CITY COMMISSION MEETING AGENDA

CITY COMMISSION               DAYTON, OHIO               FEBRUARY 2, 2022

                                      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: N/A
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).

   AVIATION
   A1.  Groundspro LLC (grounds maintenance services as needed through 12/31/22) $564,000.00
1. (Cont’d):

**FINANCE**

B1. Plattenburg and Associates, Inc. (financial and auditing services as needed through 12/31/25)  
\[590,000.00\]

**FIRE**

C1. Celico Ptnshp dba Verizon Wireless (cellular broadband card services as needed through 12/31/24)  
\[170,000.00\]

**HUMAN RESOURCES**

D1. Frost Brown Todd LLC (P0220492) (professional legal services as needed through 12/31/22)  
\[83,500.00\]

**LAW**

E1. Frost Brown Todd LLC (P0220474) (professional legal services as needed through 12/31/22)  
\[40,002.00\]

**PLANNING, NEIGHBORHOODS & DEVELOPMENT**

F1. Comptech Computer Technologies, Inc. (temporary staffing services as needed through 12/31/23)  
\[32,000.00\]

**POLICE**

G1. State of Ohio (peace officers’ training services as needed through 12/31/22)  
\[20,000.00\]

**PROCUREMENT, MANAGEMENT AND BUDGET**

H1. Julian & Grube, Inc. (professional auditing and consulting services as needed through 12/31/23)  
\[155,000.00\]

H2. Whistleblower Security, Inc. (whistleblower services as needed through 12/31/25)  
\[49,282.80\]

**PUBLIC AFFAIRS**

I1. Progressive Printers, Inc. (printing services as needed through 12/31/23)  
\[164,000.00\]

**PUBLIC WORKS**

J1. D&C Equipment & Truck Repair (automotive shop repair services as needed through 12/31/23)  
\[150,000.00\]

J2. Carl’s Body Shop Inc. (automobile shop repair services as needed through 12/31/24)  
\[120,000.00\]
J3. Thoma-Kraft Body Shop, Inc. dba Thoma Auto Body (automobile shop repair services as needed through 12/31/22) $30,000.00

2. Arcadis U.S., Inc – Service Agreement – to perform professional engineering services to consist of oversite and professional assistance as the Owner’s (City of Dayton) Agent services for its turnkey Renewable Natural Gas (RNG) project – Department of Water/Water Reclamation $214,400.00 (Thru 12/31/23)

3. Dr. Stephen McConnell – Service Agreement – to provide psychological services for offenders on probation – The Municipal Court $15,000.00 (Thru 12/31/22)

4. The Greenway Collaborative, Inc. – Service Agreement – to assist with stakeholder and community input for Dayton’s first Active Transportation Plan (ATP) - Department of Planning, Neighborhoods and Development /Planning $15,000.00 (Thru 11/30/22)

C. Revenue to City:

5. Alcohol, Drug Addiction & Mental Health Services (ADAMHS) – Grant Agreement – to provide emergency housing assistance to individuals in the Mental Health Court Program – The Municipal Court $18,750.00 (Thru 06/30/22)

6. Cargill, Inc. Tate & Lyle Ingredients Americas, LLC – Other – fourth amendment for the Hydrogen Sulfide Control Study and Reimbursement Agreement - Department of Water/Water Reclamation $459,336.00 (Thru 01/01/23)

E. Other – Contributions, Etc.:

7. Fifth Third Bank – Payment of Voucher – to satisfy the final 2021 procurement card invoice payment with Fifth Third Bank – Department of Public Works/Fleet Management $41,993.06
II. LEGISLATION:

Emergency Ordinances – First Reading & Second Reading

8. No. 31959-22  Allowing City of Dayton Boards to Meet Remotely During the Pendency of a City Declared State of Emergency, and Declaring an Emergency.

9. No. 31960-22  Authorizing the City Manager to Execute a Purchase and Sale Agreement; Authorizing the Acceptance of Real Property, and Declaring an Emergency.

Emergency Resolution – Second Reading

10. No. 6629-22  Authorizing the City Manager to Apply for, Accept, and Enter into a Water Pollution Control Loan Fund ("WPCLF") Supplemental Loan Agreement on Behalf of the City of Dayton, Ohio for the Construction Manager at Risk for the Water Reclamation Anaerobic Digester Project; Designating a Dedicated Repayment Source for the Loan, and Declaring an Emergency.

VI. MISCELLANEOUS:

ORDINANCE NO. 31961-22

RESOLUTION NO. 6630-22

IMPROVEMENT RESOLUTION NO. 3599-22

INFORMAL RESOLUTION NO. 994-22
City Manager’s Report

From 2730 – PMB/Procurement
Supplier, Vendor, Company, Individual
Name See Below
Address See Below

Date February 2, 2022
Expense Type Purchase Order
Total Amount $2,323,718.80

2022 Purchase Orders

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<th>Fund Amount(s)</th>
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<tbody>
<tr>
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Includes Revenue to the City ☑ Yes ☐ No
Affirmative Action Program ☑ Yes ☐ No ☐ N/A

AVIATION

(A1) P0220480 – GROUNDSPRO LLC, TIPP CITY, OH
- Grounds maintenance services as needed through 12/31/2022.
- These services are required to maintain the grounds at the Dayton International Airport.
- Twenty-four (24) possible vendors were solicited, and three (3) bids were received. This order establishes a price agreement per IFB 22006D with pricing through 12/31/2024.
- The Department of Aviation requests additional authority of $376,000.00 through 12/31/2024.
- The Department of Aviation recommends acceptance of the low and best bid(s).

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Signatures/Approval

Approved by City Commission

Division

Department

City Manager

FORM NO. MS-16

Updated 06/2016
FINANCE

(B1) P0220545 – PLATTENBURG AND ASSOCIATES, INC., MIAMISBURG, OH

- Financial and auditing services as needed through 12/31/2022.
- These services are required for City’s annual State of Ohio audit.
- Plattenburg and Associates, Inc. is recommended based upon acceptance and approval of the Ohio Auditor of State RFP CC6B7-60D16, 24A43MONT; therefore, this purchase was negotiated.
- The Department of Finance requests additional authority of $590,000.00 through 12/31/2025.
- The Department of Finance recommends approval of this order.

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FIRE

(C1) P0220467 – CELLCO PRTNSHP dba VERIZON WIRELESS, CINCINNATI, OH

- Cellular broadband card services as needed through 12/31/2022.
- These services are required to maintain data communications for emergency and first responders.
- Rates are in accordance with the General Services Administration, Federal Supply Service (GSA-FSS) Contract #GS-35F-0119P.
- This amendment increases the previously authorized amount of $10,000.00 by $50,000.00 for a total not to exceed $60,000.00 and therefore requires City Commission approval.
- The Department of Fire requests additional authority of $120,000.00 through 12/31/2024.
- The Department of Fire recommends approval of this order.

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HUMAN RESOURCES

(D1) P0220492 – FROST BROWN TODD LLC, WEST CHESTER, OH

- Professional legal services as needed through 12/31/2022.
- These services are required to provide legal consultation and representation during collective bargaining negotiations.
- Frost Brown Todd LLC is recommended based upon proven past performance and subject matter expertise; therefore, this purchase was negotiated.
- The Department of Human Resources recommends approval of this order.

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LAW

(E1) P0220474 – FROST BROWN TODD LLC, WEST CHESTER, OH

- Professional legal services as needed through 12/31/2022.
- These services are required to provide legal consultation and representation.
- Frost Brown Todd LLC is recommended based upon proven past performance and subject matter expertise; therefore, this purchase was negotiated.
- The Department of Law recommends approval of this order.

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PLANNING, NEIGHBORHOODS AND DEVELOPMENT – BUILDING SERVICES

(F1) P0220477 – COMPTECH COMPUTER TECHNOLOGIES, INC., CENTERVILLE, OH

- Temporary staffing services as needed through 12/31/2022.
- 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 Planning, Neighborhoods and Development requests additional authority of $20,000.00 through 12/31/2023.
- The Department of Planning, Neighborhoods and Development recommends approval of this order.

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POLICE

(G1) P0220514 – STATE OF OHIO, COLUMBUS, OH
- Peace Officers training services as needed through 12/31/2022.
- These services are required to augment Departmental staff training.
- State of Ohio is recommended based upon proven past performance; therefore, this purchase was negotiated.
- The Department of Police recommends approval of this order.

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PROCUREMENT, MANAGEMENT AND BUDGET – MANAGEMENT AND BUDGET

(H1) P0220037 – JULIAN & GRUBE, INC., WESTERVILLE, OH
- Professional auditing and consulting services as needed through 12/31/2022.
- These services are required to provide auditing and consulting services.
- Julian & Grube, Inc. is recommended based upon proven past performance and to ensure continuity and quality of service; therefore, this purchase was negotiated.
- The Department of Procurement, Management and Budget requests additional authority of $80,000.00 through 12/31/2023.
- The Department of Procurement, Management and Budget recommends approval of this order.

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(H2) P0220331– WHISTLEBLOWER SECURITY, INC., WEST VANCOUVER, BC
- Whistleblower services as needed through 12/31/2022.
- These services are required to anonymously disclose concerns regarding theft, fraud, or abuse for the City.
- Rates are in accordance with the RFQ 18031PMB with pricing through 6/30/2026.
- This amendment increases the previously authorized amount of $7,428.46 by $7,282.80 for a total not to exceed $14,711.26 and therefore requires City Commission approval.
- The Department of Procurement, Management and Budget requests additional authority of $42,000.00 through 12/31/2025.
- The Department of Procurement, Management and Budget recommends approval of this order.

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PUBLIC AFFAIRS

(I1) P0220493 – PROGRESSIVE PRINTERS, INC., VANDALIA, OH

- Printing services as needed through 12/31/2022.
- These services are required for printing of the City’s community newsletters.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 20007JL with firm pricing through 02/29/2024.
- The Department of Public Affairs requests additional authority of $82,000.00 through 12/31/2023.
- The Office of Public Affairs recommends approval of this order.

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PUBLIC WORKS – FLEET MANAGEMENT

(J1) P0220495 – B & G EQUIPMENT & TRUCK REPAIR, MORAINES, OH

- Automobile shop repair services as needed through 12/31/2022.
- These services are required to maintain the City’s fleet.
- Twenty (20) possible vendors were solicited, and six (6) bids were received. This order establishes a price agreement per IFB 22004D with pricing through 12/31/2023.
- The Department of Public Works requests additional authority of $100,000.00 through 12/31/2023.
- The Department of Public Works recommends acceptance of the low and best bid(s). Multiple suppliers are recommended to ensure the best value and availability of services for the City.

<table>
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<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
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</table>
PUBLIC WORKS – FLEET MANAGEMENT CONTINUED

(J2) P0220496 – CARL’S BODY SHOP INC., DAYTON, OH

- Automobile shop repair services as needed through 12/31/2022.
- These services are required to maintain the City’s fleet.
- Twenty (20) possible vendors were solicited, and six (6) bids were received. This order establishes a price agreement per IFB 22004D with pricing through 12/31/2023.
- The Department of Public Works requests additional authority of $100,000.00 through 12/31/2023.
- Carl’s Body Shop Inc. is a Dayton local entity.
- The Department of Public Works recommends acceptance of the low and best bid(s). Multiple suppliers are recommended to ensure the best value and availability of services for the City.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
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(J3) P0220497 – THOMA-KRAFT BODY SHOP, INC. DBA THOMA AUTO BODY, DAYTON, OH

- Automobile shop repair services as needed through 12/31/2022.
- These services are required to maintain the City’s fleet.
- Twenty (20) possible vendors were solicited and six (6) bids were received. This order establishes a price agreement per IFB 22004D with pricing through 12/31/2023.
- Thoma-Kraft Body Shop, Inc. dba Thoma Auto Body is a Dayton local entity.
- The Department of Public Works recommends acceptance of the low and best bid(s). Multiple suppliers are recommended to ensure the best value and availability of services for the City.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
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The aforementioned departments recommend approval of this order.
PROFESSIONAL SERVICES AGREEMENT FOR OWNER’S AGENT – RENEWABLE NATURAL GAS PROJECT

The Department of Water, in partnership with the Office of Sustainability, requests permission to enter into a Professional Services Agreement with Arcadis U.S., Inc. in the amount of $214,400.00 to perform professional engineering services to consist of oversight and professional assistance as the Owner’s (City of Dayton) Agent services for its turnkey Renewable Natural Gas (RNG) project at the Department of Water’s Water Reclamation Facility.

Arcadis completed the Water Reclamation Facility Master Plan and completed the initial study of the Renewable Natural Gas. Arcadis U.S., Inc. has the best combination of experience, approach, and resources to meet the City’s objectives.

This project is being fully funded using 2022 Sanitary Capital Funds.

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on December 31, 2023.

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

A Certificate of Funds in the amount of $214,400.00, and a copy of the Agreement are attached.
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>
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<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td>Required Documentation</td>
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<td>Expiration Date</td>
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<td>Original Commission Approval</td>
<td>$214,400.00</td>
<td>Initial City Manager's Report</td>
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<td>Initial Encumbrance</td>
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<td>Initial Agreement/Contract</td>
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<td>Original CT/CF</td>
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<td>Copy of City Manager's Report</td>
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<tr>
<td>Increase Encumbrance</td>
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<td>Copy of Original Certificate of Funds</td>
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<tr>
<td>Remaining Commission Approval</td>
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</tr>
</tbody>
</table>

Amount: $214,400.00

Fund Code: 55003 - 3460 - 1159 - 54 - SF2115

Amount: ___________

Fund Code: ___________

Attach additional pages for more FOAPALs

Vendor Name: Arcadis U.S., Inc.
Vendor Address: 4665 Cornell Road, Suite 200 Cincinnati OH 45241
Street City State Zipcode + 4

Federal ID: 57-0373224
Commodity Code: 30200
Purpose: Professional Services Agreement for Owner's Agent for the Renewable Natural Gas Project

Contact Person: Lisa Burton-Yates

Water / Water Engineering 1/21/2022

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

CF Prepared by

Date

CF/CT Number
DATE: January 20, 2022

TO: Shelley Dickstein, City Manager
    City Manager’s Office

FROM: Mark Charles, Sustainability Manager MDS
       Sustainability Office

SUBJECT: Professional Services Agreement with Arcadis

The Sustainability Office in collaboration with the Department of Water have initiated a Professional Services Agreement with Arcadis US, for $214,400.00, in support of the City’s Renewable Natural Gas Project. This agreement calls for Arcadis to provide Dayton with specialty technical assistance to include reviewing the RFQ submissions, drafting the RFP, reviewing the RFP submissions (up to 3), and assisting with public outreach regarding this project. Arcadis is providing a summary of how this proposal amount was derived. Since the contract has significant uncertainty, we are proposing to use a lump sum contract with a total cap of no more than $214,400.00.

Since this project has the potential to generate significant revenue to the City, it was the consensus of staff that we seek outside help in the development of the RFP. This is a new arena for us and there are no City staff with the expertise in developing an RFP for this type of project. We certainly don’t want to issue an RFP that lacks needed services or addresses issues that would lead to less revenue to the City. This is a small investment given the potential for the amount of revenue that could be generated with this project.

Arcadis US was selected based on having completed the Water Reclamation Master Plan and completed the initial report for Renewable Natural Gas (including business case scenarios of the potential revenues). The Sustainability Office has investigated several municipal water reclamation facilities in varying phases of management of their biogas and have found that Arcadis has documented experience in this specialty field for managing renewable natural gas and marketing in the Midwest.

Attached is the draft Professional Services Agreement and Exhibit A which outlines the scope of work. The Sustainability Office in collaboration with Water Department and Civil Engineering will review RFQ submittals following the closing date of January 31, 2022. It is imperative that we complete the RFP for the Renewable Natural Gas Project shortly thereafter and issue to the short-listed vendors.

For additional information, please contact Mark Charles at (937)333-3612, Chris Clark at (937)333-1834, or Michele Simmons at (937)333-3796.

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

THIS AGREEMENT ("Agreement") entered into on 2022 is between the City of Dayton, Ohio, ("City") and Arcadis U.S., Inc. with an office at 4665 Cornell Road, Suite 200, Cincinnati, Ohio 45241 (hereinafter referred to as the "Consultant").

WITNESSETH THAT:

WHEREAS, The City desires professional engineering services to consist of oversight and professional assistance to provide Owner's Agent services for its turnkey Renewable Natural Gas (RNG) project.

WHEREAS, Consultant is willing to perform such professional services and represents that its staff is fully qualified to perform such services; and,

WHEREAS, The professional services to be provided under this Agreement are necessary to achieve the purposes of the City's Sustainability and Water Department.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein and benefit to be derived by the parties from the execution of this Agreement, the City and Consultant hereby agree as follows:

ARTICLE 1. TERM

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on December 31, 2023, whichever date is earlier. The City, however, reserves the right to extend the term of this Agreement to a later date by mutual written agreement, as described in Article 11, J.

ARTICLE 2. SERVICES TO BE PERFORMED BY CONSULTANT

Consultant shall provide all professional services necessary to complete the Services that are described in Attachment A, Scope of Services, which is incorporated herein by reference.

The City acknowledges the Services provided by Consultant hereunder do not and shall not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising the City, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) the practice of law or other legal services; (4) nor any form of professional accounting or insurance advisory services.

ARTICLE 3. COMPENSATION

The total remuneration in this Agreement shall not exceed TWO HUNDRED FORTEEN THOUSAND FOUR HUNDRED AND ZERO CENTS ($214,400.00) for all services to be provided by Consultant pursuant to this Agreement. The Consultant shall submit invoices, not more frequently than monthly, for payment of the Services actually 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. An itemization of fees is described in Attachment B, Fee Schedule, which is incorporated herein by reference.
ARTICLE 4. CITY’S RESPONSIBILITIES
The City will furnish Consultant, at no cost or expense, all reports, records, and data that might be necessary or useful to complete the Services required under this Agreement.

ARTICLE 5. 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 the City has notified Consultant in writing of any such error within that period, Consultant shall perform, at no additional cost to the City, such Services within the original Project as may be necessary to remedy such error.

ARTICLE 6. LIABILITY AND INDEMNIFICATION
Consultant shall indemnify and defend the City and its elected officials, officers, agents and employees, from and against all claims, losses, damages, and expenses for bodily injury, death, or third party property damage to the extent such claims, losses, damages, or expenses are caused by Consultant’s negligent or willful acts, errors, or omissions.

This Article 6 shall survive early termination or expiration of this Agreement.

ARTICLE 7. 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) Employer’s liability insurance, having a limit of $500,000 for each occurrence.
(4) Professional liability insurance, having a limit of $1,000,000 annual aggregate.

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, Workers Compensation, and Employer’s Liability shall name the City and its elected officials, officers, agents, employees, and volunteers as additional insureds, but only to the extent of Consultant’s legal liability and to 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. In the event of a claim, Consultant shall make copies of applicable insurance policies available for review by the City. Consultant, however, shall retain its right to restrict disclosure of Consultant’s proprietary information contained in such policies in accordance with Article 8.

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.
ARTICLE 8. CONFIDENTIALITY

Either party may provide the other party with information that it considers confidential or proprietary. Proprietary information is information that, if made public, would put the disclosing party at a disadvantage in the market place or trade of which the party is a part. Confidential information is information that, under the laws of the State of Ohio, is classified as being “private.” Such information shall be marked “confidential” and/or “proprietary” by the party providing it.

To the extent permitted by law, each party agrees that for a period of two (2) years following the date of disclosure of the confidential or proprietary information, it will not disclose such information of the other to any third party without the other party's written consent. During this two-year period, each party will protect the confidential or proprietary information in the same manner that it protects its own confidential information of a similar nature. Each party agrees that it will only copy the confidential or proprietary information to the extent necessary to perform the work and services contracted for pursuant to this Agreement.

Nothing in this Article shall prohibit or limit a party’s disclosure of confidential information: (i) previously known to it without an agreement of confidentiality, (ii) independently developed by it, (iii) that is or becomes publicly available through no breach of this Agreement, (iv) when such disclosure is required by an order of a Court or under state or federal law, or (v) when such disclosure is authorized in writing by the City.

ARTICLE 9. OWNERSHIP OF DOCUMENTS & INTELLECTUAL PROPERTY

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

Consultant 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 Consultant.

ARTICLE 10. TERMINATION

This Agreement may be 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 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 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.

ARTICLE 11. STANDARD TERMS

A. DELAY IN PERFORMANCE

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.

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 litigation involving this Agreement may only be brought in a court of competent jurisdiction located 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:

Consultant: Arcadis U.S., Inc.
4665 Cornell Road, Suite 200
Cincinnati, Ohio 45241
Attention: Mr. Pete Kube
Project Manager

City: City of Dayton, City Manager’s/Sustainability Office
101 West Third Street
Dayton, Ohio 45402
Attention: Michele Simmons, Sustainability Project Administrator

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.

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 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. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision, which is of the essence of this Agreement, be determined void.

G. INDEPENDENT CONTRACTOR

By executing this Agreement for professional services, Consultant acknowledges and agrees that it will be providing services to the City as an “independent contractor”. As an independent contractor 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. Further, Consultant 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.

Consultant acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System (“OPERS”) membership.

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 subcontractors 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.

The parties may mutually agree to extend the term of this Agreement to a later date. The City Manager’s Office, Sustainability Manager is authorized to extend the term of this Agreement for the City.
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.

IN WITNESS WHEREOF, the City and Consultant, each by a duly authorized representative, have executed this Agreement on the date first written above.

CITY OF DAYTON, OHIO

City Manager

Date: ____________________________

APPROVED AS TO FORM
AND CORRECTNESS

1/19/2022

John Musto for
City Attorney

Signed by: Musto, John

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

, 2022

Min./Bk. Pg. ________

Clerk of Commission
ATTACHMENT A
TO
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

City: City of Dayton, Ohio
Project: Owners Agent Services for Renewable Natural Gas Solicitation and Execution with Turnkey Proposers
Consultant: Arcadis U.S., Inc.

SCOPE OF SERVICES

The Consultant shall provide the following services:

Proposal Summary

Arcadis U.S., Inc. (Arcadis) is pleased to present the City of Dayton with our professional approach and estimated costs to provide Owner’s Agent services for its turnkey Renewable Natural Gas (RNG) project. We believe that our history with the biogas systems at the Dayton WWTP, along with our experience in developing and designing RNG projects and providing advisory services for alternative project delivery models, will be a valuable addition to the project. Our goal is to help Dayton end up with the most technically and operationally sound biogas project that optimizes benefits from both a sustainability and economic perspective.

Our proposed team includes staff who have worked closely with the Dayton WWTP staff for many years, understanding your systems and operating needs. Our proposed team also includes national experts in biogas systems design as well as development and execution of biogas to RNG projects. This includes experience working for 3rd party developers to create RNG systems in partnership with public WWTPs just like Dayton. We understand the complicated nature of making these projects a reality including the wide range of entities and stakeholders involved. Our goal is to be your experienced partner that knows the correct steps in the RNG process and knows what needs to get accomplished at each of these important steps. Our approach and team are described in more detail in the following sections.

The Arcadis Approach

Our approach reflects our experience in RNG projects and also reflects the process laid out in the RFQ solicitation issued in November 2021. We have broken our approach down into the following main tasks:

- RFQ Phase Services
- RFP Phase Services
- Project Execution Services
- Public Messaging

Task 1 – RFQ Phase Services

Our team has already been working in close coordination with Dayton staff to develop and issue the initial Request for Qualifications (RFQ) document. Expected responses will likely vary in a number of ways including technologies employed, project financing, ownership, operation and contracting models, use of existing PSA equipment, and valuation of biogas. In this phase of the project solicitation, Arcadis proposes to provide the following services:

- Review RFQ response documents to help determine apparent best three qualification packages.
• Perform a technical evaluation to determine feasibility and viability of apparent best three proposed technologies.

• Develop conceptual level cost and financial models of best three proposed projects and project delivery methods.

• Evaluate overall cost/benefit of the apparent best three proposed projects and project delivery methods, including identification of potential risks to Dayton.

• Provide recommendations on RFQ response scoring criteria.

The above listed services will be documented in a technical memorandum with draft and final versions. Coordination calls with the City of Dayton and Dayton WWTP will be held to communicate Arcadis opinions and findings throughout the RFQ phase services.

Task 2 – RFP Phase Services

Upon completion of RFQ phase, Dayton will select short-listed responders to be invited to the Request for Proposal (RFP) phase. Arcadis will assist in developing the RFP materials as well as assist in reviewing and analyzing the responses. It is anticipated that this phase will solicit best and final offers from short listed proposers, in that the responses to the RFP shall be considered contractually binding. In this phase of the project solicitation, Arcadis proposes to provide the following services to develop and administer the RFP document:

• Assistance in development of the RFP document to solicit best and final offers from the short-listed proposers, including support in developing language and RFP requirements that help ensure technologies and contracting structures are consistent with Dayton preferences and facilitate comparison of proposals.

• Assistance in development of draft contract language, primarily focused on technical and performance criteria, as well as the delineation of roles and responsibilities. The draft contract will be included as part of the RFP solicitation. Dayton’s legal counsel and procurement office will be actively engaged and will provide final review and approval of the contract.

• Development of responses to Request for Information (RFIs) received from proposers during the RFP phase

After proposals have been received in response to the RFP, Arcadis proposes the following service to assist in final selection:

• Review of all received RFP responses.

• Make updates to relevant cost and financial models developed in the RFQ phase to account for more detailed information provided in RFP responses for up to three of the apparent best proposals.

• Perform validation of capital costs provided in RFP responses.

• Perform validation of operations and maintenance costs, projected revenue streams, escalation factors, and other variables used by respondents in the apparent best three proposals.

• Work closely with Dayton’s legal counsel to review proposed changes to the draft contract language and provide commentary on the impact that the proposed changes would make to the overall risks and benefits for Dayton.
• Provide recommendations on RFP response scoring criteria.
• Assist in final contract negotiations and execution of a final agreement between Dayton and the final selected proposer.

Task 3 – Project Execution Services

Based on experience, final selection of a proposer is not the final step in the process of a successful RNG project. There needs to be continued effort and diligence on the side of the City to ensure the project gets designed with Dayton’s needs in mind and that Dayton’s voice gets heard when coordination with outside entities (such as natural gas utilities) commence. There also needs to be effort expended to ensure that the selected RNG provider is meeting its contractual obligations and that full benefits are being realized by Dayton once the project is placed in operation.

Arcadis proposes the following services during the project execution:
• Participate in up to three design review meetings with the selected RNG provider to provide insight and commentary on design development.
• Review major design documents at the 30%, 60%, 90%, and final design stages to anticipate effect on WRF, Biogas system, and WRF operations. Comments will be provided.
• Participate in external stakeholder coordination meetings such as development of interconnection negotiations with the NG utility.
• Perform design coordination and design services for Dayton WWTP biogas systems that are required to interface with the selected RNG provider’s system including biogas control strategies, instrumentation, and communication via SCADA.
• Assist in RNG system start-up testing and procedures to ensure the Dayton WWTP and biogas system is operating as intended during RNG startup.
• Analyze monthly operating data provided by the selected RNG provider for a period of 12 months to determine if reported performance results match with plant data and contracted obligations of the selected RNG provider.
• Review Dayton’s raw biogas quality measurement and monitoring results for a period of 12 months to ensure that Dayton is meeting its contracted obligations in terms of gas quality.

After the first year of operation, Dayton may elect to self-perform RNG monitoring tasks or extend the service agreement for additional time.

Task 4 – Public Messaging

This biogas to RNG project represents a major opportunity to capitalize on positive public relations potential from a sustainability focused project. Under this task, Arcadis will assist City of Dayton staff in effectively communicating to the public both the nature of the project and the benefits it provides. Our experience has shown that talking about technical aspects of the project in a logical and understandable way (without “dumbing it down”) is a major component of successful public relations. Arcadis anticipates providing public messaging services during all three previously mentioned phases of the project (RFQ, RFP, Project Execution). The proposed services include:
• Facilitating internal coordination calls with City of Dayton staff to present and discuss important aspects of the project and develop communication strategies.

• Development of presentation materials describing the project and its benefits to be used for public facing and non-technical audiences.

• Participation in public facing presentations such as community outreach events.

• Assistance in developing written materials such as press releases or pamphlets to be used in written communications from the City to public facing outlets.

• Development of graphics to be used in all forms of project communication activities.

Our team is dedicated to the overall success of this project which, in our opinion, extends to public appreciation. Our efforts can be flexibly tailored to meet your needs during all phases of the project.

Assumptions for Task 1 and Task 2:

Our tool for financial analysis of comprehensive, multi-year, debt, income, and scenario planning for proposals such as these is called “Pro Forma”. This is the tool we have provided previously when financial future planning with the Water Department. For these tasks we will be using a combination of qualitative and quantitative approaches and tools.

• Qualitatively will be evaluating the qualifications and proposals based on past experience, references, local team, financial health, etc. This is similar to what was described in the RFQ regarding scoring. For the upcoming RFP, we will work with the City to hone which criteria are important to include in the upcoming RFP and develop appropriate weightings for scoring the proposals.

• Quantitatively we will evaluate in two waves- one is technical – is their approach realistic/reasonable, is it sized right, do costs/ performance seem reasonable, etc.; the other would be purely financial. This is where we apply the Pro Forma and customize it per each proposal’s characteristics, the life of the Agreement, and conduct a sensitivity analysis around those variables that are least certain or that we have the least confidence in.
ATTACHMENT B
TO
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

City: City of Dayton, Ohio
Project: Owners Agent Services for Renewable Natural Gas Solicitation and Execution with Turnkey Proposers
Consultant: Arcadis U.S., Inc.

COMPENSATION

1. The total “Not-To-Exceed” fee for performance of the Scope of Services, as outlined in Attachment A to this Agreement, is $214,400.00. This amount includes all direct and indirect labor charges, material cost, overheads, and profits plus all other fees and charges including expenses. Such direct expenses include:
   a. Travel, subsistence, and incidental costs.
   b. Use of motor vehicles on a monthly rental basis for assigned vehicles and on a mileage basis or rental cost basis for vehicles used for short periods.
   c. Telegraph costs, long distance telephone costs, and Project “onsite” telephone costs.
   d. Reproduction of reports.
   e. Postage and shipping charges for Project-related materials.
   f. Computer time charges, including program use charges.
   g. Rental charges for use of equipment, including equipment owned by the Consultant.

<table>
<thead>
<tr>
<th>Task</th>
<th>Cost of Proposed Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Management</td>
<td>$8,200</td>
</tr>
<tr>
<td>Task 1: RFQ Phase Services</td>
<td>$53,400</td>
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<tr>
<td>Task 2: RFP Phase Services</td>
<td>$84,100</td>
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<tr>
<td>Task 3: Project Execution Services</td>
<td>$48,800</td>
</tr>
<tr>
<td>Task 4: Public Messaging</td>
<td>$18,400</td>
</tr>
<tr>
<td>Expenses and Other Direct Costs</td>
<td>$1,500</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$214,400</strong></td>
</tr>
</tbody>
</table>

All services shall be satisfactorily performed for an amount not to exceed $214,400.00. No additional compensation shall be paid for the performance of the specified services.

2. Charges of special consultants requested and authorized by the City for work that is beyond the scope of this Agreement are not included in the lump sum fee set forth in Section 1.

3. Unless disputed, City shall remit payment to Consultant within thirty (30) days from receipt of a monthly invoice detailing the Services rendered and the percent complete of the scope of services described in Attachment A. All invoices for non-lump sum, reimbursable type payments shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other accounting documents pertaining in whole or in part to the performance of the Services and shall be clearly identified and readily accessible to City. However, Consultant does not have to furnish such supporting documentation with its invoice, unless requested by the City.

B-1
4. Consultant shall keep its records related to the matters covered by this Agreement in compliance and conformity with generally accepted accounting practices. At any time during normal business hours and as often as the City may deem necessary, Consultant shall make available to the City all of its records with respect to all matters covered herein, and will permit the City, at its expense, to audit, examine, and make excepts or transcripts from such records and to have audits made of all contracts, invoices, materials, payrolls, records of personnel, conditions or employment and other data pertaining in whole or part to matters covered within this Agreement. In performing any independent audit, Consultant shall require the auditor to reasonably comply with all applicable City rules and regulations governing such procedures.
# Cost Proposal Detail

<table>
<thead>
<tr>
<th>Task</th>
<th>Task No.</th>
<th>Task Description</th>
<th>Hours</th>
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<tr>
<td><strong>0001</strong> Project Management</td>
<td>000100</td>
<td>On-going Project services and coordination and communication with Dayton</td>
<td>20</td>
<td>$20</td>
<td>$8,000</td>
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<tr>
<td><strong>0001</strong> Project Management</td>
<td>000105</td>
<td>Review RFQ responses (review of 5 responses)</td>
<td>12</td>
<td>60</td>
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<tr>
<td><strong>0001</strong> Project Management</td>
<td>000106</td>
<td>Develop conceptual level cost and financial models of proposed project (for 5 proposal packages)</td>
<td>8</td>
<td>60</td>
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<td><strong>0001</strong> Project Management</td>
<td>000107</td>
<td>Many hours assumed for Jr. Staff to develop the financial analyses that senior staff will provide guidance</td>
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<td>80</td>
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<td><strong>0002</strong> Phase Services</td>
<td>000200</td>
<td>Evaluate cost/benefits of proposed projects (for 3 proposal packages)</td>
<td>8</td>
<td>80</td>
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<tr>
<td><strong>0002</strong> Phase Services</td>
<td>000201</td>
<td>Provide recommendations on RFQ response scoring criteria</td>
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<td>32</td>
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<td><strong>0002</strong> Phase Services</td>
<td>000202</td>
<td>Develop draft Memos summarizing RFQ phase work</td>
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<td>Coordination calls with Dayton</td>
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<td><strong>0002</strong> Phase Services</td>
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<tr>
<td><strong>0002</strong> Phase Services</td>
<td>000205</td>
<td>Assistance developing RFQ document</td>
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<td><strong>0002</strong> Phase Services</td>
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<td>Assistance developing draft contract language contained in RFQ</td>
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<td><strong>0003</strong> Project Execution Services</td>
<td>000300</td>
<td>Development of responses to RFQs</td>
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<td><strong>0003</strong> Project Execution Services</td>
<td>000301</td>
<td>Analysis of RFQ responses</td>
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<td><strong>0003</strong> Project Execution Services</td>
<td>000302</td>
<td>Updates to cost and financial models for 3 proposal packages</td>
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<td><strong>0004</strong> Public Communication</td>
<td>000400</td>
<td>Evaluate quality and cost of design services and proposal for Dayton</td>
<td>4</td>
<td>20</td>
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<td><strong>0004</strong> Public Communication</td>
<td>000401</td>
<td>Perform design coordination services with Dayton (for 5 proposal packages)</td>
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<td><strong>0004</strong> Public Communication</td>
<td>000402</td>
<td>This is a typical approach to design work with Jr. Staff working under the supervision of senior-level engineers</td>
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<td>72</td>
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<tr>
<td><strong>0004</strong> Public Communication</td>
<td>000403</td>
<td>Assist in RFP system drafting and review</td>
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<td>20</td>
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<tr>
<td><strong>0004</strong> Public Communication</td>
<td>000404</td>
<td>Analyze project team training and design for quality control</td>
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<td><strong>0004</strong> Public Communication</td>
<td>000405</td>
<td>Facilitate in-person training</td>
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<td><strong>0004</strong> Public Communication</td>
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<td>Coordination calls with Dayton</td>
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<td><strong>0004</strong> Public Communication</td>
<td>000407</td>
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<td><strong>0004</strong> Public Communication</td>
<td>000408</td>
<td>Facility coordination calls with City of Dayton</td>
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<td><strong>0004</strong> Public Communication</td>
<td>000409</td>
<td>Development of presentation materials</td>
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<td>20</td>
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<td><strong>0004</strong> Public Communication</td>
<td>000410</td>
<td>Participation in public facing presentations</td>
<td>4</td>
<td>16</td>
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<td><strong>0004</strong> Public Communication</td>
<td>000411</td>
<td>Assistance in developing written materials</td>
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<td>8</td>
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<td><strong>0004</strong> Public Communication</td>
<td>000412</td>
<td>Development of graphics</td>
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<td><strong>0004</strong> Public Communication</td>
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## Total Hours

| Total Hours | 234 | 6 | 256 | 180 | 198 | 274 | 20 | 1,176 | 212,900 |

### Assumptions

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<tr>
<td>Meals</td>
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<tr>
<td>Lodging</td>
<td>2</td>
</tr>
<tr>
<td>Rental Cars</td>
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</tr>
<tr>
<td>Message</td>
<td>250</td>
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## Total Costs

<table>
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<tr>
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<td>CDOs</td>
<td>1,996</td>
</tr>
<tr>
<td>Total</td>
<td>214,896</td>
</tr>
</tbody>
</table>
From: 2510 - Municipal Court
Name: Dr. Stephen McConnell
Address: 4398 E. Entrada Dr.
        Beavercreek, Ohio 45431

Date: February 2, 2022
Expense Type: Service Agreement
Total Amount: $15,000.00 thru 12/31/2022

<table>
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<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>General Fund</td>
<td>10000-2510-1159-74</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>

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

Description:

Professional Services Contract

The Dayton Municipal Court is requesting approval of a Professional Services Contract with Dr. Stephen McConnell in the amount of $15,000.00 to provide psychological services for offenders on probation.

The Montgomery County Alcohol, Drug Addiction and Mental Health Services (ADAMHS) Board provides funding to the City of Dayton to fund the services provided through this contract. This is an ongoing partnership with ADAMHS and Dr. McConnell since 2008.

The term for this agreement is one year and will begin upon execution.

The Law Department has reviewed and approved this contract as to form and correctness. The Funding Source is General Fund Committed.

A Certificate of Funds in the amount of $15,000.00 is attached.

Signatures/Approval:

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

Renewal Contract

Change Order

Contract Start Date 01/01/22
Expiration Date 12/31/22
Original Commission Approval $15,000.00
Initial Encumbrance $15,000.00
Remaining Commission Approval

Required Documentation

X Initial City Manager's Report
X Initial Certificate of Funds
X Initial Agreement/Contract

Original CT/CF CT 21-1811
Increase Encumbrance $
Decrease Encumbrance $
Remaining Commission Approval

Amount: $15,000.00

Fund Code 10000 - 2510 - 1159 - 74 - XXXX - XXXX
Fund Org Acct Prog Act Loc

Amount: 

Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX
Fund Org Acct Prog Act Loc

Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX
Fund Org Acct Prog Act Loc

Attach additional pages for more FOAPALs

Vendor Name: Dr. Stephen McConnell
Vendor Address: 4398 E. Entrada Drive Beavercreek OH 45431
Street City State Zipcode + 4

Federal ID: 198-34-6927
Commodity Code: 95221
Purpose: Provide psychological services for offenders through the DMC Probation Department.

Contact Person: Ann Marie Murray
Municipal Court/Court Administrator 21-Jan-22
Department/Division Date

Originating Department Director's Signature: Ann Marie Murray

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 CT22-1811

CF Prepared by Date
PROFESSIONAL SERVICES CONTRACT

This Agreement is entered into this _____ day of _________ 2022, between the City of Dayton, Ohio (“City”) and Stephen McConnell, Psy. D. (“Psychological Consultant”).

WHEREAS, The Dayton Municipal Court demonstrates a need for the Dayton Municipal Court Probation Department to have at its disposal a Psychological Consultant; and,

WHEREAS, The Psychological Consultant will provide defendants charged and/or placed on probation with misdemeanor offenses with assessments, forensic evaluations, and individual counseling; and,

WHEREAS, The Psychological Consultant must be a certified holder of a Doctorate of Psychology and has represented to the City that he is qualified to provide the services needed by the City.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

ARTICLE 1. SCOPE OF SERVICES

Psychological Consultant shall provide four (4) hours of services per week. The services shall include, but not be limited to:

A. Providing psychological evaluations of clients for the City and Probation Officers.

B. Consulting with Probation Officers regarding clients’ psychological diagnosis, prognosis, and treatment options.

C. Overseeing the Probation Department’s Life Skills program for those clients with emotional and/or psychological issues/need.

D. Supervising the Probation Department’s Anger Management program.

ARTICLE 2. TERM, RENEWALS AND TERMINATION

A. This Agreement shall cover the Services provided for a one-year period beginning on January 1, 2022 through December 31, 2022, unless terminated earlier or renewed as provided in this Agreement.

B. This Agreement may be renewed for a maximum of two (2) additional one-year periods. However, no such renewal of this Agreement shall be recognized or effective unless it is reduced to a writing, which makes specific reference to this Agreement, and executed by a duly authorized representative of City.
C. Either party shall have the right, upon giving thirty (30) days prior written notice to the other party, to terminate this Agreement. In the event of termination, the City shall pay for the services the City deems to have been properly rendered to the effective date of termination but shall not be responsible for payment of services performed subsequent to the effective date of termination specified in the notice.

ARTICLE 3.  PAYMENT

A. The City shall pay the Psychological Consultant the sum of Seventy-Five Dollars and Zero Cents ($75.00) per hour for the Services described in Article 1 hereof.

B. The total amount of the remuneration under this Agreement, exclusive of any renewal(s) shall not exceed the sum of Fifteen Thousand Dollars and Zero Cents ($15,000.00).

C. The Psychological Consultant shall invoice the City, not more frequently than monthly, for payment of the actual Services rendered in accordance with this Agreement. All 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.

ARTICLE 4.  GENERAL PROVISIONS

A. Entire Agreement/Integration

This Agreement represents the entire and integrated Agreement between the City and the Psychological Consultant. This Agreement supersedes all prior and contemporaneous communications, representations, understanding, agreements or contracts, whether oral or written, relating to the subject matter of this Agreement.

B. Waiver

A waiver by either party of any breach of this Agreement shall be in writing. Any such 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.

C. Non-Discrimination

The Psychological 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 determination, 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 Revised Code of General Ordinances of the City of Dayton, Ohio, 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 of this Agreement entitling City to terminate this Agreement at its option.

D. Meetings and Evaluation

The Psychological Consultant shall meet with designated City personnel at such times designated by City to review and discuss performance of this Agreement. Psychological Consultant shall cooperate with the City in all respects concerning the review and monitoring of the Services and/or performance of this Agreement.

E. Notice/Communications

Any written notice or other communication required or permitted by this Agreement shall be made in writing and shall be delivered personally, by express delivery, certified mail or first class U.S. mail. Postage pre-paid, to the respective party at the following address:

To City: City of Dayton, Ohio

Ann Marie Murray
Court Administrator
301 W. Third St., Rm 365
Dayton, OH 45402

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

F. Assignment

Psychological Consultant shall not assign any rights or duties under this Agreement without the prior written consent of 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 Paragraph shall prevent Psychological Consultant from employing independent consultants, associates, and subcontractors to assist in the performance of the Services.

G. Independent Contractor

By executing this Agreement, Psychological Consultant acknowledges and agrees he will be providing services to City as an “independent contractor”. As an independent contractor for City, Psychologist Consultant is prohibited from representing or allowing others to construe the parties’ relationship in a manner inconsistent with this subsection (G). Psychological Consultant shall have no authority to assume or create any obligation on behalf of, or in the name of City, without the express prior written approval of a duly authorized representative of City.
Psychological Consultant and his employees, agents or subcontractors, or any other persons retained or hired by him to assist in the performance of the services under this Agreement, are not City employees. Therefore, such persons shall not be entitled to any of the emoluments of employment with the City of Dayton, and Psychological Consultant shall indemnify the City against any and all claims by its employees, agents or subcontractors for such City employee benefits. Psychological Consultant further understands and agrees that neither he, nor any of his employees, agents, or subcontractors are “Public Employees” for the purpose of membership in the Ohio Public Employees Retirement System (“OPERS”). Psychological Consultant will be solely responsible to withhold and pay all applicable local, state, and federal taxes for its employees.

To the maximum extent permitted by law, the City and Psychological Consultant, shall maintain the confidentiality and integrity of all victim records, including, interviews/discussion with victims and/or clients, and shall not disclose same to unauthorized persons. Further, Psychological Consultant shall maintain the confidentiality and integrity of all records and matters of City.

H. Indemnification

Psychological Consultant shall defend, indemnify and hold harmless the City, its officers, employees and agents from and against legal liability for all claims, losses, damages and expenses to the extent that such claims, losses, damages, or expenses that are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Psychological Consultant or its employees, agents, and representatives.

I. Records and Meetings

Psychological Consultant shall maintain accurate records of all time expended in performance of the Services hereunder. Such records shall be made available for inspection and review by the City, upon request. Psychological Consultant shall meet with the City’s designees as such times designated by the City to review and discuss performance of this Agreement. Psychological Consultant shall allow the City to conduct on-site monitoring of the Services and shall cooperate with the City in all respects concerning the review and monitoring of the Psychological Consultant’s performance pursuant to this Agreement.

J. Governing Law

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 claim, civil action, or lawsuit regarding this Agreement must be brought in a court of competent jurisdiction in Montgomery County, Ohio.

K. Political Contributions

Psychological Consultant affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.
IN WITNESS WHEREOF, the City and Psychological Consultant have caused this Agreement to be executed as of the day and, date first set forth above.

CITY OF DAYTON, OHIO

__________________________________________
City Manager

APPROVED AS TO FORM
AND CORRECTNESS:

1/13/2022

X John Musto for
City Attorney
Signed by: Musto, John

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

_______________________________, 2022

Min./Bk. ___________ Page _______

_______________________________
Clerk of the Commission
From 2340 - Planning, Neighborhoods & Dev / Planning
Supplier, Vendor, Company, Individual
Name The Greenway Collaborative, Inc.
Address 102 Nickels Arcade
Ann Arbor, Michigan 48104

Date February 2, 2022
Expense Type Service Agreement
Total Amount $15,000.00 thru 11-30-2022

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<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tbody>
<tr>
<td>General Fund</td>
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<td>$15,000.00</td>
</tr>
</tbody>
</table>

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

Description

Professional Services Agreement – Active Transportation Plan

The Department of Planning, Neighborhoods & Development is requesting approval to enter into a Professional Services Agreement with The Greenway Collaborative, Inc. (Consultant) to assist the Department with stakeholder and community input for Dayton’s first Active Transportation Plan (ATP).

In October 2021, The Department of Planning, Neighborhoods & Development sent out a Request for Proposals (RFP) for a Community Engagement Consultant (RFP No. 21-034PND). Three vendors responded and were evaluated by a multi-department review team. The Greenway Collaborative, Inc. received the highest overall score and is therefore recommended for this professional service.

The Consultant will provide the following services in a four-phase approach with City staff: (1) online surveys, (2) public online, open-house meeting in each of the City’s five regions, (3) large presentation, (4) pop-up events with Dayton-area organizations, including but not limited to grocery stores, service providers, or libraries, (5) stakeholder meetings with Dayton-area organizations, including local bike clubs, social service providers, and youth programs.

The contract covers services through November 30, 2022, for a total not to exceed $15,000.00. The Agreement will commence upon execution by the City and expire upon expenditure of all funds provided in the Agreement or on November 30, 2022, whichever date is earlier.

The Department of Law has reviewed and approved this Agreement as to form and correctness.

Funding source is the General Fund.

A Certificate of Funds is attached.

E-SIGNED by Tony Kroeger on 2022-01-25 16:54:38 GMT
Division
E-SIGNED by Todd Kinskey on 2022-01-25 17:55:30 GMT
Department
City Manager
FORM NO. MS-16

Signatures/Approval

Approved by City Commission

Clerk
Date

Updated 8/2016
January 24, 2021

TO: Shelley Dickstein, City Manager
    City Manager’s Office

FROM: Todd Kinskey, Director
    Department of Planning, Neighborhoods & Development

SUBJECT: Professional Services Agreement – Active Transportation
         Plan RFP Process

In October 2021, The Department of Planning, Neighborhoods & Development sent out a Request for Proposals (RFP) for a Community Engagement Consultant (RFP No. 21-034PND). Proposals were received from Burton Planning Services, The Greenway Collaborative, Inc., and Zilo International Group respectively.

Five City employees served on the review committee to evaluate bids. The members of the committee were Meg Maloney, Stephan Marcellus, Katie Norris, Joe Weinel, and Keeghan White. The review was based on the following criteria, with each given a different weight/points value: (1) price, (2) previous experience & project team, (3) ability to address all RFP requirements, (4) whether the consultant was a Dayton local business, (5) whether the consultant was a PEP Certified Vendor.

After each member of the review committee scored the bids, the average for each criteria was calculated to determine which consultant had the highest overall score. The Greenway Collaborative, Inc. having the highest score, was selected to serve as the Community Engagement Consultant for the Active Transportation Plan (ATP).

If you have any questions or require additional information, please contact me at extension 4209.

Thank you.

TMK/kmw
Attachment
# CERTIFICATE OF FUNDS

## SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>X</th>
<th>New Contract</th>
<th>Renewal Contract</th>
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<th>Change Order</th>
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## NO DRAFT DOCUMENTS PERMITTED

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<thead>
<tr>
<th>X</th>
<th>Initial City Manager's Report</th>
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</thead>
<tbody>
<tr>
<td>X</td>
<td>Initial Certificate of Funds</td>
</tr>
<tr>
<td>X</td>
<td>Initial Agreement/Contract</td>
</tr>
<tr>
<td></td>
<td>Copy of City Manager's Report</td>
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<td>Copy of Original Certificate of Funds</td>
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## Required Documentation

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<tr>
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<td>Fund Org Acct Prog Act Loc</td>
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</tbody>
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**Attach additional pages for more FOAPALs**

**Vendor Name:** The Greenway Collaborative, Inc.

**Vendor Address:**
102 Nickels Arcade
Ann Arbor, MI 48104

**Federal ID:** 38-3095425

**Commodity Code:** 96199

**Purpose:** The Greenway Collaborative, Inc. will provide professional services for The Department of Planning, Neighborhoods & Development to assist the Department with stakeholder and community input for Dayton's first Active Transportation Plan (ATP).

**Contact Person:** Keeghan White X3671
Planning, Neighborhoods & Development/Planning 1/12/2022

**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**

**CF Prepared by**

**Date**

**CF/CT Number**

---

**SA 01/14/2022**

**October 18, 2011**
PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF DAYTON AND THE GREENWAY COLLABORATIVE, INC. FOR PROFESSIONAL COMMUNITY ENGAGEMENT SERVICES

THIS AGREEMENT, entered into this _______ day of __________________, 202_, is between the CITY OF DAYTON, a municipal corporation in and of the State of Ohio, hereinafter called “City,” and THE GREENWAY COLLABORATIVE, INC., a Michigan for-profit corporation, hereinafter called “Consultant.”

WITNESSETH THAT:

WHEREAS, the City desires certain professional services to assist the Planning, Neighborhoods & Development Department with community engagement for Dayton’s first Active Transportation Plan (ATP); and

WHEREAS, the Consultant is willing to perform such professional services and represents that its staff is fully qualified to perform such services; and

WHEREAS, the professional services to be provided under this Agreement are necessary to achieve the purposes of the City’s Department of Planning, Neighborhoods & Development.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and benefit to be derived by the parties from the execution of the Agreement, the City and Consultant hereby agree to the following:

ARTICLE I. SERVICES TO BE PERFORMED

Consultant shall provide the work and services, in a manner satisfactory to the City, as set out below:

1. The Consultant will seek public input and guidance to develop, at a minimum, programs, policies, and priorities for the City’s ATP through the following methods:

   a. Online surveys using maps or questionnaires (utilizing the city’s ArcMaps online platform);
   b. At least one public virtual, open-house meeting in each of the City’s five regions developed in consultation with City staff and with online engagement options based on community COVID levels;
   c. At least one to two larger presentations developed in consultation with City staff and with online engagement options based on community COVID levels;
   d. Small pop-up events with Dayton-area organizations, including but not limited to, grocery stores, service providers, or libraries (with City staff support); and
   e. Stakeholder meetings in consultation with City staff and with online engagement options based on community COVID levels, with Dayton-area organizations, including, but not limited to, local bike clubs, social service providers, and youth programs.
The Consultant shall identify additional creative outreach and engagement activities and strategies to ensure the City’s ATP process includes hard-to-reach communities, including but not limited to, immigrants, youth, and other individuals and groups with barriers to traditional participation. The Consultant will generate a robust and inclusive public involvement process with outreach and materials to include the City’s non-English-speaking and deaf population. The Consultant should be prepared to produce English and at a minimum, Spanish-language versions of all outreach materials. In some neighborhoods, other languages may be required. If necessary, the City will provide language translation and ASL translation services for this project, as mutually agreed upon by the parties.

The Consultant will prepare presentation materials including any necessary meeting aids.

2. The Consultant, in partnership with Dayton’s ATP team, shall use a variety of media by channels to publicize engagement events, including, but not limited to, the City’s Public Affairs Department, Dayton’s ATP webpage, and the local paper (Dayton Daily News).

3. The Consultant will compile findings in a summary document and present it to the project team. The document should list all engagement efforts, detail the process employed, and summarize the public input gathered. The documentation process should also include Qualitative data, including, but not limited to, the total numbers of participants per engagement strategy, demographic information of participants (including race, age, gender, access to a motor vehicle, and income), and geographic distribution of engagement activities and participants (by zip code).

ARTICLE II. COMPENSATION

The City will provide payment of a total sum not to exceed FIFTEEN THOUSAND DOLLARS AND ZERO CENTS ($15,000.00) for the Services outlined in Article I, Services to be Performed. The City shall pay for services upon receipt of invoice from the Consultant at the end of each Phase; invoice payments shall not exceed the value of each service to be provided as set forth in Article III, Phasing, with the final payment to be made at the end of Phase IV.

All invoices shall list the total amount of the invoice and contain a description of the services actually provided during the Phase. Consultant shall also submit, upon request by the City, such other supporting documentation and information to substantiate the invoice amount.

Unless disputed or the City determines that there is insufficient documentation to substantiate the invoice, the City will remit payment to Consultant within thirty (30) days from the City’s receipt of the invoice and verification that the services(s) were actually performed.

ARTICLE III. PHASING

The services outlined in Article I, Services to be Performed, will be performed in four phases as follows:
Phase I – One month or less to complete project kick-off. The estimated cost for this phase is twenty-five hundred dollars ($2,500).

Phase II – one month or less to complete stakeholder interviews. The estimated cost for this phase is twenty-five hundred dollars ($2,500).

Phase III – One month or less to complete engagement regarding issues to be addressed and opportunities. The estimated cost for this phase is fifty-five hundred dollars ($5,500).

Phase IV – One month or less to gather input on the preliminary plans that were developed based on initial input and identify priorities for implementation. The estimated cost for this phase is forty-five hundred dollars ($4,500).

ARTICLE IV. TERM

This Agreement shall commence upon execution by City and shall terminate upon expenditure of all funds provided herein or on November 30, 2022, whichever date is earlier. The Agreement shall be renewable for two (2) six-month optional periods at the discretion of the City unless extended to a later date by mutual written amendment or terminated according to Article V of this Agreement.

ARTICLE V. TERMINATION

This Agreement may be terminated by 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 fifteen (15) calendar days from the date of the termination notice to cure or submit a plan for cure or submit a plan for cure acceptable to City. If a plan to cure is not accepted, then this Agreement will be terminated immediately, and City shall pay Consultant only for those services accepted by the City.

City may terminate or suspend performance of this Agreement for City’s convenience upon written notice to Consultant thirty (30) days before termination or suspension. If termination or suspension is for City’s convenience, upon restart, an equitable adjustment may be made to Consultant’s compensation, if necessary. In the event of termination by City hereunder, the City shall pay Consultant for Services actually provided up to the date of termination.

In either event, Consultant shall terminate the Services according to a schedule acceptable to both parties.

ARTICLE VI. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against legal liability for all claims, losses, damages, and expenses (including reasonable attorneys’ fees) 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 negligent acts or omissions of Consultant or its employees, agents, Consultant(s), subcontractor(s) and representatives.

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

During the performance of the Services under this Agreement, Consultant shall maintain at least the following insurance:

(1) General/Comprehensive liability insurance, with a combined single limit of One Million Dollars ($1,000,000) for each occurrence and One Million Dollars ($1,000,000) in the aggregate; and

(2) Automobile liability insurance, with a combined single limit of One Million Dollars ($1,000,000) for each person and One Million Dollars ($1,000,000) for each accident; and

(3) Workers' compensation insurance, in such amounts as required by Ohio law, and Employer's liability insurance with a limit of Five Hundred Thousand Dollars ($500,000) for each occurrence; and

(4) Professional liability, with a minimum annual aggregate of Five Hundred Thousand Dollars ($500,000); and

(5) Errors and omissions insurance in the amount of Five Hundred Thousand Dollars ($500,000), to protect the City from any errors that Consultant or his/her employees may perpetrate in the preparation of the plans, specifications, and cost estimates and any resulting damage from said errors.

All policies of general/comprehensive liability insurance required herein shall name City, its elected officials, officers, employees, agents, and volunteers as additional insureds. All insurance policies, excluding Workers' compensation insurance, shall contain the requirement that City be notified thirty (30) days in advance of any termination or diminution of coverage.

Within thirty (30) days of the execution of this Agreement, Consultant shall furnish City with copies of certificates of insurance demonstrating compliance with the insurance requirements contained within.

Consultant shall provide City with prompt written notice of: (1) the cancellation or threatened cancellation of any insurance policy required hereunder, and (2) the filing of any claim with respect to the performance of Services under this Agreement.

ARTICLE VIII. 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.

ARTICLE IX. 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 of Dayton: 
Dept. of Planning, Neighborhoods & Dev. 
101 W. Third St. 
Dayton, Ohio 45402 
Attn: Keeghan White 
keeghan.white@daytonohio.gov

Consultant: 
The Greenway Collaborative, Inc. 
102 Nickels Arcade 
Ann Arbor, Michigan 48104 
Attn: Norm Cox 
norm@greenwaycollab.com

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

**ARTICLE X.  NONDISCRIMINATION**

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 determination, 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 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.

**ARTICLE XI.  CONFIDENTIALITY**

Either party may provide the other with information that it considers confidential or proprietary. Proprietary information is information that, if made public, would put the disclosing party at a disadvantage in the marketplace or trade of which the party is a part. Confidential information is information that, under the laws of the State of Ohio, is classified as being "private." Such information shall be marked "confidential" and/or "proprietary" by the party providing it.

To the extent permitted by law, each party agrees that for two (2) years following the date of disclosure of the confidential or proprietary information, it shall not disclose such information of the other to any third party without the other party's written consent. During this two-year period, each party shall protect the confidential or proprietary information in the same manner that it protects its own confidential information of a similar nature. Each party agrees that it shall only copy the confidential or proprietary information to the extent necessary to perform the work and services contracted for pursuant to this Agreement.

Nothing in this Section shall prohibit or limit either party's use or disclosure of confidential or proprietary information: (i) previously known to it without an agreement of confidentiality, (ii) independently developed by it, (iii) acquired by it from a party that is not, to the other party’s knowledge, under an obligation not to disclose such information, (iv) that is or becomes publicly
available through no breach of this Agreement by the other party, (v) when such disclosure is required by an order of a Court or wider state or federal law, or (vi) when such disclosure is authorized in writing by a party to this Agreement.

ARTICLE XII. OWNERSHIP OF DOCUMENTS & INTELLECTUAL PROPERTY

Documents and reports prepared by Consultant as part of the Services shall become the sole and exclusive property of City.

Consultant shall retain its rights in previously owned standard scripts, databases, computer software, and other proprietary property furnished by Consultant. Except those outlined above, consultant shall also retain rights to previously owned, proprietary intellectual property developed, utilized, or modified in the performance of Services herein.

ARTICLE XIII. GENERAL PROVISIONS

A.  Waiver
A waiver by either 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.

B.  Delay
Neither 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; wars, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and inability-to procure permits, licenses, or authorization from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either City of Consultant under this Agreement.

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.

C.  Governing Law & Venue
This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principle thereof relating to conflicts or choice of laws. Any suit regarding this Agreement must be brought in a court of competent jurisdiction in Montgomery County, Ohio.

D.  Meetings and Evaluation
Consultant shall meet with City's designees at such times designated by City to review and discuss performance of this Agreement. Consultant shall cooperate with City in all respects concerning the review and monitoring of Consultant's performance pursuant to this Agreement.
E. Independent Contractor
By executing this Agreement, Consultant acknowledges and agrees that Consultant will be providing all Services to City as an "independent contractor." As an independent contractor for City, Consultant will be prohibited from representing or allowing others to construe the parties' relationship in a manner inconsistent with this Article. Consultant will have no authority to assume or create any obligation on behalf of, or in the name of City, without the express prior written approval of a duly authorized representative of City. Consultant understands and agrees that it is not a City employee, and therefore, will not be entitled to, nor will it make any claim for, any of the emoluments of employment with the City of Dayton. Further, Consultant will be solely responsible to withhold and pay all applicable local, state and federal taxes and Workers' Compensation Insurance. Contractor is not a "public employee for the purpose of Ohio Public Employees Retirement System (OPERS) membership.

F. 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 subcontractors to assist in the performance of the Services.

G. Third Party Rights
Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Consultant.

H. Amendment
This Agreement may be amended by mutual agreement between the parties. No amendment shall be effective unless it is reduced to writing, executed by a duly authorized representative of City and Consultant, approved by the City's Director of Planning, Neighborhoods & Development, and, if required or applicable, approved by the City Manager and the Commission of the City of Dayton, Ohio.

I. Effect of Conflicting Documents
In the event any conflict between this Agreement and any term or condition found within any other document; the terms and conditions of this Agreement shall control.

J. Severability
If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

K. Section Headings and Subheadings
The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.
L. Political Contributions
Consultant affirms and certifies that it is in compliance with Ohio Revised Code §3517.13 limiting political contributions.

M. Entire Agreement/Integration
This Agreement represents the entire and integrated agreement between City and Consultant. This Agreement supersedes all prior and contemporaneous communications, representations, agreements or contracts, whether oral or written, relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, 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

THE GREENWAY COLLABORATIVE, INC.

By: ____________________________

Title: President

APPROVED AS TO FORM AND CORRECTNESS:
☑ Recoverable Signature

X John Musto for
City Attorney
Signed by: Musto, John

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

________________________________________, 202

Min./Bk. ___________ Page _______

________________________________________
Clerk of the Commission
Grant Agreement

The Dayton Municipal Court requests approval to enter into a Memorandum of Understanding (MOU) with the Montgomery County Alcohol, Drug Addiction and Mental Health Services (ADAMHS) Board for a Grant Award in the amount of $18,750.00. The Ohio Department of Mental Health and Addiction Services has designated ADAMHS Board as the pass-through agent for the grant funds allocated to Dayton Municipal Court. These funds will be used to provide emergency housing assistance to individuals in the Mental Health Court Program with the Court.

Terms of this MOU will commence upon execution and expire on June 30, 2022.

This is the first year the Court has received these grant funds.

The Department of Law has reviewed and approved this MOU as to form and correctness. The Funding Source is the Special Revenue Committed/Mental Health Court Emergency Housing.

Attached is a copy of the MOU with ADAMHS, along with a Certificate of Revenue and the signed Grant Application Approval Form.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

Customer Information: 
Name: Alcohol, Drug Addiction and Mental Health Services Board (ADAMHS)
Address: 409 E. Monument Ave.
City: Dayton State: Ohio Zip+4: 45402
Customer #: @00003795 Address Location #: 01
Federal ID#: 31-6060172

Revenue Information:
Fund: 28223 Org: 2510 Rev: 22606 Program: 74 Activity:

Contract Information:
Contract Start Date: Upon Execution
Contract Expiration Date: 6/30/2022

Billing Information:
Rate: See below Arrears: __________ Pre-bill: __________
Monthly (1st month of billing): $18,750.00
Quarterly (1st month of quarter): _____________________________
Semi-annual (1st month of half): ______________________________
Annual (1st month of billing): _______________________________
Other (explain): ____________________________
Rate Change Date: __________ Rate Change Amount: __________

Description of Services (wording on invoice): provide funding for emergency housing assistance for individuals enrolled in the Dayton Regional Mental Health Court.

Departmental Approval: ________________________

TO BE COMPLETED BY FINANCE

City Reference Number: 11-3795 Auditor: DBilley Date: 12/4/2022

I hereby certify that the agreement containing a source of revenue to the City of Dayton is officially in the Accounts Receivable data base and contains the terms and conditions necessary for collection.

Director of Finance: ____________________________

(Rev 4/30/2008)
MEMORANDUM OF UNDERSTANDING

APPROVED AMOUNT: $18,750

BETWEEN

MONTGOMERY COUNTY ALCOHOL, DRUG ADDICTION & MENTAL HEALTH SERVICES

AND

CITY OF DAYTON/DAYTON MUNICIPAL COURT

November 29, 2021
MONTGOMERY COUNTY ADAMHS BOARD
409 E. MONUMENT AVE., STE 102, DAYTON, OHIO 45402
MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is made on this 1st day of July 2021, by and between the Montgomery County Alcohol, Drug Addiction and Mental Health Services Board (hereinafter "Board") and City of Dayton/Dayton Municipal Court.

RECITALS

Whereas, the Ohio Department of Mental Health and Addiction Services (OhioMHAS) has allocated $18,750 to the Dayton Municipal Mental Health Court;

Whereas, OhioMHAS has designated the Board as Pass-Through agent for these funds;

Whereas, the City of Dayton shall transfer funds to the Dayton Municipal Mental Health Court as required in OhioMHAS allocation guidelines.

Now therefore, in consideration of the mutual promises hereinafter set forth, the Parties agree as follows:

TERMS OF AGREEMENT

1. Term: These funds are allocated for SFY 2022 beginning July 1, 2021 to June 30, 2022.

2. Allocation: The Board shall pass-through $18,750 to the City of Dayton/Dayton Municipal Mental Health Court during the first quarter of SFY 2022 as specified by OhioMHAS. The funds shall be used in accordance with the OhioMHAS approved budget and grant.

3. Responsibilities of Court: The use of the funds shall be in accordance with the Court’s grant and approved budget.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
IN WITNESS WHEREOF, the Parties hereto have hereby executed this MOU as of the
date set forth below.

City of Dayton, Ohio

Shelley Dickstein,
City Manager

Date:

Montgomery County Alcohol, Drug
Addiction & Mental Health Services

Helen E. Jones-Kelley

DE98C1B7E04218F8D866004237E185C2 contractworks 12/10/2021

Helen E. Jones-Kelley,
Executive Director

City Attorney

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

_________________________ 202_

Min. / Bk. _________ Pg. _______

Clerk of the Commission

This Instrument Approved as to Form:

Beverly Stewart, Legal Counsel
ADAMHS Board for Montgomery County
### Mental Health Court Program (MHCP)
#### Recovery Supports and Treatment Services Guide

**Recovery Supports**
Recovery Supports are assistance intended to help an individual with behavioral health needs to initiate and sustain recovery. Providers should identify recovery supports on an individual basis based upon clinical judgment, client need, and treatment plan. Below is a guideline containing examples of common recovery supports. This list is not comprehensive and is not intended to be restrictive on the use of recovery supports, but rather to provide guidance when identifying appropriate supports for MHCP clients.

<table>
<thead>
<tr>
<th>Housing</th>
<th>Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Recovery Housing</td>
<td>- Job Training/Educational Services</td>
</tr>
<tr>
<td>- Room &amp; Board for Residential Treatment</td>
<td>- Interview &amp; Job Uniform/Attire</td>
</tr>
<tr>
<td>- Rent Deposits</td>
<td>- GED Test</td>
</tr>
<tr>
<td>- Short term Housing</td>
<td>- Vocational Certifications</td>
</tr>
<tr>
<td>- Utilities</td>
<td>- License Reinstatement Fees</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Transportation</th>
<th>Non-Vocational Education</th>
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</thead>
<tbody>
<tr>
<td>- Bus Passes</td>
<td>- Parenting Classes</td>
</tr>
<tr>
<td>- Gas Cards</td>
<td>- Life Skills</td>
</tr>
<tr>
<td>- Cab/Uber Fare</td>
<td>- Self-Care</td>
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</tbody>
</table>

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<thead>
<tr>
<th>Childcare During Treatment or Support Groups</th>
<th>Peer Support Activities</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Relapse Prevention/Recovery Check Ups</th>
<th>Support Groups</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Identification</th>
<th>Emergency Basic Need Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Driver’s License</td>
<td>- Access to Food/Clothing</td>
</tr>
<tr>
<td>- Social Security Card</td>
<td>- Personal Protective Equipment</td>
</tr>
<tr>
<td>- Birth Certificate</td>
<td>- Hygiene/Cleaning Supplies</td>
</tr>
</tbody>
</table>

### Treatment Services
Below is a list of treatment services that are covered by the MHCP. This list is not comprehensive, but rather to provide basic examples of what can be covered for uninsured clients. If the client is insured, their insurance is to be the first payor. Services that are not covered or their insurance limits have been met, MHCP funds may be used. Program funds can also be used for Private insurance co-pays.

<table>
<thead>
<tr>
<th>Diagnostic Assessments</th>
<th>Medication Assisted Treatment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Counseling and Therapy (Indiv., Group, &amp; Family)</td>
<td>Crisis Intervention</td>
</tr>
<tr>
<td>Medical Activities (MH/SUD related)</td>
<td>Withdrawal Management Services</td>
</tr>
<tr>
<td>Residential and Inpatient MH/SUD Services</td>
<td>Urinalysis</td>
</tr>
<tr>
<td>ACT (Clients who have coexisting SUD)</td>
<td>CPST/Case Management</td>
</tr>
<tr>
<td>Peer Recovery Services (Certified)</td>
<td>Mental Health Day Treatment</td>
</tr>
</tbody>
</table>
Please be advised that the expenses listed in this document are general in nature and are not exclusive.
Provided are some examples:

1. **Urinalysis** – Tests completed by Certified Behavioral Health Providers may use funds for urinalysis as part of treatment. **Unallowable devices include:** SCRAM, interlock devices and eye scan/pupillometry equipment.

2. **Medication Assisted Treatment (MAT) medications** – This includes not only all MAT medications, but also the medical expenses involved including: physical exam and diagnosis, lab work associated with the physical exam, and injection administration (Vivatroil©). Only FDA approved medications are permitted. **These funds cannot be used to pay the monthly $200 to $300 some medical practitioners charge patients to obtain monthly Suboxone© prescriptions.**

3. **Recovery Supports – Housing** – This includes housing costs in the client’s name and part of their treatment plan, such as: rent, room & board at a residential treatment facility, security/rent deposits, and utilities (including past due utility bills) and cell phone/minutes for telehealth. **Unallowable housing costs would include bills that are not in the client’s name.**

4. **Recovery Supports – Emergency basic needs** – The word “emergency” is not to be taken literally such as in the event of a flood or fire. The intent of recovery supports is to remove barriers to treatment and encourage self-help support group meeting attendance to achieve abstinence/maintain sobriety/sustain recovery. Furthermore, in addition to vouchers, items can be obtained through direct purchase by the court or provider, purchase orders and grocery store gift cards. Clothing for employment: interviews, uniforms, and footwear are permitted. Cleaning supplies such as laundry supplies and household cleaning products to maintain a safe environment are allowable. **Unallowable basic needs items would include:** exercise equipment, gym memberships, furniture, appliances, or school supplies for the participants’ family members.

5. **Recovery Supports - Transportation** - Transportation to treatment and recovery support services. **Unallowable expenditures would include:** car purchase, car repairs, tires, and car insurance.

6. **Recovery Supports – Employment** - This includes fees or equipment/supplies needed for a job training program and/or apprenticeship program offered through a Workforce Innovation and Opportunities ACT (WIOA) program that is provided by a county Job and Family Services Department’s Office of Workforce Development, or Veterans Opportunities to work (VOW) administered by the Veterans Administration. The following are also allowable expenses:
   a. Educational services such as GED testing (now High School Equivalency Test). This fee is approximately $120.00. Voucher codes (voucher is worth $80 for first-time test takers) are available by contacting one of your local Career Technical Planning Districts Offices http://education.ohio.gov/Topics/Career-Tech/HSECTPD ATP funding can pay for all or part of the cost of the GED test. These funds can also pay for the cost of SAT and/or ACT tests for participants who wish to attend college. **Unallowable expenses include:** college and trade school tuition, computer devices such as lap tops and tablets, room and board at a college, activity/lab fees and outstanding balances with a college or trade school.
      i. **Case example:** A client is enrolling in cosmetology school. MHCP may help with paying for supplies required by the program such as scissors, apron etc.; and then when the client graduates from cosmetology school, MHCP may pay for the exam or license fee.

7. **Recovery Supports – Child Care** - These funds can be used to pay for licensed child care when the person is attending court, treatment and self-help groups. **These funds cannot be used to pay for ongoing employment-related child-care needs.**

8. **Treatment-Medical** - Medical services that support the participants care in regard to their MAT or other medically necessary treatment for the care of their MH/SUD is allowable. Cell phones and cell minutes may be paid for by MHCP if it is needed for Tele-Health. **Unallowable costs would include:** dental procedures and other medical services unrelated to their MH/MAT.

9. **Other Unallowable Expenditures** - **Court Fees, restitution, fines, attorney fees, tracking or monitoring devices, comfort animals, and devices/medications not approved by the FDA.**
## Allocation Allocated Funding

### Program Area

<table>
<thead>
<tr>
<th>Funding Source</th>
<th>Project Area</th>
<th>Fair Year-No-Project Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2022 Continuum of Care Services</td>
<td>MH Comm Invest Board Alloc</td>
<td>N/A</td>
<td>$2,288,146.00</td>
</tr>
<tr>
<td>2022 Continuum of Care Services</td>
<td>SUD Comm Invest Board Alloc</td>
<td>N/A</td>
<td>$247,501.00</td>
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<tr>
<td>2022 Prevention and Wellness</td>
<td>Primary Prevention Board Alloc</td>
<td>N/A</td>
<td>$40,206.00</td>
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<tr>
<td>2022 Prevention and Wellness</td>
<td>Prevention Services Earmark to EBP Boards</td>
<td>N/A</td>
<td>$24,800.00</td>
</tr>
<tr>
<td>2022 Criminal Justice Services</td>
<td>MH Criminal Justice Board Alloc</td>
<td>N/A</td>
<td>$38,076.00</td>
</tr>
<tr>
<td>2022 Criminal Justice Services</td>
<td>Forensic Centers</td>
<td>N/A</td>
<td>$459,676.00</td>
</tr>
<tr>
<td>2022 Criminal Justice Services</td>
<td>BHQI Linkage</td>
<td>N/A</td>
<td>$100,000.00</td>
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<tr>
<td>2022 Problem Gambling and Casino Addiction</td>
<td>SUD Gambling Addinct Prav Alloc</td>
<td>N/A</td>
<td>$175,368.00</td>
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<tr>
<td>Both Comm Invest Board Alloc</td>
<td>Both Comm Invest Board Alloc</td>
<td>N/A</td>
<td>$691,118.00</td>
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<tr>
<td>2022 Mental Health Block Grant</td>
<td>MH Comm Invest Board Alloc</td>
<td>2020 - B085M082623-01 - FY20 MH BLOCK GRANT Block Grants for Community Mental Health Services</td>
<td>$370,470.00</td>
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<tr>
<td>2022 Mental Health Block Grant</td>
<td>Competency to Stand Trial Evaluations for Common Pleas Courts</td>
<td>2020 - B095M082623-01 - FY20 MH BLOCK GRANT Block Grants for Community Mental Health Services</td>
<td>$30,825.00</td>
</tr>
<tr>
<td>2022 Mental Health Block Grant</td>
<td>Mental Health Court Program</td>
<td>2020 - B095M082623-01 - FY20 MH BLOCK GRANT Block Grants for Community Mental Health Services</td>
<td>$0.00</td>
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<tr>
<td>2022 Substance Abuse Block Grant</td>
<td>SUD Comm Invest Board Alloc</td>
<td>2021 - B88T08B3470 - FY21 SAPT Block Grant</td>
<td>$1,701,498.00</td>
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<tr>
<td>2022 Substance Abuse Block Grant</td>
<td>Primary Prevention Board Alloc</td>
<td>2021 - B88T08B3470 - FY21 SAPT Block Grant</td>
<td>$535,564.00</td>
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<tr>
<td>2022 Demonstration Grants - Emer COVID 19 - Supplemental</td>
<td>Emergency COVID19 Grant</td>
<td>2021 - H79P000645 - Ohio Emergency COVID-19 Crisis Response Project - Supplement</td>
<td>$64,322.00</td>
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<tr>
<td>2022 State Opioid Response</td>
<td>SOR 2.0 Faith Based Stigma Reduction Expansion</td>
<td>2021 - H79P083294 - Ohio SOR 2.0 Project - Achieving an Integrated Behavioral Health System for Individuals with OUD/SUD and Co-Occurring</td>
<td>$30,000.00</td>
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<tr>
<td>Recovery Housing</td>
<td>Recovery Housing</td>
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</tr>
<tr>
<td>Program Area</td>
<td>Funding Source</td>
<td>Project Area</td>
<td>Year-No Project Description</td>
</tr>
<tr>
<td>------------------------</td>
<td>-------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>Drug Courts</td>
<td>2022 Specialized Docket Support</td>
<td>Specialized Docket Payroll Subsidy Project</td>
<td>N/A</td>
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<tr>
<td>Crisis Services</td>
<td>2022 ADAMHS Boards</td>
<td>Crisis Flex Funds</td>
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</tr>
<tr>
<td>Community Investments</td>
<td>2022 Criminal Justice Services</td>
<td>Restoration to Competency</td>
<td>N/A</td>
</tr>
<tr>
<td>Criminal Justice</td>
<td>2022 Mental Health Block Grant - COVID</td>
<td>Mental Health Court Program (COVID)</td>
<td>2021 - B095M084002 - MHBG FY2021 COVID EMERGENCY FUNDING</td>
</tr>
<tr>
<td>Community Investments</td>
<td>2022 Social Services Block Grant</td>
<td>Title XX MH Comm Invest Board Alloc</td>
<td>N/A</td>
</tr>
<tr>
<td>Community Investments</td>
<td>2022 Continuum of Care Services</td>
<td>Continuum of Care Earmark</td>
<td>N/A</td>
</tr>
<tr>
<td>Crisis Services</td>
<td>2022 Continuum of Care Services</td>
<td>MH Crisis Stabilization Centers</td>
<td>N/A</td>
</tr>
<tr>
<td>Crisis Services</td>
<td>2022 Substance Abuse Stabilization Centers</td>
<td>SUD Crisis Stabilization Centers</td>
<td>N/A</td>
</tr>
<tr>
<td>Community Investments</td>
<td>2022 ADAMHS Boards</td>
<td>Additional Community Investments</td>
<td>N/A</td>
</tr>
<tr>
<td>Community Investments</td>
<td>2022 Continuum of Care Services</td>
<td>Additional Community Investments</td>
<td>N/A</td>
</tr>
<tr>
<td>Community Investments</td>
<td>2022 Substance Abuse Block Grant COVID</td>
<td>Crisis Infrastructure</td>
<td>2021 - B08T083541 - S4BG FY21 COVID Emergency Funding</td>
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<tr>
<td>Forensic Centers</td>
<td>2022 Mental Health Block Grant - COVID</td>
<td>Competency to Stand Trial Evaluations for Common Pleas Courts</td>
<td>2021 - B095M084002 - MHBG FY2021 COVID EMERGENCY FUNDING</td>
</tr>
<tr>
<td>Forensic Monitoring</td>
<td>2022 Mental Health Block Grant - COVID</td>
<td>MH Criminal Justice Board Alloc</td>
<td>2021 - B095M084002 - MHBG FY2021 COVID EMERGENCY FUNDING</td>
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<tr>
<td>Opiate Treatment</td>
<td>2022 State Opioid Response YR 2</td>
<td>SOR 2.0 Faith Based Sigmata Reduction Expansion</td>
<td>2021 - H7Y7083294 - Ohio SOR 2.0 Project - Achieving an Integrated Behavioral Health System for Individuals with OUD/SUD and Co-Occurring</td>
</tr>
</tbody>
</table>

Total Amount Allocated: $9,136,150.00
FUND NUMBER REQUEST FORM

SECTION 1 COMPLETED BY ADMINISTERING DEPARTMENT

The Administering Department must identify the purpose of the fund request and provide the required documents. Finance will create a new number in accordance with GASB principles and policies to achieve the best accounting results.

The Ohio Department of Mental Health and Addiction Services (OhioMHAS) has designated the Montgomery County Alcohol, Drug Addiction and Mental Health Services (ADAMHS) Board as a pass-through agent for the grant funds allocated to Dayton Municipal Court. The amount of funding being allocated is $18,750.00. The funds will be used by the Court to provide emergency housing assistance for individuals enrolled in the Dayton Regional Mental Health Court.

TYPE OF FUND BEING REQUESTED; CHECK THE APPROPRIATE BOX

<table>
<thead>
<tr>
<th>General Fund or G</th>
<th>To account for all financial resources except those required to be accounted for in another fund.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Revenue</td>
<td>To account for the proceeds of specific revenue sources (other than for major capital projects) that is legally restricted to expenditure for specified purpose.</td>
</tr>
<tr>
<td>&quot;Grant number request&quot;</td>
<td>Federal, State, Local, Other</td>
</tr>
<tr>
<td>A, B, C, E and H</td>
<td>REstricted or COMMITTED</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Enterprise I</th>
<th>To report any activity for which a fee is charged to external users for goods or services.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Revenue other than grants &quot;non-grant activity&quot;</td>
<td>This definition is intended to apply to legal restrictions imposed by outside parties or specific action by City Commission.</td>
</tr>
<tr>
<td>C and/or D</td>
<td>REstricted or COMMITTED</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CAPITAL &quot;Debt Financed&quot; F</th>
<th>Capital Projects funded by bond proceeds.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt Service Fund I</td>
<td>To account for the accumulation of resources for, and the payment of general long-term debt principal and interest.</td>
</tr>
<tr>
<td>I</td>
<td>REstricted</td>
</tr>
<tr>
<td>Agency Fund C or G</td>
<td>To account for situations where the government's role is purely custodial, such as the receipt, temporary investment, and remittance of fiduciary resources of to individuals, private organizations, or other governments.</td>
</tr>
<tr>
<td>&quot;Grant number request&quot;</td>
<td>Internal Service Fund C or G</td>
</tr>
<tr>
<td>A, B, C, E and H</td>
<td>REstricted or COMMITTED</td>
</tr>
<tr>
<td>Internal Service Fund C or G</td>
<td>To account for goods or services given to one department by another on a cost reimbursement basis.</td>
</tr>
<tr>
<td>I</td>
<td>UNASSIGNED</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Source of Funds:</th>
<th>Org Code: 2510</th>
<th>Program Code: 74</th>
<th>$18,750.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originating Department Director Signature/Date</td>
<td>Ann Marie Murray</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

SECTION 2 COMPLETED BY FINANCE

REQUIRED

- A Grant Application
- B Grant Agreement of Grant Award Letter
- C Signed Resolution
- D Signed Certificate of Revenue
- E Certificate of Funds for Cash Match
- F Signed Declaration of Intent
- G Signed Ordinance
- H Grant Approval Form
- I Memo from Department Director and copy of sources and uses sheet

Finance Reviewer Signature (TTW)

Finance Director signature/date required when supporting documentation has not been provided

FINANCE DEPARTMENT ACTION

BANNER Fund Title
BANNER FUND #
BANNER FUND TYPE
BANNER PREDECESSOR #
Analyst Signature

Financial Service Supervisor signature/date

COPY: Office of Management & Budget Director
COPY: Department

http://cityweb/sites/fin/Shared Documents/G03 FUND REQUEST FORM 3-37-2008
GRANT APPLICATION APPROVAL FORM

Date: December 30, 2021

Department/Division
Submitting Application: Municipal Court

Project Title: SFY 2021/2022 Mental Health Court Program Emergency Housing Grant

CFDA Title and Number:

(CFDA = Catalog of Federal Domestic Assistance. This information is required by the Department of Finance if the original source of the money is from the federal government, even if the application is going to a state or local authority.)

Brief Description of Project:
The Ohio Department of Mental Health and Addiction Services (OhioMHAS) has designated the Montgomery County Alcohol, Drug Addiction and Mental Health Services (ADAMHS) Board as a pass-through agent for the grant funds allocated to Dayton Municipal Court. The amount of funding being allocated to the is $18,750.00. The funds will be used by the Court to provide emergency housing assistance to individuals enrolled in the Mental Health Court Program with Dayton Municipal Court.

Name and phone of staff person to be called when signed application is ready: Ann Marie Murray

Name of staff person responsible for this grant: Nicole Wilks-Foster

Deadline for submission to funding agency: August 6, 2021

When will grant award decision be made? (Estimate if necessary)

<table>
<thead>
<tr>
<th>LEVEL</th>
<th>AGENCY/FUNDING SOURCE</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fed</td>
<td></td>
<td>$0.00</td>
</tr>
<tr>
<td>State</td>
<td>Ohio Department of Mental Health and Addiction Services</td>
<td>$18,750.00</td>
</tr>
<tr>
<td>City of Dayton</td>
<td></td>
<td>$0.00</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td>$0.00</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$18,750.00</td>
</tr>
</tbody>
</table>

(Note: City of Dayton funds committed to a grant must be accompanied by a Certificate of Funds.)

I have reviewed this material and believe it to be correctly completed and believe the project proposed is appropriate for the City of Dayton.

Director’s Signature: Murray, Ann

Date

Review and Approval

We have reviewed this material and believe it to be correctly completed and believe the project proposed is appropriate for the City of Dayton.

Director, Office of Management & Budget

E-SIGNED by Diane Shannon
on 2022-01-03 17:50:20 GMT
January 03, 2022

Date

Director of Finance (IF CASH MATCH IS REQUIRED)

E-SIGNED by Shelley Dickstein
on 2022-01-06 15:35:38 GMT
January 06, 2022

Date

City Manager’s Office

Date

C.M.O.

BACK
City Manager's Report

From  
3460 - Water/Water Reclamation  

Supplier, Vendor, Company, Individual  

Name  
Cargill, Inc.  
Tate & Lyle Ingredients Americas, LLC  

Address  
3201 Needmore Rd., Dayton, Ohio 45414  
5600 Brentlinger Rd., Dayton, Ohio 45414  

Date  
February 2, 2022  

Expense Type  
Other, (See Description Below)  

Total Amount  
$459,336.00 (thru 1/1/2023)  

Fund Source(s)  
2022 Sanitary Operating Funds  
2022 Sanitary Revenue Funds  

Fund Code(s)  
55000-3460-1202-54-SF1415  
55000-3460-22606-54  

Fund Amount(s)  
$239,182.40  
$220,153.60  

Includes Revenue to the City  
☑ Yes  
☐ No  

Affirmative Action Program  
☐ Yes  
☑ No  

Description  
HYDROGEN SULFIDE CONTROL STUDY AND REIMBURSEMENT AGREEMENT  
FOURTH AMENDMENT  

The Department of Water requests permission to enter into a Fourth Amendment with Cargill, Inc., and Tate & Lyle Ingredients Americas, LLC. This Fourth Amendment will extend the term of the Agreement and cover additional services/work needed to continue and complete the Hydrogen Sulfide Control Study. The Fourth Amendment sets a total budget of $295,336.00 to cover the monthly expenses and $164,000.00 for the acquisition of the Speece Cone and Oxygen System. Tate & Lyle's actual contribution will be dependent on the performance of their Pretreatment Facility as negotiated and will be no more than $166,026.00. Depending on Tate & Lyle's performance, the City will receive the minimum reimbursement of $220,153.60 exclusively from Cargill, Inc. The amount allocated to the city and revenue fund codes is a conservative anticipation of Tate & Lyle's performance, ensuring that there are enough funds to cover costs if Tate & Lyle is able to achieve total pretreatment as per the agreement.

The Purchase Orders that authorize funding with the various vendors to cover monthly expenses are attached and summarized in the supplemental budget.

The original Agreement was approved on July 25, 2018 in the amount of $731,807.13. The First Amendment was approved on December 12, 2018 and increased the Reimbursement Agreement amount to $1,311,807.13. This Second Amendment was approved July 19, 2019 and increased the Reimbursement Agreement amount to $2,033,234.57. The Third Amendment was approved on September 8, 2020 and increased the Reimbursement Agreement amount to $2,323,576.17. This Fourth Amendment will increase the Reimbursement Agreement to $2,782,912.17.

The Fourth Amendment has been reviewed by the Law Department as to form and correctness.

The Certificate of Revenue's and a copy of the Fourth Amendment are attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

Customer Information: Name  Tate & Lyle Ingredients Americas, LLC

Address

5600 Brentlinger Rd.

City  Dayton  State  OH  Zip+4  45414  -

Customer #  @00005918  Address Location #

Federal ID#  

Revenue Information:  Fund  55000  Organization  3460  Revenue  22606  Program  54

Contract Information: Contract Start Date  12/17/2021  Contract Expiration Date  1/1/2023

Billing Information: Rate:  Arrears  X  Pre-bill  

Monthly (1st month of billing)  December 2021

Quarterly (1st month of quarter)

Semi-annual (1st month of half)

Annual (1st month of billing)

Other (explain)  

Rate Change Date  Rate Change Amount

Description of Services (wording on invoice):  Part of the Hydrogen Sulfide Control Study Plan. Reimbursement by Tate & Lyle will be based on the performance of their pretreatment system and is expected to not exceed $166,026.20.

Departmental Approval  

TO BE COMPLETED BY FINANCE

City Reference Number  4-5918  Auditor  D Billy  Date  1/25/2012

I hereby certify that the agreement containing a source of revenue to the City of Dayton is officially in the Accounts Receivable data base and contains the terms and conditions necessary for collection.

Director of Finance  

(Rev 4/30/2008)
CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

Customer Information: Name  Cargill Inc.

Address  
3201 Needmore Rd.

City  Dayton  State  OH  Zip+4  45414  -  

Customer #  @00005919  Address Location #  

Federal ID#  

Revenue Information: Fund  55000  Organization  3460  Revenue  22606  Program  54

Contract Information: Contract Start Date  12/17/2021  Contract Expiration Date  1/1/2023

Billing Information: Rate:  ___________ Arrears  X  Pre-bill  ___________

Monthly (1st month of billing)  December 2021

Quarterly (1st month of quarter)  

Semi-annual (1st month of half)  

Annual (1st month of billing)  

Other (explain)  

Rate Change Date  ___________ Rate Change Amount  

Description of Services (wording on invoice):  Part of the Hydrogen Sulfide Control Study Plan.

Reimbursement by Cargill will be $220,153.60.

Departmental Approval  

_____________________________  

TO BE COMPLETED BY FINANCE

City Reference Number  4-5919  Auditor  D Billy  Date  1/25/22

I hereby certify that the agreement containing a source of revenue to the City of Dayton is officially in the Accounts Receivable data base and contains the terms and conditions necessary for collection.

Director of Finance  

_____________________________  

(Rev 4/30/2008)
January 4, 2022

TO: Shelley Dickstein  
    City Manager

FROM: Michael Powell, Director  
      Department of Water

SUBJECT: Fourth Amendment Agreement to the Hydrogen Sulfide Control Plan

The Third Amendment Agreement for the Hydrogen Sulfide Control Plan expired on October 31, 2021. The Managed Sulfate Group consisting of Cargill, Tate & Lyle and the City of Dayton have requested to do another extension through January 1, 2023. This is due to two factors: First, Tate & Lyle has been having issues with optimizing their Pretreatment Facilities to meet the design objective of 80% removal of the COD (organic load); Second, the group would like to allocate time for both industries to optimize their pH to achieve cost reduction measures so long as the pH changes do not exacerbate the hydrogen sulfide in the sewer interceptor.

Since the Managed Sulfate Group has already vetted the performance of the Speece Cone and Oxygen System and found it to be highly effective, the Group wants the Speece Cone and Oxygen System to be a part of the permanent solution. Therefore, as part of the Fourth Amendment Agreement, we will be purchasing the Speece Cone and changing out to a different oxygen delivery system that is more cost effective.

The Managed Sulfate Group has set a budget of $459,336.00 for 2022 for the Hydrogen Sulfide Control Plan and this includes the purchase of the Speece Cone and the alternate oxygen delivery system. Although it took us quite a bit of time to negotiate the Fourth Amendment Agreement, both Cargill and Tate & Lyle have signed the agreement. The agreement spells out the Pro-Rata Reimbursements that both Cargill and Tate & Lyle will pay to the City for the Hydrogen Sulfide Control Plan.

The Fourth Amendment Agreement to the Hydrogen Sulfide Control Plan has been reviewed and approved by the Law Department. If you should need additional assistance, please contact Chris Clark at x1834.

Copy: A. Zonin; C. Clark; K. Crist
FOURTH AMENDMENT TO HYDROGEN SULFIDE CONTROL AGREEMENT

This Fourth Amendment to the Hydrogen Sulfide Control Agreement ("Fourth Amendment") is entered into this 17th day of December, 2021 between the City of Dayton, Ohio ("City"), Tate & Lyle Ingredients Americas LLC, ("Tate & Lyle") and Cargill, Incorporated ("Cargill"), hereinafter referred to individually as "Party" or collectively as the "Parties."

WHEREAS, Cargill owns a corn milling plant located at 3201 Needmore Avenue in Dayton, Ohio that discharges wastewater into the 42-inch interceptor sewer that begins at Wagner Ford and Needmore Roads, extending downstream to Site E-Embry Park (manhole V00M00010) and through the river siphons downstream of Site E (the "Sewer") owned by the City and that conveys wastewater to the City’s wastewater treatment plant ("WWTP");

WHEREAS, Tate & Lyle operates a plant that produces citric acid, among other things, located at 5600 Brentlinger Road, Dayton, Ohio 45414 that discharges wastewater into the Sewer owned by the City and that conveys wastewater to the City’s WWTP;

WHEREAS, the City owns and operates the Sewer and the WWTP;

WHEREAS, the Parties engaged in a Hydrogen Sulfide Control Study to attempt to reduce the amount of hydrogen sulfide gas in the headspace of the Sewer and farther downstream, entering into an Agreement for Conducting a Hydrogen Sulfide Control Study on August 8, 2018; and

WHEREAS, the Parties executed a First Amendment to Hydrogen Sulfide Control Study Agreement on December 27, 2018 to form conclusions of the Hydrogen Sulfide Control Study;

WHEREAS, the Parties executed a Second Amendment to Hydrogen Sulfide Control Study Agreement on July 19, 2019 to account for anticipated changes in Tate & Lyle’s pretreatment facilities;

WHEREAS, the Parties executed a Third Amendment to Hydrogen Sulfide Control Study Agreement (the “Third Amendment”) on October 28, 2020 to account for the $14 million investment in Tate & Lyle’s pretreatment facilities and evaluate pH neutralization for cost controls;

WHEREAS, the Third Amendment is set to expire on October 31, 2021, and the Parties would like to extend the Agreement through this Fourth Amendment through January 1, 2023 to provide a framework for the Parties’ continued management of hydrogen sulfide.

WHEREAS, Due to Tate & Lyle’s continued optimization of their pretreatment facilities, the Parties have not fully completed their evaluation of all alternatives and options for the control of Hydrogen Sulfide; and
NOW, THEREFORE, in consideration of the mutual promises and covenants, and the benefits to be derived by each party, the Parties agree to this Fourth Amendment as follows:

I. Article III, “Term and Termination,” is amended as follows:

a. This Agreement shall commence on August 8, 2018 and shall expire on January 1, 2023, unless earlier terminated or extended upon mutual written agreement between the Parties. The payments and terms under the Third Amendment shall continue until October 31, 2021, at which point they will expire.

b. All Parties agree to further evaluate pH controls/adjustments to reduce each Party’s operating costs.
   i. At no time can the reduction of pH levels cause an increase of the hydrogen sulfide concentration in the headspace of the sewer system at the Site 3 generally beyond the historical seasonal variations.
   ii. At no time can the reduction of pH levels impact the ability to manage hydrogen sulfide levels in the interceptor.

II. Article III is further amended as follows to replace any conflicting provisions:

a. During the periods from November through April of each year, Tate & Lyle will not participate in the cost sharing for hydrogen sulfate control and the City shall assume Tate & Lyle’s cost allocation in Article VI Section G: Total Cost Allocation for Fourth Amendment. During the periods of May through October of each year, Tate & Lyle shall only participate in the cost sharing for the hydrogen sulfide control on a “Pro-Rata Basis” (as defined below) during those months in which its pretreatment facilities do not achieve “successful operational control” (as defined below) and the City shall assume the remainder of Tate & Lyle’s cost allocation in Article VI Section G: Total Cost Allocation for Fourth Amendment.

b. “Successful operational control” means the full operation of Tate & Lyle’s pretreatment facilities that result in a minimum of eighty percent (80%) removal of the Aggregate Average Total COD (TCOD) load each month as currently reported in the monthly PRCC submittal. Successful operational control shall be determined as follows: (i) the monthly Aggregate Average TCOD load removal shall be based on the average daily flows and concentrations that are used to calculate influent and effluent TCOD load to the pretreatment system; (ii) each day’s influent and effluent TCOD shall be determined and the averaged to determine the monthly average influent and effluent TCOD. To calculate the
average monthly percentage removal the average monthly influent and effluent TCOD shall be used to calculate the monthly eighty percent (80%) removal of the Aggregate Average COD load for each month. The City and T&L shall agree and confirm the sample locations and use of calculated and/or sampled influent loading to the pretreatment facilities.

i. “Pro-Rata Basis” means the percent difference between the operational goal of 80% removal and Tate & Lyle’s actual performance for that month calculated as such:

ii. Tate & Lyle’s Monthly Cost Sharing = 1-(TCOD Removal %/ 80% )

iii. For example: if Tate & Lyle’s monthly performance is 75% TCOD removal, then its cost sharing contribution for that time period would be 6.25%

iv. The sampling, testing, methodology, and data preparation shall be defined by Tate & Lyle and approved by the City’s Industrial Pretreatment Program. The PRCC (Periodic Report for Continued Compliance) shall be submitted monthly and is based on self-monitoring data prepared and supplied by Tate & Lyle.

v. Tate & Lyle shall be responsible for providing such data to the City by the 10th of each month (or, if the 10th falls on a weekend or a holiday, the next business day that is not a weekend or a holiday).

c. Section B is amended as follows: The City may terminate this Agreement upon giving ten (10) days advance written notice to the other Parties, which shall specify the effective date of termination. Either Cargill or Tate & Lyle may terminate its participation in this Agreement upon giving ten (10) days advance written notice to the other Parties, which shall specify the effective date of termination. If either Cargill or Tate & Lyle terminates its participation in the Agreement, the non-terminating Parties may at their option decide to continue their participation in the Agreement. Upon termination, Cargill and Tate & Lyle shall be required to pay their respective portion of the costs as described herein, to the extent they are incurred up to the date of Termination.

III. Article IV, “Payment,” is updated to replace current provisions with the following:

a. The City shall invoice Cargill and Tate & Lyle monthly for their Pro-Rata Share of the Plan as defined in this Agreement. Cargill and Tate & Lyle must pay these costs to the City within forty-five (45) calendar days of issuance of each invoice. The City of Dayton will include any contractor receipts; chemical vendor receipts or any receipts covered under this Agreement with the monthly invoice to Cargill and Tate & Lyle as proof of activities. Payments submitted after forty-five (45) days are subject to interest at the rate of six percent (6%) per annum, compounded daily. The initial payment will
be credited toward any amounts that Cargill owes under the Agreement, and will be deducted from the first invoice.]

b. The City’s invoices shall be consistent with the total cost allocation for the hydrogen sulfide control plan as set forth in Section VI and shall be limited to costs specifically identified in the Parties’ agreed budget. Unless agreed in advance and in writing by the Parties, neither Cargill nor Tate & Lyle will be responsible for paying costs inconsistent with the total cost allocation for hydrogen sulfide control plan or for costs not specifically identified in the Parties agreed budget.

IV. Article V.D, “Notices and Communications” is amended as follows:

Any written notice or other communication required or permitted by this Agreement shall be made in writing and shall be delivered personally, sent by express delivery, or certified U.S. mail, postage pre-paid, to the respective party at the following address:

If to Dayton: City of Dayton, Ohio Department of Water
320 W. Monument Ave.
Dayton, Ohio 45402
Attn: Michael Powell, Director

If to Cargill: Dave Ciavarella, Plant Manager
Cargill Inc.
3201 Needmore Rd
Dayton, Ohio 45414

If to Tate & Lyle: Dana Johnson, Plant Manager
Tate & Lyle Ingredients Americas LLC
5600 Brentlinger Rd
Dayton, Ohio 45414
Contractnotices@tateandlyle.com

Nothing contained in this Subsection shall be construed to restrict the transmission of routine communications between the Parties.

V. Article VI, which should be renamed “Payment of Costs for this Agreement,” is amended to include the following:

a. Establishment of Fourth Amendment Budget

   i. The Annual Budget Cycle for the Hydrogen Sulfide Control Plan shall be from November 1, 2021 through October 31, 2022 and the same for preceding years. All Parties shall negotiate and develop a budget for the
time period and must be approved by the Parties by September 30, 2021 and shall be presented to Dayton City Commission by October 31, 2021.

ii. For each following calendar year, beginning January 1, 2023, all Parties shall negotiate and develop a budget by August 31st of the preceding year. That budget must be approved by the respective Parties by September 30th of the preceding year and the final agreed budget shall be submitted to the Dayton City Commission for approval no later than October 31st of the preceding year.

b. The Fourth Amendment Budget shall consist of the following alternatives determined at the discretion of the Parties:

i. Specce Cone and Oxygen Controller Maintenance
   1. Vendor: Allied Technical Services $__________
   2. Purpose: Used for periodic, as needed maintenance for Oxygen System Controls for the Specce Cone

ii. Specce Cone and Oxygen Feed
   1. Vendor: ECO2 $__________
   2. Specce Cone Rental
   3. LOX Oxygen System Rental
   4. Remote Telemetry
   5. Oxygen Delivery Charges
   6. Oxygen Gas
   7. Oxygen Tank Mobilization
   8. Purpose: Feeding pure oxygen through the Specce Cone to increase dissolved oxygen content. The Managed Sulfate Group shall jointly determine the oxygen feeding activity schedule.

iii. Pace Labs
   1. Vendor: Pace Labs $__________
   2. Purpose: Outside 3rd Party Testing of Dissolved Sulfides and Total Sulfates

iv. Caustic Burns
   1. Vendor: Chemical Services or other selected $__________
   2. Purpose: Periodic caustic burn of the Sewer Interceptor to control microbial growth at the discretion of the Managed Sulfate Group
v. Contingency
   1. Vendor: At discretion of all Parties $__________
   2. Purpose: Contingency Funds reserved for additional trials/studies or activities as scheduled by the Managed Sulfate Group. Contingency Funds shall not be expended for any purpose without written agreement by the Parties in advance of any such expenditure. $__________

vi. Total Project Budget
    $__________

VI. Article VI is further amended as follows:

a. To add “Section G: Total Cost Allocation for Fourth Amendment Agreement”
   i. Cargill’s Total Share for the entire Hydrogen Sulfide Control Agreement shall not exceed the agreed upon budget established by all Parties and shall be based on the following pro-rata share:

<table>
<thead>
<tr>
<th></th>
<th>w/T&amp;L¹</th>
<th>w/o T&amp;L²</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Pro-Rata Cost Allocation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Allied Technical</td>
<td>33.3%</td>
<td>50%</td>
</tr>
<tr>
<td>b. ECO2</td>
<td>60.0%</td>
<td>50%</td>
</tr>
<tr>
<td>c. Pace Labs</td>
<td>33.3%</td>
<td>50%</td>
</tr>
<tr>
<td>d. Caustic Burns</td>
<td>33.3%</td>
<td>50%</td>
</tr>
<tr>
<td>e. Other Trials</td>
<td>33.3%</td>
<td>50%</td>
</tr>
</tbody>
</table>

b. T&L’s Total Share for the entire the Hydrogen Sulfide Control Agreement shall not exceed the agreed upon budget established by all Parties and shall be determined on a Pro Rata Basis for the months of May through October of each year. For the months of November through April of each year, Tate & Lyle will not participate in the cost sharing for the hydrogen sulfide control:

<table>
<thead>
<tr>
<th></th>
<th>Not Achieved 80% Removal¹</th>
<th>Achieved 80% Removal¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Pro-Rata Cost Allocation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Allied Technical</td>
<td>TBD</td>
<td>0%</td>
</tr>
<tr>
<td>b. ECO2</td>
<td>TBD</td>
<td>0%</td>
</tr>
<tr>
<td>c. Pace Labs</td>
<td>TBD</td>
<td>0%</td>
</tr>
</tbody>
</table>

¹ Pro rata cost allocation to be based on Tate & Lyle’s monthly performance against successful operational control
² To avoid confusion, the “w/o T&L” and “Achieved 80% Removal” columns included in Section G: Total Cost Allocation for Fourth Amendment Agreement do not apply until Tate & Lyle has achieved the “successful operational control” defined above in II.b and is no longer a Party to this Agreement.
d. Caustic Burns	TBD	0%
e. Other Trials	TBD	0%

c. City of Dayton’s Total Share for the entire the Hydrogen Sulfide Control Agreement shall not exceed the agreed upon budget established by all parties and shall be based on the following Pro-Rata share:

<table>
<thead>
<tr>
<th>Pro-Rata Cost Allocation</th>
<th>w/T&amp;L</th>
<th>w/o T&amp;L</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Allied Technical</td>
<td>TBD</td>
<td>50%</td>
</tr>
<tr>
<td>b. ECO2</td>
<td>TBD</td>
<td>50%</td>
</tr>
<tr>
<td>c. Pace Labs</td>
<td>TBD</td>
<td>50%</td>
</tr>
<tr>
<td>d. Caustic Burns</td>
<td>TBD</td>
<td>50%</td>
</tr>
<tr>
<td>e. Other Trials</td>
<td>TBD</td>
<td>50%</td>
</tr>
</tbody>
</table>

d. If the analysis concludes that the oxygen delivery system is a necessary control measure, and all Parties agree, then the buyout purchase of the Speece Cone will be shared among the Parties (as defined below). Additionally, the cost for the permanent placement of an oxygen tank, evaporator and control system will be split among the Parties (as defined below). The estimated costs are the following:

1. Speece Cone buyout total cost is $139,000
2. Concrete Pad for the Oxygen tank cost and Miscellaneous piping and electrical cost is anticipated to be $25,000
   a. Tate & Lyle shall only participate in the buyout purchase of the Speece Cone and permanent placement of an oxygen tank, evaporator and control system for the hydrogen sulfide control on a Pro-Rata Basis (as defined in section IV.b.) during those months in which its pretreatment facilities do not achieve successful operational control.
3. Payment Plan: The payments for the required equipment and systems mentioned above will be agreed upon in advance by Cargill, Tate & Lyle and the City of Dayton, and spread out over a 12 month term.
   a. Tate & Lyle’s payment shall be made for each of the 12 months based on 2(a) above

IN WITNESS WHEREOF, The City, Tate & Lyle and Cargill, each by a duly authorized representative, have executed this Hydrogen Sulfide Control Agreement on the date first set above.
CITY OF DAYTON, OHIO

____________________________
City Manager

TATE & LYLE INGREDIENTS
AMERICAS LLC

By: _______________________

Its: _______________________

APPROVED AS TO FORM AND
CORRECTNESS:

X

___________________________
City Attorney

CARGILL, INCORPORATED

By: _______________________

Its: _______________________

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

___________________________, 2021

Min. / Bk. ________ Pg. _____

___________________________
Clerk of the Commission
CITY OF DAYTON, OHIO

__________________________
City Manager

TATE & LYLE INGREDIENTS AMERICAS LLC

By: ______________________

Its: ______________________

APPROVED AS TO FORM AND CORRECTNESS:

X
City Attorney

CARGILL, INCORPORATED

By: ______________________

Its: CSST NA Operations Director, VP

12/17/21

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

__________________________, 2021

Min. / Bk. _______ Pg. _______

__________________________
Clerk of the Commission
TATE & LYLE INGREDIENTS
AMERICAS LLC

By: __________________________

Its: ________________________

APPROVED AS TO FORM AND
CORRECTNESS:

X

City Attorney

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

________________________________________, 2021

Min. / Bk. ________ Pg. ______

_____________________________________

Clerk of the Commission
PURCHASE ORDER

SHIP TO & INVOICE TO
Christopher Clark
Water Reclamation Facility
2800 Guthrie Rd at Danner Ave
Dayton OH 45417

NOTE: SUBMIT INVOICE IN DUPLICATE TO:
CITY OF DAYTON, OHIO
ADDRESS: THE SAME AS SHIP TO AS SHOWN ABOVE
Include Purchase Order Number on ALL Documents
All state and federal taxes are to be included in prices billed.
Payment will be made upon receipt of an
approved service or material, whichever is later.

VENDOR 311400989

Allied Technical Services dba Allied Pu
3460 Mustafa Dr
Cincinnati OH 45241

<table>
<thead>
<tr>
<th>Buyer Name</th>
<th>Date Required</th>
<th>Payment Terms</th>
<th>F.O.B. Point</th>
</tr>
</thead>
<tbody>
<tr>
<td>JASON SCHORTGEN</td>
<td>12/31/22</td>
<td>Net 30</td>
<td>FOB Destination, Frt. Prepaid</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>COMMODITY DESCRIPTION</th>
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<th>U/M</th>
<th>UNIT PRICE</th>
<th>EXTENDED</th>
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<tbody>
<tr>
<td>96100</td>
<td>MISCELLANEOUS PROFESSIONAL SERVICES</td>
<td>1.00</td>
<td>LOT</td>
<td>25,000.000</td>
<td>25,000.00</td>
</tr>
</tbody>
</table>

TOTAL

READ CAREFULLY all terms and conditions, including those on the last page of this order, as they are made a part of this agreement.

I hereby certify that the proper requisition has been made for the above order and that a certificate of necessity of this expenditure has been placed on file in this office.

Purchasing Agent: [Signature]

Director of Finance: [Signature]

Clerk of Commission: [Signature]

Certificate
I hereby certify that the amount of money required to meet the payments called for in the above order has been lawfully appropriated for such purposes 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 of any previous encumbrance.

APPROVED BY
CITY COMMISSION

[Signature]
CITY OF DAYTON, OHIO  
Department of Central Services  
Division of Purchasing  
101 West Third Street, Room 514  
Dayton, OH 45402  

PURCHASE ORDER  

P.O. #: P0220100  
Date: 12/10/21  
Page 2 of 3

SHIP TO & INVOICE TO  
Christopher Clark  
Water Reclamation Facility  
2800 Guthrie Rd at Danner Ave  
Dayton OH 45417

NOTE: SUBMIT INVOICE IN DUPLICATE TO:  
CITY OF DAYTON, OHIO  
ADDRESS: THE SAME AS SHIP TO AS SHOWN ABOVE

Include Purchase Order Number on ALL Documents  
No state or federal taxes are to be included in price billed.  
Payment will be made upon receipt of an  
approved invoice or material, whichever is later.

VENDOR 311400989

Allied Technical Services dba Allied Pu  
3460 Mustafa Dr  
Cincinnati OH 45241

Buyer Name: JASON SCHORTGEN  
Date Required: 12/31/22  
Payment Terms: Net 30  
F.O.B. Point: FOB Destination, Frt. Prepaid

<table>
<thead>
<tr>
<th>ITEM NO.</th>
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<tbody>
<tr>
<td></td>
<td>MAINTENANCE AND REPAIR SERVICES FOR THE HYDROGEN SULFIDE CONTROL PLAN SPECIFIC CONE AND OXYGEN CONTROL</td>
<td></td>
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<td>DELIVERY: AS NEEDED</td>
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</tr>
</tbody>
</table>

DISCOUNT: .00  
ADDL CHARGES: .00  
TOTAL TAXES: .00  
TOTAL: 25,000.00

READ CAREFULLY all terms and conditions, including those on the last page of this order, as they are made a part of this agreement.

I hereby certify that the proper requisitions has been made for the above order and that a certificate of the necessity of the expenditure has been placed on file in this office.

Purchasing Agent:  
Director of Finance:  
Clerk of Commission:

Melanie A. Wilson  
12/10/21  

[Signature]

[Signature]  
[Signature]  

APPROVED BY  
CITY COMMISSION  
12/22/21  

[Signature]  
[Signature]  
[Signature]
T&G Revision Date: 01 November 2018

TERMS & CONDITIONS

1. BILLING: All goods or services billed to THE CITY OF DAYTON, OHIO and at prices not exceeding those stated on the Purchase Order. If prices do not agree with quantities, notify the City of Dayton, Division of Procurement, immediately.

2. INVOICE: All invoices must be in duplicate and must be forwarded to the City of Dayton at the address shown on the Purchase Order. Each Purchase Order must be honored separately.

3. CASH DISCOUNTS: All cash discount terms will be effective from date of actual receipt and acceptance of the items purchased, or from receipt of correct and acceptable invoices, whichever is later.

4. PAYMENTS: With the receipt of the invoice, the successful vendor(s) will be required to remit their payment(s) electronically via a virtual credit card by the City contracted provider effective 01/01/2018. All fees associated with acceptance of the payment will be the responsibility of the vendor.

5. F.O.B.: Destination (City of Dayton, Ohio) with delivery to the specified Department at the specified street address. NO COLLECT FREIGHT SHIPMENTS WILL BE ACCEPTED. All quantities are subject to delivery and acceptance.

6. CLAIMS: Claims for non-delivery or damage in transit shall be presented in writing to the City of Dayton within 7 days of receipt of shipment. Claims for non-delivery or damage in transit shall be presented in writing to the City of Dayton within 7 days of receipt of shipment.

7. CANCELLATION: The City of Dayton reserves the right to cancel this order by written notice if the Vendor does not fulfill its contractual obligations with respect to time line and/or quality.

8. DEFAULT PROVISIONS: In case of default by the Vendor, the City of Dayton may procure the items from other sources, and the Vendor will be responsible for any excess costs occasioned thereby.

9. NO VERBAL AGREEMENTS: All agreements made with the City of Dayton will be made only by the terms and conditions of this order and will not be responsible for verbal agreements made by any other officer or employees of the City of Dayton. The receipt of this purchase order does not indicate an authorization of fulfillment. Confirmation by City personnel must be received as indicated in this purchase order before any orders are placed.

10. PATENT & COPYRIGHT INFRINGEMENTS: It is hereby understood that by acceptance of this order, the Vendor agrees to defend, indemnify, and save harmless the City of Dayton, Ohio, its officers, agents and employees from any and all loss, costs or expense on account of any claim, suit or judgment as a result of, caused by, or incident to any patent, copyright or trademark infringement as to any goods or merchandise or work described, actual or claimed, because of the use or disposition by City of any of its written or oral notice to the other party and so to said City pursuant to this order.

11. APPLICABLE LAWS: Vendor warrants that the items and their manufacture or completion shall not violate any federal, state or local laws, regulations or orders.

12. INSPECTION: The City of Dayton may inspect the items ordered hereunder during their manufacture, construction and/or preparation at reasonable times and shall have the right to inspect such items at the time of their delivery and/or completion in the City of Dayton.

13. WARRANTY: The warranty shall be five years from the date of manufacture, and the City of Dayton shall have the right of inspection, delivery, acceptance or rejection by the City of Dayton.

14. RISK OF LOSS: Title and risk of loss of the items shall remain with the Vendor until the items in a completed state have been delivered to and accepted by the City of Dayton. If the items have been damaged or lost in transit, the Vendor shall be liable for the cost of replacement.

15. SAVINGS HARMLESS: To the fullest extent permitted by law, the Vendor shall hold the City of Dayton harmless for all claims, damages, losses, expenses of any kind, including but not limited to claims, suits or actions brought by or on behalf of the City of Dayton or any of its officers, agents, contractors, or employees, arising in any way out of the negotiations, performance, or non-performance of this contract.

16. INSURANCE: The City of Dayton requires that all insurance be maintained in accordance with the terms of this contract.

17. INDEMNIFICATION: The Vendor shall indemnify and hold harmless the City of Dayton from any claims, damages, losses, or expenses arising out of or in connection with the performance of this contract.

18. SPECIFICATIONS: The City of Dayton reserves the right to make changes in specifications, terms, or conditions of delivery, without notice and without incurring any liability to the Vendor.

19. CONFIDENTIALITY: The city of Dayton shall be entitled to make copies of documents, correspondence, or any other material furnished to it in connection with this contract.

20. GOVERNING LAW: This Purchase Order, the performance under this contract, and all disputes and proceedings under it shall be governed by the laws of the State of Ohio. In any action, suit or proceeding that may be brought arising out of, in connection with, or by reason of this Purchase Order, the laws of the State of Ohio shall be applicable, and the Vendor shall forever waive the privilege of the laws of any other forum, without regard to the jurisdiction in which the action or claim proceeding may be heard.

21. ADDITIONAL RIGHTS: Any rights or remedies granted to the City of Dayton in any part of this Purchase Order shall be exclusive of, and shall be in addition to, any other rights or remedies granted to the City of Dayton under any other rights or remedies granted to the City of Dayton in any part of this Purchase Order and any other rights or remedies that the City of Dayton may have at law or in equity in any such instance.

22. PRODUCT MANUFACTURE LABOR STANDARDS: Products and services provided for in the Purchase Order must be produced under Sweatshop Conditions as defined in Internal Resolution 01/2017-2018 adopted by the Commission of the City of Dayton.

23. CONTRACTOR: Contractor acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System (PERS) membership.
CITY OF DAYTON, OHIO  
Department of Central Services  
Division of Purchasing  
101 West Third Street, Room 514  
Dayton, OH 45402

PURCHASE ORDER

P.O. #  Date       Page
P0220101  12/10/21    1 of 3

SHIP TO & INVOICE TO:
Christopher Clark  
Water Reclamation Facility  
2800 Guthrie Rd at Danner Ave  
Dayton OH 45417

NOTE: SUBMIT INVOICE IN DUPLICATE TO:
CITY OF DAYTON, OHIO  
ADDRESS: THE SAME AS SHIP TO AS SHOWN ABOVE  
INCLUDE PURCHASE ORDER NUMBER ON ALL DOCUMENTS  
NO STATE OR LOCAL SALES TAX TO BE INCLUDED ON PRICES BILLED.  
PAYMENT WILL BE MADE UPON RECEIPT OF AN 
APPROVED INVOICE OR MATERIAL, WHICHEVER IS LATER.

Buyer Name: JASON SCHORTGEN  
Date Required: 12/31/22  
Payment Terms: Net 30  
F.O.B. Point: FOB Destination, Frt. Prepaid

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>COMMODITY DESCRIPTION</th>
<th>QTY</th>
<th>U/M</th>
<th>UNIT PRICE</th>
<th>EXTENDED</th>
</tr>
</thead>
</table>
| 88576    | Odor Control Chemicals, etc.  
  REF. REQ. RUT2VT002 -- 55000-3460-1202-54-SF1415 | 1.00 | LOT | 26,000.0000 | 26,000.00 |

TOTAL

READ CAREFULLY all terms and conditions, including those on the last page of this order, as they are made a part of this agreement.

I hereby certify that the proper requisition has been made for the above order and that a certificate of the necessity of this expenditure has been placed on file in this office.

Purchasing Agent: [Signature]  
Director of Finance: [Signature]  
Chick of Commission: [Signature]

APPROVED BY: [Signature]

[Date]
**CITY OF DAYTON, OHIO**  
Department of Central Services  
Division of Purchasing  
101 West Third Street, Room 514  
Dayton, OH 45402  

**PURCHASE ORDER**  

<table>
<thead>
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<th>Date</th>
<th>Page</th>
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<tbody>
<tr>
<td>P0220101</td>
<td>12/10/21</td>
<td>2 of 3</td>
</tr>
</tbody>
</table>

**SHIP TO & INVOICE TO**  

Christopher Clark  
Water Reclamation Facility  
2800 Guthrie Rd at Danner Ave  
Dayton OH 45417  

---

**NOTE: SUBMIT INVOICE IN DUPLICATE TO:**  
**CITY OF DAYTON, OHIO**  
**ADDRESS:** THE SAME AS SHIP TO AS SHOWN ABOVE  
Incl. Purchase Order Number on all Documents  
No state or local taxes are to be included in prices listed.  
Payment will be made upon receipt of an approved invoice or materials as listed.

---

<table>
<thead>
<tr>
<th>Buyer Name</th>
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<th>Payment Terms</th>
<th>F.O.B. Point</th>
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<th>UNIT PRICE</th>
<th>EXTENDED</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>CAUSTIC SODA FOR THE HYDROGEN SULFIDE CONTROL PLAN</td>
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<tr>
<td></td>
<td>DELIVERY: AS NEEDED</td>
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<td></td>
</tr>
</tbody>
</table>

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**READ CAREFULLY all terms and conditions, including those on the last page of this order, as they are made a part of this agreement.**

**TOTAL**  
26,000.00

---

I hereby certify that the proper requisition has been made for the above order and that a certificate of the necessity of the expenditure has been placed on file in this office.

**Melodee Wilson**  
Purchasing Agent  

**approving signatures**  

**APPROVED BY**  
**CITY COMMISSION.**

**12/22/21**

**Regina W. Blandison**  
Chk. of Commission  

---

Certificate  
I hereby certify that the amount of money required to meet the payment is as shown above has been lawfully appropriated for such purposes and in the Treasury or in the process of collection to the credit of the fund from which it is to be drawn and clear of any previous encumbrances.
TERMS & CONDITIONS

1. BILLING: All goods or services must be billed to THE CITY OF DAYTON, OHIO, and at prices not exceeding those stated on the Purchase Order. If prices or terms do not agree with quotation, notify the City of Dayton, Division of Procurement, immediately.

2. INVOICE: All invoices must be in duplicate and must be forwarded to the City of Dayton at the address shown on the Purchase Order. Each Purchase Order must belemint separately. Invoices for partial shipments will be accepted, ifisses must be indicated. Failure to adhere to this rule will result in the invoice being disallowed.

3. CASH DISCOUNTS: All cash discount terms will be effective from date of actual receipt and acceptance of the items purchased, or from receipt of correct and acceptable invoice, whichever is later.

4. PAYMENTS: With the award of this contract, the successful vendor(s) will be required to remit their payment(s) electronically via a virtual credit card by the City contracted payment provider effective 01/01/2018. All funds associated with acceptance of the payment will be the responsibility of the vendor.

5. F.O.B.: Delivery of City of Dayton, Ohio with the delivery to the specified destination at the specified street address. NO COLLECT FREIGHT SHIPMENTS WILL BE ACCEPTED. All quotations are subject to any applicable sales tax rules and regulations. Terms not otherwise specified will be delivered F.O.B. destination, actual and f.o.b. Ohio fees paid by the City of Dayton. Invoices are due in full upon receipt of the goods and/or services. Failure to pay invoices in a timely manner may result in the suspension or termination of the contract.


7. CANCELLATION: The City of Dayton reserves the right to cancel this order by written notice if the Vendor does not fulfill its contractual obligations with respect to timeliness and/or quality.

8. DEFAULT PROVISIONS: In case of default by the Vendor, the City of Dayton may require the Vendor to perform its duties from other sources, and the Vendor shall be responsible for any excess costs incurred in defaulting the Vendor.

9. NO VERBAL AGREEMENTS: The City of Dayton will be bound only by the terms and conditions of this order and will not be responsible for verbal agreements made by any officer or employee of the City of Dayton. The receipt of this purchase order does not indicate an authorization of fulfillment. Confirmation by City personnel must be received as indicated in the purchase order before any orders are placed.

10. PATENT AND COPYRIGHT INFRINGEMENTS: It is hereby agreed that by acceptance of this order, the Vendor agrees to defend, indemnify, and save harmless the City of Dayton, Ohio, its officers, agents, and employees from and against any action or claim, suit or judgement as a result of, caused by, or in connection with any patent, copyright or trademark infringement, actual or alleged, existing, actual or alleged, by the use of any article mentioned on this order or sold to and used by City pursuant to this order.

11. APPLICABLE LAWS: The Vendor warrants that the items and their production or manufacture shall not violate any federal, state or local laws, regulations or orders.

12. INSPECTION: The City of Dayton may inspect the items ordered hereunder during their manufacture, construction and/or preparation at reasonable times and shall have the right to inspect such items at the time of their delivery and/or completion.

13. WARRANTY: The Vendor warrants all items delivered hereunder to be free from defects of material or workmanship, to be of good quality, and to conform strictly to any specifications, drawings or samples which may have been specified or furnished by the City of Dayton, and the Vendor further warrants that the Vendor will have good title to the items free and clear of all liens and encumbrances and will transfer such title to the City of Dayton. Said warranties shall not negate or limit any implied warranties of merchantability or fitness. This warranty shall survive any inspection, delivery, acceptance or payment by the City of Dayton.

15. RISK OF LOSS: Title and risk of loss to and with respect to the items shall remain in the Vendor until the items in a completed state have been delivered to and accepted by the City of Dayton or by the vendor’s agent. In the event of the Vendor’s default under the terms of this contract, the City of Dayton at the location specified on the face hereof, items which are to be shipped shall be shipped F.O.B. destination unless otherwise specified by the City of Dayton. A packing slip must accompany such shipment and if a shipment is to be accompanied by an agent of the City of Dayton, a copy of the packing slip shall be forwarded concurrently with the shipment. No such packing slip is void and the cost or weight of the City of Dayton or its agent or conveyance is agreed to be final and binding on the Vendor with respect to such shipment.

16. SAVAGE HARMLESS: To the fullest extent permitted by law, the Vendor shall protect, defend, indemnify and hold free and harmless the City of Dayton, its agents, employees, and representatives from and against any and all claims, damages, losses, claims of lien, losses of action, profits, settlements, costs, liabilities and expenses of any kind, including but not limited to attorneys fees, arising out of any acts or omissions of the Vendor; its officers and employees, including but not limited to temporary employees that the Vendor provides to the City of Dayton who may be trained or controlled by the City of Dayton to any degree, consultant agents; and, subcontractors of any kind used in any way to provide the goods or services for this purchase order.

17. FORA MAJORE: Further the City of Dayton shall be considered within all terms of these Purchase Terms and Conditions for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of these Terms and Conditions, such circumstances include, but are not limited to: abnormal weather conditions; floods; earthquakes; fire; tornadoes; hurricane; war; strikes; lockouts; work slowdowns; and other labor disturbances; sabotage, judicial restraint; and inability to procure permits, licenses, or authorization from any local, state, or federal agency for any of the supplies, materials, services or requirements to be provided by either the City or the Contractor under this Agreement. 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 under this Purchase Order.

18. INSURANCE: If requested by the City of Dayton, the Vendor shall maintain policies of liability insurance of such types and such amounts and with such companies as may be designated by the City of Dayton, which policies shall be written in as to protect the City of Dayton and the vendor from the risks enumerated in Section 15. Such policies of insurance shall not be cancelable except upon thirty (30) days written notice to the City of Dayton and proof of such insurance shall be furnished by the Vendor to the City of Dayton. In addition, such policies shall protect all subcontractors of the Vendor. The Vendor agrees to make prompt written report to the insurance company involved of all accidents, occurrences, injuries or losses which may occur and of any and all claims made against the person injured under said policies.

19. SPECIFICATIONS CONFIDENTIAL: No specific terms, drawings, notes, instructions, engineering office or technical data referred to in this Purchase Order shall be deemed to be disclosed herein by reference to the same as if fully set forth. The City of Dayton shall at all times retain title to all such documents and the Vendor shall not disclose such in any party or any party shall be entitled to the City of Dayton or a party duly authorized by the City of Dayton. Upon the City of Dayton’s request or open competition and delivery of the items the Vendor shall promptly return all such documents to the City of Dayton.

20. EXAMINATION OF PREMISES: If work is to be performed hereon under the premises of the City of Dayton, the Vendor represents that it has examined the premises and any specifications or other documents which have been submitted in connection with the same and that it has satisfied itself as to the condition of the premises and that no allowances shall be made in respect of any error as such in the condition of any party.

21. CLEAN UP OF PREMISES: If work is to be performed hereon under the premises of the City of Dayton, the Vendor shall at all times keep the premises free from accumulations of waste material or rubbish. At the completion of the work the Vendor shall leave the premises and the items therein in as good order and condition as when received.

22. EQUAL EMPLOYMENT OPPORTUNITY: R.C.O. Sec. 3514. (a) The Vendor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, disability, ancestry, place of birth, age, marital status, or handicap with respect to recruitment, upgrading, promotion, transfer, recruitment or recruitment advertising, by derogation, tenure, wages or any other form of compensation and selection for training, including apprenticeship.

(b) The Vendor is expressly agreed and understood by Vendor that R.C.O. Sec. 3514 constitutes a material condition of this contract as fully as if specifically written herein and that failure to comply therewith shall constitute a breach thereof entitling the City to terminate the contract at its option.

23. AGREEMENT TO BE EXCLUSIVE: This Purchase Order contains the entire agreement between the parties and supersedes all other agreements between them. The parties acknowledge and agree that neither of them has made any representations with respect to the subject matter of this Purchase Order or any representation inducing the execution and delivery of this Purchase Order except such representations as are specifically set forth herein, and such party acknowledges that it has relied on these representations in connection with its decision to accept the other.

24. GOVERNING LAW: This Purchase Order, the performance under it, and all suits and special proceedings under it shall be construed in accordance with the laws of the State of Ohio. In any action, special proceeding or other action which may be brought arising out of, in connection with, or by reason of this Purchase Order, the laws of the State of Ohio shall be applicable and shall govern to the extent necessary. The party with the greatest discretion shall not be deemed to have agreed to the jurisdiction in which the action or special proceeding may be heard.

25. ADDITIONAL RIGHTS: Any rights or remedies granted to the City of Dayton in any part of this Purchase Order shall not be exclusive of, but shall be in addition to, any other rights or remedies granted in any other part of this Purchase Order and any other rights or remedies that the City of Dayton may have at law or in equity in any such instance.

26. PRODUCT MANUFACTURING STANDARDS: Products and services provided in this Purchase Order cannot be procured under Wholesale Conditions as defined in Informal Resolution No. 90-122-1 as adopted by the Commissioners of the City of Dayton.

27. CONTRACTOR: Contractor acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System (OPERS) membership.
CITY OF DAYTON, OHIO  
Department of Central Services  
Division of Purchasing  
101 West Third Street, Room 514  
Dayton, OH 45402

PURCHASE ORDER

P.O.# Date  Page  
P0220102 12/10/21 1 of 3

SHIP TO & INVOICE TO:

Christopher Clark  
Water Reclamation Facility  
2800 Guthrie Rd at Danner Ave  
Dayton OH 45417

NOTE: SUBMIT INVOICE IN DUPLICATE TO:  
CITY OF DAYTON, OHIO  
ADDRESS: THE SAME AS SHIP TO AS SHOWN ABOVE  
Include Purchase Order Number on ALL Documents  
No state or federal taxes are to be included in prices billed.  
Payment will be made upon receipt of an  
approved invoice or materials, whichever is later.

VENDOR 411821617

Pace Analytical Services Inc  
25 Holiday Drive  
Englewood OH 45322

<table>
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<tr>
<th>Buyer Name</th>
<th>Date Required</th>
<th>Payment Terms</th>
<th>F.O.B. Point</th>
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<tbody>
<tr>
<td>JASON SCHORTGEN</td>
<td>12/31/22</td>
<td>Net 30</td>
<td>FOB Destination, Frt. Prepaid</td>
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TOTAL

CONTINUED

READ CAREFULLY all terms and conditions, including those on the last page of this order, as they are made a part of this agreement.

I hereby certify that the proper requisition has been made for the above order and that a certificate of the necessity of this expenditure has been placed on file in the office.

[Signature]
Thelma A. Wilson  
Purchasing Agent

[Signature]
[Signature]  
Director of Finance  
Clerk of Commission

APPROVED BY  
CITY COMMISSION  
12/22/21

[Signature]
Beau Blackburn  
Clerk of Commission
Pace Analytical Services Inc  
25 Holiday Drive  
Englewood OH 45322

NOTE: SUBMIT INVOICE IN DUPLICATE TO:  
CITY OF DAYTON, OHIO  
ADDRESS: THE SAME AS SHIP TO AS SHOWN ABOVE  
Include Purchase Order Number on ALL Documents  
No state or federal taxes are to be included in prices billed.  
Payment will be made upon receipt of an  
approved invoice or materials, whichever is later.

VENDOR 411821617

Purchasing Agent:  
Director of Finance:  
Chief of Commission:

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<tr>
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<td>PER SPECIFICATIONS ON OUR IFB NO. 200045 AND YOUR</td>
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<td>BID OF SAME</td>
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<td>$15.00 PER TEST FOR DISSOLVED SULFIDE TESTING</td>
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READ CAREFULLY all terms and conditions, including those on the last page of this order,  
as they are made a part of this agreement.

DISCOUNT: .00  
ADDL. CHARGES: .00  
TOTAL TAXES: .00  
TOTAL 15,600.00

I hereby certify that the proper requisition has been made for the above order and that a certificate of the necessity of this expenditure has been placed on file in this office.

Melanie M. Nelson  
Director of Finance

APPROVED BY  
CITY COMMISSION  
2/22/21  
Chief of Commission

P.O. #  
Date  
Page
TERMS AND CONDITIONS

1. BILLING & PAYMENT: All services must be billed to THE CITY OF DAYTON, OHIO and at prices not exceeding those stated on the Purchase Order. If prices or terms do not agree with quotation, notify the City of Dayton, Division of Procurement, immediately.

2. INVOICES: All invoices must be in duplicate and must be forwarded to the City of Dayton at the address shown on the Purchase Order. Each Purchase Order must be evidenced separately. Line items for partial shipments will be accepted; final invoice must indicate completion of order.

3. CASH DISCOUNTS: All cash discount terms will be effective from date of actual receipt and acceptance of the items purchased, or from receipt of correct and acceptable invoice, whichever is later.

4. PAYMENTS: With the award of this contract, the successful vendor(s) will be required to receive their payment(s) electronically via a virtual credit card by the City contract provider effective 01/01/2019. All fees associated with acceptance of the payment will be the responsibility of the vendor.

5. F.O.B.: Delivery (City of Dayton, Ohio) with delivery to the specified Department at the specified street address. NO COLLECT FREIGHT SHIPMENTS WILL BE ACCEPTED. All quotes are subject to a pricing margin for shipping, carrier for reimbursement must be itemized on the invoice and supported with a copy of the original freight bill.

6. TAXES: The City of Dayton is exempt from payment of Federal excise taxes and State retail sales taxes. The City of Dayton pays Federal Excise Taxes in its name. The City of Dayton may pay any Federal Excise Taxes on this order and sold to the City of Dayton as appropriate.

7. DELIVERIES: All deliveries on this order must be in full accordance with specifications, properly identified with the Purchase Order number, and must not exceed the quantities specified.

8. CANCELLATION: The City of Dayton reserves the right to cancel this order or written notice if the Vendor does not fulfill its contractual obligations with respect to timeliness and/or quality.

9. DEFAULT PROVISIONS: In case of default by the Vendor, the City of Dayton may procure the items from other sources, and the Vendor shall be responsible for any excess costs occasioned thereby.

10. NO VERBAL AGREEMENTS: The City of Dayton will be bound only by the terms and conditions of this order and will not be responsible for verbal agreements made by any other officer or employees of the City of Dayton.

11. PATENT AND COPYRIGHT INFRINGEMENTS: It is hereby understood that by acceptance of this order, the Vendor agrees to defend, indemnify, and save harmless the City of Dayton, Ohio, its officers, agents and employees from any and all loss, cost or expense on account of any claim, suit or judgment as a result of, caused by, or incidental to any patent, copyright or trademark infringement and/or piracy, actual or claimed, because of the use or manufacture by said City of any particulars contained on this order and sold to the City of Dayton pursuant to this order.

12. APPLICABLE LAWS: The Vendors warrant that the items and their production or completion shall not violate any federal, state or local laws, regulations or orders.

13. INSPECTION: The City of Dayton may inspect the items ordered hereunder during their manufacture, construction and/or preparation of reasonable times and shall have the right to inspect such items at the time of their delivery and/or completion.

14. WARRANTY: The Vendor warrants all items delivered hereunder to be free from defects of material or workmanship, to be of good quality, and to conform strictly to any specifications, drawings, or other written or oral instructions, as the case may be, accepted or confirmed by the City of Dayton, and the Vendor further warrants that the Vendor will have good title to the items free and clear of all liens and encumbrances and will transfer such title to the City of Dayton. Said warrantee shall not mitigate or limit any implied warranties of merchantability or fitness. This warranty shall survive any inspection, delivery, acceptance or payment by the City of Dayton.

15. RISK OF LOSS: Title and risk of loss to and with respect to the items shall remain in the Vendor until the items in a completed state have been delivered to and accepted by the City of Dayton or to an agent or consignee duly designated by the City of Dayton at the location specified on the face hereof, items which are to be shipped shall be shipped F.O.B. destination unless otherwise specified by the City of Dayton. A packing slip must accompany such shipment and if a shipment is to a consignee or an agent of the City of Dayton, a copy of the packing slip shall be forwarded concurrently to the City of Dayton. If such packing slip is used, the exact weight of the City of Dayton or its agent or consignee is agreed to be final and binding on the Vendor with respect to such shipment.

16. SAVE HARMLESS: To the fullest extent permitted by law, the Vendor will protect, defend, indemnify and hold free and harmless the City of Dayton, its agents, consignees, employees, and representatives from any and all claims, damages, loss or injury, caused by acts, omissions, negligence, settlements, costs, liabilities and expenses of any kind, including but not limited to attorneys fees, arising out of any acts or omissions of the Vendor or its employees, including but not limited to temporary employees that the Vendor provides to the City of Dayton who may be trained by the City of Dayton to any degree, consulates, agents, and, subcontractors of any such used in any way to provide the goods or services for this purchase order.

17. FORCE MAJEURE: Neither the City nor Vendor shall be considered to be in default of these Purchase Order Terms and Conditions for delays in performance caused by circumstances beyond the reasonable control of the party performing or non-performing. For purposes of these Terms and Conditions, such circumstances include, but are not limited to: abnormal weather conditions; floods; earthquakes; fire; epidemics; wars; riots; strikes, lockouts, work stoppages, and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses, or authorization from any local state, or federal agency for any of the supplies, materials, services, or support required to be provided by either the City of Dayton or Consultant under this Agreement. Should such circumstances occur, the non-performing party shall, within a reasonable time of being provided with written notice by the other party describing the circumstances preventing continued performance and the efforts being made to resume business under this Purchase Order.

18. INSURANCE: If requested by the City of Dayton, the Vendor shall maintain policies of liability insurance of such type and amounts and with such companies as may be designated by the City of Dayton, which policies shall be written as to cover any and all liabilities to the limits and in the manner as described in Section 15. Such policies of insurance shall not be cancellable except upon thirty (30) days written notice to the City of Dayton and proof of such insurance shall be furnished by the Vendor to the City of Dayton. In addition, each policy shall protect all subcontractors of the Vendor.

19. RELEASE OF INFORMATION: The Vendor agrees to provide written reports to the insurance companies involved of all accidents, occurrences, injuries or losses which may occur and of any and all claims made against the person insured under such policies.

20. SPECIFICATIONS CONFIDENTIAL: Any specifications, drawings, notes, instructions, engineering analyses or technical data referred to in this Purchase Order shall be deemed to be incorporated herein by reference the same as if fully set forth. The City of Dayton shall at all times retain title to all such documents and the Vendor shall not disclose such to any party other than those parties duly authorized by the City of Dayton. Upon the City of Dayton request at open quotation and delivery of the items the Vendor shall promptly return all such documents to the City of Dayton.

21. EXEMPLARY DAMAGES: In no event shall the City of Dayton be liable for exemplary damages under any provision of this Agreement.

22. EQUAL EMPLOYMENT OPPORTUNITY: R.C.O.D. Sec. 3514. (a) The Vendor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, age, sex, marital status, sexual orientation, gender identity, gender expression or minus status, disability, or handicapped status, or handling with respect to employment, upgrading, promotion or transfer, recruitment or recruitment advertising, by-merit, termination, rank or other forms of compensation, and selection for training, including apprenticeship. (b) It is expressly agreed and understood by Vendor that R.C.O.D. Sec. 3514 constitutes a material condition of this contract as fully as if specifically written herein and that failure to comply therewith shall constitute a breach thereof entitling the City to terminate the contract at its option.

23. AGREEMENT TO BE EXCLUSIVE: This Purchase Order contains the entire agreement between the parties and supersedes all other agreements between them. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of the Purchase Order or any representation binding the execution and delivery of this Purchase Order except such representations as are specifically set forth herein and each party acknowledges that it has relied on these representations in connection with its dealings with the other.

24. GOVERNING LAW: This Purchase Order, the performance under it and all special and specific proceeding under it shall be construed in accordance with the laws of the State of Ohio. In any action, special proceeding or other proceeding that may be brought arising out of or in connection with, or by reason of this Purchase Order, the laws the State of Ohio shall be applicable and shall govern in the exclusion of all other forum, without regard to the jurisdiction in which the action or special proceeding may be heard.

25. ADDITIONAL RIGHTS: Any rights or remedies granted to the City of Dayton in any part of this Purchase Order shall not be exclusive of, but shall be in addition to, any other rights or remedies that the City of Dayton may have or as may be in any other instance.

26. PRODUCT MANUFACTURE LABOR STANDARDS: Product and services provided for in this Purchase Order cannot be produced under Sweatshop Conditions as defined in Industrial Relations No. 321-49 as adopted by the Commissioner of the City of Dayton.

27. CONTRACTOR: Contractor acknowledges its employees are not public employees for purpose of Ohio Public Employees Retirement System (OPERS) membership.
P.O.#        Date        Page
P0220103    12/10/21    1 of 4

SHIP TO & INVOICE TO
Christopher Clark
Water Reclamation Facility
2800 Guthrie Rd at Danner Ave
Dayton OH 45417

NOTE: SUBMIT INVOICE IN DUPLICATE TO:
CITY OF DAYTON, OHIO
ADDRESS: THE SAME AS SHIP TO AS SHOWN ABOVE
Include Purchase Order Number on ALL Documents
For state or federal taxes not to be included in prices billed.
Payment will be made upon receipt of an
approved invoice or materials, whichever is later.

<table>
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<tr>
<th>Buyer Name</th>
<th>Date Required</th>
<th>Payment Terms</th>
<th>F.O.B. Point</th>
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<tbody>
<tr>
<td>JASON SCHORTGEN</td>
<td>12/31/22</td>
<td>Net 30</td>
<td>FOB Destination, Frt. Prepaid</td>
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READ CAREFULLY all terms and conditions, including those on the last page of this order, as they are made a part of this agreement.

I hereby certify that the proper requisition has been made for the above order and that a certificate of the necessity of the expenditure has been placed on file in this office.

Purchasing Agent

Director of Finance

APPROVED BY

Chief of Commission

Certificate
I hereby certify that the amount of money required to meet the payments called for in the above order has been lawfully appropriated for such purposes 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 of any previous encumbrances.
CITY OF DAYTON, OHIO  
Department of Central Services  
Division of Purchasing  
101 West Third Street, Room 514  
Dayton, OH 45402

PURCHASE ORDER

P.O.# Date Page

2 12/10/21 2 of 4

SHIP TO & INVOICE TO

Christopher Clark  
Water Reclamation Facility  
2800 Guthrie Rd at Danner Ave  
Dayton OH 45417

NOTE: SUBMIT INVOICE IN DUPLICATE TO:  
CITY OF DAYTON, OHIO  
ADDRESS: THE SAME AS SHIP TO AS SHOWN ABOVE  
Include Purchase Order Number on ALL Documents  
Be sure all items are to be included in prices listed.  
Payment will be made upon receipt of an  
approved invoice or material, whichever is later.

VENDOR 352126160

ECO Oxygen Technologies LLC  
3939 Priority Way South Drive  
Suite 200  
Indianapolis IN 46240

Buyer Name Date Required Payment Terms F.O.B. Point

JASON SCHORTGEN 12/31/22 Net 30 FOB Destination, Frt. Prepaid

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MONTHLY RENTAL OF OXYGEN DELIVERY SYSTEM FOR SPEECE CONE | 8.00 | EA | 3,600.0000 | 28,800.00 |
| 3 97935  | Engineering Equipment and Supplies  
MONTHLY OXYGEN DELIVERY CHARGE | 8.00 | EA | 168.0000 | 1,344.00 |
| 4 97935  | Engineering Equipment and Supplies | 8.00 | EA | 100.0000 | 800.00 |

TOTAL CONTINUED

READ CAREFULLY all terms and conditions, including those on the last page of this order,  
as they are made a part of this agreement

I hereby certify that the proper requisition  
has been made for the above order and  
that a certificate of the necessity of this expenditure has been placed on file in this office.

Purchasing Agent

Director of Finance

APPROVED BY

CERTIFICATE

I hereby certify that the amount of money  
required to meet the payments called for  
in the above order has 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 of any previous  
encumbrances

12/22/21

City Commission

12/21/21

Chief of Commission
**CITY OF DAYTON, OHIO**  
Department of Central Services  
Division of Purchasing  
101 West Third Street, Room 514  
Dayton, OH 45402

**PURCHASE ORDER**

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<td>3 of 4</td>
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**SHIP TO & INVOICE TO**

Christopher Clark  
Water Reclamation Facility  
2800 Guthrie Rd at Danner Ave  
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**Vendor**  
ECO Oxygen Technologies LLC  
3939 Priority Way South Drive  
Suite 200  
Indianapolis IN 46240

**Buyer Name**  
JASON SCHORTGEN

**Date Required**  
12/31/22

**Payment Terms**  
Net 30

**F.O.B. Point**  
FOB Destination, Frt. Prepaid

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>COMMODITY DESCRIPTION</th>
<th>QTY</th>
<th>U/M</th>
<th>UNIT PRICE</th>
<th>EXTENDED</th>
</tr>
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<tbody>
<tr>
<td>S 97935</td>
<td>MONTHLY TELEMETRY / MONITORING OF OXYGEN TANK</td>
<td>38,400.00</td>
<td>EA</td>
<td>.8800</td>
<td>33,792.00</td>
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<tr>
<td>Engineering Equipment and Supplies</td>
<td>OXYGEN USAGE: ESTIMATED 4,800 CCF/MONTH X 7 MONTHS</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DELIVERY: AS SCHEDULED</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

**DISCOUNT:**  
.00

**ADDL CHARGES:**  
.00

**TOTAL TAXES:**  
.00

**TOTAL:**  
178,736.00

---

**Certificate**

I hereby certify that the amount of money required to meet the payments called for in the above order has been faithfully appropriated for such purposes 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 of any previous encumbrances.

Purchasing Agent  
Director of Finance

---

**APPROVED BY**

CITY COMMISSION  
12/22/21

Chief of Commission  
12/14/21
TERMS AND CONDITIONS

1. BILLING: All goods or services must be billed to THE CITY OF DAYTON, OHIO and at prices not exceeding those stated on the Purchase Order. If prices or terms do not agree with quotations, notify the City of Dayton, Division of Procurement, immediately.

2. INVOICE: All invoices must be in duplicate and must be forwarded to the City of Dayton at the address shown on the Purchase Order. Each Purchase Order must be invoiced separately. Invoices for shipments will be accepted, final invoices must indicate completion of order.

3. CASH DISCOUNTS: All cash discount terms will be effective from date of actual receipt and acceptance of the items purchased, or from receipt of correct and acceptable invoices, whichever is later.

4. PAYMENTS: With the award of this contract, the successful vendor(s) will be required to receive their payment(s) electronically via a virtual credit card by the City contracted provider effective 09/01/2004. All fees associated with acceptance of the payment will be the responsibility of the vendor.

5. METHOD OF PAYMENT: The City of Dayton prefers payment by government purchase order and state or federal agency invoices. The City of Dayton Federal Exemption Certificate No. 31-17- 85449 and Ohio Vendor License No. 57-37487. The City is responsible for all Service Tax on goods and services purchased for the City by or on behalf of the Dayton area.

6. DELIVERIES: All deliveries on this order must be in full accordance with specifications, properly identified by the Purchase Order number, and must not exceed the quantities specified.

7. CANCELLATION: The City of Dayton reserves the right to cancel this order by written notice if the Vendor does not fulfill its contractual obligations with respect to timeliness and quality.

8. DEFAULT PROVISIONS: In case of default by the Vendor, the City of Dayton may procure the items from other sources, and the Vendor shall be held responsible for any costs and expenses occasioned thereby.

9. NO VERBAL AGREEMENTS: The City of Dayton will be bound only by the terms and conditions of this order and will not be responsible for verbal agreements made by any other officer or employee of the City of Dayton. The receipt of this purchase order does not indicate an authorization of fulfillment. Confirmation by City personnel must be received as indicated in the purchase order before any orders are placed.

10. PATENT AND COPYRIGHT INFRINGEMENTS: It is hereby understood that by acceptance of this order, the Vendor agrees to defend, indemnify, and save harmless the City of Dayton, Ohio, its officers, agents, and employees from any and all claims, costs or expenses on account of any claim, suit or judgment as a result of, caused by, or incident to any patent, copyright or trademark infringement, or any act or thing done by said City or any article manufactured on this order and sold to said City pursuant to this order.

11. APPLICABLE LAW: The Vendor warrants that the items and their production or completion shall not violate any federal, state or local laws, regulations or orders.

12. INSPECTION: The City of Dayton may inspect the items ordered hereunder during their manufacture, construction and/or preparation at reasonable times, and the same shall have the right to inspect such items at the time of their delivery and/or completion.

13. WARRANTY: The Vendor warrants all items delivered heretofore to be free from defects of material or workmanship, to be of good quality, and to conform strictly to any specifications, drawings or samples which may have been specified or furnished by the City of Dayton, or to an agreed upon standard as determined by the City of Dayton and to be identified on the face hereof. Items which are to be shipped shall be shipped F.O.B. destination unless otherwise specified by the City of Dayton. Any Packing slip must accompany each such shipment and if it is shipped to a consignee as an agent of the City of Dayton, a copy of the packing slip shall be forwarded concurrently to the City of Dayton. If no such packing slip is sent, the cost or weight of the items as received by the City of Dayton is its agent or consignee is agreed to be mailed and binding on the Vendor with respect to such shipment.

14. SAVAGE HARMLESS: To the fullest extent permitted by law, the Vendor shall protect, defend, indemnify and hold harmless the City of Dayton, its agents, employees, officers, from and against any and all claims, damages, losses, losses claimed of loss, causes of action, suits, or actions at law, and in equity of or by reason of any harm, including but not limited to attorneys fees, arising out of any acts or omissions of the Vendor; its agents, officers and employees, including but not limited to temporary employees that the Vendor provides to the City of Dayton who may be injured or controlled by the City of Dayton at any expense; consultants, agents; and subcontractors of any tier used in any way to provide the goods or services for this purchase order.

15. FORCE MAJEURE: Neither the City nor Vendor shall be considered in default of any of the purchase order Terms and Conditions for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of these Terms and Conditions, such circumstances include, but are not limited to: abnormal weather conditions; floods; storms; 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 authorization from any local, state, or federal agency or for any of the supplies, materials, accessories, or services required to be provided by either the City of Dayton or the Vendor pursuant to this Agreement. 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 under this Purchase Order.

16. INSURANCE: If requested by the City of Dayton, the Vendor shall maintain policies of liability insurance of such types and such amounts and with such companies as may be designated by the City of Dayton, which policies shall be written on a non-cancelable except upon thirty (30) days written notice to the City of Dayton and proof of such insurance shall be furnished by the Vendor to the City of Dayton. In addition, such policies shall protect all subcontractors of the Vendor. The Vendor agrees to prompt written reports to the insurance company involved of all accidents, occurrences, injuries or losses which may occur and of any and all claims made against the persons insured under said policies.

17. SPECIFICATIONS CONFIDENTIAL: Any specifications, drawings, notes, instructions, engineering studies or technical data referred to in this Purchase Order shall be deemed to be incorporated herein by reference as if fully set forth in the contract. The City of Dayton shall at all times retain title to all such documents and the Vendor shall not disclose such to any party other than the City of Dayton or a party duly authorized by the City of Dayton. Upon the City of Dayton's request or upon completion and delivery of the items the Vendor shall promptly return all such documents to the City of Dayton.

18. EXAMINATION OF PREMISES: All work is to be performed hereunder on the premises of the City of Dayton. The Vendor represents that it has examined the premises and any specifications or other documents with the same and that it has satisfied itself as to the condition of the premises and that and agrees that all assurance shall be made in respect of any errors to such as on the part of the Vendor.

19. CLEAN UP OF PREMISES: If work is to be performed hereunder on the premises of the City of Dayton, the Vendor shall, at all times, keep the premises free from accumulation of waste material or debris. At the completion of the items the Vendor shall leave the premises and the items therein.

20. EQUAL EMPLOYMENT OPPORTUNITY: R.C.O.C. Sec. 3514: (a) The Vendor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, handicap, or any other characteristic protected by law. The Vendor shall be responsible for providing reasonable accommodation for employees with disabilities and for accommodating qualified individuals with a handicap. The Vendor agrees to provide equal opportunity for training, including apprenticeship.

21. ADDITIONAL RIGHTS: Any rights or remedies granted to the City of Dayton in any part of this Purchase Order shall not be exclusive of, but shall be in addition to, any other rights or remedies provided in any other agreement between the City of Dayton and the Vendor. Any other agreements or contracts between the City of Dayton and the Vendor may have an effect on the City of Dayton's obligations under this Agreement.

22. PRODUCT MANUFACTURE LABOR STANDARDS: Products and services provided for this Purchase Order are the product of Sweatshop Conditions as defined in Federal Regulation 29CFR 220-92 as adopted by the Commission of the City of Dayton. The City of Dayton guarantees the Vendor, contractor, Enterprise Zone employer and any other organization doing business with the City of Dayton that there shall be a fair wage and working conditions and that the employees are in accordance with Federal Regulation 220-92 and 90 as adopted by the Commission of the City of Dayton.

23. CONTRACTOR: Contractor acknowledges its employees are not public employees for purposes for Ohio Public Employees Retirement System (OPERS) membership.
City Manager's Report

From 6470 - PW/Fleet Management
Supplier, Vendor, Company, Individual
Name Fifth Third Bank
Address PO Box 740523
Cincinnati, OH 45274-0523

Date February 2, 2022
Expense Type Other, (See Description Below)
Total Amount $41,993.06

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<tr>
<th>Fund Source(s)</th>
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<th>Fund Amount(s)</th>
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</thead>
<tbody>
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<td>Fleet Management - Other</td>
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<td>Equipment Maintenance</td>
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<td>$24,917.38</td>
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<td>Fleet Management - Inventory</td>
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Includes Revenue to the City    Yes  No  Affirmative Action Program  Yes  No  N/A

Description

Payment of Voucher

The Department of Public Works, Division of Fleet Management requests approval for a payment of voucher to satisfy the final 2021 Procurement Card invoice payment with Fifth Third Bank. The amount of the expenses that exceeded the funds encumbered on CP210022 totaled $41,993.06.

The Division of Fleet Management increases Procurement Card usage at the end of the year which enables the continued procurement of a wide variety of automotive parts and services as annual purchase orders near depletion. The encumbered funds with Fifth Third Bank were not estimated high enough to satisfy the final year-end invoice. The Division of Fleet Management, an internal service fund, had in its 2021 budget and still has a cash balance available to cover this payment. However, proper documentation before year-end to encumber sufficient resources did not occur.

The Division of Fleet Management has implemented a revised process to monitor monthly p-card spending more closely. Funds will come from our 2022 budget.

Copy of the Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 10/2019
SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

<table>
<thead>
<tr>
<th>Required Documentation</th>
<th>Change Orders</th>
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<tr>
<td>Initial City Manager's Report</td>
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<td>Initial Certificate of Funds</td>
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</tr>
<tr>
<td>Initial Agreement/Contract</td>
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<td>Copy of City Manager's Report</td>
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<td>Copy of Original Certificate of Funds</td>
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<th>Amount: $ 17,075.68</th>
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<tr>
<td>Fund Org Acct Prog Act Loc</td>
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</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: Fifth Third Bank
Vendor Address: PO Box 740523 Cincinnati Ohio 45274-0523
Street City State Zipcode + 4
Federal ID: 31-0676865 (AAA 6/22/2023)
Commodity Code: 94635
Purpose: To cover payment that were not properly encumbered

Contact Person: Matthew Newton, Division Manager X4854 Public Works / Fire Management
Department/Division Originating Department Director’s Signature: 
Date: 1/19/2022

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

Finance Director Signature: 
Date: 1/25/22

CF Prepared by: 
Date: 1/24/22 CF/CT Number: CF22-0109

SA 01/24/2022
AN ORDINANCE

Allowing City of Dayton Boards to Meet Remotely During the Pendency of a City Declared State of Emergency, and Declaring an Emergency.

WHEREAS, The City Commission recognizes that emergencies may occur that prevent the City of Dayton Boards from being able to conduct their meetings in person; and

WHEREAS, When an emergency occurs it may be unsafe to have the public or board members gather in one place to attend meetings; and

WHEREAS, During the pendency of an emergency declaration, the City of Dayton Boards may wish to continue to hold meetings via electronic means and provide a method by which citizens can view the meetings remotely; 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 Ordinance take effect immediately upon passage; now, therefore,

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

Section 1. During the pendency of a City Declaration of Emergency, the City of Dayton Boards and Committees, including but not limited to the Civil Service Board, Environmental Advisory Board, Board of Zoning Appeals, Community Appeals Board, Source Water Protection Fund Board, Plan Board, Human Relations Council, Landmarks Commission, Board of Water and Sewer Charge Appeals, Housing Appeals Board, Use of Force Committee, and Board of Tax Appeals, may continue to conduct special, regular, and/or emergency meetings via electronic means. The formation for a quorum for such meetings may be established by teleconference or interactive video, and the Board Member need not be physically present at the meeting site. Such meetings need not be open to the public nor allow for public comment, but may be transmitted electronically and made available for viewing via closed circuit television, cable, the internet, or other similar electronic technologies.
Section 2. That for the reasons set forth in the preamble, this Ordinance is declared to be an emergency and shall take effect immediately upon passage.

PASSED BY THE COMMISSION.............................................., 2022

SIGNED BY THE MAYOR.................................................., 2022

Mayor of the City of Dayton, Ohio

ATTEST:

Clerk of the Commission

APPROVED AS TO FORM:

City Attorney
AN ORDINANCE

Authorizing the City Manager to Execute a Purchase and Sale Agreement; Authorizing the Acceptance of Real Property, and Declaring an Emergency.

WHEREAS, Dayton Metropolitan Housing Authority d/b/a Greater Dayton Premier Management owns 59.31 acres of real property located in the City of Dayton, as depicted on the attached Exhibits A and B ("Property"); and

WHEREAS, The City desires to purchase the Property for public purposes, including but not limited to future park and recreational uses; and

WHEREAS, It is necessary that this Ordinance take effect immediately upon its passage to provide for immediate preservation of the public peace, property, health and safety of the City; now, therefore,

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

Section 1. That the City Manager, or her designee, is authorized to execute the Purchase and Sale Agreement in substantial form and substance to the attached Exhibit C.

Section 2. That the City Manager, or her designee, is authorized to execute any documents necessary to accept the future conveyance of the Property.

Section 3. That for the reasons stated in the preamble hereof, this ordinance is declared to be an emergency and shall take effect immediately upon its passage.

Passed by the Commission ......................................, 2022
Signed by the Mayor ............................................., 2022

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney

(Handwritten Signature)
January 24, 2022

TO: Shelley Dickstein, City Manager
   City Manager’s Office

FROM: Todd Kinskey, Director
       Department of Planning, Neighborhoods & Development

SUBJECT: Ordinance for Purchase of Land: Parkside Manor

The Department of Planning, Neighborhoods & Development recommends the passage of the attached ordinance for the purchase of 59.31 acres of land, parcels R72 05706 0100 and R72 05706 0011, from Dayton Metropolitan Housing Authority dba Greater Dayton Premier Management (GDPM). The purchase supports City activities at the Kettering Field complex.

A Certificate of Funds is attached for the acquisition cost of $345,000.00.

A map of the land to be purchased is also attached.

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

TK/hrb

Attachments

C: Mr. Musto; Mr. Lipson; Ms. Browning; file
PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made as of ______________________, 2022 by and between the CITY OF DAYTON ("Buyer"), a municipal corporation in and of the State of Ohio, and DAYTON METROPOLITAN HOUSING AUTHORITY D/B/A GREATER DAYTON PREMIER MANAGEMENT ("Seller"), a public body, corporate and politic organized and existing under the laws of the State of Ohio.

(a) Seller is the owner of approximately 59.31 acres of vacant land known as "Parkside", parcel numbers R72 05706 0100 and R72 05706 0011, 12, located within the City of Dayton, Ohio; as more particularly described in Exhibits A and B, attached hereto (collectively, the "Land").

(b) Buyer desires to purchase the Land for THREE HUNDRED FORTY-FIVE THOUSAND DOLLARS AND ZERO CENTS ($345,000.00);

In consideration of the covenants and provisions contained in this Agreement, the parties agree as follows:

1. AGREEMENT TO SELL AND PURCHASE PROPERTY: Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, subject to the terms and conditions of this Agreement, the Property.

2. PROPERTY: The "Property" shall include:

(a) The Land, approximately 59.31 acres of vacant land known as "Parkside", parcel numbers R72 05706 0100 and R72 05706 0011, 12, located within the City of Dayton, Ohio; as more particularly described in Exhibits A and B, attached hereto; and

(b) The Improvements and all rights of Seller, if any, in and to all of the rights, privileges, and appurtenances belonging or in any way appertaining to the Improvements, including, but not limited to all right, title and interest of Seller in and to (1) all soil and substrata studies relating to the Land; (2) all warranties, operating manuals, books, data and records regarding the Land and the Improvements; and (3) all licenses, permits and other approvals issued by any state, federal or local authority relating to the use, maintenance or operation of the Improvements to the extent that they may be transferred or assigned; and

(c) All fixtures, furniture, furnishings, fittings, equipment, machinery, apparatus, appliances and other articles of tangible personal property located in the Improvements as of the closing of the purchase and sale transaction contemplated by this Agreement and used or usable in connection with the occupation or operation of all or any part of the Property.
3. **PURCHASE PRICE:** The purchase price payable hereunder for Seller's right, title, and interest in and to the Property shall be **THREE HUNDRED FORTY-FIVE THOUSAND DOLLARS AND ZERO CENTS ($345,000.00)**.

4. **CLOSING; CLOSING COSTS:**
   
   (a) The Closing shall take place at a mutually agreed upon time and place (the "Closing Date").

   (b) Seller shall provide a fully executed general warranty deed at closing.

   (c) Buyer shall pay Seller the full payment of purchase price at closing.

   (d) Buyer and Seller shall sign and complete all customary or reasonably required documents at or before the Closing Date.

5. **TITLE:** Title to the Property to be acquired hereunder will be free, clear and unencumbered at the time of closing. Seller shall have the right to clear any defects in title at closing, and Buyer retains the right to waive any defect in title to any portion of the Property it is to receive hereunder, and upon such waiver the transaction shall proceed to closing, provided, however, that in the event Buyer shall object to the title on less than all the parcels of real estate it is to receive, Buyer shall not be obligated to close.

6. **SELLER'S REPRESENTATION AND WARRANTIES:**
   
   (a) Seller hereby represents and warrants to Buyer on and as of the Closing Date, Seller has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Seller pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Seller are and shall be duly authorized to sign the same on Seller's behalf and to bind Seller thereto. This Agreement and all documents to be executed pursuant hereto by Seller are and shall be binding upon Seller in accordance with their respective terms. The transaction contemplated hereby will not result in a breach of or constitute a default under any agreement to which Seller or the Property is subject or by which Seller or the Property is bound.

   (b) Neither Seller nor, to Seller's knowledge, any of its affiliates, nor any of their respective partners, members, shareholders or other equity owners, and none of their respective employees, officers, directors, representatives or agents, is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who
Commit, Threaten to Commit, or Support Terrorism), or other governmental action.

(c) Seller's makes no representations or warranties concerning the environmental condition and/or the condition of the improvements of the Real Estate. Seller makes no representations or warranties with regard to municipality, zoning, school district, or the use of the Property, and Buyer assumes full responsibility for researching the conditions. Buyer acknowledges that Buyer has conducted investigations of these conditions and the use of the Property and has verified that the Property is suitable for Buyer's intended use. Seller makes no representations with regard to conditions outside the boundaries of the Property, including, without limitation, to crime statistics, registration of sex offenders, noise levels, local regulations/development or any other issues of relevance to the Buyer and Buyer assumes full responsibility for researching such conditions. Buyer acknowledges that Buyer has been given the opportunity to conduct research pertaining to any and all of the foregoing prior to execution of this Contract. Buyer is relying solely on Buyer's own research, assessment and inquiry with local agencies and is not relying, and has not relied, on Seller.

7. REPRESENTATIONS AND WARRANTIES OF BUYER: Buyer hereby represents and warrants to Seller on and as of the Closing Date as follows:

(a) Buyer has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Buyer pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Buyer are and shall be duly authorized to sign the same on Buyer's behalf and to bind Buyer thereto. This Agreement and all documents to be executed pursuant hereto by Buyer are and shall be binding upon Buyer in accordance with their respective terms.

(b) Buyer's execution and delivery of this Agreement will not result in a breach or violation or a default (or any event which with notice and passage of time, or both, would constitute a default) under any of Buyer's organizational documents or any contract, agreement, permit, license, order or decree to which Buyer is a party.

(c) Neither Buyer nor, to Buyer's knowledge, any of its affiliates, and none of its respective employees, officers, directors, representatives or agents, is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of OFAC of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting
Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism), or other governmental action.

8. **POSSESSION:** Actual, sole and exclusive physical possession of the Property shall be given to Buyer on the Closing Date by delivery of Seller’s General Warranty Deed, duly executed and acknowledged by Seller (the “Deed”).

(a) **Transfer fees and Conveyance Taxes.** Buyer shall pay all realty transfer fees and conveyance taxes and similar taxes, if any, imposed upon the delivery and/or recording of the Deed or upon this transaction.

(b) **Real Estate Taxes and Assessments:** At closing, Seller shall pay or credit on the purchase price (a) all real estate taxes and assessments, including penalties and interest, which become due and payable prior to the Closing, and (b) a pro-rate share, calculated as of the date of closing, of the taxes and assessments becoming due and payable after the closing.

9. **TERM/TERMINATION:** This Agreement shall commence upon the full execution of this document. This Agreement shall constitute a valid and binding contract of purchase and sale upon the parties. The sale shall be closed within a reasonable time after such execution, but no later than December 31, 2022, unless extended by mutual written agreement of both parties. Either party may terminate this Agreement by providing thirty (30) days written notice to the other party. In the event of termination or expiration, neither party shall have liability or obligations hereunder except for obligations expressly stated to survive termination.

10. **CONDITIONS OF THE AGREEMENT:**

(a) **Conditions of Buyer.** The obligations of Buyer under this Agreement are subject to the satisfaction at the time of Closing that Seller has performed all covenants, agreements and conditions required by this Agreement to be performed by Seller prior to or as of the Closing Date (any of which may be waived in whole or in part in writing by Buyer at or prior to Closing).

(b) **Conditions of Seller.** The obligations of Seller under this Agreement are subject to the satisfaction at the time of Closing that Buyer has performed all covenants, agreements and conditions required by this Agreement to be performed by Buyer prior to or as of the Closing Date (any of which may be waived in whole or in part in writing by Seller at or prior to Closing).

11. **BUYER’S INSPECTION. BUYER IS RELYING UPON BUYER’S OWN EXAMINATION OF THE PROPERTY AND INSPECTIONS HEREFIN REQUIRED, IF ANY, FOR ITS PHYSICAL CONDITION AND CHARACTER, AND THE PROPERTY’S SUITABILITY FOR BUYER’S INTENDED USE THEREOF AND NOT UPON ANY REPRESENTATIONS BY THE SELLER OR SELLER’S AGENT, EXCEPT FOR THOSE MADE DIRECTLY TO THE BUYER IN WRITING. BUYER ACKNOWLEDGES AND AGREES THAT UPON CLOSING SELLER SHALL SELL AND CONVEY TO BUYER AND BUYER SHALL ACCEPT THE PROPERTY “AS IS, WHERE IS, WITH ALL
12. **ITEMS TO BE DELIVERED AT CLOSING BY SELLER:** At Closing, Seller shall deliver to Buyer (or to Buyer’s nominee) the following:

   (a) The Deed;

   (b) Such resolutions and certificates as Buyer shall require to evidence the due authorization of the execution and performance of this Agreement and the documents to be delivered pursuant hereto;

   (c) Any other documents required to be delivered by Seller pursuant to any other provisions of this Agreement.

13. **ITEMS TO BE DELIVERED AT CLOSING BY BUYER:** At Closing, Buyer shall deliver to Seller (or to Seller’s nominee) the following:

   (a) Payment in accordance with Section 3 herein;

   (b) The closing statement;

   (c) Such resolutions and certificates as Seller or the Title Company shall require to evidence the due authorization of the execution and performance of this Agreement and the other documents to be delivered pursuant hereto; and

   (d) Any other documents required to be delivered by Buyer pursuant to any other provisions of this Agreement, or as otherwise required by Ohio law.

14. **BROKERAGE:** Buyer represents and warrants to Seller that Buyer has dealt with no broker, finder or other intermediary in connection with this sale. Seller represents and warrants to Buyer that Seller has dealt with no broker, finder or other intermediary in connection with this sale. The provisions of this Section shall survive Closing.

15. **NOTICES:** All notices, demands, requests or other communications from either party to the other party, required or permitted under the terms of this Agreement (a) shall be in writing, (b) shall be deemed to have been provided on the earlier of (i) (1) forty-eight (48) hours after being sent as certified or registered mail in the United States mails, postage prepaid, return receipt requested, or (2) the next business day after having been deposited (in time for delivery by such service on such business days) with Federal Express or another national courier service, or (3) upon having been sent by telefax or another means of immediate electronic communication, in each case to the address of such party set forth hereinabove or to such other address in the United States of America as such party may designate from time to time by notice to the other party hereto, or (ii) its having been given by hand or other actual delivery to such party. Notwithstanding the foregoing, any notice of default shall be deemed to have been provided only upon receipt or refusal as evidenced by return receipt, courier receipt or other receipt provided by the overnight delivery service.
16. **MISCELLANEOUS:**

(a) **Successors and Assigns:** This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, personal representatives, successors and permitted assigns. This Agreement may not be assigned by either party hereto without the written consent of the other party hereto.

(b) **Entire Agreement; Governing Law:** This Agreement contains the entire understanding of the parties with respect to the subject matter hereof, supersedes all prior or other negotiations, representations, understandings and agreements of, by or among the parties, express or implied, oral or written, which are fully merged herein. Any agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of this Agreement unless such agreement is in writing and signed by the party against whom enforcement of such change, modification, discharge or abandonment is sought. This Agreement shall be governed by and construed under the laws of the State of Ohio.

(c) **Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall be binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected on this Agreement as the signatories.

(d) **No Waiver:** Neither the failure nor any delay on the part of either party to this Agreement to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of any such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

(e) **Time of the Essence:** Time, wherever stated in this Agreement, is declared to be of the essence of this Agreement.

(f) **Electronic Signature:** Manual or electronic signatures on contract documents, transmitted in original electronic format shall be valid for the purposes of this Contract and any amendments, addendums or notices to be delivered in connection with this Contract. Only original, manually signed documents shall be valid for deeds or other documents to be recorded after
Closing or as may be required by Buyer’s lender and/or the title insurance company and/or escrow agent.

17. **REMEDIES:** In the event of a default by either party, the non-breaching party shall be entitled to any and all available remedies including specific performance, damages and such other remedies as may be available under applicable law.

[REMAINDER OF PAGE INTENTIONALLY BLANK]
IN WITNESS WHEREOF, intending to be legally bound, the parties have executed this Agreement as of the day and year first above written.

SELLER:

DAYTON METROPOLITAN HOUSING AUTHORITY d/b/a GREATER DAYTON PREMIER MANAGEMENT, a public body, corporate and politic organized and existing under the laws of the State of Ohio

1/24
Date: ________________, 2022

E-SIGNED by Jennifer Heapy on 2022-01-24 18:25:32 GMT
By: ____________________________
Name: Jennifer N. Heapy
Title: Chief Executive Officer
IN WITNESS WHEREOF, intending to be legally bound, the parties have executed this Agreement as of the day and year first above written.

BUYER:

CITY OF DAYTON, OHIO

Date:______________, 2022

By: ______________________________
Name: ___________________________
Title: ____________________________

APPROVED AS TO FORM
AND CORRECTNESS:

1/20/2022

X John Musto for
City Attorney

Signed by: Musto, John

Approved by Ordinance No. ________________, passed ____________, 2022
EXHIBIT A

PARCEL ONE
11.7093 ACRES
PART LOT NUMBER 62797 OF THE
REVISED AND CONSECUTIVE NUMBERS OF LOT
ON THE PLAT OF THE CITY OF DAYTON
AKA THE McCOOK PLAT ~ P.B. "U", PAGE 62
SECTION 5, TOWN 1, RANGE 7 M.Rs.
MONTGOMERY COUNTY, OHIO

Situate in Section 5, Town 1, Range 7 M.Rs., City of Dayton, County of Montgomery, State of Ohio and being Part of Lot Number 62797 of the Revised and Consecutive Numbers of Lots on the Plat of the City of Dayton, AKA The McCook Plat, Recorded in Plat Book "U", Page 62 and conveyed to the Dayton Metropolitan Housing Authority as part of a 72.508 acre tract (before exceptions) in Deed Book 1670, Page 18, more particularly described as follows: (all references to deed books, official records, microfiche numbers, instrument numbers, survey records and/or plats refer to the Montgomery County Recorder's Office, Montgomery County, Ohio)

Beginning at a 5/8" iron pin set at the intersection of the south right-of-way line of Helena Street (80' R/W) and the northeast right-of-way line of Brennan Drive (50' R/W);

Thence along the south right-of-way line of Helena Street along a curve to the left a distance of 246.98 feet (Radius: 1516.00 feet, Delta: 09°20'04"), Chord Bearing: North 75°52'55" East, Chord Length: 246.71 feet) to a 5/8" iron pin set;

Thence continuing along the south right-of-way line of Helena Street, North 71°12'53" East a distance of 257.83 feet to a 5/8" iron pin set on the southwest right-of-way line of North Keowee Street (R/W varies);

Thence along the southwest right-of-way line of North Keowee Street, South 33°44'05" East a distance of 595.50 feet to a 5/8" iron pin set at the west right-of-way line of Hall Avenue (R/W varies);

Thence along the west right-of-way line of Hall Street, South 04°59'03" West a distance of 122.13 feet to a 5/8" iron pin set;

Thence continuing along the west right-of-way line of Hall Avenue, South 10°58'57" West a distance of 442.80 feet to a 5/8" iron pin set on the northeast right-of-way line of Brennan Drive;

Thence along the northeast right-of-way line of Brennan Drive the following four courses:
1) along a curve to the right a distance of 282.83 feet (Radius: 451.86 feet, Delta: 35°51'45", Chord Bearing: North 64°59'29" West, Chord Length: 278.23 feet) to a 5/8" iron pin set;

2) along a curve to the right a distance of 554.59 feet (Radius: 1878.50 feet, Delta: 16°54'56", Chord Bearing: North 38°36'09" West, Chord Length: 552.58 feet) to a 5/8" iron pin set;

3) along a curve to the right a distance of 376.99 feet (Radius: 963.54 feet, Delta: 22°25'02", Chord Bearing: North 18°56'10" West, Chord Length: 374.59 feet) to a 5/8" iron pin set;

4) North 07°43'39" West a distance of 4.64 feet to the place of beginning.

Containing 11.7093 acres, more or less.

Subject to all legal highways, easements, and restrictions of record.

Basis of Bearings: centerline of North Keowee Street –
South 33°44'05" East – Plat Book 223, Page 61

A (5/8" iron pin set) refers to a 30" long rebar with a plastic identification cap stamped "Haley-Dusa S-7143".

This description is based upon a field survey conducted under the supervision of Thomas E. Dusa, Registered Surveyor, Ohio License Number S-7143, on October 12, 2021 as filed in Montgomery County Engineer’s Office Record of Land Surveys, Survey Record Volume 2021, Page 0324.

Haley-Dusa Engineering & Surveying Group, LLC

Thomas E. Dusa
Registered Surveyor
Ohio License Number S-7143

October 21, 2021
Job # S4855
EXHIBIT B

PARCEL TWO
47.6043 ACRES
PART LOT NUMBER 62798 OF THE
REVISED AND CONSECUTIVE NUMBERS OF LOT
ON THE PLAT OF THE CITY OF DAYTON
AKA THE McCOOK PLAT ~ P.B. “U”, PAGE 62
PART OF VACATED EWING AVENUE
SECTIONS 5 & 11, TOWN 1, RANGE 7 M.Rs.
MONTGOMERY COUNTY, OHIO

Situate in Sections 5 and 11, Town 1, Range 7 M.Rs., City of Dayton, County of Montgomery, State of Ohio and being Part of Lot Number 62798 of the Revised and Consecutive Numbers of Lots on the Plat of the City of Dayton, AKA The McCook Plat, Recorded in Plat Book “U”, Page 62 and conveyed to the Dayton Metropolitan Housing Authority as part of a 72.508 acre tract (before exceptions) in Deed Book 1670, Page 18 and as part of a 26.918 acre tract in Deed Book 1612, Page 502 and part of vacated Ewing Avenue, more particularly described as follows: (all references to deed books, official records, microfiche numbers, instrument numbers, survey records and/or plats refer to the Montgomery County Recorder’s Office, Montgomery County, Ohio)

Beginning at a 5/8” iron pin set at the intersection of the south right-of-way line of Helena Street (80’ R/W) and the southwest right-of-way line of Brennan Drive (50’ R/W);

Thence along the northeast right-of-way line of Brennan Drive the following five courses:

1) **South 07°43′39″ East** a distance of 3.53 feet to a 5/8” iron pin set;

2) along a curve to the left a distance of 396.55 feet (Radius: 1013.54 feet, Delta: 22°25′02″, Chord Bearing: South 18°56′10″ East, Chord Length: 394.03 feet) to a 5/8” iron pin set;

3) along a curve to the left a distance of 569.36 feet (Radius: 1928.50 feet, Delta: 16°54′56″, Chord Bearing: South 38°36′09″ East, Chord Length: 567.29 feet) to a 5/8” iron pin set;

4) along a curve to the left a distance of 332.46 feet (Radius: 501.86 feet, Delta: 37°57′20″, Chord Bearing: South 66°02′17″ East, Chord Length: 326.41 feet) to a 5/8” iron pin set;

5) **South 85°00′57″ East** a distance of 29.77 feet to a 5/8” iron pin set on the west right-of-way line of Hall Avenue (R/W varies);

Thence along the west right-of-way line of Hall Avenue the following four courses:
1) **South 04°59'03" West** a distance of **8.77** feet to a 5/8" iron pin set;

2) **South 10°55'05" West** a distance of **452.66** feet to a 5/8" iron pin set;

3) **North 84°39'54" West** a distance of **34.16** feet to a 5/8" iron pin found;

4) **South 14°51'19" West** a distance of **15.20** feet to a 5/8" iron pin set on the north line of a 2.794 acre tract conveyed to the City of Dayton in Deed Book 1317, Page 338;

Thence along the north line of said 2.794 acre tract and the north line of a 12 acre tract conveyed to the City of Dayton in Deed Book 839, Page 560 and the former centerline of Ewing Avenue as shown on the Eliza P. Hall Plat, recorded in Plat Book "E", Page 9, now vacated by Ordinance #15351, dated December 27, 1939, **North 84°39'44" West**, passing a ¾" iron pipe found at the northwest corner of said 12 acre tract at 484.71 feet, a total distance of **1863.37** feet to a 5/8" iron pin set on the northeast right-of-way line of North Bend Boulevard (R/W varies);

Thence along the northeast right-of-way line of North Bend Boulevard, **North 32°59'32" West** a distance of **222.61** feet to a 5/8" iron pin set;

Thence continuing along the northeast right-of-way line of North Bend Boulevard, **North 31°25'32" West** a distance of **339.63** feet to a 5/8" iron pin set;

Thence along a new division line and the southeast line of a 3.107 acre tract conveyed to the Dayton Metropolitan Housing Authority in Deed MF 71-576A03, **North 62°04'28" East** a distance of **566.76** feet to a 5/8" iron pin set at the easternmost corner of said 3.107 acre tract;

Thence along the northeast line of said 3.107 acre tract, **North 27°55'32" West** a distance of **412.21** feet to a 5/8" iron pin found at the northernmost corner of said 3.107 acre tract and on the south right-of-way line of Helena Street;

Thence along the south right-of-way line of Helena Street the following three courses:

1) Along a curve to the right, passing a ¾" iron pin found at 328.10 feet, a total distance of **390.40** feet (Radius: **1107.02** feet, Delta: **20°12'21"**, Chord Bearing: **North 76°33'49" East**, Chord Length: **388.38** feet to a 5/8" iron pin set;

2) **North 86°39'59" East** a distance of **672.81** feet to a 5/8" iron pin set;
3) Along a curve to the left a distance of 111.16 feet (Radius: 1516.00 feet, Delta: 04°12'05", Chord Bearing: North 84°33'57" East, Chord Length: 111.14 feet) to the place of beginning.

Containing 47.6043 acres, more or less.

Subject to all legal highways, easements, and restrictions of record.

Basis of Bearings: centerline of North Keowee Street –
South 33°44'05" East – Plat Book 223, Page 61

A (5/8" iron pin set) refers to a 30" long rebar with a plastic identification cap stamped "Haley-Dusa S-7143".

This description is based upon a field survey conducted under the supervision of Thomas E. Dusa, Registered Surveyor, Ohio License Number S-7143, on October 12, 2021 as filed in Montgomery County Engineer's Office Record of Land Surveys, Survey Record Volume 2021, Page 0324.

Haley-Dusa Engineering & Surveying Group, LLC

Thomas E. Dusa
Registered Surveyor
Ohio License Number S-7143

October 21, 2021
Job # S4855
By: ........................................

No: ........................................

A RESOLUTION

Authorizing the City Manager to Apply for, Accept, and Enter into a Water Pollution Control Loan Fund ("WPCLF") Supplemental Loan Agreement on Behalf of the City of Dayton, Ohio for the Construction Manager at Risk for the Water Reclamation Anaerobic Digester Project; Designating a Dedicated Repayment Source for the Loan, and Declaring an Emergency.

WHEREAS, The City of Dayton completed the Facility Master Plan for the Water Reclamation Facility in 2018; and

WHEREAS, The first prioritized major project identified in the Master Plan was the Anaerobic Digester Project which would add additional Anaerobic Digesters and rehabilitate the existing Digester Complex; and

WHEREAS, The City of Dayton has entered into a Professional Service Agreement with Hazen & Sawyer for the design of the Anaerobic Digester Improvements Project with the design currently at 30% complete; and

WHEREAS, In preparation for the Construction Phase of the Digester Improvements Project, the City of Dayton has evaluated alternate delivery methods rather than the standard design/bid/build that could result in cost savings to the City and would like to proceed with a Construction Manager at Risk for the Anaerobic Digester Project; and

WHEREAS, The City of Dayton intends to apply for a Water Pollution Control Loan Fund ("WPCLF") Supplemental Loan for the Construction Manager at Risk; and

WHEREAS, The Ohio WPCLF requires the government authority to pass legislation for the application of a loan and the execution of an agreement as well as designating a dedicated repayment source; and,

WHEREAS, For the immediate preservation of the public property, health and safety, and the usual operations of City departments, it is necessary that this Resolution take effect immediately now, therefore,

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

Section 1. That the City Manager, or her designee, be and is hereby authorized to apply for a WPCLF Loan Supplement, execute any and all necessary documents for, and enter into a WPCLF agreement with the Ohio Environmental Protection Agency and the Ohio Water Development Authority for Construction Manager at Risk on behalf of the City of Dayton, Ohio.

Section 2. That the dedicated source of repayment will be Sewer Revenue Funds.
Section 3. For the reasons stated in the preamble hereof, the Commission declares this Resolution to be an emergency measure which shall take effect immediately upon its adoption.

ADOPTED BY THE COMMISSION........................., 2022

SIGNED BY THE MAYOR........................., 2022

______________________________
Mayor of the City of Dayton, Ohio

Attest:

______________________________
Clerk of Commission

Approved as to form:

_________________________
City Attorney