties relating to the subject matter hereof.

Encore Technologies will perform in accordance with this SOW, which will be effective upon execution of this agreement by the City, and it shall terminate on December 31, 2021 (End Date)

This SOW may be renewed for up to three (3) additional one (1) year periods upon mutual agreement by both parties.

2.0 Executive Overview
The City of Dayton (City), Department of Information Technology (IT) is in need of highly experienced and professional service firms to provide remote Help Desk Support Services (Tier I) via telephone and email. These services will require but not be limited to the following features:

- Qualified personnel experienced in technical desktop troubleshooting and providing user support.
- Adequate staffing and resources to meet the City's operational requirements as related to help desk support services.

2.1 Objectives
Support availability between the hours of 12:00 AM to 6:00 AM, 5 days a week Monday to Friday and on the weekend Saturday and Sunday for the full 24 hours, 365 days a year, to include inclement weather days and the holidays listed below. Additionally, the contractor must be able to provide emergency service coverage within an hour notification for hours outside of 12:00 AM to 6:00 AM.

Objectives

Customer Objectives: Better user experience. IT flexibility and scalability, operational efficiencies, cost effectiveness.

Segregation of Duties: While adhering to established SLAs, KPIs and CSAT objectives, collaborate with The City of Dayton on vision and direction.

Service Objectives: Highly agile, responsive, reliable, scalable and secure services, minimal disruption, performance expectations backed by SLAs & CSAT, and proactive attainment of service levels by service provider.

2.2 Requirements
The Customer expects to achieve the following service objectives through outsourced service desk services:

- Improve IT customer service and Incident resolution speed through Encore Technologies best practices and methodologies.
- Achieve the Service-Level Requirements specified in Section 3 of this SOW.
2.3 Locations
Encore shall provide Global Service Desk (GSD) services located in the United States/North America. Encore shall be solely responsible for the costs associated with moving services and/or resources within the GSD while ensuring it does not impact the services being provided to Customer under this SOW.

All services defined within this SOW apply to the users of and devices within Customer’s infrastructure at various Customer’s location(s).

3.0 Scope
The scope defines the methodologies Encore shall follow to deliver support services to Customer and an overview of the services Encore shall provide to Customer.

3.1 Customer Success Management
Encore shall provide customer success support in accordance with this SOW. The organizational structure of the customer success team to support Customer is a combination of Customer and Encore representatives. Customer and Encore individuals associated with each function will be identified in Encore’s operational procedures.

Encore will designate a customer success manager (CSM) for the duration of this SOW who will be the Encore principal contact for the Customer. The CSM may change during the term of this SOW. The CSM shall have the authority to render decisions and effect changes to the SOW on behalf of Encore.

The Customer shall assign a resource in a similar or identical capacity as the single point of contact for Encore. The CSM will follow the strategic direction set forth by Encore and Customer executive sponsors in accordance with this SOW. An Encore service operations delivery team, aligned with the contract, shall support the CSM.

3.1.1 Contract Governance
Encore’s governance model shall incorporate change management and issue resolution processes to ensure this engagement meets established goals and objectives, and key stakeholders are informed and involved in the process.

Contract Change Management Process
Changes to this SOW may be initiated by providing a written request to the other party. Both parties shall review any change requests and advise whether the request can be accepted and the impact to the price schedule. Changes shall be added as an amendment to this agreement only when both parties agree and have signed the amendment.

The process to make a change to this SOW is defined below:

1. A contract change request form will be completed to communicate the change. The contract change request form must describe the change, the rationale for the change, and the effect the change will have on the SOW.
2. An authorized representative from Encore or Customer may request a change to the SOW.
3. The party requesting the change will review the proposed change and determine whether to submit the request to the other party.
4. Both parties will review the contract change request and approve it for further investigation or reject it.

5. As per Section 12 GENERAL PROVISION item J. AMENDMENT, contract changes or amendments shall be effective unless it is reduced to writing, which references this Agreement, executed by a duly authorized representative of each party and, if applicable or required, approved by the Commission of the City of Dayton, Ohio.

The contract change request form is provided in the appendices.

Issue Resolution Process

Any dispute that arises during the term of this SOW, shall be treated in accordance with the escalation provisions indicated within this section.

1. CSM to Attempt to Resolve the Dispute - The CSM will remain authorized to settle a dispute on behalf of the party they represent. If a dispute arises, the CSM shall, as soon as reasonably practicable and in any event no later than ten (10) business days after a written request from either party to the other, meet in good faith and use all reasonable endeavours to resolve the dispute.

2. Senior Representative Not Available - If a CSM is unable to attend a meeting, the party they represent may, by prior written notice to the other, nominate a substitute to attend provided the substitute has at least the same level of seniority or managerial or directorial responsibility as the person they are replacing and is authorized to settle the relevant dispute on behalf of the party they represent.

3. Memorandum of Position - No later than three (3) business days before any meeting with CSM, each party will deliver to the other a memorandum setting out its position on the dispute in question and its reasons for adopting that position.

4. Compromise Agreement After Resolution by CSM - If the parties reach an agreement on the resolution of the relevant dispute that change the terms of the SOW, the parties agree to execute a change order and/or the required agreement amendment within twenty (20) business days of such agreement.

5. Status of CSM Negotiations - All negotiations between CSM shall be conducted in strict confidence.

Issue Resolution Path

<table>
<thead>
<tr>
<th>Level</th>
<th>Encore</th>
<th>Customer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Customer Success Manager (CSM)</td>
<td>Enterprise Technology Services Manager</td>
</tr>
<tr>
<td>2</td>
<td>Account Manager</td>
<td>Enterprise Technology Services Manager/Chief Technology Officer/Associate CIO</td>
</tr>
<tr>
<td>3</td>
<td>Vice President, Enterprise Services</td>
<td>Chief Technology Officer/Associate CIO</td>
</tr>
<tr>
<td>4</td>
<td>Senior Vice President Service Delivery</td>
<td>Chief Information Officer/ Associate CIO</td>
</tr>
</tbody>
</table>
3.1.2 Status Meetings and Reports

Encore shall hold status review and business review meetings to keep all stakeholders informed.

GSD Status Reviews
Joint communication and status review meetings shall be held regularly to address GSD issues in accordance with the SLAs. The meeting agenda includes,

- Review of program status
- Report on program metrics
- Review of End User satisfaction
- Review status of operations services
- Review of outstanding change management, Service Requests, and issue resolution process items
- Creation of action item list, assignments, and status reports
- Discussion of upcoming project events

The Customer program manager (PM), Encore Global Service Desk manager, and the Encore CSM will attend these meetings. Additional parties may be invited as required.

Customer Success Status Reviews
Joint communication and Status Review Meetings will be held monthly to address customer issues and successes in accordance with the success criteria defined in this SOW. Meeting agendas may include but are not limited to,

- Review program status and performance metrics.
- Review data and trend analysis
- Problem Management - using root-cause analysis, identify source of defects, factors, or events that caused non-conformance. Develop action plans for work around.
- Review end user satisfaction survey results and feedback.
- Discuss of upcoming program events or milestones.
- Contract Change Management - Any changes to scope requested by Customer.

Customer PM, Encore CSM, and key stakeholders as determined by the Customer will attend these meetings.

Business Reviews
Business Reviews (BR) are intended for an expanded audience. The meeting agendas include:

- Quarterly review of program status and performance metrics
- High level review of goals and results
- Long term trend analysis
- Significant performance reviews (positive and negative)
- Present and discuss opportunities for improvement in provided services
- Encore Technologies service improvements
- Internal Customer IT service improvements
Discuss overall performance and Customer satisfaction
Discuss technologies and opportunities that might enhance the Customer’s ability to provide IT to the business

Encore key stakeholders and Customer key stakeholders will be invited to discuss longer period reviews and goals.

Reporting
Encore will provide reports to Customer regarding Encore’s compliance with the SLAs specified and other support activity reports, provided that the toolset enables the data to develop the reports. The validation of the reports is the responsibility of Customer. Reporting includes,

- Collection and compilation of data comparing results achieved against targets and development of action plans where performance did not meet those targets
- Follow up with Customer where below-standard results are described in surveys and develop an action plan as required

<table>
<thead>
<tr>
<th>Report Name</th>
<th>Report Description</th>
<th>Frequency</th>
<th>Delivery Method (Push, Pull, Service)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Review Presentation</td>
<td>Business Review via presentation</td>
<td>Quarterly</td>
<td>Service</td>
</tr>
<tr>
<td>Voice of the Customer</td>
<td>Summary of feedback from key Customer personnel regarding Encore’s delivery of services</td>
<td>Monthly</td>
<td>Service</td>
</tr>
</tbody>
</table>

The following table defines the activities to be performed and communicated to the appropriate stakeholders.

<table>
<thead>
<tr>
<th>#</th>
<th>Activity</th>
<th>Encore</th>
<th>Customer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Conduct periodic business reviews.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>Attend meetings on SLA performance.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>3</td>
<td>Approve the transition plan and the Service Management Guide.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>4</td>
<td>Provide Customer specification standards, documentation, and current updates, including all required information on Customer security audit procedures and forms that will be used to develop the operational processes and procedures. Provide copies of any updates as they are issued.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>5</td>
<td>Provide access to Customer IT support staff and vendors as deemed necessary by Customer and Encore in support of this SOW.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>6</td>
<td>Contract Change Management - Review and approve change request forms.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>#</td>
<td>Activity</td>
<td>Encore</td>
<td>Customer</td>
</tr>
<tr>
<td>---</td>
<td>--------------------------------------------------------------------------</td>
<td>--------</td>
<td>----------</td>
</tr>
<tr>
<td>7</td>
<td>Manage all Encore personnel or other Encore resources required to support the provision of the services.</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Account for the development and presentation of program status reports, key performance metrics, and action plans.</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Maintain the documented operational processes and procedures in the Service Management Guide.</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Scope and price approved projects. Engage Encore Technologies project staff, and other Encore Technologies resources as required.</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Function as the escalation point for issues and key decisions.</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>12</td>
<td>Develop an understanding of Customer’s business processes and drivers.</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>13</td>
<td>Conduct periodic business reviews</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

3.1.3 Communications Plan

Encore and Customer shall refer to the Communications Plan, which defines the flow of information between two organizations within a peer-to-peer structure. It defines whom to include in distribution lists, process ownership, decision processes, etc. Each organization includes various roles with various responsibilities such as end user services, operations, group infrastructure, networking, etc. But the naming conventions vary for each organization. The Communication plan identifies these groups and define how they relate to each other.

The following table defines the contact resources for the Encore and Customer based on a peer to peer structure.

<table>
<thead>
<tr>
<th>Customer</th>
<th>Encore</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enterprise Technology Services Manager</td>
<td>Service Desk Manager</td>
</tr>
<tr>
<td>Enterprise Technology Services Manager</td>
<td>Customer Success Manager (CSM) – Service Matters</td>
</tr>
<tr>
<td></td>
<td>Account Manager – Sales Matters</td>
</tr>
<tr>
<td>Enterprise Technology Services Manager/Chief Security Officer</td>
<td>Director of Workspace Services – Service Matters</td>
</tr>
<tr>
<td></td>
<td>Account Manager – Sales Matters</td>
</tr>
<tr>
<td>Chief Technology Officer/Associate CIO</td>
<td>VP of Enterprise Services – Service Matters</td>
</tr>
<tr>
<td>Chief Information Officer/Associate CIO</td>
<td>SVP of Services – Contractual Matters</td>
</tr>
</tbody>
</table>
3.2 Global Service Desk

The Encore Technologies ("Encore") Global Service Desk ("GSD") is located in Cincinnati, OH, USA where it provides call center and help desk support functions. The GSD is staffed 24x7x365 by certified technicians, knowledge analyst, process analysts who provide tier 1 and tier 2 remote troubleshooting from ticket creation to resolution.

Knowledge management is owned by the knowledge analyst who collaborates with the process analyst and the client resolver groups to develop and publish knowledge articles that support the IT ecosystem.

The Global Service Desk ("GSD") provides a single point of contact for support that can be reached by telephone or e-mail.

<table>
<thead>
<tr>
<th>Phone 1</th>
<th>Phone 2</th>
<th>Email</th>
<th>Language</th>
</tr>
</thead>
<tbody>
<tr>
<td>TBD</td>
<td>TBD</td>
<td>TBD</td>
<td>English</td>
</tr>
</tbody>
</table>

Encore Global Service Desk shall provide the following services to Customer:

1. Incident Management
   a) End User Incidents and "How To" Support
      • Customer owned computing devices and accessories
      • End User applications, including Customer-specific and packaged (commercial off the shelf [COTS]) office productivity software
   b) Infrastructure Incidents and "How To" support
      • Enterprise IT applications
      • Enterprise IT services
      • Remote network connectivity
   c) Password Support
      • Network and/or Directory Service password Resets
      • Application and service specific password resets

2. Knowledge Management (Client provided) – Knowledge Centered Support Methodology
   • Knowledge Gap Management
   • Facilitate & Enrich Knowledge Program
   • Establish Knowledge standards

3. Global Service Desk Reporting
   • telephony-based reporting on call data
   • ITSM based reporting on ticket data

Refer to section 4.0 Deliverables for details of each service.

3.3 24/7 Remote Device Support

Encore shall provide trained resources to support the Customer’s end user hardware and software. Customer acknowledges and agrees that Encore’s ability to provide support for Customer’s hardware and software listed in the Appendix may depend upon the availability, connectivity, and policies provided by the Customer.
Appendix B defines the Hardware and software Encore shall support. Encore shall promptly notify Customer, when requested to provide support for hardware and software not listed. In such instances, services shall be provided on a commercially reasonable effort basis and will be excluded from service level measurements.

3.4 Service Delivery

Service Delivery begins with contact to the Encore Global Service Desk (GSD) with the level 1 support analyst. If the level 1 analyst cannot resolve the issue, the ticket is assigned to the level 2 Client-analyst via the client’s designated help desk ticketing system.

Encore Global Service Desk

<table>
<thead>
<tr>
<th>Support Role</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 1: Analyst</td>
<td>The Encore Global Service Desk is the first point of contact. Customer contacts the GSD through phone, or client’s email system. The level 1 analyst will follow entitlement, set the priority based on the urgency scale, and leverage the knowledge base for resolution/fulfilment/routing.</td>
</tr>
</tbody>
</table>

The time allotted to solve the problem at each level is defined in the Service Level Objectives (SLO). If the GSD cannot resolve the issue in the time specified in the SLO, the escalation plan is invoked.

3.5 Service Level Objectives

The Service Level Objective (SLO) is an objective, measurable, and specific service performance objective that defines severity levels for events that occur, how its measured, exclusions.

3.5.1 Severity Levels

All support tickets are assigned a priority for response by Encore. The priority is based on the severity of the outage, failure, problem, or issue as follows:

<table>
<thead>
<tr>
<th>Priority Level</th>
<th>Description</th>
<th>Definition</th>
</tr>
</thead>
</table>
| Priority 1     | Emergency * | • Major enterprise application down
• Key user department or major site down |
| Priority 2     | High        | • Major application critical component unavailable
• Multiple users or key users significantly degraded |
| Priority 3     | Standard    | • Single user affected or degraded or inconveniences to multiple user |
| Priority 4     | Low         | • Single user inconvenience with a workaround available |

*Incidents with the service level of emergency will require Encore to contact the assigned after-hours contact for that application, service and/or infrastructure system.

All tickets are assigned a Service Level Objective for response by Encore based on the severity of the case as follows:
3.5.2 Service Level Measurements

The Service Level Objective (SLO) is an objective, measurable, and specific service performance objective by category of service or measurement area (metric). SLO failure refers to Encore’s failure to meet the minimum performance level in a time period associated with a particular SLO.

Encore Technologies shall measure its performance with respect to each service level using the measurement tools and methodologies as agreed upon between the parties. Except as otherwise specified, the measurement period for each service level shall be a calendar month.

Encore Technologies shall provide to Customer once a month, a set of reports to verify Encore Technologies performance of, and compliance with, the SLOs. Such reports shall include notification to Customer of any failure to meet a SLO during the corresponding calendar month. Encore Technologies shall provide reasonably detailed supporting information for each report as reasonably requested by Customer.

Unless otherwise noted, all references to time of day shall refer to local time at the corresponding location. Unless otherwise noted, references to elapsed time shall be measured in accordance with the hours of operation in the applicable section of this SOW.

The following steady state SLO definitions define how the surveys were measured, the metric used to score the surveys, and exclusions:

1. First Contact Resolution (FCR)
   - Measurement – The percentage of tickets created by inbound phone calls that are assigned to a resolvable category that the GSD opens and closes within 24 hours without transferring ownership outside of the GSD.
     If the affected end user contacts the GSD by phone or reopens the ticket within 24 hours because the ticket was not resolved, the original ticket shall not be considered FCR.
     Calls with the following status shall be excluded from the measurement: no response/hang up calls, unclear voice message and wrong number.
   - Metric: >/=80%
   - Exclusions – Customer and Encore shall meet monthly to review the FCR successes, by category, and determine which successes will be considered FCR eligible.

2. Average Speed of Answer (ASA)
   - Measurement: For all inbound phone calls that are answered by an analyst, the ASA is the average amount of time it takes for a caller to reach an analyst. The time starts when the caller selects the contact service queue and ends when the analyst accepts the call.
     The ASA is determined by the total amount of time users wait to reach an analyst for the month divided by the total number of calls handled for the month.
   - Metric: >/=120 seconds

3. Net Calls Abandoned
   - Measurement – The number of inbound phone calls disconnected after the caller has selected a contact service queue and waited 60 seconds but before the call is
answered by an analyst or voice form prompt. This number is divided by the total number of inbound phone calls that selected a contact service queue.

- Metric: =/< 5%

4. Email Response Rate
- Measurement – The number of inbound emails received within the reporting period that are created as requests in the Encore incident management tool within 1 business day of being received. For example, if an email is received Friday 4:30pm, it must be processed by the close of business on Monday, assuming neither Friday nor Monday is a holiday.
- Metric: =/> 95%
- Exclusions – This service level shall be waived in any month where the number of emails exceeds 20% of the expected volume. The expected volume shall be determined by multiplying the expected email rate, defined as the percentage of emails to other inbound interactions for the price band in effect for that month, times the number of inbound interactions received in the month.

5. Incident Resolution
- Measurement – The number of GSD incidents assigned to service desk level 1 queue that are resolved within 24 business hours from the open date and time.
- Metric: =/> 95%

6. Service Availability
- Measurement – The percentage (%) of time the GSD is available to end users for contact support.
- Metric: =/> 99%

3.5.3 Service Level Objective Exclusions
The following events are excluded from SLO calculations under this SOW. Encore will not be obligated to meet the objective where the failure to meet a service level is due to one of the following exclusions:

1. Any day(s) in the month that exceeds 10% above the forecasted volume for the day based upon the total month’s forecasted volume and the average percentage of that day-of-week’s call volume as a percentage of the total call volume. The 6-week period prior to the measurement period shall be used in the forecast to measure desk performance.

2. A failure or unavailability of Customer systems, tools or technologies used in the delivery of GSD services.

3. A failure of a third party or any factor not in the control of Encore, e.g. data circuit failure.

4. Tickets in categories labeled as FCR that are on hardware and software not listed in this SOW.

5. Force majeure, including but not limited to government intervention, labor disputes, strikes, or other similar disturbances; acts of God; utilities or communications failures; acts of the public enemy; commercial infeasibility and riots, insurrections, sabotage, terrorism, or vandalism.

7. Issues or delays caused by Customer owned hardware and software.
8. Delays caused by Customer availability or inaccurate contact information.
9. Time while request is in Customer hold, OEM parts hold, or third-party hold.
10. Requests escalated to Customer level 2 support organizations.
11. Events outside the control of Encore, such as acts of God, riots, act of terrorism, etc.
12. Customer does not properly notify or train Encore on new technologies being introduced into the environment. Notification must occur prior to the release of the application into production and mutually agreed through the change management process.
13. Any act or omission by Customer, Customer agents (including Third Party suppliers) that both parties reasonably believes is a cause of an SLO Failure(s).
14. A failure by Customer to perform any of the referenced responsibilities within this agreement that has an adversely impacts Encore’s ability to meet the SLO.
15. An action that Customer is directing Encore to take that Encore reasonably believes will cause an SLO Failure(s) and is performed by Encore in accordance with Customer’s instructions.
16. Accidental or intentional damage to equipment or software by Customer employees/agents/third parties.
17. Customer failure to comply with the change management process set forth in the SOW.
18. Access to the office or workspace is not available.
19. Product obsolescence where the manufacturer defined the product as obsolete or no longer supports it.
20. In the event that daily volume metrics for the GSD exceeds 110% of the twelve-week period prior to the initial forecast, cause Encore to miss its monthly service levels.
21. Negligent or willful misconduct of Customer, its subcontractors, officers, directors, employees, contractors, agents, or end user.
22. For equipment physically located on Customer premises, or under the operational control of Customer, events caused by the following conditions, provided the condition is not directly attributable to the actions of Encore, Encore personnel, or Encore subcontractors:
   a. Electric power outage or electrical power aberrations (beyond the manufacturer’s specifications) at the power input of the equipment;
   b. Fire, flood or vandalism;
   c. Environmental conditions, except in cases where Encore has responsibility for the maintenance and operation of such environmental conditions; and
   d. Outages during scheduled maintenance windows pursuant to the procedure’s manual.
23. SLOs shall not apply to Customer third-party contractors as it relates to the SLO section of this SOW.
24. Failure by Customer to take any planned technology or process changes as set forth in this SOW.
25. Encore shall provide documentation for all events that qualify for exclusion from the SLO attainment calculation; such documentation will show the reason for said exclusion.
3.5.4 Baseline Operations Period

The baseline operations period is designed to validate, and if required, calibrate SLOs to align with the service. The baseline operations period will be after accepted transition to service operations for a duration of 90 days.

As such, and upon mutual agreement, metrics and/or parameters may be reestablished based on the analysis of the “Baseline Operations Period” for the remainder of the term of this agreement.

During the baseline operations period, should a specific SLO be found to not meet the expected level, Customer and Encore will develop a plan to identify and correct the reasons the SLO is not being attained. Customer and Encore shall mutually agree to the implementation of such plan to achieve SLOs.

3.5.5 Service Level Management

Encore shall provide service level management (SLM) to ensure the service targets are documented and within the agreed upon SLOs. Encore shall monitor the SLOs as aggregates/averages of service level performance metrics.

Encore and the Customer shall share the responsibility for the IT service management process. The roles of the Encore service management team include:

Service Desk Manager,
- directs service level achievement,
- provides Customer relations for GSD support services, represents Encore GSD during meetings, reviews, issue resolution, escalation, and scope change approvals,
- ensures the Service Desk adheres to Customer approved written work instructions and standard operating procedures,
- ensures effective continuous process improvement methodologies are being employed,
- reviews Customer satisfaction and taking appropriate actions, as required.

Customer Success Manager,
- approves changes to the SOW,
- acts as the focal point for joint communications process
- verifies service level attainment and communicates service level measurements and results
- serves as the first point of contact for any adjustments in service levels (new or modified) and service level credits
- owns service transformation initiatives and innovation effort within the program

3.6 Service Escalation Plan

Encore provides an escalation plan for daily operational issues or concerns related to the delivery of services. The escalation plan pertains to all activities related to operations for the agreed upon services, including contact management, service operations, and reporting.
The escalation plan defines the process while the escalation path identifies the authority to be engaged and the expected response time. If the onsite IT team or the GSD cannot resolve an issue, the escalation plan should be invoked.

The customer success manager (CSM) is the first point of contact in the escalation plan. The CSM is notified verbally, and the issue is documented in an issues list. The escalation continues up the escalation path as needed.

### Encore Escalation Path

<table>
<thead>
<tr>
<th>Escalation Level</th>
<th>Escalation Point</th>
<th>Response Time (Normal Business Hours)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Customer Success Manager</td>
<td>2 Hours</td>
</tr>
<tr>
<td>2</td>
<td>Account Manager</td>
<td>4 Hours</td>
</tr>
<tr>
<td>3</td>
<td>Director of Workspace Services</td>
<td>8 Hours</td>
</tr>
<tr>
<td>4</td>
<td>VP of Enterprise Services</td>
<td>If Needed</td>
</tr>
</tbody>
</table>

### Customer Escalation Path

<table>
<thead>
<tr>
<th>Escalation Level</th>
<th>Escalation Point</th>
<th>Response Time (Normal Business Hours)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>IT Systems Supervisor</td>
<td>2 Hours</td>
</tr>
<tr>
<td>2</td>
<td>IT Division Manager</td>
<td>4 Hours 8 hour revisit</td>
</tr>
<tr>
<td>3</td>
<td>IT CIO/Director</td>
<td>If needed</td>
</tr>
</tbody>
</table>

#### 3.7 Service Environment

The table below identifies technology related items, including but not limited to hardware, software, tools, appliances, systems, peripherals, network connectivity or other items that Encore shall provide to provision the services described in this SOW. Customer shall provide any technology related item not listed below.

<table>
<thead>
<tr>
<th>Technology Services</th>
<th>Provider</th>
<th>Customer Accessible</th>
<th>Separate Access Agreement Required</th>
<th>Deployed on Customer Premises</th>
<th>Integrated on Customer System(s)</th>
<th>Separate Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal computing devices/accessories for Encore personnel</td>
<td>Encore</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>ITSM</td>
<td>Customer</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Technology Services</td>
<td>Provider</td>
<td>Customer Accessible</td>
<td>Separate Access Agreement Required</td>
<td>Deployed on Customer Premises</td>
<td>Integrated on Customer System(s)</td>
<td>Separate Charge</td>
</tr>
<tr>
<td>----------------------------</td>
<td>-----------</td>
<td>---------------------</td>
<td>-----------------------------------</td>
<td>------------------------------</td>
<td>---------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>Knowledge Management</td>
<td>Customer</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Reporting Portal</td>
<td>Encore</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Telephony system</td>
<td>Encore</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Call Recording system</td>
<td>Encore</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Telephony Circuits</td>
<td>Encore</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Toll Free Number</td>
<td>Encore</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Remote Control</td>
<td>Customer</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Password Reset</td>
<td>Customer</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

Encore reserves the right to modify or replace Encore provided technology items at its sole discretion, at any time during the term with a reasonable advanced written notice to Customer indicating same. Encore shall bear its own costs associated with the transition of Encore services, including data migration, hardware, and software. Encore shall be responsible for training key Customer personnel in the use of the Encore technology services during the transition and if the technology changes; otherwise customer is responsible for training its personnel. The contract change management process shall be used to document the subsequent training need. Customer understands and acknowledges that Encore provides services to multiple Customers and hereby agrees to meet Encore’s transition timelines, which will be made with reasonable advance notice.

Customer acknowledges that Encore based its staffing levels and pricings upon its ability to integrate and configure the technology related items at its discretion in order to achieve operational efficiencies. This includes, but is not limited to, configuration of phone menus, auto collection of entitlement information, and level of integration with Customer systems. All Encore provided tools and technologies shall be pre-configured to Encore best practices. These configurations shall be assessed during the transition period and modified as required to meet the services and service levels described in this SOW.

Customer personnel may only have access to the Encore technology services as indicated in the table above. Customer personnel accessing Encore technology services agree to the terms and conditions defined in this SOW.

Customer is responsible for training its personnel for use of the Encore technology related items. Customer is responsible for the actions of its personnel while using the Encore technology related items and shall reimburse Encore for all costs incurred to resolve issues caused to Encore technology related items as the result of Customer personnel actions.
3.7.1 Customer Provided Hardware and Software
Customer shall maintain and provide certain Customer equipment to support Encore’s ability to deliver the services defined in this SOW. Customer shall provide and maintain the Customer equipment in good working order.

All Customer software shall be provided by Customer in compliance with a valid license agreement between Customer and the software original licensor and at no cost to Encore Technologies. Encore Technologies shall not, nor shall any subcontractor to Encore Technologies, copy, modify, decompile, reverse engineer or disassemble the Customer software.

3.7.2 Allocated Resources and Contact Volume Forecasting
Encore shall provide sufficiently trained resources to provide the services defined in this SOW. Encore shall ensure adequate resource staffing levels based upon the information documented such as forecasted contact volumes, contact handle times, method of contact, and hours of contact. Encore Technologies ability to meet the service levels are dependent upon these factors and as such, Encore and Customer shall collaboratively forecast these metrics at a minimum of once during the term of this agreement as needed.

3.7.3 Call Recording
As part of its quality management program, Encore Technologies shall record at least 25% of the inbound phone contacts. Such recordings shall be selected on a random basis and Encore Technologies cannot guarantee that a specific call shall be recorded. Call recordings shall be retained for a period of at least thirty (30) days.

Customer may listen to the call recordings, as available and through the methods allowed at Encore sole discretion. Customer access to call recordings may require Customer to take actions or incur additional expenses not set forth in this SOW, including but not limited to visiting the premises where such call recordings are stored during Encore normal business hours or the payment of any additional software licensing fees required for Customer to access the call recordings.

3.7.4 Planned Customer Technology and Process Changes
Customer acknowledges and agrees that Encore has provided pricing in reliance upon Customer’s planned technology and process changes to its IT environment and that Customer’s failure to implement such changes or failure by Customer’s personnel to adopt such changes may impact pricing. In the event that this occurs, it shall be addressed through the aforementioned change management and agreement amendment process.

4.0 Deliverables
Deliverables defines the services Encore shall provide to Customer.

4.1 Global Service Desk
Encore shall provide Global Service Desk (“GSD”) support services originating from or related to authorized Customer end users and Agents. Customer shall provide a daily electronic list of authorized Customer end users or allow Encore Technologies to perform a real-time verification. Encore shall
verify the end user’s entitlement before providing Service. Customer directs Encore to provide support for GSD incident requests originating from or related to non-authorized Customer end users.

4.2 Incident Management

An Incident is an unplanned interruption to an IT service or reduction in the quality of service. Encore shall restore normal service operation as quickly as possible with the intent to minimize disruption to end users and business operations.

End users generally report one of the following incidents:

1. End User Incidents related to the end user’s Customer computing device(s) and accessories, software applications and work environment. The GSD level one analyst shall resolve most end user incidents that are not related to hardware failures.

2. Infrastructure Incidents – related to enterprise applications and services such as ERP applications, phone systems, remote connectivity, and other applications and services used by multiple groups or departments. If it is determined not to be an individual configuration issue or password access issue and it affects multiple clients, the GSD level 1 analyst will typically route the ticket to a level 2 resolver group following a defined process.

An incident may also be situational.

1. “How To” Questions – End users require additional information or instruction to use an application, service, or device or complete a process. The GSD level 1 analyst can resolve most How to questions.

2. Password Reset – The end user is denied access to an enterprise application, service, network resource or personal computing device where they previously had access. The GSD level 1 analyst can reset the password if the analyst has been granted administrator access rights within Customer’s environment.

Incident Management Processes

Encore shall follow the processes outlined below to resolve incidents:

1. Incident Recording – Encore shall collect the end user’s information upon initial contact and verify entitlement leveraging Customer policies. Encore shall record the end user’s information in the City’s IT service management system (ITSM), including a description of the issues with triage and resolution details.

2. Classification and Prioritization – Encore shall assign a priority to the ticket based on the information received and classify the contact according to the Incident Priority table.

Incident Priority

<table>
<thead>
<tr>
<th>Priority Level</th>
<th>Description</th>
<th>Definition</th>
</tr>
</thead>
</table>
| Priority 1     | Emergency * | - Major enterprise application down (reference Appendix B, critical applications)  
- Key user department or major site down |
| Priority 2     | High        | - Major application critical component unavailable  
- Multiple users or key users significantly degraded |
3. Investigation and Diagnosis – Encore shall perform the following for each incident type.

End User Incidents

- Make commercially reasonable effort to confirm the Incident. Leverage remote control tool(s) when they are available and authorized for use. Encore Technologies may monitor or recreate the issue on the end user device, if possible.
- Research the knowledge base and other publicly available sources of information to resolve the incident. If an article is not available in the knowledge base (KB) for the issue or error, must provide no KB, which will be flagged for knowledge management priority.

Infrastructure Incidents

- Make a commercially reasonable effort to confirm the incident. Leverage remote control tool(s) when they are available and authorized for use. Encore Technologies may monitor or recreate the issue on the end user device, if possible.
- Attempt to correlate the incident with recent contacts and identify a broader incident.
- Post a front-end message or take other steps as defined during the transition to communicate the incident to the Customer end user community.
- Associate related end user Incident tickets.
- Gather supporting information as defined in the knowledge base and GSD procedures.
- Assign the ticket to the resolver group as defined in the GSD procedures.
- Follow any escalation procedure(s) defined during transition.

“How To” Questions

- Search the knowledge base to answer the question.
- Use the available remote-control tool(s) to demonstrate the answer to the question.

Password Resets

- Adhere to Customer policies and procedures for any request of elevated security rights.
- Use Customer provided tools to unlock account(s) and/or reset end user passwords.

4. Resolution – The categories of incidents that the GSD will be able to resolve shall be defined during the transition. This generally includes end user incidents, “How To,” and password resets. If Encore is able to resolve the incident, Encore shall confirm its resolution with the end user and mark the ticket as resolved.

The organization resolving a ticket shall be responsible for confirming the incident’s resolution with the end user and closing the ticket.
## Incident Management Deliverables

<table>
<thead>
<tr>
<th>#</th>
<th>Item</th>
<th>Encore</th>
<th>Customer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Define and maintain a list of priorities based upon business applications, corporate services, user departments or groups and specific situations.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>Maintain and provide escalation contact list(s) for all applications and services</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>3</td>
<td>Provide documentation, knowledge content, and training, where applicable, to resolve incidents related to Customer applications, infrastructure, and processes.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>4</td>
<td>Enable access to Customer tools, applications, services and devices for GSD analysts to resolve incidents.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>5</td>
<td>Maintain and provide a list of resolver groups for incidents that cannot be resolved by the GSD.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>6</td>
<td>Provide advanced notification, at least one (1) week of changes in existing technology or deployments of new technology.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>7</td>
<td>Update existing knowledge articles based upon information learned at the GSD and information provided by Customer.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>8</td>
<td>Train GSD analysts on Customer specific processes and technology within sixty (60) days of start date and thirty (30) days of changes in Customer technology.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>9</td>
<td>Log the incident in the City’s ITSM system with information that may include but is not limited to, end user contact information, a description of the incidents, ticket priority, troubleshooting steps, and if applicable, the steps taken for resolution as ticket documentation.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>10</td>
<td>Categorize and prioritize the incident using knowledge base articles and Customer documentation.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>11</td>
<td>Using a combination of knowledge base articles and tool access, provide resolution to resolvable incidents.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>12</td>
<td>Perform password resets in accordance with Customer’s security policies and recommend clients to register for City’s self-service tool where applicable.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>13</td>
<td>Using documented processes and routing tables defined during the transition period, route and/or escalate irresolvable incidents per agreed-upon escalation matrixes in the ITSM tool.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>14</td>
<td>Place front-end messages or other communications to notify inbound contacts of confirmed incidents.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
4.3 Knowledge Management

Knowledge management includes the development, transition, maintenance, and removal of knowledge articles in the knowledge base. A knowledge centered support methodology shall be implemented to include a knowledge program set to drive closure to knowledge gaps and generate self-service adoption. The Client-provided knowledge base shall be used as a definitive record for incident resolution and request completion processes.

Knowledge Management Deliverables

<table>
<thead>
<tr>
<th>#</th>
<th>Item</th>
<th>Encore</th>
<th>Customer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Establish Knowledge Management procedures (content creation, content standardization).</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>Provide all existing knowledge articles upon transition.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>3</td>
<td>Review and approve knowledge articles to be published.</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>4</td>
<td>Monitor effectiveness of knowledge articles, remove unused knowledge articles, update/correct knowledge articles, and detect gaps in knowledge articles.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>5</td>
<td>Audit knowledge articles for accuracy and relevancy based upon changing IT environment and business processes.</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>6</td>
<td>Facilitate the GSD knowledge management &amp; resolver group liaison meeting and track the initiative task ledger by group and owner.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>7</td>
<td>Ensure accountability and execution of the knowledge task ledger items.</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

4.4 Global Service Desk Reporting

Encore shall generate reports based on a defined set of criteria using the following tools:

- ACD – ACD / telephony-based reporting on call data
- ITSM – ITSM-based reporting on ticket data

Client shall own access to data stores and front-end interfaces for pulling data on Client owned systems. Custom reports, customizations to existing reports, or ad-hoc reporting are available upon request for an additional fee through the contract change management process.

The table below identifies the reports that Encore shall generate and the recipient of the report:

<table>
<thead>
<tr>
<th>Report Title</th>
<th>Source</th>
<th>Frequency</th>
<th>Description</th>
<th>Recipient</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACD Report</td>
<td>ACD</td>
<td>Daily</td>
<td>Daily ACD stats by day of the week, including weekly and monthly summaries</td>
<td>Encore</td>
</tr>
</tbody>
</table>
4.5 24/7 Remote Device Support and Software Installation

Encore shall remotely maintain and troubleshoot devices and software over the network in response to an Incident or service request to minimize the need to dispatch technical personnel for Incident resolution and service request processing.

During the Transition Period, the parties shall determine if remote software installations will be limited to defined hours and if users must be present for software installations to occur. Encore is not responsible or liable for any adverse impacts to remote site performance due to the impact of remote device and software management.

Remote Device Support/Software Installation Deliverables

<table>
<thead>
<tr>
<th>#</th>
<th>Item</th>
<th>Encore</th>
<th>Customer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Define policies for the use of Service Desk remote control tools.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>Provide sufficient network bandwidth for remote control activities</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>3</td>
<td>Provide Service Desk analysts access to Customer systems and applications</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>4</td>
<td>Adhere to all policies, processes and procedures when using remote control capability</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Utilize remote control tools to provide support</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
4.6 Transition Services

The Encore transition methodology shall be applied to deliver GSD services. The following graphic illustrates the implementation phases. The duration of each phase shall be defined in the milestones document and project plan. The six phases are: Design, Plan, Build, Test, Execute, followed by Continual Service Improvement (CSI) based upon dashboard analytical information as the program moves from transition into an operational state.

In order to expedite the transition for the City of Dayton, Encore will immediately work with the City to obtain the needed employee Police background checks and identify minimal services that can be implemented within ten (10) days upon execution of the agreement.

Transition Deliverables

<table>
<thead>
<tr>
<th>#</th>
<th>Item</th>
<th>Encore</th>
<th>Customer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Assign a Transition Manager (TM) and the appropriate Subject Matter</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Experts (SME) to project manage the implementation of Services. The</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>TM shall serve as Encore Technologies Single Point of Contact (SPOC)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>in all aspects of the transition including scheduling, change control,</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>escalation, implementation planning and acceptance.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Encore will immediately work with the City to obtain the needed</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>employee background checks and identify minimal services that can be</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>implemented within ten (10) days upon execution of the agreement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Build and manage a Transition project plan detailing the tasks,</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>assignments, and dependencies to meet scheduled milestones and</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>deliverables.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Apply supporting project management tools and standards to help</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>manage the Transition including:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Work in collaboration to provide knowledge transfer and training to</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Encore Technologies transition and service delivery teams.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Item</td>
<td>Encore</td>
<td>Customer</td>
</tr>
<tr>
<td>---</td>
<td>------</td>
<td>--------</td>
<td>----------</td>
</tr>
<tr>
<td>6</td>
<td>Integrate current Customer processes and procedures into Encore Technologies operating model in support of the Customer environment, as appropriate and mutually agreed.</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>7</td>
<td>Create new processes where they are currently missing or necessary to support the Encore Technologies delivered operating model and meet the requirements of the SOW.</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Maintain Issues and Actions Log during transition to monitor and categorize all key activities.</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Provide regularly scheduled project status reviews to communicate information on milestone completion, issues and actions, and authorized changes, etc.</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Provide a SPOC to coordinate and oversee the Transition and Operations for the term of this agreement.</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>11</td>
<td>Document roles and responsibilities of Customer’s personnel who shall be involved in the implementation and ongoing execution of remote monitoring and provide to Encore Technologies SPOC.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>12</td>
<td>Allocate time and resources as needed by Encore Technologies to plan, manage, implement and support the services defined in this SOW.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>13</td>
<td>Provide a timely response to the stakeholders for issues and concerns raised.</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>14</td>
<td>Upon completion of the transition activities, prepare a review all transition deliverables, Open Issues and Actions, and milestone attainment for Customer acceptance for closeout of the transition. (Following the Closeout, a Customer Satisfaction Survey shall be administered to measure to measure our performance in the delivery of the transition.)</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>15</td>
<td>Verify acceptance criteria and sign the Service Activation Acceptance document acknowledging successful implementation of the Transition services.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>16</td>
<td>Respond to Transition Customer Satisfaction Survey.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

5.0 Responsibilities
Encore and Customer shall fulfil the following responsibilities for Encore Managed services to commence support services.

5.1 Customer Responsibilities
The Customer shall fulfil the following responsibilities for Encore Managed Services to commence support services:

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1. Customer shall identify a single point of contact with decision-making authority regarding this SOW for communication with Encore personnel.

2. Customer shall provide, and keep updated, a contact list with accurate telephone numbers and e-mail addresses for problem escalation that indicates whom to contact, at what severity level, and the priority contact order.

3. Customer is responsible for its internal network infrastructure (switches, routers, firewalls, servers, etc.), IP address space, routing, Internet connectivity, and available bandwidth for any Customer-owned devices that are the targets of the services.

4. Customer is responsible for providing any required license keys to Encore for Customer-owned applications to which Encore needs access to perform the Services. Customer agrees to comply with each third-party end user license agreement ("EULA") as applicable. EULA terms may require Customer to execute the EULA by an authorized signatory or otherwise acknowledge that it shall comply with the EULA.

5. Customer is responsible for the activities of its end users. Customer shall not use, or permit use of, the Services in a manner which (i) is illegal or (ii) infringes the patent, copyright, trademark, or intellectual property rights of a third party; collectively "Service Misuse". Customer shall be responsible for any such Service Misuse.

6. Customer shall coordinate the activities of any third party, i.e., not engaged by Encore, subcontractor(s) so no delays or hindrances are experienced by Encore personnel due to such third-party subcontractor(s).

5.2 Encore Responsibilities

1. Encore shall identify a single point of contact with decision-making authority regarding this SOW for communication with Customer personnel.

2. Encore shall assign qualified resources with solid technical, process and/or management experience and proven success to perform the Services.

3. Encore shall manage the ticket queue for GSD level 1 creation to resolution. Encore shall initiate troubleshooting and diagnostics, escalate as needed, take corrective action in coordination with Customer’s instructions and approval, document all activity, follow up with Customer to verify the incident is resolved, and close the case when resolved. Encore is responsible for meeting the defined SLO’s for cases.

4. Encore shall attend meetings as requested by Customer as availability permits and provide status updates on the Services.

6.0 Fees and Payment

Customer shall pay Fees ("Fees") for support services as defined in this SOW to Encore Technologies, whereas Customer agrees to the Fees and payment terms defined in this section.

Should call volume change by more than 10% for three consecutive months, Encore Technologies will initiate a corresponding change request as defined in section 3.1.1 Contract Governance of this SOW.

<table>
<thead>
<tr>
<th>Metric</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average handle time (MM: SS)</td>
<td>7:00</td>
</tr>
<tr>
<td>Metric</td>
<td>Value</td>
</tr>
<tr>
<td>------------------------</td>
<td>-------</td>
</tr>
<tr>
<td>Non-Phone contact %</td>
<td>5%</td>
</tr>
</tbody>
</table>

6.1 Fees by Service

<table>
<thead>
<tr>
<th>GSD Avg Monthly Contact Volume</th>
<th>Monthly Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>150</td>
<td>$1,743.99</td>
</tr>
</tbody>
</table>

6.2 Annual Renewal
Encore shall grant the City the option to renew and extend the executed agreement for up to three (3) additional one (1) year periods upon mutual agreement between the City and Consultant at the agreed upon prices as outlined within this SOW including any adjusts established through an amendment(s).

6.3 Transition Fees
Any Transition charges are included within Fees identified in Section 6.1 above.

6.4 Out-of-Scope Services for Workspace
Encore shall perform Out-of-Scope services for Workspace services on request at the following Time & Materials rates. These services shall be invoiced monthly based upon usage in the previous month. Out-of-Scope Time & Materials services shall be defined in a Change Order; and the Change Order shall follow the change request process defined section 3.1.1 of this SOW.

<table>
<thead>
<tr>
<th>Support</th>
<th>Unit Cost per hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Manager</td>
<td>$115.00</td>
</tr>
<tr>
<td>Project Coordinator</td>
<td>$75.00</td>
</tr>
<tr>
<td>Workspace Engineer</td>
<td>$105.00</td>
</tr>
<tr>
<td>Onsite IT Support – Deskside</td>
<td>$65.00</td>
</tr>
</tbody>
</table>

6.4.1 Encore Standard Business Hours*
Encore defines the workday as Monday through Friday, 8 a.m. until 6 p.m., excluding Holidays (see Encore Holidays). Pending resource availability and a minimum notice of five (5) business days, work can be performed after business hours or on weekends. “After Hours” is any time worked between the hours of 6 p.m. to 8 a.m. Monday through Friday; Weekends are any time worked on Saturday or Sunday. All stated times are Eastern Time Zone.

Encore Holidays
Encore offices, with the exception of the Global Service Desk and Data Center, which operates 24x7x365, are closed on the following eleven (11) days: New Year’s Day, Martin Luther King Jr. Day, President’s Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving
Day and the Friday following Thanksgiving, Christmas Eve, Christmas Day. If a regularly
scheduled or recurring appointment falls on one of these days, Customer shall be given the
opportunity to reschedule for another day or skip the appointment.

* These Business Hours do not apply to the Global Service Desk, which operates 24x7x365.

6.5 Fee and Payment Assumptions for Out-of-Scope Services

1. The base fees may be adjusted from time to time in accordance with the relevant price banding
   schedule which will reflect fee adjustments due to adding or subtracting volume of services.

2. Should any volumes change beyond what is already defined in the price banding schedules,
   Encore Technologies will implement equitable corresponding price adjustments, and Customer will
   pay such adjustments until the parties negotiate a new rate for the affected services.

3. Any services required to be performed or supplied under this SOW: (a) for any project other than
   the projects already in-scope and performed pursuant to this SOW; (b) that require Encore
   Technologies to incur additional costs or expenses including but not limited to travel expenses and
   technology costs that are not set forth in this SOW; or (b) which do not form part of this SOW will
   be paid for by Customer outside pricing schedules at additional fees to be determined by Encore
   Technologies, unless specified otherwise in this SOW or an applicable Change Order.

4. Pre-set incremental labor rates will apply for certain specified related out-of-scope services (short-
   term and long-term rates for operations and project-type skills) throughout the term of this SOW.
   See the Project Rate Card table.

5. In addition to the information which Encore Technologies already has knowledge of through its
   Services, the Fees charged for services are based on the information provided by Customer,
   including but not limited to, its infrastructure and its current equipment and approved software
   listed in appendix B, volumes, locations, and levels of services. This information is set forth in this
   SOW including all addenda, schedules, attachments, and exhibits attached hereto. If there are
   errors in, or subsequent changes to, such information that affect the basis for such Fees, the
   parties will address the impact to services and pricing and as such, Encore Technologies will
   implement a Change Request as specified in 3.1.1 Contract Governance of this SOW.

6. The Fees provided within this SOW are based on a (36) thirty-six-month term.

7. Fees are based on services set forth within this SOW and in accordance with any Customer
   planned technology or process changes as set forth in this SOW.

8. Taxes are not included as part of the pricing.
   a) Each party shall be responsible for personal property taxes on property it owns or leases, for
      franchise and privilege taxes on its business, and for taxes based on its net income or gross
      receipts.
   b) Encore Technologies shall be financially responsible for any sales, use, transfer, and excise,
      value-added, service, payroll, consumption, and other taxes and duties on any goods or
      services imposed upon it in providing the services.
   c) Customer will section 3.1.1 of this SOW.

9. All performance metrics will be calculated and reported by Encore Technologies using Encore
   Technologies standard business intelligence reporting methods and tools

10. Customer will be responsible for providing and maintaining their side of any required connectivity
    between Customer and Encore Technologies.
11. Customer will be responsible for implementation and support of their side of any application integration.

12. Encore Technologies will provide the monthly invoice and data to Customer prior to end of day on the 5th business day of the month for approval. Once approved, Encore Technologies will upload the invoice for Customer by the 20th of the month for payment, as per the terms referenced in the Agreement.

13. Undisputed invoices are due and payable in U.S. dollars within thirty (30) days of the date on the invoice, unless the parties otherwise agree in writing. Undisputed payments not received by the due date are considered past due.

7.0 Terms of Service

7.1 Transition Term

Upon completion and activation of the services, Encore shall submit to Customer a written acceptance form for Customer to review and sign. Customer shall ensure that the proper personnel are scheduled and available to review each completed service or deliverable upon receipt of this notification.

The assigned Customer personnel shall indicate Customer’s acceptance of the work or deliverables by signing the Acceptance Form, within fifteen (15) business days from the presentation of the completed service or deliverable. Such time period to accept the services or deliverables may be extended by documented mutual consent of the parties.

Services and deliverables are deemed accepted if the assigned Customer representatives fail to respond within this fifteen (15) business day period.

If a service or deliverable is not accepted for any reason, Customer shall provide written notification to Encore detailing how the service or deliverable fails to conform to the requirements of this SOW. Encore shall have fifteen (15) business days after the receipt of such notice from the Customer to correct any noted deficiencies provided it is within the scope of work contained herein. Such time period to correct deficiencies may be extended by documented mutual consent.

7.2 Term

The term of this SOW begins on the Service Activation Date and continues in full force and effect for twelve (12) months ("SOW Term"), unless earlier terminated pursuant to the terms of the agreement. The "Service Activation Date" is the date on which the Services are available for use by Customer.

7.2.1 Termination

Customer may terminate this Agreement without cause, i.e., for its convenience, by providing at least thirty (30) business days prior written notice to Encore. Customer

7.2.2 Termination Fees

If Customer terminates the Agreement, Customer shall be financially responsible for any unpaid invoices.
7.3 Intellectual Property

This section defines ownership of intellectual property, call recordings, knowledge articles, and incident and service request data.

7.3.1 Call Recordings

All call recordings arising out of or related to the performance of services under this SOW shall remain the sole and exclusive property of Encore Technologies. All call recordings shall be destroyed upon termination of this SOW.

7.3.2 Knowledge Articles

All knowledge articles and copies thereof, regardless of form or medium, created by Encore for Customer in the course of performing Services (“Customer Knowledge Articles”) are and shall remain the property of Customer. Upon completion of the services or termination of this SOW, Encore shall provide the Customer knowledge articles to Customer. Notwithstanding anything to the contrary, Encore Technologies shall have the right to use, reproduce, modify or distribute the Customer knowledge articles throughout the term of this SOW, and nothing contained herein shall prohibit Encore from using any of Encore’s general knowledge or knowledge acquired under this SOW to perform similar services for others, however expressly excluding any Customer confidential and trade secret information, name and trademarks.

7.3.3 Incidents and Service Requests

Customer’s data stored in the ITSM system is and shall remain the property of Customer. In the event of the termination of this SOW, Customer must provide thirty (90) days written notice prior to the effective date of termination and have paid all amounts past due and payable in order to request copies of the data. Encore shall provide copies of the data on a time and materials basis to be invoiced to Customer, however Encore shall have no obligation to provide copies of any data where Customer has not complied with the foregoing requirements of this section.

Appendix

The appendix includes the following reference items and forms:

A. Authorized Contacts
B. Customer Equipment and Software
C. Contract Change Request/Order Form
D. Service Issue Resolution Form
A. AUTHORIZED CONTACTS

Communication Plan

<table>
<thead>
<tr>
<th>Customer</th>
<th>Encore</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enterprise Technology Services Manager</td>
<td>Service Desk Manager</td>
</tr>
<tr>
<td>Enterprise Technology Services Manager</td>
<td>Customer Success Manager – Service Matters</td>
</tr>
<tr>
<td></td>
<td>Account Manager – Sales Matters</td>
</tr>
<tr>
<td>Enterprise Technology Services Manager / Chief Security Officer</td>
<td>Director of Workspace – Service Matters</td>
</tr>
<tr>
<td></td>
<td>Account Manager – Sales Matters</td>
</tr>
<tr>
<td>CTO/Associate CIO</td>
<td>VP of Enterprise Services – Service Matters</td>
</tr>
<tr>
<td>CIO</td>
<td>SVP of Services – Contractual Matters</td>
</tr>
</tbody>
</table>

Principle Resources – The City of Dayton

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Email</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jon Rike</td>
<td>CIO / Director of Information Technology</td>
<td><a href="mailto:Jon.Rike@DaytonOhio.Gov">Jon.Rike@DaytonOhio.Gov</a></td>
<td>937-333-6336</td>
</tr>
<tr>
<td>Desa Foster</td>
<td>Division Manager of Information Technology</td>
<td><a href="mailto:Desa.Foster@DaytonOhio.Gov">Desa.Foster@DaytonOhio.Gov</a></td>
<td>937-333-6349</td>
</tr>
<tr>
<td>Dave Johnson</td>
<td>Technology Systems Supervisor</td>
<td><a href="mailto:Dave.Johnson@DaytonOhio.Gov">Dave.Johnson@DaytonOhio.Gov</a></td>
<td>937-333-6323</td>
</tr>
<tr>
<td>Keith Davis</td>
<td>Technology Systems Supervisor</td>
<td><a href="mailto:Keith.Davis@DaytonOhio.Gov">Keith.Davis@DaytonOhio.Gov</a></td>
<td>937-333-8519</td>
</tr>
</tbody>
</table>

Principle Resources – Encore Technologies

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Email</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Steiner</td>
<td>Sr. VP Services</td>
<td><a href="mailto:john.steiner@encore.tech">john.steiner@encore.tech</a></td>
<td>513-493-4684</td>
</tr>
<tr>
<td>Brett Skinner</td>
<td>VP Enterprise Services</td>
<td><a href="mailto:brett.skinner@encore.tech">brett.skinner@encore.tech</a></td>
<td>513-493-4728</td>
</tr>
<tr>
<td>Brandon Rayls</td>
<td>Director of Workspace</td>
<td><a href="mailto:brandon.rayls@encore.tech">brandon.rayls@encore.tech</a></td>
<td>513-493-4632</td>
</tr>
<tr>
<td>Brad Fletcher</td>
<td>Sr. Account Manager</td>
<td><a href="mailto:brad.fletcher@encore.tech">brad.fletcher@encore.tech</a></td>
<td>513-307-1445</td>
</tr>
</tbody>
</table>
## B. Customer Equipment and Software

### Hardware

<table>
<thead>
<tr>
<th>Make</th>
<th>Model</th>
<th>Number of Devices</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dell</td>
<td>OptiPlex series</td>
<td>~771</td>
</tr>
<tr>
<td>Dell</td>
<td>Latitudes</td>
<td>~386</td>
</tr>
<tr>
<td>Various</td>
<td>Various</td>
<td>~500</td>
</tr>
</tbody>
</table>

### Software

<table>
<thead>
<tr>
<th>Software Name</th>
<th>Version</th>
<th>Manufacturer</th>
<th>Licenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Microsoft Office</td>
<td>15 or higher</td>
<td>Microsoft</td>
<td>Enterprise Agreement</td>
</tr>
<tr>
<td>Microsoft O365</td>
<td>Current</td>
<td>Microsoft</td>
<td>Enterprise Agreement</td>
</tr>
<tr>
<td>Check Point VPN</td>
<td>98.xx or higher</td>
<td>Check Point Software Technologies Ltd</td>
<td>200 concurrent licenses</td>
</tr>
<tr>
<td>NetMotion Mobility</td>
<td>11.xx or higher</td>
<td>NetMotion Software, Inc.</td>
<td>200 Named Seats</td>
</tr>
<tr>
<td><em>Enterprise applications that utilize Active Directory for Authentication and/or Single Sign-on (SSO)</em></td>
<td>Various</td>
<td>Various (e.g., Kronos, and Ellucian Banner,)</td>
<td>Named users licenses</td>
</tr>
</tbody>
</table>

*Note-Encore staff will only be issued an application account only to verify logon to determine the availability status of the enterprise application and the best course of action.
C. CONTRACT CHANGE REQUEST/ORDER FORM

Contract Change Request/Order Form

Section I: Change Request Description Contract

Tracking ID Number: ____________________________

Date Prepared: ________________________________

Prepared By: ____________________________      Phone: ________________________________

Requested By: ____________________________      Phone: ________________________________

Proposed change: Provide a description of the change; include all affected tasks & deliverables:

__________________________________________________________________________

__________________________________________________________________________

Benefits of the change – Provide a description of the quantitative and qualitative benefits:

__________________________________________________________________________

__________________________________________________________________________

Schedule Revision: State the effective date of the change; insert changes to the project schedule, if applicable.

__________________________________________________________________________

Cost Revision:

<table>
<thead>
<tr>
<th>Cost</th>
<th>Addition/Reduction</th>
<th>Party Responsible for Change (Customer Name and Title)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0.00</td>
<td>$0.00</td>
<td></td>
</tr>
</tbody>
</table>
D. SERVICE ISSUE RESOLUTION FORM

Service Issue Resolution Form

Project Name: ___________________________

Customer: ___________________________ Date Prepared: ___________________________

Requested By: ________________________ Phone: ___________________________

Prepared By: _________________________ Phone: ___________________________

Issue Description:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Issue Resolution:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
EXHIBIT B - RFP Response to City of Dayton

Help Desk Support Services
October 30, 2020

City of Dayton, Dept. of Information Technology
130. W. Second Street, Suite 320
Dayton, Ohio 45402
Telephone: (937)333-6323
Fax: (937)333-7825
Email: dave.johnson@daytonohio.gov

Dear Mr. Johnson:

Encore appreciates the opportunity to offer the City of Dayton this proposal for Help Desk Support Services RFP20-12IT. Encore is uniquely positioned to deliver a comprehensive support service to the City of Dayton that is scalable and provides a high touch level of support, at an aggressive cost model.

Encore is pleased to provide the enclosed proposal for the City of Dayton’s After-Hours IT Service Desk RFP. Our proposal is designed to specifically meet and exceed the goals and objectives shared in the RFP. By teaming with Encore, the City of Dayton will gain a strategic partner who has evolved into an organization with a single core ideal – to be a leader in designing, implementing, supporting, and optimizing technology-based solutions.

The skills required to meet Service Desk excellence are core to Encore. Our customer focus, passion for excellence and overall value as a services partner is evident in the loyalty of our customers.

Another contributing factor to this client loyalty is our ongoing investment in the skills of our people that results in continuously adding new technology certifications.

To assist you directly, I will serve as your Encore point of contact. You can reach me by phone, (513)307-1445, or by email, brad.fletcher@encore.tech.

We look forward to the opportunity to work with the City of Dayton on this project.

Sincerely,

Brad Fletcher

Brad Fletcher
Account Executive – Public Sector
Contents

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3.0  Requirements and Conditions for all Proposers ............................ 14
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5.0  Exhibit C – Manufacture Labor Standards: Vendor Compliance Form ........................................................................ 26
6.0  Exhibit D - Participation/Waiver Request Form ............................. 27
7.0  Addendum 1 - Acknowledgement .............................................. 30
Executive Summary

Encore is pleased to provide the enclosed proposal for the City of Dayton’s After-Hours IT Service Desk RFP. Our proposal is designed to specifically meet and exceed the goals and objectives shared in the RFP. By teaming with Encore, the City of Dayton will gain a strategic partner who has evolved into an organization with a single core ideal – to be a leader in designing, implementing, supporting, and optimizing technology-based solutions.

Encore Technologies is a full-service, global IT company with a focus on managing and deploying technology solutions to help businesses improve processes, mitigate risk, reduce cost, improve operational efficiency and secure their data.

Encore Technologies was founded in 2015 as a data center and IT services provider. In January 2016, Encore acquired elan Technologies (founded 2001) and integrated the Apple services leader with our Managed Services, Professional Services, and Value-Added Reseller business practices. The acquisition added the unique value of Apple to Encore’s strong offerings in Healthcare, Fortune 1000, Finance, and Education.

By mid-2016, Encore opened a state-of-the-art Data Center to offer colocation services. This facility forms the foundation for our extensive suite of cloud-based services. This powerful suite uniquely positions Encore to optimize, automate, and transform our customers’ IT environment while securing their data and reducing costs. Since then, Encore expanded its service offerings to include data center hosting and support, IT managed services, professional services, and IT recruitment. Utilizing a blend of on-site and remote support models, Encore develops long-term partnerships with enterprise customers to design, deploy, and maintain their IT infrastructure. A few of the industries where Encore provides services include government, healthcare, banking, Insurance, food, and educational organizations. Encore continuously looks for ways to leverage automation and new technology to help customers reduce their IT expenditure while providing the functionality they require.

We are proud of our experience, flexibility and innovative approach to solutions that maximize benefits for our clients. To achieve these benefits with the proposed Service Desk solution, Dayton needs a partner who has:

- A proven track record of performing end-user support services, in both traditional and hybrid models.
- Reference accounts that will speak to quality, client satisfaction and continuous service improvement.
- Provided innovation to the customer, including direction on the future of Artificial Intelligence.
- Reputation of being easy to do business with. We are committed to meeting and exceeding your business needs.
- Flexibility in solution design, contract terms, conditions, and pricing structures.
- Built relationships based on integrity and trust, focused on true business value.

The skills required to meet Service Desk excellence are core to Encore. Our customer focus, passion for excellence and overall value as a services partner is evident in the loyalty of our customers.

Another contributing factor to this client loyalty is our ongoing investment in the skills of our people that results in continuously adding new technology certifications.

The benefits to the Client with the Encore solution include the following:

- Comprehensive, yet simplified support model for end-user IT services.
While ITSM tool Integration is not within the scope of this offer, Encore encourages all of our customer to integrate with our Industry-Leading ITSM toolset to assure seamless ITSM tool incident updates.

- Optimized and efficient Service Desk and Network Services team leveraging an integrated support model.
- Bring Best-in-Class practices for transition and ongoing support model by providing accessibility and stability through a dedicated and experienced Program Management Organization.
- Uniform service delivery model governed by a 3-tier program management structure which ensures alignment, strategically, operationally, and tactically.
- Implement ‘Shift Left’ strategies by moving resolution of issues to most efficient support groups.
- While not included within the scope of this offer, our clients leverage our automated support tools and Artificial Intelligence to drive issue avoidance and faster resolution thus increasing end user efficiency and satisfaction. In a future state, this may be of significant benefit to the City of Dayton.
- Culture of Continual Service Improvement (CSI) with ongoing innovation and leveraging of best practices.
- Competitive pricing, cost containment and predictability.
- Remain flexible as your business needs change over time and continually focus on your satisfaction as an Encore client.

We are confident that Encore is the partner that you are seeking, and we thank you for allowing us to respond to your RFP.
1.0 Exhibit A – Letter of Transmittal

EXHIBIT A – LETTER OF TRANSMITTAL

The undersigned hereby certifies that items furnished as a result of this proposal will be in full accordance with the City of Dayton specification applying thereto unless exception are stated above.

The Proposer’s name and address exactly as it would appear in a contract:

Entity Name: SJN Data Center LLC DBA Encore Technologies

Street Address: 4620 Wesley Ave.

City, State, Zip: Cincinnati, Ohio 45212

Proposer’s Phone Number: (513)493-4764

Proposer’s Fax Number: 

Proposer’s E-mail Address: brad.fletcher@encore-tech

Form of Ownership:  ■ Sole Proprietorship  ■ Franchise  ■ Partnership  ■ Corporation
■ Joint Venture  ☑ LLC  ■ Other (Specify): 

If a corporation, state of incorporation: Ohio

Federal Identification Number (or SSN if sole proprietorship): 47-2512296

Please include your IRS Form W9 with your proposal.

I certify the proposing entity complies with City of Dayton Ordinance #30839-69 and the City’s Revised Code of General Ordinances Section 35.70 through 35.74 regarding Living Wages. ☑ Yes  ■ No

SIGNATURE: Rick Dobson

PRINTED NAME AND TITLE: SVP, Enterprise Solutions

By signing this page, you state that you are an authorized representative, and have reviewed and are presenting this proposal on behalf of your business entity. Please continue completing this exhibit on the next page.
EXHIBIT A – LETTER OF TRANSMITTAL (continued)

COMPANY PROFILE AND BACKGROUND

Name of Proposing Company:  SIN Data Center LLC DBA Encore Technologies

<table>
<thead>
<tr>
<th>Company's Primary Business</th>
<th># of Years</th>
<th># of Employees Assigned</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary Business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Technology Services</td>
<td>5 Years</td>
<td>147 employees</td>
</tr>
</tbody>
</table>

If a corporation, state of incorporation: Ohio

Current Pending Lawsuits: Please provide any and all suits either with the City of Dayton or any other Municipalities and Government Agencies including, but not limited to Federal, State, Local or other Municipalities and Government Agencies:

None

Local Office of Proposer: Office nearest to Dayton, Ohio: 4620 Wesley Ave., Cincinnati OH 45212

Federal Identification Number (or SSN if sole proprietorship): 47-2511296

Key Personnel:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Contact Information: Mailing address, telephone number, fax number and email address</th>
<th>Designated as Primary Contact for the City of Dayton? YES / NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brad Fletcher</td>
<td>Account Manager</td>
<td>513-493-4764 brad.fletcher@ encore tech</td>
<td>Yes</td>
</tr>
<tr>
<td>John Burns</td>
<td>CEO</td>
<td></td>
<td>No</td>
</tr>
<tr>
<td>John Steiner</td>
<td>Sr. Vice President</td>
<td></td>
<td>No</td>
</tr>
<tr>
<td>Brett Kiser</td>
<td>VP Public Sector</td>
<td></td>
<td>No</td>
</tr>
<tr>
<td>Brett Skinner</td>
<td>VP Enterprise Services</td>
<td></td>
<td>No</td>
</tr>
<tr>
<td>Brandon Rayls</td>
<td>Dir., Workspace Services</td>
<td></td>
<td>No</td>
</tr>
</tbody>
</table>

Current rate of employee turnover: Monthly _____ %  Annually _____ %

City of Dayton, Ohio
Request for Proposal

EXHIBIT A-2
2.0 Section 2 – Scope of Project

2.1 Purpose and Need/Project Description
The City of Dayton (City), Department of Information Technology (IT) is seeking proposals from highly experienced and professional service firms to provide remote Help Desk Support Services (Tier I) via telephone and email. These services will require but not be limited to the following features:

- Qualified personnel experienced in technical desktop troubleshooting and providing user support.
- Adequate staffing and resources to meet the City’s operational requirements as related to help desk support services.
- Support availability between the hours of 12:00 AM to 6:00 AM, 5 days a week Monday to Friday and on the weekend Saturday and Sunday for the full 24 hours, 365 days a year, to include inclement weather days and the holidays listed below. Additionally, the contractor must be able to provide emergency service coverage within an hour notification for hours outside of 12:00 AM to 6:00 AM. For context, requests for emergency service coverage have occurred less than twelve times per year.

City of Dayton 2021 Holiday Schedule
- New Year’s Day January 1, 2021
- Martin Luther King Day January 18, 2021
- President’s Day February 15, 2021
- Good Friday April 2, 2021
- Memorial Day May 15, 2021
- Independence Day July 5, 2021
- Labor Day September 6, 2021
- Thanksgiving Day November 25, 2021
- Day after Thanksgiving November 26, 2021
- Day before Christmas December 23, 2021
- Christmas Day December 24, 2021

2.2 Background Information
The City’s IT Department currently utilizes an internal browser based Open Source help desk ticket support system (i.e. OS Ticket) version 1.10, installed on a CentOS Linux server release 7.4.1708. In the near future, the City plans to implement Microsoft System Center’s Incident Reporting software.

IT’s technical application environment is supported during the hours of 6:00 AM to 12:00 AM by five (5) primary technical customer support specialists who provide application and desktop troubleshooting and manual entry of all telephone and email requests into the City’s ticket support system. From 12:00 AM to 6:00 AM, the City’s technical application environment is supported by a remote third-party vendor. The IT Department is further supported by approximately thirty (30) secondary support personnel, which includes Desk Analysts, System Analysts, System Engineers and contractors who provide advanced support to IT operations.
The IT staff currently support approximately 1,700 Windows network domain users with the majority of users utilizing Dell workstations and laptops installed with Microsoft Windows standard operating system and Office 365 products. City of Dayton, Ohio 7 Request for Proposal

Total ticket requests by year:

<table>
<thead>
<tr>
<th><strong>Tickets by Team</strong></th>
<th>2019</th>
<th>2018</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Tickets Created</td>
<td>1656</td>
<td>2460</td>
<td>2417</td>
<td>2697</td>
</tr>
<tr>
<td>IT Help Desk (1st &amp; 2nd Shifts)</td>
<td>1567 (94.63%)</td>
<td>2303 (93.62%)</td>
<td>2244 (92.84%)</td>
<td>2477 (91.84%)</td>
</tr>
<tr>
<td>IT Help Desk 3rd Shifts</td>
<td>56 (03.38%)</td>
<td>141 (05.73%)</td>
<td>142 (05.88%)</td>
<td>175 (06.49%)</td>
</tr>
<tr>
<td>Other IT Staff</td>
<td>33 (01.99%)</td>
<td>16 (00.65%)</td>
<td>31 (01.28%)</td>
<td>45 (01.67%)</td>
</tr>
</tbody>
</table>

2.3 Scope of Work

2.3.1 Contractor will be responsible for supporting the City's technical application environment. Generally, this will include basic resolution with common application issues and computer hardware configurations. Moreover, contractor personnel must also be able to immediately analyze and resolve incidents that include, but are not limited to the following:

1. Password resets for specific applications (Detailed instructions will be provided to selected contractor)

   Response
   Encore understands and will provide password resets in accordance with Dayton processes and policies while using the City of Dayton reset tools.

2. Unlock Windows Active Directory (AD) user accounts upon successful user ID verification.

   Response
   Encore understands and will provide AD account unlocks in accordance with Dayton processes and policies.

3. End user email delivery troubleshooting (Outlook settings and connectivity, including delivery to supported personal devices)

   Response
   Encore understands and will provide email support. All Encore support analysts are fully trained on all major mail platforms.

4. Basic network permission and connectivity troubleshooting, such as resolving issues for user access to their folders, files, printer access, and application access.
Response

Encore understands and will provide basic network permission and connectivity troubleshoot.

5. Responding to alerts from the following monitoring systems:

   1. Wide Area Network sites

      Response

      Encore understands and agrees to respond to WAN alerts as directed by City of Dayton provided response matrices.

   2. Public safety message servers and network switches

      Response

      Encore understands and agrees to respond to Public Safety message servers and network switch alerts as directed by City of Dayton provided response matrices.

   3. Data center physical status (A/C, water sensor, power status/UPS)

      Response

      Encore understands and agrees to respond to Data Center alerts as directed by City of Dayton provided response matrices.

   4. Other critical service systems monitored by What’s Up Gold/Splunk, which includes servers, switches, and other network enabled hardware and/or software services

      Response

      Encore understands and agrees to respond to critical service systems alerts as directed by City of Dayton provided response matrices.

2.3.2 In addition to the above requirements, the contractor personnel must possess the following qualifications:

   1. Ability to respond quickly to common inquiries or complaints from end users.

      Response

      Analyst training is a fundamental building block that Encore utilizes to ensure all support analyst provide exceptional support to our clients. All Encore support analyst will be able to quickly and accurately respond to inquiries, problems or complaints and will utilize any knowledge articles provided by the City of Dayton.

   2. Experience in technical desktop troubleshooting and providing user support.

      Response

      Encore Global Service Desk management has years of experience in Desk management and consistently finds experienced support analysts as we continue to grow. All Encore analysts are expected to possess a strong technical understanding.

   3. Experience in identifying more complex and difficult problems, which need to be escalated to a higher support tier for support.
Response
GSD analysts have the necessary skills to quickly identify complex problems and will rely upon client provided escalation matrices to ensure calls are escalated correctly.

4. Capable of working independently, establishing and managing task completion within deadlines that are responsive to end user needs.

Response
Encore GSD processes are rooted in ITIL methodologies and all analysts are trained in understanding the importance of task management and the impact each ticket may have on the entire organization.

5. Strong interpersonal and customer service skills with the ability to present solutions in a user-friendly language.

Response
Encore understands that excellent customer service is more than just a person’s technical ability. Encore Service Desk managers consistently work with agents to help them provide exceptional customer services through call review training sessions and other means.

6. Ability to effectively utilize available resources to learn and progress through unfamiliar medium.

Response
The entire Encore Global Service Desk has one continual goal... Continual Service Improvement. CSI is evident in everything we do and empowers each analyst to grow within their role.

2.3.3 Contractor personnel are also required to be certified and/or have extensive experience with the following applications:

1. Microsoft Office 365 Suite (Word, Excel, PowerPoint, Access, Teams, Outlook and One Drive)

Response
Encore understands and will comply.

2. Microsoft Operating Systems Windows 10

Response
Encore understands and will comply.

3. Microsoft Windows Server 2012-16 Services monitoring

Response
Encore understands and will comply.

4. Common Web Browsers such as Microsoft Internet Explorer/Edge, Google Chrome and Mozilla Firefox

Response
Encore understands and will comply.

5. Microsoft Outlook E-mail client including smartphone email setup
Encore understands and will comply utilizing Client provided configuration standards.

6. General Networking (LAN) device verification and troubleshooting to verify component availability

Response
Encore understands and will comply.

7. Common desktop and network printer setup

Response
Encore understands and will comply.

2.3.4 For escalated tickets, contractor personnel will be required to follow the escalation path set forth by the City’s IT Department. Additionally, as a standard business practice, contractor will be required to enter all service calls into the City’s help desk ticketing system.

If required, the City will provide contractor more specific application support information and remote training, concerning basic support of specialized City systems.

Response
Encore understands and will ensure that all documentation provided by the City of Dayton will be provided to support analysts. Discovery of missing documentation will be communicated to the City of Dayton.

2.3.5 All contractor personnel will be required to pass a criminal background check to include but not limited to fingerprinting and identity verification. The background check process is conducted through the City of Dayton Police Department with no additional cost to the contractor. If Contractor is not located within close proximity to the City, the City of Dayton Police Department will work with the contractor’s local authorities or an authorized agency to obtain fingerprinting and identity verification.

Response
Encore understands and will comply.

2.3.6 Contractor personnel will be required to participate in an annual State of Ohio Law Enforcement Agency Data System (LEADS) basic certification and security awareness training provided by the City. This certification is completed on-line through the State of Ohio LEADS organization, at no cost to the contractor.

Response
Encore understands and will comply.

2.4 Pricing Structure
Prices proposed will remain firm for acceptance within 180 calendar days after the RFP closing date.
2.4.1 Services shall commence upon execution of the contract agreement with the successful proposer by the City for the initial period from January 1, 2021 to December 31, 2021. The City will have the sole discretion to extend the terms of this agreement for three (3) additional 12-month periods from January 1, 2021 through December 31, 2024.

Response
Agreed, see Exhibit F – Pricing Schedule in the back of this document. Encore is providing annual prices for both daily 12A – 6A coverage as well as weekend coverage. However current call volume and staffing requirements would prevent us from providing only one of the time frame coverages. Each time frame’s pricing is contingent upon being awarded both time frames.

2.5 Emergency Contingency Plan
Proposers shall provide an emergency contingency plan; outlining measures and procedures for assuring continuity of staffing, communications, and equipment availability, etc. during and after emergency events. Awarded contractor will be required to provide contact names and phone numbers in the event of an emergency. This contact should be available 24 hours a day, seven days a week.

Response
Encore understands and will comply.
3.0 Requirements and Conditions for all Proposers

Provide a detailed description of any exceptions taken to the requirements of this RFP, including the City Standard Terms and Conditions in Section 3. Exceptions shall be referenced to the applicable RFP section/sub-section numbers. Any other departures from the city’s RFP are to be identified and failure to do so shall make the proposal non-responsive. City’s standard Terms for Payment are Net 30 days from date of invoice once the project is complete, unless otherwise negotiated. If you cannot comply with this, please state any changes in the Statement of Exceptions to the RFP Requirements.

Statement of Exception Response

Encore is providing annual prices for both daily, Monday – Friday, 12A – 6A coverage as well as weekend coverage. However current call volume and staffing requirements would prevent us from providing only one of the time frame coverages. Each time frame’s pricing is contingent upon being awarded both time frames.

Otherwise, Encore Agrees to all Terms and Conditions outlined in RFP 20-12IT. Responses to Article 10. Standard Terms, section C. Communications and section M. PCI Compliance are inserted below:

3.1.1 TAX EXEMPTION. All items purchased under this contract will be exempt from the State of Ohio Sales Tax as provided for in Section 5739-02(b)(1) of the Revised Code of Ohio and will be exempt from the State of Ohio Use Tax, Section 5741.02(C)(2). Blanket Certification of Exemption Forms will be furnished to the Proposer by the Division of Procurement.

Response

Agree.

3.1.2 PROPOSER AFFIDAVIT. If the successful proposer should be a corporation not incorporated under the laws of the State of Ohio, a certificate from the Secretary of State showing the rights of the successful proposer to do business in the State of Ohio shall be furnished. Each proposer is required to submit with their bid, an Affidavit stating that neither the proposer nor agents thereof, nor any other party of the proposer has paid or agreed to pay directly or indirectly, any person, firm or corporation, any money or valuable consideration for assistance in procuring or attempting to procure the contract herein referred to, and further agreeing that no such money or reward will hereafter be paid.

Response

Agree. Encore Technologies is the fictitious business name or DBA of SJN Data Center LLC and the LLC is organized under the laws of the State of Ohio.
3.1.3 PROCUREMENT ENHANCEMENT PROGRAM. It is the policy of the City to promote full and equal business opportunity to all persons doing business with the City. The City must ensure that businesses seeking to participate in contracting and procurement activities with the City are not prevented from doing so based on the race or gender of their owners. The City is committed to ensuring that it is not engaged in passive participation in any form of discrimination. (R.C.G.O. Section 35.32) It is the City of Dayton’s position to encourage the greatest participation possible on all projects connected with any aspect of the City’s auspices through the Procurement Enhancement Program (PEP). All contractors are encouraged to visit http://daytonhrc.org/business-technical-assistance/certification/ to learn more about PEP and other certification programs, and to review the list of currently certified Minority-Owned, Woman-Owned and Small Business Enterprises.

Response
Agree.

3.1.4 PROPOSER’S FINANCIAL OBLIGATION TO THE CITY. No bid may be accepted or contract awarded to any person, firm or corporation that is in arrears or in default to the City, or that is a defaulter of surety or otherwise upon any obligation to the City, or has failed to perform faithfully any previous contract with the City.

Response
Agree. No default exists.

3.1.5 PROPOSER’S INCURRED COSTS. Each proposer shall be responsible for all costs incurred in preparing a response to this RFP. All materials and documents submitted by the proposer in response to this RFP shall become the property of the City and shall not be returned. Respondents selected for further negotiations, as well as the proposer ultimately selected to enter into a contractual agreement with the City, shall be responsible for all costs incurred by it during negotiations.

Response
Agree.

3.1.6 AFFIRMATIVE ACTION ASSURANCE (AAA). The selected Contractor must file an Affirmative Action Assurance form (“AAA Form”) with the City’s Human Relations Council (HRC) and obtain approval from HRC to do business with the City. You may contact the HRC for the Rules and Regulations, and the AAA Form required of vendors of the City, at:

Human Relations Council
371 West Second Street, Suite 100
Dayton, Ohio 45402
(937) 333-1403 (Office) / (937) 222-4589 (Fax)

Failure to maintain active AAA certification with the HRC may result in termination of the contract and/or denial of future contract awards from the City. AAA certification must be updated annually via citybots.com

Response
Agree.
ARTICLE 1. TERM
The Agreement shall commence upon execution by the City and shall terminate upon expenditure of all funds provided herein or on December 31, 2021, whichever date is earlier. The City will have an option to renewal annual with the vendor at the same agreed upon initial price for three (3) years and for an additional two (2) years with an increase of 5% per year.

Response
Agree.

ARTICLE 2. SERVICES TO BE PERFORMED BY CONTRACTOR
Contractor shall provide all services necessary to complete the Services that are described in Section 2 Scope of Project.

Response
Agree.

ARTICLE 3. COMPENSATION
Contractor shall submit invoices, not more frequently than monthly, for payment of the Services provided. Such invoices shall state the invoice period, total amount requested, and Services provided during the invoice period. The City will, unless disputed, remit payment of all undisputed amounts of invoices within thirty (30) days from receipt thereof.

Response
Agree.

ARTICLE 4. CITY'S RESPONSIBILITIES
The City will furnish Contractor, at no cost or expense, all reports, records, data that might be necessary or useful to complete the Services required under this Agreement.

Response
Agree.

ARTICLE 5. STANDARD OF CARE
Contractor shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily possessed and exercised by a professional under similar circumstances. Contractor shall have no liability for defects in the Services attributable to Contractor's reliance upon or use of data or other information furnished by the City or third parties retained by the City.

If, during the one year period following completion of the Services, it is shown there is an error in the Services caused by Contractor's failure to meet such standards and City has notified Contractor in writing of any such error within that period, Contractor shall perform, at no additional cost to City, such Services within the original Project as may be necessary to remedy such error.
ARTICLE 6. INDEMNIFICATION
Contractor shall indemnify and defend the City and its elected officials, officers, employees and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions, or conduct of Contractor and its agents, employees, contractors, sub-contractors and representatives in undertaking and performing the Services.

This Article shall survive early termination or expiration of this Agreement.

ARTICLE 7. INSURANCE
During the term of this Agreement, Contractor shall maintain, at its sole cost and expense, no less than the following insurance issued by an insurance company authorized to conduct business in the State of Ohio and having an “A” rating or better by A.M. Best:

(1) General Liability Insurance, having a combined single limit of $1,000,000 for each occurrence and $1,000,000 in the aggregate.

(2) Automobile Liability Insurance, having a combined single limit of $1,000,000 for each person and $1,000,000 for each accident.

(3) Employers’ Liability Insurance, having a limit of $500,000 for each occurrence.

(4) Professional Liability Insurance, having a limit of $1,000,000 annual aggregate.

(5) Contractor shall be required to obtain a Performance bond, at Contractor’s expense, in an amount not less than $1,000,000, or such other amount as approved by the City, as a condition to award of a contract. Said bond is to be delivered to the Manager of Accounting and Treasury prior
to the beginning date of contract.

Response
Agree.

(6) Contractor shall maintain errors and omissions insurance in the amount of $1,000,000.00.

Response
Agree.

Current certificates of insurance for all policies and concurrent policies required to be maintained by Contractor pursuant to this Article shall be furnished to the City. All such insurance policies, excluding Professional Liability Insurance, shall name the City, its elected officials, officers, agents, employees, and volunteers as additional insureds, but only to the extent of the extent of the policy limits stated herein. All policies of insurance required hereunder shall contain a provision requiring a minimum of thirty (30) days advance written notice to the City in the event of cancellation or diminution of coverage.

Response
Agree.

Contractor shall also maintain Workers’ Compensation Insurance in such amounts as required by law for all employees and shall furnish to the City evidence of same.

Response
Agree.

Article 8. Ownership of Documents and Intellectual Property
Except as otherwise provided in this Agreement, documents and reports prepared by Contractor as part of the Services shall become the sole and exclusive property of the City upon payment. However, Contractor shall have the unrestricted right to their use.

Contractor shall retain its rights in pre-existing and standard scripts, databases, computer software, and other proprietary property. Rights to intellectual property that is not specifically designed or created exclusively for the City in the performance of this Agreement shall also remain the property of Contractor.

Response
Agree.

Article 9. Termination
This Agreement may be terminated by the City upon written notice in the event of substantial failure by Contractor to perform in accordance with the terms of this Agreement. Contractor shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The City may terminate or suspend performance of this Agreement for the City’s convenience upon thirty (30) days prior written notice to Contractor. In the event of termination by the City hereunder, the City will pay Contractor for Services actually provided up to the date of termination.
This Agreement may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Contractor’s assets is appointed by a court of competent jurisdiction.

2. Contractor is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Contractor’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Contractor to remedy such failure within thirty (30) days from the date of written notice from City.

4. Contractor’s violation of any applicable federal, state, or local law applicable to the Project and construction thereof or Services required by this Agreement.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Company desires to terminate this Agreement.

Any such termination shall not relieve the vendor of any liability to the City for damages sustained by virtue of any breach by the vendor. The City will be under no further monetary obligation or commitment to the vendor. The City may terminate this contract at any time upon 30 days written notice to the vendor.

In the event of termination, the City may, at its option, exercise any remedy available to it, including the Uniform Commercial Code, according to Ohio law.

Response
Agree.

ARTICLE 10. STANDARD TERMS
A. DELAY IN PERFORMANCE

Neither the City nor Contractor shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either the City or Contractor under this Agreement, provided the aforementioned circumstances are not due to the negligence or fault of the asserting party or any of its agents, employees, contractors, sub-contractors and/or representatives.

Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

Response
Agree.

B. GOVERNING LAW AND VENUE
This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws. Any arbitration, litigation or other legal matter regarding this Agreement or performance by either party must be brought in a court of competent jurisdiction in Montgomery County, Ohio.

Response
Agree.

C. COMMUNICATIONS

Any written communication or notice required or permitted by this Agreement shall be made in writing and shall be delivered personally, sent by express delivery, certified mail or first-class U.S. mail, postage pre-paid to the address specified below:

  Company Name: Encore Technologies
  Address: 4620 Wesley Drive
  City, State, Zip Code: Cincinnati, Ohio 45212
  Attention: Legal Counsel
  Title:_____________________________________

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of Contractor and the City.

Response
Agree.

D. EQUAL EMPLOYMENT OPPORTUNITY

Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off, termination, rates of pay or other forms of compensation, or selection for training, including apprenticeship.

It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton constitutes a material condition of this Agreement as fully and as if specifically rewritten herein and that failure to comply therewith shall constitute a breach thereof entitling the City to terminate this Agreement at its option and may bar Contractor from receiving future City contracts.

Response
Agree.

E. WAIVER

A waiver by the City or Contractor of any breach of this Agreement shall be in writing. Such a waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect the waiving party’s rights with respect to any other or further breach.

Response
Agree.
F. SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void, unenforceable, invalid or illegal provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision.

Response
Agree.

G. INDEPENDENT CONTRACTOR

By executing this Agreement for professional services, Contractor acknowledges and agrees that it will be providing services to the City as an “independent contractor”. As an independent contractor for the City, Contractor shall be prohibited from representing or allowing others to construe the parties’ relationship in a manner inconsistent with this Article. Contractor shall have no authority to assume or create any obligation on behalf of, or in the name of the City, without the express prior written approval of a duly authorized representative of the City.

Contractor, its employees and any persons retained or hired by Contractor to perform the duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Further, Contractor shall be responsible to withhold and pay, or cause such agents, contractors and sub-contractors to withhold and pay, all applicable local, state and federal taxes. Contractor acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System (“OPERS”) membership.

Response
Agree.

H. ASSIGNMENT

Contractor shall not assign any rights or duties under this Agreement without the prior written consent of the City. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent Contractor from employing independent Contractors, associates, and subcontractors to assist in the performance of the Services.

Response
Agree.

I. THIRD PARTY RIGHTS

Except as expressly provided in this Agreement, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Contractor.

Response
Agree.

J. AMENDMENT
The parties may mutually agree to amend this Agreement. However, no such amendment shall be effective unless it is reduced to a writing, which references this Agreement, executed by a duly authorized representative of each party and, if applicable or required, approved by the Commission of the City of Dayton, Ohio.

Response
Agree.

K. POLITICAL CONTRIBUTIONS
Contractor affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

Response
Agree.

L. INTEGRATION
This Agreement represents the entire and integrated agreement between the City and Contractor. This Agreement supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

Response
Agree.

M. PCI COMPLIANCE
Bidder/proposer ("Offeror") represents and warrants that, for the entirety of any agreement resulting from this solicitation that involves processing credit and/or debit card revenue transactions on behalf of the City of Dayton that the solution is clearly defined to warrant the following:

1. Any and all computer software, hardware, firmware, payment card processing policies, procedures and related services proposed to be utilized to process City of Dayton revenue transactions shall be:
   a. Completed by a qualified professional payment card processing firm acceptable and approved by the City of Dayton; and,

Response
Based on the proposed services in scope, PCI compliance would not be required. Should the services evolve to include components that would require PCI compliance, Encore would agree at that time.

2. Proposer shall provide and agrees to maintain the PCI compliance reporting Attestation of Compliance ("AOC") Form(s) in its/their latest version(s), or within the year of record as requested and/or in an annual transmittal to the City of Dayton.
   https://www.pcisecuritystandards.org/documents/PCI-DSS-v3_2-AOC-Merchant.docx?agreement=true&time=1493826893795
   or
Response

Based on the proposed services in scope, PCI compliance would not be required. Should the services evolve to include components that would require PCI compliance, Encore would agree at that time.

Select one of the following and initial on the adjacent line:

[X] Not Applicable (“N/A”): Encore would not be performing services that require PCI compliance.

[ ] Offeror, reviewed, understands and hereby acknowledges and affirms that its offer to the City of Dayton satisfies these requirements and shall continue to satisfy these requirements for the duration of any resulting agreement; current and relevant AOC’s are attached to demonstrate satisfaction of these requirements at the time of offer to the City of Dayton.

N. LIVING WAGE ORDINANCE

“I certify the proposing entity complies with the City of Dayton Ordinance #30829-09 and the City’s Revised Code of General Ordinances Section 35.70 through 35.74 regarding Living Wages.”

[X] YES [ ] NO
4.0 Exhibit B – References

City of Dayton, Ohio
Department of Information Technology
Help Desk Support Services
RFP No. 20-012IT
October 2020

Exhibit B – References for Proposing Company

Name of Proposing Company: Encore Technologies

List company names, addresses, and telephone numbers for at least three references presently or previously served by your Company for RFP No. 20-012IT. Do not use the City of Dayton as a reference.

***Please Coordinate Reference Calls with the Listed Contact on the Cover Page of this RFP***

Company Name: Cincinnati Children’s Hospital Medical Center

Address: 3333 Burnet Ave., Cincinnati, OH 45229

Contact Person: Steve Wilke, Senior Director Information Technology

Telephone Number: 513-307-1445 Fax Number: 

Email Address: brad.fletcher@encore.tech

Company Name: Fifth Third Bank

Address: 38 Fountain Square Plaza, Cincinnati, OH 45263

Contact Person: Thomas Krizsa, Director Enterprise Employee Services at Fifth Third

Telephone Number: 513-307-1445 Fax Number: 

Email Address: brad.fletcher@encore.tech
<table>
<thead>
<tr>
<th><strong>Company Name:</strong></th>
<th>Jefferson Community and Technical College</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Address:</strong></td>
<td>109 East Broadway, Louisville, KY 40202</td>
</tr>
<tr>
<td><strong>Contact Person:</strong></td>
<td>Thomas Rogers, CIO</td>
</tr>
<tr>
<td><strong>Telephone Number:</strong></td>
<td>513-307-1445</td>
</tr>
<tr>
<td><strong>Fax Number:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Email Address:</strong></td>
<td><a href="mailto:brad.fletcher@encore.tech">brad.fletcher@encore.tech</a></td>
</tr>
</tbody>
</table>
5.0 Exhibit C – Manufacture Labor Standards: Vendor Compliance Form

EXHIBIT C – PRODUCT MANUFACTURE LABOR STANDARDS: VENDOR COMPLIANCE FORM

By informal resolution 301-97, the City of Dayton is prohibited from purchasing, leasing, renting or taking on consignment goods for use or for resale by the City which were produced under sweatshop conditions.

The City of Dayton requests the following information concerning the products you intend to provide to the City as a result of this bid. This information will allow us to determine your products’ compliance with the standards outlined in informal resolutions 301-97.

We require that you make a good faith effort to ascertain the following about the factories which manufacture the products you intend to supply to the City and that you make information available to us for our verification of your claims.

Child Labor. The factory or producer does not employ anybody younger than the legal age as established by the jurisdiction in which such factory or producer is located for children to work or participate in the production.

Forced Labor. The factory or producer does not use forced labor of any kind-prison labor, indentured labor or bonded labor. However, goods produced by prisoners and/or patients as part of a formal rehabilitation or treatment program shall not be considered “forced labor” under the terms of this section.

Wages and Benefits. The factory or producer pays and/or provides at least the minimum wages and/or benefits as required by law in the jurisdiction in which the factory or producer is located.

Hours of Work. Employees are not required to work more hours than the maximum allowed by law for the jurisdiction in which the factory or producer is located.

Worker Rights. The factory or producer makes available to its employees such rights and procedures as required by law for the jurisdiction in which the factory or producer is located.

Health and Safety. The factory or producer provides at least the minimum safe and healthy working environment as required by law for the jurisdiction in which the factory or producer is located.

Notice to Employees. The factory or producer provides any and all applicable notices to its workers as required by law for the jurisdiction in which the factory or producer is located.

This compliance form must be submitted with your bid. If at any time your products are found to be out of compliance with these standards, or if you refuse to provide information to the City for our verification of compliance, the City reserves the right to terminate contracts for those products.

City of Dayton Ref. No.: RFP 20-012IT

Bidding Company: SN Data Center LLC DBA Encore Technologies
Address: 4620 Wesley Ave., Cincinnati, Oh 45212

Signature/Title: Rick Dobson SVP, Enterprise Solutions
Federal I.D.#: 47-2512296
Phone No.: (513)493-4764
Fax No.: 

City of Dayton, Ohio Request for Proposal EXHIBIT C-1
6.0 Exhibit D - Participation/Waiver Request Form

DAYTON
City of Dayton, Ohio
Department of Information Technology
Help Desk Support Services
RFP No. 20-012IT
October 2020
EXHIBIT D – PARTICIPATION/WAIVER REQUEST FORM

Business Income Tax Questionnaire
The following information is required to determine your City of Dayton, Ohio income tax liability. Feb. 1 and that you are required.

Type of Tax Filing: (check all that apply)
1. Employee Withholding
2. Corporate Earnings
3. Individual Ownership Earnings
4. Partnership Earnings

Company Name: SIN Data Center LLC DBA Encore Technologies
Phone #: 513-493-4764
Mailing Address: 4620 Wesley Ave.
City: Cincinnati
State: OH
Zip: 45212
Local Business Address:

Check the jurisdictions that we administer that you operate in:
1. Dayton City Limits
2. Dayton Wright Brothers Airport
3. Dayton International Airport

Date Business Started in Our Taxing Jurisdiction:
Your Accounting Period?

Withholding Information: "Quarterly Withholding cannot exceed $500.00"

Do you have employees? Yes [X] or No [ ]
Date First Employee Started Working in Our Jurisdiction:

Do you submit withholdings QUARTERLY or MONTHLY?

Is this a quarterly withholding for your employees who are residents of the above cities only? Yes [X] or No [ ]

Do you rent or sublease property or space in the Dayton jurisdiction to another business or individual? Yes [X] or No [ ]

If so list Names, Addresses, and Tax ID below. If Yes, do they have employees working at that location? Yes [X] or No [ ]

Do you use Subcontractors? Yes [X] or No [ ]

If so list Names, Addresses, and Federal Social Security Numbers below:

If you have filed returns with our office before, show Name and Tax ID #s used, and for what tax years you filed:

Full name of Owner of Company:

If this is a change of ownership, please provide the date of change, the name, address, and phone number of former owner:

If you are not liable to pay taxes in our jurisdiction, please explain why.

All services will be delivered remotely outside of Dayton City Limits.

Rick Dobson
Title: SVP, Enterprise Solutions
Date: October 29, 2020

Thank you for your cooperation. If you have questions, please call our office at 937-333-3500. For more tax information, visit our website at www.daytonohio.gov.

City of Dayton, Ohio
Division of Revenue & Taxation
101 West 3rd Street P.O. Box 2808
Dayton, Ohio 45401
(937) 333-3500 – Fax (937) 333-4280
CS.025

City of Dayton, Ohio
Request for Proposal

EXHIBIT D-1
EXHIBIT F – Pricing Schedule

Please provide annual pricing and cost breakdown:

Help Desk Support Services: Coverage from 12:00 AM to 6:00 AM, 7 days a week, 365 days a year

<table>
<thead>
<tr>
<th>Coverage Period</th>
<th>Annual Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 1 (Jan. 1, 2021 – Dec. 31, 2021)</td>
<td>$ 12,556.72</td>
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</tbody>
</table>

**Annual Cost Breakdown**

<table>
<thead>
<tr>
<th>Staffing</th>
<th>$ 12,556.72</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licensing</td>
<td>$</td>
</tr>
<tr>
<td>Maintenance</td>
<td>$</td>
</tr>
<tr>
<td>Other Recurring Costs</td>
<td>$</td>
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<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Year 2 (Jan. 1, 2022 – Dec. 31, 2022)</td>
<td>$ 12,807.86</td>
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</tbody>
</table>

**Annual Cost Breakdown**

<table>
<thead>
<tr>
<th>Staffing</th>
<th>$ 12,807.86</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licensing</td>
<td>$</td>
</tr>
<tr>
<td>Maintenance</td>
<td>$</td>
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<tr>
<td>Other Recurring Costs</td>
<td>$</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Coverage Period</th>
<th>Annual Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 3 (Jan. 1, 2023 – Dec. 31, 2023)</td>
<td>$ 13,064.01</td>
</tr>
</tbody>
</table>

**Annual Cost Breakdown**

<table>
<thead>
<tr>
<th>Staffing</th>
<th>$ 13,064.01</th>
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</thead>
<tbody>
<tr>
<td>Licensing</td>
<td>$</td>
</tr>
<tr>
<td>Maintenance</td>
<td>$</td>
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<tr>
<td>Other Recurring Costs</td>
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<table>
<thead>
<tr>
<th>Coverage Period</th>
<th>Annual Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 4 (Jan. 1, 2024 – Dec. 31, 2024)</td>
<td>$ 13,325.29</td>
</tr>
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</table>

**Annual Cost Breakdown**

<table>
<thead>
<tr>
<th>Staffing</th>
<th>$ 13,325.29</th>
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</thead>
<tbody>
<tr>
<td>Licensing</td>
<td>$</td>
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<tr>
<td>Maintenance</td>
<td>$</td>
</tr>
<tr>
<td>Other Recurring Costs</td>
<td>$</td>
</tr>
</tbody>
</table>

Additionally, the City requests additional pricing to provide optional weekend coverage support:
City of Dayton, Ohio  
Department of Information Technology  
Help Desk Support Services  
RFP No. 20-012IT  
October 2020

Help Desk Support Services: Full coverage Saturday through Sunday

<table>
<thead>
<tr>
<th>Coverage Period</th>
<th>Annual Price</th>
</tr>
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<tbody>
<tr>
<td>Year 1 (Jan. 1, 2021 – Dec. 31, 2021)</td>
<td>$ 8,371.15</td>
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<tr>
<td>Annual Cost Breakdown</td>
<td></td>
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<tr>
<td>Staffing</td>
<td>$ 8,371.15</td>
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<tr>
<td>Licensing</td>
<td>$</td>
</tr>
<tr>
<td>Maintenance</td>
<td>$</td>
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<tr>
<td>Other Recurring Costs</td>
<td>$</td>
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<table>
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<tr>
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<td>Annual Cost Breakdown</td>
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<tr>
<td>Staffing</td>
<td>$ 8,538.57</td>
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<td>Maintenance</td>
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<tr>
<td>Other Recurring Costs</td>
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<table>
<thead>
<tr>
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<tr>
<td>Year 3 (Jan. 1, 2023 – Dec. 31, 2023)</td>
<td>$ 8,709.34</td>
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<tr>
<td>Annual Cost Breakdown</td>
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<tr>
<td>Staffing</td>
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<td>Licensing</td>
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<td>Maintenance</td>
<td>$</td>
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<tr>
<td>Other Recurring Costs</td>
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<table>
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<td>$ 8,883.53</td>
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<tr>
<td>Annual Cost Breakdown</td>
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<tr>
<td>Staffing</td>
<td>$ 8,883.53</td>
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<tr>
<td>Licensing</td>
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<td>Maintenance</td>
<td>$</td>
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<tr>
<td>Other Recurring Costs</td>
<td>$</td>
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</tbody>
</table>
7.0 Addendum 1 - Acknowledgement

October 23, 2020

TO: Proposers on RFP No. 20-012IT

FROM: City of Dayton, Ohio
       Department of Procurement, Management and Budget

SUBJECT: ADDENDUM 1 – Questions and Answers for the above RFP

The City of Dayton has received questions relating to RFP No. 20-012IT.

The following are the questions with answers for this RFP. Please consider this document in preparation of your proposal response. In the answers to these questions the City of Dayton shall be denoted as “City”.

To ensure the integrity of the RFP process, a signed copy of this RFP addendum notice shall be included with your company’s response to this document.

Rick Dobson October 29, 2020
(Print Name) (Date)

Rick Dobson
(Signature)

SJN Data Center LLC dba Encore Technologies
(Company Name)

Sincerely,

J2

Javon S. Lewis, CPPB
Senior Buyer

City of Dayton's RFP No. 20-012IT Addendum 1

©Encore Technologies – Confidential and Proprietary
A RESOLUTION

Objecting to the Issuance of Liquor Permit No. 60766850015, Modern Food & Gas LLC., 2951 Salem Ave., Dayton, OH 45406; and, Declaring an Emergency.

WHEREAS, Section 4303.26 of the Ohio Revised Code ("ORC") authorizes the legislative authority of a municipal corporation to object to the issuance, transfer, or change of location of liquor permits issued under ORC Sections 4303.11 through 4303.184 within its boundaries and request a hearing thereon; and,

WHEREAS, This Commission caused an investigation to be made by several departments of the City of Dayton and received objections concerning this permit premises; and,

WHEREAS, For the usual and daily operation of City departments and the immediate preservation of public peace, property, health, and safety, it is necessary that this Resolution take effect immediately upon passage; now, therefore,

BE IT RESOLVED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That this Commission objects to the issuance of Liquor Permit No. 60766850015, Modern Food & Gas LLC., 2951 Salem Ave., Dayton, OH 45406, for all the statutory reasons provided in ORC Section 4303.292, as well as for the reasons stated in the preamble, and that this Commission requests that the Division of Liquor Control also reject the application for good cause.

Section 2. That two (2) certified copies of this resolution, together with a request that a hearing be held in the City of Dayton, the county seat of the county in which said permit premises are located, be sent to the Superintendent of the Ohio Division of Liquor Control no later than January 28, 2021.

Section 3. That the Law Director of the City of Dayton, or the Law Director’s designee, is authorized and directed to appear on behalf of this Commission before the Ohio Division of Liquor Control, at such time and place as a hearing is scheduled with respect to the objection to the transfer of said permit, and to state this Commission's reasons for objecting to the transfer of the said permit and submit evidence in support thereof.

Section 4. That for the reasons set forth in the preamble, this Resolution is declared to be an emergency and shall take effect immediately upon adoption.
STATEMENT OF THE CHIEF LEGAL OFFICER

The undersigned, Barbara J. Doseck, City Attorney of the City of Dayton, Ohio, hereby states that she has reviewed the reports of the Department of Police regarding the advisability of the issuance of Liquor Permit No. 60766850015, Modern Food & Gas LLC., 2951 Salem Ave., Dayton, OH 45406, and that the facts alleged in such reports, if true, constitute, in her opinion, substantial legal grounds, within the meaning and intent of division (A) Section 4303.292 of the Revised Code of Ohio, for denying the renewal of said permit.

Barbara J. Doseck
City Attorney
January 12, 2021

TO: Shelley Dickstein  
City Manager

FROM: Barbara J. Doseck  
City Attorney

SUBJECT: Liquor License Permit No. 60766850015  
Modern Food & Gas LLC.  
2951 Salem Ave.  
Dayton, Ohio 45406

This office has prepared legislation objecting to the issuance of a liquor permit located at 2951 Salem Ave. Dayton, OH ("Liquor Permit"). The attached resolution objects to this issuance of the Liquor Permit and requests a hearing on the merits of that objection must be voted upon at the January 20, 2021, City Commission Meeting.

The Police Department conducted an investigation concerning the issuance of the Liquor Permit. The Police Department did not formulate an objection to the Liquor Permit. However, the Planning Department sought input from the surrounding neighborhood associations and other concerned residents. The Fairview Neighborhood Association and the Dayton View Triangle Federation both recommended an objection to the issuance of the Liquor Permit. In addition, the Planning Department received several responses from residents concerning their opposition to the issuance of this Liquor Permit. The resident and the both associations opposition is based on the potential impact that a liquor establishment would have on the public decency, peace, good order, and sobriety of the neighborhood and the saturation of liquor establishments on the Salem corridor. Specifically, the associations reference their previous experience with the AM/PM Market located a few blocks south of this proposed establishment.

Please find the attached Resolution objecting to this Liquor Permit.

Should you have any questions or concerns, please do not hesitate to contact me or Assistant City Attorney Martin Gehres.

BJD/mwg

Attachment

cc: Chief Biehl  
Asst. Chief Carper  
Martin Gehres
January 6, 2021

T0: Barbara Doseck, Law Director
    Department of Law

FROM: Rashella Lavender
      Clerk of Commission

SUBJECT: Liquor Application

MODERN FOOD & GAS LLC
2951 SALEM AVE
DAYTON, OHIO 45406

Liquor License Application No. 60766850015 (NEW)

Please review the attached information and based upon your analysis, prepare the necessary legislation, if you so desire on this new liquor application. Please note there is no Objection from the Dayton Police Department.

If the Law Department determines that an objection should be cited, then the legislation should be prepared for the January 13, 2021, City Commission Meeting and postmarked back to Ohio Department Liquor Control by January 28, 2021.

If you have any questions, please contact me. Thank you for your consideration in this matter.

RL/amj

Attachments

cc: Regina Blackshear, City Commission, City Manager’s Office
December 10, 2020

CLERK OF DAYTON CITY COUNCIL
101 W THIRD ST
P O BOX 22
DAYTON OHIO 45401

Re: NEW C1 C2 D6 PERMIT #60766850015
MODERN FOOD & GAS LLC
2951 SALEM AVE
DAYTON OH 45406

Dear Legislative Authority:

In reference to the above captioned application, and your request, a 30-day extension has been granted from December 28, 2020 to January 28, 2021.

If you should have any questions concerning this matter, please feel free to contact this office at the below address or phone number.

Licensing Processing Section

AK: mj

Rev. 6-06
December 8, 2020

Mr. Jim Canepa, Superintendent
Division of Liquor Control
Ohio Department of Commerce
6606 Tussing Road
P.O. Box 4005
Reynoldsburg, OH 43068-90005

RE: New Liquor Permit #60766850015 (NEW)
Modern Food & Gas LLC
2951 Salem Ave
Dayton, Ohio 45406

Dear Mr. Canepa:

Pursuant to Ohio Revised Code Section 4303.26(A), the Dayton City Commission, as the legislative authority for the City of Dayton, requests an additional thirty (30) days to determine an objection to the permit listed above. The Department of Liquor Control established December 28, 2020, as the deadline for objecting to the liquor permit.

Thank you in advance for your assistance in this matter.

Sincerely,

Rashella Lavender
Clerk of Commission

cc: Law Department
FAX CONFIRMATION

Sent by:
Name: Fax Sender
Voice Number: 333-3636
Fax Number: 
RightFax ID: ANITA.JOHNSON

Sent to:
Name: Liquor Control
Company:
Number/Address: 916146443166
Voice Number: 
Remote CSID: Unknown

Details:
Type: Fax
Cover Sheet: has a cover page
Body Pages: 1
Billing Code #1: 
Billing Code #2: 
Unique ID: ANI5FCFABEB2563
Fax Channel: 1
Scanning Device:
Scanned at: Tue Dec 8 16:37:50 2020
Submitted at: Tue Dec 8 16:38:03 2020
Completed at: Tue Dec 8 16:38:18 2020
# City of Dayton
## Liquor Permit Investigation

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<th>Category</th>
<th>Details</th>
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<tbody>
<tr>
<td>Renewal:</td>
<td>Transfer: NEW</td>
</tr>
<tr>
<td>Permit DBA:</td>
<td>Modern Food &amp; Gas LLC</td>
</tr>
<tr>
<td>Permit Address:</td>
<td>2951 Salem Av.</td>
</tr>
<tr>
<td>City, State, Zip:</td>
<td>Dayton, Ohio 45406</td>
</tr>
<tr>
<td>Applicant Name:</td>
<td>Khushboo Dhawan</td>
</tr>
<tr>
<td>Applicant Address:</td>
<td>6846 Southampton Ln. West Chester, Ohio 45069</td>
</tr>
<tr>
<td>Company Name:</td>
<td>Modern Food &amp; Gas LLC</td>
</tr>
<tr>
<td>Date Received by Commission Clerk:</td>
<td>December 8, 2020</td>
</tr>
<tr>
<td>Due Date:</td>
<td>December 18, 2020</td>
</tr>
<tr>
<td>Date Received by Police Department:</td>
<td>December 8, 2020</td>
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<tr>
<td>Due Date:</td>
<td>December 18, 2020</td>
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### Investigation Area

<table>
<thead>
<tr>
<th>Priority Board</th>
<th>Police District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Person Contacted: PLN (Planning Department)</td>
<td>Person Contacted: Lt. Matthew T. Beavers</td>
</tr>
<tr>
<td>Date Contacted: December 9, 2020</td>
<td>Date Contacted: December 9, 2020</td>
</tr>
<tr>
<td>Date of Response:</td>
<td>Date of Response: December 11, 2020</td>
</tr>
<tr>
<td>Objection: Information being sent</td>
<td>Objection: No</td>
</tr>
</tbody>
</table>

- Police Reports Attached: No
- Zoning Information Attached: No
- Investigator Narcotics Bureau: Clifford W. Ullery  
  Date: 12/15/20
- Sergeant Narcotics Bureau: Sergeant Jon M. Zimmerman  
  Date: 12/16/20
- Commander Narcotics Bureau: Lieutenant Mark A. Potocnik  
  Date: 12/15/20
- Superintendent IAS: Major Brian D. Johns  
  Date: 12/13/20
- Assistant Chief of Police: Lieutenant Colonel Matthew M. Carper  
  Date: 12/30/20
- Recommendation of Assistant Chief of Police: Objection: Yes: No:

| Date Commission Clerk Received: | 1/4/20 |
| Law Department Review:          |       |
| City Manager’s Approval:        |       |
Business Name and Address: Modern Food & Gas LLC
2951 Salem Av.
Dayton, Ohio 45406

Doing Business As: Modern Food & Gas LLC

Permit Number: 60766850015

Class and Type of Permit: C1
ORC 4303.11 Beer only in original sealed container for carry out only.

Location/Demographics: This establishment is located along a major thoroughfare in proximity to a residential neighborhood.

Officers and /or Managing Members: Khushboo Dhawan 50% Membership interest
Harinder Kaur Toor 50% Membership interest

Other Liquor Permits: N/A

Liquor Permit Violations and/or Criminal History: There are no liquor violations and no criminal history.

Commander and Division: Lt. Matthew T. Beavers of the West Patrol Operations Division has no objection.
Cliff,

These are due to the Major on December 18.

Thanks!

DAYTON

Teri Hubbard
Administrative Typist C
Department of Police
Investigations and Administrative Services | City of Dayton
335 West Third Street, Room 280 | Dayton, Ohio 45402
Office 937.333.1109 | Fax 937.333.1323 | www.daytonohio.gov

From: Johnson, Anita <Anita.Johnson@daytonohio.gov>
Sent: Tuesday, December 8, 2020 4:26 PM
To: Beckham, Darius <Darius.Beckham@daytonohio.gov>; Blackshear, Regina <Regina.Blackshear@daytonohio.gov>; Burns, Lynette <Lynette.Burns@daytonohio.gov>; 'Dan Kennedy <kennedydanster@gmail.com>; Daugherty, Carl <Carl.Daugherty@daytonohio.gov>; 'dave powers' <dp313@sbcglobal.net>; 'dkgreer@ameritech.net'; Fairchild, Darryl <Darryl.Fairchild@daytonohio.gov>; Fletcher, Lisa <Lisa.Fletcher@daytonohio.gov>; Fugate, Carla <Carla.Fugate@daytonohio.gov>; Gehres, Martin <Martin.Gehres@daytonohio.gov>; Heyob, Joseph <Joseph.Heyob@daytonohio.gov>; Hubbard, Teri <Teri.Hubbard@daytonohio.gov>; Jackson, Verletta <Verletta.Jackson@daytonohio.gov>; James, Nick <Nick.James@daytonohio.gov>; 'Jennifer Nayler' <jnaylor@dps.k12.oh.us>; Joseph, Matt <Matt.Joseph@daytonohio.gov>; Kroeger, Tony <Tony.Kroeger@daytonohio.gov>; Lavender, Rashella <Rashella.Lavender@daytonohio.gov>; Lewis, Jordan <Jordan.Lewis@daytonohio.gov>; 'mary ellington' <innerwestcdc@yahoo.com>; Michael Martin <deightnmik@aol.com>; Mims Jr, Jeffrey <Jeffrey.MimsJr@daytonohio.gov>; Parker, John <John.Parker@daytonohio.gov>; Ponichtera, Mark <Mark.Ponichtera@daytonohio.gov>; 'ron lee' <silverfoxlee@woh.rr.com>; Sampson, Tyrone <Tyrone.Sampson@daytonohio.gov>; Schaller, Margaret <Margaret.Schaller@daytonohio.gov>; Shaw, Christopher <Christopher.Saw@daytonohio.gov>; Spreng, Elizabeth <Elizabeth.Spreng@daytonohio.gov>; 'steve seboldt' <steve.seboldt@gmail.com>; Trump, Whitney <Whitney.Trump@daytonohio.gov>; Ullery, Clifford <Clifford.Ullery@daytonohio.gov>; Walker, Ariel <Ariel.Walker@daytonohio.gov>; Whaley, Nan <Nan.Whalley@daytonohio.gov>; Zeck, Laura <Laura.Zeck@daytonohio.gov>; Zimmerman, Jon <Jon.Zimmerman@daytonohio.gov>

Subject: Liquor Application for NTI Lawn Care LLC dba NTI Bluespoon Cafe and Modern Food & Gas LLC
All,

Here are the latest application requests.

Thanks

Anita M. Johnson
Secretary to the Clerk of Commission/Executive Assistant
City Commission Office  |  City of Dayton
101 West Third St., Second Floor  |  Dayton, Ohio 45402
Office 937.333.3636  |  Fax 937.333.4297  |  www.daytonohio.gov
anita.johnson@daytonohio.gov  #DaytonCounts 2020CENSUS.GOV
This notice is sent to you in compliance with Section 4303.26 of the Ohio Revised Code and will serve as official notification of the filing of a permit application.

Depending on the applicant's business entity, enclosed please find a copy of the pending applicant's ownership disclosure form 4029 (Non Profit Entity Disclosure), Form 4030 (Stockholder Disclosure), Form 4031 (Partnership Disclosure), or Form 4032 (Limited Liability Company Disclosure) which lists those individuals who will have an interest in the above captioned permit.

In some instances, the Division will require a background check to be completed by your agency. If enclosed, please complete the Personal History Police Check(s), and return it/them in the enclosed postage paid envelope. If needed, we will submit the forms once received from the applicant at a later date for completion.

The chief police officer of each political subdivision may appear and testify in person or through a representative at any hearing held on the advisability of the issuance or transfer of a permit. However, Section 4303.26 O.R.C. DOES NOT give the police officer the right to request a hearing. If a hearing is desired, the chief police officer should contact the legislative authority (City or Village Council, or Board of County Commissioners, or Board of Township Trustees) and have that entity request a hearing.

The police department may submit any information to the Division relevant to the issuance or transfer of the permit, even if a formal hearing is not requested and conducted. This should be done by a separate letter with supporting documentation. The Division appreciates your statements and concerns regarding the pending application.
OWNERSHIP DISCLOSURE INFORMATION

This online service will allow you to obtain ownership disclosure information for issued and pending retail liquor permit entities within the State of Ohio.

Searching Instructions

Enter the known information and click the "Search" button. For best results, search only ONE criteria at a time. If you try to put too much information and it does not match exactly, the search will return a message "No records to display".

The information is sorted based on the Permit Number in ascending order.

To do another search, click the "Reset" button.

<table>
<thead>
<tr>
<th>Permit Number</th>
<th>Permit Name / DBA</th>
<th>Member / Officer Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>60766850015</td>
<td>MOLSON CO. LTD.</td>
<td>HARINDER K TOOR</td>
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<tr>
<td></td>
<td>AS LLC, DBA:</td>
<td>KHUSHBOO DHAWAN</td>
</tr>
<tr>
<td></td>
<td>Address: 2951 SALEM AVE DAYTON 45406</td>
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<tr>
<td></td>
<td>5% VOTING</td>
<td>5% VOTING</td>
</tr>
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</table>

- Ohio.Gov
- Ohio Department of Commerce

Commerce Home | Press Room | CPI Policy | Privacy Statement | Public Records Request Policy | Disclaimer | Employment | Contacts

https://www.comapps.ohio.gov/liqr/liqr_apps/PermitLookup/PermitHolderOwnership.aspx 11/27/2020
# Limited Liability Company (LLC) Disclosure Form

**SECTION A.**

<table>
<thead>
<tr>
<th>Name of Limited Liability Company: MODERN FOOD &amp; GAS LLC</th>
<th>DBA Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permit Premises Address: 2951 SALEM AVENUE</td>
<td>City: DAYTON</td>
</tr>
<tr>
<td>Township, if outside city limits:</td>
<td>State: OH</td>
</tr>
<tr>
<td>Email Address: <a href="mailto:sevenstarpropertiesllc@gmail.com">sevenstarpropertiesllc@gmail.com</a></td>
<td>Zip Code: 45406</td>
</tr>
</tbody>
</table>

**Limited Liability Company ("LLC") - Chapter 1705 Ohio Revised Code.** Indicate below the managing members, LLC Officers, and all persons with a 5% or more membership or voting interest.

Please be advised that any social security numbers provided to the Division of Liquor Control in this application may be released to the Department of Public Safety, the Ohio Department of Taxation, the Ohio Attorney General, or to any other state or local law enforcement agency if the agency requests the social security number to conduct an investigation, implement an enforcement action, or collect taxes.

**SECTION B.** List the top five (5) officers of the Limited Liability Company.

<table>
<thead>
<tr>
<th>NAME OF OFFICER: (if an office is NOT held, please write &quot;NONE&quot;)</th>
<th>SOCIAL SECURITY NUMBER</th>
<th>DATE OF BIRTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>CEO</td>
<td></td>
<td></td>
</tr>
<tr>
<td>President</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vice-President</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Secretary</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Treasurer/CFO</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**SECTION C.** List the managing members and all persons with a 5% or more membership or voting interest in the LLC.

<table>
<thead>
<tr>
<th>Name</th>
<th>Social Security No.</th>
<th>Tax Identification No.</th>
<th>Telephone No.</th>
<th>Birthdate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Iharinder Kaur Toor</td>
<td></td>
<td></td>
<td>513-225-7239</td>
<td>1/16/79</td>
</tr>
<tr>
<td>6385 Coach House Way</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Liberty Township</td>
<td>OH</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zipcode: 45011</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>Social Security No.</th>
<th>Tax Identification No.</th>
<th>Telephone No.</th>
<th>Birthdate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Khushboo Dhawan</td>
<td></td>
<td></td>
<td>513-713-3773</td>
<td>9/28/83</td>
</tr>
<tr>
<td>6846 Southampton Lane</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West Chester</td>
<td>OH</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zipcode: 45069</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

See Page 2 to list additional members. Individuals listed in both Sections B and C must have a background check performed by BCI and submit a Personal History Background Form. The background check process can be found at https://www.com.ohio.gov/documents/lqrr_FingerPrint.pdf.

**CERTIFICATION OF FORM:**

By signing below, I certify that I have authority to execute this document and the information provided is true, correct and complete to the best of my knowledge and belief.

**Member**

- **Position**: 
- **Address**: 6846 Southampton Lane
- **City**: West Chester
- **State**: OH
- **Zip Code**: 45069
- **Telephone Number**: 513-713-3773

---

Rev. 5/13/2019

614 | 644-2360
Fax 614 | 644 3166
TTY/TTD 888 | 716 8750
www.com.ohio.gov

An Equal Opportunity Employer and Service Provider
Personal History Background Form

THE APPLICANT IS NOT TO PERFORM THIS CHECK. DO NOT TAKE THIS FORM TO YOUR LOCAL POLICE AUTHORITY.

The Division of Liquor Control will conduct a background check with the local authorities, who will complete Section B.

SECTION A. The applicant is required to complete Section A only

Name (Last) TOOR  (First) HARINDER  (Middle) Kaur

Height 5 ft  5 in. Weight

Alias used or Maiden Name ☐ Male ☒ Female Phone Number 513-225-7239

Social Security Number

Residence Address 6385 Coach House Way City Liberty Twp. State OH ZIP Code 45011

Date of Birth 1/16/79 Are you a U.S. Citizen? ☒ YES ☐ NO Place of Birth INDIA

Marital Status: Married Spouse's Name (Last) TOOR (First) JAGROOP (Middle)

Permit Address: 2951 SALEM AVENUE, DAYTON, OH 45406

SIGNATURE REQUIRED BY LOCAL LAW ENFORCEMENT, GIVING AUTHORIZATION FOR RECORD CHECK

x

PLEASE READ: The Division of Liquor Control will submit this form to the local police authority to conduct a background check, and Section B will be completed at that time.

SECTION B. THIS SECTION IS FOR LAW ENFORCEMENT USE ONLY

Please complete the information below, and either fax to 614-644-3156, OR mail to:

Division of Liquor Control
6606 Tussing Rd
Reynoldsburg, OH 43068-8005

1) Does applicant have a police record? ☐ YES

If Yes, give details

2) Does local police department know of any reason why permit should not be issued? ☐ YES

If YES, please attach supporting evidence.

Please complete the information below:

Police Department Name

Signature of Authorized Official (We cannot accept a stamped signature)

Date of Signature

12/15/20
Personal History Background Form

THE APPLICANT IS NOT TO PERFORM THIS CHECK. DO NOT TAKE THIS FORM TO YOUR LOCAL POLICE AUTHORITY.
The Division of Liquor Control will conduct a background check with the local authorities, who will complete Section B.

SECTION A. The applicant is required to complete Section A only

<table>
<thead>
<tr>
<th>Name (Last)</th>
<th>Name (First)</th>
<th>Name (Middle)</th>
<th>Height</th>
<th>Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>DHAWAN</td>
<td>KHUSHBOO</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Alias used or Maiden Name</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Phone Number</th>
<th>Social Security Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>513-713-3773</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Residence Address</th>
<th>City</th>
<th>State</th>
<th>ZIP Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>6846 Southampton Lane</td>
<td>West Chester</td>
<td>OH</td>
<td>45069</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date of Birth</th>
<th>Are you a U.S. Citizen?</th>
<th>Place of Birth</th>
</tr>
</thead>
<tbody>
<tr>
<td>9/28/83</td>
<td>YES</td>
<td>INDIA</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Marital Status</th>
<th>Spouse's Name (Last)</th>
<th>(First)</th>
<th>(Middle)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Married</td>
<td>KUMAR</td>
<td>RAJINDER</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Permit Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>2951 SALEM AVENUE, DAYTON, OH 45406</td>
</tr>
</tbody>
</table>

SIGNATURE REQUIRED BY LOCAL LAW ENFORCEMENT, GIVING AUTHORIZATION FOR RECORD CHECK

[Signature]

PLEASE READ: The Division of Liquor Control will submit this form to the local police authority to conduct a background check, and Section B will be completed at that time.

SECTION B. THIS SECTION IS FOR LAW ENFORCEMENT USE ONLY

Please complete the information below, and either fax to 614-644-3166, OR mail to:
Division of Liquor Control
6605 Tussing Rd
Reynoldsburg, OH 43068-9005

1) Does applicant have a police record? YES
If Yes, give details

2) Does local police department know of any reason why permit should NOT be granted?
If YES, please attach supporting evidence.

Please complete the information below:

[Dayton Police Dept]

Signature of Authorized Official
(We cannot accept a stamped signature)

[Signature]

Date of Signature: 12/15/20
Incident Detailed Report

Incident #: DA20100300000478

Summary

Location: 2951 SALEM AVE
Loc Name: KEY BANK
City: DAYTON
Description: Subdiv:
Building: Apt/Unit:
Floor:

Status: Closed
Inc Type: ACC
Mod Circ: CHECKCRASH
Agency ID: DA
Sector: WP2

Report #: L (DA/DA346)
Disposition:

Dispatch

Unit(s): DA/DA346 (Officers: DA/BROWN H RILEY, DA/RICE W JOHN) (Primary)

Comments

22:12:58 10/3/2020
SOS EMERGENCY BUTTON PRESSED AND NO CONTACT WITH CUSTOMER. REF # 60521169 2019 RAM 1500 DARK RED.

Persons

Name: , SIRIUS XM EMERGENCY SERVICES
Role: INITIAL CALLER
Address:
City:
Phone: (877) 324-7816
Gender:
Race:
Height:
Hair:
Eyes:
Misc:

Name: 
Role: INVOLVED
Address:
City:
Phone: U
Gender: U
Race:
Height:
Hair:
Eyes:
Misc:
Vehicles

Premise Hazard

Note: The number of premise hazard printed was limited to 1. There were additional premise hazard not printed. Incomplete Printout (Prem/HazNum:1/7);

<table>
<thead>
<tr>
<th>Type</th>
<th>Title</th>
<th>Proximity</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>BC</td>
<td>2951 Salem Ave.</td>
<td>Direct Hit</td>
<td>2951 SALEM AVE, DAYTON</td>
</tr>
</tbody>
</table>

Previous Incidents

Associated Incidents

<table>
<thead>
<tr>
<th>Incident #</th>
<th>Type</th>
<th>Agency ID</th>
<th>Status</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>DF201003000000087</td>
<td>VEHACC</td>
<td>DF</td>
<td>Closed</td>
<td>2951 SALEM AVE, DAYTON</td>
</tr>
<tr>
<td>DA2010030000000478</td>
<td>ACC</td>
<td>DA</td>
<td>Closed</td>
<td>2951 SALEM AVE, DAYTON</td>
</tr>
</tbody>
</table>

Attachments

History

<table>
<thead>
<tr>
<th>Time/Date</th>
<th>Trans Type</th>
<th>User ID</th>
<th>Console ID</th>
</tr>
</thead>
<tbody>
<tr>
<td>0:24:00 10/4/2020</td>
<td>PER INFO</td>
<td>DA/D29558</td>
<td>DA/D016</td>
</tr>
<tr>
<td>Person 2 Added</td>
<td></td>
<td>Role: INVOLVED</td>
<td></td>
</tr>
<tr>
<td>Contact: No</td>
<td></td>
<td>Race: U</td>
<td></td>
</tr>
<tr>
<td>Gender: U</td>
<td></td>
<td>Is Property Seized: No</td>
<td></td>
</tr>
<tr>
<td>Unit Location</td>
<td></td>
<td>Unit ID: DA/D346</td>
<td></td>
</tr>
<tr>
<td>Location: NULL (2951 SALEM AVE)</td>
<td></td>
<td>Loc Name: NULL (KEY BANK)</td>
<td></td>
</tr>
<tr>
<td>City: NULL (DAYTON)</td>
<td></td>
<td>Zip Code: NULL (45406)</td>
<td></td>
</tr>
<tr>
<td>Unit Freed</td>
<td></td>
<td>Unit ID: DA/D346</td>
<td></td>
</tr>
<tr>
<td>Dispo: L</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit Status</td>
<td></td>
<td>Unit ID: DA/D346</td>
<td></td>
</tr>
<tr>
<td>Status: C (OK)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Incident Status</td>
<td></td>
<td>Status: Closed (Active)</td>
<td></td>
</tr>
<tr>
<td>23:00:41 10/3/2020</td>
<td>TIMEOUT</td>
<td>RDC466</td>
<td>RDC2</td>
</tr>
<tr>
<td>Unit Timeout</td>
<td></td>
<td>Unit ID: DA/D346</td>
<td></td>
</tr>
<tr>
<td>Time Value: Disabled</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit Timeout</td>
<td></td>
<td>Unit ID: DA/D346</td>
<td></td>
</tr>
<tr>
<td>Unit Status</td>
<td></td>
<td>Unit ID: DA/D346</td>
<td></td>
</tr>
<tr>
<td>22:21:01 10/3/2020</td>
<td>TIMEOUT</td>
<td>System</td>
<td>System</td>
</tr>
<tr>
<td>Unit Timeout</td>
<td></td>
<td>Unit ID: DA/D346</td>
<td></td>
</tr>
<tr>
<td>Unit Status</td>
<td></td>
<td>Unit ID: DA/D346</td>
<td></td>
</tr>
<tr>
<td>Status: OS (EN)</td>
<td></td>
<td>Submitted: 22:18:00 10/3/2020</td>
<td></td>
</tr>
<tr>
<td>Query Request</td>
<td></td>
<td>Name: Vehicle Query</td>
<td></td>
</tr>
<tr>
<td>Summary: LicensePlate: JEV2461,Plate Type: PC;State: OH;PlateYear: 2017,OwnerID: B6F2DE7-DBF7-4AC4-91D0-7D372CEDBBBB</td>
<td>Database: LEADS, DaytonMIS, P1Records, BOLO</td>
<td>Auto: No</td>
<td></td>
</tr>
<tr>
<td>Time/Date</td>
<td>Unit Status</td>
<td>Trans Type</td>
<td>User ID</td>
</tr>
<tr>
<td>------------------</td>
<td>--------------</td>
<td>------------</td>
<td>---------</td>
</tr>
<tr>
<td>Location</td>
<td>UNIT STAT</td>
<td>RDC338</td>
<td>RDC2</td>
</tr>
<tr>
<td>Status: EN (D)</td>
<td>Status: D (C)</td>
<td>RDC338</td>
<td>RDC2</td>
</tr>
<tr>
<td>Location</td>
<td>UNIT STAT</td>
<td>RDC338</td>
<td>RDC2</td>
</tr>
<tr>
<td>Status: EN (D)</td>
<td>Status: D (C)</td>
<td>RDC338</td>
<td>RDC2</td>
</tr>
<tr>
<td>Incident Status</td>
<td>Primary Unit</td>
<td>RDC338</td>
<td>RDC2</td>
</tr>
<tr>
<td>Dispatch</td>
<td>DPTCH</td>
<td>RDC338</td>
<td>RDC2</td>
</tr>
<tr>
<td>RILEY, DA/RICE W JOHN</td>
<td>INC ASSOC</td>
<td>RDC385</td>
<td>RDC8</td>
</tr>
<tr>
<td>22:12:58 10/3/2020</td>
<td>QUERY</td>
<td>RDC385</td>
<td>RDC8</td>
</tr>
<tr>
<td>Database</td>
<td>CMNTS</td>
<td>RDC385</td>
<td>RDC8</td>
</tr>
<tr>
<td>SOS EMERGENCY BUTTON PRESSED AND NO CONTACT WITH CUSTOMER. REF # 60521169 2019 RAM 1500 DARK RED</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>22:12:58 10/3/2020</td>
<td>PER INFO</td>
<td>RDC385</td>
<td>RDC8</td>
</tr>
<tr>
<td>Person 1 Added</td>
<td>Role: INITIAL CALLER</td>
<td></td>
<td></td>
</tr>
<tr>
<td>First: SIRIUS XM EMERGENCY SERVICES</td>
<td>Phone: (877) 324-7816</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contact: Yes</td>
<td>Is Property Seized: No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>22:12:58 10/3/2020</td>
<td>PREM/HAZ</td>
<td>RDC385</td>
<td>RDC8</td>
</tr>
<tr>
<td>Prem/Haz Check</td>
<td>Title: 2951 Salem Ave.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Title: 3013 Salem Ave.</td>
<td>Title: 2249 HEPBURN</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Title: 3028 Salem Ave.</td>
<td>Title: 2908 PRESCOTT</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jurisdiction</td>
<td>Area: DAWEST</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sector: WP2</td>
<td>Beat: D488</td>
<td></td>
<td></td>
</tr>
<tr>
<td>22:12:58 10/3/2020</td>
<td>INC CREATE</td>
<td>RDC385</td>
<td>RDC8</td>
</tr>
<tr>
<td>Incident Created</td>
<td>Started: 22:09:47 10/3/2020</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Details to Follow: None</td>
<td>Location: 2951 SALEM AVE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loc Name: KEY BANK</td>
<td>Latitude: 39.789365</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Longitude: -84.238196</td>
<td>City: DAYTON</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cross Sts: STANHOPE AVE / LITCHFIELD AVE</td>
<td>Source: 911</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Incid Type: ACC</td>
<td>Mod Circum: CHECKCRASH</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Priority: 2</td>
<td>Zip Code: 45406</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Validation Level: Premise Lvl</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>22:09:47 10/3/2020</td>
<td>ANI/ALI</td>
<td>RDC385</td>
<td>RDC8</td>
</tr>
<tr>
<td>911 Call</td>
<td>Ani/All Populate Time: 22:09:47 10/3/2020</td>
<td></td>
<td></td>
</tr>
<tr>
<td>E911 Phone Call Status: Offered</td>
<td>Incoming: Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Emergency Number: 0582</td>
<td>Mobile: Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Time Offered: 22:09:47 10/3/2020</td>
<td>Time Received at Switch: 22:09:00 10/3/2020</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Time on Hold: 0</td>
<td>Total Time in Conference: 0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
PERMIT HOLDER VIOLATIONS INFORMATION

This online service will allow you to obtain information on liquor permit violations within the State of Ohio.

Searching Instructions

Enter the known information and click the "Search" button. For best results, search only ONE criteria at a time. If you try to put too much information and it does not match exactly, the search will return a message "No records to display". The results will initially pull up general information (i.e., Permit Number, Name, City, etc.). To view the violation list of that permit holder you must click on the ▶ button to the left of the permit number to expand the violation data history.

You may sort the information in ascending or descending order, by clicking on any of the column headers.

To do another search, click the "Reset" button.

<table>
<thead>
<tr>
<th>SEARCH CRITERIA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permit Number</td>
</tr>
<tr>
<td>6076850015</td>
</tr>
<tr>
<td>Permit Name / DBA</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>City</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>County</td>
</tr>
<tr>
<td>--Select County--</td>
</tr>
</tbody>
</table>

VIOLATION CODES (first letter of Violation Code)

"L" = Violation issued/entered by Liquor Control
"O" = Violation issued/entered by the Department of Public Safety – please contact them directly at (614) 644-2415 for public records or questions pertaining to this violation.

- Ohio.Gov
- Ohio Department of Commerce

Commerce Home | Press Room | CPI Policy | Privacy Statement | Public Records Request Policy | Disclaimer | Employment | Contacts
PERMIT APPLICANT / HOLDER INFORMATION

This online service will allow you to obtain a list of retail liquor permit entities, the status of each liquor permit class they have applied for, have issued, or no longer hold within the State of Ohio.

Searching Instructions

Enter the known information and click the "Search" button. For best results, search only ONE criteria at a time. If you try to put too much information and it does not match exactly, the search will return a message "No records to display". NOTE: If your search returns more than 25,000 records, it will only display the latest 25,000 records. If you would like to save your search results for further analysis, click on the image icons (one for Excel and one for CSV), located on the top-right corner of the results grid.

You may sort the information in ascending or descending order, by clicking on any of the column headers.

To do another search, click the "Reset" button.

<table>
<thead>
<tr>
<th>Permit Number</th>
<th>60766850015 (NOTE: numbers ONLY without dashes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permit Name / DBA</td>
<td></td>
</tr>
<tr>
<td>Permit Class (Type of Permit)</td>
<td>--Select Permit Class-- (class descriptions)</td>
</tr>
<tr>
<td>Class Issue Status</td>
<td>--Select Class Issue Status--</td>
</tr>
<tr>
<td>Date of Action:</td>
<td></td>
</tr>
<tr>
<td>Street Name</td>
<td></td>
</tr>
<tr>
<td>City/Twp of Premises</td>
<td></td>
</tr>
<tr>
<td>Zip</td>
<td>######</td>
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NOTICE: Prior to submitting your search, please type the code from the image.

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- Ohio.Gov
- Ohio Department of Commerce

Commerce Home | Press Room | CPI Policy | Privacy Statement | Public Records Request Policy | Disclaimer | Employment | Contacts
2951 Salem Ave
Dayton, OH 45406
Building

Photos

https://www.google.com/maps/place/2951+Salem+Ave,+Dayton,+OH+45406/@39.7893251,-84.2402661,17z/data=!3m1!4b1!4m5!3m4!1s0x884080fa4762871:8!8m2!3d39.7893251!4d-84.2402661
All NIF

From: Ullery, Clifford <Clifford.Ullery@daytonohio.gov>
Sent: Friday, December 11, 2020 2:12 PM
To: DPD - Teletype-Operators <DPD-Teletype-Operators@daytonohio.gov>
Subject: CCH PLEASE

For Liquor Investigation... NO need to print if NIF...Thx, Cliff

Perlita A. Parson 12-31-65
Khushboo Dhawan 9-28-83
Harinder K. Toor 1-16-79

DAYTON Clifford W. Ullery
Detective I Support Unit
Department of Police I City of Dayton
335 W. Third Street I Dayton, Ohio 45402
Office 937.333.8854 I Fax 937.333.7571
Clifford.Ullery@daytonohio.gov
We have no objections at this time

From: Ullery, Clifford
Sent: Thursday, December 10, 2020 3:45 PM
To: Mullins, James <James.Mullins@daytonohio.gov>; Beavers, Matthew <Matthew.Beavers@daytonohio.gov>
Subject: FW: Liquor Application for NTI Lawn Care LLC dba NTI Bluespoon Cafe and Modern Food & Gas LLC

Don’t forget about me!!  LOL

From: Ullery, Clifford
Sent: Wednesday, December 09, 2020 8:04 AM
To: Beavers, Matthew <Matthew.Beavers@daytonohio.gov>; Mullins, James <James.Mullins@daytonohio.gov>
Cc: PLN - Planning Department <PLN_Planning_Dept_DG@daytonohio.gov>
Subject: FW: Liquor Application for NTI Lawn Care LLC dba NTI Bluespoon Cafe and Modern Food & Gas LLC

Here are my latest...Thx, Cliff

From: Hubbard, Teri <Teri.Hubbard@daytonohio.gov>
Sent: Tuesday, December 08, 2020 4:31 PM
To: Ullery, Clifford <Clifford.Ullery@daytonohio.gov>
Cc: Zimmerman, Jon <Jon.Zimmerman@daytonohio.gov>; Fugate, Carla <Carla.Fugate@daytonohio.gov>
Subject: FW: Liquor Application for NTI Lawn Care LLC dba NTI Bluespoon Cafe and Modern Food & Gas LLC

Cliff,

These are due to the Major on December 18.

Thanks!

Teri Hubbard
From: Johnson, Anita <Anita.Johnson@daytonohio.gov>
Sent: Tuesday, December 8, 2020 4:26 PM
To: Beckham, Darius <Darius.Beckham@daytonohio.gov>; Blackshear, Regina <Regina.Blackshear@daytonohio.gov>; Burns, Lynette <Lynette.Burns@daytonohio.gov>; 'Dan Kennedy <kennedydanster@gmail.com>; Daugherty, Carl <Carl.Daugherty@daytonohio.gov>; 'dave powers' <dp313@sbcglobal.net>; 'dkgreer@ameritech.net'; Fairchild, Darryl <Darryl.Fairchild@daytonohio.gov>; Fletcher, Lisa <Lisa.Fletcher@daytonohio.gov>; Fugate, Carla <Carla.Fugate@daytonohio.gov>; Gehres, Martin <Martin.Gehres@daytonohio.gov>; Heyob, Joseph <Joseph.Heyob@daytonohio.gov>; Hubbard, Teri <Teri.Hubbard@daytonohio.gov>; Jackson, Verletta <Verletta.Jackson@daytonohio.gov>; James, Nick <Nick.James@daytonohio.gov>; 'Jennifer Nayler' <jknaylor@dps.k12.oh.us>; Joseph, Matt <Matt.Joseph@daytonohio.gov>; Kroeger, Tony <Tony.Kroeger@daytonohio.gov>; Lavender, Rashella <Rashella.Lavender@daytonohio.gov>; Lewis, Jordan <Jordan.Lewis@daytonohio.gov>; 'mary ellington' <innerwestcdc@yahoo.com>; Michael Martin <deightmnik@aol.com>; Mims Jr, Jeffrey <Jeffrey.MimsJr@daytonohio.gov>; Parker, John <John.Parker@daytonohio.gov>; Ponichtera, Mark <Mark.Ponichtera@daytonohio.gov>; 'ron lee' <silverfoxlee@woh.rr.com>; Sampson, Tyrone <Tyrone.Sampson@daytonohio.gov>; Schaller, Margaret <Margaret.Schaller@daytonohio.gov>; Shaw, Christopher <Christopher.Shash@daytonohio.gov>; Spreng, Elizabeth <Elizabeth.Spreng@daytonohio.gov>; 'steve sboildt' <steve.sboildt@gmail.com>; Trump, Whitney <Whitney.Trump@daytonohio.gov>; Ullery, Clifford <Clifford.Ullery@daytonohio.gov>; Walker, Ariel <Ariel.Walker@daytonohio.gov>; Whaley, Nan <Nan.Whaley@daytonohio.gov>; Zeck, Laura <Laura.Zeck@daytonohio.gov>; Zimmerman, Jon <Jon.Zimmerman@daytonohio.gov>

Subject: Liquor Application for NTI Lawn Care LLC dba NTI Bluespoon Cafe and Modern Food & Gas LLC

All,

Here are the latest application requests.

Thanks
December 28, 2020

TO: Anita Johnson, Secretary to the Executive Assistant Commission Office

FROM: Verletta A. Jackson, Community Engagement Supervisor
Department of Planning and Community Development

SUBJECT: Liquor License Application No. 60766850015 (NEW)
Modern Food & Gas LLC
2951 Salem Avenue
Dayton, Ohio 45406

Our office has received several correspondences (see attachments) from residents opposing the issuance of a new C-1 liquor permit for Modern Food & Gas LLC located at 2951 Salem Avenue.

If you have any questions or require any additional information please contact me at 3288 or verletta.jackson@daytonohio.gov.

C: Barbara Doseck
  Martin Gehres
  Alan Carr
  Tony Kroeger
  Major Malson
  File
December 17, 2020

RE: Liquor License Permit Application: Modern Food & Gas LLC

To whom it may concern:

On behalf of the Dayton View Triangle Federation (DVTF), I would like to express our opposition to the application of a liquor license permit being pursued by Modern Food & Gas LLC located at 2951 Salem Avenue, Dayton, OH 45406. The residents of our neighborhood are concerned for potential crime and littering that would spill into our neighborhood and other surrounding areas if this liquor license were to be issued.

In response to neighborhood complaints and concerns in the past, Precinct 18-A, which is located to the southeast of the proposed location, voted to become a dry precinct. In addition, this location is a quarter mile from Salem Beverage and Market, another state liquor agency, just outside the city limits. With liquor and beer also available at the Kroger located at 3520 W Siebenthaler Ave, Dayton, OH 45406, and a community supported liquor location at the Gem City Market, the issuance of this permit would result in additional unwanted saturation in the area.

DVTF joins other neighborhoods along the Salem Avenue Peace Corridor in support of the introduction of compatible businesses, and we welcome redevelopment of the area that will result in a community of peace, safety, prosperity, and quality of life. Our neighborhood along with many others in the area have made great strides to make our part of Dayton a safe place to live. We hope that you make the best decision while keeping our community’s safety in mind.

Sincerely,

Kegan Sickels

Kegan Sickels
President of the Board of Directors for the Dayton View Triangle Federation

Dayton View Triangle Federation
P.O. Box 60286
Dayton, Ohio 45406
dvtf@pres@gmail.com
(937) 503-7016
TO WHOM IT MAY CONCERN,

THE FAIRVIEW NEIGHBORHOOD ASSOCIATION IS OPPOSED TO THE APPLICATION FOR A LIQUOR PERMIT AS WE HAVE HAD MAJOR ISSUES IN THE PAST (I.E. 7-11 MARKET).

THese INCLUDE BROKEN GLASS BOTTLES, LITTER THROWN ON GROUND AFTER BEVERAGE IS CONSUMED, PUBLIC DRUNKENNESS, LOITERING AROUND SALES AREA, WHILE THE PROPOSED STORE IS NOT LOCATED WITHIN FAIRVIEW BOUNDARIES, WE WOULD PREFER NO ADDITIONAL PROBLEMS TO WHAT WE ALREADY HAVE.

Sincerely,

Rick Wasilewski
President, Fairview Neighborhood Association

Date: December 16, 2020
Ms. Jackson,
Thank you for the opportunity to provide input to the Modern Food & Gas LLC located at 2951 Salem Avenue, Dayton, Ohio 45406 application for a new C-1 permit http://codes.ohio.gov/orc/Search/c1.

As a homeowner and resident of this community for 34 years, I vehemently oppose this application for a number of reasons. If not every business, then every other business in this area already sells alcohol. To add another, would be like adding another nail in a coffin, but instead of it being a coffin, it’s a neighborhood.

I’ve witnessed the steady decline of this, once, family-centered neighborhood. The addition of another business with a permit to sell alcohol in an already overly saturated region of such businesses will add to the desperation of the area.

I never thought I’d move from the city, the home in which I raised my family, but the demise of this area with its wasteland appearance including ratty businesses, the high crime rate, the physical deterioration of the homes, apartments, roads, and sidewalks have made my decision to start looking to relocate a reality.

Thank You,
Sheranita Hemphill
2117 Catalpa Drive

On Dec 9, 2020, at 12:42 PM, Jackson, Verletta <Verletta.Jackson@daytonohio.gov> wrote:

Good afternoon everyone,

Attached is a Liquor permit application request for your review and input. Please share with others and respond to me on or before Monday, December 21, 2020.

If you have any questions, please do not hesitate to contact me.

Thank you,
Verletta
I am opposed to a liquor license at

On Wed, Dec 9, 2020 at 12:41 PM Jackson, Verletta <Verletta.Jackson@daytonohio.gov> wrote:

Good afternoon everyone,

Attached is a Liquor permit application request for your review and input. Please share with others and respond to me on or before Monday, December 21, 2020.

If you have any questions, please do not hesitate to contact me.

Thank you,

Verletta

Verletta Jackson
DAYTON
Community Engagement Supervisor
Planning and Community Development
City of Dayton | 101 West Third Street | Dayton, Ohio 45402
937-333-3288 phone | 937-333-4281 fax
verletta.jackson@daytonohio.gov
Case number 607-668-50015 modern food gas LLC 2951 Salem avenue Dayton Ohio 45406
My name is Vernon Thomas at 2239 Benton avenue apartment one or lower Dayton Ohio 45406 my phone number is 937-580-7348 and I am trying to get on the list to testify I'm willing to testify in opposition of modern food and gas liquor license as it brings nuisance to the neighborhood and people tracking through my yard, litter and loitering
LIQUOR LICENSE APPLICATION CHECKLIST

NAME OF ESTABLISHMENT: MODERN FOOD AND GAS, LLC

ADDRESS: 2951 SALEM AVENUE

CITY LOT NUMBER(s): 71317 thru 713125; and 71346 thru 71348

ZONING DISTRICT: “EGC” Eclectic General Commercial

CURRENT OCCUPANCY CERTIFICATE: ‘B’ Business/Bank

LEGAL ZONING USE: Bank (previous use)

PROPOSED ZONING USE: Convenience Retail/Vehicle Fuel Dispensing

PERMITTED _____ CONDITIONALLY PERMITTED _____X____ NONCONFORMING_______

NEW CERTIFICATE OF OCCUPANCY REQUIRED: YES_____ APPLICANT NOTIFIED: No____

EXISTING CLASS PERMIT: --

PROPOSED CLASS PERMIT: C1

HAS BUSINESS EXPANDED OUTSIDE? No

IF YES, WAS A PERMIT ISSUED? --

COMMENTS: [Liquor License Application No. 60766850015 (NEW)]

NOTE: 4/28/2020, BZA granted Conditional Use APPROVAL to alter bank to vehicle fueling with convenience retail under PLN2020-00050. Building/Zoning permit issued to complete building alteration and site redevelopment. New Certificate of Occupancy to be issued.

CARL DAUGHERTY

REVIEWED BY

12/21/2020

DATE
December 17, 2020

TO: Members of the City Commission
FROM: Greg Scott, President City Plan Board

SUBJECT: Transmittal of Report for City Plan Board Cases PLN2020-00490 and PLN2020-00491 -- Rezone 2013-2027 and 2101 E. Fifth St. from Transitional (T) to Mature Neighborhood Commercial (MNC).

Applicant: Evan and Aspasia Bambakidis
120 W. Babbitt St.
Dayton, OH 45405

Description: Rezone 2013-2027 and 2101 E. Fifth St. from Transitional (T) to Mature Neighborhood Commercial (MNC). The site shall retain its HD-2 historic district overlay.

Board Action: Date: November 10, 2020 Decision: Recommended Approval

Attachments:
1. Plan Board Minute Record
2. Plan Board Case Report
3. Copy of Ordinance

If you have any questions, please contact Jennifer Hanauer at ext. 2005.

GS/tdk

c: Ms. Dickstein, Mr. Parlette, Ms. Lofton, Mr. Kinskey, Mr. Kroeger
December 14, 2020

TO:    Rashella Lavender, Clerk of Commission
       Office of the City Commission

FROM:  Tony Kroeger, Secretary
       City Plan Board


Applicant:   Evan and Aspasia Bambakidis
             120 W. Babbitt St.
             Dayton, OH  45405

Description:  Rezone 2013-2027 and 2101 E. Fifth St. from Transitional (T) to Mature Neighborhood Commercial (MNC). The site shall retain its HD-2 historic district overlay.

Board Action:  Date:  November 10, 2020           Decision:  Recommended Approval

Request:  The Clerk is authorized by the R.C.G.O. to set the public hearing and provide the appropriate notice. **It is requested that the Public Hearing be scheduled for Wednesday, January 20, 2021 at 6:00 P.M.**

Advertising:  Advertise Public Hearing on Friday, December 18, 2020

Advertise in a newspaper of general circulation and mail a notice to mailing list when the notice is published.

Attachments:  Legal Notice
              Mailing List

If you have any questions, please contact me at ext. 3673.  Thank you.

c: Case File, w/ attachment
City of Dayton
Office of the City Commission
City Hall • 101 West Third Street
Dayton, Ohio 45402
(937) 333-3636

Legal Notice

#1200–61

Notice is hereby given that the Dayton City Commission will hold a Public Hearing on Wednesday, January 20, 2021 at 6:00 P.M., or as soon thereafter as the hearing can begin. The hearing will be held in the City Commission Chambers on the Second Floor of City Hall, 101 West Third Street, Dayton, Ohio. However, if certain Covid-19 restrictions remain in place on January 20, the hearing will be held remotely by electronic means. The City of Dayton will make a determination regarding whether the hearing will be held remotely no later than January 19, 2021 and the decision will be posted on the City of Dayton website at www.daytonohio.gov. If you wish to attend, listen to, or speak at the hearing, please contact Jennifer Hanauer in the Department of Planning and Community Development at 937-333-2005 or Jennifer.hanauer@daytonohio.gov by 3:00 P.M. on January 19, 2021 for information on how to do so.

Official Zoning Map Amendment

Cases: PLN2020-00490 and PLN2020-00491

Rezone 2013-2027 and 2101 E. Fifth St. from Transitional (T) to Mature Neighborhood Commercial (MNC).

The proposed Official Zoning Map Amendment is available for public inspection in the Office of the City Commission and with the Secretary to the City Plan Board. Please direct inquiries on this subject to Jennifer Hanauer in the Department of Planning and Community Development at 937-333-2005 or Jennifer.hanauer@daytonohio.gov.

By order of the City Commission of the City of Dayton, Ohio.

RASHELLA LAVENDER, CLERK
OFFICE OF THE CITY COMMISSION
Summary Minute Record
November 10, 2020

5. PLN2020-00490 – Zoning Map Amendment – Rezone 2013 to 2027 E. Fifth St. in the Huffman Historic District from Transitional (T) to Mature Neighborhood Commercial (MNC).

6. PLN2020-00491 – Zoning Map Amendment – Rezone 2101 E. Fifth St. in the Huffman Historic District from Transitional (T) to Mature Neighborhood Commercial (MNC).

Applicant: Evan and Aspasia Bambakidis
120 W. Babbitt St.
Dayton, OH 45405
Priority Land Use Board: Northeast Planning District: Historic Inner East
Decision: Approved

Staff Comments

Mr. Kroeger explained that the two cases, PLN2020-00490 and PLN2020-00491, would be presented together and will be combined in the future provided they move forward through Plan Board together.

Jennifer Lumpkin presented the staff report. The applicant requests a zoning map amendment from Transitional (T) to Mature Neighborhood Commercial (MNC) for 2013 to 2101 E. Fifth St. in the Huffman neighborhood, which has an HD-2 historic district overlay and lies within the Historic Inner East planning district. The amendment is requested so that the property may host additional uses not permitted in Transitional districts, such as retail, restaurants, and bed and breakfasts. The property is surrounded by Mature Single-family Residential (MR-5) to the north and east, Open Space (OS) to the south, and MNC to the west.

The structure at 2027 E. Fifth St. was constructed prior to 1898 as a single-family dwelling with a storefront for a pharmacy. By 1918, the structure had been split into multiple dwellings while retaining the storefront along East Fifth Street. Current proposed plans for the structure include two storefronts and five apartment units. Single-family homes previously sat on the lot to the west of the structure. Parking is proposed for what is now an empty lot and appears to have enough room for the approximately 10 off-street parking spaces that would be required by the City’s Zoning Code for the current proposed configuration of the structure.

The storefront of the structure at 2101 E. Fifth St. was until recently a restaurant supply store. Constructed prior to 1898, the structure originally had two storefronts facing East Fifth Street. By 1918, the rear third of the structure had been converted to apartment units and the two storefronts had been combined into one. Current proposed plans for the structure include one storefront and three apartment units. The existing parking behind the structure appears to have enough room for the six off-street parking spaces that would be required by the City’s Zoning Code for the current proposed configuration of the structure.
The applicant is first focusing on the rehabilitation of the structure at 2101 E. Fifth St. and hoping to have tenants by the end of 2020. The applicant will then shift focus to the structure at 2027 E. Fifth St. with a goal of completion by 2021.

Representatives from the neighborhood association have said that the applicant has been communicative and attends meetings to get input from neighbors. The residents are generally enthusiastic at the prospect of rehabilitating the structures at this corner of Huffman. The Northeast Priority Land Use Committee voted unanimously to recommend approval of the zoning map amendments.

Ms. Lumpkin noted that the applicant lives in the McPherson historic district and so is familiar with the unique challenges of owning property in one of the City’s historic districts. The applicant has done other residential rehabilitations. This would be their first commercial rehabilitation.

In consideration of the standards relevant to a zoning map amendment, Ms. Lumpkin called attention to R.C.G.O. 150.125.7(3) pointing out that there is a desire to rehabilitate vacant structures and activate dormant corners of a thriving neighborhood and also to extend the success of the commercial area of St. Anne’s Hill further down East Fifth Street to the Huffman neighborhood.

Public Comments

The applicant Mr. Evan Bambakidis, 120 W. Babbitt St., stated that he and his wife own several multi-family properties in the historic section of South Park that they have rehabbed over the past several years. Mr. Bambakidis clarified that he is trying to get residential tenants into 2101 E. Fifth St. by the end of the year but will still be working on the commercial section of the property while awaiting the approval of the zoning map amendment.

Board Discussion for PLN2020-00490 –2013 to 2027 E. Fifth St.

The Plan Board had no further questions or discussion.

Board Decision for PLN2020-00490 –2013 to 2027 E. Fifth St.

A motion was made by Ms. Miller, seconded by Mr. Payne, and carried to recommend City Commission approval of this case based on its ability to make the required determinations specified in R.C.G.O. Section 150.125.7(1-8).

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<td>Mr. Paul Bradley</td>
<td>Yes</td>
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<tr>
<td>Ms. Geraldine Pegues</td>
<td>Yes</td>
<td>Mr. Matt Sauer</td>
<td>Abstain</td>
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<tr>
<td>Mr. Richard Wright</td>
<td>Absent</td>
<td>Mr. Greg Scott</td>
<td>Yes</td>
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<tr>
<td>Ms. Rosie Miller</td>
<td>Yes</td>
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Board Discussion for PLN2020-00491 – 2101 E. Fifth St.

The Plan Board had no further questions or discussion.

Board Decision for PLN2020-00491 – 2101 E. Fifth St.
A motion was made by Mr. Bradley, seconded by Mr. Payne, and carried to recommend City Commission approval of this case based on its ability to make the required determinations specified in R.C.G.O. Section 150.125.7(1-8).

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Minutes approved by the City Plan Board on December 8, 2020.

Tony Kroeger, Secretary City Plan Board
November 10, 2020

CITY PLAN BOARD REPORT
CASES: PLN2020-00490 AND PLN2020-00491

A Zoning Map Amendment to rezone 2013-2027 and 2101 E. Fifth St. in the Huffman Historic District from Transitional (T) to Mature Neighborhood Commercial (MNC).

Applicant: Evan and Aspasia Bambakidis
120 W. Babbitt St.
Dayton, OH 45405

Owner: Paidion Properties, LLC
120 W. Babbitt St.
Dayton, OH 45405

Priority Land Use Board: Northeast Planning District: Historic Inner East

Board Authority:
R.C.G.O. §150.125.1 – §150.125.11 City Plan Board actions for amendments to the Official Zoning Map

Applicable Plans and Policies:
CitiPlan 20/20 (1999)
City of Dayton Zoning Code (Ord. 31752-19)

Agencies and Groups Contacted:
Applicant and Owner
Property Owners within 250 feet
Historic Huffman Neighborhood Association

CURRENT CONDITIONS

Existing Land Use & Zoning: Vacant land, vacant multi-family dwelling; Transitional

Surrounding Land Use and Zoning:
North: Single-family dwellings; Transitional and MR-5 Mature single-family residential
South: Former train tracks that may become the Flight Line, K convenience store; MR-5 Mature single-family residential, MNC Mature Neighborhood Commercial, OS Open Space
East: Single- and multi-family dwellings; Transitional
West: Stoney’s Munchie Bar; MNC Mature Neighborhood Commercial
AUTHORITY

150.125.1 Authority for Amendments
The regulations imposed and the districts created under this Zoning Code may be amended from time to time by ordinance duly enacted by the City Commission. No such amendment shall be adopted except in accordance with the procedure specified in sub-sections 150.125.2 to 150.125.11, inclusive, of this Zoning Code. (Ord. 30515-05, passed 12-28-05)

STAFF ANALYSIS

Property History:
While the County Auditor lists the date of construction as 1900, the structure at 2027 E. Fifth St. (Case #PLN2020-00490) appears on an 1898 Sanborn map of the area. The map shows it to have been built as a single-family dwelling with a storefront on the corner for a pharmacy. On a 1918 Sanborn map of the area, the structure is shown to have been divided into multiple apartment units as well as retaining the storefront for the pharmacy.

The structure at 2101 E. Fifth St. (Case #PLN2020-00491) appears on an 1898 Sanborn map of the area, although the County Auditor lists the date of construction as 1925. The map shows it to have two side-by-side stores running the length of the building. On a 1918 Sanborn map of the area, the structure is shown to have had the rear third of the building converted to a dwelling unit and the two storefronts combined into one. Most recently, the first floor storefront housed a restaurant supply business.

Proposed Plan:
The applicants are focusing their immediate attention on the property at 2101 E. Fifth St. and hope to have the apartment units ready to lease by the end of 2020. There will be three apartments and one storefront. The applicants live in the historic section of Dayton’s McPherson planning district and so are familiar with the unique challenges of owning property in an historic district. The applicants have already been to Landmark Commission for the property at 2101 E. Fifth St. and appear determined to complete the renovation process in a manner that will appease their neighbors and the Landmark Commission as well as make the building attractive to potential tenants, both residential and commercial. The property has existing off-street parking behind the structure with space adequate to meet the Zoning Code requirements for Mixed Use/Residential off-street parking in a Commercial district, that being 1.5 spaces per dwelling unit as well as 2 spaces per 1,000 feet of retail space, or approximately 6 spaces. Also, a Route 2 bus stop is in front of the property on East Fifth Street.

The applicants plan to complete the renovations at 2027 E. Fifth St. in 2021. There will be five apartments and either one or two storefronts. The property does not currently have off-street parking. However, the vacant portion of the property does have adequate space for a parking lot that would meet the Zoning Code requirements for Mixed Use/Residential off-street parking in a Commercial district, that being 1.5 spaces per dwelling unit as well as 2 spaces per 1,000 feet of retail space, or approximately 10 spaces.
Community Input:

Staff has been told by representatives from the neighborhood association that the applicants are communicative and attend meetings in order to hear from their neighbors. Members of the community are eager for the buildings to be rehabilitated and to see more housing options in their area. Several requests have been made for the applicant to court a purveyor of ice cream as one of the tenants.

The Northeast Priority Land Use Committee voted unanimously to recommend approval of the zoning map amendment.

Staff Recommendation:
Based on the quality of the application and the support of the community, as well as the required standards listed below, staff recommends approval of the proposed zoning map amendment.

REVIEW OF FINDINGS

R.C.G.O. §150.125.7 Amendments to Change Zoning Districts or Zoning Classification of Properties

1. The change in classification would be consistent with the Comprehensive Plan of the City or other plans and policies.

   The proposed change is supported by adopted plans and polices. Specifically, the proposed change addresses three of the 4Rs in our CitiPlan 20/20: redevelopment, reuse, and revitalization of our neighborhoods (p. 4). The recommendations in our CitiPlan 20/20 are designed to ensure that Dayton neighborhoods are stable and diverse, welcome the middle class, and are good places to raise families. The plan also emphasizes that housing should retain its current value as well as grows in value and that Dayton neighborhoods should nurture the human spirit and civic responsibility (p. 10). Additionally, our Revised Land Use Principles (2007) details that we are to “encourage the adaptive reuse of existing structures.”

2. The change in classification would be consistent with the intent and purpose of this Zoning Code.

   The purpose of this Zoning Code is to “promote and uphold the public health, safety, and general welfare of the City through regulation of land and of the type, size, and use of structures,” and specifically states is the intent to “stabilize, preserve, and increase property values” (City of Dayton Zoning Code, Ord. 31752-19, p. 5). The proposed amendment would allow the owner of the property to lease storefronts in addition to the apartment units above and behind the storefronts. This will make the property economically viable and worthy of the owner’s investment in rehabilitating it, increasing the value of this property and the properties in its vicinity.

3. The proposed amendment is made necessary because of changed or changing conditions in the area affected, and if so, the nature of such changed or changing conditions.

   The amendment reflects a number of emerging conditions, including:
   - Desire to rehabilitate vacant structures and activate dormant corners of a thriving neighborhood.
• Desire to make this end of East Fifth Street a destination as is the section of East Fifth Street in St. Anne’s Hill.

4. The uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity.

If the property is reclassified, the owner will be able to establish retail tenants, which is something the neighborhood residents would like to see. With Stoney’s Munchie Bar and the K convenience store on the next block, a retail use on this property would be compatible. If zoned commercially, a dining establishment would also be a possibility on this property, which is another use supported by the neighborhood.

5. The uses that would be permitted on the property if it were reclassified would have an adverse environmental or health impact on the immediate surrounding area in terms of acceptable air, noise, light, or water quality standards.

The environment and health of the immediate surrounding area will be improved with the rehabilitation and re-establishment of occupancy in this vacant building.

6. Adequate utility, sewer, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified.

Adequate utilities exist.

7. The amount of vacant land with the same zoning classification as proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances, if any, make a substantial part of such vacant land unavailable for development.

While there is a small amount of vacant land zoned MNC to the southwest of the subject property, this property has an existing structure that is suitable for retail use.

8. The proposed amendment would correct an error in the application of this Zoning Code as applied to the subject property.

There is no error in the application of the Zoning Code as applied to the subject property.

---

**ALTERNATIVES**

1. Recommend [approval](#) of the Zoning Map Amendment application to rezone 2013 to 2027 E. Fifth St. from Transitional to Mature Neighborhood Commercial based on R.C.G.O. §150.125.7(1-8).

2. Recommend [approval](#) of the Zoning Map Amendment application with modifications to rezone 2013 to 2027 E. Fifth St. from Transitional to Mature Neighborhood Commercial based on R.C.G.O. §150.125.7(1-8).
3. Recommend **denial** of the Zoning Map Amendment application to rezone 2013 to 2027 E. Fifth St. from Transitional to Mature Neighborhood Commercial based on the board’s inability to make the findings under R.C.G.O. §150.125.7(1-8).

**FUTURE ACTIONS**
If the Plan Board recommends approval for the proposed zoning map amendments, the request will be forwarded on to the City Commission for public hearing.

**Staff Report Prepared by:**
Jennifer Hanauer
ZONING MAP AMENDMENT: TRANSITIONAL TO MATURE NEIGHBORHOOD COMMERCIAL
EAST FIFTH ST AND HUFFMAN AVENUE
ZONING MAP AMENDMENT: TRANSITIONAL TO MATURE NEIGHBORHOOD COMMERCIAL
EAST FIFTH ST AND HUFFMAN AVENUE
A. **Name of Applicant**

Evan and Aspasia Bambakidis

Mailing Address

120 W. Babbitt Street

Dayton, OH 45405

Daytime Phone Number (937) 684-1393  
Fax Number (____)

Email Address: evanbam@hotmail.com

**Name of Property Owner (If Different from Applicant)**

Paidion Properties, LLC

Mailing Address

120 W. Babbitt Street

Dayton, OH 45405

Daytime Phone Number (937) 8299239  
Fax Number (____)

B. **Description of Property to be Rezoned**

**Address of Property**

2013-2027 East 5th Street

**City of Dayton Lot Number(s)**

5178-5179

**Parcel I.D. Number(s)**

R72012100021, R72012100022, R72012100023

**Size of Parcel(s) to be Rezoned in Acres:**

.2571

**Existing Zoning for Property**

Commercial and residential

**Proposed Zoning for Property**

MNC

**Existing Use of Property**

Commercial and residential

**Proposed Use of Property**

Commercial and residential

**Reason Zoning Change is Needed**

The zoning change request will enable us to attract a wider range of potential retail users to the commercial storefront at the parcel located at 2027 East 5th Street, and complement a parallel redevelopment of the building at 2101 East 5th Street. The current zoning of Transitional is more restrictive and limits our ability to market the storefront to other retail users. We plan on keeping the historical residential component associated with the second floor and Huffman side of this property.

**Interest of Applicant**

My wife and I are the sole two members of Paidion Properties, LLC.
C. **Required Attachments**

Vicinity Map (see instructions for format)

List of Property Owners (see instructions for format)

Site Plan (see instructions for format)

Mailing Labels (see instructions for format)

D. **Authorization to Visit the Property**

Site visits to the property by City representatives are essential to process this application. By signing below, the owner/applicant authorizes City representatives to visit and photograph the property described in this application.

E. **Property Owner’s Signature (If Different from Applicant)**

_____________________________          ________________
Signature of Property Owner                   Date

_____________________________
Printed Signature of Property Owner

F. **Certification and Applicant's Signature**

I hereby certify that the information contained in this application and all attachments is true and correct.

Evan Bambakidis

Aspasia Bambakidis 10/09/2020

_____________________________
Signature of Applicant                   Date

Evan and Aspasia Bambakidis

_____________________________
Printed Signature of Applicant
ZONING MAP AMENDMENT APPLICATION
CITY OF DAYTON, OHIO

A. Name of Applicant

Evan and Aspasia Bambakidis

Mailing Address
120 W. Babbitt Street

City Dayton State OH Zip Code 45405

Daytime Phone Number (937) 684-1393 Fax Number (____)

Email Address evanbam@hotmail.com

Name of Property Owner (If Different from Applicant)
Paidion Properties, LLC

Mailing Address
120 W. Babbitt Street

City Dayton State OH Zip Code 45405

Daytime Phone Number (937) 8299239 Fax Number (____)

B. Description of Property to be Rezoned

Address of Property 2101 East 5th Street

City of Dayton Lot Number(s)

Parcel I.D. Number(s) R72012100080

Size of Parcel(s) to be Rezoned in Acres: .1

Existing Zoning for Property T Proposed Zoning for Property MNC

Existing Use of Property Commercial and residential

Proposed Use of Property Commercial and residential

Reason Zoning Change is Needed

The zoning change request will enable us to attract a wider range of potential retail users to the commercial storefront at the parcel located at 2101 East 5th Street, and complement a parallel redevelopment of the building at 2027 East 5th Street. The current zoning of Transitional is more restrictive and limits our ability to market the storefront to other retail users. We plan on keeping the recent, established residential component associated with the second floor and Huffman side of this property.

Interest of Applicant My wife and I are the sole two members of Paidion Properties, LLC.
C. **Required Attachments**

Vicinity Map (see instructions for format)

List of Property Owners (see instructions for format)

Site Plan (see instructions for format)

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E. **Property Owner’s Signature (If Different from Applicant)**

________________________________________________________________________  __________________________________________________________________________

Signature of Property Owner  Date

Printed Signature of Property Owner

F. **Certification and Applicant's Signature**

I hereby certify that the information contained in this application and all attachments is true and correct.

Evan Bambakidis  10/09/2020

Aspasia Bambakidis

__________________________  ______________________________

Signature of Applicant  Date

Evan and Aspasia Bambakidis

Printed Signature of Applicant
## Land Use Case Citizen Participation Staff Response

**Type of Case:** Area Variance

**Case Numbers:**
- PLN2020-00490;
- 2013-2027 E. Fifth St and PLN2020-00491; 2101 E. Fifth St

**Case Descriptions:**
A zoning Map Amendment request to rezone 2013-2101 East Fifth Street in the Huffman Historic District from Transitional to Mature Neighborhood Commercial.

**Priority Board:**
Northeast

**Meeting:**
11/3/2020

<table>
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<tr>
<th>Total # of people present for discussion:</th>
<th># of NELUC members present:</th>
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<th>Prepared:</th>
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<tr>
<td>7</td>
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<td>Sharon Deis proposed full support motion John Kaughlin seconded the motion of support. 4 votes to support the application 0 votes to deny application</td>
<td>Sharon Deis</td>
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### Please list below highlights/issues/discussion points surrounding this case:
Evan Bambakidis presented the proposal. They are requesting zoning Map Amendment in order to broaden the potential tenant possibilities. The zoning law for Transitional Districts do not allow commercial spaces. The first floor of the current building has a storefront on the first floor. Currently there are no plans or tenants in place looking to open a commercial space.

The applicants are living in the City of Dayton. They have rehabilitated a historical home and sold it and are working on another home in the same area.

Jen Lumpkin walked the neighborhood and spoke to several neighbors. The neighbors liked the idea and feel this is a good fit for their neighborhood. No Neighbors attended tonight’s meeting. No emails or letters supporting or against the plan were provided.

### Recommendation:
The Northeast Land Use Committee recommends by a vote of 4 to 0 to approve the proposed A zoning Map Amendment request.

### Rationalization:
The NELUC felt this proposal is a good fit for the space in the neighborhood. A City Team obtained verbal neighbor input and found the sampled people were in support of the proposal.
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<td>100 HUFFMAN AVE</td>
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<td>KENNETH BURKS</td>
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<td>PAIDION PROPERTIES LLC</td>
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<td>GENE LAMAR</td>
<td>1921 E 5TH ST</td>
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<td>JASON M LERCH</td>
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<td>3747 WEST DR</td>
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<td>TRACEY CARRILLO</td>
<td>6609 AVERELL DR</td>
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<td>R &amp; R TAKHAR LLC</td>
<td>7030 POE AVE BLDG A</td>
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<tr>
<td>MYERS EMILY</td>
<td>8 CENTRE ST</td>
<td>DAYTON OH 45403 0970</td>
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<td>BEAVEN DENNIS TRUSTEE</td>
<td>P O BOX 751995</td>
<td>DAYTON OH 45475</td>
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<tr>
<td>C&amp;S SHERMAN CONTRACTORS LLC</td>
<td>PO BOX 234</td>
<td>DAYTON OH 45409</td>
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<tr>
<td>TONY KROEGER</td>
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<td>ROSIE MILLER</td>
<td>1933 E FOURTH ST</td>
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<td>MIKE SQUIRE</td>
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<tr>
<td>NICOLE STEELE</td>
<td>8 N MAIN ST</td>
<td>DAYTON OH 45402</td>
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PLN2020-00490
By ......................... No .........................

AN ORDINANCE

Amending the Official Zoning Map to rezone 2013-2027 and 2101 E. Fifth St. from Transitional (T) to Mature Neighborhood Commercial (MNC) and Declaring an Emergency.

WHEREAS, Evan and Aspasia Bambakidis have requested that 2013-2027 and 2101 E. Fifth St. be rezoned from Transitional (T) to Mature Neighborhood Commercial (MNC); and

WHEREAS, The site shall retain its HD-2 historic district overlay; and

WHEREAS, The City Plan Board, on November 10, 2020, in Cases PLN2020-00490 and PLN2020-00491, recommended approval of the requests; and

WHEREAS, To allow commercial occupancy to begin on this site as soon as possible, and to provide for the immediate preservation of the public peace, property, health and safety, it is necessary that this ordinance take effect at the earliest possible date; now, therefore,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. In accordance with the recommendation of the City Plan Board, as made in Cases PLN2020-00490 and PLN2020-00491, 2013-2027 and 2101 E. Fifth St. are rezoned from Transitional (T) to Mature Neighborhood Commercial (MNC) while keeping the HD-2 historic district overlay. The Parcel Identification Numbers for the affected parcels are as follows: R72 01210 0021, R72 01210 0022, R72 01210 0023, R72 01210 0024, and R72 01210 0080. The City’s official Zoning Map shall be redrawn to reflect this change.

Section 2. For the reasons stated in the preamble hereof, this Ordinance is declared to be an emergency measure and shall take effect immediately upon its passage.

Passed by the Commission ........................................, 2021

Signed by the Mayor ............................................... , 2021

Mayor of the City of Dayton, Ohio

Attest:

______________________________
Clerk of the Commission

Approved as to form:

______________________________
City Attorney
AN ORDINANCE

Authorizing the Sale of Certain Real Estate located at 2100 McCall Street to McCall Acquisitions, LLC for Economic Development Purposes, and Declaring an Emergency.

WHEREAS, On May 5, 1999, the Commission of the City of Dayton adopted its strategic plan, CitiPlan Dayton: The 20/20 Vision ("CitiPlan 20/20"), of which land redevelopment, reuse, and revitalization are key components; and,

WHEREAS, McCall Acquisitions, LLC desires to purchase the city-owned real estate for a proposed construction project in connection with Economy Linen & Towel Service, Inc. that will help create new employment opportunities in West Dayton; and,

WHEREAS, The disposition of the Property has been recommended by the Director of Economic Development, the officer of the City of Dayton having the supervision and management of such land; and,

WHEREAS, The City Commission finds this sale to be in the public interest, in order to promote economic development, foster job creation and improve the quality of life within the City of Dayton; and,

WHEREAS, In order to complete the transaction in a timely manner, and for the immediate preservation of the public peace, property, health and safety, it is necessary that this Ordinance take effect immediately; now, therefore,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That the City Commission hereby accepts McCall Acquisition, LLC’s offer to purchase certain real estate located at 2100 McCall Street for a proposed construction project.

Section 2. That the City Manager, or her designee, is hereby authorized to proceed with the sale of the real estate generally described in the attached Exhibit A to McCall Acquisition, LLC, and to execute any and all documents necessary to facilitate the transfer, including but not limited to the proposed Real Estate Purchase Agreement attached as Exhibit B, or a document substantially similar thereto.

Section 3. That the real estate described above shall be sold for the purposes set forth in the various preambles of this ordinance and for the consideration to be deposited into the following account:
REAL ESTATE DEVELOPMENT ACCOUNT
16304-2600-29601-41
TEN DOLLARS
($10.00)

Section 4. For the reasons set forth in the preamble hereof, the Commission declares this Ordinance to be an emergency measure which shall take effect immediately upon passage.

ADOPTED BY THE COMMISSION ............., 2021

SIGNED BY THE MAYOR ....................., 2021

[Signature]
Mayor of the City of Dayton, Ohio

Attest:

[Signature]
Clerk of the Commission

Approved as to form:

[Signature]
City Attorney
A RESOLUTION

Authorizing the City Manager to enter into an Intergovernmental Agreement between the City of Dayton and Montgomery County, Ohio, and Declaring an Emergency.

WHEREAS, This Commission is committed to the welfare of the City of Dayton and the surrounding communities through the promotion of regional cooperation; and,

WHEREAS, The Board of Commissioners of Montgomery County, Ohio ("Board") desires to provide Three Hundred Thousand Dollars and Zero Cents ($300,000.00) to the Economy Linen & Towel Service, Inc., also known as Project Nemo, as part of local funding to enhance the local area’s ability to compete successfully in a global economic marketplace by providing a significant fund of grant dollars to attract and retain jobs and tax base; and,

WHEREAS, The City of Dayton supports the project and believes it is in the best interest of the City of Dayton to enter into Intergovernmental Agreement regarding the grant funding being provided by the Montgomery County; and,

WHEREAS, To provide for the timely acceptance of the grant funds and allow for the commencement of the projects, and for the immediate preservation of the public peace, property, health and safety, it is therefore necessary that this Resolution take effect at the earliest possible date; now, therefore,

BE IT RESOLVED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That the City Manager, or her designee, is authorized, on behalf of the City of Dayton, to execute all documents and agreements necessary to accept the funding awarded by the Board of County Commissioners of Montgomery County, Ohio for the following project(s) and in the following amount:

Economy Linen & Towel Service, Inc. $300,000.00
Section 2. That for the reasons stated in the preamble hereof, this Resolution is declared to be an emergency measure and shall take effect immediately upon its adoption.

ADOPTED BY THE COMMISSION ...Jan...20........., 2021

SIGNED BY THE MAYOR ...January 20..............., 2021

Mayor of the City of Dayton, Ohio

Attest:

Rashella Lawender
Clerk of the Commission

Approved as to form:

City Attorney
AN ORDINANCE

Amending the Official Zoning Map to rezone 2013-2027 and 2101 E. Fifth St. from Transitional (T) to Mature Neighborhood Commercial (MNC) and Declaring an Emergency.

WHEREAS, Evan and Aspasia Bambakidis have requested that 2013-2027 and 2101 E. Fifth St. be rezoned from Transitional (T) to Mature Neighborhood Commercial (MNC); and

WHEREAS, The site shall retain its HD-2 historic district overlay; and

WHEREAS, The City Plan Board, on November 10, 2020, in Cases PLN2020-00490 and PLN2020-00491, recommended approval of the requests; and

WHEREAS, To allow commercial occupancy to begin on this site as soon as possible, and to provide for the immediate preservation of the public peace, property, health and safety, it is necessary that this ordinance take effect at the earliest possible date; now, therefore,

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Section 2. For the reasons stated in the preamble hereof, this Ordinance is declared to be an emergency measure and shall take effect immediately upon its passage.

Passed by the Commission .................., 2021

Signed by the Mayor .................., 2021

January 20

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney