I. AGENDA SCHEDULE

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

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

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

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

1. Purchase Orders:

   PUBLIC WORKS
   A1. Beau Townsend Ford, Inc. (automotive repair parts and related items as needed through 12-31-23) $400,000.00
   A2. IEH Auto Parts LLC dba Auto Plus Auto Parts (automotive repair parts and related items as needed through 12-31-23) 60,000.00
1. (Cont’d):

**WATER**

B1. Infor Public Sector, Inc. (annual computer software licensure, maintenance and support through 12-31-20) $16,760.58

B2. Maxim Crane Works LP (rental services for cranes as needed through 12-31-22) 30,000.00

B3. McCarthy Industrial Contractors, Inc. (Donaldson Torit Air Filtration Product replacement parts as needed through 12-31-23) 57,500.00

B4. Mechanical Construction Managers LLC (preventative maintenance on chlorine gas scrubbers as needed through 08-31-20) 39,150.00

B5. Ferguson Waterworks (water main pipes, fittings, valves and related items as needed through 12-31-21) 180,000.00

-Depts. of Public Works and Water. Total: $783,410.58

B. Construction Contracts:

2. C. G. Construction and Utilities, Inc. – Award of Contract – for the Martel Drive Water Main Improvements (15% MBE Goal/15.1% MBE Achieved) – Dept. of Water/Water Engineering. $434,703.50

(Thru 05/31/21)

3. Peterson Construction Co. – Award of Contract – for the Anaerobic Digester Cover Replacement (5% SBE Participation 6.04% SBE Achieved) – Dept. of Water/Water Reclamation. $2,002,000.00

(Thru 10/31/21)

C. Revenue to City:

4. OptumHealth Care Solutions LLC – Service Agreement – for the Optum Fitness Passport network – Dept. of Recreation & Youth Services. $25,000.00

(Thru 12/31/25)

E. Other – Contributions, Etc.:

5. NAACP – Other – for 2020 contribution – The City Commission Office. $3,500.00

6. Sister City Foundation – Other – for 2020 contribution – The City Commission Office. $15,000.00
IV. LEGISLATION:

Emergency Resolution – First Reading:


VI. MISCELLANEOUS:

ORDINANCE NO. 31790-20

RESOLUTION NO. 6474-20

IMPROVEMENT RESOLUTION NO. 3598-20

INFORMAL RESOLUTION NO. 975-20
PUBLIC WORKS – FLEET MANAGEMENT

(A1) P0200572 – BEAU TOWNSEND FORD, INC., VANDALIA, OH

- Automotive repair parts and related items as needed through 12/31/2020.
- These goods are required to maintain and repair City-owned vehicles.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 20005D with pricing through 12/31/2023.
- The Department of Public Works requests additional authority of $300,000.00 through 12/31/2023.
- The Department of Public Works recommends approval of this order. Multiple awards are recommended to ensure the best value and supply availability.

<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>2020</td>
<td>Inventory</td>
<td>61000-6470-1350-99</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>2021</td>
<td>Inventory</td>
<td>61000-6470-1350-99</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>2022</td>
<td>Inventory</td>
<td>61000-6470-1350-99</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>2023</td>
<td>Inventory</td>
<td>61000-6470-1350-99</td>
<td>$100,000.00</td>
</tr>
</tbody>
</table>
PUBLICATION WORKS – FLEET MANAGEMENT (CONTINUED)

(A2) P0200534 – IEH AUTO PARTS LLC dba AUTO PLUS AUTO PARTS, MOORESTOWN, NJ
- Automotive repair parts and related items as needed through 12/31/2020.
- These goods are required to maintain and repair City-owned vehicles.
- Nineteen (19) possible vendors were solicited and eight (8) bids were received. This order establishes a price agreement per IFB 20005D with pricing through 12/31/2023.
- The Department of Public Works requests additional authority of $45,000.00 through 12/31/2023.
- The Department of Public Works recommends acceptance of the low bid(s). Multiple awards are recommended to ensure the best value and supply availability.

<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>2020</td>
<td>Inventory</td>
<td>61000-6470-1350-99</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>2021</td>
<td>Inventory</td>
<td>61000-6470-1350-99</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>2022</td>
<td>Inventory</td>
<td>61000-6470-1350-99</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>2023</td>
<td>Inventory</td>
<td>61000-6470-1350-99</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>

WATER – WATER ENGINEERING

(B1) P0200320 – INFOR PUBLIC SECTOR, INC., ALPHARETTA, GA
- Annual computer software licensure, maintenance and support through 12/31/2020.
- These services are required to maintain operations of the Work Order Management Program that tracks and maintains work orders and asset information used in the Departments of Water and Public Works.
- This system is copyrighted intellectual property of Infor Public Sector, Inc., the original software developer and sole source for these services; therefore, this purchase was negotiated.
- This amendment increases the previously authorized amount of $221,500.00 by $16,760.58 for a total not to exceed $238,260.58 and therefore requires City Commission approval.
- The Departments of Information Technology and Water recommend approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tbody>
<tr>
<td>2020</td>
<td>Computer Maintenance</td>
<td>53000-3421-1164-54</td>
<td>$16,760.58</td>
</tr>
</tbody>
</table>
WATER – WATER SUPPLY AND TREATMENT

(B2) P0200576 – MAXIM CRANE WORKS LP, DAYTON, OH
- Rental services for cranes as needed through 12/31/2020.
- These services are required to maintain various operating equipment at the Division’s facilities.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 19052D with pricing through 12/31/2022.
- Maxim Crane Works LP 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>2020</td>
<td>Other Maintenance of Facilities</td>
<td>53000-3430-1172-54</td>
<td>$30,000.00</td>
</tr>
</tbody>
</table>

(B3) P0200571 – McCARTHY INDUSTRIAL CONTRACTORS, INC., HARRISON TOWNSHIP, OH
- Donaldson Torit Air Filtration Product replacement parts as needed through 12/31/2020.
- These goods are required to maintain the City’s Water Distribution Centers.
- McCarthy Industrial Contractors, Inc. is recommended as the sole local distributor for Donaldson Torit Air Filtration Products; therefore, this purchase was negotiated.
- The Department of Water requests additional authority of $45,000.00 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>
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<td>2020</td>
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<td>53000-3430-1301-54</td>
<td>$12,500.00</td>
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<tr>
<td>2021</td>
<td>Supplies and Materials</td>
<td>53000-3430-1301-54</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>2022</td>
<td>Supplies and Materials</td>
<td>53000-3430-1301-54</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>2023</td>
<td>Supplies and Materials</td>
<td>53000-3430-1301-54</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>

(B4) P0200160 – MECHANICAL CONSTRUCTION MANAGERS LLC, HARRISON TOWNSHIP, OH
- Preventative maintenance on chlorine gas scrubbers as needed through 8/31/2020.
- These services are required to maintain equipment at the Water Supply and Treatment Plant.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB N16051 with pricing through 8/31/2020.
- 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>
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<tr>
<td>2020</td>
<td>Other Professional Services</td>
<td>53000-3430-1159-54</td>
<td>$39,150.00</td>
</tr>
</tbody>
</table>
WATER – WATER UTILITY FIELD OPERATIONS

(B5) P0200540 – FERGUSON WATERWORKS, HARRISON TOWNSHIP, OH

- Water main pipe, fittings, valves and related items as needed through 12/31/2020.
- These goods are required to maintain the City’s Water Distribution Center.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 20006S with pricing through 12/31/2020 with two (2) additional options to renew.
- The Department of Water requests additional authority of $90,000.00 through 12/31/2021.
- The Department of Water recommends approval of this order. Multiple awards are recommended to ensure ongoing competition and supply availability.

<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>2020</td>
<td>Inventory</td>
<td>53998-3445-1350-54</td>
<td>$90,000.00</td>
</tr>
<tr>
<td>2021</td>
<td>Inventory</td>
<td>53998-3445-1350-54</td>
<td>$90,000.00</td>
</tr>
</tbody>
</table>

The aforementioned departments recommend approval of this order.
City Manager’s Report

From: 3420- Water/Water Engineering
Supplier, Vendor, Company, Individual
C.G. Construction and Utilities, Inc.
Address: 6891 Germantown Pike
Miamisburg, OH 45342

Date: February 5, 2020
Expense Type: Award of Contract
Total Amount: $434,703.50 (thru 5/31/2021)

Fund Source(s)
Series 2018 Water Const. Fund
2020 Water Capital Fund

Fund Code(s)
53816-3445-1424-54-WF1916
53005-3445-1424-54-WF1916

Fund Amount(s)
$304,292.45
$130,411.05

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

Description

MARTEL DRIVE WATER MAIN IMPROVEMENTS
(15% MBE GOAL / 15.1% MBE ACHIEVED)

The Department of Water requests permission to enter into an Agreement with C.G. Construction and Utilities, Inc., in the amount of $434,703.50 for the Martel Drive Water Main Improvements project. This amount includes the base bid of $395,185.00 and Alternate No. 1 – Contingency Allowance for $39,518.50 (10% of the base bid). This project consists of the installation of approximately 1,400 linear feet of new 8” water main in Martel Drive from Colwick Drive to Bellaire Avenue. Work includes the installation of ductile iron pipe and fittings, gate valves, fire hydrants and doing other work incidental thereto.

Six bids were received for this project on December 12, 2019. After evaluating the bids, C.G. Construction and Utilities, Inc.’s bid was determined to be the lowest. The estimated cost for the project (including Alternate No. 1 – Contingency Allowance) was $475,000.00. The time of completion is May 31, 2020. The expiration date identified on the Certificate of Funds is May 31, 2021.

This project is being funded using Series 2018 Water Construction Fund (Debt) and 2020 Water Capital Funds (Cash). This project supports the Asset Management Capital Reinvestment Program by replacing existing water mains to improve performance of the water distribution system.

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

Division

Department

City Manager

FORM NO. MS-16

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>_____</th>
<th>Renewal Contract</th>
<th>_____</th>
<th>Change Order: _____</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>2/5/2020</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>5/31/2021</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$434,703.50</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$434,703.50</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Original CT/CF</td>
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<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td>$</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

- 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

Amount: $304,292.45

| Fund Code | 53816 - 3445 - 1424 - 54 - WF1916 - |
| Fund | Org | Acct | Prog | Act | Loc |

Amount: $130,411.05

| Fund Code | 53005 - 3445 - 1424 - 54 - WF1916 - |
| Fund | Org | Acct | Prog | Act | Loc |

Attach additional pages for more FOAPALS

Vendor Name: C.G. Construction and Utilities, Inc.
Vendor Address: 6891 Germantown Pike Miamisburg Ohio 45342
Street City State Zipcode + 4
Federal ID: 31-1666913
Commodity Code: 96896
Purpose: Award of Contract for Martel Drive Water Main Improvements

Contact Person: Lisa Burton-Yates
Water/Water Engineering Department/Division 1/24/2020 Date

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 01/28/2020

CF/Prepared by

Date 01/28/2020
CF/CT Number
DAYTON, OHIO  
DEPARTMENT OF WATER  

PROPOSAL TABULATION FOR:  
MARTEL DRIVE WATER MAIN 
IMPROVEMENTS (15% MBE 
PARTICIPATION)  

<table>
<thead>
<tr>
<th>Bid Opening Date:</th>
<th>Engineer's Estimate: ¹</th>
<th>Estimated Time of Completion:</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 12, 2019</td>
<td>$475,000.00</td>
<td>May 31, 2020</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Bidders</th>
<th>Actual Amount ¹ of Bid</th>
<th>Adjustment for Work Days</th>
<th>Adjustment for Comparison Purposes Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>*CG Construction</td>
<td>$395,185.00</td>
<td>$0.00</td>
<td>$395,185.00</td>
</tr>
<tr>
<td>Milcon Concrete</td>
<td>$401,138.20</td>
<td>$0.00</td>
<td>$401,138.20</td>
</tr>
<tr>
<td>Double Jay</td>
<td>$415,740.00</td>
<td>$0.00</td>
<td>$415,740.00</td>
</tr>
<tr>
<td>L.J. DeWeese Co.</td>
<td>$450,104.20</td>
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</tr>
<tr>
<td>Associated Excavating</td>
<td>$451,414.70</td>
<td>$0.00</td>
<td>$451,414.70</td>
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<tr>
<td>Adleta Construction</td>
<td>$480,336.90</td>
<td>$0.00</td>
<td>$480,336.90</td>
</tr>
</tbody>
</table>

* RECOMMENDED FOR AWARD

¹ includes Base Bid and Alternate No. 1 - Contingency Allowance
### Martel Drive Water Main Improvements (#6577466)

**Owner:** City of Dayton Ohio  
**Solicitor:** Dayton OH, City of

<table>
<thead>
<tr>
<th></th>
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<th></th>
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<th></th>
<th></th>
<th></th>
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<tbody>
<tr>
<td>BASE Bid</td>
<td>ONLINE</td>
<td>ONLINE</td>
<td>ONLINE</td>
<td>ONLINE</td>
<td>ONLINE</td>
<td>ONLINE</td>
</tr>
<tr>
<td>Street Cut Permit</td>
<td>Accepted</td>
<td>Accepted</td>
<td>Accepted</td>
<td>Accepted</td>
<td>Accepted</td>
<td>Accepted</td>
</tr>
<tr>
<td>Alternate 1</td>
<td>392,785.80</td>
<td>398,719.00</td>
<td>413,320.80</td>
<td>447,685.00</td>
<td>448,995.50</td>
<td>477,917.70</td>
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<td>Street Cut Permit</td>
<td>2,419.20</td>
<td>2,419.20</td>
<td>2,419.20</td>
<td>2,419.20</td>
<td>2,419.20</td>
<td>2,419.20</td>
</tr>
<tr>
<td>Alternate 1</td>
<td>39,518.50</td>
<td>40,113.82</td>
<td>41,574.00</td>
<td>45,010.42</td>
<td>45,141.47</td>
<td>48,033.69</td>
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</tbody>
</table>

**Base Bid Total:**  
- $395,185.00  
- $401,138.20  
- $415,740.00  
- $450,104.20  
- $451,414.70  
- $480,136.90

Export to CSV
January 9, 2020

TO: Nick Dailey P.E., Chief Engineer
    Department of Water,
    Division of Water Engineering

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

SUBJECT: Martel Drive Water Main Improvements
         (15% MBE Participation Goal)

The apparent low bidder, C G Construction & Utilities, submitted a bid utilizing three (3) PEP-certified contractor to meet the project’s participation goal. The HRC’s contract compliance analysis has verified that C G Construction & Utilities 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>C G Construction &amp; Utilities</td>
<td>$395,185.00</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>Dickinson Construction</td>
<td>$8,000.00</td>
<td>2.02% MBE</td>
</tr>
<tr>
<td>EWOL Trucking &amp; Construction</td>
<td>$4000.00</td>
<td>1.01% MBE</td>
</tr>
<tr>
<td>W.C. Jones Asphalt Paving Co.,</td>
<td>$47,7000.00</td>
<td>12.07% MBE</td>
</tr>
</tbody>
</table>

| TOTAL COMMITTED PARTICIPATION    | 15.1% MBE            |

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
The consideration to be paid for the performance of the Contract of the above described project is provided as follows: This information provides for the issuance of the tax-exempt form for the purchase of materials for this project.

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>CONSIDERATION FOR MATERIALS</th>
<th>CONSIDERATION FOR OBLIGATIONS</th>
<th>TOTAL $</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL BASE BID</td>
<td>237,111.00</td>
<td>158,074.00</td>
<td>395,185.00</td>
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<tr>
<td>TOTAL ALT NO. 1</td>
<td></td>
<td>39,518.50</td>
<td>39,518.50</td>
</tr>
</tbody>
</table>

The time of completion fixed by the City is **May 31, 2020**

Following are the names of all persons, firms, and corporations interested in the above bid as principals. If none, state that “No person or party other than the bidder is interested in this Bid.”

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>No person or party other than the bidder in interested in this bid.</td>
<td></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.
BID BOND

Amount $ ________________

We, the undersigned, are held and firmly bound unto the City of Dayton, Ohio in the sum of ________________ 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 these presents.

The condition of this obligation is such that, if the Bid attached hereto is accepted and the Contract award to the bidder, C.G. Construction & Utilities, Inc.

____________________

named therein, and the said bidder shall within ten (10) days after being advised that said contract has been awarded to the bidder, enter into a Contract in the form hereto attached 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 and sealed at Dayton, Ohio, this 12th day of December, 2019.

C.G. Construction & Utilities, Inc.

By __________________________

Bidder Mary L. Getter, President

Hudson Insurance Company

__________________________

Surety Susan E. Hurd, Attorney-in-Fact

Hylant Group, Inc.

__________________________

Name of Insurance Agency

565 Metro Place South, Ste 450 Dublin, OH 43017

Address of Insurance Agency

Telephone (614) 932-1221   FAX (614) 932-1299
BID BOND POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That HUDSON INSURANCE COMPANY, a corporation of the State of Delaware, with offices at 100 William Street, New York, New York, 10038, has made, constituted and appointed, and by these presents, does make, constitute and appoint

Michael M. Ilyantz, Judy K. Wilson, Monica M. Mills, Kristie A. Pudvan,
Lisa M. Wilmot, Vicki S. Duncan, Susan E. Hard
of the States of Michigan, Illinois, and Ohio
its true and lawful Attorney(s)-in-Fact, at New York City in the State of New York, each of them alone to have full power to act without the other or others, to make, execute and deliver on its behalf, as Surety, bid bonds for any and all purposes.

Such bid bonds, when duly executed by said Attorney(s)-in-Fact, shall be binding upon said Company as fully and to the same extent as if signed by the President of said Company under its corporate seal attested by its Secretary.

In Witness Whereof, HUDSON INSURANCE COMPANY has caused these presents to be of its Senior Vice President thereunto duly signed on this 16th day of August 2018 at New York, New York.

HUDSON INSURANCE COMPANY

By: ____________________________
    Michael P. Cifone, Senior Vice President

STATE OF NEW YORK
COUNTY OF NEW YORK

On the 16th day of August 2018 before me personally came Michael P. Cifone to me known, who being by me duly sworn did depose and say that he is a Senior Vice President of HUDSON INSURANCE COMPANY, the Company described herein and which executed the above instrument, that he knows the seal of said Company, that the seal affixed to said instrument is the corporate seal of said Company, that it was so affixed by order of the Board of Directors of said Company and is the corporate seal thereto by like order.

CAMERON GOURLAY
Notary Public, State of New York
No. 10106372305
Qualified in New York County
Commission Expires June 4, 2022

CERTIFICATION

The undersigned Dina Daskalakis hereby certifies:

THAT the original resolution, of which the following is a true and correct copy, was duly adopted by unanimous written consent of the Board of Directors of Hudson Insurance Company dated July 27th, 2007, and has not since been revoked, amended or modified:

"RESOLVED, that the President, the Executive Vice Presidents, the Senior Vice Presidents and the Vice Presidents shall have the authority and discretion, to appoint such agent or agents, or attorney or attorneys-in-fact, for the purpose of carrying on this Company's surety business, and to empower such agent or agents, or attorney or attorneys-in-fact, to execute and deliver, under this Company's seal or otherwise, bonds obligations, and recognizances, whether made by this Company as surety thereon or otherwise, indemnity contracts, contracts and certificates, and any and all other contracts and undertakings made in the course of this Company's surety business, and renewals, extensions, agreements, waivers, consents or stipulations regarding undertakings so made; and

FURTHER RESOLVED, that the signature of any such Officer of the Company and the Company's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seal when so used whether heretofore or hereafter, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed."

THAT the above and foregoing is a full, true and correct copy of Power of Attorney issued by said Company, and of the whole of the original and that the said Power of Attorney is still in full force and effect and has not been revoked, and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney is now in force.

I, ____________________________, do hereby, in the name of ____________________________, witness the hand of the undersigned and the seal of said Company this 12th day of December 2019.

By: ____________________________
    Dina Daskalakis, Corporate Secretary
Ohio Department of Insurance
Mike DeWine - Governor
Jillian Froment - Director

Certificate of Compliance

Issued 03/26/2019
Effective 04/02/2019
Expires 04/01/2020

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

HUDSON INSURANCE COMPANY

of Delaware 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)

Aircraft
Allied Lines
Boiler & Machinery
Burglary & Theft
Collectively Renewable A & H
Commercial Auto - Liability
Commercial Auto - No Fault
Commercial Auto - Physical Damage
Credit
Credit Accident & Health
Earthquake
Fidelity
Financial Guaranty
Fire
Glass
Group Accident & Health
Guaranteed Renewable A & H

Inland Marine
Medical Malpractice
Multiple Peril - Commercial
Multiple Peril - Farmowners
Multiple Peril - Homeowners
Noncancellable A & H
Nonrenew-Stated Reasons (A&H)
Ocean Marine
Other
Other Accident only
Other Liability
Private Passenger Auto - Liability
Private Passenger Auto - No Fault
Private Passenger Auto - Physical Damage
Surety
Workers Compensation

HUDSON INSURANCE COMPANY certified in its annual statement to this Department as of December 31, 2018 that it has admitted assets in the amount of $1,363,032,602, liabilities in the amount of $921,539,457, and surplus of at least $441,493,145.

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

Accredited by the National Association of Insurance Commissioners (NAIC)
HUDSON INSURANCE COMPANY
SHORT FORM FINANCIAL STATEMENT
AS OF DECEMBER 31, 2018

<table>
<thead>
<tr>
<th>ASSETS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonds</td>
<td>$335,825,311</td>
</tr>
<tr>
<td>Real estate</td>
<td>0</td>
</tr>
<tr>
<td>Cash on hand and on deposit</td>
<td>56,610,897</td>
</tr>
<tr>
<td>Reinsurance Receivable</td>
<td>295,692,952</td>
</tr>
<tr>
<td>FIT recoverable (including net deferred tax asset)</td>
<td>19,975,326</td>
</tr>
<tr>
<td>Aggregate write-ins for other than invested assets</td>
<td>296,559,253</td>
</tr>
<tr>
<td>Deferred premiums, agents’ balances and installments booked but deferred and not yet due (including earned but unbilled premiums)</td>
<td>64,104,446</td>
</tr>
<tr>
<td>Stocks</td>
<td>224,397,557</td>
</tr>
<tr>
<td>Other Assets</td>
<td>69,866,860</td>
</tr>
<tr>
<td><strong>Total Assets</strong></td>
<td><strong>$1,363,032,602</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIABILITIES &amp; SURPLUS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Losses</td>
<td>$206,909,194</td>
</tr>
<tr>
<td>Loss adjustment expense</td>
<td>23,275,155</td>
</tr>
<tr>
<td>Other expenses</td>
<td>20,681,593</td>
</tr>
<tr>
<td>Unearned premiums</td>
<td>86,239,183</td>
</tr>
<tr>
<td>Ceded reinsurance premiums payable</td>
<td>490,370,623</td>
</tr>
<tr>
<td>Payable to parent, subsidiaries and affiliates</td>
<td>448,529</td>
</tr>
<tr>
<td>Commissions payable, contingent commissions and other similar charges</td>
<td>13,750,069</td>
</tr>
<tr>
<td>Other Liabilities</td>
<td>79,865,111</td>
</tr>
<tr>
<td><strong>Total Liabilities</strong></td>
<td><strong>$921,539,457</strong></td>
</tr>
<tr>
<td>Preferred and Common capital stock</td>
<td>$7,500,238</td>
</tr>
<tr>
<td>Gross paid in and contributed surplus</td>
<td>293,480,097</td>
</tr>
<tr>
<td>Unassigned funds (surplus)</td>
<td>140,512,810</td>
</tr>
<tr>
<td>Surplus as regards policyholders</td>
<td>$441,492,145</td>
</tr>
<tr>
<td><strong>Total Liabilities and Surplus</strong></td>
<td><strong>$1,363,032,602</strong></td>
</tr>
</tbody>
</table>

STATE OF NEW YORK
COUNTY OF NEW YORK

I, the undersigned Senior Vice President and Controller of Hudson Insurance Company hereby certify the foregoing to be a short form financial statement in the form of a balance sheet, showing the Company’s assets and liabilities on a provisional basis, at the close of business on December 31, 2018.

IN TESTIMONY WHEREOF, I have set my hand and affixed the seal of the Company, this 31st day of December, 2019.

[Signature]
Senior Vice President and Chief Financial Officer

Subscribed and sworn to before me this 31st day of December, 2019.

[Signature]
Notary Public, State of New York

CAMERON GOURLAY
Notary Public, State of New York
No. 01G06372305
Qualified in New York County
Commission Expires June 4, 2022

[Seal]
Bidder is
An Individual
Firm Name

Business Address

Telephone

Partnership
Firm Name

Members of Firm and
Their Business Address

Telephone

Corporation
Name

State of Incorporation
Ohio

Name and Title of
Officers with Authority
to Sign Contract
Mary L.S. Getter-President
Carl R. Getter-V. President

Home Office Address
6891 Germantown Pike
Miamisburg, OH 45342

Local Address

Telephone (937) 866-7166 Fax (937) 865-9271

E-mail undergroundmng@brc.com

Federal I.D.# 31-1666913

Dated this 9th day of December, 2019

Bidder: Mary L.S. Getter
(Person, Firm, or Corporation)

By: C.G. Construction & Utilities, Inc.

Title: President
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, Mary L.S. Getter (print name – an Officer of the company)
C.G. Construction & Utilities, Inc. (company)
hereby certify that

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: Mary L.S. Getter (signature)

Title: President

Date: 12/09/2019
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.

<table>
<thead>
<tr>
<th>Benefits</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Health Insurance</td>
<td></td>
</tr>
<tr>
<td>Pension</td>
<td></td>
</tr>
<tr>
<td>Apprenticeship</td>
<td></td>
</tr>
<tr>
<td>Administrative</td>
<td></td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Training Program</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>I.U.O.E. Local 18</td>
<td>LIUNA Local 1410</td>
</tr>
<tr>
<td>Apprenticeship</td>
<td>Apprenticeship</td>
</tr>
<tr>
<td>Training Program</td>
<td>Training Program</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>W.C. Jones Asphalt Paving</td>
<td></td>
</tr>
<tr>
<td>D. Dickinson Construction</td>
<td></td>
</tr>
<tr>
<td>E.W.O. Trucking</td>
<td></td>
</tr>
</tbody>
</table>
D. Please provide a list of all minority business enterprises contacted for the purpose of obtaining quotes to perform work for this project.

Please see attached

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
Mary Getter

From: <Scottgconstruction@swohio.twcbc.com>
Date: Tuesday, December 3, 2019 2:07 PM
To: "Austin Feller" <Austin.Feller@FirstStarSafety.com>; "adrian bozeman" <bozemanconstruction@yahoo.com>;
<ann9nrt@aol.com>; <bbexcavate@sbcglobal.net>; <branscomtruckng@yahoo.com>; "bigg trucking"
<biggllc29@gmail.com>; <dfredericks3@yahoo.com>; "ken block" <kblock@woh.rr.com>; "kelvin"
<ewoltruckng30@yahoo.com>; "joyce sutton" <gstar426@aol.com>; "george tuck" <tallviewpalladium@sbcglobal.net>;
<grissomcon@att.net>; <gminarcek44@gmail.com>; "Keshee' Harris" <keshee@harris@gmail.com>; "Leo Lucas"
<leo.lucas1@wcjonesasphalt.com>; <ljohnkathy@aol.com>; <lvruful34@yahoo.com>; <pimechanical@woh.rr.com>
Cc: "Bronston, Edward" <Edward.Bronston@daytonohio.gov>; "Fields, Erica" <Erica.Fields@daytonohio.gov>;
<David.Lyttle@daytonohio.gov>; "Mary Getter" <undergroundmancg@bizwoh.rr.com>

Attach: PEP FORM.pdf; BID SHEET.pdf; PLANS.zip
Subject: Request for Pricing, Martel Drive Water Main Improvements

To PEP vendors,

C.G. Construction & Utilities, Inc. is soliciting quotes for the Martel Drive Water Main Improvements project for
the City of Dayton. This project bids at noon, December, 12 2019.
This project’s participation goal is 15% MBE
We are requesting quotes for construction services, trucking services, aggregate material, asphalt paving, pipe
material, concrete work, electrical work and seed/straw/landscaping.
Plans and specs are available at the City of Dayton’s Public Works Department. Information about the plans,
specs and requirements for this project is also available at the Minority Business Center located within the
Human Relations Council offices at 371 W. Second St. Dayton, OH.
Their telephone number is 937-333-1033.
Please send quotes for your specific scope to chip.cgconstruction@bizwoh.rr.com or you may also reply to myself
at scottgconstruction@swohio.twcbc.com.

Please contact our office with any questions, and specifically, if HRC has recently made changes to your current
PEP status, classifications or qualifications that may “NOT” be reflected in the attached PEP Vendor List and
might, directly affect quoting work on this project.

Thank you.

Scott Pearson
Chief Estimator
C.G. Construction & Utilities, Inc.
Phone: 937 866-7166
Fax: 937 865-9271
Cell: 937 604-5471
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:

Mary L.S. Getter
being duly sworn, deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of C.G. Construction & Utilities, Inc. ("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 OHIO.

☐ 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(3-A) and 3517.992(R)(3). Any contract that contains a falsified certification shall be rescinded.

By: Mary L.S. Getter

Title: President
CITY OF DAYTON
CONTRACTOR NON-COLLUSION AFFIDAVIT

STATE OF OHIO } SS:
COUNTY OF MONTGOMERY }

Mary L.S. Getter, being first duly sworn deposes and states that:

(1) He/she isPresident of
(owne, partner, officer, representative, or agent)
C.G. Construction & Utilities, Inc. that
(business or organization name)

(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.

Mary L.S. Getter
SIGNED
President
TITLE

Duly signed by Mary L.S. Getter.
213-555-4444
330-555-5555
mgetter@cgconstr.com
AFFIRMATIVE ACTION PROGRAM
EQUAL EMPLOYMENT OPPORTUNITY

PROJECT: Martel Water Main Improvements (15% MBE Participation)  Dayton, OH

During the performance of this contract:
C.G. Construction & Utilities, Inc  6891 Germantown Pike, Miamisburg, OH 45342
CONTRACTOR  ADDRESS  TELEPHONE / FAX  937-866-7166/937-865-9271

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>Goals of Minority Worker</th>
<th>Utilization Expressed in Percentage Terms</th>
<th>11.5%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goals of Female Worker</td>
<td>Utilization Expressed in Percentage Terms</td>
<td>6.9%</td>
</tr>
</tbody>
</table>

From 1/1/2000 to Present

From 4/1/80 to Present
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 workforce 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 Ecomonic 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 therefore. 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.
e) 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.

g) The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority and female organizations, schools, minority and female recruitment training organizations with the Dayton Economic Area.

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

C.G. Construction & Utilities, Inc. (Contractor) certifies that:

1. The following listed construction trades will be used in performance of this project.
   Operating Engineers
   Laborers
   Truck Drivers

   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: Mary L.S. Getter

(Signature of Authorized Representative of Bidder)

FAILURE TO SIGN AND SUBMIT THIS DOCUMENT WITH YOUR BID WILL RESULT IN YOUR BID NOT BEING READ
City Manager's Report

From 3460 - Water/Water Reclamation
Supplier, Vendor, Company, Individual
Name Peterson Construction Co.
Address 18817 SR 501 N.
Wapakoneta, OH 45895

Date February 5, 2020
Expense Type Award of Contract
Total Amount $2,002,000.00 (thru 10/31/2021)

Fund Source(s) Fund Code(s) Fund Amount(s)
2020 Sanitary Capital Fund 55003-3460-1424-54-SF1901 $2,002,000.00

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

Description

ANAEROBIC DIGESTER COVER REPLACEMENT
5% SBE PARTICIPATION / 6.04% SBE ACHIEVED

The Department of Water requests permission to enter into a Contract with Peterson Construction Co. in the amount of $2,002,000.00 for the Anaerobic Digester Cover Replacement project. This amount includes the base bid of $1,820,000.00 and Alternate No. 1 – Contingency Allowance for $182,000.00 (10% of the base bid). This project consists of the construction of a new anaerobic digester roof. This includes installation of new recirculation and digester gas piping, temperature probes and the new manufactured cover along with new concrete confers and coating of necessary piping and materials.

Two bids were received for this project on January 9, 2020. After evaluation, Peterson Construction Co.’s bid was determined to be the lowest. The estimated cost for the project (including Alternate No. 1 – Contingency Allowance) was $2,300,000.00. The time of completion is 270 Calendar Days. The expiration date identified on the Certificate of Funds is October 31, 2021.

This project is being funded using 2020 Sanitary Capital Fund.

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

Division

Department

City Manager

Approved by City Commission

Clerk

Date

FORM NO. MS-16

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>_____</th>
<th>Renewal Contract</th>
<th>_____</th>
<th>Change Order: _____</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>2/5/2020</td>
<td>10/31/2021</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$2,002,000.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$2,002,000.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
</tr>
<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**

| 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 |

**Amount:** $2,002,000.00

**Fund Code:**

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>Fund</th>
<th>Org</th>
<th>Acct</th>
<th>Prog</th>
<th>Act</th>
<th>Loc</th>
</tr>
</thead>
<tbody>
<tr>
<td>55003 - 3460 - 1424 - 54 - SF1901</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

**Vendor Name:** Peterson Construction Company

**Vendor Address:** 18817 SR 501 North, Wapakoneta OH 45895

**Federal ID:** 34-1342365

**Commodity Code:** 93691

**Purpose:** Award of Contract for Anaerobic Digester Cover Replacement

---

**Contact Person:** Lisa Burton-Yates

**Water/Water Engineering Department/Division:** 1/24/2020

**Originating Department Director’s Signature:**

---

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

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

**Finance Director Signature:**

**CF Prepared by:**

---

**October 18, 2011**
## Proposal Tabulation for:
**Anaerobic Digester Cover Replacement (5% SBE Participation)**

<table>
<thead>
<tr>
<th>Bid Opening Date:</th>
<th>Engineer's Estimate: (^1)</th>
<th>Estimated Time of Completion:</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 9, 2020</td>
<td>$2,300,000.00</td>
<td>270 Calendar Days</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Bidders</th>
<th>Actual Amount (^1) of Bid</th>
<th>Adjustment for Work Days</th>
<th>Adjustment for Comparison Purposes Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>*Peterson</td>
<td>$2,002,000.00</td>
<td>$0.00</td>
<td>$2,002,000.00</td>
</tr>
<tr>
<td>Sunesis</td>
<td>$2,648,360.00</td>
<td>$0.00</td>
<td>$2,648,360.00</td>
</tr>
</tbody>
</table>

*RECOMMENDED FOR AWARD*

\(^1\) includes Base Bid and Alternate No. 1 - Contingency Allowance
January 23, 2020

TO: Nick Dailey P.E., Chief Engineer
Department of Water,
Division of Water Engineering

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

SUBJECT: Anaerobic Digester Cover Replacement (% 5 SBE GOAL)

The apparent low bidder, Peterson 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 Peterson 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>
<th>COMMITTED DOLLAR AMT</th>
<th>% TOWARD GOAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peterson Construction Co.</td>
<td>$1,820,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mad River Construction</td>
<td>$110,000.00</td>
<td>6.04% SBE</td>
<td></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
NOTE TO CONTRACTORS:
Since there will be copies made of the bid form of this improvement, please use black ink or a typewriter to fill in the bid prices and extensions.

CITY OF DAYTON, OHIO
DEPARTMENT OF PUBLIC WORKS

Bid Form
Anaerobic Digester Cover Replacement
(5% SBE Participation)

Bidder
Peterson Construction Company
18817 SR 501 North
Wapakoneta, OH 45895
BID FORM

To: Director, Department of Public Works
   The City of Dayton

The undersigned, having full knowledge of the site and the provisions of the plans and specifications for the following improvement, and the conditions of this bid, hereby agrees to furnish all services, labor, materials and equipment, and to construct in every respect complete:

ANAEROBIC DIGESTER COVER REPLACEMENT

(5% SBE PARTICIPATION)

in accordance with said plans and specifications on file in the office of the City Engineer at the unit prices hereinafter set forth.
### ANAEROBIC DIGESTER COVER REPLACEMENT
#### (5% SBE PARTICIPATION)

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION</th>
<th>EST. QUANT.</th>
<th>UNIT</th>
<th>UNIT PRICE</th>
<th>TOTAL $</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1</td>
<td>Earthwork</td>
<td>1</td>
<td>L.S.</td>
<td>$10,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>R-2</td>
<td>Concrete Work</td>
<td>1</td>
<td>L.S.</td>
<td>$100,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>R-3</td>
<td>Metals</td>
<td>1</td>
<td>L.S.</td>
<td>$1,135,000</td>
<td>$1,135,000</td>
</tr>
<tr>
<td>R-4</td>
<td>Finishes</td>
<td>1</td>
<td>L.S.</td>
<td>$400,000</td>
<td>$400,000</td>
</tr>
<tr>
<td>R-5</td>
<td>Process Pipe</td>
<td>1</td>
<td>L.S.</td>
<td>$150,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>R-6</td>
<td>Instrumentation and Controls</td>
<td>1</td>
<td>L.S.</td>
<td>$25,000</td>
<td>$25,000</td>
</tr>
</tbody>
</table>

**TOTAL BASE BID**

$1,820,000
In determining the lowest and best bid the City Commission may give consideration to the following Owner-Selected Equipment/Supplier Schedule:

**OWNER-SELECTED EQUIPMENT/SUPPLIER SCHEDULE**

The Bidder shall base the Final Clarifier Improvements pricing upon the specified and named equipment/supplier items as listed in the Owner-Selected Equipment/Supplier Schedule. If more than one equipment/supplier is listed for the same equipment item, then the Bidder shall choose and base the pricing upon one of the specified and named equipment/suppliers listed and shall so designate by circling the name of the chosen equipment/supplier on the Schedule. If the Bidder does not choose one of the equipment/suppliers listed, the Owner shall have the right to select the specified and named equipment/suppliers.

<table>
<thead>
<tr>
<th>Section Number</th>
<th>Description</th>
<th>Equipment Supplier</th>
</tr>
</thead>
<tbody>
<tr>
<td>44 42 25.04</td>
<td>Radial Truss Type Floating Anaerobic Digest Cover</td>
<td>WesTech Engineering, Evoqua Water Technologies, Walker Process Equipment</td>
</tr>
</tbody>
</table>
In determining the lowest and best bid the City Commission may give consideration to the following alternate bids:

**ALTERNATE NO. 1  
CONTINGENCY ALLOWANCE**

This Alternate is for a "CONTINGENCY ALLOWANCE" to be used in the event of unforeseen work which must be undertaken to complete this project. The work could be as additional quantities to the bid items or as non-bid items. For evaluation of the bids, the amount of this "CONTINGENCY ALLOWANCE" shall be equal to **Ten Percent (10%) of the Contractor's Total Base Bid**. For contract award, the amount of this "CONTINGENCY ALLOWANCE" may vary as determined by the City, but shall not exceed the maximum of **Ten Percent (10%) of the Contractor's Total Base Bid**.

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION</th>
<th>EST. QUANT.</th>
<th>UNIT</th>
<th>UNIT PRICE</th>
<th>TOTAL $</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1</td>
<td>Contingency Allowance</td>
<td>1</td>
<td>L.S.</td>
<td>$182,000</td>
<td>$182,000</td>
</tr>
</tbody>
</table>

*(Shall equal 10% of the Contractor’s Total Base Bid)*

**TOTAL ALTERNATE NO. 1**

$182,000
The consideration to be paid for the performance of the Contract of the above described project is provided as follows: This information provides for the issuance of the tax-exempt form for the purchase of materials for this project.

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>CONSIDERATION FOR MATERIALS</th>
<th>CONSIDERATION FOR OBLIGATIONS</th>
<th>TOTAL $</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL BASE BID</td>
<td>$ 200,000</td>
<td>$ 1,200,000</td>
<td>$ 1,800,000</td>
</tr>
<tr>
<td>TOTAL ALT. NO. 1</td>
<td>$ - 0 -</td>
<td>$ 182,000</td>
<td>$ 182,000</td>
</tr>
</tbody>
</table>

(Contingency Allowance)

The time of completion fixed by the City is 270 Calendar Days.

Following are the names of all persons, firms, and corporations interested in the above bid as principals. If none, state that "No person or party other than the bidder is interested in this Bid."

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>No person or party other than the bidder is interested in this bid.</td>
<td></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  X

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

Telephone

Corporation
Name
Peterson Construction Company

State of Incorporation
Ohio

Name and Title of
Officers with Authority
to Sign Contract
Donald J. Bergfeld, President  Douglas J. Crusey, Vice President
Robert K. Knapke, Vice President

Home Office Address
18817 SR 501 North

Local Address
Wapakoneta, OH 45895

Telephone  419-941-2233  Fax  419-941-2244

E-mail rknapke@petersonconstructionco.com

Federal I.D.# 34-1342365

Dated this   9   day of   January   , 2020

Bidder:     Peterson Construction Company
            (Person, Firm, or Corporation)

By:      

Title:  Robert K. Knapke, Vice President
If a certified or cashier's check is submitted with Bid Form, please furnish the following information:

_____ Certified Check

_____ Cashier's Check

Amount __________________________ Dollars

on __________________________ Bank

of __________________________ is Attached

______________________________

Bidder

Cash in the amount of __________________________ Dollars is attached.

______________________________

Bidder
BID BOND

AMOUNT $20,000

We, the undersigned, are held and firmly bound unto the City of Dayton, Ohio, in the sum of
TWO HUNDRED AND NO 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 these presents.

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

________ named therein, and the said bidder shall within ten (10) days after being advised that said contract has been awarded to the bidder, enter into a Contract in the form hereto attached 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 and sealed at Dayton, Ohio this 9th day of January, 2020.

Peterson Construction Company

W. K. ____________

Bidder
Robert K. Knapke, Vice President

Ohio Farmers Insurance Company

Amy M. Perdue, Attorney-In-Fact

Surety

Overmyer Hall Associates

Name of Insurance Agency

1600 W. Lane Avenue, Suite 200, Columbus, OH 43221

Address of Insurance Agency

Telephone 614-453-4400 FAX 614-326-0132

Project: Anaerobic Digester Cover Replacement

7
THIS POWER OF ATTORNEY SUPERCEDES ANY PREVIOUS POWER BEARING THIS SAME POWER # AND ISSUED PRIOR TO 04/22/15, FOR ANY PERSON OR PERSONS NAMED BELOW.

POWER NO. 3406282 10

Westfield Insurance Co.
Westfield National Insurance Co.
Ohio Farmers Insurance Co.
Westfield Center, Ohio

CERTIFIED COPY

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint:

GREGORY R. OVERMEYER, AMY M. PERDUE, JACK KEHL, STEPHANIE M. WHITE, DAVID CATAVENESE, JOINTLY OR SEVERALLY

of COLUMBUS and State of OH its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship.

LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE OR BANK DEPOSITORY BONDS.

and to bind any of the Companies hereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Do you Resolved that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Do you Further Resolved, that the signature of any such designated person and the seal of the Company hereforeto or hereafter affixed to any power of attorney or any certificate ratifying thereto be facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attatched." (Each adopted as a meeting held on February 8, 2000)

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their National Surety Leader and Senior Executive and their corporate seals to be hereunto affixed this 22nd day of APRIL A.D., 2019,

WESTFIELD INSURANCE COMPANY
WESTFIELD NATIONAL INSURANCE COMPANY
OHIO FARMERS INSURANCE COMPANY

By: Dennis P. Baus, National Surety Leader and Senior Executive

State of Ohio
County of Medina
as:

On this 22nd day of APRIL A.D., 2019, before me personally came Dennis P. Baus to me known, who, being by me duly sworn, did depose and say, that he resides in Wooster, Ohio; that he is National Surety Leader and Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which concurred the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notorial Seal
Affixed

State of Ohio
County of Medina

I, Frank A. Carrino, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this 9th day of January, 2020.

Frank A. Carrino, Secretary

BPOAC2 (combined) (08-02)
# Financial Statement

**Ohio Farmers Insurance Co.**  
Westfield Center, Ohio 44251-5001

---

**OHIO FARMERS INSURANCE COMPANY**  
**BALANCE SHEET**  
2/31/18  
*(in thousands)*

<table>
<thead>
<tr>
<th>Assets</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash, cash equivalents, and short term investments</td>
<td>57,708</td>
</tr>
<tr>
<td>Bonds</td>
<td>456,847</td>
</tr>
<tr>
<td>Stocks</td>
<td>137,628</td>
</tr>
<tr>
<td>Subsidiaries</td>
<td>1,977,203</td>
</tr>
<tr>
<td>Real estate</td>
<td>130,031</td>
</tr>
<tr>
<td>Premiums receivable</td>
<td>117,431</td>
</tr>
<tr>
<td>Other assets</td>
<td>142,647</td>
</tr>
<tr>
<td><strong>Total assets</strong></td>
<td>3,019,493</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Liabilities</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Reserve for unearned premiums</td>
<td>171,785</td>
</tr>
<tr>
<td>Reserve for unpaid losses and loss expenses</td>
<td>335,594</td>
</tr>
<tr>
<td>Reserve for taxes and other liabilities</td>
<td>234,715</td>
</tr>
<tr>
<td><strong>Total liabilities</strong></td>
<td>742,094</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Surplus</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Surplus to policyholders</td>
<td>2,277,399</td>
</tr>
<tr>
<td><strong>Total surplus</strong></td>
<td>2,277,399</td>
</tr>
<tr>
<td><strong>Total liabilities and surplus</strong></td>
<td>3,019,493</td>
</tr>
</tbody>
</table>

---

State of Ohio  
ss:  
County of Medina

The undersigned, being duly sworn, says: That he is National Surety Leader - Surety Operations of Ohio Farmers Insurance Company, Westfield Center, Ohio; that said Company is a corporation duly organized, existing and engaged in business as a Surety Company by virtue of the Laws of the State of Ohio and authorized to do business in the State of OH, and has duly complied with all the requirements of the laws of said State applicable to said Company and is duly qualified to act as Surety under such laws; that said Company has also complied with said is duly qualified to act as Surety under the Act of Congress approved July 1947, 6 U.S.C. sec. 6-13; and that to the best of his knowledge and belief the above statement is a full, true, and correct statement of the financial condition of the said Company on the 31st day of December, 2018.

Attest:  

Frank A. Carrino  
Group Legal Leader, Secretary

Sworn to before me this 13th day of February A.D. 2019.

My Commission Does Not Expire  
Sec. 147.03 Ohio Revised Code

---

Dennis P. Baus  
National Surety Leader  
Senior Executive

David A. Kotnik  
Attorney at Law  
Notary Public – State of Ohio
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

OHIO FARMERS INSURANCE COMPANY

of Ohio 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 3925.01 (A)
Accident & Health
Inland Marine
Medical Malpractice
Multiple Peril - Commercial
Multiple Peril - Farmowners
Multiple Peril - Homeowners
Noncancellable A & H
Nonrenew-Stated Reasons (A&H)
Ocean Marine
Other Accident only
Other Liability
Private Passenger Auto - Liability
Private Passenger Auto - No Fault
Private Passenger Auto - Physical Damage
Surety
Workers Compensation

OHIO FARMERS INSURANCE COMPANY certified in its annual statement to this Department as of December 31, 2018 that it has admitted assets in the amount of $3,019,493,490, liabilities in the amount of $742,094,695, and surplus of at least $2,277,398,795.

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

Jillian Froment, Director
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, Robert K. Knapke, hereby certify that
(print name – an Officer of the company)

Peterson Construction Company
(meets the following Contractor requirements relating
(company)

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: Robert K. Knapke, Vice President

Date: January 9, 2020
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.

See Carpenters' Local 104 Contract

See Laborers' Local 1410 Contract

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.

Per the Carpenters' Local 104 Apprentice Program

Per the Laborers' Local 1410 Apprentice Program

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

Howard Painting

OH MAN ENTERPRISES
CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 3 of 3)

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

<table>
<thead>
<tr>
<th>Company Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clem Corp</td>
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<tr>
<td>Demmy Sand &amp; Gravel</td>
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<tr>
<td>Tall View Palladium, Inc.</td>
</tr>
<tr>
<td>Martin Concrete &amp; Trucking</td>
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<tr>
<td>D Dickinson Construction</td>
</tr>
<tr>
<td>Green Star Trucking, Inc</td>
</tr>
<tr>
<td>Robinson Trucking Co.</td>
</tr>
<tr>
<td>Kris Co. Trucking, LTD</td>
</tr>
<tr>
<td>DSS Sweeping Service, Inc</td>
</tr>
<tr>
<td>Wise Construction Co.</td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>None</th>
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</table>
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 Auglaize ss:

Robert K. Knapke being duly sworn, deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of
   Peterson Construction Company (“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 Ohio.
   [ ] 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: ____________________________
   Title: Robert K. Knapke
          Vice President

STATE OF OHIO,
COUNTY OF Auglaize ss:

Sworn to before me and subscribe in my presence by Robert K. Knapke
this 30 day of July, 2024

Notary Public

CHERYL GOETZ
Notary Public, State of Ohio
My Commission Expires 7-30-2024
CITY OF DAYTON
CONTRACTOR NON-COLLUSION AFFIDAVIT
TO BE NOTARIZED AND SUBMITTED WITH BID FORM

STATE OF Ohio               )
COUNTY OF Auglaize          )

Robert K. Knapke
_________________________________________________________________________, being first duly sworn deposes and
states that:

(1) He/she is Vice President of
(owner, partner, officer, representative, or agent)
Peterson Construction Company
(business or organization name)

(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

(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.

Sworn to before me and subscribed in my presence

this ___ day of ___ , 2024.

NOTARY PUBLIC

SIGNED Robert K. Knapke

Vice President

TITLE
AFFIRMATIVE ACTION PROGRAM
EQUAL EMPLOYMENT OPPORTUNITY

PROJECT: Anaerobic Digester Cover Replacement

NAME

LOCATION

Dayton, Ohio

During the performance of this contract:

Peterson Construction Company 18817 SR 501 North, Wapakoneta, OH 45895

CONTRACTOR

ADDRESS

419-941-2233

TELEPHONE / FAX

419-941-2244

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:

Goals of Minority Worker Utilization
Expressed in Percentage Terms

From 1/1/2000 to Present

11.5%

Goals of Female Worker Utilization
Expressed in Percentage Terms

From 4/1/80 to Present

6.9%
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 therefor.
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.

e) 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.

g) The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority and female organizations, schools, minority and female recruitment training organizations with the Dayton Economic Area.

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

Peterson Construction Company (Contractor)
certifies that:

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

   Laborers

   Carpenters


   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]

Robert K. Knapke, Vice President

FAILURE TO SUBMIT AND SIGN THIS DOCUMENT WITH YOUR BID WILL RESULT IN YOUR BID NOT BEING READ
FITNESS PASSPORT SERVICE AGREEMENT

The Department of Recreation and Youth Services Recreation Programs Division is requesting approval to enter into a professional services agreement with OptumHealth Care Solutions LLC, including its affiliates ("Optum") to become a part of the Optum Fitness Passport network. This agreement will commence upon approval and expire on December 31, 2020. The agreement shall automatically renew for four successive twelve-month terms unless terminated sooner. The City of Dayton Department of Recreation and Youth Services will allow Optum Fitness Passport members' access to Lohrey, Northwest and Greater Dayton Recreation Centers and Optum will pay the City $3.20 per member visit with a maximum monthly payment of $32.00 per member. Estimated total revenue is $5,000.00 per year or $25,000.00 if all four renewals are exercised.

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

A Certificate of Revenue is attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 10/2019
CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

Customer Information: Name OptumHealth Care Solutions LLC
Address 11000 Optum Circle
City Eden Prairie State MN Zip+4 55344 -
Customer # Address Location #
Federal ID# 2433314289

Revenue Information: Fund 10000 Orgn 6530 Rev 24242 Prog 56 Actv
Upon
Contract Information: Contract Start Date Approval Contract Expiration Date 12/31/2025
Billing Information: Rate: Arrears Pre-bill
Monthly (1st month of billing) February 2020
Quarterly (1st month of quarter)
Semi-annual (1st month of half)
Annual (1st month of billing)
Other (explain) $3.20/member visit up to $32.00 month per member
Rate Change Date Rate Change Amount

Description of Services (wording on invoice):
Optum will pay the City of Dayton $3.20 per visit per Optum Fitness Passport member up to a
maximum of $32.00 per month per member. City of Dayton will submit to Optum a monthly
attendance report of all eligible Optum Fitness Passport members. Recreation and Youth Services will
pay-in the monthly payment.

Departmental Approval

1/23/2020

TO BE COMPLETED BY FINANCE

City Reference Number 16-14299 Auditor Autman Approved Date 1/28/2020

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)
FITNESS PASSPORT SERVICE AGREEMENT

This Fitness Passport Service Agreement (this “Agreement”) is entered into on ___ day of ___________, 2020 (the “Effective Date”), by and between OptumHealth Care Solutions, LLC, including its affiliates (“Optum”) and City of Dayton, including its Participating Facilities (“Network”). For purposes of this Agreement, Network and Optum shall collectively be referred to herein as the “Parties” and individually as a “Party”.

WHEREAS, Network wishes to become part of the Optum Fitness Passport network comprised of facilities that provide services to support the Fitness Passport Program to Optum’s clients; and

WHEREAS, Optum provides its client’s Members access to the Fitness Passport Program (as further described in Appendix A); and

WHEREAS, Optum desires to include Network as part of its Fitness Passport Program offering so that Optum’s client’s Members may access the Fitness Passport Program.

NOW THEREFORE, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

Except as otherwise specifically indicated, the following terms shall have the following meanings in this Agreement (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

Activation ID: A unique system-generated number assigned by Optum and used by both Parties to identify a Member who enrolls in the Fitness Passport Program.

Activation Letter: A letter, which displays the Activation ID that Members print off and present to a Participating Facility to enroll in the Fitness Passport Program.

Fitness Passport Program: A program sponsored by Optum as described in Appendix A herein.

Eligible Member: A benefit holder enrolled in a qualifying health plan that may or may not be a member of a Participating Facility and is not enrolled in the Fitness Passport Program.

Member: A benefit holder enrolled in a qualifying health plan that is enrolled in the Fitness Passport Program and is a member of a Participating Facility.

Participating Facility: Each Network facility location, unless otherwise excluded as expressly stated in Appendix A herein that is obligated by this Agreement to participate in the Fitness Passport Program.

Network Facility Reimbursement: The amount of reimbursement Optum has agreed to remit to Network toward a Member’s monthly membership rate that Network represents has met the established Fitness Passport Program visit criteria as defined by Optum in Appendix A.

ARTICLE 2
TERM AND TERMINATION

2.1 Term. The initial term of this Agreement shall begin on the Effective Date and shall continue for a
period of twelve (12) months ("Initial Term"). Thereafter, this Agreement shall automatically renew for four (4) successive twelve (12) month terms (each a "Renewal Term"), unless sooner terminated in accordance with Section 2.2 of this Agreement.

2.2 Termination. This Agreement may be terminated by any of the following:

   a) After the Initial Term, during any Renewal Term thereafter, either Party may terminate this Agreement at any time by giving a minimum one hundred twenty (120) days' written notice to the other Party;

   b) By either Party upon mutual written agreement; or

   c) If either Party breaches any provision of this Agreement and fails to cure such breach within thirty (30) days after written notice is given by the non-breaching Party, the Agreement shall terminate at the end of the thirty (30) day period.

Notwithstanding the above, this Agreement shall terminate immediately upon delivery to the other Party of written notice of termination on the occurrence of one of the following:

   a) Bankruptcy, insolvency or the dissolution of either Party;

   b) Assignment of this Agreement by either Party without the permission of the other Party; or

   c) The loss of any license, qualification, authorization, accreditation or certification required for a Party to perform its duties under this Agreement.

Each Party agrees to notify the other Party in writing not later than five (5) business days after the occurrence of any of the events referred to immediately above.

2.3 Effect of Termination: Upon termination of this Agreement, each Party shall immediately cease using the other Party's name, symbol or logo ("Mark"), including but not limited to uses of the Mark authorized by this Agreement. Notwithstanding, the obligation to pay Network Facility Reimbursement to Network by Optum shall survive Termination for one hundred and twenty (120) days after the termination date.

2.4 Ongoing Obligations. Termination shall not affect either Party's liability for any obligations incurred by such Party prior to the effective date of termination.

ARTICLE 3
OBLIGATIONS OF NETWORK

3.1 Access to, Fulfillment of, and Membership Fees for the Fitness Passport Program. Each Participating Facility shall provide all Members with unlimited visits, under the same terms and conditions as other patrons, to the Participating Facility and all standard Network services, during the hours of operation as advertised by the Participating Facility to include, if applicable, an initial orientation to a Participating Facility and the equipment. In connection with participating in the Fitness Passport Program, each Participating Facility will provide Members with unlimited visits to Participating Facility at the rate set forth in Appendix A.

3.2 Acknowledgement. Network acknowledges that Optum is not a payer of services nor an insurer with respect to any services provided by the Network as part of this Agreement.
3.3 Compliance with Applicable Laws. Both Parties shall comply with all applicable local, state and federal laws. Network shall also obtain and maintain any and all licenses required to fulfill its duties and obligations under this Agreement.

3.4 Cooperation with Optum. Both Parties agree Network shall be the first point of contact for Members and Eligible Members and shall assume all service responsibility with respect to Member participation in the Fitness Passport Program, unless the Member contacts Optum first, in which case that Member will be re-directed to the Network. In the event of an escalated issue whereby Optum’s assistance is required for resolution, Optum agrees to cooperate with Network in handling any complaints or inquiries from Members or Eligible Members regarding the Fitness Passport Program.

3.5 Account Management. Network will assign an account management individual or team to support Optum with implementation of the Fitness Passport Program.

ARTICLE 4
OBLIGATIONS OF OPTUM

4.1 Payment to Network. Optum shall pay Network the Network Facility Reimbursement set forth in Appendix A for each eligible Member that meets the Fitness Passport Program’s monthly visit requirement. Payment details for the Network Facility Reimbursement are set forth in Appendix A.

4.2 Hold Harmless. Network agrees that the only payment Optum is responsible for is in accordance with its obligation described in Section 4.1. The Member is responsible for all other costs, fees and charges related to services not included in the Network standard membership services. Network will not seek and will hold Optum harmless for any charges, fees, costs or expenses a Member may incur that are not part of the obligation of Optum under Section 4.1.

4.3 Promotion of Services. Optum shall promote the Fitness Passport Program to Eligible Members through the Optum Web site, marketing and sales brochures, and other distribution channels designated by Optum, including but not limited to telephone and email communications. Optum shall be responsible for the design and production of any such materials and the design and maintenance of the Optum Web site.

ARTICLE 5
CONFIDENTIALITY

5.1 Information. Each Party acknowledges that in the course of performing under this Agreement, it may learn confidential, trade secret, or proprietary information concerning the other Party or third parties to whom the other Party has an obligation of confidentiality. Each Party shall protect and shall not disclose the other’s proprietary information, including but not limited to, trade secrets, lists of Activation IDs and Participating Facilities, Member information, reimbursement amounts, and patented, trademarked, trade-named, service-marked, and copyrighted material or other property belonging to it or to a third party to whom it has an obligation of confidentiality (“Confidential Information”).

5.2 Protection of Confidential Information. Each Party agrees that during the term of this Agreement: (a) it will use such Confidential Information only as permitted by this Agreement or as otherwise permitted in writing, (b) it will not disclose such Confidential Information orally or in writing to any third party without the prior written consent of the other Party, (c) it will take at least those precautions to protect the other’s Confidential Information as it takes to protect its own similar information, and (d) it will not otherwise use such Confidential Information for its own purposes or that of any other person or entity. A Party may disclose Confidential Information if required by law, legal process, or court order, in which
case the disclosing Party shall notify the other Party sufficiently in advance of the disclosure, as allowed by law, to permit intervention at its option. The obligations stated in this Section shall survive termination of this Agreement for so long either Party has access to the other's Confidential Information.

5.3 Privacy. Each Party agrees to be bound by any applicable state and federal rules and regulations concerning the privacy and security of Member information.

5.4 Public Records. Notwithstanding anything in the foregoing, the Network is a municipal corporation in and of the state of Ohio. As a result, the Network is required by statute to comply with Ohio's Public Records laws, including but not limited to Ohio Revised Code 149.43. However, all exceptions to the Public Records law shall remain in full force and effect. Proper compliance with the Revised Code shall not be considered a breach of this Agreement. Optum is aware that public records may be requested and will assist the Network in obtaining any public record that is properly requested. Optum shall have the opportunity to assert any legal exemption to the Public Records law.

5.5 Trademarks, Logos and Copyrighted Materials.

Network hereby acknowledges that Optum and its affiliates may, from time to time during the term of this Agreement, provide Network with marketing, promotional or other advertising materials intended for use in connection with the promotion of the Program (such materials together with all content, trademarks, trade names, and/or logos of Optum and its affiliates, the "Optum Marketing Materials"). Optum hereby grants to Network a revocable, nonexclusive, non-assignable and non-transferable right and license to use and display the Optum Marketing Materials during the term of this Agreement without modification solely in connection with the promotion of the Program. Upon expiration or the earlier termination of this Agreement, the foregoing license shall automatically terminate and be of no further force and effect and Network shall immediately cease its use and display of the Optum Marketing Materials. All uses of the Optum Marketing Materials shall be subject to Optum's prior approval. Optum hereby represents and warrants to Network that it has the right to grant the license as set forth in this paragraph. Except as expressly set forth in this Agreement, Network obtains no other rights in or to the Optum Marketing Materials and Optum and its respective affiliates reserve all rights.

Network hereby grants to Optum and its affiliates a revocable, nonexclusive, non-assignable and non-transferable right and license to use and display all names, trademarks, trade names, service marks and logos of Network and its affiliates (collectively, the "Network Marks") during the term of this Agreement solely in connection with the administration and promotion of the Program. Upon expiration or the earlier termination of this Agreement, the foregoing license shall automatically terminate and be of no further force and effect. Network hereby represents and warrants to Optum that it has the right to grant the license as set forth in this paragraph.

ARTICLE 6
DISPUTE RESOLUTION

In the event that any dispute, claim, or controversy of any kind or nature relating to this Agreement arises between the Parties, the Parties agree to meet and make a good faith effort to resolve the dispute.

ARTICLE 7
RESPONSIBILITY FOR DAMAGES

7.1 Responsibility for Damages. Each Party shall be responsible for any and all damages, claims, liabilities, or judgments it incurs that arise as a result of its own acts or omissions. In no event shall
either Party be liable to the other for incidental, consequential, economic, special, or lost profit damages, even if such Party has been advised of the possibility of such damages. Consequential damages include, but are not limited to, lost profits, lost revenues, and lost business opportunities, whether or not the other Party was or should have been aware of the possibility of these damages.

ARTICLE 8
MISCELLANEOUS

8.1 Entire Agreement. This Agreement, exhibits and attachments constitute the entire understanding between the Parties and supersedes all proposals, communications and agreements between the Parties relating to its subject matter.

8.2 Independent Contractors. The Parties’ relationship to each other is that of independent contractors. No Party shall be deemed to be, or hold itself out as, a partner, agent, employee or joint venture partner of any other Party. No Party will represent that it has any authority to assume or create any obligation, express or implied, on behalf of the other Party, or to represent any other Party as an agent, employee or in any other capacity.

8.3 Insurance. Optum, at its sole cost and expense, shall procure and maintain in full force and effect for the term of this Agreement and after its termination for so long as the services are provided to Members pursuant to this Agreement, adequate commercial general liability insurance coverage, including but not limited to contractual liability insurance coverage, with limits that are reasonable and customary for its business to cover liabilities and claims which may arise in relation to or in connection with providing Optum’s respective services under this Agreement, but in no event less than $1,000,000 per occurrence and $2,000,000 annual aggregate.

Network maintains a self-insurance program pursuant to Ohio Revised Code §2744.02. Network is self-insured against its and its employees’ potential liability in damages in civil actions for injury, death, or loss to persons or property allegedly caused by an act or omission of the political subdivision or any of its employees in connection with a governmental or proprietary function.

8.4 Certificate of Insurance. Network and Optum agree to 1) provide the other, within ten (10) business days of a written request, with a Certificate of Insurance with respect to all liability insurance required under this Agreement, and 2) maintain the foregoing policy or policies of insurance without material change or cancellation except upon thirty (30) days written notice to the other Party.

8.5 Right to Audit. Optum shall have the right to review or to appoint an independent third party auditor to review the files and materials used by Network for the purpose of auditing compliance by Network related to Network’s obligations under this Agreement. Optum may exercise such right of audit during normal business hours upon five (5) business days prior written notice to Network. Network shall cooperate with Optum’s auditor in the performance of any audit. Optum shall be solely responsible for the cost of the audit.

8.6 Assignment. Except as provided in this Section, neither party may assign any of its rights and responsibilities under this Agreement to any person or entity without the prior written consent of the other party, which shall not be unreasonably withheld. Network and Optum acknowledge that persons and entities under contract with or affiliated with them may perform certain services under this Agreement. Network acknowledges that assignment by Optum of all or any of its rights and responsibilities under this Agreement to any affiliate shall not require Network’s prior written consent.
8.7 Successors. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heir(s), personal representatives, executors, administrators, successors, and assigns.

8.8 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of Ohio.

8.9 Amendments. No amendments, modifications, or additions to this Agreement shall be valid unless made in writing and signed by both the Network, and if necessary approve by the Commission of the City of Dayton, and Optum.

8.10 Invalidity of Sections of Agreement. If any portions of this Agreement shall, for any reason, be invalid or unenforceable such portions shall be ineffective only to the extent of such invalidity or unenforceability and the remaining portion or portions shall nevertheless be valid, enforceable and of full force and effect.

8.11 Survival. The terms and conditions of this Agreement, which by their express or implied terms, survive the termination of this Agreement, shall survive the termination of this Agreement.

8.12 Notices. Any notice, demand, or communication required under this Agreement shall be hand delivered or sent by commercial overnight delivery service, or if mailed, by pre-paid, first class mail to the addresses below. The addresses to which notices are sent may be changed by proper notice.

Notice to Optum:
OptumHealth Care Solutions, LLC
Attn: Contracts Administration
11000 Optum Circle
Eden Prairie, MN 55344

Notice to Network:
City of Dayton – Department of Recreation and Youth Services
101 W. Third Street
Dayton, OH 45401

8.13 Counterparts. This Agreement may be executed by electronic signatures or in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one agreement.

[SIGNATURE PAGE Follows]
IN WITNESS WHEREOF, this Agreement is executed by the parties' authorized officers or representatives and shall be effective as of the Effective Date.

OptumHealth Care Solutions, LLC
11000 Optum Circle
Eden Prairie, MN 55344

Signature: __________________________
Print Name: John Kimstad
Print Title: Director Finance
Date: Jan 7, 2020

City of Dayton
101 W. Third Street
Dayton, OH 45401

Signature: __________________________
Print Name: _________________________
Print Title: __________________________
Date: ________________________________

Internal Control No.: 00589780.0

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

____________________________________, 2020

Min. / Bk. _______ Pg. _______

Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney
Appendix A
Fitness Passport Program
Fees and Description of Services

I. **Fitness Passport Program Description:** The Optum Fitness Passport Program provides eligible Members with pre-determined monthly membership rates to Participating Networks when they enroll in the Fitness Passport Program. The Optum Fitness Passport Program also reimburses Participating Networks a pre-determined amount when Members meet the established program criteria as defined by Optum.

II. **Network Reimbursement Fees:** In connection with participating in the Fitness Passport Program, Optum will reimburse Network a pre-determined amount each calendar month for each participating Member, following Network’s validation and representation that the Member has met the program criteria as defined by Optum below. The Network Facility Reimbursement payment is associated with a Member’s cumulative number of visits to any Participating Facility. For the avoidance of doubt, the Network Facility Reimbursement payment is not applicable to each Participating Facility individually.

<table>
<thead>
<tr>
<th>Member Participation Requirement</th>
<th>Network Reimbursement amount paid by Optum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Member visits any Participating Facility during calendar month</td>
<td>$3.20 per visit to Participating Facility with a maximum monthly payment of $32.00 (10 visits)</td>
</tr>
</tbody>
</table>

III. **Description of Services:**

1. **Network Responsibilities.**

   Network shall be responsible for:

   a) Participating Facility Membership Fees: In connection with participating in the Fitness Passport Program, Network shall waive any and all enrollment and membership fees for those Members that enroll in the Fitness Passport Program. However, each Members must comply with the same rules, regulations, terms, and conditions for enrollment and membership as all other patrons of the Network. Network will need to enroll the eligible Member in the Fitness Passport Program in order to be eligible for reimbursement.

   b) Network will reasonably cooperate with Optum to create Fitness Passport Program communication and promotional materials for Optum to send to Optum’s clients, Members or Eligible Members.

   c) Maintaining a Web site that provides Participating Facilities locations including Network branches by zip code as well as a list of amenities and services, hours of operation and other information for each Participating Facility. Network shall allow Optum to link to this site for purposes of providing information to Eligible Members and Members.
d) By the seventh day of each month or the next business day if the seventh day of the month falls on a weekend or holiday, the Network or Optum's designated third party will deliver to Optum, in a file format specified by Optum, a file containing the usage data for the prior month for every Member in the Fitness Passport Program, regardless of how many times they visited the Network each month (from zero visits to 12 or more visits per month). Network will report a Member's cumulative number of visits to any Participating Facility in the file containing usage data. Network is responsible for ensuring the submitted usage data is accurate. A maximum of one (1) visit per calendar day can be counted towards a Member's monthly visit total to Network. Network will be responsible for accurate reporting monthly and correct any errors in reporting and will hold Optum harmless from any such errors. For purposes of this Agreement, Optum will only be responsible for those records that have been reported within two (2) months from the end of the reported month will be evaluated for possible Network Facility Reimbursement. For example, at the conclusion of the month of April, the Network has two calendar months to report a Member's April visit count for purposes of calculating a possible Network Facility Reimbursement. Upon identifying any processing errors Network will promptly notify Optum of these errors and the errors will be corrected in the next month's payment cycle.

e) Assisting to resolve questions, complaints or grievances related to a Member's participation in the Fitness Passport Program and to notify Optum via e-mail correspondence of all unresolved Member disputes and/or grievances that require the involvement of Optum.

f) Additional administrative and support services as described herein.

2. Optum Responsibilities.

Optum shall be responsible for:

a) Communicating program overview to Members pursuant to Section 4.3 of the Agreement.

b) Making reasonable efforts to notify Optum’s Eligible Members of Fitness Passport Program enrollment guidelines and processes.

c) Posting updated facilities as a Participating Facility directory on the Optum Web site pursuant to Section 4.3 of the Agreement when available.

d) Upon receipt of Member Fitness Passport Program utilization information on a monthly basis from Network or Optum’s designed third party, Optum will verify the eligibility of Members listed on the monthly Member usage file and indicate which Activation IDs meet eligibility requirements for Network Facility Reimbursement to Network. Optum will designate with an error code any records which are ineligible for any such payments.

e) By the twenty-third day of each month or the next business day if the twenty-third day of the month falls on a weekend or holiday, Optum will provide the eligibility verification file containing the payment amount of Network Facility Reimbursement to be reimbursed to Network. In addition, by the twenty-third day of the month Optum will send a payment via electronic funds transfer ("EFT") to Optum's designated third party equal to the total amount of Network Facility Reimbursement to Network for the prior month.

f) Additional administrative and support services as described herein.
3. Additional Fitness Passport Program Guidelines.

a) The Network Facility Reimbursement period for Network is calculated based on each calendar month only, regardless of the date of enrollment by the Member. A Member who signs up for the Fitness Passport Program will enable Network to be eligible to earn an Network Facility Reimbursement payment from Optum commencing as of the month the Member enrolls. For example, if the Member enrolls in the Fitness Passport Program on January 5, Network may earn the Network Facility Reimbursement if the Member meets their monthly attendance requirement at a Network on or after January 1 through the end of January.
Appendix B

Fitness Passport
Program Performance Standards

Network and Optum accept the minimum performance standards set forth below.

Section 1
Minimum Standards

1.1 Customer Service: Participating Facilities and Optum shall work together to resolve all Member complaints and grievances in a timely manner. Network will make best efforts to achieve the Customer Service Deliverables listed in Table 1 below:

<table>
<thead>
<tr>
<th>TABLE 1 - Customer Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service Level Deliverables</td>
</tr>
<tr>
<td>E-mails and written inquiries to and from Participating Facilities and Optum</td>
</tr>
<tr>
<td>Member complaint and/or grievance resolution</td>
</tr>
</tbody>
</table>

1.2 Data and Payment Processing Schedule: Network, Optum and Optum's designated third parties, if applicable will use the following schedule set forth in Table 2 below for processing data and sending payment:

<table>
<thead>
<tr>
<th>TABLE 2 - Data and Payment Processing (per Appendix)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Network to provide Member usage file to Optum or Optum's designated third party*</td>
</tr>
<tr>
<td>By the seventh day of the month or the next business day if the seventh day of the month falls on a weekend or holiday, following the month of usage</td>
</tr>
<tr>
<td>Example: February 7 for January usage</td>
</tr>
</tbody>
</table>

* If Optum notifies Network that Optum utilizes a third party to collect Member usage from Network, Network will provide Member's monthly usage reports to Optum's designated third party no later than by the fifth day of the month.
** Subject to timely receipt of usage data received by Network
City Manager’s Report

From 1200 - Clerk of Commission
Supplier, Vendor, Company, Individual
Name NAACP
Address 1528 West Third Street
          Dayton, Ohio 45402

Date February 5, 2020
Expense Type Other, (See Description Below)
Total Amount $3,500.00

<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>10000-1200-1231-52</td>
<td>$3,500.00</td>
</tr>
</tbody>
</table>

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

Description

2020 Contribution

The National Association for the Advancement of Colored People (NAACP) is a community-based agency that assists the community by ensuring the educational, social and economic equality of rights of all persons, and eliminating racial hatred and racial discrimination. The vision is to ensure a society in which all individuals have equal rights and there is no racial hatred or racial discrimination within the community.

The City of Dayton’s contribution to the NAACP of ($3,500.00) will assist with the continued support of the organization, and to allow for various opportunities through the agency for the community.

A Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Clerk
Date

FORM NO. MS-16

Updated 06/2016
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>
</table>

**Contract Start Date**

**Expiration Date**

**Original Commission Approval**

<p>| | | |</p>
<table>
<thead>
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</table>

**Initial Encumbrance**

<p>| | |</p>
<table>
<thead>
<tr>
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<th></th>
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<tbody>
<tr>
<td>$ 3,500.00</td>
<td></td>
</tr>
</tbody>
</table>

**Remaining Commission Approval**

<p>| | |</p>
<table>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
<td>-</td>
</tr>
</tbody>
</table>

**Required Documentation**

- x Initial City Commission’s Report
- x 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>$ 3,500.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code 10000 - 1200 - 1231 - 52 - XXXX - XXXX</td>
<td></td>
</tr>
<tr>
<td>Fund Org Acct Prog Act Loc</td>
<td></td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Amount:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
<td></td>
</tr>
<tr>
<td>Fund Org Acct Prog Act Loc</td>
<td></td>
</tr>
</tbody>
</table>

---

Attach additional pages for more FOAPALs

**Vendor Name:** NAACP

**Vendor Address:** 1528 West Third Street Dayton OH 45402

**Street**

**City**

**State**

**Zipcode + 4**

**Federal ID:** 31-6077948

**Commodity Code:** 94635

**Purpose:** 2020 Annual Contribution

---

**Contact Person:** Rashella Lavender

**City Commission Office**

**Department/Division:**

**Date:** 21-Jan-20

**Originating Department Director's Signature:**

---

SECTION II - to be completed by the Finance Department

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

**Finance Director Signature:**

**Date**: 01/28/2020

---

**Finance Department**

October 18, 2011
City Manager’s Report

From 1200 - Clerk of Commission

Supplier, Vendor, Company, Individual

Name Sister City Foundation
Address 3640 Colonel Glenn Highway
Dayton, Ohio 45435

Date February 5, 2020
Expense Type Other, (See Description Below)
Total Amount $15,000.00

<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>10000-1200-1231-52</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>

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

Description

2020 Contribution

This payment represents the City of Dayton’s financial support of the Dayton Sister City Committee. The payment is being made to the Sister City Foundation, the 501(c) (3) administrative organization for the Committee.

The City of Dayton’s contribution to the Sister City Foundation ($15,000.00) will be used for support of exchange programs and other activities with Dayton Sister Cities of Sarajevo, Bosnia-Herzegovina; Augsburg, Germany; Oiso, Japan; Monrovia, Liberia; Holon, Israel and the Borough of Rushmoor, United Kingdom.

A Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 06/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract
____ Renewal Contract
_____ Change Order

Contract Start Date: [To be filled in]
Expiration Date: [To be filled in]
Original Commission Approval: [To be filled in]
Initial Encumbrance: $15,000.00
Remaining Commission Approval: [To be filled in]
Original CT/CF: $ [To be filled in]
Increase Encumbrance: $ [To be filled in]
Decrease Encumbrance: $ [To be filled in]
Remaining Commission Approval: $ [To be filled in]

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

---

Amount: $15,000.00
Fund Code: 10000 - 1200 - 1231 - 52 - XXXX - XXXX

Amount: [To be filled in]
Fund Code: [To be filled in]

---

Attach additional pages for more FOAPALs

Vendor Name: Sister City Foundation (Dayton Sister City Committee)
Vendor Address: 3640 Colonel Glenn Hwy Dayton OH 45435
Street City State Zipcode + 4
Federal ID: 31-6063440
Commodity Code: 94635
Purpose: 2020 Annual Contribution

---

Contact Person: Rashella Lavender
City Commission Office 21-Jan-20
Department/Division Date

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: 01/28/2020

October 18, 2011
A RESOLUTION

Authorizing A Ten-Year Participation Agreement With
The Montgomery County Economic Development/
Government Equity (ED/GE) Program, and Declaring an
Emergency.

WHEREAS, The Board of County Commissioners of Montgomery County,
Ohio established the Economic Development/Government Equity (“ED/GE”) program
in 1992 to spur economic growth as well as create regional cooperation between its
jurisdictions; and,

WHEREAS, Cooperation and coordination between the County and the
program members is intended to promote economic health and improve the economic
opportunities of the people in Montgomery County by assisting in the establishment or
expansion within the County of industrial, commercial, or research facilities and by
creating and preserving job employment opportunities for the people of Montgomery
County; and,

WHEREAS, The ED/GE program is scheduled for another renewal for the
period January 1, 2020 through December 31, 2029; and,

WHEREAS, The Montgomery County program guarantees that no member
jurisdiction will ever contribute more funding than it will receive; and,

WHEREAS, The City of Dayton has received positive return on investment
from participation to date in the ED/GE program, and anticipates many more
worthwhile economic development projects forthcoming from continuing
participation; and,

WHEREAS, It is in the best interest of the City of Dayton to enter into the
ED/GE program participation agreement; and,

WHEREAS, To provide for the timely acceptance of the grant funds and
allow for the commencement of the projects, and for the immediate preservation of the
public peace, property, health and safety, it is therefore necessary that this Resolution
take effect at the earliest possible date; now, therefore,

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

Section 1. That the City Manager is authorized, on behalf of the City of
Dayton, to enter into the ED/GE Participation Agreement with Montgomery County,
or a substantially similar version to that which is attached hereto and incorporated
herein as Exhibit A, for a ten-year period beginning January 1, 2020 through
December 31, 2029, and to execute collateral agreements directly relating to such participation.

**Section 2.** For the reasons set forth in the preamble hereof, this Resolution is declared to be an emergency and shall take effect immediately upon its adoption.

ADOPTED BY THE COMMISSION…………………….., 2020

SIGNED BY THE MAYOR…………………………….., 2020

Mayor of the City of Dayton, Ohio

Attest:

__________________________
Clerk of Commission

Approved as to form:

__________________________
City Attorney
January 28, 2020

TO: Shelley Dickstein, City Manager

FROM: Ford P. Weber, Director
Department of Economic Development

SUBJECT: Ten Year Participation Agreement with the Montgomery County Economic Development/Government Equity (ED/GE) Program

The Department of Economic Development is requesting adoption of the attached Resolution authorizing the entering into of a Participation Agreement with the Montgomery County Economic Development/Government Equity (ED/GE) Program that will continue the City’s participation in the program for an additional ten years.

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

If you have any questions, please contact me at extension 3621.

FPW

C: Tammi Clements
    Joe Parlette
ECONOMIC DEVELOPMENT/GOVERNMENT EQUITY (ED/GE) PROGRAM PARTICIPATION AGREEMENT

BETWEEN

MONTGOMERY COUNTY, OHIO AND

DATED AS OF ________________, 2020
ECONOMIC DEVELOPMENT/GOVERNMENT EQUITY
PARTICIPATION AGREEMENT

This Economic Development/Government Equity (ED/GE) Program Participation Agreement (the “Agreement”) is made as of the ______ day of ______, 2020, pursuant to Chapter 307 of the Ohio Revised Code (the “Code”) between the Board of County Commissioners of Montgomery County, Ohio (the “Board”) or the Director of Economic Development for Montgomery County, Ohio (the “Director”) on behalf of the County of Montgomery, Ohio (the “County”) and the City of Dayton, Ohio (the “Program Member”), a political subdivision of the County.

ARTICLE I – RECITALS

1.1 The Board has established the Montgomery County Department of Community and Economic Development pursuant to Ohio Revised Code Chapter 307 for the purpose of developing and promoting plans and programs designed to assure that County resources are efficiently used, economic growth is properly balanced, and that County Economic Development is coordinated with that of the State of Ohio and other local governments.

1.2 It is the intent of the Board, acting on behalf of the County, to continue the Montgomery County Economic Development/Government Equity (ED/GE) Program (the “Program”) to be administered by the Montgomery County Department of Community and Economic Development for the purposes set forth in Section 1.1.

1.3 The Board has a Director of Economic Development, who pursuant to Chapter 307 of the Ohio Revised Code has the authority, with the approval of the Board, to enter into agreements with Program Members to implement the Program.

1.4 The Director and the Program Member are desirous of entering into this Agreement to set forth their relative rights and obligations in pursuance of the purposes of the Program.

1.5 Cooperation and coordination between the County and the Program Members is intended to promote economic health and improve the economic opportunities of the people in Montgomery County by assisting in the establishment or expansion within the County of industrial, commercial or research facilities and by creating and preserving job and employment opportunities for the people of the County.
1.6 It is the intention of the County and the Program Members that, over the life of the ED/GE Program, no Program Member will contribute more on a net basis to the Government Equity Fund than it receives for Economic Development projects from the Economic Development Fund.

1.7 This Agreement is intended to supplement, and not to replace or restrict, all other agreements between the County and the Program Members or between individual Program Members relating to economic development in the County.

ARTICLE II – DEFINITIONS

As used in this Agreement, each of the following terms shall have the meaning assigned to it as follows:

“Announcement Year” shall mean the year set forth under that heading in Schedule A.

“Base Year” means the 2017 calendar year for the first year of the Program. After this time period, it will advance by one year for each subsequent year of the Program (see Schedule A).

“Contribution/Distribution Year” shall mean the year set forth under that heading in Schedule A.

“Distribution Formula” has the meaning ascribed to in Section 4.2(c) hereof.

“Economic Development” means promoting economic welfare and improving the economic opportunities of the people in Montgomery County by assisting in the establishment or expansion within the County of industrial, commercial, or research facilities and by creating and preserving job and employment opportunities for the people of the County.

“Economic Development Fund” means the fund resulting from the allocation of a minimum of Two Million Five Hundred Thousand Dollars ($2,500,000) annually in the years 2020-2029. The funds will be allocated from Ohio sales tax revenues and Montgomery County’s general operating funds as authorized pursuant to Division (EE) of Section 5705.19 of the Ohio Revised Code subject to the availability of those funds as determined by the Board of County Commissioners.

“ED Amount” shall mean the total amount allocated to a Program Member from the Economic Development Fund for an ED Period.

“ED Period One” shall mean calendar years 2020 through 2023.

“ED Period Two” shall mean calendar years 2023 through 2026.
“ED Period Three” shall mean calendar years 2026 through 2029.

“ED/GE Program Advisory Committee” or “Economic Development/Government Equity Program Advisory Committee” means the group of representatives that will monitor implementation of the Program and recommend improvements as necessary.

“Government Equity Fund” means the fund resulting from contributions from all Program Members based on the Growth Contribution Formula.

“Government Equity Fund Differential” or “Differential” means for each year of the ten-year term of the Agreement an amount equal to the difference between the Program Member’s contribution to the Government Equity Fund, as determined by the Growth Contribution Formula, and the Program Member’s distribution from the Government Equity Fund, as determined by the Distribution Formula.

“GE Contribution Amount” shall mean the net contribution by a Program Member with respect to the Government Equity Fund for a GE Period.

“GE Distribution Amount” shall mean the net distribution to a Program Member with respect to the Government Equity Fund for a GE Period.

“GE Period One” shall mean Contribution/Distribution Years 2021 through 2024.

“GE Period Two” shall mean Contribution/Distribution Years 2025 through 2027.

“GE Period Three” shall mean Contribution/Distribution Years 2028 through 2030.

“Growth Contribution Formula” has the meaning ascribed to in Section 4.2(b) hereof.

“Program” or “ED/GE Program” or “Montgomery County Economic Development/Government Equity Program” means the program of economic development established by the Board pursuant to Chapter 307 of the Ohio Revised Code and including collection and distribution of the Economic Development Fund and the Government Equity Fund.

“Program Member” means any political subdivision which is a party to this Agreement.

ARTICLE III – REPRESENTATIONS AND WARRANTIES

3.1 The Director represents and warrants to the Program Member that the execution and delivery of this Agreement has been duly authorized by all appropriate actions of the Board of County Commissioners and that this
Agreement constitutes a legal, valid and binding obligation of the County in accordance with its terms.

3.2 The Program Member represents and warrants to the Director that the execution and delivery of this Agreement has been duly authorized by all appropriate actions of its governing body and that this Agreement constitutes a legal, valid and binding obligation of the Program Member in accordance with its terms.

3.3 The Director represents and warrants to the Program Member, and the Program Member represents to the Director, that to the best of each of their knowledge there is no pending or threatened litigation or government proceeding which would adversely affect the Agreement.

ARTICLE IV – OBLIGATIONS OF THE DIRECTOR

4.1 During the term of the Agreement, the Director shall, with the approval of the Board and subject to the provisions of Section 4.5 hereof:

(a) Establish with the Board the Economic Development Fund for deposit and disbursement of gifts and contributions from the County for Economic Development purposes.

(b) Receive and accept annually for the term of the Agreement Two Million Five Hundred Thousand Dollars and Zero Cents ($2,500,000.00) in the years 2020-2029, which the Board appropriates each year of the ten-year Agreement term from Ohio sales tax revenues and Montgomery County’s general operating funds for the creation of the office and the implementation of the Program pursuant to Chapter 5705 of the Ohio Revised Code, and deposit said monies into the Economic Development Fund subject to the availability of those funds as determined by the Board of County Commissioners;

(c) Establish administrative guidelines and criteria in accordance with the ED/GE Program Handbook (Attachment A) for determining the projects for which the Program Member may receive financial assistance from the Economic Development Fund, taking into account the recommendations of the ED/GE Program Advisory Committee and subject to the approval of the Board; said criteria shall include, but not be limited to, the requirement that recipients of Economic Development Fund disbursements shall be Program Members;

(d) Allocate the Economic Development Fund to Program Members annually for each year of the ten-year Agreement term to provide
financial assistance for Economic Development projects for the purposes of the Program according to the established guidelines and criteria, taking into account the recommendation of the ED/GE Program Advisory Committee and subject to the approval of the Board as to the selection of the projects to receive funding.

(e) An ED/GE grant given to a member jurisdiction will be awarded as follows: (1) Fifty Percent (50%) of the grant amount will be reimbursed to the jurisdiction on an invoice basis following completion of the construction portion of the project; (2) Twenty-five percent (25%) of the grant amount will be reimbursed to the jurisdiction at anytime during a three (3) year period commencing with the full execution of the agreement (the “contract date” – for definition see attached Handbook under “Funding Process”) that the recipient/business of the grant funds attains fifty percent (50%) of the total pledged jobs; (3) Twenty-five percent (25%) of the grant amount will be reimbursed to the jurisdiction when the recipient/business of the grant funds attains one hundred percent (100%) of the total pledged jobs;

In determining projects for which a Program Member may receive financial assistance, the Director may at his option require the Program Member requesting a project to provide a legal opinion that such project would constitute a legally permissible expenditure of public funds. Such opinion shall be at the Program Member’s expense, and shall be rendered by legal counsel acceptable to the Director (which counsel may, but need not, be the Program Member’s legal advisor pursuant to statute, charter or ordinance). Decisions made by the Board and the Director are final and not to be challenged or appealed by Program Member.

4.2 In addition to the obligations set forth in Section 4.1 above, the Director shall, with the approval of the Board and subject to the provisions of Sections 4.3, 4.4 and 4.5 hereof:

(a) Establish with the Board the Government Equity Fund for deposit and disbursement of contributions received annually from Program Members.

(b) Determine annually for each year of the ten-year term of the Agreement the Program Member’s contribution to the Government Equity Fund according to the following method of computation (the “Growth Contribution Formula”):
GROWTH CONTRIBUTION RATE = \frac{1}{3} \text{ Growth in Property and Income Taxes Over Base Year For Participating Program Members Increase in Assessed Valuation Over Base Year for Participating Program Members}

\text{INDIVIDUAL JURISDICTION CONTRIBUTION} = \text{GROWTH CONTRIBUTION RATE} \times \text{The Sum of:}

100\% \text{ of the Increase in Commercial and Industrial Property Assessed Valuation Over the Base Year} + 

25\% \text{ of the Increase in Residential Property Assessed Valuation Over the Base Year} + 

50\% \text{ of the Increase in Property Tax Revenues Over the Base Year} + 

50\% \text{ of the Increase in Income Tax Revenues Over the Base Year}

As used in the Growth Contribution Formula, “income taxes” means the Program Member’s share of municipal income taxes less any municipal income tax reimbursed by a Program Member as an economic development incentive; “property taxes” means the Program Member’s share of total property taxes for all funds and all types of property.

(c) Determine annually for each year of the ten-year term of the Agreement the Program Member’s distribution from the Government Equity Fund according to the following method of computation (the “Distribution Formula”):

\text{INDIVIDUAL PROGRAM MEMBER'S DISTRIBUTION} = \frac{\text{Total of All Program Members' Contribution For That Year}}{\text{Population of Program Member}}

As used in the Distribution Formula, “population” means the figures for each political subdivision of the County most recently determined for the distribution of the Local Government Revenue Assistance Fund in the County; “Total of All Program Members’ Contribution for that Year” means the sum of the individual jurisdiction’s contributions as determined by applying the formula set forth in Section 4.2(b).

(d) Determine annually for each year of the ten-year term of the Agreement the Government Equity Fund Differential (the “Differential”), which shall be the difference between the Program Member’s contribution for such year and its distribution for such
year (from the Growth Contribution Formula), being subject to the provisions of Section 4.5 hereof.

(e) Where the Differential indicates a net contribution from the Program Member, receive said net contribution from the Program Member and deposit same in the Government Equity Fund; distribute said net distribution to the Program Member from the Government Equity Fund.

(f) In any Contribution/Distribution Year that either the numerator or the denominator of the Growth Contribution Rate is a negative number, the Government Equity Fund contributions and distributions for that Contribution/Distribution Year shall be zero.

4.3 The schedule for receipt into and distribution from the Government Equity Fund shall be as follows for each year of the ten-year term of the Agreement:

(a) Pending verification of data being used in the Government Equity Model by all Program Members and the receipt of copies of the Ohio Department of Taxation Municipal Income Tax Certification from each of the Program Members who have reported income tax to the Ohio Department of Taxation for the Comparison Year, the Director shall announce annually to the Program Member its net contribution or net distribution between October 1 and October 16 of the year following the year for which the Differential is determined (the “Announcement Year”). The first such annual announcement shall be made October 16, 2020 for the 2019 comparison year.

(b) Where the Differential indicates a net contribution from the Program Member, the Director shall invoice the Program Member for the same on or before March 15 of the year following the Announcement Year; and said net contribution shall be payable by the Program Member on or before April 15 immediately following notification;

(c) Where the Differential indicates a net distribution to the Program Member, the Director shall distribute said net distribution on or before April 30 of the year following the Announcement Year, such distribution being subject to the provisions of Section 4.5 herein and the receipt of all contributions from Program Members being invoiced;

If in any year additional contributions are received from Program Members following the April 15 date of Section 4.3(b) above, said contributions shall be distributed on or before December 1 of such
year to the Program members who were entitled to a net distribution as described in Section 4.3(c) above in the same proportion as the distributions described in Section 4.3(c) above were made.

(d) Where additional contributions are received from Program Members following the December 1 distribution date of Section 4.3(b) above, said contributions shall be distributed on next April 30 according to the distribution formula for that year.

4.4 In addition to the provisions of the Agreement setting forth the manner of determining the allocation of the Economic Development Fund and the contributions to and distribution of the Government Equity Fund, the following computation shall be made and the following distributions shall be provided for:

(a) Promptly following the announcement of the allocation of the Economic Development fund for 2023, the Director shall compute the total amount allocated to each Program Member from the Economic Development Fund (the “ED Amount”) for ED Period One. Promptly following the announcement of the allocation of the Economic Development Fund for 2026 and 2029, the Director shall make the same computation with respect to ED Period Two and ED Period Three, respectively.

(b) Promptly following the announcement of the Differentials for each Program Member in Announcement Year 2023 (Contribution/Distribution Year 2024), the Director shall compute the net contribution by, or distribution to, each Program Member with respect to the Government Equity Fund (the “GE Contribution Amount” or “GE Distribution Amount,” as applicable) for GE Period One. Promptly following the announcement of such Differentials in Announcement Year 2026 (Contribution/Distribution Year 2027) and Announcement Year 2029 (Contribution/Distribution Year 2030), the Director shall make the same computation with respect to GE Period Two and GE Period Three, respectively.

(c) Upon making the computations described in subsections (a) and (b) above with respect to ED Period One and GE Period One, the Director shall compare the ED Amount for such period for each Program Member with the GE Contribution Amount or GE Distribution Amount for such Program Member. If any Program Member’s GE Contribution Amount exceeds such Program Member’s ED Amount for such computation period, that Program Member shall be entitled to an allocation in the amount of such excess from the Economic Development Fund. This allocation may
be used by the Program Member at its discretion. The Program Member may also opt to apply the excess amount to an economic development project from the next distribution of the Economic Development Fund, so long as the project qualifies for funding under the guidelines and criteria established pursuant to paragraph 4.1 of the Agreement.

(d) For ED and GE Periods Two and Three, the process set forth in subparagraph (c) above shall be repeated; provided, however, that prior to making the comparison provided for in subparagraph (c), the Director shall add to the Program Member’s ED Amount for the period being computed: (i) the amount by which the Program Member’s ED Amount for the previous period exceeded the Program Member’s GE Contribution for the previous period, and (ii) the Program Member’s GE Distribution Amount for the previous period. The amount of any grant for any period pursuant to subparagraph (c) shall not be taken into consideration in the computation of a Program Member’s grant eligibility for any subsequent period.

4.5 Notwithstanding any provision in this Article IV to the contrary:

(a) The contribution for Program Member, as determined by Section 4.2(b) above, shall not be an amount greater than thirteen percent (13%) of the growth from the base year of the Program Member’s property and income tax revenues; and

(b) The Director is not obligated to distribute from the Government Equity Fund for any year of the term of the Agreement an amount greater than the total net contributions received into the Government Equity Fund for that year, and where the total net contributions received for the year are less than an amount equal to the net contributions for all Program Members for the year as determined by the Differential, the net distribution for the Program Member for that year will be adjusted to a pro rata basis.

(c) The County and the Director covenant that the allocations to Program Members of the ED Amounts for the Year 2030 will not be determined until after Program Members’ GE Contribution Amounts and GE Distribution Amounts for Contribution/Distribution Year 2030 have been determined.

ARTICLE V – OBLIGATIONS OF THE PROGRAM MEMBER

5.1 During the term of this Agreement, the Program Member shall:
(a) Provide prompt verification of data used in the Government Equity Model as requested by the Director and furnish such additional information as may be required to accurately complete the Model;

(b) Pay promptly all annual contributions to the Government Equity Fund as determined by the Director, said determination made for the years 2020 through 2029, payable in years 2021 through 2030, inclusive, according to the provisions in Article IV of the Agreement, said payments to be made within 31 days of receipt of notice of the amount due;

(c) Provide accurate and timely reporting of the use of the allocations to the Program Member of the Economic Development Fund and the status of projects funded thereby; and

(d) Provide, at its expense, any legal opinions required by the Director pursuant to Section 4.1 hereof.

5.2 In the event of a fiscal problem or extraordinary circumstances beyond its control which causes a delay in fulfilling the payment obligation of 5.1(a) above, the Program Member shall deliver notice of same by the obligation’s due date, pursuant to Article IV herein, to the Director and be, thereby, afforded consideration for a late payment. Consideration for late payment due to such hardship shall be determined by the Director in consultation with the ED/GE Program Advisory Committee, and the terms of late payment as described in this Section 5.2 shall be within the discretion of the Director.

5.3 All program members awarded an ED/GE grant are required to enter into a written development agreement with the recipient/business receiving the grant funds that memorializes the recipient/business’s understanding of the fifty percent (50%), twenty-five percent (25%), twenty-five percent (25%) nature of the award, and sets forth the grant monitoring obligations of the recipient/business and the Program Member.

5.4 ED/GE funds awarded to a project may only be used in relation to that specific project. Program Members cannot re-allocate ED/GE funds designated for one project towards another project without the prior express written consent of the Director.

5.5 Program Members acknowledges that the amounts of ED/GE funds it was granted in previous years are not indicative of the ED/GE fund amounts to be granted in future years. Program Members shall not detrimentally rely upon the ED/GE fund amounts the County awarded to the Program Members in the past.
ARTICLE VI – EVENTS OF DEFAULT AND REMEDIES

6.1 Events of Default. The following shall be "events of default" under this Agreement and the terms "events of default" and "default" shall mean, whenever they are used in the Agreement with respect to the Program Member, any one or more of the following events:

(a) Failure by the Program Member to pay any contribution by the date when such payments are due under the Agreement;

(b) Failure by the Program Member to fulfill any other obligation on its part required hereunder; or

(c) The filing by the Program Member of a case in bankruptcy, or the submission of any right or interest of such Program Member under this Agreement to any execution, garnishment or attachment, or adjudication of such Program Member for the benefit of creditors, or the entry by the Program Member into an agreement of composition with creditors or approval by a court of competent jurisdiction of a petition applicable to the Program Member in any proceedings instituted under the provisions of the Federal bankruptcy code, as amended, or under any similar act which may hereafter be enacted.

6.2 Remedies on Default. Whenever any event of default referred to in Section 6.1 above shall have happened and be continuing, it shall be lawful for the Director to exercise any and all remedies available pursuant to law or granted pursuant to this Agreement. Upon the occurrence of an event of default as described in Section 6.1(a) above, the Program Member may cure the default by paying the contribution due plus interest on such payment at a rate of twelve percent (12%) per annum, provided such payment is received by the Director within thirty (30) days of the date the contribution was due. If such payment is not made within thirty (30) days of the due date, the Program Member's default may be cured by payment of an amount equal to the contribution due plus interest accruing at a rate of twelve percent (12%) per annum from the payment due date plus a penalty charge of ten percent (10%) of the amount of the contribution. In addition, a Program Member in default shall not be entitled to any allocations from the Economic Development Fund or distribution from the Government Equity Fund unless and until the default is cured.

6.3 No Remedy Exclusive. No remedy conferred herein upon or reserved to the Director is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity, including, but not limited to, the right of any owner by mandamus or other suit or
proceeding at law or in equity to enforce his rights against the Program Member and to compel the Program Member to perform and carry out its duties under this Agreement. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Director to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notices as may be required in this Article or by law.

ARTICLE VII – TERM OF AGREEMENT

7.1 Term of Agreement. The term of the Agreement shall commence January 1, 2020, and continue in full force and effect until December 31, 2029, or until all obligations incurred hereunder shall have been fulfilled if such date is later than December 31, 2029 (the “Expiration Date”). Additional renewal terms may become effective upon written agreement by the parties.

7.2 Termination. The Agreement may be terminated or suspended at the sole discretion of the Board. All settle-up requirements as set forth in Section 4.4 of the Agreement shall be calculated and paid to Program Members no later than six months after termination of the Agreement.

7.3 Termination by Program Member. Any Program Member may terminate its membership in the ED/GE program by giving written notice of said termination, in compliance with Article 9.2(a), no less than thirty (30) days prior to the conclusion of the first four (4) years of the herein agreement (i.e., 12-31-2024), or at the conclusion of the second three years of the herein agreement (i.e., 12-31-2027).

ARTICLE VIII – AMENDMENTS, CHANGES AND MODIFICATIONS

8.1 Amendments in Writing. Except as otherwise provided herein, this Agreement shall not be effectively amended, changed or terminated except in writing, signed on behalf of the Director and the Program Member. Such amendments, changes or termination shall become effective only upon the execution of substantially similar amendments, changes or termination by every Program Member.

8.2 Parties Treated Similarly. It is the intent of this Article that all parties in the Program shall be treated similarly.
ARTICLE IX – MISCELLANEOUS

9.1 Non-Waiver. Any waiver, whether in writing or by failures of the waiving party to timely act, of any requirement within this Agreement or of any breach of any requirement within this Agreement:

(a) Shall not constitute a waiver of any subsequent requirement herein or of any subsequent breach of any requirement herein; and

(b) Shall not otherwise affect the rights of the waiving party under this Agreement with respect to any said subsequent requirement or subsequent breach of said requirement.

9.2 Notices and Correspondence. All notices pertaining to or affecting the provisions of this Agreement shall be in writing and either delivered in person or sent by registered mail or certified mail, return receipt requested, to the parties at the following addresses:

(a) Correspondence to the Director:

Mailed:  Dept. of Community & Economic Development  
10th Floor  
P.O. Box 972  
Dayton, OH 45422

Delivered:  Dept. of Community & Economic Development  
10th Floor  
451 W. Third St.  
Dayton, OH 45422

(b) Correspondence to the Program Member

Mailed:  City of Dayton, Ohio  
101 W. Third Street  
Dayton, Ohio 45402  
ATTN: Ford Weber, Director of Economic Development

Either of the parties shall be entitled to specify as its proper address for the purposes of this Agreement any other address located within the County upon ten (10) days prior written notice to the other party.

9.3 Captions. Captions in this Agreement are inserted for convenience of reference only and shall in no way be construed to be interpretations of the text.

9.4 Applicable State Law. The rights, obligations, and remedies of the parties as specified under this Agreement shall be interpreted and governed in all respects by the laws of the State of Ohio.
9.5 **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the Director and the Program Member and their respective legal successors. Any obligations of the Director created by or arising out of this Agreement shall be payable out of Program Funds and, in the complete discretion of the Director, from any other source deemed legal and appropriate by the Director. Any obligations of the Program Member created by or arising out of this Agreement shall be payable from whatever source deemed legal and appropriate by the Program Member.

9.6 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which collectively shall constitute one and the same instrument.

9.7 **Severability.** If any provision of this Agreement is held invalid, illegal or unenforceable in any respect, the remainder of the terms, provisions, covenants and restrictions set forth in this Agreement shall in no way be affected, impaired or invalidated. With respect to any invalidated provision of this Agreement, the parties shall negotiate and in good faith agree to such amendments, modifications or supplements to this Agreement, and shall, to the maximum extent practicable, implement and give effect to the intentions of the parties in this Agreement.

9.8 **Assignment.** No assignment of this Agreement is permitted or authorized without the express written consent of both parties.

9.9 **Integrated Agreement.** This Agreement, and any Exhibits attached hereto, constitutes the entire understanding of the Parties with respect to this subject matter and supersedes all prior and contemporaneous agreements, communications, representations and negotiations, whether oral or written. Parties hereby affirm that the terms, conditions, and provisions of this Agreement, and any amendments that may be executed in accordance with the terms and conditions set forth in this Agreement, shall govern the obligations of the Parties.

[SIGNATURE PAGE BELOW]
WITNESSES:

BOARD OF COUNTY COMMISSIONERS
MONTGOMERY COUNTY, OHIO

________________________
Judy Dodge

________________________
Deborah A. Lieberman

________________________
Carolyn Rice

OR

________________________
Michael B. Colbert, County Administrator

AND

________________________
Erik Collins, Director

POLITICAL JURISDICTION:

CITY OF DAYTON, OHIO

________________________
Shelley Dickstein, City Manager

APPROVED AS TO FORM:
Mathias H. Heck, Jr.
Prosecuting Attorney
By: __________________________
Date: _________________________
## SCHEDULE A
SCHEDULE OF BASE YEAR AND COMPARISON YEAR
FOR EACH CONTRIBUTION/DISTRIBUTION YEAR

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