CITY COMMISSION MEETING AGENDA

CITY COMMISSION		DAYTON, OHIO		FEBRUARY 3, 2021

6:00 P.M.

I. AGENDA SCHEDULE

Please register to speak on items 9, 11 and 13 with the Clerk of the Commission.
(Sign-up sheets at entrance of Commission Chambers.)

1. Call Meeting to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Approval of Minutes
6. Communications and Petitions Distribution (if any)
7. Special Awards/Recognition
8. Discussion of City Manager’s Recommendations (See Section II)
9. Citizen Comments on City Manager's Recommendations
10. City Commission Action on City Manager’s Recommendations
11. Public Hearing: 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: Finance Committee Briefing – (D. Shannon) – 5:00 p.m.
   https://www.daytonohio.gov/govtv
17. Miscellaneous (See Section VI)

II. CITY MANAGER RECOMMENDATIONS (Item #8 above)

The following recommendations are offered for City Commission approval.

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

1. Purchase Orders:

   | HUMAN RESOURCES | Dayton Society of Natural History, Inc. (learning pod program) | $75,000.00 |


1. (Cont’d):

**PROCUREMENT, MANAGEMENT & BUDGET**

B1. Opinionworks LLC (professional services related to the 2021 Dayton Survey)  
$44,100.00

**PUBLIC WORKS**

C1. Playcare LLC (park sanitation and cleaning services as needed through 07-31-23)  
390,000.00

C2. Buckeye Power Sales Company, Inc. (trimmers, chainsaws, blowers and related grounds maintenance equipment as needed through 12-31-21)  
15,000.00

C3. Deere & Company, Boone’s Power Equipment (five commercial stand-on and riding mowers) – PO210550  
43,908.47

C4. Deere & Company, Boone’s Power Equipment (one crossover utility gator) – PO210551  
28,066.66

C5. Site-Safe Products LLC dba Site-Safe LLC (one attenuator trailer)  
28,676.23

**RECREATION & YOUTH SERVICES**

D1. Aramark Uniform & Career Apparel Group (work uniforms rental and related services a needed through 07-31-21)  
20,000.00

D2. Total Tennis, Inc. (tennis court resurfacing and reconditioning as needed through 03-31-22)  
11,670.00

**WATER**

E1. NCH Corporation (oil, lubricants and related items as needed through 12-31-23)  
44,000.00

E2. St. Croix Sensory, Inc. (odor testing and assessment)  
14,681.00

E3. Utilities Instrumentation Service-Ohio (medium voltage electrical systems inspection and maintenance services as needed through 12-31-21)  
20,000.00

E4. Hach Company (Hach brand equipment through 12-31-24)  
360,000.00

E5. M & R Electric Motor Service (electrical motor repair, parts, supplies and related items as needed through 09-30-21)  
65,000.00

E6. Mississippi Lime Company (Quick Lime as needed through 12-31-21)  
50,000.00

-Depts. of Human Resources, Procurement, Mgmt. & Budget, Public Works, Recreation & Youth Services, and Water.  
**Total: $1,210,102.36**

2. **CBD Advisors – Service Agreement** – to serve as the City’s liaison with the State Administration and the Ohio General Assembly – Dept. of Procurement, Management & Budget.  
$228,000.00  
(Thru 12/31/22)
3. **City of Riverside – Contract Modification** – first amendment for technical and economic development services in association with the Multi-Jurisdictional Source Water Protection Program – Dept. of Water/Environmental Protection.  
   $87,000.00  
   (Thru 12/31/21)

4. **Progress Corporation – Service Agreement** – for maintenance and support services for the Progress Relational Database Management System that supports the Public Safety Management Information System – Dept. of Central Services/Info. Technology.  
   $56,641.27  
   (Thru 12/31/21)

5. **Smith Dawson & Andrews, Inc. – Service Agreement** – to serve as the City’s liaison with the Federal Administration and the United States Congress – Dept. of Procurement, Mgmt. & Budget.  
   $344,000.00  
   (Thru 12/31/22)

**B. Construction Contracts:**

6. **Badger Construction Company – Award of Contract** – for Nuisance Abatement Program Residential Demolition III – 2020 (10% SBE and 10% MBE Participation Goal/10% SBE and 10% MBE Participation Achieved) – Dept. of Planning & Community Development/Housing Inspection.  
   $211,000.00  
   (Thru 12/31/21)

**C. Revenue to the City:**

7. **Alcohol, Drug Addiction & Mental Health Services – Service Agreement** – for psychological services provided to probationers, and a portion for a Specialized Probation Officer assigned to Dayton Regional Mental Health Court – The Municipal Court/Court Administrator.  
   $85,079.00  
   (Thru 12/31/21)

8. **CareSource – Other** – for a Special Use Permit to install fencing into the right-of-way at 219 N. Patterson Blvd. – Dept. of Public Works/Civil Engineering.  
   $200.00  
   (Paid to the City)
E. Other – Contributions, Etc.:

9. AOMWA c/o Northeast Ohio Regional Sewer Dist. – Other – for annual membership – Dept. of Water/Water Reclamation. $14,040.00 (Thru 12/31/21)

IV. LEGISLATION:

Resolution – First Reading:

10. No. 6564-21 Honorarily Naming West Hillcrest Avenue Between Salem Avenue and the West Corporation Line as “Ohio Players Way”.

VI. MISCELLANEOUS:

ORDINANCE NO. 31862-21

RESOLUTION NO. 6565-21

IMPROVEMENT RESOLUTION NO. 3599-21

INFORMAL RESOLUTION NO. 985-21
## 2021 Purchase Orders

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

### Includes Revenue to the City
- [x] No
- [ ] Yes

### Affirmative Action Program
- [ ] No
- [ ] Yes
- [ ] N/A

### Description

**HUMAN RESOURCES**

(A1) **P0210565 – DAYTON SOCIETY OF NATURAL HISTORY, INC., DAYTON, OH**

- Learning pod program.
- These services are required to assist City employees with child remote learning due to the COVID-19 emergency.
- Dayton Society of Natural History, Inc. qualifies as a Dayton local entity.
- One hundred percent (100%) of funding is from the Coronavirus Aid, Relief and Economic Security (CARES) Act.
- The Department of Human Resources recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Coronavirus Local Relief Fund</td>
<td>28133-5610-1386-62-CRF44</td>
<td>$75,000.00</td>
</tr>
</tbody>
</table>

### Signatures/Approval

Division

Department

City Manager

FORM NO. MS-16

**Approved by City Commission**

Clerk

Date

Updated 06/2016
(B1) P0210564 – OPINIONWORKS LLC, ANNAPOLIS, MD  
- Professional services related to the administration, printing, mailing, analysis, and reporting of the 2021 Dayton Survey.  
- These services are required to conduct a scientific perception poll evaluating resident satisfaction on City services.  
- OpinionWorks LLC has designed a custom, multi modal methodology for the City including a five-year longitudinal study with custom analyses and reports and is recommended based on proven past performance and expertise; therefore, this purchase was negotiated.  
- The Department of Procurement, Management and Budget recommends approval of this order.  

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-9980-1159-99</td>
<td>$44,100.00</td>
</tr>
</tbody>
</table>

PUBLIC WORKS – DIRECTOR’S OFFICE  
(C1) P0210553 – PLAYCARE LLC, TROY, OH  
- Park sanitation and cleaning services as needed through 12/31/2021.  
- These services are required to minimize exposure of the COVID-19 infection to City of Dayton residents as a result of the COVID-19 emergency.  
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 20034JL with firm pricing through 7/31/2023.  
- The Department of Public Works recommends approval of this order.  

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Coronavirus Local Relief Fund</td>
<td>28133-6410-1382-54-CRF11</td>
<td>$390,000.00</td>
</tr>
</tbody>
</table>

PUBLIC WORKS – STREET MAINTENANCE  
(C2) P0210547 – BUCKEYE POWER SALES COMPANY, INC., MORAINE, OH  
- Trimmers, chainsaws, blowers, and related grounds maintenance equipment as needed through 12/31/2021.  
- This equipment is required to replenish inventory used to maintain City streets, parks and vacant lots.  
- Fourteen (14) possible bidders were solicited and four (4) bids were received.  
- The Department of Public Works recommends acceptance of the total low bid. Multiple awards are recommended to ensure the best value and supply availability for the City.  

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Highway Maintenance</td>
<td>21100-6430-1301-54</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>2021</td>
<td>Issue 9 – General Fund</td>
<td>10001-6430-1301-54</td>
<td>$10,000.00</td>
</tr>
</tbody>
</table>
PUBLIC WORKS – STREET MAINTENANCE (CONTINUED)

(C3) P0210550 – DEERE & COMPANY, BOONE’S POWER EQUIPMENT, BROOKVILLE, OH

- Five (5) commercial stand-on and riding mowers.
- This equipment is required to maintain City parks, vacant lots and boulevards and will replace Units #1515, #1576, #1579, #2339 and #2340 which will be disposed of in the best interest of the City.
- Rates are in accordance with the State of Ohio State Term Contract #800750 and Index #STS515.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Issue 9 – General Fund</td>
<td>10001-6430-1412-54</td>
<td>$43,908.47</td>
</tr>
</tbody>
</table>

(C4) P0210551 – DEERE & COMPANY, BOONE’S POWER EQUIPMENT, BROOKVILLE, OH

- One (1) 2021 crossover utility gator.
- This equipment is required for maintenance of the NFL turf field.
- Rates are in accordance with the Sourcewell Contract #062117-DAC.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6430-1412-54</td>
<td>$28,066.66</td>
</tr>
</tbody>
</table>

(C5) P0210546 – SITE-SAFE PRODUCTS LLC dba SITE-SAFE LLC, COLUMBUS, OH

- One (1) attenuator trailer.
- This good is required to provide a barrier for motor traffic during City roadway projects.
- Site-Safe Products LLC dba Site-Safe LLC is recommended as the sole regional distributor of the Energy Absorption System and to ensure existing product continuity, therefore, this purchase was negotiated.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Street Maintenance</td>
<td>21000-6430-1412-54</td>
<td>$28,676.23</td>
</tr>
</tbody>
</table>
RECREATION AND YOUTH SERVICES

(D1) P0210555 – ARAMARK UNIFORM & CAREER APPAREL GROUP, DAYTON, OH
- Work uniforms rental and related services as needed through 7/31/2021.
- These services are required to provide work uniforms.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 14010K with pricing extended through 7/31/2021.
- The Department of Recreation and Youth Services recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6530-1301-56</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

(D2) P0210556 – TOTAL TENNIS, INC., UPPER ARLINGTON, OH
- Tennis court resurfacing and reconditioning as needed through 12/31/2021.
- These services are required to resurface and recondition existing hard and clay courts at the City’s Jim Nichols Tennis Complex.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB S18023 with pricing through 3/31/2022.
- The Department of Recreation and Youth Services recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6530-1301-56</td>
<td>$6,200.00</td>
</tr>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6490-1301-56</td>
<td>$5,470.00</td>
</tr>
</tbody>
</table>

WATER – WATER RECLAMATION

(E1) P0210543 – NCH CORPORATION, CERTIFIED LABORATORIES DIVISION, IRVING, TX
- Oil, lubricants and related items as needed through 12/31/2021.
- These goods are required for automated lubrication systems.
- NCH Corporation, Certified Laboratories Division is recommended as the manufacturer and sole distributor and to ensure existing product continuity; therefore, this purchase was negotiated.
- The Department of Water requests additional authority of $30,000.00 through 12/31/2023.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$14,000.00</td>
</tr>
<tr>
<td>2022</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>2023</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>
WATER – WATER RECLAMATION (CONTINUED)

(E2) P0210562 – ST CROIX SENSORY, INC., STILLWATER, MN
- Odor testing and assessment.
- These goods and services are required to collect a baseline and follow up testing of odors produced from Stony Hollow leachate discharge to the Water Reclamation Facility.
- St Croix Sensory, Inc. is the sole manufacturer and supplier of the Nasal Ranger Field Olfactometer equipment; therefore, this purchase was negotiated.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1159-54</td>
<td>$8,770.00</td>
</tr>
<tr>
<td>2021</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$5,911.00</td>
</tr>
</tbody>
</table>

(E3) P0210557 – UTILITIES INSTRUMENTATION SERVICE-OHIO, CENTREVILLE, OH
- Medium voltage electrical systems inspection and maintenance services as needed through 12/31/2021.
- These services are required to analyze performance of medium voltage electrical systems and equipment and perform preventative inspections, maintenance and emergency electrical services.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB N18038 with pricing through 12/31/2021.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1167-54</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

WATER – WATER SUPPLY AND TREATMENT

(E4) P0210560 – HACH COMPANY, LOVELAND, CO
- Hach brand equipment.
- These goods are required to provide laboratory supplies, replacement parts and instrumentation for current monitoring equipment and SCADA system.
- Hach Company is recommended as the Original Equipment Manufacturer (OEM) of existing equipment and related parts; therefore, this purchase was negotiated.
- The Department of Water requests additional authority of $270,000.00 through 12/31/2024.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Water Operating</td>
<td>53000-3430-1301-54</td>
<td>$90,000.00</td>
</tr>
<tr>
<td>2022</td>
<td>Water Operating</td>
<td>53000-3430-1301-54</td>
<td>$90,000.00</td>
</tr>
<tr>
<td>2023</td>
<td>Water Operating</td>
<td>53000-3430-1301-54</td>
<td>$90,000.00</td>
</tr>
<tr>
<td>2024</td>
<td>Water Operating</td>
<td>53000-3430-1301-54</td>
<td>$90,000.00</td>
</tr>
</tbody>
</table>
WATER – WATER SUPPLY AND TREATMENT (CONTINUED)

(E5) P0210561 – M & R ELECTRIC MOTOR SERVICE, DAYTON, OH

- Electrical motor repair, parts, supplies and related items as needed through 9/30/2021.
- These goods and services are required to repair motors that are a critical part of the treatment process.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 15065N with pricing extended through 9/30/2021.
- M & R Electric Motor Service qualifies as a Dayton local entity.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Water Operating</td>
<td>53000-3430-1167-54</td>
<td>$65,000.00</td>
</tr>
</tbody>
</table>

(E6) P0210554 – MISSISSIPPI LIME COMPANY, ALTON, IL

- Quick lime as needed through 12/31/2021.
- These goods are required for lime softening in potable water treatment.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 18015JL with pricing extended through 12/31/2021.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Water Operating</td>
<td>53000-3430-1316-54</td>
<td>$50,000.00</td>
</tr>
</tbody>
</table>

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

City Commission approval is requested to enter into an Agreement with CBD Advisors in an amount not to exceed Two Hundred and Twenty-Eight Thousand Dollars ($228,000.00). Under the terms of the Agreement, CBD Advisors will serve as the City’s liaison with the State administration and the Ohio General Assembly. CBD Advisors will monitor legislative activities and keep the City informed of developing issues and/or funding opportunities that may affect the City of Dayton and the City’s airports and water resources and infrastructure.

The City issued an RFP in November of 2020 for state advocacy services and received one response. The response was evaluated by a committee comprised of staff from the City Commission Office, Department of Procurement, Management & Budget, and Department of Aviation and was deemed responsive and acceptable and the cost reasonable. The City desires to continue their partnership with CBD Advisors given their subject matter expertise, knowledge of City priorities, and experience with the challenges and opportunities facing the city. Their ability to establish and maintain effective working relationships with the City organization, community partners, the State administration, and the Ohio General Assembly was also a strong contributing factor.

The Department of Law has reviewed and approved this Agreement as to form and correctness. The Agreement shall commence upon execution by the City of Dayton and expire on December 31, 2022.

A Certificate of Funds is attached, encumbering half of the approved amount, $114,000.00, for the first year of the initial two-year term.

Diane T. Shannon

Michael Powell

Gilbert Turner

City Manager

FORM NO. MS-16

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th></th>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>02/03/21</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/31/22</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$ 228,000.00</td>
<td>$ 114,000.00</td>
<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td>$</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td>$</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ 114,000.00</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Original CT/CF</td>
<td>CT20-2164</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Required Documentation

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

- Copy of City Manager's Report
- Copy of Original Certificate of Funds

<table>
<thead>
<tr>
<th>Amount:</th>
<th>68,400.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code</td>
<td>10000 - 2720 - 1159 - 51 - XXXX - XXXX</td>
</tr>
<tr>
<td>Org</td>
<td>Acct</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount:</th>
<th>22,800.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code</td>
<td>53000 - 9970 - 1159 - 54 - XXXX - XXXX</td>
</tr>
<tr>
<td>Org</td>
<td>Acct</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: CBD Advisors
Vendor Address: 4027 Colonel Glenn Highway Suite 130 Beavercreek, OH 45431
Street: City: State: Zipcode + 4
Federal ID: 47-2483064
Commodity Code: 96100
Purpose: To provide professional consulting services related to state legislative advocacy and monitoring, as well as policy and public affairs guidance.

Contact Person: Monica Jones
PMB: 1/26/2021
Department/Division: Date: Jan 28, 2021

Jan 28, 2021

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.

Gilbert Turner
Date: 1/28/2021
Date: 1/28/2021

CT21-2164

Finance Director Signature

CF Prepared by

October 18, 2011
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT FOR SERVICES is entered into this ___ day of _____________, 2021, between the City of Dayton, Ohio, a political subdivision of the State of Ohio, (“City”) and CBD Advisors LLC, a limited liability company authorized to conduct business in the State of Ohio (“Company”) with an office located at 4027 Colonel Glenn Highway Suite 130, Beavercreek, Ohio 45431.

WITNESSETH THAT:

WHEREAS, Company, in its capacity to offer state assistance and legislative advocacy beneficial to the delivery of necessary public service, governance functions, and policy considerations of local government; can serve as a liaison to the Ohio Legislature, the Administration and all State Agencies; and,

WHEREAS, Company, as a liaison, can assist the City in implementing identifiable projects, strategic communications, and issues management; and,

WHEREAS, Company, as a liaison, is also able to provide the City with information on a broad range of state activities, funding opportunities and other issues of interest to the City; and,

WHEREAS, The City desires to retain Company as its liaison under the terms and conditions set forth in this Agreement.

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

ARTICLE I  WORK PROGRAM

Company shall perform the services specified in Exhibit A, titled WORK PROGRAM 2021, which is attached hereto and incorporated herein.

ARTICLE II  COMPENSATION

A. Payment of Services.

For the Initial Term (as defined below), the payment for Company’s services performed in accordance with Article I shall not exceed the sum of TWO HUNDRED AND TWENTY-EIGHT THOUSAND DOLLARS AND ZERO CENTS ($228,000.00), which is payable in monthly installments of NINE THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS ($9,500.00) and shall be considered all-inclusive of any and all associated contract costs. Company shall submit a monthly invoice for each installment payment. The City will tender the monthly payment within thirty (30) days of the City’s receipt of the monthly invoice. Company shall include a monthly activity and progress report with each invoice.
B. Reimbursable Expenses.

The aforementioned monthly installment payments shall be inclusive of any and all expenses incurred in the performance of this Agreement. If applicable, the City Manager and/or Director of Aviation and/or Director of Water are the only persons authorized to approve Company’s reimbursable expenses as associated with their designated work. It is agreed and understood that in no event shall Company have any entitlement to reimbursement for expenses which are not approved by the City. Company shall include any City-approved reasonable expenses with its monthly invoice and shall submit supporting documentation for all costs and expenses requested to be reimbursed.

ARTICLE III TERM AND TERMINATION

This Agreement shall commence on the Effective Date and expire on December 31, 2022, unless earlier terminated or amended (“Initial Term”). The City and Company shall have the option to renew, at the end of each term, for three (3) additional one (1) year terms, provided such renewal is agreed to in writing and approved by the Commission of the City of Dayton, as necessary (collectively, “Renewal Terms” and singularly defined as a “Renewal Term”). Either party may terminate this Agreement, at any time, by giving the other party sixty (60) days prior written notice.

ARTICLE IV INDEPENDENT CONTRACTOR

By executing this Agreement the Company acknowledges and agrees that Company will be providing services to the City as an “independent contractor”. As an independent contractor for the City, Company shall be prohibited from representing or allowing other to construe the parties’ relationship in a manner inconsistent with this Article. Company 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.

Company understand and agreed that Company is not a “public employee” for the purpose of OPERS membership. Company further understands and agrees that Company is not a City employee, nor are any Company’s employees, agents and contractors, and therefore, none shall be entitled to, nor will any make a claim for, any of the emoluments of employment with the City. Further, Company shall be solely responsible to withhold and pay all applicable local, state, and federal taxes.

ARTICLE V INDEMNIFICATION

To the fullest extent permitted by law, Company shall defend, indemnify and hold harmless the City, its officials, officers, employees, and agents, in both individual and official capacities, from and against all claims, damages, losses, and expenses, direct, indirect or consequential arising out of or resulting from this Agreement or work performed under this Agreement. In the event of any such injury, including death, or loss or damage, or claims therefore, Company shall give prompt notice thereof to the City. This provision is intended to be, and shall be construed, as
consistent with, and not in conflict with Ohio Revised Code Section 2305.31, to the fullest extent permitted.

ARTICLE VI GENERAL PROVISIONS

A. Notices.

Any written communications or notice required or permitted under 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 and addressed to the parties at the respective addresses set forth in this Agreement. Notices will be deemed as given as of the earlier of (1) the date of the actual receipt, (2) the next business day when notice is sent via express mail or personal delivery, or (3) three (3) days after mailing in the case of first class or certified mail. Such communications and notices shall be delivered or sent to the respective party at the following address:

**Company:**

CBD Advisors  
4027 Colonel Glenn Highway, Suite 130  
Beavercreek, Ohio 45431  
Attention: Mr. Kevin DeWine

**City:**

City of Dayton, Ohio  
Department of Procurement, Management and Budget  
101 West Third Street  
Dayton, Ohio 45402  
Attention: Ms. Monica Jones

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

B. Governing Law and Venue.

This Agreement is governed by the laws of the State of Ohio, without giving effect to its choice of law provisions or principles. By execution hereof, Company hereby irrevocably consents to the original jurisdiction of the courts in Montgomery County, Ohio for any matter, issue or controversy arising out of this Agreement or performance hereof.

C. Waiver.

A waiver by either the City or Company of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party’s rights with respect to any other or further breach.

D. 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 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 held to be void. 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. In the event that a provision which is of the essence of the Agreement is determined to be void, the Agreement shall be void.

E. Integration.

This Agreement represents the entire and integrated agreement between City and Company. It supersedes all prior and contemporaneous communications, representation, and agreements, whether oral or written, related to the subject matter of this Agreement.

F. Amendment.

The City or Company may amend or modify this Agreement, at any time, provided that such amendment or modification makes specific reference to this Agreement and is reduced to writing, signed by a duly authorized representative of each party, and, if required or applicable, approved by the Commission of the City of Dayton.

G. Assignment and Subcontracting.

Company 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 Company from any obligation under this Agreement.

Because the City is relying upon the professional skill and experience of Company, no part of the services to be provided hereunder may be subcontracted by Company to other organizations or subcontractors without the prior written and express consent of the City.

H. Non-Discrimination.

Company 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 on compensation, or selection for training, including leadership.

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

I. Miscellaneous.
1. The titles of the various sections of this Agreement are solely for convenience and are not part of the Agreement for purposes of interpreting the provisions hereof.

2. Unless specified, the terms “herein,” “hereunder,” “herewith,” and words of similar import refer to this entire Agreement; the singular includes the plural, and conversely.

3. Company shall comply with Title II, United States Code, Section 261 et seq., as may be amended, and any and all other applicable statutes, orders and/or regulations pertaining to governmental representation or campaign activities. It is specifically agreed that Company shall defend, indemnify and hold harmless the City, its elected officials, officers, agents and employees from and against any and all claims, actions, and expenses related to or arising out of Company's failure to comply with all laws, orders and/or regulations pertaining to governmental representation and/or campaign activities.

4. It is agreed that Company is not required to directly or indirectly participate or intervene in any political campaign on behalf of or in opposition to any political candidate for public office be it local, state or federal.

5. The parties agree that component parts of the “WORK PROGRAM 2021” are not exclusive and Company agrees to monitor and report on other issues of importance to the City, as deemed appropriate by either party to this Agreement.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**
J. Political Contributions.

Company affirm and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

In WITNESS WHEREOF, City and Company, each by a duly authorized representative, have executed this Agreement as of the date below.

THE CITY OF DAYTON, OHIO

City Manager

Date: ______________________

CBD ADVISORS LLC,

By: ______________________

Its: ______________________

Date: ______________________

APPROVED AS TO FORM
AND CORRECTNESS:

1/28/2021

X Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

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

____________________, 2021

Min./Bk. ___________ Pg. _______

Clerk of the Commission
EXHIBIT A- WORK PROGRAM 2021

CBD ADVISORS, LLC ("CBD ADVISORS") shall provide the services and implement the activities for the City of Dayton as specified hereinafter during the calendar year 2021.

1. LIAISON WITH THE ADMINISTRATION AND THE 134TH GENERAL ASSEMBLY

   Proposed activities include, but are not limited to:

   • work with the Administration and the 134th General Assembly to identify funding opportunities for City of Dayton priority projects. The priority projects listed below are of particular interest to the City of Dayton.

   • Regional priorities process for state funds
   • Dayton International Airport (DAY) and Dayton-Wright Brothers Airport (MGY) Capital Project Funding
   • Brownfield redevelopment
   • Waterfront Development infrastructure
   • Green development opportunities
   • Opportunity Zones & Funds
   • Regulatory and other related issues specific to the Water Department
   • Education programs including preschool and k-12.

   • influence the development and implementation of transportation and aviation related legislation, policies and initiatives; and protect and advocate on behalf of the City’s James M. Cox Dayton International Airport and Dayton-Wright Brothers Airport.

   • work with the 134th General Assembly to determine impacts of policy and legislative initiatives on the City; and

   • work with the Administration to provide an opportunity for the City to gain input into the development of key agency initiatives.

2. Monitor and keep City appraised of developments on issues affecting its ability to govern and provide services to its citizens and stakeholders.

3. Assist in securing leadership positions and opportunities for Dayton Commissioners, Managers and staff; assist in the promotion of the City.

GENERAL SERVICES TO BE PROVIDED:

1. AVAILABILITY OF CBD ADVISORS STAFF

   CBD ADVISORS’ staff will confer with the Members of the Commission of the City of Dayton, the City Manager and such other City personnel, as may be designated in writing by the City Manager.

   CBD ADVISORS’ staff agrees to meet at such times and places as may mutually be agreed upon by and between CBD ADVISORS’ staff and either the City’s Mayor, Commissioners, or City Manager.
2. STATE GRANT ASSISTANCE

CBD ADVISORS will:

• refer state executive proposals, proposed and adopted state administrative rules and regulations, and state legislation which CBD ADVISORS’ staff deems advisable.
• advise the City of any state items or programs, which the CBD ADVISORS’ staff deems may have a bearing on the City’s state grant policies and/or programs.
• furnish such detailed information as may be available on state grant programs in which the City indicates an interest or in which the CBD ADVISORS’ staff believes the City may be interested.
• assist in drafting, reviewing and commenting on state grant proposals of the City, which are being prepared for submission to the appropriate state agencies.
• assist in drafting, reviewing and commenting on state correspondence of the City, which are being prepared for submission to the appropriate legislators or state agencies.

3. LIAISON WITH DAYTON DELEGATION OF THE GENERAL ASSEMBLY AND STATE AGENCIES

CBD ADVISORS agrees to:

• actively maintain liaison with the State delegation of Dayton, Ohio and to assist the delegation in any matter, which the City determines to be in its best interest;
• confer with the City’s personnel relative to appearances by City staff before state Committees or administrative agencies, and to arrange for appointments and accommodations for same as necessary;
• contact state agencies on the City’s behalf when its state grant applications are under consideration by such agencies and to otherwise take whatever steps appear to said staff as necessary to obtain the most favorable consideration of such applications.

4. REPORTS

CBD ADVISORS agrees to keep the City’s Mayor, Commissioners, and City Manager constantly advised as to its activities conducted pursuant to this Agreement, and to submit monthly progress reports in writing to the designated contact person. Said progress reports will address individual actions taken to achieve the Work Program, specifically those action items identified herein at subsections one (1) through three (3) above, and will include, but not be limited to, specific steps taken, such as meetings held, legislation passed, grants awarded, etc.

ADMINISTRATIVE ARRANGEMENTS:

1. STAFFING

CBD ADVISORS agrees that immediately after the execution of this Agreement, it will assign Kevin DeWine to manage and administer CBD ADVISORS, responsibilities under the terms of this Agreement.
Kevin DeWine will provide supervision of the CBD ADVISORS staff as he deems necessary, as requested by the City, and as previously specified. CBD ADVISORS shall furnish necessary office space, utilities, furnishings and equipment, secretarial services, common use office supplies and services, general administrative support and consultation with such federal officers, agencies and bodies as deemed needed CBD ADVISORS’ staff for the proper implementation of the intent of this Agreement and for the proper prosecution for the Work Program outlined herein.
City Manager’s Report

3470 - Water/Environmental Protection
Supplier, Vendor, Company, Individual
City of Riverside
5200 Springfield Street, Suite 100
Riverside, Ohio 45431

Date February 3, 2021
Expense Type Contract Modification
Total Amount $87,000.00 (thru 12/31/2021)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021 Source Water Protection</td>
<td>53997-3470-1271-55</td>
<td>$87,000.00</td>
</tr>
</tbody>
</table>

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

Description

CITY OF RIVERSIDE SOURCE WATER PROTECTION AGREEMENT FIRST AMENDMENT

The Department of Water requests permission to enter into a First Amendment to the Agreement for Professional Services with the City of Riverside, in the amount of $87,000.00 for technical and economic development services in association with the City of Dayton’s Multi-Jurisdictional Source Water Protection Program. These efforts are essential for the continued protection of the region’s drinking water supply.

The original Agreement was approved on January 29, 2020 in the amount of $184,008.00. This First Amendment will increase the contract amount to $271,008.00.

The First Amendment has been reviewed by the Law Department as to form and correctness. Any unused amount will remain in the Source Water Protection Fund.

A Certificate of Funds and a copy of the First Amendment are attached.

---

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>X Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>1/29/2020</td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/31/2021</td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$ 184,008.00</td>
<td>X</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 91,093.00</td>
<td>X</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ 92,915.00</td>
<td>X</td>
</tr>
</tbody>
</table>

Required Documentation

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

Original CT/CF

- CT20-2516

Increase Encumbrance

- $ 87,000.00

Decrease Encumbrance

- $ -

Remaining Commission Approval

- $ 92,915.00

---

Amount: $ 87,000.00

Fund Code: 53997 - 3470 - 1271 - 55 - -

Fund: Org - Acct - Prog - Act - Loc

Fund: - - - - -

Amount: 

Fund Code: - - - - -

Fund: Org - Acct - Prog - Act - Loc

---

Vendor Name: City of Riverside

Vendor Address: 5200 Springfield Street, Suite 100 Riverside OH 45431

Federal ID: 31-6007853

Commodity Code: 94-648

Purpose: First Amendment to the Professional Services Agreement services to assist the City of Riverside with the technical and economic development of the Source Water Protection Area.

Contact Person: Lisa Burton-Yates

Water / Water Engineering

Department/Division Date

Originating Department Director's Signature: Michael Powell

Date: 1/22/2021

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

October 18, 2011
FIRST AMENDMENT OF THE
AGREEMENT FOR SOURCE WATER PROTECTION

THIS FIRST AMENDMENT OF THE AGREEMENT FOR SOURCE WATER
PROTECTION is between the City of Dayton, Ohio, (“City”) and the City of Riverside, Ohio
(“Contractor”).

WITNESSETH:

WHEREAS, On January 29, 2020, the Commission of the City of Dayton, Ohio, approved an
Agreement for Source Water Protection Services, CT20-2516, (“Agreement”) between the City and the
Contractor; and,

WHEREAS, The City desires additional services and the Contractor is willing to perform such
services for additional compensation.

WHEREAS, The parties desire to amend the Agreement to amend the compensation amount on the
agreement to accommodate the City’s need for additional services.

NOW THEREFORE, the parties hereby agree to amend the Agreement as follows:

SECTION 1: Article 3, Compensation is deleted in its entirety and replaced with the following:

ARTICLE 3 - COMPENSATION
The total remuneration in this Agreement by the City shall not exceed TWO HUNDRED SEVENTY-ONE
THOUSAND EIGHT DOLLARS AND ZERO CENTS ($271,008.00). If the City and the Contractor
mutually agree to extend this Agreement for additional terms as described in ARTICLE 1 of this Agreement
is extended.

Contractor shall submit invoices for payment only for Services actually performed and/ or provided.
Contractor’s invoices shall state the invoice period, total amount requested, and Services provided and/ or
performed during the invoice period, as required by the Board.

SECTION 2. Except as amended by this First Amendment, all terms, covenants and conditions contained
within the Agreement remain in full force and effect.

(REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.)
IN WITNESS WHEREOF, the City and Contractor, each by a duly authorized representative and intending to be legally bound, have executed this First Amendment as of the date set forth below.

CITY OF DAYTON, OHIO

____________________________
City Manager

APPROVED AS TO FORM
AND CORRECTNESS:

11/25/2020

X Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

CITY OF RIVERSIDE, OHIO

By: C. Mark Carpenter

Title: City Manager

APPROVED AS TO FORM AND
CORRECTNESS:

(Signature)

Riverside Law Director

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

____________________________, 2020

Min./BK._________ Pg._________

Clerk of the Commission
May 18, 2020

TO:       City Commission Office  
          City Manager’s Office  
          Department of Finance

FROM:    Michael Powell, Director  
          Department of Water

SUBJECT: Request for Signature – City of Riverside Source Water Protection Agreement

Attached please find four (4) copies of the Contract referenced above with applicable consultant signatures. Authorization for execution of this Contract was granted by the City Commission on January 29, 2020 by City Manager’s Report #2. This Contract is ready for City of Dayton signatures.

Please return to Lisa Burton-Yates (x3729) in the Division of Water Engineering.

Enclosures (4)
City Manager's Report

From: 3470 - Water/Environmental Protection
Supplier, Vendor, Company, Individual
Name: City of Riverside
Address: 5200 Springfield Street, Suite 100
Riverside, Ohio 45431

Date: January 29, 2020
Expense Type: Service Agreement
Total Amount: $184,008.00 (thru 12/31/21)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020 Source Water Protection</td>
<td>53997-3470-1271-55</td>
<td>$91,093.00</td>
</tr>
<tr>
<td>2021 Source Water Protection</td>
<td>53997-3470-1271-55</td>
<td>$92,915.00</td>
</tr>
</tbody>
</table>

Includes Revenue to the City: Yes
Affirmative Action Program: Yes

CITY OF RIVERSIDE SOURCE WATER PROTECTION AGREEMENT

The Department of Water requests permission to enter into a Professional Services Contract with the City of Riverside, in the amount of $184,008.00 for technical and economic development services in association with the City of Dayton's Multi-Jurisdictional Source Water Protection Program. These efforts are essential for the continued protection of the region's drinking water supply.

The Professional Services Agreement is being funded using the Source Water Protection Funds as approved by the Source Water Protection Board on August 1, 2019.

The Agreement shall commence on January 29, 2020 and shall expire upon expenditure of all funds provided herein or on December 31, 2021. There is an option to renew for two (2) additional 24-month periods, contingent upon satisfaction with the work and availability of funds. Any unused amount will remain in the Source Water Protection Fund.

The Agreement has been reviewed by the Law Department as to form and correctness. A Certificate of Funds and a copy of the Agreement are attached.

[Signatures/Approval]

[Approved by City Commission]

[Initials and Date]

Updated 8/2016
AGREEMENT FOR SOURCE WATER PROTECTION

THIS AGREEMENT FOR SOURCE WATER PROTECTION ("Agreement") is between the City of Dayton, Ohio ("City"), a municipal corporation in and of the State of Ohio ("City") and the City of Riverside, Ohio ("Contractor").

WITNESSETH:

WHEREAS, The City has initiated the Source Water Protection Fund to reduce the risk of ground water contamination within the Source Water Protection Area and Water Resources Area; and,

WHEREAS, Contractor will assist with the environmentally sound development of Services of the Source Water Protection Area and Water Resources Area (WR) land within the City of Riverside; and,

WHEREAS, Contractor is qualified and available to provide the Services to the City

NOW THEREFORE, in consideration of the promises contained in this Agreement, the City and Contractor do mutually agree as follows:

ARTICLE 1. TERM

The Agreement shall commence upon execution by the City and shall terminate upon expenditure of all funds provided herein or on December 31, 2021, whichever date is earlier. Upon the approval by the Multi-Jurisdictional Source Water Protection Board ("Board") and the availability of funds, the City and Contractor may mutually agree to extend this Agreement for two (2) additional terms of 24-months.

ARTICLE 2. SERVICES

A. Scope of Services

Contractor shall provide services to reduce the risk of ground water contamination within the Source Water Protection Area. The Contractor shall perform all services provided and outlined in Attachment A, Scope of Services ("Services"), which is attached hereto and incorporated herein.

B. Reporting Requirements

1. By July 27, 2020, Contractor shall submit to the City a summary of the Services provided under this Agreement.


3. By July 26, 2021, Contractor shall submit to the City a summary of Services provided under this Agreement.


ARTICLE 3. COMPENSATION

The total remuneration in this Agreement by the City shall not exceed ONE HUNDRED EIGHTY-FOUR THOUSAND AND EIGHT DOLLARS AND ZERO CENTS ($184,008.00). If the City and Contractor mutually agree to extend this Agreement for additional terms as described in ARTICLE 1 of this Agreement, a two (2) percent increase in compensation will be allowed for each year that that Agreement is extended.

The City will make payments in accordance with Attachment B, which is attached hereto and incorporated herein. Contractor shall submit invoices for payment only for Services actually performed
and/or provided. Contractor’s invoices shall state the invoice period, total amount requested, and Services provided and/or performed during the invoice period, as required by the Board.

ARTICLE 4. CITY’S RESPONSIBILITIES

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

ARTICLE 5. STANDARD OF CARE

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

If, during the one year period following completion of the Services, it is shown there is an error in the Services caused by Contractor’s failure to meet such standards and the City has notified Contractor in writing of any such error within that period, Contractor 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

The parties agree to release each other from any and all liability, which may be caused by or arise by the wrongful and/or negligent conduct of the parties’ respective employees and agents in the performance of the services, duties, and responsibilities in this Agreement. Notwithstanding, neither party waives any available immunities under law.

ARTICLE 7. INSURANCE

Contractor represents and warrants that it is a self-insured entity. As a result, Contractor shall be solely liable and responsible for any claims against it concerning or relating to the performance of any duties, obligations, or covenants or of this Agreement.

ARTICLE 8. OWNERSHIP OF DOCUMENTS & INTELLECTUAL PROPERTY

Document and reports prepared by Contractor as part of the Services shall become the sole and exclusive property of the City upon payment. However, Contractor shall have the unrestricted right to their use.

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

ARTICLE 9. TERMINATION

In the event of substantial failure by Contractor in the performance of this Agreement, the City may terminate this Agreement by sending a written termination notice to Contractor. Contractor will have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan to cure that the City in its sole discretion finds acceptable.

The City may terminate or suspend performance of this Agreement for the City’s convenience upon thirty (30) days prior written notice to Contractor. In the event of termination by the City hereunder, the City will pay Contractor for Services actually provided up to the date of termination.
ARTICLE 10. RECORDS TO BE MAINTAINED

All costs and expenditures pertaining in whole or part to this Agreement for the work and Service performed under this Agreement shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers, or other accounting documents, which shall be clearly identified and readily accessible to the City. At any time during normal business hours and as often as the City deems necessary, Contractor shall make available to the City all of its records related to this Agreement. Contractor shall also permit the City to audit, examine, and make excerpts or transcripts from such records and to have audits made of all contracts, invoices, materials payrolls, personnel records, conditions of employment and other data pertaining in whole or part to matters covered by this Agreement.

ARTICLE 11. RETENTION OF RECORDS

Contractor shall retain all records pertinent to the expenditures incurred under this Agreement for a period of three (3) years after the termination of all work and services funded under this Agreement. Notwithstanding the above, if there is any action, including without limitation litigation, claims, audits, or negotiations that involves any of the records pertaining to this Agreement that commences prior to the expiration of the three-year period, then Contractor shall retain such records until completion of the action and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

ARTICLE 12. STANDARD TERMS

A. DELAY IN PERFORMANCE

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

B. 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.

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:

Contractor: City of Riverside
5200 Springfield Street, Suite 100
Riverside, Ohio 45431
Attention: Tamara Ennist

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

**D. EQUAL EMPLOYMENT OPPORTUNITY**

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

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

**E. WAIVER**

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

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

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

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

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 Director of the Department of Water is authorized to extend the term of this Agreement for the City.

K. POLITICAL CONTRIBUTIONS
Contractor 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 Contractor. This Agreement supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

(REMAINDER OF THIS PAGE INTENTIONALY LEFT BLANK.)
IN WITNESS WHEREOF, the City and Contractor, each by a duly authorized representative, have executed this Agreement on the date first written above.

CITY OF DAYTON, OHIO

[Signature]
City Manager

APPROVED AS TO FORM
AND CORRECTNESS:

[Signature]
City Attorney

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

January 29, 2019

Clerk of the Commission

CITY OF RIVERSIDE, OHIO

By: [Signature]
Title: City Manager

APPROVED AS TO FORM AND
CORRECTNESS:

[Signature]
Riverside Law Director
# CERTIFICATE OF FUNDS

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

- **X New Contract**
- **Renewal Contract**
- **Change Order**

<table>
<thead>
<tr>
<th></th>
<th>1/29/2020</th>
<th>12/31/2021</th>
<th>$184,008.00</th>
<th>$91,093.00</th>
<th>$92,815.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>1/29/2020</td>
<td>12/31/2021</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$</td>
<td></td>
<td></td>
<td>$184,008.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td></td>
<td></td>
<td></td>
<td>$91,093.00</td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$92,815.00</td>
</tr>
<tr>
<td>Original CT/CF</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Required Documentation**

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

<table>
<thead>
<tr>
<th>Amount</th>
<th>91,093.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code</td>
<td>53997 - 3470 - 1271 - 55</td>
</tr>
<tr>
<td>Fund</td>
<td>Org</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**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.

- **Vendor Name:** City of Riverside
- **Vendor Address:** 5200 Springfield Street, Suite 100, Riverside, OH 45431
- **Federal ID:** 31-600753
- **Commodity Code:** 94-648
- **Purpose:** This Professional Services Agreement provides staff for services to assist the City of Riverside with the technical and economic development of the Source Water Protection Area.
- **Contact Person:** Lisa Burton-Yates
- **Originating Department Director's Signature:**
- **Date:** 1/16/2020

**Finance Director Signature:**

**CF Prepared by:**

**CF/CT Number:**

October 18, 2011
ATTACHMENT A
TO
AGREEMENT FOR PROFESSIONAL SERVICES

City: City of Dayton, Ohio
Project: Source Water Protection Services
Contractor: City of Riverside, Ohio

SCOPE OF SERVICES

The City of Riverside will assist with the environmentally sound development of the Source Water Protection Area (“SWPA”) and Water Resources Area (“WR”) land within the City of Riverside through the administering of the Source Water Protection Program (“SWPP”) requirements relating to but not limited to the following activities:

ECONOMIC DEVELOPMENT

1. Conduct retention and expansion visits with existing and new businesses in the SWPA and WR and ensure that businesses are knowledgeable with SWPP and Riverside requirements.
   a. Update the PHDMC and Fire Inspector within 30 days of an R&E site visits as necessary to ensure compliance with SWPP and Riverside requirements
   b. Include R&E visits in Annual report

2. Act as a liaison with, and educate, the commercial real estate community concerning the SWPP and financial incentives for groundwater friendly businesses in the SWPA and the WR. Distribute marketing, financial incentives, and informational materials aimed at retaining and recruiting new groundwater-friendly businesses in the SWPAs and the WR.
   a. Provide in annual report outlining who, what, when, where, and how the commercial real estate community was contacted and educated.

3. Attend and participate in at least one DEM / Board sponsored financial marketing event per year. For Board-funded projects in the SWPA and the WR, work with residents, businesses, contractors, PHDMC, DEM, and CityWide Development on the project to ensure all conditions on the funding are met. Make presentations as necessary.
   a. Include activates in annual report

4. Attend and participate in Multi-Jurisdictional Source Water Protection Program meetings.

5. For 2020, support and work with PHDMC and DEM toward the development and enactment of an appropriate Zoning Code which reflects Dayton’s Zoning Code, Water Ordinance and Resolution No. 6125-15.
   a. Have legislation approval of Riverside Council by November 2020 and include update to Board in Annual Report due to the Board in February 2021.

ZONING & PERMITING

6. Review permits to determine if a new business applicant is in the SWPA. Ensure compliance relative to zoning/occupancy permit requirements and with SWPP requirements, including but not limited to facilities who have received funding through the Risk Point Buy Down Program.
   a. Immediately inform PHDMC of new businesses so a SWPP inspection can be coordinated and scheduled.
   b. Include list of new permitted businesses in annual report.
7. Attend Source Water Protection Board (Board) and Pre-Fund Board meetings. Work cooperatively with PHDMC to provide updates to the Board regarding the status of Board-funded projects in Riverside. Make presentations as necessary.
   a. Include in annual report.
8. Attend and participate in Multi-Jurisdictional meetings.

INSPECTION

9. Assist Public Health Dayton & Montgomery County (PHDMC) in identification of potential inventory sources in the new SWPAs and the WR once adopted by Riverside. Assist in identifying businesses and uses that are defined as prohibited with respect to the Zoning Ordinance. Maintain an active inventory of business sites and vacant sites located in the SWPA, including property owner and business owner. Inform PHDMC of any changes.
   a. Include changes in annual report
10. Riverside shall assist the PHDMC in taking steps to correct the non-compliance(s) found. Riverside will ensure that follow up documentation identifying deficiencies are sent to the non-compliant facility. Additional enforcement action will be pursued as necessary.
   a. Include any enforcement related correspondences/actions in annual report.
11. Inspect existing businesses in the SWPA to determine if businesses are non-compliant relative to zoning/occupancy permit requirements or with SWPP requirements, including but not limited to facilities who have received funding through the Risk Point Buy Down Program.
12. Conduct SWPP compliance visits with existing and new businesses in the SWPA and WR and ensure that businesses are knowledgeable with SWPP and Riverside requirements.
   a. Update PHDMC within 30 days of existing site visits and inform PHDMC immediately of new businesses so a SWPP inspection can be scheduled.

ADMINISTRATIVE

13. Assist Dayton, Division of Environmental Management (DEM) in obtaining access, including right-of-ways, to property outside the City of Dayton limits in order to install, maintain, and monitor Early Warning Monitoring Wells.
   a. Provide summary in annual report
14. Maintain an active inventory of business sites and vacant sites located in the SWPA, including property owner and business owner. Inform PHDMC of any changes.
   a. Provide changes of the list in annual report
15. Provide links to the County’s DRG and to DEM’s Blue-Gold Certification on Riverside’s website.
   a. Maintain Links on Website, Update links and/or add new links as required
16. Assist and participate in the annual Children’s Groundwater Festival.
   a. Will provide a minimum of one staff member
17. Attend and participate in meetings of the PROGRESS committee and publication of PROGRESS News. Compose an article for a minimum of one (1) issue of the PROGRESS News newsletter.

All the above activities require deliverables to PHDMC, and the Source Water Protection Board (Board), and DEM in the 2020 & 2021 Annual Report¹ (and Annual Summary). Deliverables are in subsections a-b, above. A Mid-Year Summary to update on the progress for all deliverables is to be submitted to Board as required in Work Program Deliverable below.
WORK PROGRAM DELIVERABLES

All the above activities require deliverables to PHDMC, and the Source Water Protection Board, and 
DEM in the 2020 and 2021 Annual Reports¹ (and Annual Summaries) or in the following time frame:

<table>
<thead>
<tr>
<th>DELIVERABLE</th>
<th>RESULTS INCLUDED IN REPORTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Summary report documenting consultation with Real Estate and/or Development Community and on distribution of marketing / financial incentive brochures, guides, and other informational materials</td>
<td>Annual Reports</td>
</tr>
<tr>
<td>2. Assist PHDMC in identifying businesses and prohibitions in the new WR and update Business List and Vacant Sites List</td>
<td>Update PHDMC as needed and incorporate into Annual reports</td>
</tr>
<tr>
<td>3. Update PHDMC regarding retention, expansion, and compliance visits to existing and new businesses</td>
<td>Update PHDMC within 30 days for existing and immediately of new. Incorporate list of companies into Annual Reports</td>
</tr>
<tr>
<td>4. Update efforts in assisting Dayton Dept. of Water in obtaining access for well installation, sampling, and maintenance</td>
<td>Quarterly and Annual Reports</td>
</tr>
<tr>
<td>5. List of non-compliant businesses and steps taken to mitigate issues</td>
<td>Include meetings, deficiency notices and compliance status in Annual Report</td>
</tr>
<tr>
<td>6. Summary of attendance and participation for Board, Financial Marketing Events, and Multi-Jurisdictional Meetings</td>
<td>Annual Reports</td>
</tr>
<tr>
<td>7. PROGRESS News articles</td>
<td>Include article in Annual Reports</td>
</tr>
<tr>
<td>8. Summary of participation in Children’s Water Festival</td>
<td>Annual Reports</td>
</tr>
<tr>
<td>9. Provide links to the County’s DRG and to DEM’s Blue-Gold Certification on Riverside’s website</td>
<td>First Quarter 2020 and summarize activities in Annual Report. First Quarter 2021 and summarize activities in Annual Report.</td>
</tr>
<tr>
<td>10. Provide a mid-year update to Board regarding revision status of Zoning Code</td>
<td>Mid-year updates to Board and End of year summary in Annual Reports</td>
</tr>
</tbody>
</table>

¹Draft Mid-Year Summaries, outlining activities performed through June of 2020 and June 2021 is due at the July Pre-Fund Board Meetings. The final Mid-Year Summaries are due at the 2020 and 2021 August Source Water Protection Board meetings.

Draft Annual Reports are due at the January 2021 and 2022 Pre-Fund Board meetings. The final Annual Reports are due at the February 2021 and 2022 Source Water Protection Board meetings.
ATTACHMENT B
TO
AGREEMENT FOR PROFESSIONAL SERVICES

City: City of Dayton, Ohio
Project: Source Water Protection Services
Contractor: City of Riverside

ESTIMATED BUDGET
2020 Source Water Protection Agreement

Year 21 – Calendar 2020

Personnel
Salary and Benefits $ 86,093.00

Operating Expenses
Mileage $ 2,000.00
Training $ 3,000.00

Total Amount for 2018 $ 91,093.00

ESTIMATED BUDGET
2021 Source Water Protection Agreement

Year 22 – Calendar 2021

Personnel
Salary and Benefits $ 87,915.00

Operating Expenses
Mileage $ 2,000.00
Supplies $ 3,000.00

Total Amount for 2019 $ 92,915.00

If the City and Contractor mutually agree to extend this Agreement for additional terms as described in ARTICLE 1 of this Agreement, a two (2) percent increase in compensation will be allowed for each year that that Agreement is extended.
City Manager’s Report

From 5560 - CS/Information Technology
Supplier, Vendor, Company, Individual
Name Progress Corporation
Address 14 Oak Park Drive
Bedford, MA 01730

Date February 3, 2021
Expense Type Service Agreement
Total Amount $56,641.27 (Thru 12/31/2021)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>10000-5560-1166-65</td>
<td>$56,641.27</td>
</tr>
</tbody>
</table>

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

Description

PROGRESS CORPORATION MAINTENANCE AND SUPPORT RENEWAL AGREEMENT

The Department of Information Technology requests permission to renew the Service Agreement with Progress Corporation in the amount of $56,641.27. Progress provides licensing, maintenance and support services for the Progress Relational Database Management System platform that supports the Public Safety Management Information System (MIS). The total amount of this renewal agreement is $56,641.27.

Progress Corporation is the sole source provider of Progress Relational Database products, support and services to the local government market.

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

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

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

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
JANUARY 27, 2021

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

FROM: Desa Foster, Manager of Information Technology

SUBJECT: Progress Corporation Maintenance & Support Renewal

Attached is a renewal agreement between the City of Dayton and Progress Corporation to provide database software maintenance and support in the total amount of $56,641.27. This proprietary software is utilized by the City’s Public Safety information systems.

The Progress maintenance and support renewal prior to 2020 was done via City of Dayton purchase order. In 2020 Progress Corporation started requiring their customers to execute signature on their quotes before processing the renewals. The quote had terms and conditions that did not align with the terms and conditions on the City of Dayton purchase order. Consequently, the City and Progress Corporation negotiated acceptable terms and an agreement was approved and signed May 2020. This is a renewal to that agreement for the period beginning January 1, 2021 through December 31, 2021.

Please feel free to contact me at x6349 if you have any questions.

Thank you.

APPROVED:

Jon Rike, CIO 

1/27/2021
MEMORANDUM

JANUARY 15, 2021

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

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

SUBJECT: Professional Services Renewal Agreement with Progress Corporation

The Department of Information Technology requests authorization to enter into the attached agreement with Progress Corporation in the amount of $56,641.27 for licensing, maintenance and support services for the Progress Relational Database Management System platform that supports the Public Safety Management Information System (MIS). In addition, attached are the corresponding and required City Manager’s Report (CMR) and Certificate of Funds (CF).

This agreement for services will commence upon execution and end on December 31, 2021.

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

APPROVED:

Jon Rike, CIO\Director of Information Technology   
Date 1/15/2021

Attachments
C: file
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>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>12/31/21</td>
<td>X</td>
</tr>
<tr>
<td>Expiration Date</td>
<td>Upon Execution</td>
<td>X</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$56,641.27</td>
<td>X</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$56,641.27</td>
<td>X</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$</td>
<td>Required Documentation</td>
</tr>
<tr>
<td>Original CT/CF</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td>$</td>
<td>Initial City Manager's Report</td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td>$</td>
<td>Initial Certificate of Funds</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$</td>
<td>Initial Agreement/Contract</td>
</tr>
</tbody>
</table>

| Amount: | $56,641.27 |
| Fund Code | 10000 - 5560 - 1166 - 65 - XXXX - XXXX |
| Org | Acct | Prog | Act | Loc |

| Amount: |
| Fund Code | XXXX - XXXX - XXXX - XX - XXXX - XXXX |
| Org | Acct | Prog | Act | Loc |

Attach additional pages for more FOAPALs

Vendor Name: Progress Software
Vendor Address: 14 Oak Park Drive, Bedford, MA 01730
Federal ID: 0-42746201
Commodity Code: 94620
Purpose: Progress Corporation will provide licensing, maintenance and support services for the Progress database utilized by Public Safety Services upon execution of the agreement through December 31, 2021.

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.

C. Cheeks, Finance Director 1-26-2021

October 18, 2011
MAINTENANCE AND SUPPORT
RENEWAL AGREEMENT
For
SOFTWARE

THIS MAINTENANCE AND SUPPORT RENEWAL AGREEMENT ("Agreement") is made and entered into on this ____ day of ________, 2021, between the City of Dayton, Ohio ("City"), a municipal corporation in and of the State of Ohio, and Progress Corporation ("Progress" or "Licensor"), with its principal office at 14 Oak Park Drive, Bedford, MA 01730.

WITNESSETH THAT:

WHEREAS, The Licensor licensed its software to the City on a perpetual basis and provides maintenance and support services related to its software on a recurring basis.

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

SECTION 1. MAINTENANCE AND SUPPORT RENEWAL

The Licensor shall renew the software and maintenance and support set forth in Exhibit “A”, titled "Maintenance Renewal Quote", which is attached hereto and incorporated herein by reference for a 12-month term. Exhibit A defines the scope of the maintenance and support renewal agreed hereunder for Licensor’s software (the “Software”).

The Software was licensed to the City on a perpetual basis, pursuant to the terms and conditions of the End User License Agreements for the listed products, which were agreed to by both parties on May 13, 2020. To the extent of any inconsistency between the License Agreements and this Agreement, this Agreement shall prevail.

SECTION 2. COMPENSATION FOR SOFTWARE MAINTENANCE AND SUPPORT RENEWAL

A. MAINTENANCE AND SUPPORT FEES

Total remuneration in this Agreement shall not exceed FIFTY-SIX THOUSAND SIX HUNDRED FORTY-ONE DOLLARS AND TWENTY-SEVEN CENTS ($56,641.27) for the corresponding maintenance and support renewal of the Software for a 12-month term. The total remuneration is exclusive of taxes, that will be added to the respective invoice, unless the City is tax exempt, and in such case the respective official document(s) showing evidences of such status shall be presented to Licensor upon execution of this Agreement.
B. BILLING FREQUENCY

Licensor shall submit an invoice as outlined in Exhibit “A”, upon execution of this Agreement. Unless disputed, the City shall tender payment within thirty (30) days of receipt of the Licensor's invoice. In the event the City disputes an invoiced amount in good faith, the City shall notify Licensor of such dispute, providing sufficient detail of the basis of the dispute within ten (10) days of receipt of the Licensor's invoice and the parties shall work together promptly and in good faith to resolve such dispute within thirty (30) days and the City shall not be obligated to pay any amount so disputed in good faith during such period. If a resolution is not reached within the stated thirty (30) days, then the parties shall submit the dispute to the competent courts of justice, according to the GOVERNING LAW AND VENUE section below.

SECTION 3. TERM

The term of this Agreement is twelve (12) months, which is the term of the maintenance and support renewal as set forth in Exhibit “A”. Subsequent renewals of the maintenance and support of the Software may be subject to the process referenced within SECTION 9. GENERAL PROVISIONS, section I. AMENDMENT.

SECTION 4. CITY'S RESPONSIBILITIES

The City will furnish Licensor, at no cost or expense, all reports, records, data that might be necessary or useful to complete the services required under this Agreement.

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

SECTION 5. STANDARD OF CARE

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

SECTION 6. CONFIDENTIALITY

All information provided to and/or gathered by Licensor from the City during the term of this Agreement shall be deemed "confidential" information to the extent that it is classified as "private" under the laws of the State of Ohio or is not independently available to the general public. To the extent permitted by law, Licensor agrees that it shall not disclose such information to any third party without the City's written consent. Licensor shall also take all reasonable steps to protect against the disclosure of the City's confidential information.
Nothing in this Section shall prohibit or limit Licensor's disclosure of confidential information when such disclosure is required by an order of a Court or under state or federal law, or when such disclosure is authorized in writing by the City.

SECTION 7. INDEMNIFICATION AND LIABILITY

Licensor indemnification obligations and liabilities are set forth in the License Agreements and in the Progress Software maintenance and support policies, as duly referenced above, and are effective to the extent permitted by applicable law.

SECTION 8. TERMINATION

This Agreement may be immediately terminated by the City on the terms of the License Agreements and the Progress Software maintenance and support policies.

SECTION 9. GENERAL PROVISIONS

A. DELAY IN PERFORMANCE

Neither the City nor Licensor 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, accessions, or services required to be provided by either the City or Licensor under this Agreement, provided the aforementioned circumstances are not due to the negligence or fault of the asserting party or any of its agents, employees, consultants, sub-consultants and/or representatives.

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

B. GOVERNING LAW AND VENUE

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

C. COMMUNICATIONS

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

Licensor:
Progress Corporation
14 Oak Park Drive
Bedford, MA 01730
Attn: Chief Legal Officer

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

D. EQUAL EMPLOYMENT OPPORTUNITY

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

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

E. WAIVER

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

F. SEVERABILITY

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

By executing this Agreement, Licensor acknowledges and agrees that it will be providing services to the City as an "Independent Consultant". As an Independent Consultant for the City, Licensor shall be prohibited from representing or allowing others to construe the parties' relationship in a manner inconsistent with this Article. Licensor 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.

Licensor, its employees and any persons retained or hired by Licensor 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. Licensor acknowledges its employees are not "public employees" for the purpose of membership and/or participation in the Ohio Public Employees Retirement System ("OPERS"). Further, Licensor shall be responsible to withhold and pay, or cause such agents, consultants and sub-consultants to withhold and pay, all applicable local, state and federal taxes.

H. ASSIGNMENT

Licensor 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 Licensor from employing independent consultants, associates, and sub-consultants to assist in the performance of its obligations under this Agreement.

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 Licensor.

J. AMENDMENT

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

K. POLITICAL CONTRIBUTIONS

Licensor 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 Licensor. 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 Licensor, each by a duly authorized representative, have executed this Agreement as of the date first set forth above.

CITY OF DAYTON, OHIO

City Manager

APPROVED AS TO FORM AND CORRECTNESS:

12/17/2020

X John Musto for
City Attorney

Signed by: Musto, John

APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO

____________________, 2021

Min./Bk._______ Pg._______

Clerk of Commission

PROGRESS CORPORATION

By: __________________________
David Partyka
Print: __________________________

Its: ___Sr. Director Revenue Ops.__
January 13, 2021
EXHIBIT A
MAINTENANCE RENEWAL QUOTE

Your Progress Maintenance & Support Contract is Expiring!
Please see attached quote for your Progress product licenses currently up for renewal.

Your Maintenance & Support plan gives you access to software patches, updates & upgrades, expert product guidance from a seasoned professional Progress Technical Support team, unlimited* calls and online access, remote diagnostics and much more.

Move your business forward with a cloud-native app dev platform, leading data connectivity, web content management, business rules, secure file transfer, network monitoring and award-winning machine learning.

*Products and packages vary, please check your maintenance and support policy for specifics.

Want to learn more about how Progress can help you build great user experiences? Check out our powerful tools that help you deliver modern, high-impact architecture for digital experiences.

Best regards,

Cindy Palouras
+1 (919) 461-4240
cindy.palouras@progress.com
EXHIBIT A
MAINTENANCE RENEWAL QUOTE

<table>
<thead>
<tr>
<th>End User</th>
<th>Total (USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Dayton DAYTON US (10011046)</td>
<td>56,641.27</td>
</tr>
</tbody>
</table>

Total (USD) 56,641.27

Tax not included in quote. Applicable taxes will be added at invoicing.
# EXHIBIT A
MAINTENANCE RENEWAL QUOTE

<table>
<thead>
<tr>
<th>#</th>
<th>End User</th>
<th>Serial #</th>
<th>Description</th>
<th>Ver</th>
<th>Platform</th>
<th>Qty</th>
<th>Srv/yr</th>
<th>New Start Date</th>
<th>New Expiry Date</th>
<th>Total (USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>City of Dayton</td>
<td>3775051</td>
<td>OpenEdge Studio</td>
<td>11.7</td>
<td>Windows 32bit</td>
<td>1</td>
<td>UBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>999.17</td>
</tr>
<tr>
<td>2</td>
<td>City of Dayton</td>
<td>3886989</td>
<td>Client Networking</td>
<td>11.7</td>
<td>Windows 32bit</td>
<td>133</td>
<td>UBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>4,134.33</td>
</tr>
<tr>
<td>3</td>
<td>City of Dayton</td>
<td>3866998</td>
<td>OE App Server Enterprise</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>95</td>
<td>UBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>2,953.10</td>
</tr>
<tr>
<td>4</td>
<td>City of Dayton</td>
<td>3886999</td>
<td>OE DataServer for Oracle</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>5</td>
<td>UBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>566.21</td>
</tr>
<tr>
<td>5</td>
<td>City of Dayton</td>
<td>3887000</td>
<td>WebClient</td>
<td>10.1</td>
<td>Windows 32bit</td>
<td>1</td>
<td>UBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>0.00</td>
</tr>
<tr>
<td>6</td>
<td>City of Dayton</td>
<td>3887001</td>
<td>WebClient</td>
<td>10.1</td>
<td>Windows 32bit</td>
<td>1</td>
<td>UBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>0.00</td>
</tr>
<tr>
<td>7</td>
<td>City of Dayton</td>
<td>3887002</td>
<td>WebClient</td>
<td>10.1</td>
<td>Windows 32bit</td>
<td>1</td>
<td>UBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>0.00</td>
</tr>
<tr>
<td>8</td>
<td>City of Dayton</td>
<td>3887034</td>
<td>OpenEdge Studio</td>
<td>11.7</td>
<td>Windows 32bit</td>
<td>3</td>
<td>RBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>2,398.00</td>
</tr>
<tr>
<td>9</td>
<td>City of Dayton</td>
<td>3887431</td>
<td>Query/RESULTS</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>11</td>
<td>UBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>1,038.05</td>
</tr>
<tr>
<td>10</td>
<td>City of Dayton</td>
<td>3887433</td>
<td>4GL Development System</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>1</td>
<td>UBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>621.71</td>
</tr>
<tr>
<td>11</td>
<td>City of Dayton</td>
<td>3887434</td>
<td>OE Enterprise RDMS</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>247</td>
<td>UBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>40,366.98</td>
</tr>
<tr>
<td>12</td>
<td>City of Dayton</td>
<td>4264949</td>
<td>OE WorkGroup RDMS</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>15</td>
<td>UBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>832.64</td>
</tr>
<tr>
<td>13</td>
<td>City of Dayton</td>
<td>6016953</td>
<td>Progress DevStudioforOE</td>
<td>11.7</td>
<td>Windows 64bit</td>
<td>2</td>
<td>RBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>1,953.93</td>
</tr>
<tr>
<td>14</td>
<td>City of Dayton</td>
<td>6016954</td>
<td>OE App Server Enterprise</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>5</td>
<td>UBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>155.44</td>
</tr>
<tr>
<td>15</td>
<td>City of Dayton</td>
<td>6018588</td>
<td>4GL Development System</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>1</td>
<td>UBP</td>
<td>01-Jan-2021</td>
<td>31-Dec-2021</td>
<td>621.71</td>
</tr>
</tbody>
</table>

Total (USD) 56,641.27

Tax not included in quote. Applicable taxes will be added at invoicing.
EXHIBIT A
MAINTENANCE RENEWAL QUOTE

Quote #: 2020-395012
Expiration Date: 31-Dec-2020

Maintenance Renewal Quote

Date: 07-Aug-2020
Page: 5 of 6

Quote Number: 2020-395012

Customer Name: City of Dayton

Authorized Signature: 

Name: 

Title: 

Date: 

Total (USD) 56,641.27

Please return signed quote to:

cindy.paliouras@progress.com

Or

Progress Software Corporation
3005 Carrington Mill Boulevard
Suite 400
Morrisville, NC 27560
USA

Tax not included in quote. Applicable taxes will be added at invoicing
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Abbreviation</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>3PL</td>
<td>Third Party</td>
<td>DPM</td>
<td>Deployment</td>
</tr>
<tr>
<td>AAA</td>
<td>Add-On Access Agent</td>
<td>DTM</td>
<td>Deployment</td>
</tr>
<tr>
<td>AAG</td>
<td>Add-On Agent</td>
<td>ENP</td>
<td>Enterprise</td>
</tr>
<tr>
<td>AAH</td>
<td>Add-On Authorized User</td>
<td>ETN</td>
<td>Events</td>
</tr>
<tr>
<td>AAP</td>
<td>Access Agent</td>
<td>EVN</td>
<td>Events</td>
</tr>
<tr>
<td>ASP</td>
<td>Agent</td>
<td>INB</td>
<td>Instance</td>
</tr>
<tr>
<td>ABS</td>
<td>Add-On Base</td>
<td>ITB</td>
<td>Instance</td>
</tr>
<tr>
<td>ACB</td>
<td>Add-On CPU</td>
<td>LEG</td>
<td>Legacy</td>
</tr>
<tr>
<td>ACC</td>
<td>Add-On Core</td>
<td>LTD</td>
<td>Limited</td>
</tr>
<tr>
<td>ACN</td>
<td>Add-On Connections</td>
<td>MCB</td>
<td>Mission Critical</td>
</tr>
<tr>
<td>ADD</td>
<td>Add-On</td>
<td>MCB</td>
<td>Core</td>
</tr>
<tr>
<td>AHZ</td>
<td>Authorized User</td>
<td>MCP</td>
<td>Machine</td>
</tr>
<tr>
<td>AIN</td>
<td>Add-On Instance</td>
<td>MIP</td>
<td>MIPs</td>
</tr>
<tr>
<td>ALR</td>
<td>Alerts</td>
<td>MIP</td>
<td>MIPs</td>
</tr>
<tr>
<td>ALT</td>
<td>Add-On Alerts</td>
<td>MST</td>
<td>MSUs</td>
</tr>
<tr>
<td>AMP</td>
<td>Add-On MIPs</td>
<td>MSU</td>
<td>MSUs</td>
</tr>
<tr>
<td>AMS</td>
<td>Add-On MSUs</td>
<td>MTI</td>
<td>MIPs</td>
</tr>
<tr>
<td>AMT</td>
<td>Add-On Machine</td>
<td>MTP</td>
<td>Machine</td>
</tr>
<tr>
<td>ANB</td>
<td>Add-On Named User</td>
<td>NBP</td>
<td>Named User</td>
</tr>
<tr>
<td>APM</td>
<td>Add-On Deployment</td>
<td>NTP</td>
<td>Named User</td>
</tr>
<tr>
<td>APT</td>
<td>Add-On Point</td>
<td>PLT</td>
<td>Platform</td>
</tr>
<tr>
<td>ARB</td>
<td>Add-On Reg Client</td>
<td>PTB</td>
<td>Point</td>
</tr>
<tr>
<td>ARD</td>
<td>Add-On Reg Device</td>
<td>PTT</td>
<td>Point</td>
</tr>
<tr>
<td>ART</td>
<td>Add-On Runtime User</td>
<td>RBP</td>
<td>Registered Client</td>
</tr>
<tr>
<td>ASV</td>
<td>Add-On Server</td>
<td>RDD</td>
<td>Registered Device</td>
</tr>
<tr>
<td>ATG</td>
<td>Agent</td>
<td>RDP</td>
<td>Reader</td>
</tr>
<tr>
<td>ATP</td>
<td>Access Agent</td>
<td>RPM</td>
<td>Add-On RPM</td>
</tr>
<tr>
<td>ATZ</td>
<td>Authorized User</td>
<td>RTB</td>
<td>Registered Client</td>
</tr>
<tr>
<td>AUB</td>
<td>Add-On Concurrent User</td>
<td>RTT</td>
<td>Runtime User</td>
</tr>
<tr>
<td>AUD</td>
<td>Add-On Concurrent Dvc</td>
<td>RTU</td>
<td>Runtime User</td>
</tr>
<tr>
<td>AVN</td>
<td>Add-On Events</td>
<td>SBR</td>
<td>Seat</td>
</tr>
<tr>
<td>AWK</td>
<td>Add-On Workstation</td>
<td>SCB</td>
<td>Server Core Based</td>
</tr>
<tr>
<td>BSE</td>
<td>Base</td>
<td>STD</td>
<td>Standard</td>
</tr>
<tr>
<td>BTS</td>
<td>Base</td>
<td>STR</td>
<td>Server</td>
</tr>
<tr>
<td>CBP</td>
<td>CPU</td>
<td>SVR</td>
<td>Server</td>
</tr>
<tr>
<td>CNN</td>
<td>Connections</td>
<td>LBD</td>
<td>Concurrent Device</td>
</tr>
<tr>
<td>CTN</td>
<td>Connections</td>
<td>UBP</td>
<td>Concurrent User</td>
</tr>
<tr>
<td>CTP</td>
<td>CPU</td>
<td>UTP</td>
<td>Concurrent User</td>
</tr>
<tr>
<td>DBP</td>
<td>Database</td>
<td>WAI</td>
<td>Workstation Auth Users</td>
</tr>
<tr>
<td>DCT</td>
<td>Core</td>
<td>WRK</td>
<td>Workstation</td>
</tr>
<tr>
<td>DEV</td>
<td>Developer</td>
<td>WTK</td>
<td>Workstation</td>
</tr>
</tbody>
</table>
MAINTENANCE AND SUPPORT
RENEWAL AGREEMENT
For
SOFTWARE

THIS MAINTENANCE AND SUPPORT RENEWAL AGREEMENT ("Agreement") is made and entered into on this 15th day of May, 2020, between the City of Dayton, Ohio ("City"), a municipal corporation in and of the State of Ohio, and Progress Corporation ("Progress" or "Licensor"), with its principal office at 14 Oak Park Drive, Bedford, MA 01730.

WITNESSETH THAT:

WHEREAS, The Licensor licensed its software to the City on a perpetual basis and provides maintenance and support services related to its software on a recurring basis.

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

SECTION 1. MAINTENANCE AND SUPPORT RENEWAL

The Licensor shall renew the software and maintenance and support set forth in Exhibit “A”, titled "Maintenance Renewal Quote", which is attached hereto and incorporated herein by reference for a 12-month term. Exhibit A defines the scope of the maintenance and support renewal agreed hereunder for Licensor’s software (the “Software”).

The Software was licensed to the City on a perpetual basis, pursuant to the terms and conditions of the End User License Agreements attached hereto as Exhibit “B” (the “License Agreements”). The license agreements for the listed products were originally accepted including the corresponding Progress Software maintenance and support policies, as described at http://www.progress.com/support-and-services/support-services when the products were first installed.

To the extent of any inconsistency between the License Agreements and this Agreement, this Agreement shall prevail.

SECTION 2. COMPENSATION FOR SOFTWARE MAINTENANCE AND SUPPORT RENEWAL

A. MAINTENANCE AND SUPPORT FEES

Total remuneration in this Agreement shall not exceed FIFTY TWO THOUSAND SIX HUNDRED FIFTY DOLLARS AND SIXTY EIGHT CENTS ($52,650.68) for the corresponding maintenance and support renewal of the Software for a 12-month term. The total remuneration is exclusive of taxes, that will be added to the respective invoice, unless the City is tax exempt, and in such case the respective official document(s) showing evidences of such status shall be presented to Licensor upon execution of this Agreement.
B. BILLING FREQUENCY

Licensor shall submit an invoice as outlined in Exhibit “A”, upon execution of this Agreement. Unless disputed, the City shall tender payment within thirty (30) days of receipt of the Licensor’s invoice. In the event the City disputes an invoiced amount in good faith, the City shall notify Licensor of such dispute, providing sufficient detail of the basis of the dispute within ten (10) days of receipt of the Licensor’s invoice and the parties shall work together promptly and in good faith to resolve such dispute within thirty (30) days and the City shall not be obligated to pay any amount so disputed in good faith during such period. If a resolution is not reached within the stated thirty (30) days, then the parties shall submit the dispute to the competent courts of justice, according to the GOVERNING LAW AND VENUE section below.

SECTION 3. TERM

The term of this Agreement is twelve (12) months, which is the term of the maintenance and support renewal as set forth in Exhibit “A”. Subsequent renewals of the maintenance and support of the Software may be subject to the process referenced within SECTION 9. GENERAL PROVISIONS, section I. AMENDMENT.

SECTION 4. CITY’S RESPONSIBILITIES

The City will furnish Licensor, at no cost or expense, all reports, records, data that might be necessary or useful to complete the services required under this Agreement.

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

SECTION 5. STANDARD OF CARE

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

SECTION 6. CONFIDENTIALITY

All information provided to and/or gathered by Licensor from the City during the term of this Agreement shall be deemed "confidential" information to the extent that it is classified as "private" under the laws of the State of Ohio or is not independently available to the
B. COMMUNICATIONS

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

City:
City of Dayton, Ohio
101 West Third Street
Dayton, Ohio 45402
Attn: Desa Foster, Division of Information Technology

Licensor:
Progress Corporation
14 Oak Park Drive
Bedford, MA 01730
Attn: Chief Legal Officer

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

C. EQUAL EMPLOYMENT OPPORTUNITY

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

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

D. WAIVER

A waiver by the City or Licensor 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.

E. SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the void, unenforceable, invalid or illegal provision shall be deemed severed from this Agreement. Any void, unenforceable, invalid or illegal provisions shall be deemed severed from this
general public. To the extent permitted by law, Licensor agrees that it shall not disclose such information to any third party without the City's written consent. Licensor shall also take all reasonable steps to protect against the disclosure of the City's confidential information.

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

SECTION 7. INDEMNIFICATION AND LIABILITY

Licensor indemnification obligations and liabilities are set forth in the License Agreements and in the Progress Software maintenance and support policies, as duly referenced above, and are effective to the extent permitted by applicable law.

SECTION 8. TERMINATION

This Agreement may be immediately terminated by the City on the terms of the License Agreements and the Progress Software maintenance and support policies.

SECTION 9. GENERAL PROVISIONS

A. DELAY IN PERFORMANCE

Neither the City nor Licensor 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 Licensor under this Agreement, provided the aforementioned circumstances are not due to the negligence or fault of the asserting party or any of its agents, employees, consultants, subconsultants and/or representatives.

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

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 or dispute regarding this Agreement or performance by either party must be brought in a court of competent jurisdiction in Montgomery County, Ohio.
Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision.

F. INDEPENDENT CONSULTANT

By executing this Agreement, Licensor acknowledges and agrees that it will be providing services to the City as an "Independent Consultant". As an Independent Consultant for the City, Licensor shall be prohibited from representing or allowing others to construe the parties' relationship in a manner inconsistent with this Article. Licensor 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.

Licensor, its employees and any persons retained or hired by Licensor 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. Licensor acknowledges its employees are not "public employees" for the purpose of membership and/or participation in the Ohio Public Employees Retirement System ("OPERS"). Further, Licensor shall be responsible to withhold and pay, or cause such agents, consultants and sub-consultants to withhold and pay, all applicable local, state and federal taxes.

G. ASSIGNMENT

Licensor 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 Licensor from employing independent consultants, associates, and sub-consultants to assist in the performance of its obligations under this Agreement.

H. 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 Licensor.

I. 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.

J. POLITICAL CONTRIBUTIONS

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

**K. INTEGRATION**

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

(The remainder of this page is intentionally blank)
IN WITNESS WHEREOF, the City and Licensor, each by a duly authorized representative, have executed this Agreement as of the date first set forth above.

CITY OF DAYTON, OHIO

City Manager

PROGRESS CORPORATION

By: ___________________________

Print: David M. Partika

Its: Sr. Director Revenue Operations

APPROVED AS TO FORM AND CORRECTNESS

City Attorney

APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO

May 13, 2020

Min./Bk: I-14 Pg. ________

Clerk of Commission
### EXHIBIT A
MAINTENANCE RENEWAL QUOTE

<table>
<thead>
<tr>
<th>Quote #: 2019-273481</th>
<th>Maintenance Renewal Quote</th>
<th>Page: 1 of 4</th>
</tr>
</thead>
</table>

**Sold To**
City of Dayton  
Information & Technology Serv.  
130 W 2nd St Ste 320  
Dayton OH 45402-1501  
United States

**Bill To**
City of Dayton  
Information & Technology Serv.  
130 W 2nd St Ste 320  
Dayton OH 45402-1501  
United States

**Payment Terms:** Net 30 Days  
**Quote Currency:** US Dollar

<table>
<thead>
<tr>
<th>End User</th>
<th>Total (USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Dayton DAYTON US (10011046)</td>
<td>52,650.68</td>
</tr>
</tbody>
</table>

**Total (USD)**  
52,650.68

---

Tax not included in quote. Applicable taxes will be added at invoicing.
## EXHIBIT A
### MAINTENANCE RENEWAL QUOTE

<table>
<thead>
<tr>
<th>#</th>
<th>Serial #</th>
<th>Description</th>
<th>Ver</th>
<th>Platform</th>
<th>Qty</th>
<th>Srv Lvl</th>
<th>New Start Date</th>
<th>New Expiry Date</th>
<th>Total (USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>3775051</td>
<td>OpenEdge Studio</td>
<td>11.7</td>
<td>Windows 32bit</td>
<td>1 UBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>12-31-20</td>
<td>935.16</td>
</tr>
<tr>
<td>3</td>
<td>3886989</td>
<td>Client Networking</td>
<td>11.7</td>
<td>Windows 32bit</td>
<td>133 UBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>12-31-20</td>
<td>3,869.46</td>
</tr>
<tr>
<td>4</td>
<td>3886998</td>
<td>OE App Server Enterprise</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>95 UBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>12-31-20</td>
<td>2,763.91</td>
</tr>
<tr>
<td>5</td>
<td>3886999</td>
<td>OE DataServer for Oracle</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>5 UBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>12-31-20</td>
<td>529.93</td>
</tr>
<tr>
<td>6</td>
<td>3887000</td>
<td>WebClient</td>
<td>10.1C</td>
<td>Windows 32bit</td>
<td>1 UBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>12-31-20</td>
<td>0.00</td>
</tr>
<tr>
<td>7</td>
<td>3887001</td>
<td>WebClient</td>
<td>10.1C</td>
<td>Windows 32bit</td>
<td>1 UBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>12-31-20</td>
<td>0.00</td>
</tr>
<tr>
<td>8</td>
<td>3887002</td>
<td>WebClient</td>
<td>10.1C</td>
<td>Windows 32bit</td>
<td>1 UBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>12-31-20</td>
<td>0.00</td>
</tr>
<tr>
<td>9</td>
<td>3887034</td>
<td>OpenEdge Studio</td>
<td>11.7</td>
<td>Windows 32bit</td>
<td>3 RBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>12-31-20</td>
<td>2,244.37</td>
</tr>
<tr>
<td>10</td>
<td>3887431</td>
<td>Query/RESULTS</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>11 UBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>12-31-20</td>
<td>971.54</td>
</tr>
<tr>
<td>11</td>
<td>3887433</td>
<td>4GL Development System</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>1 UBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>12-31-20</td>
<td>581.88</td>
</tr>
</tbody>
</table>

End-User: City of Dayton DAYTON US (10011046)
<table>
<thead>
<tr>
<th>#</th>
<th>Serial #</th>
<th>Description</th>
<th>Ver</th>
<th>Platform</th>
<th>Qty</th>
<th>Srv Lvl</th>
<th>New Start Date</th>
<th>New Expiry Date</th>
<th>Total (USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>3887434</td>
<td>OE Enterprise RDBMS</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>247</td>
<td>UBP</td>
<td>LTD</td>
<td>01-01-20</td>
<td>37,419.02</td>
</tr>
<tr>
<td>13</td>
<td>4264949</td>
<td>OE WorkGroup RDBMS</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>15</td>
<td>UBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>779.30</td>
</tr>
<tr>
<td>14</td>
<td>6016953</td>
<td>Progress DevStudio for OE</td>
<td>11.7</td>
<td>Windows 64bit</td>
<td>2</td>
<td>RBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>1,828.75</td>
</tr>
<tr>
<td>15</td>
<td>6016954</td>
<td>OE App Server Enterprise</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>5</td>
<td>UBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>145.48</td>
</tr>
<tr>
<td>16</td>
<td>6018588</td>
<td>4GL Development System</td>
<td>11.7</td>
<td>Linux 64bit</td>
<td>1</td>
<td>UBP</td>
<td>STD</td>
<td>01-01-20</td>
<td>581.88</td>
</tr>
</tbody>
</table>

Total (USD) 52,650.68

Tax not included in quote. Applicable taxes will be added at invoicing.
<table>
<thead>
<tr>
<th>Short Name</th>
<th>Description</th>
<th>Short Name</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>3PL</td>
<td>Third Party</td>
<td>DPM</td>
<td>Deployment</td>
</tr>
<tr>
<td>AAA</td>
<td>Add-On Access Agent</td>
<td>DTM</td>
<td>Deployment</td>
</tr>
<tr>
<td>AAG</td>
<td>Add-On Agent</td>
<td>ENP</td>
<td>Enterprise</td>
</tr>
<tr>
<td>AAH</td>
<td>Add-On Authorized Usr</td>
<td>ETN</td>
<td>Events</td>
</tr>
<tr>
<td>AAP</td>
<td>Access Agent</td>
<td>EVN</td>
<td>Events</td>
</tr>
<tr>
<td>ABP</td>
<td>Agent</td>
<td>INB</td>
<td>Instance</td>
</tr>
<tr>
<td>ABS</td>
<td>Add-On Base</td>
<td>ITB</td>
<td>Instance</td>
</tr>
<tr>
<td>ACB</td>
<td>Add-On CPU</td>
<td>LEG</td>
<td>Legacy</td>
</tr>
<tr>
<td>ACC</td>
<td>Add-On Core</td>
<td>LTD</td>
<td>Limited</td>
</tr>
<tr>
<td>ACN</td>
<td>Add-On Connections</td>
<td>MCB</td>
<td>Mission Critical</td>
</tr>
<tr>
<td>ADD</td>
<td>Add-On</td>
<td>MCB</td>
<td>Core</td>
</tr>
<tr>
<td>AHZ</td>
<td>Authorized Usr</td>
<td>MCP</td>
<td>Machine</td>
</tr>
<tr>
<td>AIN</td>
<td>Add-On Instance</td>
<td>MIP</td>
<td>MIPs</td>
</tr>
<tr>
<td>ALR</td>
<td>Alerts</td>
<td>MIT</td>
<td>MIPs</td>
</tr>
<tr>
<td>ALT</td>
<td>Add-On Alerts</td>
<td>MST</td>
<td>MSUs</td>
</tr>
<tr>
<td>AMP</td>
<td>Add-On MIPs</td>
<td>MSU</td>
<td>MSUs</td>
</tr>
<tr>
<td>AMS</td>
<td>Add-On MSUs</td>
<td>MTI</td>
<td>MIPs</td>
</tr>
<tr>
<td>AMT</td>
<td>Add On Machine</td>
<td>MTP</td>
<td>Machine</td>
</tr>
<tr>
<td>ANB</td>
<td>Add-On Named User</td>
<td>NBP</td>
<td>Named User</td>
</tr>
<tr>
<td>APM</td>
<td>Add-On Deployment</td>
<td>NTP</td>
<td>Named User</td>
</tr>
<tr>
<td>APT</td>
<td>Add-On Point</td>
<td>PLT</td>
<td>Platform</td>
</tr>
<tr>
<td>ARB</td>
<td>Add-On Reg Client</td>
<td>PTB</td>
<td>Point</td>
</tr>
<tr>
<td>ARD</td>
<td>Add-On Reg Device</td>
<td>PTT</td>
<td>Point</td>
</tr>
<tr>
<td>ART</td>
<td>Add-On Runtime User</td>
<td>RBP</td>
<td>Registered Client</td>
</tr>
<tr>
<td>ASV</td>
<td>Add-On Server</td>
<td>RDO</td>
<td>Registered Device</td>
</tr>
<tr>
<td>ATG</td>
<td>Agent</td>
<td>RDP</td>
<td>Reader</td>
</tr>
<tr>
<td>ATP</td>
<td>Access Agent</td>
<td>RPM</td>
<td>Add-On RPM</td>
</tr>
<tr>
<td>ATZ</td>
<td>Authorized Usr</td>
<td>RTB</td>
<td>Registered Client</td>
</tr>
<tr>
<td>AUB</td>
<td>Add-On Concurrent User</td>
<td>RTT</td>
<td>Runtime User</td>
</tr>
<tr>
<td>AUD</td>
<td>Add-On Concurrent Dvc</td>
<td>RTU</td>
<td>Runtime User</td>
</tr>
<tr>
<td>AVN</td>
<td>Add-On Events</td>
<td>SBP</td>
<td>Seat</td>
</tr>
<tr>
<td>AWK</td>
<td>Add-On Workstation</td>
<td>SCB</td>
<td>Server Core Based</td>
</tr>
<tr>
<td>BSE</td>
<td>Base</td>
<td>STD</td>
<td>Standard</td>
</tr>
<tr>
<td>BTS</td>
<td>Base</td>
<td>STR</td>
<td>Server</td>
</tr>
<tr>
<td>CBP</td>
<td>CPU</td>
<td>SVR</td>
<td>Server</td>
</tr>
<tr>
<td>CNN</td>
<td>Connections</td>
<td>UBD</td>
<td>Concurrent Device</td>
</tr>
<tr>
<td>CTN</td>
<td>Connections</td>
<td>UBP</td>
<td>Concurrent User</td>
</tr>
<tr>
<td>CTP</td>
<td>CPU</td>
<td>UTP</td>
<td>Concurrent User</td>
</tr>
<tr>
<td>DBP</td>
<td>Database</td>
<td>WAU</td>
<td>Workstation Auth Users</td>
</tr>
<tr>
<td>DCT</td>
<td>Core</td>
<td>WRK</td>
<td>Workstation</td>
</tr>
<tr>
<td>DEV</td>
<td>Developer</td>
<td>WTK</td>
<td>Workstation</td>
</tr>
</tbody>
</table>
EXHIBIT B
LICENSE AGREEMENTS

Progress® OpenEdge® version 11.7 End User License Agreement

CAUTION: YOU SHOULD CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS OF
THIS END USER LICENSE AGREEMENT BEFORE INSTALLING OR USING THE PRODUCT AND
DOCUMENTATION TO WHICH THIS AGREEMENT RELATES. BY ACCEPTING THIS
AGREEMENT YOU ARE CONSENTING TO BE BOUND BY THE TERMS AND CONDITIONS
CONTAINED HEREIN AND ACKNOWLEDGING YOUR AUTHORITY TO DO SO ON BEHALF OF
YOUR COMPANY (IF APPLICABLE). IF YOU DO NOT AGREE WITH THESE TERMS AND
CONDITIONS, DO NOT PROCEED WITH THE INSTALLATION OF THE PRODUCT(S) AND
PROMPTLY RETURN THE PRODUCT(S), DOCUMENTATION, AND ALL COPIES THEREOF TO
THE SUPPLIER FROM WHICH IT WAS ACQUIRED FOR A FULL REFUND OF THE LICENSE
FEES, IF ANY, PAID FOR THE PRODUCT(S). THE TERM “PROMPTLY” AS USED HEREIN SHALL
MEAN NO LATER THAN SIXTY (60) DAYS FOLLOWING THE DELIVERY OF THE PRODUCT TO
YOU.

1. License Grant.

1.1 For purposes of this Agreement, “Progress” refers to Progress Software Corporation and “you” or
“Licensee” refers to the individual installing or using the Product(s), if you are acting as an individual on
your own behalf; otherwise, “you” or “Licensee” means the business or other entity for which you are
obtaining the Product(s) and that will exercise the rights granted under this Agreement. Subject to the terms
and conditions contained in this End User License Agreement, including all exhibits, Orders (as defined
below) and License Addenda (as defined below)(collectively, this “Agreement”), Progress grants to you a
non-exclusive, non-transferable, limited, personal license (without the right to sublicense) to use the
software product(s) (each individually, a “Product”), for which valid control codes have been issued by
Progress, identified in (i) the written or electronic order document, form or invoice provided or accepted by
Progress or Progress’s authorized representative (each an “Order”) or (ii) the installation procedure. Any update,
patch, solution pack, service pack, value-add pack, hotfix, workaround, prepackaged module and/or new
release, version or enhancement issued to Licensee by Progress relating to the Product (each an “Update”) replaces part or all of a Product or Update previously licensed to Licensee and shall terminate such
previously licensed Product or Update to the extent replaced by the Update. Each Update shall be subject
to the terms and conditions of the license agreement accompanying the Update. In addition and subject to
the terms and conditions contained herein, Progress grants Licensee a non-exclusive, non-transferable,
limited, personal license (without the right to sublicense) to use the written technical materials and end user
instructions including all updates and versions thereof released by Progress and associated with the Product,
if any, distributed with the Product (the “Documentation”).

1.2 By virtue of this Agreement, Licensee acquires only the non-exclusive right to use the Product and
does not acquire any rights of ownership to (i) the Product, (ii) any Documentation provided therewith or
(iii) the media, if any, upon which the Product and Documentation are embodied. Progress and/or its
licensors shall at all times retain all right, title, and interest in the Product, the Documentation, and any

B-1
EXHIBIT B
LICENSE AGREEMENTS

media provided therewith. Except for the license rights expressly granted herein, this Agreement grants no additional express or implied license, right or interest in the Product or in any copyright, patent, trade secret, trademark, invention or other intellectual property rights of Progress, its affiliates or their licensors. Progress reserves all rights not expressly granted to Licensee in this Agreement.

1.3 The term of the license is set forth in Exhibit A or the applicable Order, unless otherwise terminated in accordance with the terms of this Agreement.

1.4 Licensee agrees to pay the applicable fees as set forth in the Order. Licensee further agrees to pay any applicable transportation charges, value-added taxes or other applicable taxes, tariffs or withholding taxes which the relevant authorities require to pay. All fees are exclusive of any such taxes or tariffs unless expressly stated in the Order.

1.5 Shipping terms for Product(s) shipped on physical media is FOB shipping point. For Product(s) shipped via electronic delivery, delivery is deemed complete, FOB shipping point, when the Product(s) is/are made available at the electronic software download (“ESD”) site specified by Progress and Licensee is e-mailed or otherwise issued a password to access and download the Product(s).

2. License Restrictions.

2.1 Licensee’s use of the Product and Documentation is limited to internal use within Licensee’s organization. The Product and Documentation may not be used by affiliated parties of Licensee unless specifically authorized in Exhibit A. Use shall be in accordance with the provisions of and limitations set forth in this Agreement, including Exhibit A hereto, and the additional terms, if any, set forth in any Order or additional agreement executed by Progress and Licensee in connection with this Agreement which specifically states the terms thereof shall be in addition to or in lieu of any of the terms set forth herein (each a “License Addendum” and collectively, the “License Addenda”).

2.2 The license model for the Product is set forth in the Order and described in Exhibit A. Third party rights and any additional licensing restrictions are set forth or referenced in Exhibit A.

2.3 If Licensee receives the Product in conjunction with a software application provided by a third party, the Product may only be used with or as part of such software application.

2.4 Licensee shall not copy (except as provided in Section 5.2 hereof), disassemble, reverse engineer,
EXHIBIT B
LICENSE AGREEMENTS

decompile, modify or create derivative works of the Product and the Documentation to the extent that such
restriction is not prohibited by applicable mandatory law.

2.5 Licensee may not sublicense, sell, rent, encumber, outsource, lease or grant any other rights in the
Product and/or the Documentation to others or otherwise allow the Product to be accessed, used or possessed
by another party. For these purposes, the term “use” shall include, without limitation, direct or indirect use
via thin-client or web-based remote access software which but for the use thereof would have required a
copy of the Product to be installed or used locally by that user.

2.6 Licensee shall have no right to use the Product to provide time sharing, outsourced services, or
facility management services or to act as or operate a service bureau or provide information, data processing,
subscription or hosting services for another party.

2.7 The Product, including technical data, are subject to U.S. export control laws, including, without
limitation, the U.S. Export Administration Act and its associated regulations, and may be subject to export
or import regulations in other countries. Licensee shall not directly or indirectly export or re-export the
Product, or any direct product thereof, without first obtaining Progress’s written approval. Licensee agrees
to comply strictly with all regulations and acknowledges that it has the responsibility to obtain licenses to
export, re-export or import the Product. The Product may not be downloaded, or otherwise exported or re-
exported (i) into, or to a national or resident of any country and/or party to which the U.S. has embargoed
goods; or (ii) to anyone on the U.S. Treasury Department’s list of Specially Designated Nationals, or the
U.S. Commerce Department’s Table of Denial Orders as amended from time to time, or any other list
distributed by the United States government setting forth individuals or entities to which distribution of the
Product would be prohibited by United States law.

2.8 Licensee shall be solely responsible for identifying and complying with all laws of any jurisdiction
outside of the United States regarding the use of the Product and any technical data supplied by Progress.
Licensee agrees to obtain all licenses, permits or approvals required by any government at Licensee’s sole
cost and expense. Licensee’s obligations under this Section 2.8 shall survive termination for any reason
whatsoever.

2.9 If the Product is being acquired by or on behalf of the U.S. Government or by a U.S. Government
prime contractor or subcontractor (at any tier), then the U.S. Government’s rights in the Product will be only
as set forth herein. The Product and related Documentation is a "commercial item" as that term is defined
at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software
Documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R.
227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Product and such
Documentation with only those rights set forth herein. Contract/Manufacturer is Progress Software
Corporation, 14 Oak Park, Bedford, MA 01730.
EXHIBIT B
LICENSE AGREEMENTS

2.10 This Agreement is personal to Licensee and Licensee may not transfer, assign or otherwise convey, novate or encumber this Agreement or the Product, in whole or in part, by operation of law, merger or otherwise, to any other party, including any parent, subsidiary or affiliated entity. A Change of Control of Licensee shall constitute an assignment hereunder. A “Change of Control” shall include, but not be limited to, any merger, consolidation, amalgamation, reorganization or sale, transfer or exchange of the capital stock or equity interests of Licensee in a transaction or series of transactions which results in the holders of Licensee’s capital stock or equity interests holding less than 50% of the outstanding capital stock or equity interests immediately following such transaction(s).

3. Limited Warranty.

3.1 Progress warrants that, for a period of ninety (90) days from either the date of the initial shipment or availability for download from a Progress website of the Product whichever occurs first (the “Warranty Period”), (i) the Product will conform in all material respects to the Documentation and (ii) the media, if any, on which the Product is recorded will be free from defects in materials and that the Product is properly recorded on the media. As the sole and exclusive remedy for physically defective media (such as the diskettes, cartridges, CD-ROMs, DVDs or magnetic tapes), Progress will replace it free of charge if claimed during the Warranty Period. As the sole and exclusive remedy for any failure of the Product to materially conform to the Documentation, Progress shall repair or replace the Product if such failure is reported during the Warranty Period or, if Progress, at its discretion, reasonably determines that such remedy is not economically or technically feasible, this Agreement and the licenses granted hereunder will terminate and Progress or its supplier (as applicable) shall provide a full refund of the license fee paid with respect to the particular Product. The above warranties do not cover Updates, generic non-configured solution packs, any Product provided on an evaluation basis, or defects to the Product due to accident, abuse, service, alteration, modification or improper installation or configuration by Licensee, its personnel or any third party.

3.2 Progress does not warrant that the functions of the Product will meet Licensee’s requirements or that operation of the Product will be uninterrupted or error free. Licensee assumes responsibility for selecting the Product to achieve its intended results and for the use and results obtained from the Product.

3.3 THE LIMITED WARRANTY SPECIFIED IN SECTION 3.1 SETS FORTH ALL WARRANTIES AND REPRESENTATIONS PROVIDED TO LICENSEE WITH RESPECT TO THE PRODUCT AND ANY SERVICES AND UPDATES PROVIDED HEREUNDER, AND SUCH LIMITED WARRANTY IS PROVIDED SOLELY BY PROGRESS AND NOT ITS LICENSORS. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, PROGRESS, ITS LICENSORS AND THEIR RESPECTIVE SUPPLIERS MAKE NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, RELATING TO THE PRODUCT, OR ANY SERVICES OR UPDATES PROVIDED UNDER THIS AGREEMENT. ANY UPDATES OR SERVICES DELIVERED HEREUNDER ARE DELIVERED “AS IS” WITHOUT ANY WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW ALL OTHER IMPLIED WARRANTIES AND REPRESENTATIONS INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT WITH RESPECT TO THE PRODUCT, OR ANY SERVICES AND
EXHIBIT B
LICENSE AGREEMENTS

UPDATES PROVIDED UNDER THIS AGREEMENT ARE DISCLAIMED. Further, the Product is not fault tolerant and is not designed, manufactured or intended for use in hazardous environments requiring fail-safe performance (including, without limitation, the design, construction, operation or maintenance of any nuclear facility; direct life support machines; weapon systems; or control of aircraft, air traffic, aircraft navigation or aircraft communications), in which the failure of the Product could lead directly or indirectly to death, personal injury or severe physical or environmental damage. Without limiting the scope of the disclaimers set forth herein, Progress for itself and on behalf of its licensors and their respective suppliers, disclaims any express or implied warranty of fitness for any such high risk uses.

4. Indemnity

4.1 Progress will defend, indemnify and hold Licensee harmless against any and all costs and reasonable expenses finally awarded by a court or agreed to in settlement which directly result from any third party claim based on an allegation that a Product infringes either a valid (a) United States patent or (b) copyright of a country that is a party to the Agreement for Trade Related Aspects of Intellectual Property Rights (“TRIPS”) but only if Progress is notified promptly in writing of such claim and given sole control of the defense of any such claim and all negotiations for its settlement or compromise. Licensee agrees to reasonably cooperate with Progress in the defense, settlement or compromise of any such claim. In the event that a final injunction is obtained against Licensee’s use of the Product, if Progress reasonably believes that Licensee’s use of the Products could be so enjoined, or if in Progress’s opinion the Product is likely to become the subject of a successful claim of such infringement, Progress shall, at its option and expense, (i) procure for Licensee the right to continue using the Product as provided in this Agreement, (ii) modify or require replacement of the Product that Licensee is then currently using so that the Product becomes non-infringing (so long as the functionality of the Products is substantially similar) or, in the event neither of the previous two options are commercially reasonable for Progress, (iii) terminate this Agreement and the rights granted hereunder and refund to Licensee the amount paid to Progress for the Product less an amount for depreciation determined on a straight-line five-year depreciation basis with a commencement date as of the respective shipment date of the applicable copies of the Product. Notwithstanding the foregoing, Progress shall have no liability for a claim to the extent based on (A) the use by Licensee of the Product more than thirty (30) days after Progress has notified Licensee of (i), (ii) or (iii), above or (B) the version of the Product used by Licensee is not the current release version of the Product.

4.2 Notwithstanding the foregoing, Progress shall have no liability to Licensee under this Section 4 to the extent that any infringement or claim thereof is based upon (i) the combination, operation or use of a Product in combination with equipment or software not supplied by Progress hereunder where the Product would itself not be infringing, (ii) Licensee’s non-compliance with designs, specifications or instructions provided by Progress to Licensee, (iii) use of a Product in an application or environment for which it was not designed or not contemplated under this Agreement, (iv) modifications of a Product by anyone other than Progress where the unmodified version of the Product would not be infringing, or (v) use by users or affiliated parties of Licensee not permitted by this Agreement.

4.3 THE FOREGOING INDEMNIFICATION PROVISIONS STATE THE ENTIRE LIABILITY OF PROGRESS AND THE SOLE AND EXCLUSIVE REMEDY OF LICENSEE WITH RESPECT TO ANY
4.4 Licensee is not allowed under Ohio law to defend and indemnify the Licensor. Any provision requiring the Licensee to defend or indemnify the Licensor or any other party is void.

5. Confidentiality; Notices

5.1 Licensee acknowledges that the Products, including all source and/or object code and all parts and aspects thereof, and any Updates, modifications, translations, localizations, or other derivative works thereof, in whatever form, whether or not marked as confidential, the Documentation and any other documentation or materials provided with or related to the Product (collectively, the “Confidential Information”), are the valuable proprietary and trade secret information of Progress and/or its licensors and suppliers. Licensee shall (i) limit use and disclosure of the Confidential Information to its employees and its consultants who are authorized pursuant to this Agreement to use the Products and who agree to be bound by the terms of this Agreement or are otherwise bound to a confidentiality agreement containing substantially similar terms; (ii) not provide or disclose any of the Confidential Information to another party; and (iii) treat the Confidential Information with the same degree of care to avoid disclosure to any third party as is used with respect to Licensee’s information of like importance which is to be kept secret, but with no less than reasonable care. The foregoing obligations shall be in addition to any obligations set forth in any separate confidentiality agreement between Progress and Licensee.

5.2 Licensee agrees, under penalty of license termination but not exclusive of any other remedies, not to cause or permit the copying of the Product for any purpose other than expressly set forth herein. Licensee may copy the Product only for archival and off-line backup purposes, but not for disaster recovery purposes unless Licensee has purchased the appropriate disaster recovery or replication license. Licensee may copy the Documentation solely for the purpose of facilitating Licensee’s use of the Product in accordance with, and subject to, the terms and conditions of this Agreement. Licensee agrees not to remove any product identification, copyright notices, or other notices or proprietary restrictions from the Product.

5.3 Benchmark results for the Product may not be disclosed or published without the written consent of Progress.

5.4 Licensee acknowledges that in the event of a breach or threat of breach of this Section 5, money damages will not be adequate. Therefore, in addition to any other legal or equitable remedies, Progress shall be entitled to seek injunctive or similar equitable relief against such breach or threat of breach.
EXHIBIT B
LICENSE AGREEMENTS

5.5 All notices and requests in connection with this Agreement to be sent to Progress shall be given in writing and shall be sent by hand delivery, overnight courier or certified mail with proof of delivery to the following address: 14 Oak Park Drive, Bedford, MA 01730, Attention: General Counsel. All notices and requests in connection with this Agreement to be sent to Licensee shall be given in writing and shall be sent by hand delivery, overnight courier or certified mail with proof of delivery to the address first set forth in the Order. Either party may change its address for receipt of notices upon written notice to the other party, and notices shall be deemed given on the day of receipt or the date evidenced on the proof of delivery, whichever is earlier.


6.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE LIABILITY OF PROGRESS, IF ANY, FOR DAMAGES RELATING TO ANY PRODUCT, UPDATE AND/OR SERVICES SHALL BE LIMITED TO THE ACTUAL AMOUNTS PAID BY LICENSEE FOR SUCH PRODUCT, UPDATE AND/OR SERVICES. PROGRESS’S LICENSORS AND THEIR SUPPLIERS SHALL HAVE NO LIABILITY TO LICENSEE FOR ANY DAMAGES SUFFERED BY LICENSEE OR ANY THIRD PARTY AS A RESULT OF USING THE PRODUCT, ANY UPDATE, OR ANY PORTION THEREOF, OR AS A RESULT OF ANY SERVICES RELATING THERETO. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL PROGRESS, ITS LICENSORS, OR ANY OF THEIR RESPECTIVE SUPPLIERS BE LIABLE FOR ANY LOST REVENUE, PROFIT OR DATA, OR FOR INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER, OR FOR ANY COMMERCIAL DAMAGES OR LOSSES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OR LIABILITY, ARISING OUT OF THE USE OR INABILITY TO USE THE PRODUCT, ANY UPDATE, OR ANY PORTION THEREOF, OR ANY SERVICES, EVEN IF PROGRESS, ITS LICENSORS AND/OR ANY OF THEIR RESPECTIVE SUPPLIERS HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. EACH EXCLUSION OR LIMITATION IS INTENDED TO BE A SEPARATE AND THEREFORE SEVERABLE EXCLUSION.

7. Audit Rights. Progress may install, enable and utilize automated license tracking, management and/or enforcement solutions with the Products, which Licensee may not disrupt or alter. Licensee shall maintain books and records in connection with this Agreement and the use of the Products and any Updates and/or services provided hereunder. Such books and records shall include at a minimum the number of licenses purchased and being used by Licensee. At its expense and with reasonable written notice to Licensee, Progress or a third party appointed by Progress may audit the books, records, and if necessary, the systems on which the Product or any Update is installed for the sole purpose of ensuring compliance with the terms of this Agreement. Progress shall have the right to conduct follow-up audits as necessary. All audits shall be conducted during regular business hours at Licensee’s offices and shall not interfere unreasonably with Licensee's activities. Progress shall treat all such records and books as confidential information. If any audit reveals that Licensee has underpaid license or maintenance and support fees, Licensee shall be invoiced for all such underpaid fees based on Progress list price in effect at the time the audit is completed. If the underpaid fees are in excess of five percent (5%) of the fees previously paid by Licensee, then Licensee shall also pay Progress’s reasonable costs of conducting the audit and enforcement of this Agreement.

8. Termination.
8.1 Progress may terminate this Agreement by written notice at any time if Licensee defaults in the performance of any provision of this Agreement and fails to cure such default to the satisfaction of Progress within thirty (30) days after such notice. This remedy shall not be exclusive and shall be in addition to any other remedies which Progress may have under this Agreement or otherwise.

8.2 Any purported transfer or assignment of this Agreement or the licenses granted hereunder by Licensee or other action by Licensee in contravention of Section 2.10 above or any purported transfer or assignment of this Agreement or the licenses granted hereunder as a result of Licensee’s bankruptcy, insolvency, or liquidation or as a result of an assignment of Licensee’s assets for the benefit of creditors shall be void and this Agreement and the licenses granted hereunder shall thereupon automatically terminate without further notice or action by Progress.

8.3 Within ten (10) days of the date of expiration or termination of this Agreement and/or any of the licenses granted hereunder, Licensee shall return all copies of the Products, including all Updates, and related Documentation to Progress or, if requested by Progress, destroy such Products, Updates and Documentation and certify in writing to such return or destruction.


9.1 If Progress offers maintenance and support for the Product, and if Licensee orders and pays for such maintenance and support, such maintenance and support shall be provided in accordance with Progress’ then current and applicable maintenance and support policies.

9.2 THIS AGREEMENT, INCLUDING ANY EXHIBITS AND ANY LICENSE ADDENDUM(S), CONSTITUTES THE COMPLETE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE PRODUCT AND SUPERCEDES ANY OTHER AGREEMENT, PROPOSAL, COMMUNICATION OR ADVERTISING, ORAL OR WRITTEN, SIGNED OR UNSIGNED, WITH RESPECT TO THE PRODUCT. To the extent there are any terms and conditions contained in Licensee’s purchase order or other documentation supplied by Licensee such terms and conditions shall be deemed to be stricken and the terms and conditions of this Agreement shall govern. In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.

9.3 For administrative convenience, Progress invoices may be issued by a local affiliate of Progress.
EXHIBIT B
LICENSE AGREEMENTS

9.4 This Agreement has been drawn up in English at the express wish of the parties. Le présent contrat a été rédigé en anglais à la demande expresse des parties.

9.5 Except as otherwise expressly set forth herein, this Agreement is governed by the laws of the Commonwealth of Massachusetts, without regard to its choice of law principles, and without regard to the provisions of any state Uniform Computer Information Transactions Act or similar federal, state, local or foreign laws, regulations or conventions.

9.6 This Agreement may not be modified or amended except in a writing executed by both Progress and Licensee.

9.7 Failure or delay on the part of Progress to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. A waiver of default shall not operate as a waiver of any other default or of the same type of default on future occasions.


9.9 DATA COLLECTION AND USE: THE PRODUCT MAY INCLUDE FEATURE(S) THAT (I) GATHER PRODUCT ACTIVATION, USAGE AND/OR ENVIRONMENT INFORMATION, (II) IDENTIFY TRENDS AND/OR BUGS, (III) COLLECT USAGE STATISTICS, AND/OR (IV) TRACK OTHER DATA RELATED TO YOUR USE OF THE PRODUCT, AS FURTHER DESCRIBED IN THE CURRENT VERSION OF PROGRESS’ PRIVACY POLICY AVAILABLE AT HTTP://WWW.PROGRESS.COM/PRIVACY. BY LICENSEE’S ACCEPTANCE OF THE TERMS OF THIS AGREEMENT AND/OR USE OF THE PRODUCT, LICENSEE AUTHORIZES THE COLLECTION, USE AND DISCLOSURE OF THIS DATA FOR THE PURPOSES PROVIDED FOR IN THIS AGREEMENT AND/OR THE PRIVACY POLICY.
EXHIBIT B
LICENSE AGREEMENTS

EXHIBIT A

TERM OF LICENSE:

Perpetual, unless otherwise specified in the applicable Order.

AFFILIATE USE, IF ANY:

None, unless otherwise specified in the applicable Order.

User or user group restrictions also may be set forth in the Order.

ADDITIONAL TERMS, IF ANY:

General Usage Limitations

1. **Optional Components.** The Product licensed and delivered to Licensee may include on the media or in the electronically delivered files, as applicable, components, features or other Products (which may or may not be referred to as "Blades") for which a separate license purchase and license key(s) or control code(s) are required. Licensee is permitted to use only the Product(s), and components, features and/or Blades thereof, for which Licensee has ordered and received a valid license key or control code.

2. **Use Case and/or User Group Restrictions.** If the Order indicates that the Products may be used for specific Use Case(s) (as defined below) or by specific user group(s), the Products may only be used for the Use Cases and/or by the user group(s) listed in the Order.

Product Specific Usage Limitations:

1. **ABL Source Code.** Licensee may utilize any unencrypted Advanced Business Language ("ABL") source code contained in the Product for any purpose. The ABL source code may change without notice, and PSC makes no representations regarding the ABL source code with regard to its use outside of the Product, and shall have no responsibility for such outside use by Licensee.

2. **Progress® OpenEdge® Business Process Modeler.** Progress may, at its discretion, make the Progress® OpenEdge® Business Process Modeler software ("Business Modeler Software") available to its customers on a no charge "AS IS" basis. If Progress makes Business Modeler Software available to Licensee in accordance with the preceding sentence and Licensee downloads the Business Modeler Software from Progress’ electronic software delivery site or otherwise obtains the Business Modeler Software from Progress or its authorized representative, then Licensee will have a non-exclusive, non-transferable, royalty-free, perpetual, limited license to use the Business Modeler Software without limitation on license model or quantity but subject to all other terms and conditions of this
Agreement, including, without limitation, the restrictions set forth in Section 2 of this Agreement. Progress is not obligated to provide any maintenance, technical or other support for the Business Modeler Software, but may, from time to time, provide technical support and/or Updates to the Business Modeler Software at Progress' sole discretion. All such Updates shall be subject to the terms and conditions of this Agreement, including, without limitation, the terms and conditions set forth in this section. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION 3 OF THIS AGREEMENT, THE BUSINESS MODELER SOFTWARE, ANY UPDATES THERETO AND ANY RELATED TECHNICAL SUPPORT SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. PROGRESS MAKES NO WARRANTIES WITH RESPECT TO THE BUSINESS MODELER SOFTWARE, ANY UPDATES THERETO, OR ANY RELATED TECHNICAL SUPPORT SERVICES, WHETHER EXPRESS, IMPLIED, OR ARISING BY CUSTOM OR TRADE USAGE, AND SPECIFICALLY MAKES NO WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT.

3. **Progress® OpenEdge® Add On Products.**

   a. If the Product identified in the Order is (i) Progress® OpenEdge® Transparent Data Encryption, (ii) Progress® OpenEdge® Multi-Tenant Tables, (iii) Progress® OpenEdge® Replication for Enterprise, (iv) Progress® OpenEdge® Replication for Workgroup, (v) Progress® OpenEdge® Replication Plus for Enterprise, (vi) Progress® OpenEdge® Replication Plus for Workgroup, (vii) Progress® OpenEdge® Management, (viii) Progress® OpenEdge® Table Partitioning, or (ix) Change Data Capture (each referred to herein as an “OpenEdge Add On Product”), then Licensee must, as a pre-requisite, have a valid license for a Progress® OpenEdge® database product that allows production use of said database product and the OpenEdge Add On Product license model (as identified in the Order and defined below) and license unit quantity (as also identified in the Order) must be the same as the license model and license unit quantity applicable for said database product. If the OpenEdge Add On Product is Progress® OpenEdge® Replication for Enterprise or Progress® OpenEdge® Replication Plus for Enterprise, then the database product referenced in the preceding sentence must be the Progress® OpenEdge® Enterprise RDBMS product. If the OpenEdge Add On Product is (i) Progress® OpenEdge® Replication for Workgroup or (ii) Progress® OpenEdge® Replication Plus for Workgroup, then the database product referenced in the first sentence must be the Progress® OpenEdge® Workgroup RDBMS product.

   b. If the OpenEdge Add On Product identified in the Order is (i) a Progress® OpenEdge® Replication product or (ii) a Progress® OpenEdge® Replication Plus product, then, in addition to the product-specific terms set forth in paragraph 4(a) above, the following applies: the replicated database may be used for Disaster recovery, including failover and standby, and may be used for application recovery in the event a system fails or crashes or the application or database files become corrupt as a result of a Disaster.

   c. If the OpenEdge Add On Product identified in the Order is Progress® OpenEdge® Management, then, in addition to the product-specific terms set forth in paragraph 3(a) above, the following applies: Licensee may use the OpenEdge Add On Product and Documentation solely to configure, monitor and manage Licensee’s OpenEdge resources, databases, system resources, network resources, file resources, log data, or any other assets or resources in accordance with the Documentation.

   d. If the OpenEdge Add On Product identified in the Order is Progress® OpenEdge® Table Partitioning, then, in addition to the product-specific terms set forth in paragraph 3(a) above, the following applies: Licensee must, as a pre-requisite, have a valid license for version 11.4 or higher of Progress® OpenEdge® database product.

   e. If the OpenEdge Add On Product identified in the Order is Progress® OpenEdge® Change Data Capture, then, in addition to the product-specific terms set forth in paragraph 3(a) above, the following applies: Licensee must, as a pre-requisite, have a valid license for version 11.7 or higher of Progress® OpenEdge® database product.

4. **Progress® Application Server for OpenEdge® - Development.** If the Product identified in the Order is Progress® Application Server for OpenEdge® - Development, then Licensee may use such product solely for the purposes of internal development and testing of applications that utilizes Progress® Application Server for OpenEdge® - Development. Licensee may not use Progress® Application Server for OpenEdge® - Development in a production environment.
5. **Progress® OpenEdge® Authentication Gateway.**

   a. If the Product identified in the Order is Progress® OpenEdge® Authentication Gateway, Licensee may not use Progress® OpenEdge® Authentication Gateway for any purpose other than for authenticating users, including but not limited to use as a general-purpose Web server or application server.

   b. If the Product identified in the Order is Progress® Application Server for OpenEdge® - Development, then Licensee may use such product for the purposes of internal development and testing of applications that utilize Progress® OpenEdge® Authentication Gateway. Licensee may not use Progress® OpenEdge® Authentication Gateway capabilities supplied with Progress® Application Server for OpenEdge® - Development in a production environment.

6. **Progress® OpenEdge® Pro2™ Products.** If the Product identified in the Order belong to the Progress® OpenEdge® Pro2™ line of products (“Pro2 Product”), then Licensee may receive additional Product(s) in conjunction with such Pro2 Product (“Additional Product(s)”). Such Additional Product(s) may only be used with or as part of Pro2 Product and may not be used in any other manner. If the license unit type identified for Pro2 Product in the Order is a “Site” license, then the Pro2 Product and the Additional Product(s) will be subject to the Site License limitations set forth below. Furthermore, the Additional Product(s) may have a unit quantity limitation specified in the Order. Notwithstanding the unit type of “Site” specified in the order, the unit quantity limitation for the Additional Product(s) will be deemed to mean the total number of Client Devices, Non-Human Operated Devices or Processes operating the Additional Product(s) either located at the Site or used by users with a principal business address at the Site.

7. **Progress® OpenEdge® Pro Dump/Load-Single Use.** If the Product identified in the Order is the Single Use version of the Progress® OpenEdge® Pro Dump/Load, then Licensee may only use the Product for a single iteration of a dump and load of Licensee’s database(s) and any associated databases. Additional use of the Product to repeat the dump and load in the foregoing manner or to perform maintenance tasks requires additional licensing.

8. **Technical Preview Features.** Product(s) may include features that are identified as a “Technical Preview”, and if included, such features are documented in the Product documentation such as the Product Releases Notes. Progress is not obligated to provide any maintenance, technical or other support for the Technical Preview features, but may, from time to time, provide technical support and/or Updates to the Technical Preview features at Progress’ sole discretion. All such Updates shall be subject to the terms and conditions of this Agreement, including, without limitation, the terms and conditions set forth in this section. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION 3 OF THIS AGREEMENT, TECHNICAL PREVIEW FEATURES, ANY UPDATES THERETO AND ANY RELATED TECHNICAL SUPPORT SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. PROGRESS MAKES NO WARRANTIES WITH RESPECT TO THE TECHNICAL PREVIEW FEATURES, ANY UPDATES THERETO, OR ANY RELATED TECHNICAL SUPPORT SERVICES, WHETHER EXPRESS, IMPLIED, OR ARISING BY CUSTOM OR TRADE USAGE, AND SPECIFICALLY MAKES NO WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT.

9. **Redistributables.** Subject to the terms and conditions of this Agreement and restrictions and exceptions, if any, set forth in the applicable file header, Progress grants Licensee a non-exclusive, non-transferable, royalty free, limited license to reproduce and distribute those files specifically identified as “Redistributable Code” in the file header (“Redistributables”) provided that:

   (i) Licensee distributes the Redistributables complete and unmodified, and only bundled as part of software developed by Licensee (“Licensee Application”);

   (ii) Licensee does not remove, obscure or alter any proprietary legends or notices that appear on the Redistributables as delivered to Licensee;

   (iii) Licensee does not use Progress’s name, logo, or trademarks to market the Licensee Application;

   (iv) Licensee agrees to defend and indemnify Progress and its licensors from and against any damages,
EXHIBIT B
LICENSE AGREEMENTS

costs, liabilities, settlement amounts and/or expenses (including attorneys' fees) incurred in connection
with any claim, lawsuit or action by any third party that arises or results from the use or distribution of
any and all components of Licensee Application.

NOTWITHSTANDING ANYTHING TO THE CONTRARY PROVIDED IN THIS AGREEMENT, LICENSEE
EXPRESSLY ACKNOWLEDGES AND AGREES THAT PROGRESS OR ITS LICENSORS MAKES NO
WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, IMPLIED, STATUTORY OR
OTHERWISE RELATING TO THE REDISTRIBUTABLES, INCLUDING BUT NOT LIMITED TO, CONTENT,
QUALITY, RELIABILITY, ACCURACY, COMPLETENESS, EFFECTIVENESS, USEFULNESS OR QUIET
ENJOYMENT. REDISTRIBUTABLES ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITH ALL
FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR
OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL IMPLIED
WARRANTIES AND REPRESENTATIONS, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED
WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-
INFRINGEMENT WITH RESPECT TO THE REDISTRIBUTABLES ARE EXPRESSLY DISCLAIMED.

Licensee agrees not to permit further distribution of the Redistributables by Licensee’s end users except Licensee
may permit further redistribution of the Redistributables by Licensee’s distributors to Licensee’s end-user customers
if Licensee’s distributors only distribute the Redistributables in conjunction with, and as part of, the Licensee
Application. Upon termination of this Agreement, Licensee must also discontinue the redistribution of
Redistributables.

10. Telerik® UI for WinForms. Certain Product(s) may include a trial license to the Telerik UI for WinForms
product. Licensee acknowledges that its right to install and use the trial license of the Telerik UI for WinForms
product is governed by the terms and conditions of the Telerik End User License Agreement for UI for WinForms
located in the “readme.txt” file, the “notices.txt” file, or the “Third Party Software” file accompanying the Product.

11. Telerik® Kendo UI® Professional in Progress® OpenEdge® Business Process Server. If the Product identified
in the Order is Progress OpenEdge Business Process Server, then the Product will include Kendo UI Professional.
Licensee acknowledges that its right to use the Kendo UI Professional product is governed by the terms and
conditions of the Telerik End User License Agreement for Kendo UI Professional located in the “readme.txt” file,
the “notices.txt” file, or the “Third Party Software” file accompanying the Product. Licensee further acknowledges
that its use of the Kendo UI Professional product, all portions thereof, shall be limited to use solely with the Product
and, more specifically, solely within an OpenEdge Business Process Management portal in the Product.

See Order for additional terms, if any.

LICENSE MODELS AND DEFINITIONS:

The product name and applicable license model for the Product(s) purchased is set forth in the Order. The description of
the license model is set forth below. Not all license models described below are available for all Products. The Order will identify the
license model applicable for the Products listed therein.

For purposes of this Exhibit A, the following terms shall have the following definitions:

“Access Agent”: An Access Agent is a user [or Non-Human Operated Device] that (i) cannot be uniquely identified and/or (ii)
can only access the Product or an application which accesses the Product for less than two (2) hours a week.
EXHIBIT B
LICENSE AGREEMENTS

“Client Device”: A Client Device is any input technology that allows the Licensee to access the Product, including but not limited to a workstation, a personal computer, a PDA device, a cellular phone, a tablet, a laptop or other device that is operated by an individual.

“Core”: A Core is a core processor of a CPU as allocated by Licensee made up of an independent processor combined onto a single integrated circuit or silicon chip, in both virtualized and/or non-virtualized environment, and regardless of whether used in a production or non-production (e.g. test, development) environment.

“CPU”: A CPU is a computer processing unit, also known as a processor or microprocessor. It can contain multiple cores in both virtualized and/or non-virtualized environment.

“Disaster”: Any unplanned event or condition that renders Licensee unable to use an application or database for its intended computer processing and related purposes.

“Non-Human Operated Device”: A Non-Human Operated Device is a device that is not operated by an individual including, but not limited to, a temperature device, a production line bar code scanner, an automated system interface or a tracking device.

“Named User”: A Named User is a single individual, Non-Human Operated Device or Process.

“Platform”: A Platform is the specific combination of the hardware and the operating system, a change to either would constitute a platform change.

“Process” (formerly known as “Server Process”): A Process is any automated process that is not initiated by a Client Device or a Non-Human Operated Device and includes, without limitation, automated controls and background jobs.

“Server”: A logical computer with one or more CPUs on which the Product resides, along with the applications utilizing the Product, and which can be accessed by other computers. The term “Server” includes, but is not limited to, web servers, batch servers and application servers.

“Site”: A site is defined as a single building or campus of buildings sharing the same postal address.

“Use Case”: A Use Case is a description in the Order of one or more limitation(s) on the manner in which the Product may be used by Licensee. Such limitation(s) may include, but are not limited to, use of the Product only for a specified project, application, line of business, purpose of use or group of users.
EXHIBIT B
LICENSE AGREEMENTS

Access Agent License: An Access Agent License grants Licensee the right to install and use the Product, or access and use an application which can access the Product by an Access Agent, on a single Core and on a single Platform. This Access Agent License should always be purchased in combination with a Named User and/or Registered Device License; except for environments where none of the users or the Non-Human Operated Devices that access the Product or an application that accesses the Product may be identified and/or access the Product or the application for two or more hours per week.

Concurrent Device License [also may be known or referred to as “Concurrent User License”]: A Concurrent Device License grants Licensee the right to install and use the Product, or access and use an application which can access the Product, on a single Core and on a single Platform. A Concurrent Device may be a Client Device, a Non-Human Operated Device or a Process. The Licensee may have in use at any given time a maximum number of Concurrent Devices accessing the Product, or accessing an application which can access the Product, as purchased under the Concurrent Device License. In addition, under this model, a Licensee is required to license the Concurrent Devices per Server, so that there is an associated Concurrent Device License dedicated to each Server that runs the Product including, without limitation, Servers configured for disaster recovery, load balancing, clustering, development, testing and reporting. For example, if Licensee’s Concurrent Device License permits a maximum of 100 Concurrent Devices, and Licensee directs 50 Concurrent Devices to Server A and 50 Concurrent Devices to Server B, Licensee would have to purchase an additional 50 Concurrent Device License for Server B. A concurrent Device License may not be transferred from one Server or Platform to another.

Core License: A Core License grants Licensee the right to run the Product, or an application which can access the Product, on a single Core on a single Server and on a single Platform. The total number of Cores on the Server may not exceed the total number licensed to Licensee. Additional Core License(s) are required for each Core of a Server on which the Product runs, including, without limitation, Servers configured for disaster recovery, load balancing, clustering, development, testing and reporting. A Core License may not be transferred from one Server or Platform to another.

CPU License: A CPU License grants Licensee the right to run the Product, or an application which can access the Product, on a single CPU on a single Server and on a single Platform, where such CPU contains only one Core. If the CPU contains more than one Core, then Licensee must either purchase a Core license for the Product or, if no Core license model is available for the Product, then each Core in the CPU shall count as one (1) CPU. Additional CPU License(s) are required for each CPU on a Server that runs the Product, including, without limitation, Servers configured for disaster recovery, load balancing, clustering, development, testing and reporting. A CPU License may not be transferred from one Server or Platform to another.

Named User/Seat License: A Named User or Seat License grants Licensee the right to designate a Named User to access and use the Product or access and use an application which can access the Product. Licensee must be able to identify and count each Named User. A Named User License is a multi-server license in that it is not limited by Core, CPU or Server count, but the Product must be used on a single Platform. A Named User may not be designated concurrently on different computers or devices or shared by multiple users. A Named User does not have to be logged on to the Product to be counted as a Named User. A Named User license designation may be transferred from one Named User to another provided that the original Named User no longer requires and is no longer permitted access to the Product. The foregoing transfer right shall not affect the assignment prohibition set forth in Section 2.10 of the Agreement. All Named Users must be bound to the terms and conditions of this Agreement.

Registered Device License [also may be known or referred to as “Registered Client License”]: A Registered Device License grants Licensee the right to designate a specific device (a “Registered Device”) to access and use the Product or access and use an application which can access the Product. Licensee must be able to identify and count each Registered Device. A Registered Device may be a Client Device, a Non-Human Operated Device or a Process. The Registered Device License cannot be used to account for, and the Product may not be used by, unknown users. A Registered Device License is a multi-server license in that it is not limited by Core, CPU or Server count, but the Product must be used on a single Platform and may not be used concurrently on different computers or devices or shared by multiple devices. A Registered Device does not have to be logged on to the Product to be counted as a Registered Device. A license right designation may be transferred from one Registered Device to another provided that the original Registered Device is no longer permitted access to the Product. The foregoing transfer right shall not affect the
EXHIBIT B
LICENSE AGREEMENTS

assignment prohibition set forth in Section 2.10 of the Agreement.

Server/Machine License: A Server or Machine License grants Licensee the right to install and use a Product, or an application which can access the Product, on a single Server and on a single Platform. Additional Server/Machine license(s) are required for each Server that runs the Product including, without limitation, Servers configured for disaster recovery, load balancing, clustering, development, testing and reporting. A Server or Machine License may not be transferred from one Server or Platform to another.

Server/Machine Unlimited User License: A Server or Machine Unlimited User License is no longer a valid license and Licensee is required to relicense under a current licensing model. Under the Server or Machine Unlimited User license a Licensee had the right to install and use a Product on a specific combination of machine/server, vendor operating system and site. If there is a change to any of these elements, the license is no longer valid and a new license needs to be purchased for the Product. Due to the specific grant of this license, a Server or Machine Unlimited User License may not be transferred from one Server or Platform to another.

Application Specific License: If the Order lists a specific application authorized for use with the Product, or if Licensee obtained a Product in conjunction with a software application provided by a third party, the Product is licensed for use only with such application. Use with any other application/product is strictly prohibited. Licensee shall be further subject to the license terms of the appropriate license model for the Product (e.g., CPU License, Core License, Named User License, etc.) designated in the Order.

Site License: A Site License grants Licensee the right to install and use the Product, or an application which can access the Product, in any Server at a single Site and on any device (wherein the device can be a Client Device, a Non-Human Operated Device or a Process) operated by users who share the same principal place of business as the Site location, regardless of whether the Product, or an application which can access the Product is used in the virtualized and/or non-virtualized environment.

Developer License: A Developer License limits Licensee’s access and use of the Product to internal application development and support purposes only. If the license is for components of the Product only, then such right is limited to such components. Licensee shall be further subject to the license terms of the appropriate license model for the Product (e.g., CPU License, Core License, Server/Machine License, etc.) designated in the Order. A Developer License may not be transferred.

Disaster Recovery License: A Disaster Recovery License shall only be used by Licensee for the sole purpose of application recovery in the event a system fails or crashes or the Product or database files become corrupt. In that case, a Disaster Recovery License grants the Licensee the right to use the Product for a period not to exceed ninety (90) days ("D/R Deployment Period"). Licensee shall notify Progress in writing within five (5) business days of the commencement of the D/R Deployment Period. Licensee shall be further subject to the same quantity and license terms of the appropriate license model for the Product (e.g., CPU License, Core License, Server/Machine License, etc.) designated in the Order. A Disaster Recovery License may be transferred from one Server or CPU to another with prior notice to Progress so long as such change is permitted by the underlying license model. No Disaster Recovery License is required for a switch from a primary Server to secondary Server so long as the primary Server is permanently disabled. However a Disaster Recovery License is required for any other temporary reassignment between the primary Server and any other Server. The foregoing transfer right shall not affect the assignment prohibition set forth in Section 2.10 of this Agreement.

Evaluation License: An Evaluation License grants Licensee the right to use the Product solely for evaluation, demonstration, prototyping, testing, and/or proof of concept purposes, and not in conjunction with the development or deployment of any
EXHIBIT B
LICENSE AGREEMENTS

software application. No commercial product development work is authorized. An Evaluation License may not be transferred. Evaluation includes the use of the Product in performance benchmarking. Progress updates the Product regularly and benchmarking data for the Product is subject to change. Benchmark tests on prior versions of the Product may yield results that are not reflective of the performance of the current version of the Product. LICENSEE UNDERSTANDS AND ACKNOWLEDGES THAT THE PRODUCT LICENSED TO LICENSEE PURSUANT TO AN EVALUATION LICENSE CONTAINS A DISABLING DEVICE THAT WILL AUTOMATICALLY DISABLE THE PRODUCT THIRTY (30) DAYS FROM INSTALLATION OR AT THE END OF SUCH LONGER OR SHORTER PERIOD OF TIME AS MAY BE SPECIFIED IN AN ORDER OR AGREED TO BY LICENSEE AND PROGRESS IN WRITING. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION 3 OF THIS AGREEMENT, THE PRODUCT IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. PROGRESS MAKES NO WARRANTIES WITH RESPECT TO THE PRODUCT, EXPRESS, IMPLIED, OR ARISING BY CUSTOM OR TRADE USAGE, AND SPECIFICALLY MAKES NO WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT.

Testing and Staging License: A Testing and Staging License grants Licensee the right to use the Product for internal quality assurance testing purposes only and Licensee may not deploy the Product in a production environment. Licensee shall be further subject to the license terms of the appropriate license model for the Product (e.g., CPU License, Core License, Server/Machine License, etc.) designated in the Order. A Testing and Staging License may not be transferred.

THIRD PARTY TERMS AND RESTRICTIONS:

The Product may contain or be accompanied by certain third party components which are subject to additional restrictions. These components, if any, are identified in, and subject to, special license terms and conditions set forth in the "readme.txt" file, the "notices.txt" file, or the "Third Party Software" file accompanying the Product ("Special Notices"). The Special Notices include important licensing and warranty information and disclaimers. In the event of conflict between the Special Notices and the other portions of this Agreement, the Special Notices will take precedence (but solely with respect to the third party component(s) to which the Special Notice relates).

PROGRESS MAINTENANCE PLAN (IF ANY):

As indicated in the applicable Order.

EULA Revision Reference: Progress® OpenEdge® version 11.7 (EULA revision 20-March-2017)
EXHIBIT B
LICENSE AGREEMENTS

Progress® OpenEdge® version 10.1C End User License Agreement (“EULA”)

CAUTION: YOU SHOULD CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS OF THIS AGREEMENT BEFORE INSTALLING OR USING THE SOFTWARE PRODUCTS AND DOCUMENTATION TO WHICH THIS AGREEMENT RELATES. BY ACCEPTING THIS AGREEMENT YOU ARE CONSENTING TO BE BOUND BY THE TERMS AND CONDITIONS CONTAINED HEREIN AND ACKNOWLEDGING YOUR AUTHORITY TO DO SO ON BEHALF OF YOUR COMPANY (IF APPLICABLE). IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, DO NOT PROCEED WITH THE INSTALLATION OF THE SOFTWARE. YOU SHOULD PROMPTLY RETURN THE SOFTWARE, DOCUMENTATION, AND ALL COPIES THEREOF TO THE SUPPLIER FROM WHICH IT WAS ACQUIRED FOR A FULL REFUND OF THE LICENSE FEES, IF ANY, PAID FOR THE SOFTWARE. THE TERM “PROMPTLY” AS USED HEREIN SHALL MEAN NO LATER THAN SIXTY (60) DAYS FOLLOWING THE DELIVERY OF THE SOFTWARE TO YOU.

1. License Grant

1.1 Subject to the terms and conditions contained herein, Progress Software Corporation (“Progress”) grants you (“Licensee”) a non-exclusive, non-transferable, limited, personal license (without the right to sublicense) to use the software product(s) (each individually, a “Product”), for which valid control codes have been issued by Progress, identified in (i) the order document in written or electronic form provided or accepted by Progress or Progress invoice (any such Documentation, the “Order”) or (ii) in the installation procedure. Any update, patch, solution pack, service pack, value-add pack, prepackaged module and/or new release, version or enhancement issued to Licensee by Progress relating to the Product (each an “Update”) replaces part or all of a Product or Update previously licensed to Licensee and shall terminate such previously licensed Product or Update to the extent replaced by the Update. Each Update shall be subject to the terms and conditions of the license agreement accompanying the Update. In addition and subject to the terms and conditions contained herein, Progress grants Licensee a non-exclusive, non-transferable, limited, personal license (without the right to sublicense) to use the Documentation (hereinafter defined) in connection with the Software.

1.2 By virtue of this Agreement, Licensee acquires only the non-exclusive right to use the Product and does not acquire any rights of ownership (i) to the Product, (ii) to any Documentation provided therewith or (iii) to the media upon which they are embodied. Progress and/or its licensors shall at all times retain all right, title, and interest in the Product and the Documentation and media provided therewith. Except for the license rights expressly granted herein, this Agreement grants no additional express or implied license, right or interest in the Product or in any copyright, patent, trade secret, trademark, invention or other intellectual property rights of Progress, its affiliates or their licensors. Progress reserves all rights not expressly granted to Licensee in this Agreement.

1.3 The term of the license is set forth in Exhibit A, unless otherwise terminated in accordance with the terms of this Agreement.
1.4 Licensee agrees to pay the applicable fees as set forth in the Order. Licensee further agrees to pay any applicable transportation charges, value-added taxes or other applicable taxes, tariffs or withholding taxes which the relevant authorities require to pay. The fees are exclusive of any such taxes or tariffs unless expressly stated in the Order.

2. License Restrictions

2.1 Licensee’s use of the Product and the Documentation is limited to internal use within Licensee’s organization and the Product and Documentation may not be used by affiliated parties of Licensee unless specifically authorized in Exhibit B. Use shall be in accordance with the provisions of and limitations set forth in this Agreement, including Exhibit B hereto, and the additional terms, if any, set forth in any (i) Progress invoice, (ii) Progress order document executed by Licensee or (iii) additional agreement executed by Progress and Licensee in connection with this Agreement which specifically states the terms thereof shall be in addition to or in lieu of any of the terms set forth herein (a “License Addendum”).

2.2 The license model for the Product is set forth in the Order and described in Exhibit B.

2.3 Additional restrictions and third party rights are set forth in Exhibit B.

2.4 If Licensee receives the Product in conjunction with a software application provided by a third party, the Product may only be used with or as part of such software application.

2.5 Licensee shall not copy (except as provided in Section 5.2 hereof), disassemble, reverse engineer, decompile, modify or create derivative works of the Product and the Documentation to the extent that such restriction is not prohibited by applicable mandatory law.

2.6 Licensee may not sublicense, sell, rent, encumber, outsource, lease or grant any other rights in the Product and/or the Documentation to others or otherwise allow the Product to be accessed, used or possessed by another party. For these purposes, the term “use” shall include, without limitation, direct or indirect use via thin-client or web-based remote access software which but for the use thereof would have required a copy of the Product to be installed or used locally by that user.
EXHIBIT B
LICENSE AGREEMENTS

2.7 Licensee shall have no right to use the Product to provide time sharing or facility management services or to act as or operate a service bureau or provide information, data processing, subscription or hosting services for another party.

2.8 The Product, including technical data, are subject to U.S. export control laws, including, without limitation, the U.S. Export Administration Act and its associated regulations, and may be subject to export or import regulations in other countries. Licensee shall not directly or indirectly export or re-export the Product, or any direct product thereof, without first obtaining Progress’s written approval. Licensee agrees to comply strictly with all regulations and acknowledges that it has the responsibility to obtain licenses to export, re-export or import the Product. The Product may not be downloaded, or otherwise exported or re-exported (i) into, or to a national or resident of Cuba, Iran, North Korea, Sudan, Syria, or any country to which the U.S. has embargoed goods; or (ii) to anyone on the U.S. Treasury Department’s list of Specially Designated Nations or the U.S. Commerce Department’s Table of Denial Orders as amended from time to time.

2.9 Licensee shall be solely responsible for identifying and complying with all laws of any jurisdiction outside of the United States regarding the use of the Product and any technical data supplied by Progress. Licensee agrees to obtain all licenses, permits or approvals required by any government at Licensee’s sole cost and expense. Licensee’s obligations under this Section 2.9 shall survive termination for any reason whatsoever.

2.10 If the Product is being acquired by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), then the U.S. Government’s rights in the Product will be only as set forth herein. The Product and related Documentation is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software Documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Product and such Documentation with only those rights set forth herein. Contract/Manufacturer is Progress Software Corporation, 14 Oak Park, Bedford, MA 01730.

2.11 This Agreement is personal to Licensee and Licensee may not transfer, assign or otherwise convey, novate or encumber this Agreement or the Product, in whole or in part, by operation of law, merger or otherwise, to any other party, including any parent, subsidiary or affiliated entity. A Change of Control of Licensee shall constitute an assignment hereunder. A “Change of Control” shall include, but not be limited to, any merger, consolidation, amalgamation, reorganization or sale, transfer or exchange of the capital stock or equity interests of Licensee in a transaction or series of transactions which results in the holders of Licensee's capital stock or equity interests holding less than 50% of the outstanding capital stock or equity interests immediately following such transaction(s).
EXHIBIT B
LICENSE AGREEMENTS

3. Limited Warranty

3.1 Progress warrants that, for a period of ninety (90) days from either the date of the initial shipment or availability for download from a Progress website of the Product, whichever occurs first (the “Warranty Period”), (i) the Product will conform in all material respects to the Documentation for the Product found at the Progress Resource Center at www.progress.com as of the delivery date of the Product (the “Documentation”) and (ii) the materials of the Product media are not defective and that the software is properly recorded on the media. As the sole and exclusive remedy for physically defective media (such as the diskettes, cartridges, CD-ROMs, DVDs or magnetic tapes), Progress will replace it free of charge if claimed during the Warranty Period. As the sole and exclusive remedy for any failure of the Product to materially conform to the Documentation, Progress shall repair, replace, or correct the Product if such failure is reported during the Warranty Period or, if Progress, at its discretion, reasonably determines that such remedy is not economically or technically feasible, this Agreement and the licenses granted hereunder will terminate and Progress or its supplier (as applicable) shall provide a full refund of the license fee paid with respect to the particular Product. The above warranties do not cover: Updates, generic non-configured solution packs, any Product provided on an evaluation basis, or defects to the Product due to accident, abuse, service, alteration, modification or improper installation or configuration by Licensee, its personnel or any third party.

3.2 Progress does not warrant that the functions of the Product will meet Licensee’s requirements or that operation of the Product will be uninterrupted or error free. Licensee assumes responsibility for selecting the Product to achieve its intended results and for the use and results obtained from the Product.

3.3 THE LIMITED WARRANTY SPECIFIED IN SECTION 3.1 SETS FORTH ALL WARRANTIES AND REPRESENTATIONS PROVIDED TO LICENSEE WITH RESPECT TO THE PRODUCT AND SUCH LIMITED WARRANTY IS PROVIDED SOLELY BY PROGRESS AND NOT ITS LICENSORS. EXCEPT FOR THE LIMITED WARRANTY PROVIDED SOLELY BY PROGRESS TO LICENSEE PURSUANT TO SECTION 3.1, NEITHER PROGRESS NOR ITS LICENSORS, NOR ANY OF THEIR RESPECTIVE SUPPLIERS, MAKE ANY OTHER EXPRESS WARRANTIES OR REPRESENTATIONS RELATING TO THE PRODUCT OR ANY SERVICES RELATED THERETO, AND FURTHER, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, DISCLAIM ALL IMPLIED WARRANTIES AND REPRESENTATIONS INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES AND REPRESENTATIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT WITH RESPECT TO THE PRODUCT AND ANY SERVICES RELATED THERETO. Further, the Product is not fault tolerant and is not designed, manufactured or intended for use in hazardous environments requiring fail-safe performance (including, without limitation, the design, construction, operation or maintenance of any nuclear facility; direct life support machines; weapon systems; or control of aircraft, air traffic, aircraft navigation or aircraft communications), in which the failure of the Product could lead directly or indirectly to death, personal injury or severe physical or environmental damage. Without limiting the scope of the disclaimers set forth herein, Progress for itself and on behalf of its licensors and their respective suppliers, disclaims any express or implied warranty of fitness for any such high risk uses.
EXHIBIT B
LICENSE AGREEMENTS

4. Indemnity

4.1 Progress will defend, indemnify and hold Licensee harmless against any and all costs and reasonable expenses finally awarded by a court or agreed to in settlement which directly result from any third party claim based on an allegation that a Product infringes either a valid (a) United States patent or (b) copyright of a country that is a party to the Agreement for Trade Related Aspects of Intellectual Property Rights ("TRIPS") but only if Progress is notified promptly in writing of such claim and given sole control of the defense of any such claim and all negotiations for its settlement or compromise. Licensee agrees to reasonably cooperate with Progress in the defense, settlement or compromise of any such claim. In the event that a final injunction is obtained against Licensee’s use of the Product, if Progress reasonably believes that Licensee’s use of the Products could be so enjoined, or if in Progress’s opinion the Product is likely to become the subject of a successful claim of such infringement, Progress shall, at its option and expense, (i) procure for Licensee the right to continue using the Product as provided in this Agreement, (ii) modify or require replacement of the Product that Licensee is then currently using so that the Product becomes non-infringing (so long as the functionality of the Products is substantially similar) or, in the event neither of the previous two options are commercially reasonable for Progress, (iii) terminate this Agreement and the rights granted hereunder and refund to Licensee the amount paid to Progress for the Product less an amount for depreciation determined on a straight-line five-year depreciation basis with a commencement date as of the respective shipment date of the applicable copies of the Product. Notwithstanding the foregoing, Progress shall have no liability for a claim to the extent based on (A) the use by Licensee of the Product more than thirty (30) days after Progress has notified Licensee of (i), (ii) or (iii), above or (B) the version of the Product used by Licensee is not the current release version of the Product.

4.2 Notwithstanding the foregoing, Progress shall have no liability to Licensee under this Section 4 to the extent that any infringement or claim thereof is based upon (i) the combination, operation or use of a Product in combination with equipment or software not supplied by Progress hereunder where the Product would itself not be infringing, (ii) Licensee’s non-compliance with designs, specifications or instructions provided by Progress to Licensee, (iii) use of a Product in an application or environment for which it was not designed or not contemplated under this Agreement, (iv) modifications of a Product by anyone other than Progress where the unmodified version of the Product would not be infringing, or (v) use by users or affiliated parties of Licensee not permitted by this Agreement.

4.3 THE FOREGOING INDEMNIFICATION PROVISIONS STATE THE ENTIRE LIABILITY OF PROGRESS AND THE SOLE AND EXCLUSIVE REMEDY OF LICENSEE WITH RESPECT TO ANY INFRINGEMENT OR ALLEGED INFRINGEMENT BY PROGRESS OF ANY INTELLECTUAL PROPERTY RIGHTS OR PROPRIETARY RIGHTS IN RESPECT OF THE PRODUCT OR ITS USE.

4.4 If any affiliated party of Licensee is specifically authorized in writing and as a term of this Agreement to use the Product pursuant to Section 2.1 hereof and Exhibit B, Licensee shall defend, indemnify and hold Progress harmless for all acts and omissions of such affiliated party.
EXHIBIT B
LICENSE AGREEMENTS

5. Confidentiality; Notices

5.1 Licensee acknowledges that the Products, including all source and/or object code and all parts and aspects thereof, and any modifications, enhancements, translations, localizations, or other derivative works thereof, in whatever form, whether or not marked as confidential, the Documentation and any other documentation or materials provided with or related to the Product (collectively, the "Confidential Information"), are the valuable proprietary and trade secret information of Progress and/or its licensors and suppliers. Licensee shall (i) limit use and disclosure of the Confidential Information to its employees and its consultants who are authorized pursuant to this Agreement to use the Products and who agree to be bound by the terms of this Agreement or are otherwise bound to a confidentiality agreement containing substantially similar terms; (ii) not provide or disclose any of the Confidential Information to another party; and (iii) treat the Confidential Information with the same degree of care to avoid disclosure to any third party as is used with respect to Licensee’s information of like importance which is to be kept secret, but with no less than reasonable care. The foregoing obligations shall be in addition to any obligations set forth in any separate confidentiality agreement between Progress and Licensee.

5.2 Licensee agrees, under penalty of license termination but not exclusive of any other remedies, not to cause or permit the copying of the Product for any purpose other than expressly set forth herein. Licensee may copy the Product only for archival and off-line backup purposes, but not for disaster recovery purposes unless Licensee has purchased the appropriate disaster recovery or replication license. Licensee may copy the Documentation solely for the purpose of facilitating Licensee’s use of the Product in accordance with, and subject to, the terms and conditions of this Agreement. Licensee agrees not to remove any product identification, copyright notices, or other notices or proprietary restrictions from the Product.

5.3 Benchmark results for the Product may not be disclosed or published without the written consent of Progress.

5.4 Licensee acknowledges that in the event of a breach or threat of breach of this Section 5, money damages will not be adequate. Therefore, in addition to any other legal or equitable remedies, Progress shall be entitled to seek injunctive or similar equitable relief against such breach or threat of breach.

6. Limitation of Liability

6.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE LIABILITY OF PROGRESS, IF ANY, FOR DAMAGES RELATING TO ANY PRODUCT AND/OR SERVICES SHALL BE LIMITED TO THE ACTUAL AMOUNTS PAID BY LICENSEE FOR SUCH PRODUCT AND/OR SERVICES. PROGRESS'S LICENSORS AND THEIR SUPPLIERS SHALL HAVE NO
EXHIBIT B
LICENSE AGREEMENTS

LIABILITY TO LICENSEE FOR ANY DAMAGES SUFFERED BY LICENSEE OR ANY THIRD PARTY AS A RESULT OF USING THE PRODUCT, OR ANY PORTION THEREOF, OR AS A RESULT OF ANY SERVICES RELATING THERETO. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL PROGRESS, ITS LICENSORS, OR ANY OF THEIR RESPECTIVE SUPPLIERS BE LIABLE FOR ANY LOST REVENUE, PROFIT OR DATA, OR FOR INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER, INCLUDING, WITHOUT LIMITATION, ANY COMMERCIAL DAMAGES OR LOSSES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY, ARISING OUT OF THE USE OR INABILITY TO USE THE PRODUCT, OR ANY PORTION THEREOF, OR ANY SERVICES, EVEN IF PROGRESS, ITS LICENSORS AND/OR ANY OF THEIR RESPECTIVE SUPPLIERS HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. EACH EXCLUSION OR LIMITATION IS INTENDED TO BE A SEPARATE AND THEREFORE SEVERABLE EXCLUSION.

7. Audit Rights

7.1 Progress may install, enable and utilize automated license tracking, management and/or enforcement solutions with the Products, which Licensee may not disrupt or alter. Licensee shall maintain books and records in connection with this Agreement and the use of the Products. Such books and records shall include at a minimum the number of licenses purchased and being used by Licensee. At its expense and with reasonable written notice to Licensee, Progress or a third party appointed by Progress may audit the books, records, and if necessary, the systems on which the Product is installed for the sole purpose of ensuring compliance with the terms of this Agreement. Progress shall have the right to conduct follow-up audits as necessary. All audits shall be conducted during regular business hours at Licensee's offices and shall not interfere unreasonably with Licensee's activities. Progress shall treat all such records and books as confidential information. If any audit reveals that Licensee has underpaid license or maintenance fees, Licensee shall be invoiced for all such underpaid fees based on Progress list price in effect at the time the audit is completed. If the underpaid fees are in excess of five percent (5%) of the fees previously paid by Licensee, then Licensee shall also pay Progress’s reasonable costs of conducting the audit and enforcement of this Agreement.

8. Termination

8.1 Progress may terminate this Agreement by written notice at any time if Licensee defaults in the performance of any provision of this Agreement and fails to cure such default to the satisfaction of Progress within thirty (30) days after such notice. This remedy shall not be exclusive and shall be in addition to any other remedies which Progress may have under this Agreement or otherwise.

8.2 Any purported transfer or assignment of this Agreement or the licenses granted hereunder by Licensee or other action by Licensee in contravention of Section 2.9 above or any purported transfer or assignment of this Agreement or the licenses granted hereunder as a result of Licensee’s bankruptcy, insolvency, or liquidation or as a result of an assignment of Licensee’s assets for the benefit of creditors
shall be void and this Agreement and the licenses granted hereunder shall thereupon automatically terminate without further notice or action by Progress.

8.3 Upon expiration or termination of this Agreement and/or any of the licenses granted hereunder, Licensee agrees to return promptly all copies of the Products and related Documentation to Progress or, if requested by Progress, destroy such Products and Documentation and certify in writing to such return or destruction.

9. Miscellaneous

9.1 If Progress offers maintenance for the Product, and if Licensee orders and pays for such maintenance, such maintenance shall be provided in accordance with Progress' then current and applicable maintenance policies.

9.2 THIS AGREEMENT, INCLUDING ANY EXHIBITS AND ANY LICENSE ADDENDUM(S), CONSTITUTES THE COMPLETE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE PRODUCT AND SUPERCEDES ANY OTHER AGREEMENT, PROPOSAL, COMMUNICATION OR ADVERTISING, ORAL OR WRITTEN, SIGNED OR UNSIGNED, WITH RESPECT TO THE PRODUCT. To the extent there are any terms and conditions contained in Licensee's purchase order or other documentation supplied by Licensee such terms and conditions shall be deemed to be stricken and the terms and conditions of this Agreement shall govern.

9.3 For administrative convenience, Progress invoices may be issued by a local affiliate of Progress.

9.4 This Agreement has been drawn up in English at the express wish of the parties. Le présent contrat a été rédigé en anglais à la demande expresse des parties.

9.5 Except as otherwise expressly set forth herein, this Agreement is governed by the laws of the Commonwealth of Massachusetts, without regard to its choice of law principles, and without regard to the provisions of any state Uniform Computer Information Transactions Act or similar federal, state, local or foreign laws, regulations or conventions.

9.6 This Agreement may not be modified or amended except in a writing executed by both Progress and Licensee.
EXHIBIT B
LICENSE AGREEMENTS

9.7 Failure or delay on the part of Progress to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. A waiver of default shall not operate as a waiver of any other default or of the same type of default on future occasions.


9.9 If the Product is acquired outside the United States local law may apply.
EXHIBIT B
LICENSE AGREEMENTS

EXHIBIT A

TERM OF LICENSE:

Perpetual

APPLICABLE FEES:

Any applicable license fees or maintenance fees will be set forth in the Order
EXHIBIT B
LICENSE AGREEMENTS

EXHIBIT B

AFFILIATE USE. IF ANY:

None

ADDITIONAL TERMS. IF ANY:

User may utilize any unencrypted Advanced Business Language ("ABL") source code contained in the Product for any purpose. PSC makes no representations regarding the ABL source code with regard to its use outside of the Product, and shall have no responsibility for such outside use by User.

LICENSE MODELS AND DEFINITIONS:

The license model for the Product(s) purchased is set forth in the Order. The description of each Progress license model is set forth below.

For purposes of this Exhibit B, the following terms shall have the following definitions:

“Access Agent”: An Access Agent is a process that handles requests through use of the Product or through an application which accesses the Product.

“Client Device”: A Client Device is any input technology that allows the Licensee to access the Product, including but not limited to a workstation, a personal computer, a PDA device, a cellular phone, a laptop or other device that is operated by an individual.
EXHIBIT B
LICENSE AGREEMENTS

“Dedicated User”: A Dedicated User is a user that (1) can be identified and counted by the Licensee, (2) relies on the Product to fulfill his or her job responsibilities and (3) can access the Product via a secure website or application with restricted access.

“Non-Human Operated Device”: A Non-Human Operated Device is a device that is not operated by an individual including, but not limited to, a temperature device, a production line bar code scanner, or a tracking device.

“Platform”: A Platform is the specific combination of the hardware and the operating system, a change to either would constitute a platform change.

“Process” [formerly known as “Server Process”]: A Process is any automated process that is not initiated by a Client Device or a Non-Human Operated Device and includes, without limitation, automated controls and background jobs.

“Site”: A site is defined as a single building or campus of buildings.

Access Agent License: An Access Agent License grants Licensee the right to install and use the Product, or access and use an application which can access the Product by a user [or Non-Human Operated Device] so long as that user [or Non-Human Operated Device] (i) can not be uniquely identified and/or (ii) the user can only access the Product or the application for less than two hours a week. This Access Agent License should always be purchased in combination with a Concurrent, Named User and/or Registered Client License; except for environments where none of the users or the Non-Human Operated Devices that access the Product or an application that accesses the Product may be identified and/or access the Product or the application for two or more hours per week.

Concurrent Device License [formerly known as “Concurrent User License”]: A Concurrent Device License grants Licensee the right to install and use the Product, or access and use an application which can access the Product, on a single server and on a single Platform. A Concurrent Device may be a Client Device, a Non-Human Operated Device or a Process. The Licensee may have in use at any given time a maximum number of Concurrent Devices accessing the Product, or accessing an application which can access a Product, as purchased under the Concurrent Device License. In addition, under this model, a Licensee is required to license the Devices per server, so that there is an associated Concurrent Client Device license dedicated to
EXHIBIT B
LICENSE AGREEMENTS

each server that runs the Product including, without limitation, servers configured for disaster
recovery, load balancing, clustering, development, testing and reporting. For example, if
Licensee’s Concurrent Device License permits a maximum of 100 Concurrent Devices, and
Licensee directs 50 Devices to Server A and 50 Devices to Server B, Licensee would have to
purchase an additional 50 Concurrent Device License for Server B. A Concurrent Device
License may not be transferred from one server or one Platform to another.

CPU License: A CPU License grants Licensee the right to run the Product, or an application which can
access the Product, on a single core processing unit (“CPU”) on a single server and on a single Platform.
Each processor core of a multiple core processor in a server shall count as one (1) CPU. Additional CPU
License(s) are required for each CPU that runs the Product, including, without limitation, servers configured
for disaster recovery, load balancing, clustering, development, testing and reporting. A CPU License may
not be transferred from one CPU or one Platform to another.

Developer License: The Developer License limits Licensee’s access and use of the Product to
internal application development and support purposes only. If the license is for components of
the Product only, then such right is limited to such components. Licensee shall be further subject
to the license terms of the appropriate license model for the Product set forth in this Exhibit B. A
Developer License may not be transferred.

Disaster Recovery License: A Disaster Recovery License shall only be used by Licensee for the sole
purpose of application recovery in the event a system fails or crashes or the Product or database files become
corrupt. Licensee shall be further subject to the license terms of the appropriate license model for the
Product set forth in this Exhibit B. A Disaster Recovery License may be transferred from one server or CPU
to another with prior notice to Progress so long as such change is permitted by the underlying license model.
No Disaster Recovery license is required for a switch from a primary server to secondary server so long as
the primary server is permanently disabled. However a Disaster Recovery license is required for any other
temporary reassignment between the primary server and any other server. The foregoing transfer right shall
not affect the assignment prohibition set forth in Section 2.9 of this Agreement.

Evaluation License: An Evaluation License shall be used by Licensee for the sole purpose of
evaluation of the Product and may not be used for or in conjunction with the development or
deployment of the Product, which use shall require the purchase of a full license for the Product.
The Product is provided without warranty on an “as is” basis. Licensee shall be further subject
to the license terms of the appropriate license model for the Product set forth in this Exhibit B. An
Evaluation License may not be transferred.

Named User License: A Named User License grants Licensee the right to designate a specific user (a
“Named User”) to access and use the Product or access and use an application which can access the Product.
EXHIBIT B
LICENSE AGREEMENTS

Licensee must be able to identify and count each Named User. A Named User can be an individual, a Non-Human Operated Device or a Process. A Named User License is a multi-server license but the Product must be used on a single Platform. A Named User may not be designated concurrently on different computers or devices or shared by multiple users. A Named User does not have to be logged on to the Product to be counted as a Named User. A license right designation may be transferred from one user to another provided that the original user no longer requires and is no longer permitted access to the Product. The foregoing transfer right shall not affect the assignment prohibition set forth in Section 2.9 of this Agreement.

Registered Device License [formerly known as “Registered Client License”]: A Registered Device License grants Licensee the right to designate a specific device (a “Registered Device”) to access and use the Product or access and use an application which can access the Product. Licensee must be able to identify and count each Registered Device. A Registered Device may be a Client Device, a Non-Human Operated Device or a Process. The Registered Device License cannot be used to account for, and the Product may not be used by, Unknown Users. A Registered Device License is a multi-server license but the Product must be used on a single Platform and may not be used concurrently on different computers or devices or shared by multiple devices. A Registered Device does not have to be logged on to the Product to be counted as a Registered Device. A license right designation may be transferred from one device to another provided that the original device is no longer permitted access to the Product. The foregoing transfer right shall not affect the assignment prohibition set forth in Section 2.9 of the Agreement.

Server/Machine License: A Server or Machine License grants Licensee the right to install and use a Product on a single server and on a single Platform. Additional Server/Machine license(s) are required for each server that runs the Product including, without limitation, servers configured for disaster recovery, load balancing, clustering, development, testing and reporting. A Server or Machine License may not be transferred from one from server or Platform to another.

Server/Machine Unlimited User License: A Server or Machine Unlimited User License is no longer a valid license and Licensee is required to relicense under a current licensing model. Under the Server or Machine Unlimited User license a Licensee had the right to install and use a Product on a specific combination of machine/server, vendor operating system and site. If there is a change to any of these elements, the license is no longer valid and a new license needs to be purchased for the Product. Due to the specific grant of this license, a Server or Machine Unlimited User License may not be transferred from one server or Platform to another.

Testing and Staging License: A Testing and Staging License grants Licensee the right to use the Product for internal quality assurance testing purposes only and Licensee may not deploy the Product in a production environment. Licensee shall be further subject to the license terms of the appropriate license model for the Product set forth in this Exhibit B. A Testing and Staging License may not be transferred.
EXHIBIT B
LICENSE AGREEMENTS

THIRD PARTY TERMS AND RESTRICTIONS:

DataDirect Connect for JDBC

User may not modify the Java™ Platform Interface ("JPI", identified as classes contained within the "java" package or any subpackages of the "java" package), by creating additional classes within the JPI or otherwise causing the addition to or modification of the classes in the JPI. In the event that User creates an additional class and associated API(s) which (i) extends the functionality of the Java Platform, and (ii) is exposed to third party software developers for the purpose of developing additional software which invokes such additional API, User must promptly publish broadly an accurate specification for such API for free use by all developers. User may not create, or authorize User's licensees to create additional classes, interfaces, or subpackages that are in any way identified as "java", "javax", "sun" or similar convention as specified by Sun in any naming convention designation. Java software technology is not designed or intended for use in on-line control of aircraft, air traffic, aircraft navigation or aircraft communications; or in the design, construction, operation or maintenance of any nuclear facility. Licensee will not use or, if applicable, redistribute the Java software technology for such purposes. PSC AND ITS LICENSORS EXPRESSLY DISCLAIM ANY LIABILITIES, REPRESENTATIONS OR WARRANTIES (EITHER EXPRESS OR IMPLIED) FOR SUCH USE.

Products licensed for the Microsoft SQL Server database.

If the Product licensed to User includes a DataDirect driver for the Microsoft SQL Server database, then the following shall apply: The DataDirect driver contains a licensed implementation of the Microsoft TDS Protocol. User may only use the DataDirect driver to communicate data to and from Microsoft SQL Servers. Additionally, User must separately obtain from Microsoft or its channel partner any applicable Microsoft product licenses in order to use the DataDirect driver to communicate with Microsoft SQL Servers.

For Products that contain technology of RSA Security, Inc., the following provisions apply:

Licensee agrees not to remove, alter or destroy any proprietary, trademark or copyright notices placed upon or contained within the RSA software, user manuals or any related materials or documentation. Licensee acquires no rights of any kind in or to any RSA trademark, trade name, logo or product designation under which the RSA software was or is marketed and shall not make any use of the same for any reason.

DataDirect Connect for ODBC.

DataDirect has licensed, and has rights to sub-license certain third party software that is part of the ODBC SDK components and which is usable for certain non-Windows platforms – Mac OS, OS/2, HP-UX, AIX, Linux, Solaris, and other non-Windows operating systems. This section sets forth the conditions that govern User’s permitted use of the various non-Windows SDK components. User is not licensed to use the ODBC Core Components (hereinafter defined) other than with DataDirect Connect for ODBC drivers. Use of the ODBC Core Components with any ODBC drivers other than those licensed from DataDirect is expressly prohibited. User may not embed in any products, or otherwise sub-license the ODBC Core Components, without a separate license agreement. For the purposes hereof, the term “ODBC Core Components” shall mean the ODBC Driver Manager and support files for non-Windows operating systems. A separate license must be obtained from DataDirect if User wants to embed and sub-license the ODBC Header Files (hereinafter defined) with any software product. For the purposes hereof, the term “ODBC Header Files” shall mean the text files for compilation and development of software.

B-32
EXHIBIT B
LICENSE AGREEMENTS

If one or more of the Products contain any files including a notice stating that the contents of such files are subject to the terms and conditions of the FOSSENET Public License, such files, to the extent that they are supplied as part of the Products, shall be disregarded and this Agreement shall apply in relation thereto.

If the Product you license contains MSDN Sample Code, Licensee shall not redistribute the MS Samples.

The Product contains GNU Jcalendar, IBM Bean Scripting Framework and IBM Web Services Description Language for Java ("WSDL4J"), IBM Universal Description, Discovery and Integration for Java ("UDDI4J"), Eclipse, Eclipse Graphical Editor Framework (GEF) SDK, Eclipse Modeling Framework (EMF), Eclipse Web Standard Tools (WST), Java EMF Model (JEM) SDK, XSD Run-time, XSD Standalone, and SQL Explorer. Each of these third party technologies is licensed to PSC and User subject to the terms of a third party license, a copy of which is included with the Product in the installation directory. PSC will, at Licensee’s request, provide a copy of the source code for these third party technologies, including modifications, if any, made by PSC. PSC may charge reasonable shipping and handling charges for such distribution. Licensee may also obtain the source code for these third party technologies through www.msdn.com by following the instructions set forth therein. Notwithstanding anything to the contrary, to the extent that any of the terms and conditions of this Agreement conflict, vary or are in addition to the terms and conditions of the aforementioned third party licenses for these technologies, such terms and conditions are offered by PSC alone and not by any other party.
City Commission approval is requested to enter into an Agreement with Smith Dawson & Andrews, Inc. (SDA) in an amount not to exceed Three Hundred and Forty-Four Thousand Dollars ($344,000.00). Under the terms of the Agreement, SDA will serve as the City’s liaison with the Federal administration and the United States Congress. SDA will monitor legislative activities and keep the City informed of developing issues and/or funding opportunities that may affect the City of Dayton and the City’s airports and water resources and infrastructure.

The City issued an RFP in November of 2020 for federal advocacy services and received four responses. Two finalists were selected for Zoom interviews, conducted by the evaluation committee comprised of staff from the City Commission Office, Department of Procurement, Management & Budget, and Department of Aviation. It was a unanimous recommendation to continue the partnership with SDA given their subject matter expertise, knowledge of City priorities, and experience with the challenges and opportunities facing the city. Their ability to establish and maintain effective working relationships with the City organization, the Federal administration, and the United States Congress was also a strong contributing factor.

The Department of Law has reviewed and approved this Agreement as to form and correctness. The Agreement shall commence upon execution by the City of Dayton and expire on December 31, 2022.

A Certificate of Funds is attached, encumbering half of the approved amount, $172,000.00, for the first year of the initial two-year term.

City Manager's Report

Date February 3, 2021
Expense Type Service Agreement
Total Amount $344,000.00 (thru 12/31/22)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>10000-2720-1159-51</td>
<td>$206,400.00</td>
</tr>
<tr>
<td>Water Operating</td>
<td>53000-9970-1159-54</td>
<td>$68,800.00</td>
</tr>
<tr>
<td>DIA Airport Operations</td>
<td>51000-3210-1159-43</td>
<td>$68,800.00</td>
</tr>
</tbody>
</table>

Include Revenue to the City: Yes
Affirmative Action Program: Yes

Diane T. Shannon
City Manager

Form No. MS-16

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>X</th>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contract Start Date</td>
<td>02/03/21</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Expiration Date</td>
<td>12/31/22</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Original Commission Approval</td>
<td>$344,000.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Initial Encumbrance</td>
<td>$172,000.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Remaining Commission Approval</td>
<td>$172,000.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Original CT/CF</td>
<td>CT20-2165</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Increase Encumbrance</td>
<td>$</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Decrease Encumbrance</td>
<td>$</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Required Documentation

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

<table>
<thead>
<tr>
<th>Amount:</th>
<th>$103,200.00</th>
<th>Amount:</th>
<th>$34,400.00</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fund</td>
<td>Org</td>
<td>Acct</td>
</tr>
<tr>
<td></td>
<td>52800 - 3210 - 1159 - 43 - XXXX - XXXX</td>
<td>Fund</td>
<td>XXXX - XXXX - XXXX - XXXX</td>
</tr>
<tr>
<td></td>
<td>Fund</td>
<td>Org</td>
<td>Acct</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: Smith Dawson & Andrews, Inc.
Vendor Address: 1150 Connecticut Avenue NW Suite 730, Washington, DC 20036
Federal ID: 52-1239943
Commodity Code: 96100
Purpose: To provide professional consulting services related to federal legislative advocacy and monitoring, as well as policy and public affairs guidance.

Contact Person: Monica Jones
PMB: 1/26/2021

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.

Gilbert Turner (Jan 28, 2021 12:32 EST) 1/28/2021

Finance Director Signature: [Signature]
Date: 1/28/2021
CF/CT Number: CT21-2920
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT FOR SERVICES is entered into this ___ day of __________, 2021, between the CITY OF DAYTON, OHIO, a political subdivision of the State of Ohio, (“City”) and SMITH DAWSON & ANDREWS, INC., a corporation with offices at 1150 Connecticut Avenue NW, Suite 730 Washington, DC 20036 authorized to conduct business in the State of Ohio (“Company”).

WITNESSETH THAT:

WHEREAS, Company, in its capacity to offer strategic planning, public policy and government relations at the Federal level, beneficial to the delivery of necessary public service and governance functions of local government, can serve as a liaison to the United States Congress, the Administration and all Federal Agencies; and,

WHEREAS, Company, as a liaison, can assist the City in implementing identifiable projects, strategic communications, issues management; and,

WHEREAS, Company, as a liaison, is also able to provide the City with information on a broad range of federal activities, funding opportunities and other issues of interest to the City; and,

WHEREAS, The City desires to retain Company as its liaison under the terms and conditions set forth in this Agreement.

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

ARTICLE I WORK PROGRAM

Company shall perform the services specified in Exhibit A, titled WORK PROGRAM 2021, which is attached hereto and incorporated herein.

ARTICLE II COMPENSATION

A. Payment of Services.

For the Initial Term (as defined below), the payment for Company’s services performed in accordance with Article I shall not exceed the sum of THREE HUNDRED AND FORTY-FOUR THOUSAND DOLLARS AND ZERO CENTS ($344,000.00), which is payable in monthly installments of THIRTEEN THOUSAND DOLLARS AND ZERO CENTS ($13,500.00). Company shall submit a monthly invoice for each installment payment. The City will tender the monthly payment within thirty (30) days of the City’s receipt of the monthly invoice. Company shall include a monthly activity and progress report with each invoice.
B. Reimbursable Expenses.

In addition to the aforementioned fixed monthly installment payments, the City shall reimburse Company for reasonable expenses incurred in the performance of this Agreement, which are approved, in advance, by the City prior to such expenditure. Reimbursable expenses to be paid by the City to Company shall not exceed the sum of Ten Thousand Dollars and Zero Cents ($10,000.00) annually. Reasonable expenses that may be eligible for reimbursement includes, but is not limited to: meals, refreshments, and logistics for meetings and briefings. Reasonable expenses, however, shall not include and the City shall not reimburse the costs and expenses related to Company’s normal day-to-day operations or cost of alcoholic beverages.

The City’s City Manager and/or Director of Aviation and/or Director of Water are the only persons authorized to approve Company’s reimbursable expenses. It is agreed and understood that in no event shall Company have any entitlement to reimbursement for expenses which are not approved in advance by the City. Company shall include any City-approved reasonable expenses with its monthly invoice and shall submit supporting documentation for all costs and expenses to be reimbursed.

ARTICLE III TERM AND TERMINATION

This Agreement shall commence on the Effective Date and expire on December 31, 2022, unless earlier terminated or amended (“Initial Term”). The City and Company shall have the option to renew, at the end of each term, for three (3) additional one (1) year terms, provided such renewal is agreed to in writing and approved by the Commission of the City of Dayton if necessary (collectively, “Renewal Terms” and singularly defined as a “Renewal Term”). Either party may terminate this Agreement, at any time, by giving the other party sixty (60) days prior written notice.

ARTICLE IV INDEPENDENT CONTRACTOR

By executing this Agreement the Company acknowledges and agrees that Company will be providing services to the City as an “independent contractor”. As an independent contractor for the City, Company shall be prohibited from representing or allowing other to construe the parties’ relationship in a manner inconsistent with this Article. Company 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.

Company understand and agreed that Company is not a “public employee” for the purpose of OPERS membership. Company further understands and agrees that Company is not a City employee, nor are any Company’s employees, agents and contractors, and therefore, none shall be entitled to, nor will any make a claim for, any of the emoluments of employment with the City. Further, Company shall be solely responsible to withhold and pay all applicable local, state, and federal taxes.
ARTICLE V INDEMNIFICATION

To the fullest extent permitted by law, Company shall defend, indemnify and hold harmless the City, its officials, officers, employees, and agents, in both individual and official capacities, from and against all claims, damages, losses, and expenses, direct, indirect or consequential arising out of or resulting from this Agreement or work performed under this Agreement. In the event of any such injury, including death, or loss or damage, or claims therefore, Company shall give prompt notice thereof to the City. This provision is intended to be, and shall be construed, as consistent with, and not in conflict with Ohio Revised Code Section 2305.31, to the fullest extent permitted.

ARTICLE VI GENERAL PROVISIONS

A. Notices.

Any written communications or notice required or permitted under 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 and addressed to the parties at the respective addresses set forth in this Agreement. Notices will be deemed as given as of the earlier of (1) the date of the actual receipt, (2) the next business day when notice is sent via express mail or personal delivery, or (3) three (3) days after mailing in the case of first class or certified mail. Such communications and notices shall be delivered or sent to the respective party at the following address:

Company:
Smith Dawson & Andrews, Inc.
1150 Connecticut Ave, Suite 730
Washington, D.C. 20036
Attention: Mr. Jim Smith

City:
City of Dayton, Ohio
Department of Procurement, Management, and Budget
101 West Third Street
Dayton, Ohio 45402
Attention: Ms. Monica Jones

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

B. Governing Law and Venue.

This Agreement is governed by the laws of the State of Ohio, without giving effect to its choice of law provisions or principles. By execution hereof, Company hereby irrevocably consents to the original jurisdiction of the courts in Montgomery County, Ohio for any matter, issue or controversy arising out of this Agreement or performance hereof.

C. Waiver.

A waiver by either the City or Company of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party’s rights with respect to any other or further breach.

D. **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 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 held to be void. 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. In the event that a provision which is of the essence of the Agreement is determined to be void, the Agreement shall be void.

E. **Integration.**

This Agreement represents the entire and integrated agreement between City and Company. It supersedes all prior and contemporaneous communications, representation, and agreements, whether oral or written, related to the subject matter of this Agreement.

F. **Amendment.**

The City or Company may amend or modify this Agreement, at any time, provided that such amendment or modification makes specific reference to this Agreement and is reduced to writing, signed by a duly authorized representative of each party, and, if required or applicable, approved by the Commission of the City of Dayton.

G. **Assignment and Subcontracting.**

Company 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 Company from any obligation under this Agreement.

Because the City is relying upon the professional skill and experience of Company, no part of the services to be provided hereunder may be subcontracted by Company to other organizations or subcontractors without the prior written and express consent of the City.

H. **Non-Discrimination.**

Company 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 on compensation, or selection for training, including leadership.
It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances (R.C.G.O.) of the City of Dayton, Ohio, constitutes a material condition of this Agreement as fully as if specifically rewritten herein and that failure of Company to comply therewith shall constitute a breach of this Agreement entitling the City, at its option, to terminate this Agreement.

I. Miscellaneous.

1. The titles of the various sections of this Agreement are solely for convenience and are not part of the Agreement for purposes of interpreting the provisions hereof.

2. Unless specified, the terms “herein,” “hereunder,” “herewith,” and words of similar import refer to this entire Agreement; the singular includes the plural, and conversely.

3. Company shall comply with Title II, United States Code, Section 261 et seq., as may be amended, and any and all other applicable statutes, orders and/or regulations pertaining to governmental representation or campaign activities. It is specifically agreed that Company shall defend, indemnify and hold harmless the City, its elected officials, officers, agents and employees from and against any and all claims, actions, and expenses related to or arising out of Company’s failure to comply with all laws, orders and/or regulations pertaining to governmental representation and/or campaign activities.

4. It is agreed that Company is not required to directly or indirectly participate or intervene in any political campaign on behalf of or in opposition to any political candidate for public office be it local, state or federal.

5. The parties agree that component parts of the “WORK PROGRAM 2021” are not exclusive and Company agrees to monitor and report on other issues of importance to the City, as deemed appropriate by either party to this Agreement.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**
J. Political Contributions.

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

IN WITNESS WHEREOF, City and Company, each by a duly authorized representative, have executed this Agreement as of the date below.

THE CITY OF DAYTON, OHIO

______________________________
City Manager

Date: _________________________

APPROVED AS TO FORM
AND CORRECTNESS:

1/28/2021

X Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

SMITH DAWSON & ANDREWS, INC.

By: _________________________

Its: js

Date: 01/28/2021

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

______________________________, 2021

Min./Bk. ____________ Pg. _______

Clerk of the Commission
EXHIBIT A – WORK PROGRAM 2021
SMITH DAWSON & ANDREWS shall provide the services and implement the activities for the City of Dayton as specified hereinafter during the calendar year 2021.

1. LIAISON WITH THE NEW BIDEN ADMINISTRATION AND THE 117TH CONGRESS
   Proposed activities include, but are not limited to:
   - Work with the Biden Administration and the 117th Congress to identify funding opportunities for City of Dayton priority projects. The priority projects listed below are of particular interest to the City of Dayton.
     - COVID-19 Related Legislation and additional CARES Act funding
     - Increased Coronavirus related funding for State & Local governments
     - Regional priorities process for federal funds
     - Affordable housing, housing demolition funding, and homelessness issues
     - Regional infrastructure issues
     - Federal policing reform programs and funding
     - Dayton International Airport (DAY) and Dayton-Wright Brothers Airport (MGY) Capital Project Funding
     - Brownfield redevelopment
     - Waterfront Development infrastructure
     - Green development opportunities
     - Opportunity Zones & Funds
     - Regulatory and other related issues specific to the Water Department that will assist with clean water and drinking water efforts and infrastructure investments
       o Efforts may include working on funding that can mitigate PFAS/PFOS contamination
     - Education programs including preschool and K-12
   - Work with the 117th Congress to determine impacts of policy and legislative initiatives on the City.
   - Work with the Administration to provide an opportunity for the City to gain input into the development of key agency initiatives.

2. INFLUENCE THE DEVELOPMENT AND IMPLEMENTATION OF TRANSPORTATION AND AVIATION LEGISLATION, POLICIES AND INITIATIVES; AND PROTECT AND ADVOCATE ON BEHALF OF THE CITY’S JAMES M. COX DAYTON INTERNATIONAL AIRPORT AND DAYTON-WRIGHT BROTHERS AIRPORT
   Proposed activities include, but are not limited to:
   - Work with Congress and the Administration on Infrastructure legislation and reauthorization of the FAST Act in 2021.
   - Work with the Congressional Delegation to protect appropriations for the Airport Improvement Program (AIP) and the Air Cargo Entitlement Program.
   - Identify additional federal discretionary funding opportunities for high priority aviation-related projects as identified by the City.
   - Prevent Congress from imposing restrictions on the City’s authority, as owner and operator of the Airport, to establish appropriate fees and operational guidelines.
   - Work with the City to secure broad Congressional support for the City’s James M. Cox Dayton International Airport’s and Dayton-Wright Brothers Airport’s renovation,
modernization and expansion efforts, monitor Homeland Security-funded or fundable projects, and submit project requests appropriate to funding.

● Work with the City of Dayton to educate and secure Congressional support to help maintain existing Air Service at DAY and the creation of Air Service to new markets.

3. MONITOR AND KEEP CITY APPRAISED OF DEVELOPMENTS ON ISSUES AFFECTING ITS ABILITY TO GOVERN AND PROVIDE SERVICES TO ITS CITIZENS AND STAKEHOLDERS

Housing, Community and Economic Development

● Liaison with the Department of Housing and Urban Development (“HUD”), Economic Development Administration (“EDA”) and Department of Commerce (“DOC”), and other agencies.

● Identify grant opportunities to support local economic development efforts.

● Work with CityWide on potential economic development efforts that may benefit the City such as through the New Markets Tax Credit.

● Work to achieve successful implementation of the City’s Community Development Block Grant and HOME programs.

● Monitor Congressional efforts to reauthorize the CDBG program, and work to protect City’s interests under potential formula and eligibility changes.

● Identify and advocate for funding related to demolition.

Environmental, Parks, and Open Space

● Liaison with the Environmental Protection Agency (“EPA”), the National Park Services (“NPS”), and other agencies.

● Assist City in applying for future rounds of brownfield redevelopment grants.

● Coordinate with Congress, EPA, DoD and HHS on PFAS/PFOS issues impacting the City.

● Work with Congress and the EPA to address issues related to water services including but not limited to water, storm water, and wastewater.

● Work with community partners to include Wright Co. buildings One and Two in the Dayton Aviation Heritage National Historical Park.

Dayton City Budget

● Monitor legislation and regulations that could affect the City’s budget, including but not limited to, changes in the minimum wage including living wage, health insurance requirements for public employees, additional environmental requirements, and postal service rate increases, etc..

● Monitor the development of health care legislation.

● Work with the City to monitor the costs associated with increased Homeland Security efforts and requirements, and work with the Congressional delegation to secure Federal funding to assist the City in paying for additional public safety and security needs.

National Defense

● Liaison with the Department of Defense (“DOD”).
• Monitor any action being considered which would impact the future of Wright Patterson Air Force Base (“WPAFB”) as a central acquisition and scientific research center for the DOD.

Veterans Affairs
• Liaison with the Department of Veterans Affairs (“DVA”).
• Work with community partners to bring the National VA archives to the Dayton VA.

4. ASSIST IN SECURING LEADERSHIP POSITIONS AND OPPORTUNITIES FOR DAYTON COMMISSIONERS; ASSIST IN PROMOTION OF THE CITY.

Proposed activities include, but are not limited to:
• Provide assistance to the City Commission members and representatives to participate in national forums and workshops, including but not limited to events sponsored by the U.S. Conference of Mayors and the National League of Cities.
• Assist in securing leadership positions for the City’s Commission members within organizations such as the National League of Cities and U.S. Conference of Mayors.
• Identify national forums and other public speaking opportunities for City Commission members and staff to promote the City of Dayton.

GENERAL SERVICES TO BE PROVIDED:

1. AVAILABILITY OF SMITH DAWSON & ANDREWS’ STAFF
SMITH DAWSON & ANDREWS’ staff will confer with the Members of the Commission of the City of Dayton and such other City personnel, as may be designated in writing by the City Manager.
SMITH DAWSON & ANDREWS’ staff agrees to meet at such times and places as may mutually be agreed upon by and between SMITH DAWSON & ANDREWS’ staff and either the City’s Mayor, Commissioners, or City Manager.

2. FEDERAL GRANT ASSISTANCE
SMITH DAWSON & ANDREWS will:
• Refer federal executive proposals, proposed and adopted federal administrative rules and regulations, and federal legislation which SMITH DAWSON & ANDREWS’ staff deems advisable.
• Advise the City of any federal items or programs, which the SMITH DAWSON & ANDREWS’ staff deems may have a bearing on the City’s federal grant policies and/or programs.
• Furnish such detailed information as may be available on federal grant programs in which the City indicates an interest or in which the SMITH DAWSON & ANDREWS’ staff believes the City may be interested.
• Assist in drafting, reviewing and commenting on federal grant proposals of the City, which are being prepared for submission to the appropriate federal agencies.
• Assist in drafting, reviewing and commenting on federal correspondence of the City, which are being prepared for submission to the appropriate legislators or federal agencies.

3. LIAISON WITH CONGRESSIONAL DELEGATION AND FEDERAL AGENCIES
SMITH DAWSON & ANDREWS agrees to:

- Actively maintain liaison with the congressional delegation of Dayton, Ohio and to assist the delegation in any matter, which the City determines to be in its best interest.
- Confer with the City’s personnel relative to appearances by City staff before congressional Committees or administrative agencies, and to arrange for appointments and accommodations for same as necessary.
- Contact federal agencies on the City’s behalf when its federal grant applications are under consideration by such agencies and to otherwise take whatever steps appear to said staff as necessary to obtain the most favorable consideration of such applications.

4. REPORTS
SMITH DAWSON & ANDREWS agrees to keep the City’s Mayor, Commissioners, and City Manager constantly advised as to its activities conducted pursuant to this Agreement, and to submit progress reports at least monthly in writing to the designated contact person. Said progress reports will address individual actions taken to achieve the Work Program, specifically those action items identified herein at subsections one (1) through three (3) above, and will include, but not be limited to, specific steps taken, such as meetings held, legislation passed, grants awarded, etc.
SMITH DAWSON & ANDREWS will submit a preliminary implementation plan for the City’s Washington office within forty-five (45) days after execution of this Agreement, which outlines the planned and anticipated activities to be undertaken to help achieve the objectives of the office, with the understanding that these activities and objectives may evolve over the course of the contract period due to changing priorities and strategies within the Congress and federal agencies.
Within forty-five (45) days after Congress adjourns, SMITH DAWSON & ANDREWS will submit a report to the City summarizing its activities and the result of its accomplishments in addition to activities associated with federal agencies.

ADMINISTRATIVE ARRANGEMENTS:
1. STAFFING
SMITH DAWSON & ANDREWS agrees that immediately after the execution of this Agreement, it will assign Jim Smith to manage and administer SMITH DAWSON & ANDREWS responsibilities under the terms of this Agreement.
Jim Smith will provide supervision of the SMITH DAWSON & ANDREWS staff as he deems necessary, as requested by the City, and as previously specified. SMITH DAWSON & ANDREWS shall furnish necessary office space, utilities, furnishings and equipment, secretarial services, common use office supplies and services, general administrative support and consultation with such federal officers, agencies and bodies as deemed needed by SMITH DAWSON & ANDREWS’ staff for the proper implementation of the intent of this Agreement and for the proper prosecution for the Work Program outlined herein.
SMITH DAWSON & ANDREWS agrees to subcontract with Paul DiNino of DiNino Associates, LLC for additional services at no additional cost to the City of Dayton.
City Manager’s Report

Date: February 3, 2021

Expense Type: Award of Contract

Total Amount: $211,000.00 (thru 12/31/21)

From: 2320 - Planning & CD/Housing Inspection
Supplier, Vendor, Company, Individual: Badger Construction Company
Address: 51 Stockett Road, Morgantown, West Virginia 26508

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demolition Special Projects</td>
<td>16022-2320-1174-32</td>
<td>$211,000.00</td>
</tr>
</tbody>
</table>

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

NUISANCE ABATEMENT PROGRAM
RESIDENTIAL DEMOLITION III – 2020
(10% SBE and 10% MBE PARTICIPATION GOAL/10% SBE and 10% MBE PARTICIPATION ACHIEVED)

The Contractor will supply all materials, tools and personnel for the demolition and disposal of approximately 10 residential structures and all associated building material and incidentals thereto. All properties listed below are fire damaged or emergency demolition piles with debris to be disposed of as asbestos-containing material. The contract work includes all demolition activities, excavation, back-fill, site grading, landscaping, and seeding. The properties to be removed are: 324 Savannah Ave., 845 Kumler Ave., 1955-57 W. Grand Ave., 46 S. Garfield St., 71 S. Garfield St., 1325 Xenia Ave., 20 S. Jersey St., 1321 Schaeffer St., 25 N. McGee St., 252 Hock St. and 21 Crown Ave.

Four bids were received for this project. It is recommended that the contract be awarded to the lowest bidder, Badger Construction Company, in the amount of $211,000.00, $206,000.00 base bid and $5,000.00 Alternate 1 Contingency Allowance. The estimated cost for the project was $307,000.00. The time bid for completion is 100 working days.

A Certificate of Funds, Tabulation of Bids, Human Relations Council’s verification letter, and the Bid Form from the firm recommended for award are attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 10/2019
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>
<th>CHANGE ORDER</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contract Start Date</td>
<td>Expiration Date</td>
<td>December 31, 2021</td>
</tr>
<tr>
<td></td>
<td>Original Commission Approval</td>
<td>$</td>
<td>211,000.00</td>
</tr>
<tr>
<td></td>
<td>Initial Encumbrance</td>
<td>$</td>
<td>211,000.00</td>
</tr>
<tr>
<td></td>
<td>Remainder Commission Approval</td>
<td>$</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Original CT/CF</td>
<td>$</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Increase Encumbrance</td>
<td>$</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Decrease Encumbrance</td>
<td>$</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Remaining Commission Approval</td>
<td>$</td>
<td>-</td>
</tr>
</tbody>
</table>

Amount: $ 211,000.00

<table>
<thead>
<tr>
<th>Fund</th>
<th>Org</th>
<th>Acct</th>
<th>Prog</th>
<th>Act</th>
<th>Loc</th>
</tr>
</thead>
<tbody>
<tr>
<td>16022</td>
<td>2320</td>
<td>1174</td>
<td>32</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Required Documentation:
- X Initial City Manager's Report
- X Initial Certificate of Funds
- X Initial Agreement/Contract
- Copy of City Manager's Report
- Copy of Original Certificate of Funds

Vendor Name: Badger Construction Co. 304-685-2016
Vendor Address: 51 Stockett Rd Morgantown, W.V. 26508
Federal ID: 55-0637084
Commodity Code: 96832
Purpose: Nuisance Abatement Program Residential Demolition III - 2020
(10% SBE and 10% MBE Participation Goal)

Contact Person: Ariane Cook

PCD/Hsg Conserv
Department/Division

333-3910
Phone Number

Originating Department Director’s Signature: [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: [Signature] Date: 1/15/2021

Date: 1/15/21

CF/CT Number: CT21-2917

October 18, 2011
CF Demo Resident III 2020
Final Audit Report

Created: 2021-01-15
By: Miranda Brooks (miranda.brooks@daytonohio.gov)
Status: Signed
Transaction ID: CBJCHBAAAA9WiS71BzaUGW4TIQq3K6OAWW0X0bP8WR

"CF Demo Resident III 2020" History

Document created by Miranda Brooks (miranda.brooks@daytonohio.gov)
2021-01-15 - 2:47:58 PM GMT - IP address: 75.186.30.18

Document emailed to Todd M. Kinskey (todd.kinskey@daytonohio.gov) for signature
2021-01-15 - 2:48:15 PM GMT

Email viewed by Todd M. Kinskey (todd.kinskey@daytonohio.gov)
2021-01-15 - 2:50:45 PM GMT - IP address: 74.83.54.61

Document e-signed by Todd M. Kinskey (todd.kinskey@daytonohio.gov)
Signature Date: 2021-01-15 - 2:51:29 PM GMT - Time Source: server- IP address: 74.83.54.61

Agreement completed.
2021-01-15 - 2:51:29 PM GMT
<table>
<thead>
<tr>
<th>Bidders</th>
<th>Actual Amount Of Base Bid</th>
<th>Adjustment For Work Days</th>
<th>Adjustment For Comparison Purposes Only</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Badger Construction Company</strong></td>
<td>$206,000.00</td>
<td>-0-</td>
<td>$206,000.00</td>
</tr>
<tr>
<td>Bladecutters Inc.</td>
<td>$220,300.00</td>
<td>-0-</td>
<td>$220,300.00</td>
</tr>
<tr>
<td>Roxanna Clearing and Demo</td>
<td>$271,926.00</td>
<td>-0-</td>
<td>$271,926.00</td>
</tr>
</tbody>
</table>

*Awarded

Revised 9/14/98
December 18, 2020

TO: Don Long, Interim Division Manager
Division of Housing Inspection
Department of Planning & Community Development

FROM: Chrisondra Goodwine, Contract Compliance Officer
Human Relations Council (HRC)

SUBJECT: Nuisance Abatement Program, Residential Demolition III – 2020
(10% SBE & 10% MBE)

The apparent low bidder, Badger Construction Co., submitted a bid utilizing one (1) PEP certified contractor to meet the project’s participation goal. The HRC’s contract compliance analysis has verified that Badger Construction Co. is an approved bidder in the City of Dayton’s Affirmative Action Assurance program and that the company’s authorized representative signed the Contractor’s Certification to indicate fair hiring practices.

The recommended company to receive the above-mentioned construction award is as follows:

<table>
<thead>
<tr>
<th>PRIME CONTRACTOR</th>
<th>AMOUNT OF BASE BID +</th>
</tr>
</thead>
<tbody>
<tr>
<td>Badger Construction Co.</td>
<td>$164,999.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CERTIFIED BUSINESS PARTICIPATION</th>
<th>COMMITTED DOLLAR AMT</th>
<th>% TOWARD GOAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kes Harris Trucking LLC</td>
<td>$20,600.00</td>
<td>10% MBE</td>
</tr>
<tr>
<td>Kes Harris Trucking LLC</td>
<td>$20,600.00</td>
<td>10% SBE</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TOTAL COMMITTED PARTICIPATION</th>
<th>10% MBE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10% SBE</td>
</tr>
</tbody>
</table>

The attached participation forms should be included with the contract agreement. Contract compliance will include meeting verified participation and minimal worker utilization goals as stated in the Affirmative Action Program Equal Employment Opportunity form certified in the bid submission. If you have any questions or concerns, please feel free to contact me at (937) 333-1405.

CAG
**PEP-CERTIFIED SBE / MBE / WBE / DLSB (CIRCLE ONE) PARTICIPATION FORM**

**Instructions for Bidders / Proposers:** Submit one executed copy of this form for each Procurement Enhancement Plan (PEP) Certified Firm whose participation you plan to count toward the project or contract's participation goal(s). This form must be included with your Bid. To split a PEP-Certified Firm's participation among more than one goal, submit a separate form for each goal (i.e., SBE, MBE, WBE, or DLSB).

**SECTION A: BIDDER/PROPOSER INFORMATION**

Name of Bidder / Proposer's Firm: **Bridge Constr. Co.**

Address: 51 Stockett Rd.

City: Morgantown

State: WV

Zip: 26508

Telephone: 304-685-2016

Email: PSASSITE@MOL.COM

Primes Base Bid: $200,000

Name of Project: **Nurse-Facility Abatement Program**

Res. Demo III 2020

**SECTION B: BUSINESS AFFILIATION INFORMATION**

Name of PEP-Certified Firm: **Kees Harris Trucking, LLC**

PEP-Certified Firm's Tax ID#: 31-1703925

Scope of Work to Be Performed by Certified Firm: **Truck Hauling Disposal**

<table>
<thead>
<tr>
<th>Total Dollar Amount Towards Goal</th>
<th>Percentage Towards Goal</th>
<th>Amount to Be Paid to This PEP Firm for the Work Described:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Bid $206,000</td>
<td>% 10</td>
<td>$ 20,600</td>
</tr>
<tr>
<td>Materials $0</td>
<td>% 0</td>
<td>$ 0</td>
</tr>
<tr>
<td>Labor $206,000</td>
<td>% 10</td>
<td>$ 20,600</td>
</tr>
</tbody>
</table>

**SECTION C: AFFIRMATION**

The above-named Bidder / Proposer affirms, under penalty of perjury, that it has negotiated in good faith with the above-named PEP-Certified Firm and will utilize the above-named PEP-Certified Firm for the type(s) of work and for the dollar amount(s) described above.

**Signature of Bidder/Proposer's Authorized Agent:**

[Signature]

[Printed Name of Bidder/Proposer's Authorized Agent]

**Date:** 12/3/20

**Office Manager**

[Signature of PEP-Certified Firm's Authorized Agent]

**Date:** 7/22/2020

The above-named PEP-Certified Firm affirms, under penalty of perjury, that it has negotiated in good faith with the above-named Bidder / Proposer and that it will perform, and is certified to perform, the type(s) of work described above for the dollar amount(s) described above.

[Signature of PEP-Certified Firm's Authorized Agent]

**Kees Harris**

[Printed Name of PEP-Certified Firm's Authorized Agent]

**Date:** 7/22/2020

**IF THE BIDDER/OFFEROR IS NOTAWARDED A CONTRACT OR IF THE HRD DOES NOT APPROVE OF THE TERMS AS STATED ABOVE, THEN ANY AND ALL REPRESENTATIONS ON THIS PARTICIPATION FORM SHALL BE NULL AND VOID.**
PEP-CERTIFIED SBE / MBE / WBE / DLSE (CIRCLE ONE) PARTICIPATION FORM

INSTRUCTIONS FOR BIDDERS / PROPOSERS: Submit one executed copy of this form for each Procurement Enhancement Plan (PEP)-Certified Firm whose participation you plan to count toward the project/contract's participation goal(s). This form must be included with your Bid. To split a PEP-Certified Firm's participation among more than one goal, submit a separate form for each goal (i.e., SBE, MBE, WBE, or DLSE).

SECTION 1: BIDDER / PROPOSER INFORMATION

Name of Bidder / Proposer's Firm: Badger Const. Co.
Address: 51 Stockett Rd.
City: Morgantown
State: WV
ZIP: 26508
Telephone: 304-685-2016
Email: PSA55IFG@AOL.COM
Prime Base Bid $706,000
Name of Project: Non Source Abatement Program Res Dim 2020

SECTION 2: PEP CERTIFIED BUSINESS PARTICIPATION INFORMATION

Name of PEP-Certified Firm: Kes Harris Trucking, LLC
PEP-Certified Firm's Tax ID#: 31-1703925
Scope of Work to Be Performed by Certified Firm: Trucking, Disposal

<table>
<thead>
<tr>
<th>Total Dollar Amount Towards Goal</th>
<th>Percentage Towards Goal</th>
<th>Amount to Be Paid to This PEP Firm for the Work Described</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Bid $706,000</td>
<td>% 10</td>
<td>$10,000</td>
</tr>
<tr>
<td>Materials $0</td>
<td>% 0</td>
<td>$0</td>
</tr>
<tr>
<td>Labor $206,000</td>
<td>% 10</td>
<td>$20,600</td>
</tr>
</tbody>
</table>

SECTION 3: AFFIRMATIONS

The above-named Bidder / Proposer affirms, under penalty of perjury, that it has negotiated in good faith with the above-named PEP-Certified Firm and will utilize the above-named PEP-Certified Firm for the type(s) of work and for the dollar amount(s) described above.

(Signature of Bidder/Proposer's Authorized Agent)

Jeff Assif

(Printed Name of Bidder/Proposer's Authorized Agent)

President 12/3/20

(The Title of Bidder/Proposer's Authorized Agent) (Date)

The above-named PEP-Certified Firm affirms, under penalty of perjury, that it has negotiated in good faith with the above-named Bidder / Proposer and that it will perform, and is certified to perform, the type(s) of work described above for the dollar amount(s) as stated above.

(Signature of PEP-Certified Firm's Authorized Agent)

Keshea Harris

(Printed Name of PEP-Certified Firm's Authorized Agent)

Office Manager 7/22/2020

(The Title of PEP-Certified Firm's Authorized Agent) (Date)

IF THE BIDDER/OFFEROR IS NOT AWAVERED A CONTRACT, OR IF THE HRC DOES NOT APPROVE OF THE TERMS AS STATED ABOVE, THEN ANY AND ALL REPRESENTATIONS ON THIS PARTICIPATION FORM SHALL BE NULL AND VOID.
CITY OF DAYTON, OHIO
DEPARTMENT OF PUBLIC WORKS

Bid
Nuisance Abatement Program
RESIDENTIAL DEMOLITION III-2020
City of Dayton
10% SBE
10% MBE Participation Goal
DECEMBER 03, 2020 @ 12 noon

Bidder
BADGER CONSTR. COMPANY
51 StockeH Road
Morgantown, WV 26508
<table>
<thead>
<tr>
<th>Item Code</th>
<th>Item Description</th>
<th>UnitM</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Extension</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>324 Savannah Ave. R72 13204 0002 LOT 48165 PT</td>
<td>LUMP</td>
<td>1</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>2</td>
<td>845 Kumler Ave. R72 07708 0057 LOT 39876</td>
<td>LUMP</td>
<td>1</td>
<td>$13,000.00</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>3</td>
<td>1955-57 W Grand Ave. R72 07904 0014 LOT 35500</td>
<td>LUMP</td>
<td>1</td>
<td>$23,000.00</td>
<td>$23,000.00</td>
</tr>
<tr>
<td>4</td>
<td>46 S Garfield St. R72 02204 0095 LOT 11318</td>
<td>LUMP</td>
<td>1</td>
<td>$13,000.00</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>5</td>
<td>71 S Garfield St. R72 02204 0061 LOT 11119</td>
<td>LUMP</td>
<td>1</td>
<td>$18,000.00</td>
<td>$18,000.00</td>
</tr>
<tr>
<td>6</td>
<td>1325 Xenia Ave. R72 02306 0013 LOT 14480 PT</td>
<td>LUMP</td>
<td>1</td>
<td>$28,000.00</td>
<td>$28,000.00</td>
</tr>
<tr>
<td>7</td>
<td>20 S Jersey St. R72 04610 0028 LOT 17668</td>
<td>LUMP</td>
<td>1</td>
<td>$18,000.00</td>
<td>$18,000.00</td>
</tr>
<tr>
<td>8</td>
<td>1321 Schaeffer St. R72 05204 0074 LOT 23128</td>
<td>LUMP</td>
<td>1</td>
<td>$11,000.00</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>9</td>
<td>25 N Mc Gee St. R72 04604 0063 LOT 15707-08 PTS</td>
<td>LUMP</td>
<td>1</td>
<td>$28,000.00</td>
<td>$28,000.00</td>
</tr>
<tr>
<td>10</td>
<td>252 Hoch St. R72 02004 0036 LOT 1799-1800 PTS</td>
<td>LUMP</td>
<td>1</td>
<td>$33,000.00</td>
<td>$33,000.00</td>
</tr>
<tr>
<td>11</td>
<td>21 Crown Ave. R72 15503 0077 LOT 64366-64367PT</td>
<td>LUMP</td>
<td>1</td>
<td>$13,000.00</td>
<td>$13,000.00</td>
</tr>
<tr>
<td></td>
<td><strong>Alternate No. 1 Contingency Allowance</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$5,000.00</strong></td>
</tr>
<tr>
<td>12</td>
<td>Contingency Allowance ($5,000)</td>
<td>LUMP</td>
<td>1</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td></td>
<td><strong>Base Bid Total:</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$206,000.00</strong></td>
</tr>
</tbody>
</table>
DISCLOSURE OF LITIGATION

Disclosure of Litigation: Have you or any person, group, partnership, company, or corporation affiliated with you been engaged in the past three (3) years in litigation, mediation or any form of contractual dispute resolution with any state government or any political subdivision thereof including, without limitation, the State of Ohio, the City of Dayton, Ohio, or Montgomery County, Ohio? For the purpose of your response, “affiliated” means directly or indirectly controlling, controlled by, or under common control, with “control” meaning legally or operationally in a position to exercise restraint or direction over the other.

RESPONSE: YES ☐ NO ☑

If your response is “YES” please separately identify each lawsuit, mediation or dispute resolution process in which you or your affiliate have been engaged during the past three (3) years. Identify the nature of the dispute, the parties involved, and the current status of the dispute. Attach or include any information you believe pertinent to a full understanding of the disputed matters.
Bidder is
An Individual
Firm Name

Business Address

Telephone

Partnership
Firm Name

Members of Firm and
Their Business Address

Corporation
Name

Telephone

Badger Construction Co

State of Incorporation

West Virginia

Name and Title of
Officers with Authority
to Sign Contract

Jeff Assif - President

Penny Assif - V-P

Home Office Address

51 Stockett Rd, Morgantown, WV 26508

Local Address

N/A

Telephone 304-685-2016
Fax N/A

E-mail PJA511@AOL.com

Federal I.D.# 55-0637084

Dated this 3rd day of Dec., 2020

Bidder: Badger Construction Co.
(Person, Firm, or Corporation)

By: ____________________________

Title: President
Bid Bond

Amount $\text{Ten Percent (10\%)}$ of the amount bid

We, the undersigned, are held ad firmly bound unto the City of Dayton, Ohio in the sum

\text{Ten Percent (10\%)} \text{ of } \underline{\text{Dollars}}, for the payment of which well and truly to be made, we hereby,

jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by the presents

The condition of this obligation is such that, if the Bid attached hereto is accepted and the Contract

award to the bidder \underline{Badger Construction Company}

named therein, and the said bidder shall within ten (10) days after being notified that said contract has

been awarded to the bidder, enter into a Contract in the form acceptable to the Director and give bond

in a form to be furnished by the Director, then this obligation shall be null and void; otherwise it shall

remain in full force and effect

Signed at Dayton, Ohio, this \underline{3rd} day of \underline{December} \underline{2020}

\underline{Badger Construction Company}

By: \underline{[Signature]}

\underline{By: [Signature]}

Western Surety Company

\underline{Christina A. Avizzo, Attorney-in-Fact}

\underline{Alvin F. Roehr, Jr., LLC}

\underline{Name of Insurance Agency}

\underline{4642 Ridge Avenue}

\underline{Cincinnati, OH 45209}

\underline{Address of Insurance Agency}

\underline{Telephone 513-985-4213 Fax 513-985-0359}
POWER OF ATTORNEY - CERTIFIED COPY

Knew All Men By These Presents, that WESTERN SURETY COMPANY, a corporation duly organized and existing under the laws of the State of South Dakota, and having its principal office in Sioux Falls, South Dakota (the "Company"), does by these presents make, constitute and appoint

CHRISTINA A ARVIZU

its true and lawful attorney(s)-in-fact, with full power and authority hereby conferred, to execute, acknowledge and deliver for and on its behalf as Surety, bonds for:

Principal: Badger Construction Company

Obligee: City of Dayton

Amount: $1,000,000.00

and to bind the Company thereby as fully and to the same extent as if such bonds were signed by the Vice President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said attorney(s)-in-fact may do within the above stated limitations. Said appointment is made under and by authority of the following bylaw of Western Surety Company which remains in full force and effect.

"Section 7. All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

If Bond No. 65307641 is not issued on or before midnight of March 3, 2021, all authority conferred in this Power of Attorney shall expire and terminate.

In witness whereof, Western Surety Company has caused these presents to be signed by its Vice President, Paul T. Bruflat, and its corporate seal to be affixed this 3rd day of December, 2020.

WESTERN SURETY COMPANY

Paul T. Bruflat, Vice President

On this 3rd day of December, 2020, in the year 2020, before me, a notary public, personally appeared Paul T. Bruflat, who being to me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of WESTERN SURETY COMPANY and acknowledged said instrument to be the voluntary act and deed of said corporation.

M. BENT
Notary Public - South Dakota

My Commission Expires March 2, 2026

In testimony whereof, I have hereunto set my hand and seal of Western Surety Company this 3rd day of December, 2020.

WESTERN SURETY COMPANY

Paul T. Bruflat, Vice President

To validate bond authenticity, go to www.ensurety.com > Owner/Obligee Services > Validate Bond Coverage.
I, Jillian Froment, hereby certify that I am the Director of Insurance in the State of Ohio and have supervision of insurance business in said State and as such I hereby certify that

WESTERN SURETY COMPANY of South Dakota is duly organized under the laws of this State and is authorized to transact the business of insurance under the following section(s) of the Ohio Revised Code:

Section 3929.01 (A)
Fidelity
Other Liability
Surety

WESTERN SURETY COMPANY certified in its annual statement to this Department as of December 31, 2019 that it has admitted assets in the amount of $2,101,389,646, liabilities in the amount of $558,948,430, and surplus of at least $1,557,441,217.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused my seal to be affixed at Columbus, Ohio, this day and date.

Jillian Froment, Director

[Signature]

Accredited by the National Association of Insurance Commissioners (NAIC)
WESTERN SURETY COMPANY
Sioux Falls, South Dakota
Statement of Net Admitted Assets and Liabilities
December 31, 2019

**ASSETS**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonds</td>
<td>$1,943,152,245</td>
</tr>
<tr>
<td>Stocks</td>
<td>27,166,227</td>
</tr>
<tr>
<td>Cash, cash equivalents, and short-term investments</td>
<td>27,903,793</td>
</tr>
<tr>
<td>Receivables for securities</td>
<td></td>
</tr>
<tr>
<td>Investment income due and accrued</td>
<td>17,854,019</td>
</tr>
<tr>
<td>Premiums and considerations</td>
<td>56,706,652</td>
</tr>
<tr>
<td>Amounts recoverable from reinsurers</td>
<td>1,307,522</td>
</tr>
<tr>
<td>Current federal and foreign income tax recoverable and interest herein</td>
<td>2,678,469</td>
</tr>
<tr>
<td>Net deferred tax asset</td>
<td>11,798,536</td>
</tr>
<tr>
<td>Receivable from parent, subsidiaries, and affiliates</td>
<td>12,821,583</td>
</tr>
<tr>
<td>Other assets</td>
<td>601</td>
</tr>
<tr>
<td><strong>Total Assets</strong></td>
<td><strong>$2,101,389,646</strong></td>
</tr>
</tbody>
</table>

**LIABILITIES AND SURPLUS**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Losses</td>
<td>$206,051,147</td>
</tr>
<tr>
<td>Loss adjustment expense</td>
<td>52,124,445</td>
</tr>
<tr>
<td>Commissions payable, contingent commissions and other similar charges</td>
<td>9,862,381</td>
</tr>
<tr>
<td>Other expenses (excluding taxes, license and fees)</td>
<td>3,624</td>
</tr>
<tr>
<td>Taxes, License and fees (excluding federal and foreign income taxes)</td>
<td>3,875,999</td>
</tr>
<tr>
<td>Federal and foreign income taxes payable</td>
<td></td>
</tr>
<tr>
<td><strong>Total Liabilities</strong></td>
<td><strong>$533,948,430</strong></td>
</tr>
</tbody>
</table>

**Surplus Account:**

- Common stock: $4,000,000
- Gross paid in and contributed surplus: $280,071,837
- Unassigned funds: $1,283,369,380
- Surplus as regards policyholders: $1,567,441,217
- **Total Liabilities and Capital: $2,101,389,646**

I, Amy Smith, Senior Vice President of Western Surety Company hereby certify that the above is an accurate representation of the financial statement of the Company dated December 31, 2019, as filed with the various Insurance Departments and is a true and correct statement of the condition of Western Surety Company as of that date.

Western Surety Company

By [Signature]
Senior Vice President

Subscribed and sworn to me this 11th day of March, 2020.

[Notary Seal]

[Notary Public]
CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 1 of 3)

In accordance with Ordinance No. 31487-16 of the City of Dayton, Ohio Revised Code of General Ordinances,

I, Jeffrey A. Sief, hereby certify that

(Badger Construction Co.) meets the following Contractor requirements relating to this City of Dayton construction project

Check All That Apply:

☐ Comply with all City of Dayton income tax obligations and requirements

☐ Maintain worker’s compensation insurance for all employees as required by the State of Ohio

☐ Comply with State or Federal prevailing wage rate laws, as applicable and required by the funding of this project

☐ Comply with the State of Ohio Bureau of Worker’s Compensation Drug Free Workplace Policy

☐ Maintain an unemployment compensation insurance policy registered with the State of Ohio Department of Job and Family Services

☐ Made a good faith effort to contract with one or more qualified minority business enterprises to perform work required by this project, in accordance with bid documents, ordinances, and applicable Federal and State law

By: [Signature]

Title: President

Date: 12/3/20
CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 2 of 3)

A. Please provide a complete listing of the fringe benefits provided to employees, including but not limited to health insurance and retirement benefits.

Health

Retirement

B. Please identify any “bona fide apprentice training program” in which this company participates in accordance with the Ohio Bureau of Apprenticeship Training and the U. S. Department of Labor.

C. Please provide a list of subcontractors whose quotes or information are included or used in the bid submitted for this project.

OHIO Technical Services

Kes Harris Trucking
D. Please provide a list of all minority business enterprises contacted for the purpose of obtaining quotes to perform work for this project.

Kes Harris Trucking

Thru View Palladium

E. Provide a complete listing of any determinations of the bidder’s violations of federal, state, or local laws, including a list of all citations, orders, or recommendations issued to or against the bidder within the previous 3 years.

None
CERTIFICATION
OF COMPLIANCE WITH OHIO REVISED CODE SECTION 3517.13
FOR CONTRACTS IN EXCESS OF FIVE HUNDRED DOLLARS ($500.00)

STATE OF OHIO,
COUNTY OF Montgomery, ss:

[Signature]

being duly sworn, deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of

[Name]

("the Contracting Party").

2. The Contracting Party is a/an (select one):

☐ Individual, partnership, or other unincorporated business association (including without
limitation, a professional association organized under Ohio Revised Code Chapter
1785), estate, or trust.

☐ Corporation organized and existing under the laws of the State of [State].

☐ Labor organization.

3. I hereby affirm that the Contracting Party and each of the individuals specified in R.C.
3517.93(I)(3) (with respect to non-corporate entities and labor organizations) or R.C.
3517.93(J)(3) (with respect to corporations) are in full compliance with the political
contributions limitations set forth in R.C. 3517.93(I) and (J), as applicable. I understand that
a false representation on this certification constitutes a felony of the fifth degree pursuant to
R.C. 3517.93(AA) and 3517.992(R)(3). Any contract that contains a falsified certification
shall be rescinded.

By: [Signature]

Title: [Title]
STATE OF  W.V.    )
COUNTY OF  Boone County  )

Jeff Assif, being first duly sworn deposes and
states that:

(1) He/she is  President  of
(Brider Construction Co.)
(owner, partner, officer, representative, or agent)

(2) He/she is fully informed respecting the preparation and contents of the attached Bid
and all pertinent circumstances respecting such Bid.

(3) Such offering is genuine and is not a collusive or sham offering

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way
colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm
or person to submit a sham Bid in connection with the Contract for which the attached Bid
has been submitted or to refrain from offering in connection with such contract, or has in
any manner, directly or indirectly, sought by agreement or collusion or communication or
conference with any other Bidder, or to secure through collusion, conspiracy, connivance
or unlawful agreement any advantage against the City of Dayton, its employees, or
citizens.

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted
by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder
or any of its agents, representatives, owners, employees, or parties in interest including
the affiant.

SIGNED
President

TITLE
During the performance of this contract:

being the general contractor, assumes the responsibility and obligation to institute an Affirmative Action Program which complies with revised City Ordinances 24059 and 26090 and Executive Order 11246 on any city, federal or federally-assisted construction project, to insure Equal Employment Opportunity regardless of race, color, religion, sex, national origin, ancestry, place of birth, age, or marital status.

The successful contractor using one or more trades of construction employees must comply with Part I of these Affirmative Actions Program conditions to each such trade.

Part I: Requirements. To be eligible for award of a contract under this Invitation to Bid, contractors must certify as prescribed in Paragraph 1a, of the certification specified in Part II hereof that it adopts the minimum goals and timetables of minority and female worker utilization, and specific Affirmative Action steps set forth in Sections 1 and 2 of this Part I.

1.) Goals & Timetables. The goals of minority and female worker utilization required of the contractor are applicable to each trade which will be used on any project in Greene, Miami, Montgomery, and Preble Counties, OH (hereinafter the Economic Area).

The required goals and timetables are as follows:

<table>
<thead>
<tr>
<th>Period</th>
<th>Goals of Minority Worker</th>
<th>Goals of Female Worker</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 1/1/2000 to Present</td>
<td>Utilization Expressed in Percentage Terms</td>
<td>11.5%</td>
</tr>
<tr>
<td>From 4/1/80 to Present</td>
<td>Utilization Expressed in Percentage Terms</td>
<td>6.9%</td>
</tr>
</tbody>
</table>
The percentage goals of minority and female worker utilization are expressed in terms of working hours of training and employment as a proportion of the total working hours to be worked by the contractor's entire work force in that trade on all projects (both federal and non-federal) in the Economic Area during the performance of this contract. The working hours for minority and female work and training must be uniform throughout the length of this contract, on all projects and for each of the trades. Further, the transfer of minority and/or female or trainee from employer-to-employer or from project-to-project for the sole purpose of meeting the contractor's goals shall be a violation of this Affirmative Action Program.

In reaching the goals for minority and female utilization, every effort shall be made to find and employ qualified journey-persons. Provided, however, and pursuant to the requirements of the Department of Labor Regulations, 29 CFR 5a.3, twenty-five percent (25%) of apprentices or trainees shall be employed on all projects and shall be in their first year of training, where feasible.

In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and/or trainees at the completion of the training subject to the availability of employment opportunities. Apprentices and trainees must be trained pursuant to programs which have been approved by The U.S. Department of Labor and/or The State of Ohio.

A contractor shall be deemed to be in compliance with the terms and requirements of this Part I by the employment and training of minorities and females in the appropriate percentage of the contractor's aggregate work force in the Economic Area for each trade for which it is committed to the goals under Part I.

However, no contractor shall be found to be in noncompliance solely on account of the contractor's failure to meet the goals and timetables, but such contractor shall be given the opportunity to demonstrate that all of the specific Affirmative Action steps specified in Part I have been instituted and has made every "good faith" effort to make these steps work towards the attainment of the goals and timetables.

2.) **Specific Affirmative Action Steps.** A contractor subject to Part I, must engage in Affirmative Action directed at increasing minority and female utilization, which is at least as extensive and as specific as the following steps:

a) The contractor shall notify community organizations that the contractor has employment opportunities available and shall maintain records of the organizations' responses.

b) The contractor shall maintain a file of the names and addresses of each minority and female referred and what action was taken with respect to each referred worker. If the worker was not employed, the reason therefor. If the worker was not sent to the union hiring hall for referral, the contractor's file shall document this and the reasons therefore.

c) The contractor shall promptly notify the Dayton Human Relations Council (HRC) when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority and/or female, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

d) The contractor should participate in training programs in the area; especially those approved by the U.S. Department of Labor and/or the State of Ohio.
c) The contractor shall disseminate the EEO Policy within the organization by including it in any policy manual, by publicizing it in company newspapers, annual reports, etc.; by conducting staff, employee and union representatives’ meetings to explain and discuss the policy; by posting of the policy; and by specific review of the policy with minority and female employees.

f) The contractor shall ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor’s employees are assigned to work. The contractor, where possible, will assign two or more women to all projects (both federal and non-federal) in the Economic Area during the performance of its contract or subcontract.

h) The contractor shall make specific efforts to encourage present minority and female employees to recruit other minorities and females.

i) The contractor shall validate all tests and other selection requirements.

j) The contractor should develop on-the-job training opportunities; participate and assist in any association or employer-group training programs relevant to the contractor’s employees needs consistent with its obligations under Part I.

k) The contractor shall evaluate all minority and female personnel for promotional opportunities and encourage employees to seek such opportunities.

l) The contractor shall ensure that seniority practices, job classifications, etc., do not have a discriminatory effect.

m) The contractor shall make certain that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

n) The contractor will monitor all personnel activities to ensure that its EEO Policy is being carried out.

o) The successful contractor shall solicit bids for work to be performed on this project under a subcontract from minority and female contractors and other business associations.

3.) Nothing herein is intended to relieve any contractor during the term of this project from compliance with any other local bid requirements. Further, it shall be the responsibility of each contractor to comply with all terms, conditions, and provisions of the Affirmative Action Programs.
Part II: Contractor’s Certification. A contractor will not be eligible for award of a contract under this Invitation to Bid, unless such contractor has submitted as a part of the bid the following certification, which will be deemed a part of the resulting contract:

**CONTRACTOR’S CERTIFICATION**

Badger Construction Co (Contractor) certifies that:

1. The following listed construction trades will be used in performance of this project.

   - Asbestos Removal Workers
   - Labor

   
   
   
   
   
   a) as to those trades set forth in the preceding paragraph one hereof, it adopts the minimum minority and female utilization goals and the specific Affirmative Action steps contained in this Affirmative Action Program. Compliance is measured in each trade of the contractor’s aggregate work force for all construction work (both federal and non-federal) in the four Counties (Greene, Miami, Montgomery and Preble) subject to this Affirmative Action Program; and

   
   b) the successful contractor will obtain from each subcontractor and submit to the contracting or administering agency prior to the award of any subcontract under this contract, the subcontractor certification required by the Affirmative Action Program.

SIGN: [Signature]

(Signature of Authorized Representative of Bidder)

FAILURE TO SIGN AND SUBMIT THIS DOCUMENT WITH YOUR BID WILL RESULT IN YOUR BID NOT BEING READ
PEP-CERTIFIED SBE / MBE / WBE / DLSB (CIRCLE ONE) PARTICIPATION FORM

Instructions for Bidders / Proposers: Submit one executed copy of this form for each Procurement Enhancement Program (PEP)-Certified Firm whose participation you plan to count toward the project/contract's participation goal(s). This form must be included with your Bid. To split a PEP-Certified Firm's participation among more than one goal, submit a separate form for each goal (i.e., SBE, MBE, WBE, or DLSB).

SECTION 1. BIDDER / PROPOSER INFORMATION

| Name of Bidder / Proposer's Firm | Braddock Co. |
| Address | 51 Stockett Rd |
| City | Morgantown |
| State | WV |
| Zip | 26508 |
| Telephone | 304-655-2016 |
| Email | PSASIFC@aol.com |
| Primes Base Bid | $261,000 |
| Name of Project | Wm. Winter Abatement Program Res. Demo III 2020 |

SECTION 2. PEP-CERTIFIED BUSINESS & PARTICIPATION INFORMATION

| Name of PEP-Certified Firm | Kes Harris Trucking, LLC |
| PEP-Certified Firm's Tax ID | 31-1703925 |
| Scope of Work/Job Performed by Certified Firm | Trashing Disposal |

<table>
<thead>
<tr>
<th>Total Dollar Amount Towards Goal</th>
<th>Percentage Towards Goal</th>
<th>Amount to Be Paid to This PEP Firm for the Work Described</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Bid</td>
<td>$206,000</td>
<td>10%</td>
</tr>
<tr>
<td>Materials</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Labor</td>
<td>$206,000</td>
<td>10%</td>
</tr>
</tbody>
</table>

SECTION 3. AFFIRMATIONS

The above-named Bidder / Proposer affirms, under penalty of perjury, that it has negotiated in good faith with the above-named PEP-Certified Firm and will utilize the above-named PEP-Certified Firm for the type(s) of work and for the dollar amount(s) described above.

[Signature]

(printed name)

President

The above-named PEP-Certified Firm affirms, under penalty of perjury, that it has negotiated in good faith with the above-named Bidder / Proposer and that it will perform, and is certified to perform, the type(s) of work described above for the dollar amount(s) as listed above.

[Signature]

(printed name)

Kes Harris

Office Manager

[Signature]

(printed name)

7/22/2020

IF THE BIDDER/PROPOSER IS NOT AWARDED A CONTRACT, OR IF THE HPC DOES NOT APPROVE OF THE TERMS AS STATED ABOVE, THEN ANY AND ALL REPRESENTATIONS ON THIS PARTICIPATION FORM SHALL BE NULL AND VOID.
PEP-CERTIFIED SBE/MBE/WBE/DLSB (CIRCLE ONE) PARTICIPATION FORM

INSTRUCTIONS FOR BIDDERS/PROPOSERS: Submit one executed copy of this form for each Procurement
Enhancement Plan (PEP)-Certified Firm whose participation you plan to count toward the project/contract’s
participation goal(s). This form must be included with your bid. To split a PEP-Certified Firm’s participation
among more than one goal, submit a separate form for each goal (i.e., SBE, MBE, WBE, or DLSB).

SECTION 1: BIDDER/PROPOSER INFORMATION

Name of Bidder/Proposer's Firm: Badger Coast Co.
Address: 51 Stockett Rd
City: Morgantown State: WV ZIP: 26508
Telephone: 304-685-2010 Email: P5ASSIF@AOL.com
Prime Base Bid $200,000
Name of Project: Mason/Abanking Program & Demo 11 2020

SECTION 2: PEP-CERTIFIED BUSINESS & PARTICIPATION INFORMATION

Name of PEP-Certified Firm: Kees Harris Trucking, LLC
PEP-Certified Firm’s Tax ID#: 31-1703825
Scope of Work to Be Performed by Certified Firm: Trucking/Disposal

<table>
<thead>
<tr>
<th>Total Dollar Amount Towards Goal</th>
<th>Percentage Towards Goal</th>
<th>Amount to Be Paid to This PEP Firm for the Work Described</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Bid</td>
<td>$200,000</td>
<td>$0.00</td>
</tr>
<tr>
<td>Materials</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Labor</td>
<td>$200,000</td>
<td>$20,000</td>
</tr>
</tbody>
</table>

SECTION 3: AFFIRMATIONS

The above-named Bidder/Proposer affirms, under penalty of perjury, that it has negotiated in good faith with
the above-named PEP-Certified Firm and will utilize the above-named PEP-Certified Firm for the type(s) of work
and for the dollar amount(s) described above.

Jeff Assif
(Signature of Bidder/Proposer’s Authorized Agent)

President 12/3/20
(Printed Name of Bidder/Proposer’s Authorized Agent)

The above-named PEP-Certified Firm affirms, under penalty of perjury, that it has negotiated in good faith with
the above-named Bidder/Proposer and that it will perform, and is certified to perform, the type(s) of work described
above for the dollar amount(s) as stated above.

Kees Harris
(Signature of PEP-Certified Firm’s Authorized Agent)

Office Manager 7/22/2020
(Title of PEP-Certified Firm’s Authorized Agent)

IF THE BIDDER/OFFERER IS NOT AWARDED A CONTRACT, OR IF THE HRC DOES NOT APPROVE OF THE TERMS AS STATED ABOVE,
THEN ANY AND ALL REPRESENTATIONS ON THIS PARTICIPATION FORM SHALL BE NULL AND VOID.

BACK
City Manager’s Report

From: 2510 - Municipal Court
Supplier, Vendor, Company, Individual: Alcohol, Drug Addiction & Mental Health Services
Address: 409 E. Monument Avenue, Dayton, OH 45402

Date: February 3, 2021
Expense Type: Service Agreement
Total Amount: $85,079.00 thru 12/31/21

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>10000-2510-22606-74</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>Specialized Probation Officer</td>
<td>22114-2510-22606-74</td>
<td>$70,079.00</td>
</tr>
</tbody>
</table>

Includes Revenue to the City: Yes
Affirmative Action Program: Yes

Service Agreement

The Dayton Municipal Court requests approval to enter into a Service Agreement with the Montgomery County Alcohol, Drug Addiction and Mental Health Services (ADAMHS) Board in the amount of $85,079.00. This Agreement provides funding for psychological services provided to probationers, and a portion of salary and benefits for a Specialized Probation Officer assigned to Dayton Regional Mental Health Court.

The Court has received funding from the ADAMHS Board since 2008.

Term of this Agreement will commence upon execution and end on December 31, 2021.

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

Attached are two Certificates of Revenue and a copy of the Service Agreement.

Division

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  22114  Org  2510  Rev  22606  Prog  74  Actv  -

Contract Information: Contract Start Date  1/01/2021  Contract Expiration Date  12/31/2021

Billing Information: Rate:  See below  Arrears  Pre-bill

Monthly (1st month of billing)  

Quarterly (1st month of quarter)  

Semi-annual (1st month of half)  

Annual (1st month of billing) $70,079.00

Other (explain)  

Rate Change Date  

Rate Change Amount  

Description of Services (wording on invoice): provide funding for a Specialized Probation Officer assigned to the Dayton Regional Mental Health Court.

Departmental Approval  Ann Marie Murray

TO BE COMPLETED BY FINANCE

City Reference Number  11-3795-2  Auditor  Jatenna Jones  Date  1/22/2021

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)  40D25B13082A482...
CERTIFICATE OF REVENUE

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: 10000 Orgn: 2510 Rev: 22606 Prog: 74 Actv: 

Contract Information:
Contract Start Date: 01/01/2021 Contract Expiration Date: 12/31/2021

Billing Information:
Rate: See below Arrears: Pre-bill: 
Monthly (1st month of billing): 
Quarterly (1st month of quarter): 
Semi-annual (1st month of half): 
Annual (1st month of billing): $15,000.00
Other (explain):
Rate Change Date: Rate Change Amount: 

Description of Services (wording on invoice): provide funding for psychological services provided to probationers conducted by (Vendor) Dr. Stephen McConnell.

Departmental Approval: 

TO BE COMPLETED BY FINANCE

City Reference Number: 11-3795-1 Auditor: 11-3795-1 Date: 1/31/2021

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) 40D25B13082A482...
AGREEMENT
BOARD RESOLUTION #20-078
APPROVED AMOUNT: $85,079
Between

MONTGOMERY COUNTY ALCOHOL, DRUG ADDICTION, AND MENTAL HEALTH SERVICES BOARD

And

DAYTON MUNICIPAL COURT

CY2021

OCTOBER 28, 2020
MONTGOMERY COUNTY ADAMHS BOARD
409 E. MONUMENT AVE. STE. 102, DAYTON, OHIO 45402
AGREEMENT

This Agreement, is made and entered into in Dayton, Montgomery County, Ohio between the Montgomery County Alcohol, Drug Addiction and Mental Health Services Board, located at 409 E. Monument Avenue, Ste. 102, Dayton, Ohio 45402 hereinafter referred to as "Board," and The City of Dayton, Ohio, located at 301 West Third Street, Dayton, Ohio 45402 hereinafter referred to as "Agency." In consideration of the mutual covenants and Agreements contained herein, the parties hereto agree as follows:

TERMS OF AGREEMENT

I. Term:

The term of this Agreement shall commence on the 1st day of January 2021, and shall conclude on the 31st day of December 2021, unless sooner terminated as hereinafter provided.

II. Payment for Services:

Board shall allocate up to a maximum amount of Eighty-Five Thousand Seventy-Nine Dollars and Zero Cents ($85,079.00) for the purposes of funding the services or programs as described in Exhibit A. Any employee of the Agency, City, Provider, etc., who handles or is responsible for the handling of funds from Board shall be bonded by a reputable fidelity insurance carrier.

III. Delivery of Services:

Agency agrees to carry on the program(s) in a prompt and diligent manner so as to ensure the uninterrupted delivery of services. Furthermore, Agency agrees that it will deliver the services in a skillful, professional and expeditious manner. All services will be provided with a sufficient number of properly trained employees, with the proper equipment, facilities, supplies and all other things necessary to ensure the uniform, efficient and skillful delivery of services, in an accountable manner, which will enable Agency to accomplish the Program in conformity with Exhibit A.

IV. Liability and Responsibility:

Each Party agrees to accept and be responsible for its own acts or omissions, as well as the acts or omissions of its employees and agents, in complying with the terms of this Agreement, and nothing in this Agreement shall be interpreted to place any such responsibility for professional acts or omissions onto the other Party. All losses, costs, or damages which may occur or be claimed with respect to any person or persons, corporation, property or chattels resulting from activities of a Party pursuant to this Agreement shall be the responsibility of that Party as such liabilities may be determined by a court of law or pursuant to any other appropriate procedures. However, nothing in this Agreement waives any immunities or other defenses to liability that the Parties may have.
V. Confidentiality of Consumer Information & HIPAA Compliance:

Agency agrees that any consumer protected health information that it receives or generates shall be treated in such a manner as to assure confidentiality. Agency further agrees to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and other applicable or superseding federal or state regulations adopted in furtherance of maintaining privacy of protected health information.

The parties shall cooperate in implementing requirements imposed upon them by HIPAA. Each party shall take necessary reasonable steps to comply with HIPAA requirements, including the following:

1. If one of the parties agrees to use or discloses protected health information on behalf of the other party, both parties will enter into a business associate agreement prior to such use of disclosure. The elements of such agreements shall conform to HIPAA requirements.

Upon request of Board, the Agency shall distribute Board’s HIPAA notice to consumers who have received or will receive services funded through Board to Agency.

2. The parties shall cooperate in determining how information that will be transmitted will conform with requirements related to electronic data interchange (EDI). If necessary, the parties will enter into a Trading Partner Agreement, which defines the duties of the parties for EDI transmissions.

The parties shall cooperate in assessing joint security issues in order to allow the parties to conform to security requirements. If necessary, the parties will enter into appropriate agreements in accordance with HIPAA requirements, which will address joint security issues.

VI. Subcontracting:

Agency shall not subcontract for any part of its Program without the written consent of Board. Board agrees that any consent shall not be unreasonably withheld.

In the event of any such subcontract, the Agreement shall be in writing and shall have the consent of Board endorsed thereon. Any subcontract shall incorporate the Agency’s contract with Board by reference and have a copy attached thereto as an exhibit.

Agency shall advise any subcontractor of the policies and procedures of Board and call its attention to the fact that the terms of this contract require cooperation with other Agencies of Board, as well as, with other Agencies of the City, County, and District to assure coordination of all programs and services in meeting the need of the community, to prevent duplication of services and to promote a high standard of service, efficiency and economy.
Agency agrees to cooperate with Board’s designated agencies to carry out the statutory duties and responsibilities imposed upon Board by RC. 340 and RC. 3793.

VII. Assignment of Monies Due:

The Agency's claim for monies due hereunder is non-assignable except with the written consent of Board. Any assignment of monies due hereunder which was made without such consent is void and the assignee in such case shall not acquire any rights against Board.

VIII. Non-Discrimination:

Agency shall not discriminate in its provision of services to persons under this Agreement on the basis of race, color, sex, creed, sexual orientation, religion, national origin, HIV status, inability to pay, or disability. Agency shall render services to such persons in the same manner, in accordance with the same standards, and within the same time availability as offered to all persons.

IX. Verification and Inspection:

Agency shall, if requested by Board, permit the Executive Director of Board, or his/her designee, access to the premises upon which the program is being carried out, during normal business hours, and promptly furnish to Board any books, records, reports or any other data which may be necessary, in the opinion of the Executive Director or Board, to assure Board of the proper implementation of the Program.

X. Acceptance of the Program:

No partial payment made under this Agreement shall be conclusive evidence of Board's approval of the services rendered by the Agency, in whole or in part.

XI. Improper Expenditure:

Agency shall not use any funds allocated to it by Board for any purpose that does not appear in the application for funding. No part of these funds (federal, state, or local levy) shall be used for partisan political purposes of any kind by any person or Agency involved in the administration of the Programs under this Agreement.

It is further agreed that in the event that Board determines that Agency has made an improper expenditure, Agency shall, upon demand therefore by Board, immediately replace the funds improperly spent. In the event that the funds are not immediately replaced, Board may reduce any remaining allocations to the Agency by an amount equal to the expenditure and any such action taken by Board shall not be deemed as a waiver of any other remedy available to Board by the terms of this Agreement. Board's determination that expenditure is improper shall be
conclusive as long as it is consistent with the Rules of the Department, Board’s Policies, the State and County Auditor’s Rules and Regulations, and State and Federal Law, Rules and Regulations.

XII. Compensation of Agency Employees:

It is expressly understood that employees of Agency are not employees of Board or of the State of Ohio.

XIII. Fiscal Accountability:

Agency agrees that all funds, which it receives hereunder, shall be subject to both a financial and a compliance audit. Agency’s auditor shall provide a copy of its audit of the Agency directly to Board. Agency hereby waives any privilege or confidentiality, and should Board request, Agency’s auditor shall meet with the Executive Director of Board, or his/her designee, for the purpose of discussing the results of the audit.

The Executive Director of Board will meet with the auditor upon the completion of the audit for the purpose of receiving and reviewing the audit report. Agency agrees to make such modifications to its financial records and record-keeping process as may be recommended by the auditor and thereafter required by Board.

XIV. Equal Opportunity:

Agency agrees to comply with the Equal Opportunity Act and the guidelines and directives promulgated by the Departments if any, in the recruitment and/or employment of all Agency personnel or consultants; the Agency agreeing that it will not discriminate against any applicant for employment, employees or consultants because of race, religion, color, sex, age, sexual orientation, disability, national origin or HIV status. Agency further agrees to create and maintain personnel policies and practices consistent with the intent of this paragraph that will prohibit discrimination in employment and to adopt and maintain a written Affirmative Action Plan.

XV. Agreement to Perform:

The parties, for themselves, their successors and assigns, do hereby agree to the full performance of the covenants herein contained.

XVI. Notices:

Any notice required to be given by either party hereto, to the other, by the terms hereof, must either be served upon the Executive Director or in the Executive Director’s absence, upon the person in charge, personally, or be sent to the other party by certified or registered mail, postage prepaid, at its last known address or such other address as either party may hereafter designate by written notice.
Dayton Municipal Court
Board Resolution #20-078

XVII. Claims Made by Either Party Against the Other:

If either Agency, or Board believes it has a claim of any nature whatsoever against
the other, it shall give the other party written notice of the amount and nature of
such claim within fifteen (15) days, (or such other time limit as may otherwise be
expressly set forth in Agreement) of the occurrence of the event upon which such
claim is based, or within fifteen (15) days of receipt of actual notice.

XVIII. Applicable Law:

The laws of the State of Ohio shall govern all matters relating to the validity,
performance, interpretation, or construction of this Agreement or breach thereof.

XIX. Unused Allocation:

The balance of Board’s allocation to Agency as specified previously in this
Agreement, which has not been accrued or expended at the conclusion of this
Agreement as stated in paragraph 1, shall be reconciled by Agency and returned to
Board.

XX. Amendment:

No change, amendment or modification of any provision of the Agreement shall be
valid unless set forth in a written instrument and signed by the Parties.

XXI. Waiver:

Waiver by either party of any breach of any provision of this Agreement, whether
by conduct or otherwise, in any one or more instances, shall not be interpreted as a
further or continuing waiver of such provision or as a waiver of any other provision
of this Agreement. The failure of either party at any time to require performance of
any provision of this Agreement shall in no manner affect that Party’s right to
enforce the same at a later time.

XXII. Severability:

Should any portion of this Agreement be deemed unenforceable by any
administrative or judicial officer or tribunal of competent jurisdiction, the balance of
this Agreement shall remain in full force and effect unless revised or terminated
pursuant to the requirements of this Agreement.
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

City of Dayton

Shelley Dickstein, Date: Helen E. Jones-Kelley, Date:
City Manager Executive Director

Montgomery County Alcohol, Drug Addition & Mental Health Services

This instrument approved as to form:

Beverly Stewart,
Legal Counsel
ADAMHS Board for Montgomery County

APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO

Min. Book _____ Page _____

Clerk of the Commission

12/21/2020

X John Musto for
City Attorney

Signed by: Musto, John
Dayton Municipal Court  
Board Resolution #20-078

LIST OF EXHIBIT(S)

- Exhibit A: Approved Appropriations Program Funding
- Attachment 1: OHMHAS 2021 Allocation
The dollar amount approved for each individual program is specifically allocated for that program and may not be altered or added to any other program in any way. Any adjustments made to the approved amount of funds for any program must be approved by Board and subsequently reflected in an amendment to this contract.

<table>
<thead>
<tr>
<th>PROGRAM NAME</th>
<th>START DATE</th>
<th>END DATE</th>
<th>APPROVED AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>In House Anger Management Services</td>
<td>01/01/2021</td>
<td>12/31/2021</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>Mental Health Court Specialized Probation Officer</td>
<td>01/01/2021</td>
<td>12/31/2021</td>
<td>$70,079.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td><strong>$85,079.00</strong></td>
</tr>
</tbody>
</table>
1. **Financial Arrangements**
   a. The maximum dollar amount to be paid by Board pursuant to this Agreement is $85,079.
<table>
<thead>
<tr>
<th>State Fiscal Year 2023 NHCAs Allocations</th>
<th>Attachments 1 and 2</th>
<th>Specific Distributions to be Determined</th>
<th>Allocations published after initial release</th>
</tr>
</thead>
<tbody>
<tr>
<td>state name</td>
<td>amount</td>
<td>state name</td>
<td>amount</td>
</tr>
<tr>
<td>New Hampshire</td>
<td></td>
<td>Rhode Island</td>
<td></td>
</tr>
<tr>
<td>North Dakota</td>
<td></td>
<td>South Dakota</td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td></td>
<td>Oregon</td>
<td></td>
</tr>
<tr>
<td>Pennsylvania</td>
<td></td>
<td>Pennsylvania</td>
<td></td>
</tr>
<tr>
<td>Texas</td>
<td></td>
<td>Texas</td>
<td></td>
</tr>
<tr>
<td>Washingtons</td>
<td></td>
<td>Washingtons</td>
<td></td>
</tr>
<tr>
<td>Washingtons</td>
<td></td>
<td>Washingtons</td>
<td></td>
</tr>
<tr>
<td>West Virginia</td>
<td></td>
<td>West Virginia</td>
<td></td>
</tr>
<tr>
<td>Wyoming</td>
<td></td>
<td>Wyoming</td>
<td></td>
</tr>
</tbody>
</table>

**Note:** The table is incomplete and requires further analysis to understand the context and data presented.
City Manager’s Report

From: 6450 - PW/Civil Engineering
Supplier, Vendor, Company, Individual: CareSource
Address: 219 N. Patterson Blvd.
Dayton, Ohio 45402

Date: February 3, 2021
Expense Type: Other, (See Description Below)
Total Amount: $200.00 (Paid to City)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>10000-6450-27118-54</td>
<td>$200.00</td>
</tr>
</tbody>
</table>

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

Description:

SPECIAL USE PERMIT TO INSTALL FENCING

Permission is requested for CareSource, being the owner, to install outdoor patio fencing into the right-of-way at 219 N. Patterson Blvd.

This application has been reviewed and approved by the Departments of Planning and Community Development, Economic Development, Water, and Public Works-Civil Engineering.

Notice of the proposed permit has been published as required by ordinance, no objections have been received, and it is therefore recommended that the permit be granted.

Copy: Public Works/Business Office

---

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 06/2016
APPLICATION
For License or Privilege in Public Way of the City of Dayton, Ohio

The undersigned CareSource being the owner and Flyboys Dei lessee of the following described premises, to wit: Being all or part of Lot No. on the revised plat of said City. (If only part of a lot, or if unplatted land described same.)

(Said premises abut upon N. Patterson Blvd and are known as No. 219 ) hereby makes application for permit for installation, maintenance and use of the following license or privilege in said public way, to-wit:

To install outdoor patio fencing

Such license or privilege is to be used in connection with said premises as above described.

A plat or print drawn to scale showing the proposed location of said license or privilege in the street, sidewalk, alley, public way or place and the adjacent property in connection with which said license or privilege to be used is hereeto attached and made a part hereof.

Deposit in the sum of $200.00 to cover the fee for permit and legal advertisement is hereby made.

Said owner and lessee for themselves, their heirs, successors, administrators and assigns, hereby agree that the privilege sought if granted, may be revoked at any time hereafter upon order of the City Manager or of the City Commission; that they will obey all laws of the State of Ohio and ordinances of the City of Dayton, pertaining thereto, whether now in force or hereafter enacted, in the installation, maintenance and use of such license or privilege, and that all acts or things to be done in connection therewith shall be subject to the supervision and control of the Director of Public Works of said City; that the public way shall be restored completely and to the entire satisfaction of and at such time as the Director of Public Works may determine without expense to said City; that they will safeguard the use of barricades and red lights, and such other means as may be necessary for the public safety, any excavation or obstruction placed in said public way during the installation, maintenance, repair or use of same or anything in any way related to such license or privilege, and will at all times save the City of Dayton free and harmless from any and all liability for damages to person, or persons, or property on any way connected with, arising out of or incidental to the installation, maintenance and use or the granting and exercise of said license or privilege; that they will pay all expense for any change in said license or privilege made necessary by any change of grade of said public way and hereby waive all claims for damages or expense in connection therewith; that they will conform to all of the provisions of Sections 95.30 to 95.49, both inclusive, of the Revised Code of General Ordinances as the same now exist or may hereafter be amended, and with such other provisions of other ordinances as may be passed by the Commission, which said existing and future ordinances are made a part of this contract by express reference.

WITNESS our signatures hereto this 22nd day of October

Witnessed by our presence:

Approved as to location and ownership:

City Attorney

Approved by the Commission of the City of Dayton, Ohio

20

Mail Permit to:
NAME:  Adam Black
ADDRESS: 3233 Newmark Drive
Miamisburg, Ohio 45342
PHONE NO.: 937-131-90778

PERMIT
Notice of the foregoing application having been published as required by Section 95.39 (D), Revised Code of General Ordinances and no cause having been shown to the contrary and the City Commission having approved the same, the privilege prayed for is hereby granted, subject to the terms and conditions set forth in the application.
SIDEWALK RAILING PLAN

REF: A/R-2.1

1048

23-0

30-0

SIDEWALK RAILING PLAN

NEW DOOR

DOUBLE SPICE-LOCK CONNECTOR

10 x 10

10 x 10

DARK TONE INDICATES START OF PAINTING PARK AREA

LEFT SIDE

NEW BUILDING

SIDEWALK

EXIST. BUILD.

EXIST. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

SECTION A-A

SECTION B-B

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.

EXIT. BUILD.
<table>
<thead>
<tr>
<th>BILL OF MATERIALS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SHIPPING PCIe</strong></td>
</tr>
<tr>
<td>100P</td>
</tr>
<tr>
<td>104.3</td>
</tr>
</tbody>
</table>

**ONE ~ POST ~ 100P**
**BILL OF MATERIALS**

<table>
<thead>
<tr>
<th>Shipping Order</th>
<th>Part Number</th>
<th>Description</th>
<th>Quantity</th>
<th>Foot</th>
<th>Inch</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>101R</td>
<td>O1E</td>
<td>RAIL</td>
<td>12</td>
<td>0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10101</td>
<td>ONE</td>
<td>1-1/8 SCH80 PIPE (LINEAR FOOTAGE)</td>
<td>16</td>
<td>0</td>
<td>8001-16</td>
<td></td>
</tr>
<tr>
<td>10102</td>
<td>ONE</td>
<td>1-1/8 SCH40 PIPE (LINEAR FOOTAGE)</td>
<td>36</td>
<td>0</td>
<td>8001-16</td>
<td></td>
</tr>
<tr>
<td>10103</td>
<td>ONE</td>
<td>1/2 RAD 4x4</td>
<td>88</td>
<td>0</td>
<td>8001-16</td>
<td></td>
</tr>
<tr>
<td>10104</td>
<td>ONE</td>
<td>3/4 RAD 4x4</td>
<td>3</td>
<td>0</td>
<td>8001-16</td>
<td></td>
</tr>
<tr>
<td>10105</td>
<td>ONE</td>
<td>1-1/2 RAD 4x4</td>
<td>3</td>
<td>0</td>
<td>8001-16</td>
<td></td>
</tr>
</tbody>
</table>

**DRAWING INFORMATION**

**Contractor:** Pataskala Services

**Engineer:** BHP Architecture

**Builder:** Daniel

**Scale:** 1/4" = 1'-0"

**Drawing Number:** B-21773

**Reissue Approval Date:** 10/20/20

**Drawing Released For:** DJ

---

**TYPICAL SPICE DETAIL**

**QUANTITY:** (3) LOC'S.

**NOTE:**

WELD PIPE 4/16 FILLET WELD CONT. AND GRIND U. HTD.

---

**PATRIOT MANUFACTURING GROUP**

**STEEL FABRICATION & ERECTORS**

418 Linden Street, Carlisle, OH 43013

---

**FOR DRAWING USE ONLY**

---

**ONE ~ RAIL ~ 101R**
# Bill of Materials

<table>
<thead>
<tr>
<th>P/N</th>
<th>QTY</th>
<th>ASSEMBLY P/N</th>
<th>QTY</th>
<th>MATERIAL DESCRIPTION</th>
<th>LENGTH</th>
<th>IN</th>
<th>REMARKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>103R</td>
<td>ONE</td>
<td>RAIL</td>
<td>4</td>
<td>0%</td>
<td>0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>103x1</td>
<td>ONE</td>
<td>1038 SCH80 PIPE</td>
<td>8</td>
<td>0</td>
<td>HOE1-T8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>103x2</td>
<td>ONE</td>
<td>1038 SCH80 PIPE</td>
<td>12</td>
<td>0</td>
<td>HOE1-T8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>103x3</td>
<td>ONE</td>
<td>PL 1/2 x 2</td>
<td>2</td>
<td>0</td>
<td>HOE1-T8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>103x4</td>
<td>ONE</td>
<td>RAIL 1/4 x 1/4</td>
<td>20</td>
<td>0</td>
<td>HOE1-T8</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Note:**
- Weld pipe 3/8 fillet weld
- Cont. and grind U. N.D.

---

**Diagram:**

- Rail: 1039
- Posts: 1- 1 1/2 SCH.40 x 12'-0 (Linear Footage)
- Rails: 1- 1 1/4 SCH.80 x 8'-0 (Linear Footage)

**Scale:**

- 3'-11 1/4 x 2 3/4

---

**Footer:**

- **Company:** CARESOURCE
- **Project:** FLYBOY DELI - FITOUT
- **Location:** DAYTON, OH

---

**Drawing Information:**

- **Sheet:** B 21773
- **Date:** 10/20/20
- **Approval:** JD
- **Reissue:** 10/20/20
- **Scale:** NONE
- **Drawing Number:** DTM BLACK ACRYLIC

---

**Editor:** K.M. SCOTT, BCPH ARCHITECTURE

---

**Approval:**

- **Drawn by:** K.M. SCOTT
- **Reviewed by:** J.S.
- **Approved by:** J.M.
1-1/2 SCH 40 x 11'-0"
(LINEAR FOOTAGE)

PL 3/4" X 2'
(10462) [NS]
CTRD.

MAX SPEC'S 4

PL 3/4" X 5'
(10463)
CTRD.

2'-4 1/8

5/16

2'-9

NOTE:
WELD PIPE 3/4" FILLET WELD
CONT. AND GRIND U. NTD.

ONE ~ RAIL ~ 104R

BILL OF MATERIALS

<table>
<thead>
<tr>
<th>SHIPPPING PART</th>
<th>ASSEMBLY PART</th>
<th>QTY</th>
<th>MATERIAL DESCRIPTION</th>
<th>LENGTH</th>
<th>IN</th>
</tr>
</thead>
<tbody>
<tr>
<td>104R1</td>
<td>RAIL</td>
<td>2</td>
<td>4&quot;</td>
<td>1001-18</td>
<td></td>
</tr>
<tr>
<td>104R2</td>
<td>PL 1&quot; X 2&quot;</td>
<td>0</td>
<td>2</td>
<td>1001-18</td>
<td></td>
</tr>
<tr>
<td>104R3</td>
<td>PL 3/4&quot; X 3&quot;</td>
<td>0</td>
<td>3</td>
<td>1001-18</td>
<td></td>
</tr>
<tr>
<td>104R4</td>
<td>BAR 3/4&quot; X 3&quot;</td>
<td>16</td>
<td>3</td>
<td>1001-18</td>
<td></td>
</tr>
<tr>
<td>HINGE</td>
<td>2</td>
<td>0</td>
<td>4&quot;</td>
<td>1001-18</td>
<td></td>
</tr>
<tr>
<td>LATCH</td>
<td>1</td>
<td>0</td>
<td>4&quot;</td>
<td>1001-18</td>
<td></td>
</tr>
</tbody>
</table>

CARESOURCE
FLYBOY DELI - FITDOUT
DAYTON, OH.

CONTRACTOR: DANIS
DATE: 10/19/20

DESIGNER: BHP ARCHITECTURE
DATE: 2017

INVENTOR: RAIL
DATE: 10/19/20

MANAGER: 1/4" DIAM. UNO.
DATE: 2017

REVISION: B
DATE: 10/19/20

BILL NUMBER: 21773
DATE: 10/19/20

BY: 104
NOTE:
WELD PIPE 7/8" FILLET WELD
CONT. AND GRIND U. NTD.

ONE ~ RAIL ~ 105R

BILL OF MATERIALS

<table>
<thead>
<tr>
<th>SHIPPL</th>
<th>QTY</th>
<th>ASSEMBLY</th>
<th>QTY</th>
<th>MATERIAL</th>
<th>DESCRIPTION</th>
<th>FT</th>
<th>IN</th>
<th>REMARKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>105R</td>
<td>1</td>
<td>105R</td>
<td>1</td>
<td>RAIL</td>
<td></td>
<td>7</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>105p1</td>
<td>1</td>
<td>RAIL</td>
<td>0</td>
<td>BAR 7/8&quot; x 1/4&quot;</td>
<td>0</td>
<td>50</td>
<td>0</td>
<td>6001-78</td>
</tr>
<tr>
<td>105p2</td>
<td>1</td>
<td>BAR 7/8&quot; x 1/4&quot;</td>
<td>0</td>
<td>6001-78</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

WOOD, BIP ARCHITECTURE
CONTRACTOR: DANIS
DATE: 10/19/20
DRAWN BY: JV

DRAFTING: NONE
SCALE: 1/8" DIA. UNO.

DELTA BLACK ACRYLIC
REISSUE APPROVAL: 10/20/20
DRAWN: 21783
SIDEWALK RAILING PLAN

SECTION A-A

SECTION B-B

EXIST. BLDG.

NEW BLDG.

DOUBLE SPACE-LOCK CONNECTOR

NEW DOOR

EDGE OF CONCRETE CURB

REV. A/4-21

PATRIOT MANUFACTURING GROUP
STEEL FABRICATORS AND ERECTORS
510 LINDEN STREET, CARLISLE, OHIO 43013

CARAN/EDELMS
FLOYD DELI & FITOUT
DAYTON, OH.

CONTRACTOR: DANS
ARCHITECT: BOKP ARCHITECTURE

DRAWN BY: KP
CHECKED BY: JV

DATE: 10/3/20
FIELD USE

NOTE: VINYL RAIL WITH 1/4" HOLES, U.N.O.

REVISION: B
ART NUMBER: 21773
DRAWING RELEASED FOR: FIELD USE
SHEET NUMBER:

DTM BLACK ACRYLIC

10/20/20
E100
November 10, 2020

TO:    Fred Stovall, Director
       Department of Public Works

FROM:  Tony Kroeger, Planning Division Manager
       Department of Planning and Community Development

SUBJECT: Special Privilege Permit 940620 – 219 N. Patterson Blvd.

The Department of Planning and Community Development has reviewed the above referenced permit application and has no objections.

If you have questions, please contact me at ext. 3673.
November 16, 2020

TO: Fred Stovall, Director  
    Department of Public Works

FROM: Michael Powell, Director  
       Department of Water

SUBJECT: Special Privilege Permit No. 940620 – 219 N. Patterson Blvd

The Department of Water has reviewed the above referenced permit application and offers the following comments:

- We have no objection to the installation of Outdoor Patio Fencing for Flyboys Deli located at 219 N. Patterson Blvd.

If you have any questions, please contact Ben Botkin at 333-2058.
Mr. Stovall,
No objections to issuance of above-referenced permit

Thx.
ASSOCIATION OF OHIO METROPOLITAN WASTEWATER AGENCIES (AOMWA) MEMBERSHIP

The Department of Water requests permission to renew the annual membership with the Association of Ohio Metropolitan Wastewater Agencies (AOMWA). AOMWA is a state-wide non-profit organization that represents the interest of public wastewater agencies in Ohio.

AOMWA provides a forum for members to share their experience and advance their knowledge of the management and technology trends in the industry. They are highly involved in advocacy for regulatory and legislation as well as involvement in litigation in helping to raise awareness of the needs of public wastewater utilities in Ohio. In recent years, AOMWA has had an increasingly vocal presence in the state arena, working extensively with Ohio EPA on its development of nutrient criteria standards for point sources, even convincing them to organize a technical advisory group (TAG) in which the City of Dayton Water Department is a member. They provide a forum that tracks and advises members on such issues and the impact it may have on their operations.

The membership dues are calculated based on the most recent service area population. AOMWA member agencies collectively provide wastewater collection and/or treatment for over four million Ohioans.

The 2021 membership will expire on 12/31/2021.

A Certificate of Funds is attached.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>X</th>
<th>New Contract</th>
<th>_____</th>
<th>Renewal Contract</th>
<th>_____</th>
<th>Change Order:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contract Start Date</td>
<td>2/3/2021</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Expiration Date</td>
<td>12/31/2021</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Original Commission Approval</td>
<td>$ 14,040.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Initial Encumbrance</td>
<td>$ 14,040.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Remaining Commission Approval</td>
<td>$ -</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

Required Documentation

|   | Initial City Manager’s Report |      |      |              |
|   | Initial Certificate of Funds |      |      |              |
|   | Initial Agreement/Contract |      |      |              |
|   | Copy of City Manager’s Report |      |      |              |
|   | Copy of Original Certificate of Funds |      |      |              |

| Amount: | 14,040.00 |
| Fund Code: | 55000 - 3460 - 1221 - 54 - Act - Loc |

| Amount: |             |
| Fund Code: |             |

| Amount: |             |
| Fund Code: |             |

Attach additional pages for more FOAPALS

Vendor Name: AOMWA

Vendor Address: c/o Northeast Ohio Regional Sewer District, Attn: Frank Greenland, Dir of Watershed Program

3900 Euclid Ave. Cleveland OH 44115-2506

Street City State Zipcode + 6

Federal ID: 02-0626617

Commodity Code: 961-99

Purpose: Annual Membership Fee

Contact Person: Lisa Burton-Yates

Water Administration 1/22/2021

Department/Division Date

Originating Department Director’s Signature: Michael Powell

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: [Signature]

Date: 1/26/21

CF Prepared by: [Signature]

Date: 1/22/21

CF/CT Number: CF21-0105

October 18, 2011
Bill To:
Mr. Michael Powell
Director of Water Department
City of Dayton
320 W. Monument
Dayton, OH 45402

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021 Annual Dues</td>
<td>$14,040.00</td>
</tr>
</tbody>
</table>

TOTAL $14,040.00

Make all checks payable to: aomwa
c/o Northeast Ohio Regional Sewer District
Attn: Frank Greenland, Director of Watershed Programs
3900 Euclid Avenue
Cleveland, OH 44115-2506
216.881.6600
January 15, 2020

Mr. Michael Powell  
Director of Water Department  
City of Dayton  
320 W. Monument  
Dayton, OH 45402  

Dear Mr. Powell:

The AOMWA Board of Directors voted not to increase the Association’s dues levels for the year 2021. The Association continues its regulatory and legislative advocacy and litigation involvement and has been successful in raising awareness of the needs of public wastewater utilities in Ohio.

Enclosed you will find an invoice that reflects your entity’s 2021 membership dues in accordance with the attached dues schedule. Please note that the amount on your invoice was calculated from the most recent service area population available to us. If the population and resulting dues amount is incorrect, please pay the appropriate amount and include your accurate service area population.

Please do not hesitate to contact either me with any questions you may have. We greatly appreciate your ongoing efforts to support this Association, which will enable it to continue to be a source of information, education and advocacy on behalf of wastewater agencies in the State of Ohio.

Sincerely,

Frank Greenland  
Secretary/Treasurer

Encl.
<table>
<thead>
<tr>
<th>Service Area Population</th>
<th>Current Dues</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt;1,250,000</td>
<td>42,120.00</td>
</tr>
<tr>
<td>&gt;1,000,000</td>
<td>35,100.00</td>
</tr>
<tr>
<td>&gt;750,000</td>
<td>28,080.00</td>
</tr>
<tr>
<td>&gt;500,000</td>
<td>21,060.00</td>
</tr>
<tr>
<td>&gt;250,000</td>
<td>14,040.00</td>
</tr>
<tr>
<td>&gt;100,000</td>
<td>9,828.00</td>
</tr>
<tr>
<td>&gt;50,000</td>
<td>5,616.00</td>
</tr>
<tr>
<td>&gt;25,000</td>
<td>2,808.00</td>
</tr>
<tr>
<td>&gt;0</td>
<td>1,404.00</td>
</tr>
</tbody>
</table>
A RESOLUTION

Honorably Naming West Hillcrest Avenue Between Salem Avenue and the West Corporation Line as “Ohio Players Way.”

WHEREAS, An application has been made by Jeffrey Willis to honorarily designate West Hillcrest Avenue from Salem Avenue to the west corporation line as Ohio Players Way for a two year period due to the band’s cultural contributions to Dayton and throughout the world; and,

WHEREAS, This American funk, soul, and R&B band has created numerous hit songs that have contributed to the Dayton and American experience, such as “Fire” and “Love Rollercoaster”; and,

WHEREAS, The portion of West Hillcrest Avenue to be given the honorary designation is adjacent to the band’s rehearsal hall; and,

WHEREAS, The City Commission adopted Resolution 5014-99 on July 28, 1999, which established the rules and procedures for the naming of public facilities and rights-of-way, and this proposal is consistent with the policy outlined in said resolution; and,

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

Section 1. West Hillcrest Avenue between Salem Avenue and the west corporation line is honorarily designated as Ohio Players Way for a two-year period commencing thirty days after the adoption of this resolution.

Section 2. The official name of West Hillcrest Avenue is unchanged.

Section 3. The City Manager is directed to implement this resolution in a timely manner.

Adopted by the Commission…………………………………, 2021

Signed by the Mayor………………………………………………, 2021

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
January 6, 2021

TO: Rashella Lavender, Clerk of Commission

FROM: Tony Kroeger, Secretary
City Plan Board

SUBJECT: Two-Year Honorary Designation for “Ohio Players Way” on February 3, 2021 City Commission Calendar

Plan Board Case PLN2020-00528

I am requesting that a resolution be placed on the February 3, 2021 City Commission calendar to establish a two-year honorary designation for West Hillcrest Avenue between Salem Avenue and the west corporation line as “Ohio Players Way.” The official/legal name of Hillcrest Avenue will remain Hillcrest Avenue. A second reading and vote on the resolution is planned for the February 17, 2021 City Commission meeting. If approved on February 17, the effective date of the resolution will be March 17, 2021.

The Ohio Players are an American funk, soul music and R&B band, most popular in the 1970’s. They are best known for their songs “Fire” and Love Rollercoaster.” The band’s rehearsal hall was located at 3300 West Hillcrest Avenue.

In compliance with the requirements of Resolution 5014-99 which governs honorary street designations, sufficient support was received from property owners abutting the proposed designation. The City of Dayton Engineer, the Public Works Department, and the Police and Fire Departments have no objections to the designation. Several letters of support were provided, including from the Northwest Priority Board and the Dayton Musicians Association.

By a 6-0 vote, the Plan Board recommends City Commission approval of the two year honorary designation. The Plan Board believes the request complies with the requirements outlined in Resolution 5014-99. No public hearing is required on the request so a public hearing will not be held.

Enclosed for distribution to the City Commission is the Plan Board minute record, the Plan Board case report, correspondence received, and the resolution. If you have any questions, please contact me at 3673. Thank you.

cc: Ms. Dickstein, Mr. Parlette, Ms. Lofton, Mr. Kinskey, Ms. Walker, Case File
Establish an Honorary Designation on West Hillcrest Avenue (From Salem Avenue to the west corporation line) as “Ohio Players Way.” The official name of West Hillcrest Avenue will remain West Hillcrest Avenue. It is proposed to be a two-year honorary designation.

Applicant: Jeffrey Willis  
1434 Vancouver Avenue  
Dayton, OH 45406

Priority Land Use Board: North Central  
Planning District: College Hill  
Decision: Approved

Staff Comments
Tony Kroeger presented the staff report.

Request: Mr. Jeffrey Willis, brother of Mr. Clarence “Chet” Willis of the Ohio Players, is requesting that an honorary designation be established for a three (3) block portion of West Hillcrest Avenue which runs adjacent to the former rehearsal hall where the musical group Ohio Players crafted and rehearsed their music for over ten 10 years. The designation would be “Ohio Players Way.” The official name of West Hillcrest Avenue would remain West Hillcrest Avenue.

Background: The Ohio Players are an American funk, soul music and R&B band, most popular in the 1970’s. They are best known for their songs “Fire” and “Love Rollercoaster.” The band’s rehearsal hall was located at 3300 West Hillcrest Avenue.

Board Authority and Requirements:  
According to the requirements of Resolution 5014-99, Amended Rules and Procedures for the Naming of Public Right of Way (and Public Facilities), the Plan Board shall review the request and make recommendation to the City Commission to approve the request or an alternate proposal.

Staff Analysis Regarding Determination and Findings:  
Resolution 5014-99 details the process to be followed when bestowing an honorary designation on a public right-of-way. Staff believes the findings and determinations can be made, and recommends that the Plan Board send the proposal on to City Commission with a recommendation for approval.

Agencies and Groups Contacted:
Abutting property owners, the North Central Priority Land Use Board, the Northwest Priority Board, and the City’s Public Works, Police and Fire departments.

**Impacts and Comments:**
There should be no negative impact by implementing the proposal. This is an honorary designation, not an official renaming of this portion of West Hillcrest Avenue. The honorary designation will be recognized by signs posted above the street signs. It is for two years.

Approximately seventeen (17) property owners abut the portion of West Hillcrest Avenue (from Salem Avenue west to Alpena Avenue) which is proposed for the honorary designation. It should be noted the twelve (12) of the properties are located in the jurisdiction of Harrison Township of Montgomery County, Ohio. The following represents the detail of the efforts—by the applicant—to secure support for this request:

- The week of July 13, 2020, petitions were sent to 17 property owners along W. Hillcrest Avenue between Salem Avenue west to Alpena Avenue. Over 13 of the properties are in the jurisdiction of Harrison Township. Contact with both Harrison Township Trustees and Montgomery County Commissioners was made. Both indicated that they had no process for street designations and deferred to the City of Dayton’s process as a way to fulfill the requirements.
- Attached are nine (9) petitions from property owners along W. Hillcrest that were received.
- Attempts to secure signatures from the following properties were unsuccessful:
  - 3300 W. Hillcrest (Dayton property) – Visits to the owner of record revealed a vacant house (4790 N. Union)
  - 3310 W. Hillcrest (Dayton property) – property owned by a church. Attempts contact still ongoing.
  - 3512 W. Hillcrest – (Harrison Township) – Calls to property owner not returned.
  - 3543 W. Hillcrest – (Harrison Township) – contact with owner unsuccessful after several visits.
  - 3550 W. Hillcrest – (Harrison Township) – contact with owner unsuccessful after contact with renter.
  - 3525 W. Hillcrest – (Harrison Township) – visit to property owner’s address revealed a vacant property.
- Other letters of support were provided: Salem Avenue Peace Corridor, Artist Willis “Bing” Davis, Northwest Priority Board, Dayton Musicians Association and Dr. Sharon D. Gratto – U.D. Prof. of Music.
- Dayton Daily News Article

Staff, encouraged by there being no objection but wanting more information, then sent letters to all owners of property on this segment within the City of Dayton. Of those 12 letters, two responses were received. One was an email in support from the Montgomery County Landbank, and the other was a voicemail for a property owner who clearly received the letter of inquiry, but did not leave a name or callback number. That person also supported the honorary designation.
Staff believes that the City of Dayton can only make decisions for street segments that are in the City of Dayton. Therefore, the staff recommends the approval occur for the segment between Salem Avenue and Piccadilly Drive, which is entirely in the City. If the County and/or Township wish to extend that honorary designation, it is their prerogative to do so, and the blue honorary designation signs may be placed at those locations if all parties agree.

Based on that information, staff believes the support received meets the intent of the requirement that 51% of abutting property owners support of the request.

The City of Dayton Engineer, the Public Works Department, and the Police and Fire Departments have no objections to the designation. The honorary designation is also supported by the Northwest Priority Board which has provided a letter of support.

**Public Comments**
Ken Marcellus of 3025 Lakeview Drive spoke in support of the application. He also noted that the County and Harrison Township said that they would follow City of Dayton procedure for determining of such signage may be located in Harrison Township.

**Board Discussion**
The Board found that the application could be approved based on the required standards in the allowing Resolution.

**Board Action**
A motion was made by Mr. Bradley, seconded by Ms. Pegues and carried to approve the proposal to give a two-year honorary designation (“Ohio Players Way”) to West Hillcrest Avenue from Salem Avenue west to Alpena Avenue because the proposal meets the requirements outlined in City Commission Resolution 5014-99.

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Paul Bradley</td>
<td>Yes</td>
<td>Mr. Matt Sauer</td>
<td>Yes</td>
</tr>
<tr>
<td>Ms. Geraldine Pegues</td>
<td>Yes</td>
<td>Mr. Greg Scott</td>
<td>Yes</td>
</tr>
<tr>
<td>Mr. Jeff Payne</td>
<td>Yes</td>
<td>Mr. Richard Wright</td>
<td>Absent</td>
</tr>
<tr>
<td>Ms. Rosie Miller</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Minutes approved by the City Plan Board on December 8, 2020.
Tony Kroeger, Secretary City Plan Board
November 10, 2020

CITY PLAN BOARD REPORT

Case: PLN2020-00528

Establish an Honorary Designation for a three (3) block portion of West Hillcrest Avenue (From Salem Avenue to Alpena Avenue) as “Ohio Players Way.” The official name of West Hillcrest Avenue will remain West Hillcrest Avenue. It is proposed to be a two-year honorary designation.

Applicant(s):
Jeffrey Willis
1434 Vancouver Avenue
Dayton, Ohio 45406

Kenneth Marcellus
3025 Lakeview Avenue
Dayton, Ohio 45417

Priority Land Use Board: North Central Neighborhood: College Hill

Request: Mr. Jeffrey Willis, brother of Mr. Clarence “Chet” Willis of the Ohio Players, is requesting that an honorary designation be established for a three (3) block portion of West Hillcrest Avenue which runs adjacent to the former rehearsal hall where the musical group Ohio Players crafted and rehearsed their music for over ten 10 years. The designation would be “Ohio Players Way.” The official name of West Hillcrest Avenue would remain West Hillcrest Avenue.

Background: The Ohio Players are an American funk, soul music and R&B band, most popular in the 1970’s. They are best known for their songs “Fire” and Love Rollercoaster.” The band’s rehearsal hall was located at 3300 West Hillcrest Avenue.

Board Authority and Requirements:
According to the requirements of Resolution 5014-99, Amended Rules and Procedures for the Naming of Public Right of Way (and Public Facilities), the Plan Board shall review the request and make recommendation to the City Commission to approve the request or an alternate proposal.

Staff Analysis Regarding Determination and Findings:
Resolution 5014-99 details the process to be followed when bestowing an honorary designation on a public right-of-way. Staff believes the findings and determinations can be made, and recommends that the Plan Board send the proposal on to City Commission with a recommendation for approval.

Agencies and Groups Contacted:
Abutting property owners, the North Central Priority Land Use Board, the Northwest Priority Board, and the City’s Public Works, Police and Fire departments.

Impacts and Comments:
There should be no negative impact by implementing the proposal. This is an honorary designation, not an official renaming of this portion of West Hillcrest Avenue. The honorary designation will be recognized by signs posted above the street signs. It is for two years.

Approximately seventeen (17) property owners abut the portion of West Hillcrest Avenue (from Salem Avenue west to Alpena Avenue) which is proposed for the honorary designation. It should be noted the twelve (12) of the properties are located in the jurisdiction of Harrison Township of Montgomery County,
Ohio. The following represents the detail of the efforts—by the applicant—to secure support for this request:

- The week of July 13, 2020, petitions were sent to 17 property owners along W. Hillcrest Avenue between Salem Avenue west to Alpena Avenue. Over 13 of the properties are in the jurisdiction of Harrison Township. Contact with both Harrison Township Trustees and Montgomery County Commissioners was made. Both indicated that they had no process for street designations and deferred to the City of Dayton’s process as a way to fulfill the requirements.
- Attached are nine (9) petitions from property owners along W. Hillcrest that were received.
- Attempts to secure signatures from the following properties were unsuccessful:
  - 3300 W. Hillcrest (Dayton property) – Visits to the owner of record revealed a vacant house (4790 N. Union)
  - 3310 W. Hillcrest (Dayton property) – property owned by a church. Attempts contact still ongoing.
  - 3512 W. Hillcrest – (Harrison Township) – Calls to property owner not returned.
  - 3543 W. Hillcrest – (Harrison Township) – contact with owner unsuccessful after several visits.
  - 3550 W. Hillcrest – (Harrison Township) – contact with owner unsuccessful after contact with renter.
  - 3525 W. Hillcrest – (Harrison Township) – visit to property owner’s address revealed a vacant property.
- Other letters of support were provided: Salem Avenue Peace Corridor, Artist Willis “Bing” Davis, Northwest Priority Board, Dayton Musicians Association and Dr. Sharon D. Gratto – U.D. Prof. of Music.
- Dayton Daily News Article

Staff, encouraged by there being no objection but wanting more information, then sent letters to all owners of property on this segment within the City of Dayton. Of those 12 letters, two responses were received. One was an email in support from the Montgomery County Landbank, and the other was a voicemail for a property owner who clearly received the letter of inquiry, but did not leave a name or callback number. That person also supported the honorary designation.

Based on that information, staff believes the support received meets the intent of the requirement that 51% of abutting property owners support of the request.

The City of Dayton Engineer, the Public Works Department, and the Police and Fire Departments have no objections to the designation. The honorary designation is also supported by the Northwest Priority Board which has provided a letter of support.
Determinations and Findings:
Staff believes that the application meets the rules and guidelines set forth in Resolution Number 5014-99, and therefore recommends approval.

According to the resolution, honorary designations shall meet the following criteria:

a. The designation shall be confined to the right-of-way within the vicinity of the home, business, or location associated with the person(s) or event.

   **The three (3) block segment (from Salem Avenue west to Alpena Avenue) of West Hillcrest Avenue was chosen for this designation because 3300 West Hillcrest Avenue was the location of the rehearsal hall for the Ohio Players for ten (10) years. However, only the segment in the City of Dayton can be the subject of City of Dayton legislation.**

b. The designation shall not be an Arterial as listed on the Official Thoroughfare Plan.

   **West Hillcrest Avenue is a residential street located within the College Hill Planning District; it is not an Arterial.**

c. There shall be only one honorary designation per facility or right-of-way.

   **There is no current designation for this portion of West Hillcrest Avenue.**

d. An important community event, organization or well-known person(s) is a person or entity who has made a sustained contribution, over a long period of time, above and beyond the call of duty and demonstrated leadership relating to governance, human relations and development, or neighborhood development.

   - A person(s) who has made specific and sustained contributions to an organization located in or in proximity to the facility.

   - An event that recognized statewide or nationwide.

   **The Ohio Players are and continue to be one of the creators of the music genre called “Funk”. They have been recognized as one of the major influences on current music styles beginning in the late 1970’s until today. They continue to be musical ambassadors for the state of Ohio that includes a song presented at every concert entitled “O.H.I.O.”**

e. The important community event, organization, or well-known person(s) shall be directly related to the public facility or the public right-of way, i.e. lived, worked, went to school, etc. at the location specified. Only one honorary designation shall be permitted for each person(s) or community event. Preference shall be given to intersections and other limited locations.

   **The requirement is satisfied for a direct relationship between this portion of West Hillcrest Avenue and the honorees proposed for the honorary designation. The Ohio Players rehearsed at 3300 West Hillcrest Avenue for over ten (10) years.**

Alternatives:
1. Recommend approval of the proposal to give a two-year honorary designation (“Ohio Players Way”) to West Hillcrest Avenue from Salem Avenue west to Alpena Avenue because the proposal meets the requirements outlined in City Commission Resolution 5014-99.
2. Recommend an alternate proposal (staff recommendation).

   • Recommend approval of the proposal to give a two-year honorary designation ("Ohio Players Way") to West Hillcrest Avenue from Salem Avenue west to the corporation line because the proposal meets the requirements outlined in City Commission Resolution 5014-99.

3. Recommend disapproval of the designation because the proposal does not meet the requirements outlined in City Commission Resolution 5014-99.

**Future Actions:**
Approval by the City Commission.
September 4, 2020

To whom it may concern:

The following is a sequence of efforts to secure signatures from property owners along the portion of Hillcrest to be honorary designated as "Ohio Players Way":

The week of July 20, 2020, petitions were sent to 20 property owners along W. Hillcrest Avenue between Salem Avenue west to Alpena Avenue. Over 13 of the properties are in the jurisdiction of Harrison Township. Contact with both Harrison Township Trustees and Montgomery County Commissioners was made. Both indicated that they had no process for street designations and deferred to the City of Dayton’s process as a way to fulfill the requirements.

Attached are the signatures that were returned.

Attempts to secure signatures from the following properties were unsuccessful:

3300 W. Hillcrest (Dayton property) – Visits to the owner of record revealed a vacant house (4790 N. Union)

3310 W. Hillcrest (Dayton property) – property owned by a church. Attempts contact still ongoing.

3512 W. Hillcrest – (Harrison Township) – Calls to property owner not returned.

3543 W. Hillcrest – (Harrison Township) – contact with owner unsuccessful after several visits.

3550 W. Hillcrest – (Harrison Township) – contact with owner unsuccessful after contact with renter.

3525 W. Hillcrest – (Harrison Township) – visit to property owner’s address revealed a vacant property.

Recorded by Ken Marcellus – 937-321-7185
Ken,

Just a note on behalf of Salem Avenue Peace Corridor, LLC., to let you know that we support this effort to rename part of Hillcrest for the Ohio Players, and we intend to share the word in our August newsletter.

Keep up the good work!

https://www.dayton.com/lifestyles/ohio-players-way-locals-seek-honor-dayton-funk-pioneers/XEMKnVngz8GQ1EzeBDIDJ/

Steve Makovec
September 10, 2020

TO:    Chief Richard Biehl, Department of Police
       Chief Jeff Lykins, Department of Fire
       Fred Stovall, Director, Department of Public Works

FROM: Ken Marcellus, Planning Division Manager
      Department of Planning and Community Development

SUBJECT: Establish a Two-Year Honorary Designation for a Portion of Hillcrest Avenue between Salem Avenue west to Alpena Avenue as “Ohio Players’ Way”.

The family and friends of the Ohio Players are requesting that a two-year honorary designation is established for a portion of Hillcrest Avenue which runs in front of their former rehearsal hall at 3300 West Hillcrest Avenue. The honorary designation would be “Ohio Players’ Way” in honor of the Ohio Players for influence and impact on the music industry in the advancement of the music genre called “Funk” music. The honorary name designation would be recognized with a blue and white street sign above the regular green and white street name sign. The official name of Hillcrest Avenue will remain Hillcrest Avenue.

According to the requirements of City Commission Resolution 5014-99, Amended Rules and Procedures for the Naming of Public Rights-of-Way, the Plan Board may make a recommendation to the City Commission on a two-year honorary designation after consultation with the City Engineer, affected departments, and the neighborhood organizations.

Please review this proposal for potential conflicts and return comments to me by Friday, September 18, 2020. Attached is the Plan Board public hearing notice for the case and a map.

If you have any questions, please feel free to contact me at tony.kroeger@daytonohio.gov or ext. 3673.

Thank you.

Attachments
   c: Mr. Joe Brzozowski
July 13, 2020

Kenneth Marcellus  
Community Development Specialist  
City of Dayton  
101 West Third Street  
Dayton, OH  45402

Dear Ken,  

I’m so glad to see the renewed interest in possibly honoring our Ohio Players with a street name or general area of our city. They are worthy and deserving. I lend my support in any way desired by this effort.  

I have heard their praise in various parts of the world including China, Japan, South America, and West Africa. Remind me to tell you about the businessman I sat next to on a thirteen hour trip to Nigeria in 1974. The conversation got around to funk music and Dayton. He was very familiar with the Ohio Players and surprised that they are from Dayton. Our conversation ended with his interest in putting up some money if I was willing to locate some musical talent in Dayton to record.  

Ken, there has always been something about Dayton and funk music.

As ever,  

Willis “Bing” Davis  
Founder and Director  
Shango: Center for the Study of  
African American Art and Culture  

cc:  James “Diamond” Williams  
  Joe Madison
July 23, 2020

Mr. Jeffrey Willis
1434 Vancouver Avenue
Dayton, Ohio 45406

Re: Letter of Support for the Honorary Designation Project of the Portion of Hillcrest Avenue from Salem Avenue to Alpena Avenue as Ohio Players Way

Mr. Jeffrey Willis,

As Chairman of the Northwest Priority Board (NWPB) in Dayton, Ohio and as the official voice of the residents in the NWPB area of our City, I submit this letter of support and endorsement for the Honorary Designation Project of the portion of Hillcrest Avenue from Salem Avenue to Alpena Avenue, as Ohio Players Way. This project wholeheartedly solidifies our belief as well as our appreciation for the legacy of the Ohio Players and the contribution they have and still are providing for the City of Dayton and the World!

If there are any questions/concerns that you may have associated with this letter of support/endorsement, please feel free to contact me at dkgreer@ameritech.net and/or at 937-603-4051.

Sincerely,

David K. Greer
Chairman NWPB

Cc: Brenda S. Moore, Vice Chairwoman NWPB
    Ronnie Moreland, Secretary NWPB
    Carolyn Wise, Treasurer NWPB
    Ezra Knox, Parliamentarian NWPB
    Kenneth Marcellus, Community Development Specialist II
    Planning & Community Development Planning 1 City of Dayton
TO: WHOM IT MAY CONCERN

IN RE: PETITION TO RENAME HILLCREST STREET TO OHIO PLAYERS WAY

The Dayton Musicians Association, which represents over 250 members, would like to add our name to the petition for changing Hillcrest Street to Ohio Players Way.

We feel that this recognition of the Ohio Players, who have brought positive musical recognition to Dayton, Ohio, is well deserved.

Sincerely,

Kweku Ayangade, President/Secretary-Treasurer Local 101-473 AFM
September 6, 2020

Dayton City Commissioners
101 W. 3rd Street
Dayton, OH 45402

Dear Commissioners:

It is with great pleasure that I write this letter of support for Jeffrey Willis, who is representing The Ohio Players in an effort to re-name Hillcrest Street in Dayton in honor of this band. Jeffrey has been a member of the Ohio Players and also has responsibilities for some of the band’s administrative business. He has put forth a great deal of effort to gather signatures for a petition to move the name change forward, which is a challenging task in this time of COVID and in a neighborhood where many of today’s residents are renters and not property owners. He has also had to connect with Harrison Township since Hillcrest Street extends beyond the city of Dayton.

Historically, The Ohio Players was foundational in the Funk music movement that began in Dayton, OH and spread all across the United States in the 1970’s and 1980’s. The music is the most sampled type in much of today’s contemporary popular music, and The Ohio Players continue to perform on tour. In 2018 I organized the first Dayton Funk Symposium at the University of Dayton, featuring presentations about The Ohio Players and honoring one of their original members who is a UD graduate. A 2nd Dayton Funk Symposium is scheduled in 2021 and will include a ceremony to induct this band into the Funk Hall of Fame. It would be wonderful to have the Hillcrest Street renaming project completed by the time of the Symposium.

I hope you will give this project and my letter of support and other letters serious consideration as you make a decision for the street’s name change. With best wishes,

Dr. Sharon Davis Gratto
Professor of Music
A PETITION to support giving a two-year honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena and Salem Avenue. The official and legal name of West Hillcrest Avenue WILL NOT change. The honorary designation will be marked by a blue and white sign mounted above the street name sign.

Ohio Players are an American funk, soul music and R&B band, most popular in the 1970s. They are best known for their songs "Fire" and "Love Rollercoaster". 3300 West Hillcrest Avenue was the location of their rehearsal hall.

I, Roberta Graham, am the owner of property at

3306 W. Hillcrest Ave, Dayton, OH

(Address(es) of Property or County Parcel Identification Number(s) for Property)

By signing this petition, I acknowledge my desire to support giving the honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena to Salem Avenue.

Roberta Graham 6-26-80

 Signature of Property Owner  Date Signed

3306 W. Hillcrest Ave

Printed Mailing Address of Property Owner

Dayton, OH 45412

City, State, Zip Code of Property Owner

NOTE TO PROPERTY OWNERS: If you own other properties along this portion of the street to be designated, please list them below.

Address(es) of owned property:

3306 W. Hillcrest Ave

Dagton, OH 45412
A PETITION to support giving a two-year honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena and Salem Avenue. The official and legal name of West Hillcrest Avenue WILL NOT change. The honorary designation will be marked by a blue and white sign mounted above the street name sign.

Ohio Players are an American funk, soul music and R&B band, most popular in the 1970s. They are best known for their songs "Fire" and "Love Rollercoaster". 3300 West Hillcrest Avenue was the location of their rehearsal hall.

I, Cynthia Smith, am the owner of property at 5505 W. HILLCREST AVE.

(Address of Property or County Parcel Identification Number(s) for Property)

By signing this petition, I acknowledge my desire to support giving the honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena to Salem Avenue.

Cynthia Smith
Signature of Property Owner

Date Signed: 5-20

Printed Name of Property Owner

City, State, Zip Code of Property Owner

NOTE TO PROPERTY OWNERS: If you own other properties along this portion of the street to be designated, please list them below.

Address(es) of owned property:
A PETITION to support giving a two-year honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena and Salem Avenue. The official and legal name of West Hillcrest Avenue WILL NOT change. The honorary designation will be marked by a blue and white sign mounted above the street name sign.

Ohio Players are an American funk, soul music and R&B band, most popular in the 1970s. They are best known for their songs "Fire" and "Love Rollercoaster". 3300 West Hillcrest Avenue was the location of their rehearsal hall.

I, ... am the owner of property at

3520 W. Hillcrest Ave
(Address(es) of Property or County Parcel Identification Number(s) for Property)

By signing this petition, I acknowledge my desire to support giving the honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena to Salem Avenue.

[Signature of Property Owner]

[Printed Name of Property Owner]

[Printed Mailing Address of Property Owner]

[City, State, Zip Code of Property Owner]

NOTE TO PROPERTY OWNERS: If you own other properties along this portion of the street to be designated, please list them below.

Address(es) of owned property:

[Additional addresses if applicable]
A PETITION to support giving a two-year honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena and Salem Avenue. The official and legal name of West Hillcrest Avenue WILL NOT change. The honorary designation will be marked by a blue and white sign mounted above the street name sign.

Ohio Players are an American funk, soul music and R&B band, most popular in the 1970s. They are best known for their songs "Fire" and "Love Rollercoaster". 3300 West Hillcrest Avenue was the location of their rehearsal hall.

I, Jackie Robinson, am the owner of property at
(Vanity) Peace Ch.
4201 Hillcrest Ave
(Address (es) of Property or County Parcel Identification Number(s) for Property)

By signing this petition, I acknowledge my desire to support giving the honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena to Salem Avenue.

Signature of Property Owner

Date Signed
8-16-2020

Printed Name of Property Owner
Jackie Robinson

Printed Mailing Address of Property Owner

City, State, Zip Code of Property Owner

NOTE TO PROPERTY OWNERS: If you own other properties along this portion of the street to be designated, please list them below.

Address(es) of owned property:


A PETITION to support giving a two-year honorary designation of "Ohio Players Way" to a portion of West Hillcrest Avenue between Alpena and Salem Avenue. The official and legal name of West Hillcrest Avenue WILL NOT change. The honorary designation will be marked by a blue and white sign mounted above the street name sign.

Ohio Players are an American funk, soul music and R&B band, most popular in the 1970s. They are best known for their songs "Fire" and "Love Rollercoaster". 3300 West Hillcrest Avenue was the location of their rehearsal hall.

I, [Name of Owner] am the owner of property at

[Address (es) of Property or County Parcel Identification Number(s) for Property]

By signing this petition, I acknowledge my desire to support giving the honorary designation of "Ohio Players Way" to a portion of West Hillcrest Avenue between Alpena to Salem Avenue.

[Signature of Property Owner]

[Printed Name of Property Owner]

[Printed Mailing Address of Property Owner]

[City, State, Zip Code of Property Owner]

08/14/20 Date Signed

NOTE TO PROPERTY OWNERS: If you own other properties along this portion of the street to be designated, please list them below.

Address(es) of owned property:

[Blank Lines]
A PETITION to support giving a two-year honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena and Salem Avenue. The official and legal name of West Hillcrest Avenue WILL NOT change. The honorary designation will be marked by a blue and white sign posted above the street name sign.

Ohio Players are an American funk, soul music and R&B band, most popular in the 1970s. They are best known for their songs "Fire" and "Love Rollercoaster". 3300 West Hillcrest Avenue was the location of their rehearsal hall.

I, [Name of Owner], am the owner of property at [Address of Property] (Address(es) of Property or County Parcel Identification Number(s) for Property).

By signing this petition, I acknowledge my desire to support giving the honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena to Salem Avenue.

Signature of Property Owner: [Signature]

Printed Name of Property Owner: [Name]

Printed Mailing Address of Property Owner: [Address]

City, State, Zip Code of Property Owner: [City, State, Zip Code]

Date Signed: [Date]

NOTE TO PROPERTY OWNERS: If you own other properties along this portion of the street to be designated, please list them below.

Address(es) of owned property:
A PETITION to support giving a two-year honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena and Salem Avenue. The official and legal name of West Hillcrest Avenue WILL NOT change. The honorary designation will be marked by a blue and white sign mounted above the street name sign.

Ohio Players are an American funk, soul music and R&B band, most popular in the 1970s. They are best known for their songs "Fire" and "Love Rollercoaster". 3300 West Hillcrest Avenue was the location of their rehearsal hall.

I, [Name of Owner], am the owner of property at [Address of Property] (Address(es) of Property or County Parcel Identification Number(s) for Property)

By signing this petition, I acknowledge my desire to support giving the honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena to Salem Avenue.

[Signature of Property Owner] [Date Signed]

[Printed Name of Property Owner]

[Printed Mailing Address of Property Owner]

**NOTE TO PROPERTY OWNERS:** If you own other properties along this portion of the street to be designated, please list them below.

Address(es) of owned property:

[Address 1]

[Address 2]
A PETITION to support giving a two-year honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena and Salem Avenue. The official and legal name of West Hillcrest Avenue WILL NOT change. The honorary designation will be marked by a blue and white sign mounted above the street name sign.

Ohio Players are an American funk, soul music and R&B band, most popular in the 1970s. They are best known for their songs "Fire" and "Love Rollercoaster". 3300 West Hillcrest Avenue was the location of their rehearsal hall.

I, ________________, am the owner of property at
3724 W. Hillcrest Ave.
(Address(es) of Property or County Parcel Identification Number(s) for Property)

By signing this petition, I acknowledge my desire to support giving the honorary designation of “Ohio Players Way” to a portion of West Hillcrest Avenue between Alpena to Salem Avenue.

Oscar Young

Printed Name of Property Owner
3724 W. Hillcrest Ave.

Printed Mailing Address of Property Owner
Dayton, OH 45406

City, State, Zip Code of Property Owner

NOTE TO PROPERTY OWNERS: If you own other properties along this portion of the street to be designated, please list them below.

Address(es) of owned property:

_________________________
A PETITION to support giving a two-year honorary designation of "Ohio Players Way" to a portion of West Hillcrest Avenue between Alpena and Salem Avenue. The official and legal name of West Hillcrest Avenue WILL NOT change. The honorary designation will be marked by a blue and white sign mounted above the street name sign.

Ohio Players are an American funk, soul music and R&B band, most popular in the 1970s. They are best known for their songs "Fire" and "Love Rollercoaster". 3300 West Hillcrest Avenue was the location of their rehearsal hall.

I, [Name of Owner], am the owner of property at [Address(es) of Property or County Parcel Identification Number(s) for Property].

By signing this petition, I acknowledge my desire to support giving the honorary designation of "Ohio Players Way" to a portion of West Hillcrest Avenue between Alpena to Salem Avenue.

[Signature of Property Owner] [Date Signed]

Printed Name of Property Owner

[Printed Mailing Address of Property Owner]

NOTE TO PROPERTY OWNERS: If you own other properties along this portion of the street to be designated, please list them below.

[Address(es) of owned property]
By the way Tony, I’m a big "Hell Yes" for the Ohio Players Street name!!

Sincerely,

Susie Crabill
Program Manager

LAND BANK
Rebuilding Vibrant Communities, One Property at a Time

130 W Second Street
Suite 1425
Dayton, Ohio 45402
937-531-7034
A RESOLUTION

Honorarily Naming West Hillcrest Avenue Between Salem Avenue and the West Corporation Line as “Ohio Players Way.”

WHEREAS, An application has been made by Jeffrey Willis to honorarily designate West Hillcrest Avenue from Salem Avenue to the west corporation line as Ohio Players Way for a two-year period due to the band’s cultural contributions to Dayton and throughout the world; and,

WHEREAS, This American funk, soul, and R&B band has created numerous hit songs that have contributed to the Dayton and American experience, such as “Fire” and “Love Rollercoaster”; and,

WHEREAS, The portion of West Hillcrest Avenue to be given the honorary designation is adjacent to the band’s rehearsal hall; and,

WHEREAS, The City Commission adopted Resolution 5014-99 on July 28, 1999, which established the rules and procedures for the naming of public facilities and rights-of-way, and this proposal is consistent with the policy outlined in said resolution; and,

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

Section 1. West Hillcrest Avenue between Salem Avenue and the west corporation line is honorarily designated as Ohio Players Way for a two-year period commencing thirty days after the adoption of this resolution.

Section 2. The official name of West Hillcrest Avenue is unchanged.

Section 3. The City Manager is directed to implement this resolution in a timely manner.

Adopted by the Commission.................................................., 2021
Signed by the Mayor............................................................., 2021

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney