I. AGENDA SCHEDULE

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

1. Call Meeting to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Approval of Minutes
6. Communications and Petitions Distribution (if any)
7. Special Awards/Recognition
8. Discussion of City Manager’s Recommendations (See Section II)
9. Citizen Comments on City Manager's Recommendations
10. City Commission Action on City Manager’s Recommendations
11. Public Hearing: (See Section V)
12. Discussion Item: N/A
13. Comments by Citizens - Please register to speak with the Clerk of Commission
   (Non - Calendar items) sign-up sheets at entrance of Commission Chambers
14. Comments by City Manager
15. Comments by City Commission
16. Work Session: Work Session – Finance Committee
   5:00 P.M. - PRC
   https://www.daytonohio.gov/govtv
17. Miscellaneous (See Section VI)

II. CITY MANAGER RECOMMENDATIONS (Item #8 above)

The following recommendations are offered for City Commission approval.

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

   CITY COMMISSION OFFICE
   A1. Ohio Newspapers, Inc. dba Dayton Daily News (legal publication
       services as needed through 12/31/23) $46,500.00
1. (Cont’d):

**FIRE**

B1. **Truck Country of Indiana, Inc. dba Stoops Freightliner** (automotive repair parts, materials an supplies as needed through 12/31/22)  **$20,000.00**

**LAW**

C1. **BCVA LAW LLC** (professional legal services as needed through 12/31/22)  **20,000.00**

C2. **Benesch, Friedlander, Coplan & Aronoff, LLP** (professional legal services as needed through 12/31/22)  **20,000.00**

C3. **Bricker & Eckler, LLP** (professional legal services as needed through 12/31/22)  **20,000.00**

C4. **Porter Wright Morris & Arthur LLP** (professional legal services as needed through 12/31/22)  **20,000.00**

**PLANNING, NEIGHBORHOODS & DEVELOPMENT**

D1. **White Allen Chevrolet, Inc.** (pre-owned vehicles as needed through 12/31/22)  **90,000.00**

**POLICE**

E1. **Parr Public Safety Equipment** (vehicle up-fitting parts and services for twenty (20) 2021 and 2022 model Dodge Durango Pursuit Sport Utility Vehicles)  **286,872.68**

**PUBLIC WORKS**

F1. **TW Cable LLC** (traffic signal cables)  **12,182.50**

**RECREATION**

G1. **Jerry Pate Turf & Irrigation, Inc. dba Century Equipment** (Toro commercial equipment parts, accessories and repair services as needed through 12/31/24)  **105,000.00**

**WATER**

H1. **HERC Rentals, Inc.** (rental services for various heavy equipment and related items as needed through 12/31/22)  **12,000.00**

H2. **MSD Environmental Services, Inc.** (biosolids dewatering parts and related items as needed through 12/31/25)  **44,000.00**

H3. **Mechanical Resources Corp LLC** (mechanical cartridge seals as needed through 12/31/25)  **44,000.00**

H4. **Rawdon Myers, Inc.** (DeZurick brand valves, parts and related items as needed through 12/31/2022)  **80,000.00**

H5. **Everett J. Prescott, Inc.** (water main pipes, fittings, valves and related supplies as needed through 12/31/2022)  **19,000.00**
H6. Genuine Parts Company dba NAPA Auto Parts (oil, lubricants and related items as needed through 12/31/23)  
30,000.00
Total: $869,555.18

2. COPP Systems Integrator – Service Agreement - (maintenance agreement for security monitoring for the Department of Water Facilities – Department of Water/Water Supply and Treatment
$63,191.00
(Thru 12/31/22)

3. Hammock Expeditions LLC dba STEM Study Tours – Service Agreement – to provide services to Chicago, IL as part of the Four Cities Young Leader Academy Program – Department of Planning, Neighborhoods & Development/ Mediation Center
$26,494.00
(Thru 5/8/22)

4. MAXIMUS Consulting Services, Inc. – Contract Modification – second amendment and renewal to review the Cost Allocation Plan (CAP) and Indirect Cost Rate Plans (ICRP) for 2023 on the Fiscal Year 2021 actual expenditures – Department of Finance/Tax & Accounting
$27,000.00
(Thru 12/31/22)

5. National Processing Solutions – Contract Modification – first renewal and second amendment to the merchant services agreement for credit card processing - The Clerk of Courts
$148,000.00
(Thru 3/31/23)

$29,000.00
(Thru 12/31/22)

C. Revenue to City:

7. Barrett Paving Materials Inc – Service Agreement – to provide security and traffic control at job sites in various locations all within the municipal corporation limits of the City of Dayton, OH – Department of Police
$25,080.00
(Thru 8/1/22)
E. Other – Contributions, Etc.:

8. Dayton Metropolitan Housing Authority dba Greater Dayton Premier Management – Other – to purchase land from Dayton Metropolitan Housing Authority - Department of Planning, Neighborhoods and Development $345,000.00 (Thru 12/31/22)

II. LEGISLATION:

Emergency Ordinances – First Reading


10. No. 31962-22 Approving the Necessity of Acquiring, Constructing, and Improving Certain Public Improvements in the City of Dayton, Ohio in Cooperation with the Dayton Regional Energy Special Improvement District, and Declaring an Emergency.

11. No. 31963-22 Determining to Proceed with the Acquisition, Construction, and Improvement of Certain Public Improvements in the City of Dayton, Ohio in Cooperation with the Dayton Regional Energy Special Improvement District, and Declaring an Emergency.

12. No. 31964-22 Levying Special Assessments for the Purpose of Acquiring, Constructing, and Improving Certain Public Improvements in the City of Dayton in Cooperation with the Dayton Regional Energy Special Improvement District, and Declaring an Emergency.

13. No. 31965-22 Authorizing and Approving Three Cooperative Special Assessment Agreements, and Declaring an Emergency.

14. No. 31966-22 Appropriating Funds for the Year 2022 to Provide for the Operating and Capital Expenses of Various Offices, Departments, and Divisions of the Government of the City of Dayton.
Emergency Resolutions – First Reading

15. **No. 6630-22** Approving the Submission of a Grant Application to the Ohio Public Works Commission Clean Ohio Conservation Fund Grant Application; Authorizing the Acceptance of Ohio Public Works Commission Clean Ohio Conservation Fund Grant Application, and Declaring an Emergency.

16. **No. 6631-22** Authorizing the City Manager to Accept Funding from the Montgomery County Land Reutilization Corporation in the Maximum Amount of Sixty-Two Thousand Five Hundred Dollars and Zero Cents ($62,500.00), on Behalf of the City of Dayton, Ohio, and Declaring an Emergency

V. PLANNING ACTION

A. PUBLIC HEARING:

Official Zoning Code Text Amendments Case: PLN2021-00480

Amend various sections of the Zoning Code to clarify terminology and provisions, correct omissions, update regulations to reflect experience to date and best practices, and to align regulations with adopted plans and policies. The proposed amendments will improve the administration and enforcement of the code.

VI. MISCELLANEOUS:

**ORDINANCE NO. 31967-22**

**RESOLUTION NO. 6632-22**

**IMPROVEMENT RESOLUTION NO. 3599-22**

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

From: 2730 – PMB/Procurement

Name: See Below
Address: See Below

Date: February 16, 2022
Expense Type: Purchase Order
Total Amount: $869,555.18

2022 Purchase Orders

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

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

Description

CITY COMMISSION OFFICE

(A1) P0220602 – OHIO NEWSPAPERS, INC. dba DAYTON DAILY NEWS, DAYTON, OH

- Legal publication services as needed through 12/31/2022.
- These services are required to provide public and legal notices for the City.
- Ohio Newspapers, Inc. dba Dayton Daily News qualifies as a Dayton local entity.
- The City Commission Office 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>
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</thead>
<tbody>
<tr>
<td>2022</td>
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<tr>
<td>2023</td>
<td>General Fund</td>
<td>10000-1200-1191-52</td>
<td>$25,000.00</td>
</tr>
</tbody>
</table>

Signatures/Approval

Division: C. LaShae Hixon 2/11/22
Department: C. LaShae Hixon 2/11/22
City Manager: C. LaShae Hixon 2/11/22

Approved by City Commission

Clerk
Date

FORM NO. MS-16

Updated 06/2016
### FIRE

(B1) P0220576 – TRUCK COUNTRY OF INDIANA, INC. dba STOOPS FREIGHTLINER, HUBER HEIGHTS, OH
- Automotive repair parts, materials and supplies as needed through 12/31/2022.
- These goods and services 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 12/31/2022.
- The Department of Fire recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
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<tr>
<td>2022</td>
<td>Fire Fleet Management</td>
<td>67000-6330-1301-71</td>
<td>$20,000.00</td>
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</tbody>
</table>

### LAW

(C1) P0220579 – BCVA LAW LLC, DAYTON, OH
- Professional legal services as needed through 12/31/2022.
- These services are required to provide legal consultation and representation.
- BCVA Law LLC is recommended based upon proven past performance and subject matter expertise; therefore, this purchase was negotiated.
- BCVA Law LLC qualifies as a Dayton local entity.
- The Department of Law 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>2022</td>
<td>General Fund</td>
<td>10000-5200-1152-63</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

(C2) P0220582 – BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP, CLEVELAND, OH
- Professional legal services as needed through 12/31/2022.
- These services are required to provide legal consultation and representation.
- Benesch, Friedlander, Coplan & Aronoff LLP is recommended based upon proven past performance and subject matter expertise; therefore, this purchase was negotiated.
- The Department of Law recommends approval of this order.

<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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</thead>
<tbody>
<tr>
<td>2022</td>
<td>General Fund</td>
<td>10000-5200-1152-63</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

(C3) P0220571 – BRICKER & ECKLER LLP, COLUMBUS, OH
- Professional legal services as needed through 12/31/2022.
- These services are required to provide legal consultation and representation.
- Bricker & Eckler LLP is recommended based upon proven past performance and subject matter expertise; therefore, this purchase was negotiated.
- The Department of Law recommends approval of this order.

<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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</thead>
<tbody>
<tr>
<td>2022</td>
<td>General Fund</td>
<td>10000-5200-1152-63</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>
LAW (CONTINUED)

(C4) P0220566 – PORTER WRIGHT MORRIS & ARTHUR LLP, DAYTON, OH

• Professional legal services as needed through 12/31/2022.
• These services are required to provide legal consultation and representation.
• Porter Wright Morris and Arthur LLP is recommended based upon proven past performance and subject matter expertise; therefore, this purchase was negotiated.
• Porter Wright Morris & Arthur LLP qualifies as a Dayton local entity.
• The Department of Law 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>
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<tbody>
<tr>
<td>2022</td>
<td>General Fund</td>
<td>10000-5200-1152-63</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

PLANNING, NEIGHBORHOOD & DEVELOPMENT – MEDIATION

(D1) P0220570 – WHITE ALLEN CHEVROLET, INC., DAYTON, OH

• Pre-owned vehicles as needed through 12/31/2022.
• These vehicles are required to support the Mediation Response Unit pilot program.
• White Allen Chevrolet, Inc. is a Chevrolet brand local dealership, recommended based on product availability and proven past performance; therefore, this purchase was negotiated.
• White Allen Chevrolet, Inc. qualifies as a Dayton local entity.
• The Department of Planning, Neighborhood & Development 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>
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<tbody>
<tr>
<td>2022</td>
<td>General Fund</td>
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<td>$90,000.00</td>
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</tbody>
</table>

POLICE

(E1) P0220609 – PARR PUBLIC SAFETY EQUIPMENT, GALLOWAY, OH

• Vehicle up-fitting parts and services for twenty (20) 2021 and 2022 model Dodge Durango Pursuit Sport Utility Vehicles (SUVs).
• These goods and services are required to place the vehicles into service for the Department of Police’s daily operations.
• Rates are in accordance with the City of Dayton’s existing price agreement IFB 18034JL with pricing through 4/30/2022 and State of Ohio Contract pricing #MMA7607 and Index #MMA845.
• The Department of Police 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>
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<tr>
<td>2022</td>
<td>Public Safety Photo Enforcement</td>
<td>16122-6210-1412-71</td>
<td>$286,872.68</td>
</tr>
</tbody>
</table>
PUBLIC WORKS – CIVIL ENGINEERING

(F1) P0220592 – TW CABLE LLC, FARMINGDALE, NY

- Traffic signal cables.
- This goods are required for rebuilding of City traffic signal installations.
- Three (3) possible bidders were solicited and three (3) response was received.
- The Department of Public Works recommends acceptance of the lowest and best bid.

<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>2022</td>
<td>Street Maintenance</td>
<td>21000-6450-1301-54</td>
<td>$12,182.50</td>
</tr>
</tbody>
</table>

RECREATION - SPORTS

(G1) P0220603 – JERRY PATE TURF & IRRIGATION, INC. dba CENTURY EQUIPMENT, HAMILTON, OH

- Toro commercial equipment parts, accessories and repair services as needed through 12/31/2022.
- These goods and services are required to maintain Toro brand golf course maintenance equipment.
- Century Equipment, Inc. is the sole authorized regional distributor of Toro commercial golf course equipment; therefore, this purchase was negotiated.
- The Department of Recreation requests additional authority of $75,000.00 through 12/31/2024.
- The Department of Recreation 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>2022</td>
<td>Community Golf &amp; Recreation Fund</td>
<td>13000-6550-1301-56</td>
<td>$30,000.00</td>
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<tr>
<td>2023</td>
<td>Community Golf &amp; Recreation Fund</td>
<td>13000-6550-1301-56</td>
<td>$35,000.00</td>
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<tr>
<td>2024</td>
<td>Community Golf &amp; Recreation Fund</td>
<td>13000-6550-1301-56</td>
<td>$40,000.00</td>
</tr>
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</table>

WATER – WATER RECLAMATION

(H1) P0220597 – HERC RENTALS, INC., CINCINNATI, OH

- Rental services for various heavy equipment and related items as needed through 12/31/2022.
- These services are required to maintain various operations 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.
- 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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<td>Sanitary Sewer Operating</td>
<td>55000-3460-1143-54</td>
<td>$12,000.00</td>
</tr>
</tbody>
</table>
WATER – WATER RECLAMATION (CONTINUED)

(H2) P0220552 – MSD ENVIRONMENTAL SERVICES, INC., EATON, OH
- Biosolids dewatering parts and related items as needed through 12/31/2022.
- These goods are required for the maintenance of the biosolids dewatering facility.
- MSD Environmental Services, Inc. is recommended as the sole regional distributor for BDP manufacturing equipment; therefore, this purchase was negotiated.
- The Department of Water requests additional authority of $33,000.00 through 12/31/2025.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
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<th>Fund Source(s)</th>
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<th>Fund Amount(s)</th>
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</thead>
<tbody>
<tr>
<td>2022</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>2023</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>2024</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>2025</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$11,000.00</td>
</tr>
</tbody>
</table>

(H3) P0220608 – MECHANICAL RESOURCES CORP LLC, MIAMISBURG, OH
- Mechanical cartridge seals as needed through 12/31/2022.
- These goods are required to maintain and repair the numerous WEMCO pumps in operation.
- Mechanical Resources Corp LLC is recommended based upon proven past performance; therefore, this purchase was negotiated.
- The Department of Water requests additional authority of $33,000.00 through 12/31/2025.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
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<th>Fund Amount(s)</th>
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</thead>
<tbody>
<tr>
<td>2022</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>2023</td>
<td>Sanitary Sewer Operating</td>
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<td>$11,000.00</td>
</tr>
<tr>
<td>2024</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>2025</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$11,000.00</td>
</tr>
</tbody>
</table>

(H4) P0220572 – RAWDON MYERS, INC., MILFORD, OH
- DeZurik brand valves, parts and related items as needed through 12/31/2022.
- These goods are required to maintain essential infrastructure.
- Rawdon Myers, Inc. is recommended as the sole local municipal distributor for DeZurik/APCO/Hilton brand valves and parts; therefore, this purchase was negotiated.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
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<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<td>2022</td>
<td>Sanitary Sewer</td>
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<td>$80,000.00</td>
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</tbody>
</table>
WATER – WATER SUPPLY AND TREATMENT

(H5)  P0220607 – EVERETT J PRESCOTT, INC., WEST CARROLLTON, OH
  • Water main pipes, fittings, valves and related supplies as needed through 12/31/2022.
  • These goods are required to replenish inventory for maintenance and repairs.
  • Rates are in accordance with the City of Dayton’s existing price agreement IFB 20006S with pricing through 12/31/2022.
  • The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
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<td>53000-3430-1301-54</td>
<td>$19,000.00</td>
</tr>
</tbody>
</table>

(H6)  P0220595 – GENUINE PARTS COMPANY dba NAPA AUTO PARTS, DAYTON, OH
  • Oil, lubricants and related items as needed through 12/31/2022.
  • These goods are required to maintain Division’s equipment.
  • Rates are in accordance with the City of Dayton’s existing price agreement IFB 21005D with pricing through 12/31/2023.
  • Genuine Parts Company dba NAPA Auto Parts qualifies as a Dayton local entity.
  • The Department of Water requests additional authority of $15,000.00 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>
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<tbody>
<tr>
<td>2022</td>
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<td>2023</td>
<td>Water Operating</td>
<td>53000-3430-1301-54</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>

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

From 3430 - Water/Water Supply & Trmt
Supplier, Vendor, Company, Individual
COPP Systems Integrator
Address 123 South Keowee Street
Dayton, Ohio 45402

Date February 16, 2022
Expense Type Service Agreement
Total Amount $63,191.00 thru 12/31/2022

Fund Source(s) Fund Code(s) Fund Amount(s)
2022 Water Operating Funds 53000-3430-1157-54 $63,191.00

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

Description

MAINTENANCE AGREEMENT FOR SECURITY MONITORING

The Department of Water requests permission to enter into an agreement with COPP Systems Integrator in the Amount of $63,191.00 for maintenance services. The scope is to provide ongoing maintenance for access control, camera video recording, intercom & CCTV systems for Department of Water Facilities.

The Agreement is being funded using 2022 Water Operating Funds.

The Agreement will expire on December 31, 2022.

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

A Certificate of Funds and a copy of the Agreement are attached.

Signatures/Approval

Approved by City Commission

Clerk

City Manager

FORM NO. MS-16

Updated 8/2016
## SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>X</th>
<th>Change Orders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
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<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/31/2022</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$63,191.00</td>
<td>Required Documentation</td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$63,191.00</td>
<td>Initial City Manager's Report</td>
<td></td>
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<tr>
<td>Remaining Commission Approval</td>
<td>$</td>
<td>Initial Certificate of Funds</td>
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<td>Original CT/CF</td>
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<td>Initial Agreement/Contract</td>
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<tr>
<td>Increase Encumbrance</td>
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### Attach additional pages for more FOAPALs

**Vendor Name:** COPP Systems Integrator

**Vendor Address:** 123 South Keowee Street, Dayton, Ohio 45402

**Federal ID:** 45-5425638

**Commodity Code:** 68002

**Purpose:** Maintenance Agreement for Security Monitoring.

---

**Contact Person:** Lisa Burton-Yates

**Water/Water Engineering**

**Department/Division:**

**Date:** 2/2/2022

### Originating Department Director’s Signature:

---

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

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

**Finance Director Signature:**

**Date:** 2/1/22

**CF Prepared by:**

**Date:** 2/1/22

---

**CF/CT Number:** 2/1/22

---

October 18, 2011
123 S. Keowee Street, Dayton, OH 45402 (937) 228-4188

STANDARD COMMERCIAL CCTV / ACCESS CONTROL / SERVICE AGREEMENT

Date: January 21, 2022

Buyer’s Name: Dayton Water Administration, City of Dayton (hereinafter “City”)

Address: 320 West Moment Avenue, Dayton Ohio 454025377

Telephone No.: 937-512-2700

1. COPP SYSTEMS (hereinafter referred to as “COPP” or “ALARM COMPANY”) agrees to provide ongoing maintenance services, at City’s premises as described herein. Passcode to CPU software remains property of COPP. Software programmed by COPP is the intellectual property of COPP and any unauthorized use of same, including derivative works, is strictly prohibited and may violate Federal Copyright laws, Title 17 of the United States Code, and may subject violator to civil and criminal penalties.

Purchase Price: $ N/A
Taxes: $N/A_________
Total: $ N/A_________

Down Payment: $_________
Balance due upon completion of installation: $ N/A

Approximate date work to begin 01-21-2022
Estimated date work to be substantially completed: on going
Monthly Payment (total from paragraph 4) $ N/A

2. DESCRIPTION OF EQUIPMENT AND SERVICES: Maintenance Agreement for the card access control, camera video recording, and intercom systems beginning January 21, 2022. This includes the following locations: Water administration, Ottawa Street Yard (Guard Shack, Kiln, Filter, Distribution, Pump Station and Sewer Maintenance Buildings and wireless camera along the river and the lime pod.), Miami Treatment Plant, Miami Well Field Building, Miami Storage Building, Miami Electric shop, Water Reclamation Facility, Mad River Well Field and the lime lagoon location. This includes the equipment for the Water Department and services described in Exhibit "A" attached hereto.

3. SERVICES AND CHARGES: City agrees to pay the sum of sixty-three thousand one hundred ninety one dollars and zero cent $63,191.00 for one (1) year maintenance. Charges are payable in advance on January 21 of each year over the term of this agreement.
4. TERM OF AGREEMENT: RENEWAL: The term of this agreement shall be for a period of one (1) year, commencing upon execution.

5. SERVICE: Service includes all parts and labor. COPP shall service upon City's request the security system installed in City's premises during normal business hours Monday through Friday 8:00 am. to 5:00 pm. (excluding holidays) and will respond within thirty-six (36) hours after receiving notice from City that service is required. All repairs, replacement or alteration to the security system made by reason of alteration to City's premises, or caused by unauthorized intrusion, lightning, or electrical surge, or caused by any means other than normal usage, wear and tear, shall be made at the cost of the City. Electrical surges, lightning damage, obsolete components and components exceeding manufacturer's useful life are not included in service and will be repaired or replaced at City's expense. Such additional expense must be approved in writing before incurred. Should COPP perform such work without prior written approval, COPP shall forever waive any claims for payment of the labor, materials, or any other expense associated with the work. No apparatus or device shall be attached to or connect with the security system as originally installed without COPP's written consent.

6. VIDEO SYSTEM OPERATION AND LIMITATIONS: If selected as a service to be provided and included in the Schedule of Equipment, Video equipment is attached to a digital recorder computer and City shall not use the computer for any other purpose. City shall be permitted to access and make changes to the system's operation on site and over the internet. If data storage is selected service, COPP shall store data received from City's system for one year, COPP shall have no liability for data corruption or inability to retrieve data except if the corruption or inability to retrieve data is caused by COPP's negligence. To the extent that COPP's negligence causes corruption or inability to retrieve data, COPP shall: restore the video surveillance system settings and configurations; restore the access control system database and system configurations; however, COPP shall not be responsible for recovering recorded video data. City's data shall be maintained confidential and shall be retrieved and released only to City or upon City's authorization or by legal process. Telephone or internet access is not provided by COPP and COPP has no responsibility for such access or IP address service. If system has remote access COPP is not responsible for the security or privacy of any wireless network system or router, and it is the City's responsibility to secure access to the system with pass codes and lock outs. COPP shall have no liability for unauthorized access to the system through the internet or other communication networks or data corruption or loss for any reason whatsoever.

GENERAL PROVISIONS

7. TESTING AND SERVICE OF ACCESS CONTROL & CCTV SYSTEMS: Access Control & CCTV System, once installed, is in the exclusive possession and control of the City, and it is City's sole responsibility to test the operation of the Security System and to notify COPP if it is in need of repair. COPP shall not be required to service the Security System unless during Warranty Period or City has contracted for service pursuant to paragraphs 2 and 5 and it has received notice from City, and upon such notice, COPP shall service the Security System to the best of its ability within thirty-six (36) hours, exclusive of Saturday, Sunday and legal holidays, during the business hours of 8 a.m. and 5 p.m. If City has not selected Service pursuant to paragraphs 2 and 5, any repair or other services provided by COPP to
City's security equipment shall be at COPP's option on a per call request by City, and City shall pay for such labor and material at time such repair or other service is performed. Such expenses must be approved in writing before the work is performed. COPP waives any and all claims for labor, materials, or any other expenses incurred for performing the work that is not authorized in writing by the City before the work is performed. All such repair or other service shall be governed by the terms of this contract. Only the equipment installed by COPP is covered by service. It shall be City's sole responsibility to maintain the security system.

8. CARE OF ACCESS CONTROL & CCTV SYSTEM: City agrees not to tamper with, remove or otherwise interfere with the Security System which shall remain in the same location as installed and City agrees to bear the cost of repairs or replacement made necessary as a result of any damage, including but not limited to damage caused by unauthorized intrusion to the premises, lightning or electrical surge, except for ordinary wear and tear, in which event repair or replacement to the Security System (if installed by COPP) shall be made by COPP.

9. ALTERATION OF PREMISES FOR INSTALLATION: COPP is authorized to make preparations such as drilling holes, driving nails, making attachments or doing any other thing necessary in COPP's sole discretion for the installation and service of the security system, and City represents that the owner of the premises, if other than City, authorizes the installation of the security system under the terms of this agreement.

10. CITY'S DUTY TO SUPPLY ELECTRIC AND TELEPHONE SERVICE: City agrees to furnish, at City's expense, all 110 volt AC power, electrical outlet, ARC Type circuit breaker and dedicated receptacle, Internet connection, high speed broadband cable or DSL and IP Address, telephone hook-ups, RJ31x Block or equivalent, as deemed necessary by COPP.

11. RESERVED

12. ASSIGNMENTS: Parties agree that there are no third-party beneficiaries of this contract. City shall not be permitted to assign this agreement without written consent of COPP. COPP shall have the right to assign this contract, with City's written consent, such consent shall not be unreasonably withheld.

13. EXCULPATORY CLAUSE: COPP and City agree that COPP is not an insurer, and no insurance coverage is offered herein. The security equipment is designed to reduce certain risks of loss, though COPP does not guarantee that no loss will occur.

14. INSURANCE: The City of Dayton does not maintain insurance, however, it pays judgments rendered against it through its Judgement Trust.
15. **INSURANCE:** During the term of this Agreement, COPP shall maintain, at its sole cost and expense, no less than the following insurance issued by an insurance company authorized to conduct business in the State of Ohio and having an "A" rating or better by A.M. Best:

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

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

(3) Employers' liability insurance having a limit of $500,000 for each occurrence.

Current certificates of insurance for all policies and concurrent policies required to be maintained by COPP, pursuant to this Article, shall be furnished to the City. All such insurance policies, shall name the City and its elected officials, officers, agents, employees, and volunteers as additional insureds, but only to the extent of COPP's legal liability and to the extent of the policy limits stated herein. All policies of insurance required hereunder shall contain a provision requiring a minimum of thirty (30) days advance written notice to the City in the event of cancellation or diminution of coverage. In the event of a claim, COPP shall make copies of applicable insurance policies available for review by the City. COPP, however, shall retain its right to restrict disclosure of COPP's proprietary information contained in such policies.

COPP also shall maintain Workers' Compensation Insurance in such amounts as required by law for all employees and shall furnish the Client with evidence of same.

16. **LIMITATION OF LIABILITY:** City agrees that should there arise any liability on the part of COPP as a result of COPP's negligent performance to any degree of failure or perform any of COPP's obligations or equipment failure, or strict products liability, that COPP's liability shall be limited to $60,000.00.

Both the City and COPP shall sign the "Contract Rider".

17. **EQUAL EMPLOYMENT OPPORTUNITY:** COPP shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap with respect to employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, lay-off, termination, rates of pay or other forms of compensation, or selection for training including apprenticeship.
18. POLITICAL CONTRIBUTIONS: COPP affirms and certifies that it complies with Ohio Revised Code 53517.13 limiting political contributions,

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

20. Governing Law and Venue: This Agreement and any modifications, alternations, and/or amendments, shall be governed and enforced under the laws of the State of Ohio. Any litigation or other dispute must be brought in a court of competent jurisdiction in Montgomery County, Ohio. COPP, its employees and any persons retained or hired by COPP to perform the duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Further, COPP shall be responsible to withhold and pay, or cause such agents, contractors, and sub-contractors to withhold and pay, all applicable local, state and federal taxes. COPP acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System (“OPERS”) membership.

CITY OF DAYTON, OHIO

City Manager

APPROVED AS TO FORM AND CORRECTNESS:

1/31/2022

X John Musto for
City Attorney

Signed by: Musto, John
APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO:

, 2022

Min./Bk.: Page:

Clerk of the Commission
Exhibit A

The above agreements currently covered (115) security cameras, (127) doors and gates connected to the security system. All security equipment, copper cabling, and labor is included for normal use. Service includes all parts and labor. Water Department acknowledges that repairs, replacement, or alteration to the security system made by reason of alteration to owner’s premises, or caused by unauthorized intrusion, lightning, or electrical surge or by any means other than normal usage, wear, and tear, shall be made at the cost of the owner. Access control system (enclosures, controllers, and modules), card readers, electromagnetic locks, delayed egress electromagnetic locks, electric controlled strikes/locks, request to exit switches, power supplies (controller, modules, lock, and intercom), duress alarm buttons, key switches (duress disable/reset), interior and exterior fixed dome cameras, exterior 360 degree cameras, interior and exterior PTZ cameras, all camera mounts, camera power supplies, joystick camera controllers, Honeywell access software, Hanwha Wisenet Camera and encoder licenses, (2) intrusion detection systems with motion detectors, door contacts, glass break sensors, keypads and sounders, various fiber optic modules and media converters to remote gates, cameras, and intercom stations, transceiver, Siklu wireless video transmitters and receiver units are also covered. All servers and workstations were provided and maintained by the City of Dayton. Therefore, security software upgrades are the only thing covered in the agreement. The listed equipment below is a partial list. Copp will gather a complete equipment list throughout the year as service and inspections are done.

Services Provided:
1. All system administration for Access Control System, cameras and recorders as well as intercom stations. All firmware upgrades for the video recorders. Maintain software support agreements with Honeywell.
   a. Inspect, Clean and Testing
      i. Intercom
         1. Annually
      ii. Cameras and Video Recorders to include firmware upgrades
         1. Annually
      iii. Card Readers, Door Strikes and Locks and the Honeywell Access Control System.
         1. Semi-annually
     iv. UPS & Batteries for access control panels
        1. Semi-annually
2. Quarterly review meetings
   a. Progress updates
   b. Service Logs
   c. Updates and upgrades
   d. Current projects
   e. Future Projects
   f. Any concerns
3. Covered Equipment
   a. Software and Peripheral Devices
      i. Software
1. Honeywell
   a. (1) Pro-Watch Corporate Software Support Agreement Pro-Watch
2. Hanwha Wisenet Wave
   a. (4) Encoder Licenses
ii. Digital Video Recorders and associated equipment
   1. (1) Hikvision 4 Channel Video Encoder
   2. (1) Hanwha 16-CH, Wave NVR
   3. (9) Hikvision 16-CH NVRs
   4. Fiber media convertors
   5. 16 Channel CCTV Multiplexers
   6. (18) 20” LED Monitors
   7. (8) joystick controllers
b. Intercom Stations
   i. (3) Aiphone IS Series Intercoms to include master stations
   ii. (16) Aiphone and Linear intercom stations connected to doors and gates
c. Security Cameras
   i. (22) Bosch PTZ Analog Camera
   ii. (62) Bosch Fixed Analog Camera
   iii. (3) Hanwha 5MP Multi-Sensor Multi-Directional Camera
   iv. (1) Hanwha 2MP Dome IP Camera
   v. (3) Hikvision 2MP Bullet Camera
   vi. (4) Hikvision 3MP Bullet Camera w/8-35MM Lens
   vii. (5) Hikvision 4MP Bullet Camera w/2.8-12MM Lens
   viii. (5) Hikvision 2MP PTZ Analog Camera 4-120MM Lens
   ix. (1) Hikvision 3MP Dome Camera w/6MM Lens
   x. (2) Hikvision 3MP Dome Camera w/4MM Lens
   xi. (2) Hikvision 3MP PTZ IP Camera w/2.8-12MM Lens
   xii. (11) Siklu transceivers EH1200TX and EH600TX MultiHaul units
   xiii. POE Injectors
d. Card Access Equipment
   i. Headend Equipment
      1. Honeywell Intelligent Controllers
      2. Backup Batteries supporting the Access Control System
      3. Access control panels and multi-output power supplies
      4. Alarm control panels and power supplies
   ii. Field Devices
      1. (127) Proximity Card Readers
      2. Push to Exit Buttons
      3. Request to Exit Motion Detectors
      4. Door Position Contacts
      5. Gate Position Contacts
      6. Lid Tamper Switches
      7. Motion Sensors
      8. Magnetic Door Holder
9. Panic Buttons  
10. Storeroom levers  
11. Maglocks  
12. Electric Strikes  
13. Electric Rim Strike  
14. Push buttons for gate controls  
e. Other Misc. Equipment  
   i. POE Network Switch  
   ii. Hanwha POE+ Power Injectors  
   iii. Fiber Network Switches  
   iv. CAT patch cables  
   v. Fiber Patch cables  

4. Exclusions:  
   a. Servers for the security system  
   b. Workstations for security system

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Exhibit B
City of Dayton Department of Water Master Service Agreement  
1 Year Schedule of Pricing 2022

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From 2360 - Planning, Neighborhoods & Dev. / Mediation Center

Supplier, Vendor, Company, Individual

Name Hammock Expeditions LLC dba STEM Study Tours

Address 133 Grant Street
          Sneads Ferry, NC 28460

Date February 16, 2022

Expense Type Service Agreement

Total Amount $26,494.00 thru 5-8-2022

Fund Source(s) Fund Code(s) Fund Amount(s)
Miscellaneous Grants 28198-2360-1159-33 $26,494.00

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

Description

Professional Services Agreement

The Department of Planning, Neighborhoods & Development is requesting approval to enter into a Professional Services Agreement (Agreement) with Hammock Expeditions LLC dba STEM Study Tours (STEM Study Tours) in the amount of $26,494.00.

On January 6, 2021 the City Commission approved Resolution No. 6560-20 where the City received a Federal Assistance Award from the U.S. Department of State. The Federal Assistance Award will be used to bring teachers and students to the City of Dayton from Sarajevo, Banja Luka, and Mostar in 2022 to participate in the “Four Cities Young Leaders Academy” programming.

STEM Study Tours will provide tour services to Chicago, IL., as part of the Four Cities Young Leader Academy Program. STEM Study Tours was contracted because of their extensive experience in planning and organizing student tours to Chicago, IL. The dates of the tour will take place from May 4-6, 2022.

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

Funding source is the Youth Dev Prgm Bosnia/Herzegov 2020 Fund.

This Agreement will commence upon execution and will terminate on May 8, 2022.

A Certificate of Funds is attached.

E-SIGNED by Michelle Zaremba on 2022-02-02 17:52:42 GMT

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 10/2019
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

- [x] New Contract
- _____ Renewal Contract
- _____ Change Order

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Attach additional pages for more FOAPALs

Vendor Name: Hammock Expeditions LLC dba STEM Study Tours
Vendor Address: 133 Grant Street, Sneads Ferry, NC 28460
Federal ID: 851137635
Commodity Code: 96178
Purpose: Professional services agreement for Four Cities Young Leaders Academy teachers and students to travel to Chicago, IL.
Contact Person: Michelle Zaremba, Planning, Neighborhoods & Development / Mediation Ctr

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: 2/1/22

CF Prepared by: [Signature]
Date: 2/1/22
CF/CT Number: SA 217/22

Finance Department
PROFESSIONAL SERVICE AGREEMENT

THIS PROFESSIONAL SERVICE AGREEMENT ("Agreement"), dated this ___ day of ______________, 2022 is between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City") and HAMMOCK EXPEDITIONS, LLC, DBA STEM STUDY TOURS, 133 GRANT STREET, SNEADS FERRY, NORTH CAROLINA 28460, ("Contractor").

WITNESSETH THAT:

WHEREAS, The the Four Cities Young Leader Academy grant requires the exchange group to travel to another city for the civic, cultural, and educational experiences; and

WHEREAS, The Contractor and City desire to enter into a Professional Services Agreement to arrange a tour to Chicago, IL for the Four Cities Young Leader Academy.

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

ARTICLE 1. SERVICES TO BE PERFORMED

Contractor shall perform professional tour services for the City of Dayton as described in Exhibit A, attached hereto and incorporated as if fully rewritten herein.

All Services to be performed under this Agreement shall be in compliance with all applicable federal, state and local laws, regulations and orders and professional standards governing the performance of Services to be provided hereunder.

ARTICLE 2. COMPENSATION

The City shall pay TWENTY-SIX THOUSAND FOUR HUNDRED NINETY-FOUR DOLLARS AND ZERO CENTS ($26,494.00) for the Services actually provided in accordance with this Agreement. Contractor will receive a deposit of THIRTEEN THOUSAND TWO HUNDRED FORTY-SEVEN DOLLARS AND ZERO CENTS ($13,247.00) by February 23, 2022 and the remaining balance is due before March 1, 2022.

ARTICLE 3. TERM

This Agreement shall commence upon execution by City and shall terminate on May 8, 2022, unless extended to a later date by mutual written amendment to this agreement or terminated according to Article 6 of this Agreement.

ARTICLE 4. INDEMNIFICATION

Contractor agrees to defend, indemnify, and hold harmless City, its officers, elected officials, employees and agents from and against claims, losses, damages, and expenses (including reasonable attorneys’ fees) to the extent such claims, losses, damages, or expenses are caused
by or arise out of the Contractor negligent performance or non-performance of this Agreement and/or the acts, omissions or conduct of the Contractor or its employees, agents, and representatives.

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

ARTICLE 5. INSURANCE

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

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

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

Contractor shall furnish to the city certificates and/or proof of each form of insurance required by this article. Upon request, the Contractor shall furnish complete copies of the policies of insurance.

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

ARTICLE 6. TERMINATION

This Agreement may be terminated by City upon written notice in the event of substantial failure by Contractor to perform in accordance with the terms of this Agreement. Contractor shall have fifteen (15) calendar days from the date of the termination notice to cure or submit a plan for cure or submit a plan for cure acceptable to City. If a plan to cure is not accepted, then this Agreement will be terminated immediately and City shall pay Contractor only for those services accepted by the City.

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

In either event, Contractor shall terminate the Services according to a schedule acceptable to City.

ARTICLE 7. COMMUNICATIONS

Any written communication or notice required or permitted by this Agreement shall be made in writing and shall be delivered personally, sent by express delivery, certified mail or first class U.S. mail, postage pre-paid to the address specified below:
Hammock Expeditions, LLC
133 Grant Street
Sneads Ferry, North Carolina 28460

Michelle Zaremba
371 W. Second Street, 3rd Floor
Dayton, Ohio 45402

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

ARTICLE 8. NON DISCRIMINATION

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

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

ARTICLE 9. CONFIDENTIALITY

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

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

Nothing in this Section shall prohibit or limit either party’s use or disclosure of confidential or proprietary information: (i) previously known to it without an agreement of confidentiality, (ii) independently developed by it, (iii) acquired by it from a party that is not, to the other party’s knowledge, under an obligation not to disclose such information, (iv) that is or becomes publicly available through no breach of this Agreement by the other party, (v) when such disclosure is required by an order of a Court or under state or federal law, or (vi) when such disclosure is authorized in writing by a party to this Agreement.
ARTICLE 10. OWNERSHIP OF DOCUMENTS & INTELLECTUAL PROPERTY

Except as otherwise provided in this Agreement, documents and reports prepared by Contractor as part of the Services shall become the sole and exclusive property of City upon payment.

Contractor shall retain its rights in standard scripts, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of Contractor.

ARTICLE 11. GENERAL PROVISIONS

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

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

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

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

D. Meetings and Evaluation
Contractor shall meet with City’s designees at such times designated by City to review and discuss performance of this Agreement. Contractor shall cooperate with City in all respects concerning the review and monitoring of Contractor’s performance pursuant to this Agreement.

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

Contractor, its employees and any person retained or hired by Contractor to perform duties and responsibilities under this Agreement are not the City employees, and therefore, such persons will not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Further, Contractor will be responsible to withhold and pay, or cause such agents, contractors and subcontractors to withhold and pay, all applicable local, state and federal taxes. Contractor further acknowledges and agrees that none of his employees are public employees for the purpose of membership and/or participation in the Ohio Public Employees Retirement System (OPERS).

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

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

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

I. Effect of Conflicting Documents
In the event any conflict between this Agreement and any term or condition found within any other document; including, but not limited to Exhibit A, the terms and conditions of this Agreement shall control.

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

K. Political Contributions
Contractor affirms and certifies that it complies with Ohio Revised Code §3517.13 limiting political contribution
IN WITNESS WHEREOF, City and Hammock Expeditions, LLC, each by a duly authorized representative, have executed this Agreement as of the day and date first set forth above.

CITY OF DAYTON, OHIO

________________________
City Manager

HAMMOCK EXPEDITIONS, LLC

By:  [Signature]

Title:  President

APPROVED AS TO FORM
AND CORRECTNESS:

2/2/2022

X  John Musto for

City Attorney

Signed by: Musto, John

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

_________________________, 2022

Min. / Bk. _____ Pg. ______

___________________________
Clerk of the Commission
CHICAGO, ILLINOIS
Leadership & Culture

Further to your recent enquiry, please find below your personal tour quotation.

TOUR DETAILS

Trip Leader: Ms. Michelle Zaremба
Company: City of Dayton
Departure date: Wednesday, May 4th, 2022
Duration: 4-days / 3-nights in destination
Destination: Chicago, Illinois
Accommodation: SpringHill Suites Downtown
              Chicago River North
Transport: Air

TOUR PRICES

Paying students: 18
Paying adults: 8
Tour price: $1019 USD per paying passenger (26)
Rooming - students: 5 rooms sleeping up to 5 pupils per room
Rooming - adults: 4 rooms sleeping 2 adults per room
Travel Protection: $47.37 for Plan F560S; $73.08 for Plan F560E

TRAVEL PROTECTION - Costs are in addition to the tour price shown. Please note that travel protection costs shown are estimated and confirmed pricing will be shown at the time of plan purchase. Please see the attached PDF for plan highlights as well as further details under the “Important Information” section of this quote. F560S = Standard Plan; F560E = Enhanced Plan. Please know that although travel protection is mandatory, you may elect to use any provider.

Hotel: SpringHill Suites Chicago Downtown/River North is situated in the heart of downtown’s vibrant River North neighborhood, allowing you to easily experience some of Chicago’s most popular attractions including the Magnificent Mile, the Theatre District, and Navy Pier. Spread out in modern suites and enjoy
amenities such as free Wi-Fi, kitchenettes, and separate living areas to help you feel more at home. Your hotel also offers a business center and 24/7 fitness center. A complimentary shuttle is available for nearby use.

A normal room configuration in this hotel will have **two double beds to sleep four students, plus a pull-out sofa sleeper** allowing the students to spread out a bit if desired. Staff will sleep 2 to a room in rooms with 2 beds.

**Flight Assumptions** - To be able to issue you a full quote, we have given you a fair assumption of applicable flight fees. Once you have confirmed your booking and air flights are available for booking, we will verify air fees to ensure they fall within the quoted amount. If the air fees are increased above what has been included in the cost assumption, STEM Study Tours has the right to increase the quote if necessary. If, at that time, you desire to cancel your booking due to increased costs, please know that you may do so at no penalty to your party.

### SAMPLE ITINERARY

**City of Dayton - Chicago Leadership & Culture Trip**

<table>
<thead>
<tr>
<th>Day</th>
<th>Meals</th>
<th>Morning</th>
<th>Afternoon</th>
<th>Evening</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Wed</td>
<td>Travel to Dayton Airport, fly to Chicago, Illinois</td>
<td>Fly Lincoln Park</td>
<td>Hotel Check-In / Welcome &amp; Safety Giordano's Authentic Italian Pizza</td>
</tr>
<tr>
<td>2</td>
<td>Thur</td>
<td>NCDC-TBD</td>
<td>Consulate General of Bosnia and Herzegovina</td>
<td>Navy Pier - Exploration Spirit of Chicago Cruise on Lake Michigan</td>
</tr>
<tr>
<td>3</td>
<td>Fri</td>
<td>Museum of Science &amp; Industry</td>
<td>The Magnificent Mile - Shopping on Michigan Avenue</td>
<td>Local Dinner Six - Performance at CIBC Theatre</td>
</tr>
<tr>
<td>4</td>
<td>Sat</td>
<td></td>
<td>Transfer to Chicago’s O’Hare International Airport; Check-in and Fly to Bosnia</td>
<td></td>
</tr>
</tbody>
</table>

### TOUR CONTENT

**CHICAGO**

- 21 one-way flights from Dayton to Chicago, departing in the morning of May 4th, 2022
- 3 round-trip flights with the same outbound leg as the one-way option, plus return in the afternoon of May 7th, 2022
- Group motorcoach transfers from Chicago Airport to the hotel and from the hotel back to the airport for return flight
- 7-day unlimited metro pass for all transfers inclusive of CTA and PACE Pass
- 3-nights’ accommodation in destination (5 student rooms + 4 staff rooms)
- Included Meals: Breakfasts on days 2, 3 & 4; Lunches on days 2 & 3; Dinners on days 1, 2 & 3
- **Chicago Culture City Tour** – We’ll meet our local guide who will share his passion and knowledge for the city of Chicago! We’ll checkout a variety of neighborhoods and attractions including Cloud Gate (Bean) in Millennium Park. We’ll explore the streets by coach and also by foot, finding its secrets and hearing the tales of its legends.
• **I-Fly Lincoln Park** – We’ll participate in a STEM class and then everyone will have one flight with an instructor.

• **Lincoln Park Zoo** – Enjoy the famous 35-acre zoo, founded in 1868, making it the fourth oldest zoo in North America.

• **Chicago Pizza Dinner at Giordano’s** – Experience true Chicago deep dish pizza. Known around the world, Giordano’s is home to incredible food and has been touted by some as having the world’s best pizza!

• **Skydeck Chicago at Willis Tower** – The Ledge is the standout attraction of Skydeck: it’s an observation deck with a glass floor that offers a truly unparalleled view of the city. And at 1,353 feet high, The Ledge is the highest observation deck in the United States.

• **Visit the Consulate General of Bosnia & Herzegovina** – A visitation request has been made to the Consulate on your behalf.

• **Navy Pier** – Free time for exploration on this 3,300-foot-long pier on the shoreline of Lake Michigan.

• **Spirit of Chicago Dinner Cruise on Lake Michigan** - See the city as you’ve never seen it while sailing and dining on the Spirit of Chicago. The Spirit of Chicago is a four-level dining vessel with three interior climate-controlled dining decks and two exterior observation decks. Onboard cuisine includes buffet style dining with onboard DJ entertainment and interactive games throughout the yacht.

• **Museum of Science & Industry** – One of the largest science museums in the world and home to more than 400,000 square feet of hands-on exhibits designed to spark scientific inquiry and creativity.

• **The Magnificent Mile** – One of the most iconic shopping areas in the world. This cosmopolitan, history-packed strip on downtown Michigan Avenue between the Michigan Avenue Bridge and Oak Street leads you from department stores to multi-story retail centers to luxury boutiques to brand name retail chains — all within a scenic stroll of each other.

• **“Six” Performance at CIBC Theatre** - Six is a British musical with book, music, and lyrics by Toby Marlow and Lucy Moss. The musical is a modern retelling of the lives of the six wives of Henry VIII presented as a pop concert, as the wives take turns singing and telling their story to see who suffered the most due to Henry and should, therefore, become the group’s lead singer. The musical was first presented by Cambridge University students at the Edinburgh Festival Fringe in 2017. It has since gone on to professional productions in the West End, on Broadway and internationally.

• **Fund-a-Forest**: A tree is planted in the name of each paying passenger

• **Dollar$ For Scholars**: $2 donation in the name of each paying passenger

• **SST tote bag, luggage tags, notebook and more, per person**

• **Personal Tour Ambassador, gratuity included ($15 pp)**

• **24-hour emergency cover**

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**WHAT’S NOT INCLUDED IN YOUR TOUR**

- Fully comprehensive insurance (mandatory)
- Transfers to/from Dayton Airport
- Airline baggage fees — if needed, these are paid direct to the airline at check-in, each way
- Meals not indicated in itinerary (lunches on days 1 & 4)
- Additional sightseeing & entertainment options
- Hotel incidental bills – meals, mini-bar items, recreation charges, purchases billed to room, etc.
- Personal expenditures
- Additional taxes, fuel surcharges or service charges levied by the governments or our suppliers
- Baggage handling (each student should be able to carry/load their own suitcase)
• Credit card fees if individuals wish to pay via credit card instead of ACH (online check).

HOW TO BOOK

The above quotation provides a written costing for the tour as requested as of December 10th, 2021 and is valid for 30 calendar days from the above date, subject to availability of services, travel arrangements and facilities at time of booking. There is no obligation on your part and the provision of this arrangement is not guaranteed until you contact us to take out an option. We will then check and confirm availability and will respond to your request as soon as possible.

DEPOSIT STRUCTURE

- $500 per passenger due at the time your passengers complete their registration
- Remaining balance due 12-weeks prior to departure
- To review our Booking Conditions and required Waiver, please visit our website

IMPORTANT INFORMATION

Hotel Deposit: Each Tour Leader should be prepared to present a credit card at check-in.

Departure Airport: Your preferred departure airport is noted as Dayton, Ohio.

We make every effort to ensure large groups travel together however, there are occasions where due to aircraft size, an airline’s policy on groups, or circumstances outside our control, where this may not be possible. Should this be the case we will endeavor to advise and discuss alternative options with you as soon as known.

Travel Protection - All groups are required to carry group travel insurance. Costs are in addition to the trip pricing noted above. During student/staff registration, passengers may elect the travel protection plan as determined by their group. Two plans are available through Trip Mate, or you may elect to use an independent carrier. Before making a decision, please review the differences in plan options and if you have specific questions, contact the insurance provider directly. Please know that while we are happy to offer travel protection to you during our registration process, SST does not sell, nor operate, travel insurance. It is offered solely for convenience with a widely-used reputable company that we have elected to work with. Please direct all questions directly to Trip Mate for qualified answers. Contacts numbers are included with both insurance overviews provided with this quote. When reviewing the plans, note that FS60E is for the “enhanced” travel plan and FS60S is for the “standard” travel plan.

Covid 19 Responsibilities: Students and staff should be prepared to wear a mask in public locations if required. All local mandates must be followed.

Repeat Booking Incentive: As a valued repeat guest, if you move forward with booking this tour, we are delighted to let you know that this trip will qualify for a $500 loyalty incentive to be issued prior to travel. This is our personal gift to you to use however you would prefer, in appreciation for your continued loyalty. It is our privilege to serve your organization; thank you for allowing us this opportunity.

STEM Bucks: When you have finalized all payments for this trip, the person booking the trip will receive a voucher in the amount of a $20 STEM Bucks credit, per paying passenger. STEM Bucks may be used for...
future family trips and are valid for 3 years from the date of issue (no exceptions – sorry!). STEM Bucks may be transferrable if elected, provided they are used prior to expiration.

PLEASE NOTE:

- Should the numbers in your party change, or if you require additional rooms due to male/female breakout, extra roll-aways or other type of bedding arrangements provided they are available in your destination, it may be necessary to revise the final costs.
- Please understand that if preliminary flights have been identified for your trip, airlines reserve the right to change timings, routes and layovers up to the date of travel. Also understand that airlines will not hold flights seats, so all preliminary flights are contingent upon submitting deposits within the required time frame.
- For more information on flights, insurance and a variety of other worthy notes, please review our Leaders Guide to Educational Travel. This document is full of insight, ideas and suggestions to assist in running a smooth trip.
- Please understand that a waiver (Release of Liability) is required for each person traveling with your group. Waivers are part of your online registration process. No one may complete their registration, student or staff member, without agreeing to the Release of Liability.
- Once you have confirmed your trip is moving ahead, you will be issued log-on details to share with your group members so everyone may register. All applicants must register and pay the required deposit prior to the cut-off date established. As the Trip Leader, you will have administrator rights to see all registrations in real time.

Your booking will be with STEM Study Tours, a Hammock Expeditions company.

Please do not hesitate to contact us at our offices at 984.223.9866 for help and information. We pride ourselves on providing first class service, unbeatable value and a trouble-free successful tour. We look forward to serving your organization!

Very warmest regards,

Michele Hammock
STEM Study Tours, Founder
Business: 984.223.9866; Cell: 417.598.9598
Email: michele@STEMstudytours.com
Web: www.STEMstudytours.com

STEM STUDY TOURS
A Hammock Expeditions Company
North Carolina, USA

P: 984.223.9866
E: info@STEMstudytours.com
W: www.STEMstudytours.com
MAXIMUS Consulting Services, Inc. Second Amendment and Renewal

The Department of Finance seeks Commission approval of a Second Amendment and Renewal Agreement with MAXIMUS Consulting Services, Inc (MAXIMUS) in the amount of twenty-seven thousand dollars ($27,000.00). The Amendment exercises the second of two 1-year renewal options. This Second Amendment and Renewal is effective upon execution through December 31, 2022.

MAXIMUS will review the Cost Allocation Plan (CAP) and Indirect Cost Rate Plans (ICRP) for 2023 based on the Fiscal Year 2021 actual expenditures. They will also ensure that the City’s Indirect Cost (IDC) plan complies with the principles of the Federal Cost Studies based on (2 CFR, Ch. I, Ch. II, and Part 200) Federal Costing Principles.

MAXIMUS has extensive experience and knowledge in developing governmental agencies’ CAP’s and ICRP’s that meet State and Federal guidelines. MAXIMUS has reviewed and prepared the City’s current CAP and ICRP for the seven years. They continue to provide excellent services and have been instrumental in assisting the City in receiving favorable reimbursement rates from the Ohio Department of Transportation for various City projects. The Department of Finance recommends the City continue using MAXIMUS based on its proven methodology for calculating the CAP and ICRP to maintain continuity.

The Department of Law has reviewed and approved the Second Amendment and Renewal as to form and correctness.

A Certificate of Funds in the amount of $27,000.00 is attached.
February 7, 2022

TO: Shelly Dickstein, City Manager  
Office of City Manager

FROM: Robbi Stivers, Director  
Department of Finance

SUBJECT: MAXIMUS Consulting Services, Inc. Second renewal of Agreement for Commission Approval

The Department of Finance seeks City Commission approval of a Second Amendment and Renewal of a professional services agreement with Maximus Consulting Services, Inc (MAXIMUS). The Amendment will commence upon execution and expire on December 31, 2022. This Amendment total expenditure is $27,000.00, which is the same cost the city paid for these services under the original Agreement. Under this Agreement, MAXIMUS will review the Cost Allocation Plan (CAP) and Indirect Cost Rate Plan (ICRP) for 2023 based on the expenditures of Fiscal Year 2021. Their review and analysis will help to ensure that the CAP and ICRP are accurate, and that the City’s Indirect cost (IDC) plan complies with the principles of the Federal Cost Studies based on 2 CFR, Ch. II, and Part 200 Federal Costing Principles.

MAXIMUS has extensive experience and knowledge of the CAP and ICRP that meets the State and Federal guidelines. MAXIMUS provides financial services consulting to the Ohio State Auditor, the Ohio Attorney General, Montgomery County Community & Economic Development, City of Cincinnati, City of Columbus Public Health Department, Greater Cleveland Transit Authority, and other State and local agencies.

MAXIMUS has reviewed the City’s current CAP and ICRP for the past seven years and continues to provide excellent services. They were instrumental in getting favorable reimbursement rates from the Ohio Department of Transportation for various City projects. The Department of Finance is pleased with its comprehensive work and proven methodology, and therefore recommends the city enter into the Amendment to maintain continuity.

The Amendment is multi-funded. The Department of Finance manages the services provided in the Agreement, therefore, the other departments (Aviation, Water, HR and Planning, Neighborhoods & Development) have given Finance the authority to encumber the funds from their budget to pay the invoices. The Department of Finance requests approval on this Amendment at the February 16, 2022 City Commission meeting.

If you have questions or require additional information, please contact me at x3576.

RS/klb

Cc: file
**SECTION I - to be completed by User Department**

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<td>Decrease Encumbrance</td>
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**NO DRAFT DOCUMENTS PERMITTED**

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

**Amount:** $8,100.00 
**Seq. 1**

**Fund Code:** 51000 - 3210 - 1159 - 43 - XXXX - XXXX

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**Amount:** $5,200.00 
**Seq. 3**

**Fund Code:** 55000 - 9970 - 1159 - 54 - XXXX - XXXX

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**Amount:** $2,300.00 
**Seq. 4**

**Fund Code:** 53000 - 9970 - 1159 - 54 - XXXX - XXXX

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**Amount:** $2,300.00 
**Seq. 5**

**Fund Code:** 63000 - 5610 - 1159 - 62 - XXXX - XXXX

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**Amount:** $500.00 
**Seq. 6**

**Fund Code:** 65000 - 5610 - 1159 - 62 - XXXX - XXXX

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**Amount:** $700.00 
**Seq. 7**

**Fund Code:** 10000 - 2380 - 1159 - 51 - XXXX - XXXX

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<td>11</td>
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**Attach additional pages for more FOAPALs**

**Vendor Name:** MAXIMUS Consulting Services, Inc.

**Vendor Address:** 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236

**Federal ID:** 26-1557956

**Commodity Code:** 91800

**Purpose:** To provide professional services for review and recommendations on the Cost Allocation Plan and Indirect Cost Rate Plan for IDC services upon execution by the City of Dayton through December 31, 2022.

**Contact Person:** Kena L. Brown

**Finance/Financial Analysis:** 2/7/2022

**Department/Division:** 2/7/2022

**Originating Department Director's Signature:**

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

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

**Finance Director Signature:**

**Date:**

**CF Prepared by:**

**Date:**

**CF/CT Number:** CT21-1655
SECOND AMENDMENT AND SECOND RENEWAL OF AGREEMENT

THIS SECOND AMENDMENT AND SECOND RENEWAL OF AGREEMENT (“Second Renewal”) is dated this ______ day of _____________, 202__ between the City of Dayton, Ohio (“City”) and MAXIMUS Consulting Services, Inc. (“Consultant”).

WHEREAS, On November 20, 2019, the Commission of the City of Dayton approved a Professional Services Agreement between the City and Consultant under which Consultant provides services to the City within its Department of Finance, hereinafter (“Agreement”); and,

WHEREAS, Pursuant to Paragraph 2 of the Agreement, the Agreement expires on December 31, 2020 but may be renewed for a maximum of two (2) one (1)-year options (“Renewal Terms”); and,

WHEREAS, The parties entered into a First Renewal of the Agreement for a term beginning January 1, 2021 to December 31, 2021; and

WHEREAS, City and Consultant desire to exercise the second one (1)-year renewal period.

NOW THEREFORE, For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Consultant mutually agree to the exercise of the second renewal of the Agreement as follows:

1. As permitted under Paragraph 2 of the Agreement, the parties exercise the second renewal period to extend the term of the Agreement for the second one (1) year period commencing upon execution and ending on December 31, 2022. The compensation to be paid during the second renewal shall not exceed Twenty-Seven Thousand Dollars and Zero Cents ($27,000.00).

2. All provisions of the Agreement, except as modified hereby, shall remain in full force and effect during the second renewal period identified in Section 1 above.
IN WITNESS WHEREOF, the City and Consultant, each by a duly authorized representative, have executed this Second Renewal as of the date first above written.

CITY OF DAYTON, OHIO

________________________________________
City Manager

MAXIMUS CONSULTING SERVICES, INC.

By: __________________________________________

Its: Paralegal

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

__________________________________________, 2022

Min./Bk.: _____ Page: ________________

________________________________________
Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:

☑ Recoverable Signature

X John Musto for

City Attorney

Signed by: Musto, John
January 4, 2021

TO: Shelley Dickstein, City Manager
Office of City Manager

FROM: C. LaShea Lofton, Director
Department of Finance

SUBJECT: REQUEST FOR SIGNATURE – MAXIMUS CONSULTING SERVICES, INC. PROFESSIONAL SERVICE AGREEMENT

The Department of Finance is requesting your signature for the attached Professional Service Agreement, CT21-1655, to review the Cost Allocation Plan (CAP) and Indirect Cost Rate Plan (IDCP) for 2022 based on the Fiscal Year 2020 actual expenditures between the City of Dayton and Maximus Consulting, Inc. This agreement was approved by City Commission on November 25, 2020, as item #5 on the Commission calendar. This Agreement takes effect upon execution through December 31, 2021.

Please return the signed copy of the agreement to Finance. Finance will make copies for:

a. Return one (1) original to the City Commission Office;

b. Return one (1) copy to Maximus Consulting, Inc. and;

c. Maintain two (2) copies in Finance Department files.

If you have questions, please contact me at ext. 3578.

CLL/vehh

Attachments

C: Mr. Parlette
Mr. John
Ms. Henderson
First Amendment and Renewal of Agreement with MAXIMUS Consulting Services, Inc.

The Department of Finance seeks City Commission approval of a First Amendment and Renewal Agreement with MAXIMUS Consulting Services, Inc for twenty-seven thousand dollars ($27,000.00). The Amendment exercises the first of two 1-year renewal options. It commences on January 1, 2021 and expires on December 31, 2021.

MAXIMUS will review the Cost Allocation Plan (CAP) and Indirect Cost Rate Plan (ICRP) for 2022 based on the Fiscal Year 2020 actual expenditures. They will also ensure that the City’s Indirect Cost (IDC) plan complies with the principles of the Federal Cost Studies based on (2 CFR, Ch. I, Ch. II, and Part 200) Federal Costing Principles.

MAXIMUS has extensive experience and knowledge in developing governmental agencies’ CAPs and ICRPs that meet State and Federal guidelines. MAXIMUS has reviewed and prepared the City’s current CAP and ICRP for fiscal years 2018, 2019, and 2020. They continue to provide excellent services and have been instrumental in assisting the City in receiving favorable reimbursement rates from the Ohio Department of Transportation for various City projects. The Department of Finance recommends the City continue using Maximus based on its proven methodology for calculating the CAP and ICRP to maintain continuity.

A Certificate of Funds for $27,000.00 (Twenty-seven thousand dollars) is attached.

The Department of Law has reviewed and approved the First Amendment and Renewal Agreement as to form and correctness.
FIRST AMENDMENT AND RENEWAL OF AGREEMENT

THIS FIRST AMENDMENT AND RENEWAL OF AGREEMENT ("First Renewal") is dated this 1st day of January, 2020 between the City of Dayton, Ohio ("City") and MAXIMUS Consulting Services, Inc. ("Consultant").

WHEREAS, On November 20, 2019, the Commission of the City of Dayton approved a Professional Services Agreement between the City and Consultant under which Consultant provides services to the City within its Department of Finance, hereinafter ("Agreement"); and,

WHEREAS, Pursuant to Paragraph 2 of the Agreement, the Agreement expires on December 31, 2020 but may be renewed for a maximum of two (2) one (1)-year options ("Renewal Terms"); and,

WHEREAS, City and Consultant desire to exercise the first one (1)-year renewal period.

NOW THEREFORE, For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Consultant mutually agree to the exercise of the first renewal of the Agreement as follows:

1. As permitted under Paragraph 2 of the Agreement, the parties exercise the first renewal period to extend the term of the Agreement for the first one (1) year period commencing on January 1, 2021, and ending on December 31, 2021.

2. All provisions of the Agreement, except as modified hereby, shall remain in full force and effect during the first renewal period identified in Section 1 above.

IN WITNESS WHEREOF, the City and Consultant, each by a duly authorized representative, have executed this First Renewal as of the date first above written.

CITY OF DAYTON, OHIO

[Signature]
City Manager

MAXIMUS CONSULTING SERVICES, INC.

By: [Signature] Jaida Williams
Its: Paralegal

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

[Signature]
November 25, 2020

Min./Bk.: [Signature]
Page:

Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:
MEMORANDUM

November 11, 2020

TO: Shelley Dickstein, City Manager
    Office of City Manager

FROM: C. LaShea Lofton, Acting Finance Director
       Department of Finance

SUBJECT: First Amendment and Renewal of Agreement with Maximus Consulting Services, Inc.

The Department of Finance seeks City Commission approval of a First Amendment and Renewal of a professional services agreement with Maximus Consulting Services, Inc. (Maximus). The Amendment will commence on January 1, 2021, and expire on December 31, 2021. This Amendment total expenditure is $27,000.00, which is the same cost the City paid for these services under the original Agreement. Under this Amendment, Maximus will review the Cost Allocation Plan (CAP) and Indirect Cost Rate Plan (ICRP) for 2022 based on the actual expenditures of the Fiscal Year 2020. Their review and analysis will help to ensure that the CAP and ICRP are accurate, and that the City’s Indirect Cost (IDC) plan complies with the principles of the Federal Cost Studies based on 2 CFR, Ch. I, Ch. II, and Part 200 Federal Costing Principles.

Maximus has extensive experience and knowledge of the CAP and ICRP that meets the State and Federal guidelines. Maximus provides financial services consulting to the Ohio State Auditor, the Ohio Attorney General, Montgomery County Community & Economic Development, the City of Cincinnati, the City of Columbus Public Health Department, Greater Cleveland Transit Authority, and other State and local agencies.

Maximus has reviewed the City’s current CAP and ICRP for the past six years and continues to provide excellent services. They were instrumental in the City receiving favorable reimbursement rates from the Ohio Department of Transportation for various City projects. The Department of Finance is pleased with its comprehensive work and proven methodology, and therefore recommends the City enter into the Amendment to maintain continuity.

This Amendment is multi-funded, with only $1,400.00 from the General Fund. The Department of Finance manages the services provides in the Agreement, therefore, the other departments (Aviation, Planning & Community Development, and Water) have given Finance the authority to encumber funds from their budget to pay invoices. The Department of Finance requests approval on this Amendment at the November 25, 2020 City Commission meeting.

If you have questions or concerns, please contact me or Bejoy John, Deputy Finance Director at x3578.

CLL/bcm

Attachments

c: Mr. Parlette, Mr. Kinskey, Mr. Powell, Mr. Turner, Mr. John, Ms. Henderson
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

New Contract X Renewal Contract

Contract Start Date: Upon Commission Approval
Expiration Date: 12/31/21
Original Commission Approval: $27,000.00
Initial Encumbrance: $27,000.00
Remaining Commission Approval: $ -
Original CT/CF: CT17-1655
Increase Encumbrance: $ -
Decrease Encumbrance: $ -
Remaining Commission Approval: $ -

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Attach additional pages for more FOAPALs

Vendor Name: MAXIMUS Consulting Services, Inc.
Vendor Address: 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Federal ID: 26-1557958
Commodity Code: 91800
Purpose: To provide professional consulting services for review and recommendations on the Cost Allocation Plan (CAP) and Indirect Cost Rate Plan (ICRP) for City's Indirect Cost (IDC) upon execution for the City of Dayton through December 31, 2021.

Originating Department Director's Signature: [Signature] 11/11/2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: [Signature] 11/11/2020

Tonika Williams, 11/11/2020, CT21-1655
CF Prepared by: [Signature] 11/11/2020
City Manager's Report

From 5320 - Finance/Tax & Accounting

Supplier, Vendor, Company, Individual

Name MAXIMUS Consulting Services, Inc.
Address 808 Moorefield Park Drive, Suite 205
          Richmond, VA 23236

Date November 20, 2019

Expense Type Service Agreement

Total Amount $27,000.00 (thru 12/31/2020)

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

Description

Professional Consulting Services Agreement - MAXIMUS Consulting Services, Inc.

The Department of Finance is seeking Commission approval to exercise a one-year agreement to provide Professional Consulting Services with MAXIMUS Consulting Services, Inc. MAXIMUS will review the Cost Allocation Plan (CAP) and Indirect Cost Rate Plan (ICRP) for 2021 based on Fiscal Year 2019 actual expenditures.

MAXIMUS has extensive experience and knowledge of the CAP and ICRP that meets the State and Federal guidelines. MAXIMUS will review the accuracy of the CAP and ICRP and ensure that the City's Indirect Cost (IDC) plan is in compliance with the principles of the Federal Cost Studies based on (2 CFR, Ch. I, Ch. II, and Part 200) Federal Costing Principles.

MAXIMUS is the firm that has reviewed the City's current CAP and ICRP for the past several years. MAXIMUS continues to provide excellent services and was instrumental in getting favorable reimbursement rates from the Ohio Department of Transportation for various City projects. Finance is pleased with their work and is recommending their services to maintain continuity.

A Certificate of Funds in the amount of $27,000.00 is attached.

The Department of Law has reviewed and approved the Professional Consulting Service Agreement as to form and correctness.

Signatures/Approval

Approved by City Commission

[Signatures]

Date

Updated 06/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

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Required Documentation

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

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| Fund Code | 10000 - 2380 - 1169 - 51 - 0 - 0 |
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| Org | Acct | Prog | Act | Loc |

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| Org | Acct | Prog | Act | Loc |

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| Fund | 2,650.00 |
| Org | Acct | Prog | Act | Loc |

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| Org | Acct | Prog | Act | Loc |

| Amount | $ 5,250.00 | Seq. 3 |
| Fund Code | 56000 - 9970 - 1169 - 54 - XXXX - XXXX |
| Fund | 2,650.00 |
| Org | Acct | Prog | Act | Loc |

| Fund Code | 56000 - 9970 - 1169 - 54 - XXXX - XXXX |
| Fund | 56000 - 9970 - 1169 - 54 - XXXX - XXXX |
| Org | Acct | Prog | Act | Loc |

Attach additional pages for more FOAPALS

Vendor Name: MAXIMUS Consulting Services, Inc.
Vendor Address: 808 Moorefield Park Drive, Suite 255, Richmond, VA 23236
Street | City | State | Zip code + 4
Federal ID: 26-1557956
Commodity Code: 91800
Purpose: To provide professional consulting services for review and recommendations on the Cost Allocation Plan (CAP) and Indirect Cost Rate Plan (ICRP) for City's Indirect Cost (IDC) upon execution for the City of Dayton through December 31, 2020.

Contact Person: Valerie E.H. Henderson
Finance/Financial Analysis Department/Division 11/13/2019
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: 11/12/19

CF Prepared by: Date: 11/11/19 CF/CT Number: CT-20-1065
AGREEMENT TO PROVIDE
PROFESSIONAL CONSULTING SERVICES

THIS AGREEMENT ("Agreement") is entered into by and between MAXIMUS Consulting Services, Inc. ("Consultant") and the City of Dayton, Ohio, ("Client"), individually a "party" and collectively the "parties." In consideration of mutual promises and covenants, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Scope of Services. Consultant shall perform the services detailed in Exhibit A, attached and incorporated by reference as if fully set forth herein (the "Services"), in a professional and workmanlike manner consistent with the typical standards of the industry.

2. Term. This Agreement shall commence on January 1, 2020 ("Effective Date") and shall remain in effect until December 31, 2020, or until completion of, and payment in full for, the Services specified in Exhibit A, whichever occurs last ("Initial Term"). The parties may mutually agree to extend this Agreement for two (2) additional one (1) year periods, pursuant to an amendment duly signed by both parties.


4. Termination.
   a. Termination for Cause. Upon material breach of the terms of this Agreement, the non-breaching party shall provide written notice to the breaching party specifying the nature of the default. The breaching party shall have a minimum of thirty (30) days from the date of receipt to cure any such default prior to the effective date of termination.
   b. Termination for Convenience. Either party may terminate this Agreement without cause upon thirty (30) days' prior written notice to the other.
   c. Rights Upon Termination. Upon termination for whatever reason and regardless of the nature of the default (if any), Client agrees to pay Consultant for Services actually provided to and performed for Client under this Agreement, or any amendment thereto, as of the effective date of termination of the Agreement.

5. Data Accuracy. Consultant shall provide guidance to the Client in determining the data required to perform the Services. The Client represents that all financial and statistical information provided to Consultant by Client, its employees and/or agents is accurate and complete to the best of Client’s knowledge. The Client further acknowledges and agrees that Consultant shall be entitled to rely upon the accuracy and completeness of the data to perform the Services. Client shall provide all such data in a timely manner sufficient to allow Consultant to provide the Services. Consultant shall have no liability to Client whatsoever if Client provides incomplete or inaccurate data or provides data in an untimely manner.

6. Records and Inspections. Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for six (6) years after the completion of the Services. During such period, Client shall have the right to examine and audit the records and to make transcripts therefrom. Client shall provide thirty (30) days’ prior written notice of its intent to inspect or audit any such records and shall conduct such inspection or audit only during Consultant’s normal business hours and no more than once every six months. Any employee, consultant, subcontractor or agent of Client granted access to such records shall execute a non-disclosure agreement prior to being granted access.
7. Copyright for Consultant’s Proprietary Software. To the extent that the Services provided by Consultant are generated by Consultant’s proprietary software, nothing contained herein is intended nor shall it be construed to require Consultant to provide such software to Client. Client agrees that it has no claims of ownership, including copyright, patents or other intellectual property rights to Consultant’s software. Nothing in this Agreement shall be construed to grant Client any rights to Consultant’s materials created prior to the execution of this Agreement. All of the deliverables under this Agreement are specifically set out in Exhibit A.

8. Insurance. Consultant shall maintain customary general liability insurance in the amounts of $1,000,000 per occurrence / $2,000,000 annual aggregate, workers’ compensation insurance including employer’s liability in the amount of $1,000,000, automobile liability insurance in the amount of $1,000,000, and professional liability/error and omissions insurance in the amount of $1,000,000.

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

10. Limitation of Liability. Client agrees that Consultant’s total liability to Client for any and all damages whatsoever arising out of, or in any way related to, this Agreement from any cause, including but not limited to negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed $54,000. This limitation shall not include direct damages resulting from: (i) personal injury; (ii) personal property damage; and (iii) U.S. copyright infringement.

In no event shall Consultant be liable for indirect, special, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought even if Consultant has been advised of the likelihood of such damages, and notwithstanding any failure of essential purpose of any limited remedy.

To the extent allowed by law, any claim by Client against Consultant relating to this Agreement must be made in writing and presented to Consultant within one (1) year after the date on which Consultant completes performance of the Services specified in this Agreement.

11. Consultant Liability if Audited. Consultant shall, upon notice of audit, make work papers and other records available to the auditors. Consultant’s sole responsibility under an audit shall be to provide reasonable assistance to Client through the audit and to make changes to the work product required as a result of the audit. Consultant shall not be liable for any audit disallowances or any missed or lost revenue associated with, or related to, the Services, unless caused by Consultant’s gross negligence.

12. Notices. Any notice of default, in accordance with Section 4(a) of this Agreement, shall be delivered by certified mail or overnight courier. Any other notices, bills, invoices, or reports required by this Agreement shall be sufficient if sent by the parties via email or in the United States
mail, postage paid, to the address noted below:

Agency:  
City of Dayton, Ohio
Address:  
Department of Finance
101 W. 3rd Street
Dayton, Ohio 45402
Phone:  
(937)333-3595
Email:  
Valerie.Henderson@daytonohio.gov

MAXIMUS Consulting Services, Inc.
808 Moorefield Park Drive, Suite 205
Richmond, VA 23236
804-323-3535
fsc-operations@maximus.com

Such notice shall be deemed delivered same day if sent via email or five (5) days after deposit in the U.S. mailbox.

13. Changes. The terms and conditions of this Agreement, including all attached and incorporated Exhibits, may be changed only by written agreement signed by both parties.


a. If Consultant is requested by Client to produce Consultant deliverables, documents, records, working papers, or personnel for testimony or interviews with respect to this Agreement or any services provided hereunder for any third party matter, litigation or otherwise, then Client and Consultant shall execute a change order or new services agreement for the sole purpose of setting forth any payment and the terms associated with Consultant’s response and related to the reasonable fees of Consultant in responding. The foregoing does not: (1) diminish or negate Consultant’s obligation to negotiate and defend all cost allocation plans and State mandated cost claims as specifically provided for under this Agreement; or (2) apply in the event Consultant is compelled by subpoena from a third party to provide Consultant deliverables, documents, records, working papers, or personnel for testimony or interviews.

b. Consultant reserves the right to subcontract the Services with the prior written consent of Client.

c. There are no third-party beneficiaries to this Agreement and nothing in this Agreement shall be construed to provide any rights or benefits to any third-party.

d. The parties intend that Consultant, in performing the Services specified in this Agreement shall act as an independent contractor and shall have full control of the work and the manner in which it is performed. Consultant and its employees are not to be considered agents or employees of Client for any purpose. As an independent contractor for the Client, Consultant shall be prohibited from representing or allowing other to construe the parties’ relationship in a manner inconsistent with this Article. Consultant shall have no authority to assume or create any obligation on behalf of, or in the name of the Client, without the express prior written approval of a duly authorized representative of the Client.

e. Consultant understands and agreed that Consultant is not a “public employee” for the purpose of OPERS membership. Consultant further understands and agrees that Consultant is not a Client employee, nor are any of Consultant’s employees, agents and contractors, and therefore, none shall be entitled to, nor will any make a claim for, any of the emoluments of employment with the Client. Further, Consultant shall be solely responsible to withhold and pay all applicable local, state, and federal taxes.
f. Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off, termination, rates of pay or other forms of compensation, or selection for training, including apprenticeship. It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton constitutes a material condition of this Agreement as fully and as if specifically rewritten herein and that failure to comply therewith shall constitute a breach thereof entitling the Client to terminate this Agreement at its option.

g. In the event that any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason, this Agreement will continue in full force and effect without said provision, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and this Agreement will be interpreted to reflect the original intent of the parties insofar as possible.

h. The titles of the sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

i. This Agreement and any additional or supplementary document or documents incorporated by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto. This shall include any purchase order submitted or provided by Client, whether prior to or upon execution of this Agreement, which shall be for Client’s internal purposes only. Consultant rejects, and in the future is deemed to have rejected, any purchase order’s terms to the extent they add to or conflict in any way with this Agreement or the applicable Scope of Services, and such additional or conflicting terms will have no effect.

j. This Agreement shall be governed and construed under the laws of the State of Ohio. By execution hereof, Consultant irrevocably submits to the original jurisdiction of the courts located within the County of Montgomery, State of Ohio, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement. Neither party shall be liable by reason of any failure or delay in the performance of its obligations on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, earthquakes, acts of God, war, governmental action, labor conditions, material shortages or any other cause which is beyond the reasonable control of such party.

k. Each individual signing this Agreement certifies that (i) he or she is authorized to sign this Agreement on behalf of his or her respective organization, (ii) such organization has obtained all necessary approvals to enter into this Agreement, including but not limited to the approval of its governing board, and (iii) when executed, this Agreement is a valid and enforceable obligation of such organization.

l. Waiver by either party of a breach of any provision of this Agreement or the failure by either party to exercise any right will not operate or be construed as a waiver of any subsequent breach of that provision or as a waiver of that right.

[Remainder of Page Left Blank Intentionally]
IN WITNESS WHEREOF, Client and the Consultant have executed this Agreement as of the date last written below.

THE CITY OF DAYTON, OHIO

B: ____________________________

Name: Tamm L. Clematis

Title: Deputy City Manager

Date: 12/9/19

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney

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

November 20, 2019

Min./Bk. Page: 0025

Randi L. Lamarre
Clerk of the Commission

MAXIMUS CONSULTING SERVICES, INC.

By: ____________________________

Name: T. Isker, Senior Manager

Title: Sr. Director, Contracts

Date: 11/11/19
EXHIBIT A
Scope of Services
OH CI Dayton CAP 19

Description of Services:

a) Development of a central services cost allocation plan, which identifies the various cost incurred by the client to support and administer programs that provide services directly to citizens. This plan will contain a determination of the allowable cost of providing each supporting services such as purchasing, legal counsel, disbursement processing, etc.

b) Prepare indirect cost proposals for federal grants as necessary, provided all information required is contained in this cost allocation plan.

c) Negotiation, of the completed cost allocation plan, with the representatives of the State or federal government, whichever is applicable.
EXHIBIT B
Compensation
OH CI Dayton CAP 19

For Services provided as set forth in Exhibit A, Client agrees to pay Consultant compensation in the amount of Twenty Seven Thousand Dollars and Zero Cents ($27,000.00) for the Initial Term. Pricing for the optional years are locked in at the prices indicated below. Consultant will render to Client one or more invoices for the fees specified herein, with payment due thirty (30) days after the invoice date.

The fee breakdown is as follows:

Fiscal Year 2019 for use in 2021 $27,000

Option Years:

Fiscal Year 2020 for use in 2022 $27,000
Fiscal Year 2021 for use in 2023 $27,000
City Manager’s Report

From 2500 - Clerk of Courts

Date February 16, 2022

Expense Type Contract Modification

Total Amount $148,000.00 thru 3/31/23

Supplier, Vendor, Company, Individual
National Processing Solutions

Address 10 Sugar Camp Circle
Dayton, OH 45409

Fund Source(s) Fund Code(s) Fund Amount(s)
General Fund 10000-2500-1158-74 $148,000.00

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

Description

FIRST RENEWAL AND SECOND AMENDMENT TO THE MERCHANT SERVICES AGREEMENT

The Clerk of Court requests approval for the renewal agreement with National Processing Solutions for an additional thirteenth month period. The additional month is required to cover costs driven by increased online payments.

Dayton City Commission approved the initial agreement and spending authority on April 19, 2019, for $120,000.00. On March 3, 2021, the Dayton City Commission approved the first amendment which increased the contract amount by $67,000.00. The Clerk is requesting additional spending authority of $148,000.00 to cover expenses through 3/31/23. The total amount of the contract will increase to $335,000.00.

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

A copy of the original agreement, first amendment, first renewal and Certificate of Funds in the amount of $118,000 for FY2022 are attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

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

<table>
<thead>
<tr>
<th></th>
<th>New Contract</th>
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<td>Remaining Commission Approval</td>
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</table>

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

### 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: 2/2/22

CF Prepared by: [Signature]
Date: 2/2/22
CF/CT Number: CT22-2258
FIRST RENEWAL AND SECOND AMENDMENT TO THE MERCHANT SERVICE AGREEMENT

This FIRST RENEWAL AND SECOND AMENDMENT TO THE MERCHANT SERVICE AGREEMENT ("Renewal and Amendment"), entered into this ___ day of ____________, 2022, is between the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio, ("City") and National Processing Solutions ("NPS")..

WITNESSETH THAT:

WHEREAS, City and NPS entered into the Merchant Service Agreement on the 16th day of April, 2019 ("Agreement"); and,

WHEREAS, City and NPS entered into the First Amendment to Merchant Services Agreement on the 11th day of March 2021 ("First Amendment"); and,

WHEREAS, Article 1 of the Agreement provides the City the option to renew the Agreement by a mutual written agreement for three (3) additional one (1) year terms; and,

WHEREAS, City wishes to renew the terms of the Agreement and NPS is willing to provide the services in accordance with the terms of the Agreement; and,

WHEREAS, The Dayton Municipal Court has experienced a significant increase in both the dollar volume processed and credit card transactions completed; and,

NOW, THEREFORE, the City and NPS hereby agree as follows:

Section 1. Pursuant to Article 1 of the Agreement, the City exercises its first option to renew the Agreement for an additional one (1) year term. This renewal term shall commence on March 1, 2022 and shall terminate on March 31, 2023 ("Renewal Term"), unless earlier terminated pursuant to the terms of the Agreement..

Section 2. Article 3, Compensation shall be deleted in its entirety and replaced with the following:

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

Payments for Services will be dispersed according to the following maximum amounts per year:

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<td>$29,000.00</td>
</tr>
<tr>
<td>January 1, 2020 – December 31, 2020</td>
<td>$60,000.00</td>
</tr>
</tbody>
</table>
Section 3. Except as modified by this Renewal and any other prior amendments or renewals, the Agreement between the City and Company remains unchanged and in full force and effect.

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

THE CITY OF DAYTON, OHIO

City Manager

NATIONAL PROCESSING SOLUTIONS

By: [Signature]

Print: Natalie Durlvey

Title: President

APPROVED AS TO FORM AND CORRECTNESS: 1/13/2022

X John Musto for

City Attorney

Signed by: Musto, John

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

, 2022

Min. / Bk. Pg.

Clerk of the Commission
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
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<td>Fund Org Acct Prog Act Loc</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: National Processing Solutions
Vendor Address: 400 Sugar Camp Circle, STE 301 Dayton, OH 45409
Federal ID: 27-0088061
Commodity Code: 94635
Purpose: To encumber funds for credit card merchant fee services for January 1, 2022 - March 31, 2022.
Current CT212258

Contact Person: Meghan Thomas
Clerk of Court

Originating Department Director's Signature:

SECTION II - to be completed by the Finance Department

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

Finance Director Signature

Date

CF Prepared by

Date

October 18, 2011
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

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</table>

| Amount: | $45,000.00 |
| Fund Code | 10000 - 2500 - 1158 - 74 - |
| Fund Code | Fund - Org - Acct - Prog - Act - Loc |

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

Attach additional pages for more FOAPALs

Vendor Name: National Processing Solutions
Vendor Address: 400 Sugar Camp Circle, STE 301 Dayton, OH 45409
Federal ID: 27-0088051
Commodity Code: 94635
Purpose: To encumber funds for credit card merchant fee services for 2021
Current CT212258

Contact Person: Meghan Thomas
Clerk of Court: 2/11/2021

Originating Department Director's Signature: [Signature]
Department/Division: [Department/Division]
Date: 2/11/2021

SECTION II - to be completed by the Finance Department

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

Finance Director's Signature: [Signature]
Date: 2/10/2011

CF Prepared by: [Signature]
Date: 3/22/21
CF/CT Number: CT21-2237

Finance Department
October 18, 2011
March 5, 2021

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

FROM:      Mark Owens, Clerk of Court

SUBJECT:   Request for Signature

Our contract amendment with National Processing Solutions (NPS) for merchant services is attached for your signature. Authorization for signature was granted by the Dayton City Commission at their Wednesday, March 3, 2021 meeting, calendar item #8.

The Dayton City Commission approved the initial agreement and spending authority on April 19, 2019 for $120,000.00, which will expire 3/31/2022. The first amendment will increase the contract amount by $67,000.00 with a total amount of $187,000.00.

If you have any questions please contact Meghan Thomas in my office at X4448. Please return two (2) signed agreements to me.

Attachments (4)
City Manager's Report

From 2500 - Clerk of Courts

Supplier, Vendor, Company, Individual

Name National Processing Solutions (NPS)

Address 400 Sugar Camp Circle, STE 301
Dayton, OH 45409

Date March 3, 2021

Expense Type Contract Modification

Total Amount $67,000.00 (thru 3/31/2022)

Fund Source(s) General Fund

Fund Code(s) 10000-2500-1168-74

Fund Amount(s) $67,000.00

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

Description

FIRST AMENDMENT TO THE MERCHANT SERVICES AGREEMENT

The Clerk of Court requests approval to modify the current merchant services agreement with National Processing Solutions (NPS). Merchant Services fees increased as a result of reestablishing the Clerk of Court as the payment processor of Photo Enforcement tickets and a shift in more online payments as opposed to in-person or mail-in by citizens.

The Dayton City Commission approved the initial agreement and spending authority on April 19, 2019 for $120,000.00, which will expire 3/31/2022. The first amendment will increase the contract amount by $67,000.00 with a total amount of $187,000.00.

The First Amendment to the Agreement has been reviewed and approved the Law Department for form and correctness.

A copy of the original agreement, first amendment, and Certificate of Funds in the amount of $45,000.00 for the fiscal year 2021 are attached.

Signatures/Approval

Approved by City Commission

Divisions

Department

City Manager

FORM NO. MS-16

March 3, 2021

Updated 1/2019
FIRST AMENDMENT TO MERCHANT SERVICES AGREEMENT

This First Amendment, entered into this ___ day of March, 2021, is between the City of Dayton, Ohio ("City") and National Processing Solutions ("NPS").

WHEREAS, The City and NPS entered into an agreement ("Agreement") to have NPS provide payment processing services for the Dayton Municipal Court; and

WHEREAS, The City of Dayton Commission approved the Agreement on April 10, 2019; and

WHEREAS, The Agreement covers a three-year term of April 1, 2019 to March 31, 2022; and

WHEREAS, The Dayton Municipal Court has experienced a significant increase in both the dollar volume processed as well as credit card transactions completed; and

WHEREAS, the increase in payment processing services necessitates additional encumbrance authority to cover the additional services over the term of the Agreement; and

WHEREAS, The Encumbrance Authority needed to continue this Agreement is an additional Sixty-Seven Thousand Dollars and Zero Cents ($67,000.00); and

NOW, THEREFORE, The City and NPS agree as follows:

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

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

Payment for Service s will be dispersed according to the following maximum payment amounts per year:

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<td>April 10, 2019 – December 31, 2019</td>
<td>$29,000</td>
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<tr>
<td>January 1, 2020- December 31, 2020</td>
<td>$60,000</td>
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<td>January 1, 2021- December 31, 2021</td>
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<td>January 1, 2022- March 31-2022</td>
<td>$20,000</td>
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</table>
2. Except as modified by this First Amendment, the Merchant Services Agreement shall remain unchanged and in full force and effect.

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

CITY OF DAYTON, OHIO

Shelley Disbrow
City Manager

NATIONAL PROCESSING SOLUTIONS

Natalie Dunlevy
Print: Natalie Dunlevy
Its: President

APPROVED AS TO FORM
AND CORRECTNESS:
☑ Recoverable Signature

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

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

March 3, 2021
Min. Bk. 14 Pg. 1

[Signature]
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

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</tbody>
</table>

Amount: $45,000.00
Fund Code: 10000
Org: 2500
Acct: 1158
Prog: 74
Act: -
Loc: -

Attach additional pages for more FOAPALs

Vendor Name: National Processing Solutions
Vendor Address: 400 Sugar Camp Circle, STE 301 Dayton, OH 45409
Street
City
State
Zip code + 4
Federal ID: 27-0088061
Commodity Code: 94635
Purpose: To encumber funds for credit card merchant fee services for 2021
Current CT212258

Contact Person: Meghan Thomas
Clerk of Court
Department/Division
Date
Originating Department Director's Signature:

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: 
Date: 2/22/21
CF/CT Number: CT21-2257

Finance Department
October 18, 2011
March 5, 2021

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

FROM:  Mark Owens, Clerk of Court

SUBJECT: Request for Signature

Our contract amendment with National Processing Solutions (NPS) for merchant services is attached for your signature. Authorization for signature was granted by the Dayton City Commission at their Wednesday, March 3, 2021 meeting, calendar item #8.

The Dayton City Commission approved the initial agreement and spending authority on April 19, 2019 for $120,000.00, which will expire 3/31/2022. The first amendment will increase the contract amount by $67,000.00 with a total amount of $187,000.00.

If you have any questions please contact Meghan Thomas in my office at X4448. Please return two (2) signed agreements to me.

Attachments (4)
City Manager's Report

Date March 3, 2021
Expense Type Contract Modification
Total Amount $67,000.00 (thru 3/31/2022)

From 2500 - Clerk of Courts
Supplier, Vendor, Company, Individual
Name National Processing Solutions (NPS)
Address 400 Sugar Camp Circle, STE 301
Dayton, OH 45409

Fund Source(s) Fund Code(s) Fund Amount(s)
General Fund 10000-2500-1158-74 $67,000.00

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

Description
FIRST AMENDMENT TO THE MERCHANT SERVICES AGREEMENT

The Clerk of Court requests approval to modify the current merchant services agreement with National Processing Solutions (NPS). Merchant Services fees increased as a result of reestablishing the Clerk of Court as the payment processor of Photo Enforcement tickets and a shift in more online payments as opposed to in-person or mail-in by citizens.

The Dayton City Commission approved the initial agreement and spending authority on April 19, 2019 for $120,000.00, which will expire 3/31/2022. The first amendment will increase the contract amount by $87,000.00 with a total amount of $187,000.00.

The First Amendment to the Agreement has been reviewed and approved the Law Department for form and correctness.

A copy of the original agreement, first amendment, and Certificate of Funds in the amount of $45,000.00 for the fiscal year 2021 are attached.

Signatures/Approval

Approved by City Commission
March 3, 2021

FORM NO. MS-16

Updated 1/2019
2. Except as modified by this First Amendment, the Merchant Services Agreement shall remain unchanged and in full force and effect.

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

CITY OF DAYTON, OHIO

Shelley Dickstein
City Manager

NATIONAL PROCESSING SOLUTIONS

By: Natalie Dunlavy
Print: Natalie Dunlavy
Its: President

APPROVED AS TO FORM AND CORRECTNESS:
☑ Recoverable Signature

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

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

March 3, 2021

Min. Bk. Pg. ___

[Signature]
MERCHANT SERVICES AGREEMENT

THIS MERCHANT SERVICES AGREEMENT is dated this 11th day of April, 2019, between the CITY OF DAYTON, OHIO ("City") and NATIONAL PROCESSING SOLUTIONS ("NPS").

WHEREAS, The City has selected NPS, via competitive bid, to serve as its NPS for payment processing for the Dayton Municipal Court; and,

WHEREAS, City and NPS seek to utilize the existing operational infrastructure and technology in place.

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

ARTICLE 1. TERM
The Agreement shall commence on upon execution and shall terminate upon expenditure of all funds provided herein or on March 31, 2022 whichever date is earlier. The Agreement shall be renewable for three (3) 1-year possible optional periods at the discretion of the Clerk.

ARTICLE 2. SERVICES TO BE PERFORMED BY NPS
NPS shall provide all services described in the Scope of Work in Exhibit A, which is attached and incorporated herein by reference. NPS shall also perform the banking and merchant services described in the Request for Proposal, hereinafter referred to as the ("RFP"), a copy of which is attached as Exhibit B and incorporated herein by reference. To the extent not inconsistent with Exhibits A and B, NPS shall perform the work and services for the project and comply with the representations detailed in NPS’s response to the RFP, hereinafter referred to as the ("Proposal"), a copy of which is attached as Exhibit C and incorporated herein by reference.

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

Payment for Services will be dispersed according to the following maximum payment amounts per year:

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<td>January 1, 2021 – December 31, 2021</td>
<td>$39,000</td>
</tr>
<tr>
<td>January 1, 2022 – March 31, 2022</td>
<td>$14,000</td>
</tr>
</tbody>
</table>

ARTICLE 4. CITY’S RESPONSIBILITIES
The City will furnish NPS, at no cost or expense, all reports, records, data that might be necessary or useful to complete the Services required under this Agreement.
ARTICLE 5. STANDARD OF CARE

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

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

ARTICLE 6. INDEMNIFICATION

NPS shall indemnify and defend the City and its elected officials, officers, employees and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions, or conduct of NPS and its agents, employees, contractors, sub-contractors and representatives in undertaking and performing the Services.

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

ARTICLE 7. INSURANCE

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

(1) General Liability Insurance, having a combined single limit of $1,000,000 for each occurrence and $1,000,000 in the aggregate.
(2) Automobile Liability Insurance, having a combined single limit of $1,000,000 for each person and $1,000,000 for each accident.
(3) Employers’ Liability Insurance, having a limit of $500,000 for each occurrence.
(4) Professional Liability Insurance, having a limit of $1,000,000 annual aggregate.
(5) NPS shall maintain errors and omissions insurance in the amount of $1,000,000.00.

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

ARTICLE 8. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Except as otherwise provided in this Agreement, documents and reports prepared by NPS as part of the Services shall become the sole and exclusive property of the City upon payment. However, NPS shall have the unrestricted right to their use.
NPS shall retain its rights in pre-existing and standard scripts, databases, computer software, and other proprietary property. Rights to intellectual property that is not specifically designed or created exclusively for the City in the performance of this Agreement shall also remain the property of NPS.

ARTICLE 9. TERMINATION

This Agreement may be terminated by the City upon written notice in the event of substantial failure by NPS to perform in accordance with the terms of this Agreement. NPS shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party. The City may terminate or suspend performance of this Agreement for the City’s convenience upon thirty (30) days prior written notice to NPS. In the event of termination by the City hereunder, the City will pay NPS for Services provided up to the date of termination.

Any such termination shall not relieve the NPS of any liability to the City for damages sustained by any breach by the NPS. The City will be under no further monetary obligation or commitment to the NPS. The City may terminate this contract at any time upon thirty (30) days written notice to the NPS. In the event of termination, the City may, at its option, exercise any remedy available to it, including the Uniform Commercial Code, according to Ohio law.

ARTICLE 10. STANDARD TERMS

A. DELAY IN PERFORMANCE

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

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

B. GOVERNING LAW AND VENUE

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

C. COMMUNICATIONS

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

NPS: National Processing Solutions
10 W Second Street
Dayton, OH 45402
Attention: Natalie Dunlevey, President
Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of NPS and the City.

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

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

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

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

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

NPS, its employees and any persons retained or hired by NPS to perform the duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Further, NPS shall be responsible to withhold and pay, or cause such agents, contractors and sub-contractors to withhold and pay, all applicable local, state and federal taxes. NPS acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System (“OPERS”) membership.
H. ASSIGNMENT
NPS shall not assign any rights or duties under this Agreement without the prior written consent of the City. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent NPS from employing independent contractors, associates, and subcontractors to assist in the performance of the Services.

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

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

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

L. INTEGRATION
This Agreement, together with Exhibits A, B, and C, represents the entire and integrated agreement between the City and NPS. This Agreement supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

M. PCI COMPLIANCE
NPS represents and warrants that, for the entirety of any agreement that involves processing credit and/or debit card revenue transactions on behalf of the City of Dayton that the solution is clearly defined to warrant the following:

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

2. NPS shall provide and agrees to maintain the PCI compliance reporting Attestation of Compliance ("AOC") Form(s) in its/their latest version(s), or within the year of record as requested and/or in an annual transmittal to the City of Dayton.
   (https://www.pcisecuritystandards.org/documents/PCI-DSS-v3_2-AOC-Merchant.docx?agreement=true&time=1493826893795)
   or
IN WITNESS WHEREOF, City and NPS, each by a duly authorized representative, have executed this Agreement as of the day and date first set forth above.

CITY OF DAYTON, OHIO

Shelley Dickstein
City Manager

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney

NATIONAL PROCESSING SOLUTIONS

By: Natalie Danley
Title: President

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

April 10, 2019

Min./Bk. I-15 Pg.

Clerk of the Commission
City Manager’s Report

From 2350 - Planning, Neighborhoods & Dev / Community Engagement

Supplier, Vendor, Company, Individual

Name Urban League of Greater Southwestern Ohio dba Miami Valley Urban League

Address 907 W. Fifth Street
Dayton, Ohio 45402

Date February 16, 2022

Expense Type Service Agreement
Total Amount $29,000.00 thru 12-31-2022

Fund Source(s)

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Fund Code(s)

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Includes Revenue to the City □ Yes ☑ No

Affirmative Action Program ☑ Yes □ No □ N/A

Description

Professional Services Agreement

The Department of Planning, Neighborhoods & Development is requesting approval to enter into a Professional Services Agreement (Agreement) with The Urban League of Greater Southwestern Ohio dba Miami Valley Urban League (MVUL) in the amount of $29,000.00 The Agreement will assist with the Volunteer Income Tax Credit/Earned Income Tax Credit (VITA/EITC) Program and the Dayton Neighborhood Mini-Grant program.

The Consultant will provide administrative support and resources for the Volunteer Income Tax Credit/Earned Income Tax Credit (VITA/EITC) Program. MVUL will increase the quality and quantity of tax preparation services at the Greater Dayton Earned Income Tax Credit Coalition’s tax sites; collect and compile information to document the performance of each of the tax sites, and compile outreach information from the Coalition member organizations. This portion of the Agreement will not exceed $9,000.00.

MVUL will provide capacity building services to Mini-Grant program applicants, including technical assistance workshops. The workshops include assessing Census data, preparing a narrative and metrics, preparing a budget, developing partnerships, and reporting. This portion of the Agreement will not exceed $20,000.00

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

Funding sources are the Citizen Engagement Special Projects Fund (16606) and the Community Development Projects Fund (40024).

The Agreement will commence upon execution and will expire on December 31, 2022.

A Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

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Attach additional pages for more FOAPALs

Vendor Name: Urban League of Greater Southwestern Ohio dba Miami Valley Urban League
Vendor Address: 907 W. Fifth Street Dayton Ohio 45402
Federal ID: 31-0565428
Commodity Code: 96100
Purpose: Professional Services Agreement for administrative support and resources for the Volunteer Income Tax Credit/Earned Income Tax Credit (VITA/EITC) Program.

Contact Person: Jill Bramini
Planning, Neighborhoods & Development/Community Engagement

Originating Department Director's Signature: E-SIGNED by Todd Kinskey on 2022-02-08 15:25:45 GMT

SECTION II - to be completed by the Finance Department

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

Finance Director Signature:

Date:

CF Prepared by:

Date:

CF/CT Number:

October 18, 2011
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

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Required Documentation
- x Initial City Manager’s Report
- Initial Certificate of Funds
- Initial Agreement/Contract
- Copy of City Manager’s Report
- Copy of Original Certificate of Funds

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Attach additional pages for more FOAPALS

Vendor Name: Urban League of Greater Southwestern Ohio dba Miami Valley Urban League
Vendor Address: 907 W. Fifth Street Dayton Ohio 45402
Federal ID: 31-0565428
Commodity Code: 96100
Purpose: Professional Services Agreement for capacity building services to the Dayton Neighborhoods Mini-Grant program.

Contact Person: Jill Bramini
Planning, Neighborhoods & Development/Community Engagement

Originating Department Director’s Signature: E-SIGNED by Todd Kinskey on 2022-02-08 15:25:58 GMT

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: 2/9/22

CF Prepared by: [Signature]

Date: 2/9/22

CF/CT Number: CT22-3225

Finance Department
October 18, 2011
SERVICE AGREEMENT
MIAMI VALLEY URBAN LEAGUE

THIS AGREEMENT, dated this ______ day of ______________, 2022, is between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio (“City”), and the URBAN LEAGUE OF GREATER SOUTHWESTERN OHIO dba MIAMI VALLEY URBAN LEAGUE, a not-for-profit corporation existing under the laws of the State of Ohio (“Contractor”).

ARTICLE I. SCOPE OF SERVICES

Contractor shall provide the services as described in Exhibit A, attached hereto, and made a part hereof, in a manner satisfactory to the City (“Services”). These Services include, without limitation, providing (a) administrative support and resources to increase the quality and quantity of tax preparation services at the Greater Dayton Earned Income Tax Credit Coalition’s tax sites; collecting and compiling information to document the performance of each of the tax sites; and compiling outreach information from the Coalition member organizations, and Exhibit B, community workshops and administrative support to prepare organizations to apply for the City of Dayton’s Mini-Grants. The technical assistance workshops will include accessing Census data, preparing a narrative and metrics, preparing a budget, developing partnerships, and reporting. Contractor shall exercise the same degree of care, skill, and diligence in performance of the work and services to be provided under this Agreement as is ordinarily possessed and exercised by an organization under similar circumstances.

ARTICLE II. TERM OF CONTRACT

This Agreement shall commence upon execution by the City. All the work and services required herein shall be completed and this Agreement shall terminate on December 31, 2022.

ARTICLE III. PAYMENT

The City shall pay Contractor a sum not to exceed TWENTY-NINE THOUSAND DOLLARS AND ZERO CENTS ($29,000.00) for acquiring and providing the supplies, materials, and services as described in Article I and Exhibit A, inclusive of all services incidental thereto. Contractor shall use and apply all funds provided by the City solely to pay for administrative services and resources to support the operations of the Coalition’s tax preparation sites, as described in Exhibit C and Exhibit D “Budget,” attached hereto and made a part hereof. Contractor shall submit invoices for payment as described in Article III of Exhibit A and Exhibit B. Monthly invoices will be submitted from the Contractor upon the completion of services as outlined in the scope of services. The City of Dayton shall pay $3,000 unit cost and the $2,000 administrative cost incurred to support the Mini-Grant Workshops. The City of Dayton shall pay $7,500 program cost and $1,500 administrative cost to support the EITC/CTC Outreach Campaign. The invoices shall state the invoice, state the total amount requested, detail the cost of the programs that have been financially supported, and contain such records, detailing summary reports, information, and or documentation to substantiate the invoice amount and the city's advance authorization thereof. Unless disputed, payment shall be made within forty-five (45) days of receipt of an invoice from the Contractor.

ARTICLE IV. INDEPENDENT CONTRACTOR

By executing this Agreement, Contractor acknowledges and agrees that it will be providing Services to the City as an “independent contractor.” As an independent contractor for the City, Contractor is prohibited from representing or allowing others to construe the parties’ relationship in a manner inconsistent with this Paragraph. Contractor shall have no authority to assume or create any obligation on behalf of, or in the name of the City, without the express prior written approval of a duly authorized
representative of the City. Contractor, its employees, and any person retained or hired by Contractor to perform duties and responsibilities under this Agreement are not the City employees, and therefore, such persons will not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Further, Contractor will be responsible to withhold and pay, or cause such agents, contractors, and subcontractors to withhold and pay, all applicable local, state, and federal taxes. Contractor further acknowledges and agrees that none of his employees are public employees for the purpose of membership and/or participation in the Ohio Public Employees Retirement System (OPERS).

ARTICLE V. ASSIGNMENT

Contractor shall not assign any rights or duties under this Agreement without the prior written consent of the City. Unless otherwise stated in the City’s written consent to an assignment, no assignment will release or discharge Contractor from any obligation under this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall preclude Contractor from retaining the services of contractors, Contractors, and the assistance of other organizations in the performance of the services hereunder.

ARTICLE VI. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that it is an Equal Opportunity or Affirmative Action Employer.

ARTICLE VII. RECORDS TO BE MAINTAINED BY THE CONTRACTOR

Contractor shall keep accurate and complete records of all materials and supplies acquired and Services provided. All costs and expenditures shall be supported by properly executed payroll, time records, invoices, contracts, vouchers, or other accounting documents, and shall be clearly identified. At any time during normal business hours and as often as the City may deem necessary, Contractor shall make available to the City and/or its designees all its records, with respect to all matters covered under this Agreement, and will permit the City and/or its designees to audit, examine, and make excerpts or transcripts from such records. In performing any independent audit, Contractor shall require the auditor to comply with all applicable City rules and regulations governing such procedures.

ARTICLE VIII. INDEMNIFICATION

Contractor shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, volunteers, and agents from and against liability for all claims, losses, damages, and expenses to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions, or conduct of Contractor, its employees, volunteers, contractors, and agents performing the services required under this Agreement. This Article shall survive expiration and/or termination of this Agreement.

ARTICLE IX. TERMINATION

The City or Contractor may terminate this Agreement, upon giving written notice of termination to the other party at least thirty (30) days prior to the effective date of termination, or at any time upon mutual written agreement. The notice shall state the date upon which such action is effective. In the event that this Agreement is terminated, Contractor shall be paid for all work and services provided and all supplies and materials procured up to the date of termination specified within the notice, and the City shall have no other responsibility to Contractor.

ARTICLE X. MEETINGS AND EVALUATION
Contractor shall meet with the City and/or its designees at such times designated by the City to review and discuss Contractor’s performance of this Agreement. Contractor shall allow the City to conduct on-site inspections, tests, and monitoring, and will cooperate with the City in all respects concerning the review and monitoring of Contractor’s performance.

ARTICLE XI. PROJECT REPORTING

Contractor shall submit all specified reports as shown in Exhibit A to the City no later than the date provided. Reports shall be in a format approved by the City, and it shall detail all sources and uses of funds and describe Contractor’s activities and outcomes of the services provided. This Article shall survive termination or expiration of this Agreement.

ARTICLE XII. GENERAL PROVISIONS

A. Amendment

The City or Contractor may request to amend this Agreement at any time. Upon mutual agreement to amend this Agreement, the amendment shall be reduced to writing, which shall make specific reference to this Agreement, approved by the City’s Director of Planning and Community Development, signed by a duly authorized representative of the City and Contractor, and, if required or applicable, approved by the Commission of the City of Dayton, Ohio.

B. Waiver

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

C. Notices and Communications

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

City of Dayton, Ohio:
Department of Planning, Neighborhoods & Development.
101 W. Third St.
Dayton, OH 45402
Attention: Verletta Jackson
(937) 333-3288 / fax: 333-4281
verletta.jackson@daytonohio.gov

Contractor:
Miami Valley Urban League
907 W. Fifth Street
Dayton, Ohio 45402
Attention: Nikol M. Miller
(937) 226-1513
nmiller@ulgso.org

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

D. Conflict of Interest

No member of the governing body of the City of Dayton, Ohio, and no other officers, officials, agents, or employees of the City shall have any personal financial interest, directly or indirectly, in this Agreement. Contractor covenants that no person who presently exercises any functions or responsibilities in
connection with the items described in Article I and Exhibit A has any personal financial interest, directly or indirectly, in this Agreement. Contractor covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which would cause conflict in any manner or degree with the performance of this Agreement.

E. Entire Agreement/Integration

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

F. Non-discrimination

Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off determination, rates of pay, or other forms of compensation, or selection for training, including apprenticeship. It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton, Ohio, constitutes a material condition of this Agreement as fully as if specifically rewritten herein and that failure of Subrecipient to comply therewith shall constitute a breach of this Agreement entitling the City, at its option, to terminate this Agreement.

G. Political Contributions

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

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

CITY OF DAYTON, OHIO

City Manager

APPROVED AS TO FORM AND CORRECTNESS:

1/27/2022

John Musto for
City Attorney

Signed by: Musto, John

MIAMI VALLEY URBAN LEAGUE

By: Interim President and CEO

APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO

2022

Min./Bk. Page

Clerk of the Commission
EXHIBIT A
SCOPE OF SERVICES

MIAMI VALLEY URBAN LEAGUE
Tax Preparation Component
Greater Dayton Earned Income Tax Credit Coalition Outreach Campaign

I. SERVICES PROVIDED

Contractor will provide administrative support to the free tax preparation sites operating under the auspices of the City-led Greater Dayton Earned Income Tax Credit (VITA/EITC) Coalition. Contractor will support eleven (11) free community tax preparation sites serving a total of approximately 8,000 low- and moderate-income taxpayers (“Services”).

Under the terms of this Agreement, the Contractor agrees to:

A. Provide administrative support and resources to increase the quality and quantity of tax preparation services at the Greater Dayton Earned Income Tax Credit VITA/EITC Coalition-sponsored tax sites, including the following:
   1. Provide overall VITA/EITC program support.
   2. Promote and solicit volunteer screeners and tax preparers throughout duration of Agreement.
   3. Promote the VITA/EITC program through all marketing efforts.
   4. Provide expert tax preparation technical assistance and mentoring support to assist those tax sites needing such assistance.
   5. Aid and purchase items for the Volunteer Recognition event (Tuesday, May 1, 2022).

B. Provide a $500.00 stipend to the Volunteer Income Tax Assistance (VITA) site managers responsible for coordination, organization, and supervision at the eleven (11) community VITA sites. The purpose of this investment is to increase the quality and quantity of free tax preparation services benefiting low- and moderate-income taxpayers during the 2022 EITC Campaign.

II. PAYMENT PROCEDURES

Contractor will utilize the following guidelines for collecting and maintaining supporting documentation that must be included with reimbursement requests from this Agreement:

- For Independent Contractor Expenses include:
  a. Number of hours volunteered on the program/project funded.
  b. Summary of work performed by independent contractor during the time for which payment was made.
  c. Documentation that independent contractor was paid, i.e., copy of checks issued, etc.

III. REPORTING PROCEDURES

The Contractor agrees to submit the following reports:

A. Report describing the requests for assistance received from the VITA/EITC Coalition’s tax sites, and the assistance that is being provided to individual sites during the tax season. (Due on June 30, 2022)
B. Completed “Outreach Activity Reports” gathered from the agencies hosting the VITA/EITC Coalition’s free tax sites. (Due on June 30, 2022)

C. Report analyzing Customer Satisfaction from all the EITC Coalition tax sites. (Due on June 30, 2022)
EXHIBIT B
SCOPE OF SERVICES

MIAMI VALLEY URBAN LEAGUE

Mini-Grant Workshops

I. SERVICES PROVIDED

Contractor will provide community workshops and administrative support to prepare organizations to apply for the City of Dayton’s Mini-Grants. The technical assistance workshops will include accessing Census data, preparing a narrative and metrics, preparing a budget, developing partnerships, and reporting. Contractor shall exercise the same degree of care, skill, and diligence in performance of the work and services to be provided under this Agreement as is ordinarily possessed and exercised by an organization under similar circumstances.

Under the terms of this Agreement, the Contractor agrees to:

- Market the Mini Grant Workshop Sessions.
- Register Participants
- Provide five (5) weekly workshops between March and April 2022 covering topics: Census data, preparing a narrative and metrics, preparing a budget, developing partnerships, and reporting.
- Provide a recording of each session and one (1) overview make-up session.
- Provide application technical assistance and review prior to submission.

II. PAYMENT PROCEDURES

Contractor will utilize the following guidelines for collecting and maintaining supporting documentation that must be included with reimbursement requests from this Agreement:

- For Independent Contractor Expenses include:

  - Invoice for each Workshop Session at a unit rate of $3,000

IV. REPORTING PROCEDURES

The Contractor agrees to submit the following reports:

A. Provide Participant’s Registration documents
B. Provide attendance logs from participants.
C. Application Review Affidavit
EXHIBIT C
BUDGET

Miami Valley Urban League
Tax Preparation Component—EITC/CTC Outreach Campaign

Program Budget

Budget Summary:
- Program: $7,500.00
- Administration: $1,500.00
  (Salaries, Professional Services & Fringe Benefits)
  TOTAL: $9,000.00

Budget Detail:

<table>
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<tr>
<th>MVUL Codes</th>
<th>Program costs</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>57800</td>
<td>VITA Site Manager Stipends</td>
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<tr>
<td>61300</td>
<td>Volunteer Recruitment/Recognition</td>
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TOTAL PROGRAM COSTS: $7,500.00

Administrative Costs:

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<td>50000, 50500, 58300</td>
<td></td>
<td>(Salaries, Professional Services &amp; Fringe Benefits)</td>
</tr>
</tbody>
</table>
EXHIBIT D
BUDGET

Mini-Grant Workshops

Program Budget

Budget Summary:

Program: $18,000.00
Administration: $2,000.00
(Salaries, Professional Services & Fringe Benefits)
TOTAL: $20,000.00

Budget Detail:

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<td>57800</td>
<td>6 Community Workshops $18,000.00</td>
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</tbody>
</table>

Week 1 Census Data
Week 2 Preparing a Narrative and metrics
Week 3 Preparing a Budget
Week 4 Developing Partnerships
Week 5 Reporting
Week 6 Overview Make-up Session

TOTAL PROGRAM COSTS: $18,000.00

Administrative Costs:

<table>
<thead>
<tr>
<th>MVUL Codes</th>
<th>Administration:</th>
<th>$2,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>50000, 50500, 58300</td>
<td>(Salaries, Professional Services &amp; Fringe Benefits)</td>
<td></td>
</tr>
</tbody>
</table>

TOTAL ADMINISTRATIVE COSTS $2,000.00

GRAND TOTAL $29,000.00
City Manager’s Report

From: 6210 - Police Director
Name: Barrett Paving Materials Inc.
Address: 3751 Commerce Drive
         Franklin, Ohio 45005

Date: February 16, 2022
Expense Type: Service Agreement
Total Amount: $25,080.00 (thru 8/1/2022)

Fund Source(s)  Fund Code(s)  Fund Amount(s)
General Fund    10000-6210-22611-71 $25,080.00

Includes Revenue to the City: Yes
Affirmative Action Program: N/A

Description

Service Agreement with Barrett Paving Materials Inc.

City Commission approval is requested for a Service Agreement with Barrett Paving Materials Inc.,
3751 Commerce Dr., Franklin, Ohio 45005. Barrett Paving Materials Inc. has requested off-duty
police to provide security and traffic control at job sites in various locations all within the municipal
corporation limits of the City of Dayton, Ohio beginning on Monday, March 28, 2022 through Monday,
August 1, 2022.

The contract is for 300 officer hours at a rate of $69.32 per hour, 300 vehicle hours at a rate of $13.00
per hour and 300 night differential hours at a rate of $1.28 per hour.

The total estimated revenue is $25,080.00 and thus requires Commission approval.

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

The 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: Barrett Paving Materials Inc.
Address: 3751 Commerce Drive
City: Franklin  State: Ohio  Zip+4: 45005
Customer#: 133003901  Address Location#: P1
Federal ID#: 13-3003901

Revenue Information:
Fund: 10000  Organization: 6210  Revenue: 22611  Program: 71

Contract Information:
Contract Start Date: 3/28/2022  Contract Expiration Date: 8/1/2022

Billing Information:
Rate: Off. $69.32 - X  Sgt. $80.38  Lt. $93.23  Shift Diff. $1.28 - X  Veh $13.00 - X
Rate: Arrears X  Pre-bill X
Monthly (1st month of billing) ____________________________
Quarterly (1st month of quarter) ____________________________
Semi-annual (1st month of half) ____________________________
Annual (1st month of billing) ____________________________
Other (explain): Estimated Revenue $25,080.00 + To be Invoiced Monthly
Rate Change Date: TBD  Rate Change Amount: TBD

Description of Services (wording on invoice): To provide security and traffic control for Barrett Paving job sites in various locations all within the municipal corporation limits of the City of Dayton, Ohio beginning on Monday, March 28, 2022 through Monday, August 1, 2022.


TO BE COMPLETED BY FINANCE

Revenue Contract Number: 5-3901  Auditor: DBullivan  Date: 1-26-2022

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

Director of Finance: ____________________________  Date: 1-27-23
AGREEMENT

THIS AGREEMENT is made this ______day of ___________ 2022, between the City of Dayton, Ohio (“City”) and Barrett Paving Materials Inc., 3751 Commerce Dr., Franklin, Ohio 45005. (“Contractor”).

WITNESSETH THAT:

WHEREAS, the City, upon request by a private person, firm, corporation, or institution, may detail off-duty police officers to perform police-related functions pursuant to the authority of Section 35.27 of the Revised Code of General Ordinances of the City of Dayton; and

WHEREAS, because public safety requires the use of off-duty police personnel to perform police-related functions, Contractor requests the services of off-duty police officers, police supervisors, and/or parking enforcement aides (hereinafter collectively referred to as “police personnel”); and

WHEREAS, the City can provide off-duty police personnel and Contractor agrees to remit payment to the City for the total cost of providing such police personnel.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and benefits to be derived hereby, the City and Contractor hereby agree as follows:

Section 1. Subject to Sections 2 and 3, the City agrees to make available certain police personnel to perform the police-related functions which are further explained in Exhibit A attached hereto and incorporated herein, beginning Monday, March 28, 2022.

Contractor understands and agrees that no further use of police personnel provided hereunder will be made without the express written authorization of the City’s Chief of Police or authorized representative.

Section 2. Unless waived by the City, Contractor shall notify the City at least fourteen (14) days in advance of the date(s) for which the police services are requested. The notice shall be given to the City’s Chief of Police or his/her authorized representative and shall specify the number and rank of police personnel requested and the hours and specific location(s) where the police services are needed.

The City’s Chief of Police or authorized representative shall have final authority for determining the availability of off-duty police personnel and the number and rank of such police personnel needed to provide an adequate level of security, traffic control and/or crowd control for the specified date(s) and location(s).

Section 3. All police personnel assigned pursuant to this Agreement shall remain subject to the authority of the City’s Chief of Police and shall act and respond in accordance with established City police procedures, rules and regulations. The duties and responsibilities of the police personnel assigned pursuant to this Agreement, including chain of command duties and responsibilities, shall be determined in accordance with the City’s established police procedures, rules and regulations.

Off-duty police personnel assigned pursuant to this Agreement may be reassigned, without notice to Contractor, to other locations and/or to perform other police services, functions or duties as required by the City’s established police procedures, rules and regulations or by exigent circumstances requiring a police response.
Section 4. Contractor shall pay the City for the services of the police personnel assigned pursuant to this Agreement as outlined in Exhibit A. Work hours requested and invoiced will include travel time, up to a maximum of thirty (30) minutes per officer, per shift, from the designated Dayton Police Department District to and from the requested coverage location.

Section 5. Contractor understands and agrees that all police personnel assigned pursuant to this Agreement shall be billed for a minimum of two (2) hours of services, even though the hour(s) of service requested by Contractor and performed by the police personnel is less than two (2) hours.

Section 6. In the event that Contractor cancels the requested police services less than twenty-four (24) hours prior to the specific date(s) for the rendering of such police services, Contractor shall be billed and shall remit payment for two (2) hours of services for each off-duty police personnel assigned to report on that date to perform the requested police services.

Section 7. Contractor shall defend, indemnify and save harmless the City and its officers, employees, and representatives from and against all expenses (including attorney’s fees), damages, claims, suits or liabilities of every kind, including, but not limited to: false arrest, detention, malicious prosecution; libel, slander, or defamation of character; violation of an individual’s right of privacy; assault and battery; discrimination; violation of civil rights; improper service of process; and any other liability arising out of or in any way related to the provision and performance of the police services to be provided hereunder.

Section 8. In addition to all other remedies available to the City, this Agreement shall be subject to termination by the City should any one or more of the following events occur or for the following reasons: (i) Without cause, with fifteen (15) days prior written notice, sent Certified U.S. Mail to Contractor at the address set forth above or such other address as may be specified by Contractor; or (ii) if Contractor shall default in or fail to make payment(s) for the police services at the times and in the amounts as required of it under this Agreement, and said default is not cured by amounts due and owing within fifteen (15) days after the City notifies Contractor of such default.

Section 9. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of law. Any litigation or other legal matter regarding this Agreement or performance by either party must be brought in a court of competent jurisdiction in Montgomery County, Ohio.

Section 10. This Agreement shall be for the period of Monday, March 28, 2022 through Monday, August 1, 2022.

[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]
IN WITNESS WHEREOF, the City and Contractor, each by a duly authorized representative, have executed this Agreement as of the day and date set forth above.

CITY OF DAYTON, OHIO

City Manager

BARRETT PAVING MATERIALS INC.

E-SIGNED by Brian Motolik
on 2022-01-18 17:17:55 GMT

Brian Motolik
Project Manager

APPROVED BY:

E-SIGNED by Eric Henderson
on 2022-01-26 13:22:24 GMT

Director and Chief of Police

E-Mail: bmotolik@barrettpaving.com

Office: (513) 833-7352

Federal I.D. Number: 13-3003901

APPROVED AS TO FORM AND CORRECTNESS:

E-SIGNED by Andrew Sexton
on 2022-01-18 16:27:33 GMT

City Attorney

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

______________________________, 2022

Min./Bk. ________ Pg. ____________

CLERK OF THE COMMISSION

[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]
Exhibit A

1. Scope of Services/Event Information

A. To provide security and traffic control for Barrett Paving job sites in various locations all within the municipal corporation limits of the City of Dayton, Ohio beginning on Monday, March 28, 2022 through Monday, August 1, 2022.

2. Payment/Cost/Method of Payment

A. PAYMENT

Contractor shall pay $69.32 per hour for each police officer; $80.38 per hour for each police sergeant; and $93.23 per hour for each police lieutenant; $1.28 per hour additional for night differential and $13.00 per vehicle per hour, when applicable.

Work hours requested and invoiced will include travel time, up to a maximum of thirty (30) minutes per officer, per shift, from the designated Dayton Police Department District to and from the requested coverage location.

Said hourly rates listed above reflect an amount equal to 1-1/2 times the current regular hourly rate of pay as established by the current labor agreement between the City and the Fraternal Order of Police, John C. Post Lodge #44 for each rank of police personnel, plus fringe benefits. Contractor agrees to pay any increase in the foregoing hourly rates of pay of police personnel required by said labor agreement or necessitated by negotiation of a new labor agreement or any regulation, order or law related to police personnel compensation binding upon the City. "Fringe benefits," as used herein includes pension, Workers' Compensation and other similar employer costs, as determined by the City's Finance Department.

B. ESTIMATED COST: $25,080.00 (300 Officer Hours @ $69.32 per hour; 300 Vehicle Hours @ $13.00 per hour & 300 Night Differential Hours @ $1.28 per hour)

C. METHOD OF PAYMENT: To be Invoiced

3. Contractor’s Authorized Representative/Contact

NAME:  Brian Motolik
ADDRESS:  3751 Commerce Dr.
          Franklin, Ohio 45005
OFFICE: (513) 833-7352

4. Officers Assigned to Event, Rank: 1 Officer
City Manager’s Report

From: 2380 – PND Director

Supplier, Vendor, Company, Individual

Name: Dayton Metropolitan Housing Authority
dba Greater Dayton Premier Management

Address: 400 Wayne Ave.
Dayton, Ohio 45410

Date: February 16, 2022
Expense Type: Other, (See Description Below)
Total Amount: $345,000.00 thru 12-31-2022

Fund Source(s) Fund Code(s) Fund Amount(s)
General Capital 41630-2380-1421-51 $345,000.00

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

Description:

Purchase of Land from Dayton Metropolitan Housing Authority

The Department of Planning, Neighborhoods & Development is requesting approval to purchase 59.31 acres of land, parcels R72 05706 0100 and R72 05706 0011, from Dayton Metropolitan Housing Authority dba Greater Dayton Premier Management (GDPM). The purchase will support City activities at the Kettering Field complex.

The land acquisition cost is $345,000.00 and was approved by Ordinance No. 31960-22 on February 2, 2022.

The purchase is supported by General Capital allocation, in the Kettering Field Improvement Fund.

A Certificate of Funds and map of the land to be purchased are attached.

The Department of Law has reviewed and approved the Purchase and Sale Agreement as to form and correctness.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

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<th>Contract Start Date</th>
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<td>Original Commission Approval</td>
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<td>Initial Encumbrance</td>
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<td>Original CT/CF</td>
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<td>Increase Encumbrance</td>
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<td>Decrease Encumbrance</td>
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NO DRAFT DOCUMENTS PERMITTED

| Change Order |

**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

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<table>
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---

Vendor Name: Dayton Metropolitan Housing Authority d/b/a Greater Dayton Premier Management

Vendor Address: 400 Wayne Ave., Dayton, Ohio 45410

Federal ID: 316000102

Commodity Code: 57863

One-time purchase of land, parcels R72 05706 0100 and R72 05706 0011, for public purpose.

---

Contact Person: Hilary Ross Browning

Planning, Neighborhoods & Development / Director

Department/Division: 2/8/2022

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: [Signature]

Date: 2/8/22

CF Prepared by: [Signature]

Date: 2/8/22

CF/CT Number: CT22-3224

SA 02/08/2022

Finance Department

October 18, 2011
January 24, 2022

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

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

SUBJECT: Ordinance for Purchase of Land: Parkside Manor

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

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

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

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

TK/hrb

Attachments

C: Mr. Musto; Mr. Lipson; Ms. Browning; file
AN ORDINANCE

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

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

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

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

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

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

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

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

Passed by the Commission .......... FEBRUARY 2, 2022
Signed by the Mayor .......... FEBRUARY 2, 2022

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
PURCHASE AND SALE AGREEMENT

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

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

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

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

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

2. PROPERTY: The "Property" shall include:

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

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

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

4. **CLOSING; CLOSING COSTS:**

   (a) The Closing shall take place at a mutually agreed upon time and place (the “Closing Date”).

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

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

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

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

6. **SELLER’S REPRESENTATION AND WARRANTIES:**

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

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

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

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

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

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

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

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

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

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

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

10. **CONDITIONS OF THE AGREEMENT:**

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

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

11. **BUYER’S INSPECTION. BUYER IS RELYING UPON BUYER’S OWN EXAMINATION OF THE PROPERTY AND INSPECTIONS HERELIN REQUIRED, IF ANY, FOR ITS PHYSICAL CONDITION AND CHARACTER, AND THE PROPERTY’S SUITABILITY FOR BUYER’S INTENDED USE THEREOF AND NOT UPON ANY REPRESENTATIONS BY THE SELLER OR SELLER’S AGENT, EXCEPT FOR THOSE MADE DIRECTLY TO THE BUYER IN WRITING. BUYER ACKNOWLEDGES AND AGREES THAT UPON CLOSING SELLER SHALL SELL AND CONVEY TO BUYER AND BUYER SHALL ACCEPT THE PROPERTY “AS IS, WHERE IS, WITH ALL.
FAULTS”, EXCEPT TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT.

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

(a) The Deed;

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

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

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

(a) Payment in accordance with Section 3 herein;

(b) The closing statement;

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

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

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

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

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

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

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

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

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

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

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

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

SELLER:

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

Date: 1/24, 2022

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

BUYER:
CITY OF DAYTON, OHIO

Date: ________________, 2022

By: ____________________________
Name: __________________________
Title: __________________________

APPROVED AS TO FORM
AND CORRECTNESS:
1/20/2022

X John Musto for
City Attorney

Signed by: Musto, John

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

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

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

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

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

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

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

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

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

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

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

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

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

Containing 11.7093 acres, more or less.

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

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

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

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

Haley-Dusa Engineering & Surveying Group, LLC

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

STATE OF OHIO
PROFESSIONAL SURVEYOR

THOMAS E.
DUSA
S-7143

October 21, 2021
Job # S4855
EXHIBIT B

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Containing 47.6043 acres, more or less.

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

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

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

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

Haley-Dusa Engineering & Surveying Group, LLC

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

October 21, 2021
Job # S4855

CITY OF DAYTON
Approved by
PLANNING DIRECTOR
CITY PLAN BOARD
NO PLAT REQUIRED
Date 11/5/2021

STATE OF OHIO
THOMAS E.
DUSA
S-7143

PAUL W. GRUNER, P.E., P.S.
MONTGOMERY COUNTY ENGINEER
APPROVED FOR POINT OF BEGINNING,
ACREAGE AND CLOSURE ONLY
DATE 11/8/21 FILE NO. 2021-0324
BY
AN ORDINANCE

Approving the Petition and Supplemental Plan for Special Energy Improvement Projects Under Ohio Revised Code Chapter 1710, and Declaring an Emergency.

WHEREAS, As set forth in Ohio Revised Code Chapter 1710, the Ohio General Assembly has authorized property owners to include their properties within energy special improvement districts (“ESIDs”) upon a petition to a municipal corporation or township, which ESID's are voluntary organizations of property owners who undertake special energy improvement projects for their properties and finance such special energy improvement projects by way of voluntary special assessments; and,

WHEREAS, Pursuant to Resolution 6117-15, passed June 24, 2015, this Commission approved the Petition for Creation of Energy Special Improvement District and for Special Assessments for Special Energy Improvement Projects (the “Establishing Petition”), including an initial plan entitled Dayton Regional Energy Special Improvement District Program Plan (the “Program Plan”) and Articles of Incorporation of the Dayton Regional Energy Special Improvement District, Inc. (the “Articles”); and,

WHEREAS, Following such approval, the Dayton Regional Energy Special Improvement District (the “District”), an energy special improvement district under the laws of the State of Ohio, and the Dayton Regional Energy Special Improvement District, Inc. (the “Corporation”), a nonprofit corporation under the laws of the State of Ohio, the board of directors of which governs the District in accordance with Ohio Revised Code Chapters 1702 and 1710, were formed; and,

WHEREAS, Dayton Rotunda Commercial, LLC (the “Rotunda Owner”) and South Arcade Commercial, LLC (the “South Arcade Owner,” and with the Rotunda Owner, the “Owners”), each as the owner of certain real property located within the City of Dayton, Ohio (the “City”), has identified certain real property owned by the Owners located at the Dayton Arcade and configured as three commercial condominium units (the “Project Site”), as an appropriate property for a special energy improvement project pursuant to Ohio Revised Code Chapter 1710; and,

WHEREAS, The Owners have submitted to the District, and the board of directors of the Corporation (the “Board”), as the governing body of the District in accordance with Ohio Revised Code Chapter 1710, has approved or will approve three Petitions for Special Assessments for Special Energy Improvement Projects (collectively, the “Project Petition”) and (1) a Supplement to Plan for Dayton Arcade Rotunda III, Dayton, Ohio Project (the “Rotunda III Supplemental Plan”), (2) a Supplement to Plan for Dayton Arcade South Arcade Unit 3 III, Dayton, Ohio Project (the “Unit 3 III Supplemental Plan”), and (3) a Supplement to Plan for Dayton Arcade South Arcade Unit 4 III, Dayton, Ohio Project (the “Unit 4 III Supplemental Plan,” and together with the Rotunda III Supplemental Plan and the Unit 3 III Supplemental Plan, collectively, the “Supplemental Plan”) which Project Petition and Supplemental Plan request that the Project Site be added to the District and that the City levy special assessments on the Project Site to pay the costs of a special energy improvement project to be provided on the Project Site, all as described more particularly in the Project Petition and the Supplemental Plan (the “Project”); and,
WHEREAS, On January __ 2022, pursuant to Ohio Revised Code Chapter 1710, the Owners submitted the Project Petition and the Supplemental Plan to this Commission and to the City Manager of the City, and said Project Petition and Supplemental Plan are on file with the Clerk of the Commission; and,

WHEREAS, Said Project Petition and Supplemental Plan are for the purpose of developing and implementing special energy improvement projects in furtherance of the purposes set forth in Section 2o of Article VIII of the Ohio Constitution, including, without limitation, the Project, and further, the Project Petition and the Supplemental Plan identify the amount and length of the special assessments to be imposed with respect to the Project; and,

WHEREAS, This Commission, as mandated by Ohio Revised Code Section 1710.06, must approve or disapprove the Project Petition and Supplemental Plan within 60 days of the submission of the Project Petition and Supplemental Plan; and,

WHEREAS, This Commission has determined to approve the Project Petition and Supplemental Plan; and,

WHEREAS, This Commission, pursuant to Ohio Revised Code Section 1710.02(G)(4), has determined that the energy special improvement project to be constructed and implemented on the Project Site is not required to be owned exclusively by the City for its purposes, for uses determined by this Commission, as the legislative authority of the City as those that will promote the welfare of the people of the City; to improve the quality of life and the general and economic well-being of the people of City; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to provide for safe and natural areas and resources; and,

WHEREAS, It is necessary for the immediate preservation of public peace, property, health and safety, that this Ordinance take effect at the earliest possible date in order to allow the Owners and Dayton Arcade Partners, LLC (the “Developer”) to begin work on the Project, and the District to take advantage of financing available to it for a limited time; now, therefore,

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

Section 1. Approval of Project Petition and Supplemental Plan. That this Commission approves the Project Petition and further approves the Supplemental Plan in substantially the forms now on file with the Clerk of the Commission.

Section 2. Transfer of Energy Special Improvement Project. That pursuant to Ohio Revised Code Section 1710.02(G)(4), this Commission determines that the Project is not required to be owned exclusively by the City for its purposes, for uses determined by this Commission, as the legislative authority of the City, as those that will promote the welfare of the people of such participating political subdivision; to improve the quality of life and the general and economic well-being of the people of the City; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to
provide for safe and natural areas and resources. This Commission accordingly authorizes the Board to act as its agent to sell, transfer, lease, or convey the Project. The consideration the Board must obtain from any sale, transfer, lease, or conveyance of the special energy improvement project on the Project Site is any consideration greater than or equal to One Dollar and Zero Cents ($1.00).

Section 3. Compliance with Public Meetings Requirements. That this Commission finds and determines that all formal actions of this Commission concerning and relating to the passage of this legislative ordinance were adopted in an open meeting of this Commission, and that all deliberations of this Commission and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 4. Effective Date. That for the reasons stated in the preamble hereof, this Ordinance is declared to be an emergency measure and shall take effect immediately upon its passage.

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

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

MAYOR OF THE CITY OF DAYTON, OHIO

ATTEST:

__________________________
Clerk of the Commission

APPROVED AS TO FORM:

__________________________
City Attorney

CERTIFICATE

The undersigned Clerk of the Commission hereby certifies that the foregoing is a true copy of Ordinance No. _____ duly adopted by the Commission of the City of Dayton, Ohio on ________, 2022.

__________________________
Clerk of the Commission
City of Dayton, Ohio
February 10, 2022

TO: Shelley Dickstein, City Manager

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

SUBJECT: Legislation for Additional Financing for Three South Arcade Commercial Properties Located in the Dayton Regional Energy Special Improvement District

Dayton Arcade Partners LLC, South Arcade Commercial LLC, and Dayton Rotunda Commercial LLC ("Arcade Developers") have requested a third round of Property Assisted Clean Energy (PACE) financing for the South Arcade. In 2019, City Commission approved two rounds of PACE financing for the South Arcade. Those actions allowed the property owners to finance energy efficiency improvements for the Dayton Arcade redevelopment project.

PACE financing allows the developer to fund improvements that reduce the energy bills for their property. At the Arcade, this includes but is not limited to geothermal energy, windows, insulation, and HVAC components. The first two rounds of PACE provided the project with approximately $15 million. This third round would raise an additional $5 million on the improvements that have already been constructed. This will allow the developer to make additional tenant improvements and continue their redevelopment momentum.

The PACE financing package requires City approval, but there is no financial burden to the City. The funds are repaid through property assessments. Projects are first vetted and approved by the Dayton Regional Energy Special Improvement District (ESID). On February 1, 2022, the ESID board approved a third round of PACE financing for the Arcade Project.

Therefore, we are requesting emergency approval of Five ordinances (5), to facilitate financial closing scheduled for March 2, 2022. The ordinances 1) approve three PACE petitions; 2) declare the necessity of the PACE improvements; 3) approve proceeding with the projects; 4) levy the assessments; and 5) authorize the execution of three cooperative agreements.

If you have any questions, please contact me at extension 4209 or Chris Lipson, Acting Development Manager, at 3820.

TK/cjl

cc: Ms. Lofton
Mr. Parlette
Mr. Lipson
AN ORDINANCE

Approving the Necessity of Acquiring, Constructing, and Improving Certain Public Improvements in the City of Dayton, Ohio in Cooperation with the Dayton Regional Energy Special Improvement District, and Declaring an Emergency.

WHEREAS, Ohio Revised Code Section 1710.06(C) provides that a political subdivision which has approved a petition for special assessments for public improvements in an energy special improvement district and a plan pursuant to Ohio Revised Code Sections 1710.02(F) and 1710.06 shall levy the requested special assessments pursuant to Ohio Revised Code Chapter 727; and,

WHEREAS, Dayton Rotunda Commercial, LLC (the “Rotunda Owner”) and South Arcade Commercial, LLC (the “South Arcade Owner,” and together with the Rotunda Owner, the “Owners”) petitioned to add property owned by it to the Dayton Regional Energy Special Improvement District (the “ESID”) pursuant to Ohio Revised Code Chapter 1710 in part in order to finance the costs of a special energy improvement project to be constructed on the property; and,

WHEREAS, The Commission (“Commission”) of the City of Dayton, Ohio (the “City”) has, by Ordinance No. __________, adopted on __________, 2022, approved three Petitions for Special Assessments for Special Energy Improvement Projects (collectively, the “Project Petition”) and (1) a Supplement to Plan for Dayton Arcade Rotunda III, Dayton, Ohio Project (the “Rotunda III Supplemental Plan”), (2) a Supplement to Plan for Dayton Arcade South Arcade Unit 3 III, Dayton, Ohio Project (the “Unit 3 III Supplemental Plan”), and (3) a Supplement to Plan for Dayton Arcade South Arcade Unit 4 III, Dayton, Ohio Project (the “Unit 4 III Supplemental Plan,” and together with the Rotunda III Supplemental Plan and the Unit 3 III Supplemental Plan, collectively, the “Supplemental Plan”) in accordance with Ohio Revised Code Section 1710.02; and,

WHEREAS, The Project Petition, a copy of which, together with the Supplemental Plan, is attached to, and incorporated into this Ordinance as Exhibit A, have been signed by the Owners, as the owners of one hundred percent (100%) of the real property affected by the Project Petition (as further described in Exhibit A to each of the Project Petition, and consisting of three commercial condominium units, collectively, the “Property”); and,

WHEREAS, The Project Petition and the Rotunda III Supplemental Plan proposes the necessity of the acquisition, construction, installation, improvement, and equipping of energy efficiency improvements, including, without limitation, replacement roofing, dome skylight replacement, high-efficiency aluminum storefronts and windows, high-efficiency HVAC upgrades, fire protection systems resulting in energy savings, an external geothermal
system, high-efficiency electrical upgrades, and related improvements (the “Rotunda Project”) and financing the Rotunda Project through the cooperation of the ESID; and,

WHEREAS, The Project Petition and the Unit 3 III Supplemental Plan proposes the necessity of the acquisition, construction, installation, improvement, and equipping of special energy improvement projects, including, without limitation, roof replacement, skylight replacement, exterior metal panel system, temporary weather protection, aluminum storefront and windows, storefront sealing, window blocking, window restoration, window replacement, high-efficiency HVAC, high-efficiency electrical upgrades, and related improvements (the “Unit 3 Project”) and financing the Rotunda Project through the cooperation of the ESID; and,

WHEREAS, The Project Petition and the Unit 4 III Supplemental Plan proposes the necessity of the acquisition, construction, installation, improvement, and equipping of special energy improvement projects, including, without limitation, demolition and framing for elevator upgrades and window upgrades, replacement roofing and insulation, window treatments, high-efficiency pumps and motor driven equipment for plumbing resulting in energy savings, plumbing insulation, gas distribution, high-efficiency HVAC upgrades, high-efficiency electrical upgrades, and related improvements (the “Unit 4 Project,” and together with the Rotunda Project and the Unit 3 Project, the “Project”) and financing the Rotunda Project through the cooperation of the ESID; and,

WHEREAS, In the Project Petition and the Rotunda III Supplemental Plan, the Rotunda Owner requests that the Rotunda Project be paid for by special assessments assessed upon the Property (the “Rotunda Special Assessments”) in an amount sufficient to pay the costs of the Rotunda Project, which is estimated to be $3,146,479.40, and other related costs of financing the Rotunda Project, which include, without limitation, the payment of principal and interest on obligations issued to pay the costs of the Rotunda Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and ESID administrative fees and expenses, and requests that the Rotunda Project be undertaken cooperatively by the City, the ESID, and such other parties as the City may deem necessary or appropriate; and,

WHEREAS, In the Project Petition and the Unit 3 III Supplemental Plan, the South Arcade Owner requests that the Unit 3 Project be paid for by special assessments assessed upon the Property (the “Unit 3 Special Assessments”) in an amount sufficient to pay the costs of the Unit 3 Project, which is estimated to be $2,009,619.32, and other related costs of financing the Unit 3 Project, which include, without limitation, the payment of principal and interest on obligations issued to pay the costs of the Unit 3 Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and ESID administrative fees and expenses, and requests that the Unit 3 Project be undertaken cooperatively by the City, the ESID, and such other parties as the City may deem necessary or appropriate; and,

WHEREAS, In the Project Petition and the Unit 4 III Supplemental Plan, the South Arcade Owner requests that the Unit 4 Project be paid for by special assessments assessed
upon the Property (the “Unit 4 Special Assessments”) in an amount sufficient to pay the costs of the Unit 4 Project, which is estimated to be $2,548,473.24, and other related costs of financing the Unit 4 Project, which include, without limitation, the payment of principal of and interest on obligations issued to pay the costs of the Unit 4 Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and ESID administrative fees and expenses, and requests that the Unit 4 Project be undertaken cooperatively by the City, the ESID, and such other parties as the City may deem necessary or appropriate; and,

WHEREAS, It is necessary for the immediate preservation of public peace, property, health and safety, that this Ordinance take effect at the earliest possible date in order to allow the Owners and Dayton Arcade Partners, LLC (the “Developer”) to begin work on the special energy improvement project on the Property, and the ESID to take advantage of financing available to it for a limited time; now, therefore,

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

Section 1. Definitions. That each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Project Petition.

Section 2. Public Necessity of Special Assessments. That this Commission declares necessary, and a vital and essential public purpose of the City, to improve the Property, which is located at the Dayton Arcade in the City, by providing for the implementation of various special energy improvement projects on the Property including, without limitation, the Rotunda Project, the Unit 3 Project, and the Unit 4, as set forth in the Project Petition and the Supplemental Plan, and providing for the payment of the costs of the project, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, surveying, testing, and inspection costs; the amount of any damages resulting from the Authorized Improvements and the interest on such damages; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to the Owners or otherwise to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, and ESID administrative fees and expenses; together with all other necessary expenditures, all as more fully described in the Project Petition, the Supplemental Plan, and the Supplemental Plans, profiles, specifications, and estimates of cost of the Project, all of which are on file with the Director of the Department of Finance and open to the inspection of all persons interested.

Section 3. One Project. That this Commission determines that the Project’s elements are so situated in relation to each other that in order to complete the acquisition and improvement of the Project’s elements in the most practical and economical manner, they
should be acquired and improved at the same time, with the same kind of materials, and in
the same manner; and that the Project’s elements shall be treated as a single improvement,
pursuant to Ohio Revised Code Section 727.09, and the Project’s elements shall be treated
as a joint improvement to be undertaken cooperatively by the City and the ESID pursuant to
Ohio Revised Code Section 9.482 and Ohio Revised Code Chapter 1710.

Section 4. Approval of Plans. That the Plans and Specifications and total cost of the
Project now on file in the office of the Clerk of the Commission are approved, subject to
changes as permitted by Ohio Revised Code Chapter 727. The Project shall be made in
accordance with the plans, specifications, profiles, and estimates for the Project.

Section 5. Public Necessity of Project. That this Commission has previously
determined and by this Ordinance ratifies and declares that the Project is an essential and
vital public, governmental purpose of the City as a Special Energy Improvement Project, as
defined in Ohio Revised Code Section 1710.01(l); and that in order to fulfill that essential
and vital public purpose of the City, it is necessary and proper to provide, in cooperation with
the ESID, for the acquisition, construction, and improvement of the Project in the manner
contemplated by the Project Petition, and the Supplemental Plan. This Commission
determines and declares that the Project is conducive to the public peace, health, safety and
welfare of the City and the inhabitants of the City.

Section 6. Allocation of Costs of Project Among City and Owners. That pursuant
to and subject to the provisions of a valid Petition signed by the owners of one hundred
percent (100%) of the Property, the entire cost of the Project shall be paid by the Special
Assessments levied against the Property, which is the benefited property. The provisions of
the Project Petition are ratified, adopted, approved and incorporated into this Ordinance as if
set forth in full in this Ordinance. The portion of the costs of the Project allocable to the City
will be zero percent (0%). The City does not intend to issue securities in anticipation of the
levy or collection of the Special Assessments.

Section 7. Assessment Method. That the method of levying the Special
Assessments shall be in proportion to the benefits received, allocated among the parcels
constituting the Property as set forth in the Project Petition, and Supplemental Plan.

Section 8. Property. That the lots or parcels of land to be assessed for the Project
shall be the Property, described in Exhibit A to the Project Petition, all of which lots and
lands are determined to be specially benefited by the Project.

Section 9. Assessment Schedule. That the Special Assessments shall be levied
and paid in forty-four (44) semi-annual installments pursuant to the list of estimated Special
Assessments set forth in the Project Petition, and the Owners have waived its option to pay
the Special Assessment in cash within thirty (30) days after the passage of the assessing
Ordinance.

The aggregate amount of Special Assessments estimated to be necessary to pay the
costs of the Rotunda Project is $3,146,479.40, the aggregate amount of Special Assessments
estimated to be necessary to pay the costs of the Unit 3 Project is $2,009,619.32, and the
aggregate amount of Special Assessments estimated to be necessary to pay the costs of the Unit 4 Project is $2,548,473.24. Each semi-annual Special Assessment payment represents payment of a portion of the principal of and interest on obligations issued to pay the costs of the Project and of administrative expenses. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the City. In addition to the Special Assessments, the Auditor of Montgomery County, Ohio may impose a special assessment collection fee with respect to each semi-annual payment, which amount will be added to the Special Assessments by the Auditor of Montgomery County, Ohio.

As provided in the Project Petition, the Owners and the Developer have requested that the City enter into (1) an Amended and Restated Cooperative Special Assessment Agreement by and among the Treasurer of Montgomery County, Ohio (the “County Treasurer”), the City, Twain Community Partners II LLC (the “Investor”), the ESID, the Rotunda Owner, SAC/DRC Manager, LLC (the “Borrower”), the Dayton Arcade New Community Authority, the Developer, and the Dayton-Montgomery County Port Authority with respect to the Rotunda Project (the “Rotunda Agreement”), (2) a Cooperative Special Assessment Agreement by and among the County Treasurer, the City, the Investor, the ESID, the South Arcade Owner, the Borrower, the Dayton Arcade New Community Authority, the Developer, and the Dayton-Montgomery County Port Authority with respect to the Unit 3 Project (the “Unit 3 Agreement”), and (3) a Cooperative Special Assessment Agreement by and among the County Treasurer, the City, the Investor, the ESID, the South Arcade Owner, the Borrower, Dayton Arcade New Community Authority, the Developer, and the Dayton-Montgomery County Port Authority with respect to the Rotunda Project with respect to the Unit 4 Project (the “Unit 4 Agreement,” and with the Rotunda Agreement and the Unit 3 Agreement, the “Agreements”).

Immediately upon receipt of notice from the Investor under the Agreements that the Borrower has failed to make any required payments to the Investor in respect of amounts made available to the Borrower, to be used to make capital contributions to the Rotunda Owner and the South Arcade Owner to pay the costs of the Project, the Owners have requested that the City certify to the County Auditor of Montgomery County, Ohio (the “County Auditor”) for collection the installments of the Special Assessment related to the Borrower’s failure to pay, as set forth in the Supplemental Plan on or before the next-to-occur last date on which municipal corporations may certify special assessments to the County Auditor for collection. Except as described in this paragraph and in the Agreements, the Owners have requested that the City not cause any installments of the Special Assessments to be certified for collection, and further has requested that the City cause any installment of the Special Assessments which is not certified for collection, after the date on which that installment is scheduled to be paid according to the Supplemental Plan, to be deemed paid and satisfied in full. The City hereby approves each of the Owners’ requests stated above and in the Project Petition and hereby finds and determines that the Special Assessments shall be certified for collection only as described in the Project Petition and the Agreements.
Section 10. Director of the Department of Finance to File Estimate of Special Assessments. That the Director of the Department of Finance or the Director of the Department of Finance's designee is authorized and directed to prepare and file in the office of the Clerk of the Commission the estimated Special Assessments for the cost of the Project in accordance with the method of assessment set forth in the Project Petition, the Supplemental Plan, and this Ordinance, showing the amount of the assessment against each lot or parcel of land to be assessed.

Section 11. Notice to Property Owners. That upon the filing of the estimated Special Assessments with the Clerk of the Commission, notice of the adoption of this Ordinance and the filing of the estimated Special Assessments shall be served upon the Owners of the Assessed Property, as provided in Ohio Revised Code Section 727.13. The appropriate officials of the City shall also comply with the applicable procedural requirements of Ohio Revised Code Chapter 727.

Section 12. Collection of Special Assessments. That the Director of the Department of Finance or the Director of the Department of Finance's designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Project.

Section 13. Appropriation of Special Assessments. That the Special Assessments will be used by the City to provide the Authorized Improvements in cooperation with the ESID in any manner, including assigning the Special Assessments actually received by the City to the ESID or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

Section 14. Acceptance of Waiver of Process. That this Commission accepts and approves the waiver of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including but not limited to those specified in the Ohio Constitution, Ohio Revised Code Chapter 727, Ohio Revised Code Chapter 1710, and the Charter of the City of Dayton, Ohio, and consents to the immediate imposition of the Special Assessments upon the Property. This waiver encompasses, but is not limited to, waivers by the Owners of the following rights:

(i) The right to notice of the adoption of the Ordinance of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
(ii) The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06;
(iii) The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
(iv) The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
(v) The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
(vi) The right to notice that bids or quotations for the Project may exceed estimates by 15%;

(vii) The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251;

(viii) The right to notice of the passage of the assessing Ordinance under Ohio Revised Code Section 727.26; and

(ix) Any and all procedural defects, errors, or omissions in the Special Assessment process.

Section 15. Agreements. That the City is authorized to enter into agreements by and among the City, the ESID, and such other parties as the City may deem necessary or appropriate in order to provide the Authorized Improvements, and that the City Manager, the Economic Development Director, and the Commission President, or any of them, is authorized to execute, on the City’s behalf, such agreements.

Section 16. Compliance with Open Meetings Requirements. That this Commission finds and determines that all formal actions of this Commission concerning and relating to the passage of this legislative ordinance were adopted in an open meeting of this Commission, and that all deliberations of this Commission and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 17. Effective Date. That for the reasons stated in the preamble hereof, this Ordinance is declared to be an emergency measure and shall take effect immediately upon its passage.

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

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

MAYOR OF THE CITY OF DAYTON, OHIO

ATTEST:

Clerk of the Commission

APPROVED AS TO FORM:

City Attorney
CERTIFICATE

The undersigned Clerk of the Commission hereby certifies that the foregoing is a true copy of Ordinance No. _____ duly adopted by the Commission of the City of Dayton, Ohio on February ___, 2022.

______________________________
Clerk of the Commission
City of Dayton, Ohio
EXHIBIT A

PROJECT PETITION AND SUPPLEMENTAL PLAN

[See Attached]
AN ORDINANCE

Determining to Proceed with the Acquisition, Construction, and Improvement of Certain Public Improvements in the City of Dayton, Ohio in Cooperation with the Dayton Regional Energy Special Improvement District, and Declaring an Emergency.

WHEREAS, The Commission ("Commission") of the City of Dayton, Ohio (the "City") duly adopted Ordinance No. ___________ on ___________, 2022, (the "Ordinance of Necessity"), (i) declaring the necessity of acquiring, constructing, and improving the special energy improvement Project defined in the Ordinance of Necessity as the Rotunda Project, the Unit 3 Project, and the Unit 4 Project, all located on real property owned Dayton Rotunda Commercial, LLC (the "Rotunda Owner") and South Arcade Commercial, LLC (the "South Arcade Owner," and with the Rotunda Owner, the "Owners") and to be developed by Dayton Arcade Partners, LLC (the "Developer") at the Dayton Arcade within the City (the "Property", as more fully described in Exhibit A to the Project Petition); (ii) providing for the acquisition, construction, and improvement of the Project by the Owners and the Developer, as set forth in the Owners’ Project Petition and Supplemental Plan (each as defined in the Ordinance of Necessity), including by levying and collecting the Rotunda Special Assessments, the Unit 3 Special Assessments, and the Unit 4 Special Assessments (all as defined in the Ordinance of Necessity) to be assessed upon the Property in an amount sufficient to pay the costs of the Project, which is estimated to be $3,146,479.40 with respect to the Rotunda Project, $2,009,619.32 with respect to the Unit 3 Project, and $2,548,473.24 with respect to the Unit 4 Project, together with other related costs of financing the Project, which include, without limitation, the payment of principal of and interest on nonprofit corporate obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and Dayton Regional Energy Special Improvement District ("ESID") administrative fees and expenses; and (iii) determining that the Project will be treated as a special energy improvement project to be undertaken cooperatively by the City and the ESID; and,

WHEREAS, The claims for damages alleged to result from and objections to the Project have been waived by one hundred percent (100%) of the affected property owners and no claims for damages have been filed with this Commission; and,

WHEREAS, It is necessary for the immediate preservation of public peace, property, health and safety, that this Ordinance take effect at the earliest possible date in order to allow Dayton Arcade Partners, LLC to begin work on the special energy improvement project on the Property, and the ESID to take advantage of financing available to it for a limited time; now, therefore,
BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. Definitions. That each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Ordinance of Necessity.

Section 2. Determination to Proceed. That this Commission declares that its intention is to proceed with the acquisition, construction, and improvement of the Project described in the Project Petition and the Ordinance of Necessity. The Project shall be made in accordance with the provisions of the Ordinance of Necessity and with the plans, specifications, profiles, and estimates of cost previously approved and now on file with the Director of the Department of Finance and the Clerk of the Commission.

Section 3. Special Assessments. That the Special Assessments to pay costs of the Project, which are estimated to be $3,146,479.40 with respect to the Rotunda Project, $2,009,619.32 with respect to the Unit 3 Project, and $2,548,473.24 with respect to the Unit 4 Project, together with other related financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to Dayton Arcade Partners, LLC and its affiliates or otherwise to pay costs of the Authorized Improvements in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, and ESID administrative fees and expenses, shall be assessed against the Property in the manner and in the number of semi-annual installments provided in the Project Petition and the Ordinance of Necessity. Each semi-annual Special Assessment payment represents the payment of a portion of the principal of and interest on obligations issued to pay the costs of the Project and the scheduled amounts payable as the ESID administrative fee and the trustee fee. The Special Assessments shall be assessed against the Property commencing in tax year 2022 for collection in calendar year 2023 and shall continue through tax year 2043 for collection in calendar year 2044. In addition to the Special Assessments, the Auditor of Montgomery County, Ohio may impose a special assessment collection fee with respect to each semi-annual payment, which amount, if imposed, will be added to the Special Assessments by the Auditor of Montgomery County, Ohio.

Section 4. Amount of Assessments. That the estimated Special Assessments for costs of the Project prepared and filed in the office of the Clerk of the Commission and in the office of the Finance Director, in accordance with the Ordinance of Necessity, are adopted.

Section 5. Certification to County Auditor. That in compliance with Ohio Revised Code Section 319.61, the Clerk of the Commission is directed to deliver a certified copy of this Ordinance to the Auditor of Montgomery County, Ohio within fifteen (15) days after the date of its passage.

Section 6. Contracts. That all contracts for the construction of the Project will be let in the manner provided by law, subject to the provisions of the Ohio Revised Code, the
Project Petition, and the Supplemental Plan, and the costs of the Project shall be financed as provided in the Ordinance of Necessity.

Section 7. Compliance with Open Meetings Requirements. That this Commission finds and determines that all formal actions of this Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this Commission, and that all deliberations of this Commission and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

Section 8. Effective Date. That for the reasons stated in the preamble hereof, this ordinance is declared to be an emergency measure and shall take effect immediately upon its passage.

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

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

MAYOR OF THE CITY OF DAYTON, OHIO

ATTEST:

Clerk of the Commission

APPROVED AS TO FORM:

City Attorney
CERTIFICATE

The undersigned Clerk of the Commission hereby certifies that the foregoing is a true copy of Ordinance No. _____ duly adopted by the Commission of the City of Dayton, Ohio on ____________, 2022, and that a true copy thereof was certified to the Auditor of Montgomery County, Ohio.

______________________________
Clerk of the Commission
City of Dayton, Ohio
RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION DETERMINING TO
PROCEED WITH ACQUISITION, CONSTRUCTION,
AND IMPROVEMENT OF CERTAIN PUBLIC
IMPROVEMENTS IN THE CITY OF DAYTON
IN COOPERATION WITH THE DAYTON REGIONAL
ENERGY SPECIAL IMPROVEMENT DISTRICT

I, Karl L. Keith, the duly elected, qualified, and acting Auditor in and for Montgomery
County, Ohio hereby certify that a certified copy of Ordinance No. _______ duly adopted by
the City Commission of the City of Dayton, Ohio on ______, 2022, determining to proceed
with the acquisition, construction, and improvement of certain public improvements in the City
of Dayton in cooperation with the Dayton Regional Energy Special Improvement District, was
filed in this office on ____________, 2022.

WITNESS my hand and official seal at Dayton, Ohio on ____________, 2022.

[SEAL]

_________________________
Auditor

Montgomery County, Ohio
AN ORDINANCE

Levying Special Assessments for the Purpose of Acquiring, Constructing, and Improving Certain Public Improvements in the City of Dayton in Cooperation with the Dayton Regional Energy Special Improvement District, and Declaring an Emergency.

WHEREAS, This Commission of the City of Dayton, Ohio (the "City") duly adopted Ordinance No. ______ on ________, 2022, (the "Ordinance of Necessity") and declared the necessity of acquiring, constructing, improving and installing special energy improvement projects defined as the Rotunda Project, the Unit 3 Project, and the Unit 4 Project, as described in the Ordinance of Necessity, and as set forth in the Project Petition, requesting those improvements; and,

WHEREAS, This Commission duly passed Ordinance No. ______ on ________, 2022, and determined to proceed with the Project and adopted the estimated Special Assessments (as defined in the Ordinance of Necessity) filed with the Clerk of the Commission and the Finance Director pursuant to the Ordinance of Necessity; and,

WHEREAS, It is necessary for the immediate preservation of public peace, property, health and safety, that this Ordinance take effect at the earliest possible date in order to allow Dayton Arcade Partners, LLC (the "Developer") to begin work on the special energy improvement project on the Property, and the Dayton Regional Energy Special Improvement District ("ESID") to take advantage of financing available to it for a limited time; now, therefore,

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

Section 1. Definitions. That each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Ordinance of Necessity.

Section 2. Special Assessments. That the list of Special Assessments to be levied and assessed on the Property in an amount sufficient to pay the costs of the Project, $3,146,479.40 with respect to the Rotunda Project, $2,009,619.32 with respect to the Unit 3 Project, and $2,548,473.24 with respect to the Unit 4 Project with respect to the Unit 4 Project, together other related financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to Dayton Arcade Partners, LLC and its affiliates or otherwise to pay costs of the Authorized Improvements in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees,
and ESID administrative fees and expenses, which costs were set forth in the Project Petition and previously reported to this Commission and are now on file in the offices of the Clerk of the Commission and the Director of the Department of Finance, is adopted and confirmed, and that the Special Assessments are levied and assessed on the Property. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the City.

The Special Assessments are assessed against the Property commencing in tax year 2022 for collection in calendar year 2023 and shall continue through tax year 2043 for collection in calendar year 2044. The annual installment of the Special Assessments shall be collected in each calendar year equal to a maximum annual amount of Special Assessments as shown in Exhibit A, attached to and incorporated into this Ordinance.

As provided in the Project Petition, the Owners and the Developer have requested that the City enter into (1) an Amended and Restated Cooperative Special Assessment Agreement by and among the Treasurer of Montgomery County, Ohio (the “County Treasurer”), the City, Twain Community Partners II LLC (the “Investor”), the ESID, the Rotunda Owner, SAC/DRC Manager, LLC (the “Borrower”), the Dayton Arcade New Community Authority, the Developer, and the Dayton-Montgomery County Port Authority with respect to the Rotunda Project (the “Rotunda Agreement”), (2) a Cooperative Special Assessment Agreement by and among the County Treasurer, the City, the Investor, the ESID, South Arcade Commercial, LLC (the “South Arcade Owner”), the Borrower, the Dayton Arcade New Community Authority, the Developer, and the Dayton-Montgomery County Port Authority with respect to the Rotunda Project with respect to the Unit 3 Project (the “Unit 3 Agreement”), and (3) a Cooperative Special Assessment Agreement by and among the County Treasurer, the City, the Investor, the ESID, the South Arcade Owner, the Borrower, Dayton Arcade New Community Authority, the Developer, and the Dayton-Montgomery County Port Authority with respect to the Rotunda Project with respect to the Unit 4 Project (the “Unit 4 Agreement,” and with the Rotunda Agreement and the Unit 3 Agreement, the “Agreements”).

Immediately upon receipt of notice from the Investor under the Agreements that the Borrower has failed to make any required payments to the Investor in respect of amounts made available to the Borrower, to be used to make capital contributions to the Rotunda Owner and the South Arcade Owner to pay the costs of the Project, the Rotunda Owner and the South Arcade Owner both have requested that the City certify to the County Auditor of Montgomery County, Ohio (the “County Auditor”) for collection the installments of the Special Assessment related to the Borrower’s failure to pay, as set forth in the Supplemental Plan on or before the next-to-occur last date on which municipal corporations may certify special assessments to the County Auditor for collection. Except as described in this paragraph and in the Agreements, the Rotunda Owner and the South Arcade Owner have requested that the City not cause any installments of the Special Assessments to be certified for collection, and further has requested that the City cause any installment of the Special Assessments which is not certified for collection, after the date on which that
installment is scheduled to be paid according to the Supplemental Plan, to be deemed paid and satisfied in full. The City hereby approves each of the Rotunda Owner and the South Arcade Owner’s requests stated above and in the Project Petition and hereby finds and determines that the Special Assessments shall be certified for collection only as described in the Project Petition and the Agreements.

The Special Assessments shall be allocated among the parcels constituting the Property as set forth in the Project Petition and the List of Special Assessments attached to and incorporated into this Ordinance as Exhibit A.

Section 3. Amount of Special Assessments. That this Commission finds and determines that the Special Assessments are in proportion to the special benefits received by the Property as set forth in the Project Petition and are not in excess of any applicable statutory limitation.

Section 4. Waiver of Cash Settlement. That the Rotunda Owner and the South Arcade Owner each has waived its right to pay the Special Assessments in cash, and all Special Assessments and installments of the Special Assessments shall be certified by the Director of the Department of Finance to the Auditor of Montgomery County, Ohio as provided by the Project Petition and Ohio Revised Code Section 727.33 to be placed by him or her on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Project Petition.

Section 5. Appropriation of Special Assessments. That the Special Assessments will be used by the City to provide the Authorized Improvements in cooperation with the ESID in any manner, including assigning the Special Assessments actually received by the City to the ESID or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

Section 6. Special Assessments File. That the Director of the Department of Finance shall keep the Special Assessments on file in the Office of the Director of the Department of Finance.

Section 7. Certification to County Auditor. That in compliance with Ohio Revised Code Section 319.61, the Clerk of the Commission is directed to deliver a certified copy of this Ordinance to the Auditor of Montgomery County, Ohio within twenty (20) days after its passage.

Section 8. Compliance with Open Meetings Requirements. This Commission finds and determines that all formal actions of this Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this Commission, and that all deliberations of this Commission and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.
Section 9. Effective Date. That for the reasons stated in the preamble hereof, this ordinance shall be declared an emergency measure and shall take effect immediately upon its passage.

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

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

MAYOR OF THE CITY OF DAYTON, OHIO

ATTEST:

______________________________
Clerk of the Commission

APPROVED AS TO FORM:

______________________________
City Attorney

CERTIFICATE

The undersigned Clerk of the Commission hereby certifies that the foregoing is a true copy of Ordinance No. _____ duly adopted by the Commission of the City of Dayton, Ohio on ___________. 2022, and that a true copy thereof was certified to the Auditor of Montgomery County, Ohio.

______________________________
Clerk of the Commission
City of Dayton, Ohio
SCHEDULE OF SPECIAL ASSESSMENTS

The following schedule of Special Assessment charges shall be levied in forty-four (44) semi-annual installments with respect to first-half and second-half real property taxes in calendar years 2023 through 2044:

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<thead>
<tr>
<th>Special Assessment Date</th>
<th>Special Assessment Amount**</th>
</tr>
</thead>
<tbody>
<tr>
<td>February 15, 2023</td>
<td>$46,059.53</td>
</tr>
<tr>
<td>July 15, 2023</td>
<td>46,059.53</td>
</tr>
<tr>
<td>February 15, 2024</td>
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<td>July 15, 2024</td>
<td>46,059.53</td>
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<td>February 15, 2025</td>
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</tr>
<tr>
<td>July 15, 2025</td>
<td>46,059.53</td>
</tr>
<tr>
<td>February 15, 2026</td>
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** The amounts are subject to adjustment based on changes in the tax rate and other factors.
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<tr>
<td>July 15, 2044</td>
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</tbody>
</table>

** Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Schedule of Special Assessments are subject to adjustment by the Montgomery County Auditor under certain conditions.

*** The Auditor of Montgomery County, Ohio may impose a special assessment collection fee with respect to each semi-annual Special Assessment payment. If imposed, this special assessment collection fee will be added by the Auditor of Montgomery County, Ohio to each semi-annual Special Assessment payment.
**LIST OF SPECIAL ASSESSMENTS AND SCHEDULE OF SPECIAL ASSESSMENTS**

**LIST OF SPECIAL ASSESSMENTS**

**UNIT 4 PROJECT**

<table>
<thead>
<tr>
<th>Name</th>
<th>Assessed Properties Description</th>
<th>Portion of Benefit and Special Assessment</th>
<th>Amount of Special Assessments</th>
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<td>Dayton Arcade Partners, LLC</td>
<td>R72 51467 0004*</td>
<td>100%</td>
<td>$2,548,473.24</td>
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* As identified in the records of the Auditor of Montgomery County, Ohio as of February 23, 2022.
SCHEDULE OF SPECIAL ASSESSMENTS

The following schedule of Special Assessment charges shall be levied in forty-four (44) semi-annual installments with respect to first-half and second-half real property taxes in calendar years 2023 through 2044:

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<th>Special Assessment Amount**</th>
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</table>
July 15, 2041  |  57,431.21  
February 15, 2042 |  57,431.21  
July 15, 2042 |  57,431.21  
February 15, 2043 |  57,431.21  
July 15, 2043 |  57,431.21  
February 15, 2044 |  57,181.21  
July 15, 2044 |  57,181.21  

** Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Schedule of Special Assessments are subject to adjustment by the Montgomery County Auditor under certain conditions.

*** The Auditor of Montgomery County, Ohio may impose a special assessment collection fee with respect to each semi-annual Special Assessment payment. If imposed, this special assessment collection fee will be added by the Auditor of Montgomery County, Ohio to each semi-annual Special Assessment payment.
RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION LEVYING SPECIAL ASSESSMENTS
FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING,
AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS
IN THE CITY OF DAYTON IN COOPERATION WITH
THE DAYTON REGIONAL ENERGY
SPECIAL IMPROVEMENT DISTRICT

I, Karl L. Keith, the duly elected, qualified, and acting Auditor in and for
Montgomery County, Ohio hereby certify that a certified copy of Ordinance No. _____,
duly adopted by the Commission of the City of Dayton, Ohio on _____________, 2022,
levying special assessments for the purpose of acquiring, constructing, and improving
certain public improvements in the City of Dayton, Ohio in cooperation with the Dayton
Regional Energy Special Improvement District, including the List of Special Assessments
and Schedule of Special Assessments, which Special Assessment charges are levied in
forty-four (44) semi-annual installments with respect to real property taxes due in
calendar years 2023 through 2044, was filed in this office on ___________, 2022.

WITNESS my hand and official seal at Dayton, Ohio on ____________, 2022.

_________________________
Auditor
Montgomery County, Ohio

[SEAL]
AN ORDINANCE

Authorizing and Approving Three Cooperative Special Assessment Agreements; and Declaring an Emergency.

WHEREAS, Dayton Rotunda Commercial, LLC (the “Rotunda Owner”) and South Arcade Commercial, LLC (the “South Arcade Owner,” and together with the Rotunda Owner, the “Owners”) have submitted three Petitions for Special Assessments for Special Energy Improvement Projects (collectively, the “Project Petition”), together with (1) a Supplement to Plan for Dayton Arcade Rotunda III, Dayton, Ohio Project (the “Rotunda III Supplemental Plan”), (2) a Supplement to Plan for Dayton Arcade South Arcade Unit 3 III, Dayton, Ohio Project (the “Unit 3 III Supplemental Plan”), and (3) a Supplement to Plan for Dayton Arcade South Arcade Unit 4 III, Dayton, Ohio Project (the “Unit 4 III Supplemental Plan,” and together with the Rotunda Supplemental Plan and the Unit 3 Supplemental Plan, collectively, the “Supplemental Plan”) in order to provide for the completion of a special energy improvement project on real property owned by the Owners in the City of Dayton, Ohio (the “City”); and

WHEREAS, On __________, 2022, this Commission of the City of Dayton, Ohio (“Commission”) approved the Project Petition and the Supplemental Plan; and

WHEREAS, On __________, 2022, this Commission duly adopted an ordinance declaring the necessity of acquiring, constructing, and improving certain public improvements in the City in cooperation with the Dayton Regional Energy Special Improvement District (the “ESID”) (the “Ordinance of Necessity”), with each capitalized term or definition not otherwise defined in this Ordinance or by reference to another document having the meaning assigned to it in the Ordinance of Necessity; and

WHEREAS, On __________, 2022, this Commission passed an ordinance determining to proceed with the Project and adopted the estimated Special Assessments filed with the Clerk of Commission and pursuant to the Ordinance of Necessity; and

WHEREAS, Under an ordinance passed by this Commission on __________, 2022, the City has levied special assessments to pay costs of the special energy improvement projects described in the Supplemental Plans (the “Special Assessments”);

WHEREAS, The City intends to enter into (1) an Amended and Restated Cooperative Special Assessment Agreement by and among the Treasurer of Montgomery County, Ohio (the “County Treasurer”), the City, Twain Community Partners II LLC (the “Investor”), the ESID, the Rotunda Owner, SAC/DRC Manager, LLC (the “Borrower”), the Dayton Arcade New Community Authority, the Developer, and the Dayton-Montgomery County Port Authority with respect to the Rotunda Project (the “Rotunda Agreement”), (2) a Cooperative Special Assessment Agreement by and among the County Treasurer, the City,
the Investor, the ESID, the South Arcade Owner, the Borrower, the Dayton Arcade New Community Authority, the Developer, and the Dayton-Montgomery County Port Authority with respect to the Rotunda Project with respect to the Unit 3 Project (the "Unit 3 Agreement"), and (3) a Cooperative Special Assessment Agreement by and among the County Treasurer, the City, the Investor, the ESID, the South Arcade Owner, the Borrower, Dayton Arcade New Community Authority, the Developer, and the Dayton-Montgomery County Port Authority with respect to the Rotunda Project with respect to the Unit 4 Project (the "Unit 4 Agreement," and with the Rotunda Agreement and the Unit 3 Agreement, the "Agreements"); and,

WHEREAS, To provide for the security for amounts made available by the Investor to the Borrower (the "Project Advance"), which shall be used by the Borrower to make capital contributions to the Rotunda Owner and the South Arcade Owner in order to pay costs of the Projects (as further described in the Project Petition and the Agreements), and for administration of payments on the Project Advance and related matters, the City intends to enter into the Agreements;

WHEREAS, It is necessary for the immediate preservation of public peace, property, health and safety, that this Ordinance take effect at the earliest possible date in order to allow the Owner to begin work on the special energy improvement project on the Property, and the ESID to take advantage of financing available to it for a limited time; now, therefore,

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

Section 1. Agreements. This Commission hereby approves the Agreements, a copy of each of which is on file in the office of the Clerk of Commission. The City Manager shall sign and deliver, in the name and on behalf of the City, the Agreements, in substantially the form as is now on file with the Clerk of Commission. The Agreements are approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City on behalf of the City, all of which shall be conclusively evidenced by the signing of the Agreements or amendments thereto.

Section 2. Other Agreements. The City is authorized to enter into such other agreements that are not inconsistent with the Ordinance of Necessity and this Ordinance and that are approved by the City Manager on behalf of the City, all of which shall be conclusively evidenced by the signing of such agreements or any amendments thereto.

Section 3. Compliance with Open Meetings Requirements. This Commission finds and determines that all formal actions of this Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this Commission, and that all deliberations of this Commission and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.
Section 4. Effective Date. That for the reasons stated in the preamble hereof, this ordinance shall be declared an emergency measure and shall take effect immediately upon its passage.

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

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

MAYOR OF THE CITY OF DAYTON, OHIO

ATTEST:

______________________________
Clerk of the Commission

APPROVED AS TO FORM:

______________________________
City Attorney

CERTIFICATE

The undersigned Clerk of the Commission hereby certifies that the foregoing is a true copy of Ordinance No. _____ duly adopted by the Commission of the City of Dayton, Ohio on ________, 2022.

______________________________
Clerk of the Commission

City of Dayton, Ohio
AN ORDINANCE

Appropriating Funds for the Year 2022 to Provide for the Operating and Capital Expenses of Various Offices, Departments, and Divisions of the Government of the City of Dayton.

WHEREAS, State law and the Charter of the City of Dayton require an Annual Appropriation Ordinance to provide for the expenses and obligations of various City Departments for the ensuing year; and

WHEREAS, State law imposes an April 1 deadline by which each political subdivision or other taxing unit of the State of Ohio shall pass an annual appropriation measure for that fiscal year; now, therefore,

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

Section 1. That there shall be and hereby are appropriated out of any monies in the treasury, or any accruing revenues of the City available for said purposes, the sums of appropriation hereafter set forth in the column marked "2022 Appropriations".

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<tr>
<th>GOVERNMENTAL FUND TYPE</th>
<th>2022 Appropriations</th>
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<tr>
<td>1300 Civil Service Board</td>
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<tr>
<td>1400 Human Relations Council</td>
<td>1,096,600</td>
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<tr>
<td>2100 City Manager's Office</td>
<td>1,458,800</td>
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<td>2101 Public Affairs</td>
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<td>2105 Office of Sustainability</td>
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<td>2300 Dept. of Planning, Neighborhoods &amp; Development</td>
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<td>2500 Clerk of Courts</td>
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<td>2510 Municipal Court</td>
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<td>2700 Dept. of Procurement, Management &amp; Budget</td>
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<td>3400 Department of Water</td>
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<td>5200 Department of Law</td>
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<td>5300 Department of Finance</td>
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<td><strong>Total General Fund</strong></td>
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(2) Special Revenue

Roadway Maintenance Fund – 21000 - 21999

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Street Maintenance Fund - 21000

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Highway Maintenance Fund - 21100

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**Total Roadway Maintenance Fund**

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<td><strong>Total HUD Programs Operating</strong></td>
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<td><strong>HUD Programs Non-Operating</strong></td>
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<tr>
<td>Fair Housing Grant Fund - 23000 - 23999</td>
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<tr>
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<td>Total</td>
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<tr>
<td></td>
<td></td>
<td>Prior Year's Unexpended Appropriation</td>
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<tr>
<td></td>
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<td>Total Fair Housing Grant Fund</td>
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<tr>
<td>Emergency Solutions Grant - 25002 - 25003</td>
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<td>Various Departments</td>
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<td></td>
<td></td>
<td>Prior Year's Unexpended Appropriation</td>
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<td></td>
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<td>Total Emergency Solutions Grant</td>
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<tr>
<td>Continuum of Care Grant - 25525 - 25599</td>
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<td>Various Departments</td>
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<tr>
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<td>Total</td>
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<td>Prior Year's Unexpended Appropriation</td>
</tr>
<tr>
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<td></td>
<td>Total Continuum of Care Grant</td>
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<td>Community Dev. Block Grant Non-Operating Fund - 26001 - 26906</td>
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<td>Various Departments</td>
</tr>
<tr>
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<td>Prior Year's Unexpended Appropriation</td>
</tr>
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<td>Total Community Dev. Block Grant Non-Operating Fund</td>
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<td>HOME Non-Operating Fund - 27001 - 27999</td>
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<td>Various Departments</td>
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<td>Prior Year's Unexpended Appropriation</td>
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<td></td>
<td>Total HOME Non-Operating Fund</td>
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<td><strong>Total HUD Programs Non-Operating</strong></td>
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</tr>
<tr>
<td>Miscellaneous Grants - 28000 - 28999</td>
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<td>Various Departments</td>
</tr>
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<td></td>
<td></td>
<td>Total</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Prior Year's Unexpended Appropriation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total Miscellaneous Grants</td>
</tr>
<tr>
<td>Fund Name</td>
<td>2022 Appropriations</td>
<td></td>
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<tr>
<td>-----------------------------------------------</td>
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<tr>
<td>Local Fiscal Recovery Fund 29000 - 29999</td>
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<td>Other Special Revenue - 22111 - 22520</td>
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<td>Various Departments</td>
<td>6,900,600</td>
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<td>6,900,600</td>
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<tr>
<td>Prior Year's Unexpended Appropriation</td>
<td>1,370,300</td>
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<td>Total Other Special Revenue Fund</td>
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<td><strong>Total Special Revenue</strong></td>
<td>205,833,700</td>
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<td><strong>(3) Debt Service</strong></td>
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<td>General Debt Retirement Fund 31100 - 33100</td>
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<td>Total General Debt Retirement Fund</td>
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<td>Total Debt Service</td>
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<td><strong>(4) Capital Project Funds</strong></td>
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<td>General Capital Fund - 40000 - 49999</td>
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<td>Prior Year's Unexpended Appropriation</td>
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<td><strong>Total Capital Project Funds</strong></td>
<td>88,914,400</td>
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<td><strong>(5) Permanent Funds</strong></td>
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<td>Permanent Fund - 71000 - 71999</td>
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<tr>
<td>Various Departments</td>
<td>50,000</td>
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<tr>
<td>Total Permanent Fund</td>
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<td><strong>TOTAL GOVERNMENTAL FUND</strong></td>
<td>528,686,700</td>
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<td>PROPRIETARY FUND TYPE</td>
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<td><strong>(6) Enterprise Funds</strong></td>
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<tr>
<td>Aviation Operating Fund - 51000 - 51005</td>
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<tr>
<td>3200-9990 Department of Aviation Expenses</td>
<td>32,131,700</td>
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<td>Transfers Out</td>
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<td>36,040,600</td>
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<td><strong>Total Aviation Operating Fund</strong></td>
<td>36,040,600</td>
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<tr>
<td>Aviation Capital Fund - 51006 - 52999</td>
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<td>Various Capital Projects</td>
<td>20,862,000</td>
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<td>5,280,600</td>
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<td>Total</td>
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<td>Fund</td>
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<td>-------------------------------------------</td>
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<tr>
<td><strong>Water Operating Fund - 53000, 53997 and 53998</strong></td>
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<td>2300 Dept. of Planning, Neighborhoods &amp; Development</td>
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<td>3400 Department of Water - 3400 and 9970 Expenses</td>
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<td></td>
<td>8,500,000</td>
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<td>5300 Department of Finance</td>
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<td><strong>Water Capital Fund - 53001 - 53996</strong></td>
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<tr>
<td>Various Capital Projects</td>
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<td></td>
<td>Total 31,000,000</td>
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<tr>
<td>Prior Year's Unexpended Appropriation</td>
<td>27,609,400</td>
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<td>Total Water Capital Fund 58,609,400</td>
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<tr>
<td><strong>Sanitary Sewer Operating Fund - 55000</strong></td>
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<tr>
<td>3400 Department of Water - 3400 and 9970 Expenses</td>
<td>36,911,800</td>
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<tr>
<td></td>
<td>6,925,000</td>
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<td>Total 43,836,800</td>
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</tr>
<tr>
<td></td>
<td>Total Sanitary Sewer Operating Fund 43,836,800</td>
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<tr>
<td><strong>Sanitary Sewer Capital Fund - 55001 - 55999</strong></td>
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<tr>
<td>Various Capital Projects</td>
<td>6,925,000</td>
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<td></td>
<td>Total 6,925,000</td>
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<td>Prior Year's Unexpended Appropriation</td>
<td>41,121,100</td>
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<td></td>
<td>Total Sanitary Sewer Capital Fund 48,046,100</td>
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<tr>
<td><strong>Storm Water Operating Fund - 58000</strong></td>
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<tr>
<td>3400 Department of Water - 3400 and 9970 Expenses</td>
<td>5,772,200</td>
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<tr>
<td></td>
<td>1,000,000</td>
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<tr>
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<td>Total 6,772,200</td>
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<tr>
<td>6400 Department of Public Works Expenses</td>
<td>1,471,600</td>
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<td>163,700</td>
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<td>Total 1,635,300</td>
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<td></td>
<td>Total Storm Water Operating Fund 8,407,500</td>
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<tr>
<td><strong>Storm Water Capital Fund - 58001 - 58999</strong></td>
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<tr>
<td>Various Capital Projects</td>
<td>1,163,700</td>
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<td></td>
<td>Total 1,163,700</td>
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<tr>
<td>Prior Year's Unexpended Appropriation</td>
<td>6,066,100</td>
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<td></td>
<td>Total Storm Water Capital Fund 7,229,800</td>
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<td><strong>Golf Capital Fund - 59001</strong></td>
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<tr>
<td>Various Capital Projects</td>
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<tr>
<td></td>
<td>Total 0</td>
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</tr>
<tr>
<td>Prior Year's Unexpended Appropriation</td>
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<tr>
<td></td>
<td>Total 0</td>
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</tr>
<tr>
<td></td>
<td>Total Storm Water Capital Fund 44,800</td>
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<tr>
<td><strong>Total Enterprise Funds</strong></td>
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<tr>
<td></td>
<td>320,999,300</td>
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</tbody>
</table>
(7) Internal Service Funds

Fleet Management Fund - 61000
6400  Department of Public Works  8,217,700
      Total Fleet Management Fund  8,217,700

Document Management Services Fund - 62100
5500  Department of Central Services  531,300
      Total Stores and Reproduction Fund  531,300

Healthcare Self Insurance - 63000
5600  Department of Human Resources  35,776,200
      Total Healthcare Self Insurance Fund  35,776,200

Workers' Compensation Fund - 65000
5600  Department of Human Resources  4,977,600
      Total Workers' Compensation Fund  4,977,600

Plumbing Shop - 66000
6400  Department of Public Works  612,400
      Total Plumbing Shop  612,400

Fire Fleet Management - 67000
6330  Department of Fire  1,578,800
      Total Fire Fleet Management Fund  1,578,800

Total Internal Service Funds  51,694,000

TOTAL PROPRIETARY FUND  372,693,300

TOTAL ALL OPERATING FUNDS  901,380,000

Section 2. That the City Manager is authorized to advance up to One Million Dollars and Zero Cents ($1,000,000.00) from the General Fund to HUD Non-Operating Programs due to timing of grant agreements.

Section 3. That the City Manager is authorized to transfer funds in the amounts set forth in Section 1 and as described below:

<table>
<thead>
<tr>
<th>GOVERNMENTAL FUND TYPE</th>
<th>2022 Transfers Out</th>
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</thead>
<tbody>
<tr>
<td>(1) General Fund - 10</td>
<td></td>
</tr>
<tr>
<td>From</td>
<td>To</td>
</tr>
<tr>
<td>10000-6200  Police</td>
<td>16999-2300  Special Projects</td>
</tr>
<tr>
<td>10000-6400  Public Works</td>
<td>40000-6400  Capital</td>
</tr>
<tr>
<td>10000-9980  Non-Departmental</td>
<td>16999-2700  Special Projects</td>
</tr>
<tr>
<td></td>
<td>16999-5600  Special Projects</td>
</tr>
<tr>
<td>From</td>
<td>To</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>28999-1400</td>
<td>Miscellaneous Grants</td>
</tr>
<tr>
<td>26999-2300</td>
<td>CDBG Operating</td>
</tr>
<tr>
<td><strong>Subtotal Transfers Out 10000</strong></td>
<td></td>
</tr>
<tr>
<td>13000-6550</td>
<td>Community Golf</td>
</tr>
<tr>
<td></td>
<td>40000-6550</td>
</tr>
<tr>
<td><strong>Subtotal for Community Golf</strong></td>
<td></td>
</tr>
<tr>
<td>16999-2600</td>
<td>Special Projects</td>
</tr>
<tr>
<td></td>
<td>31100-5300</td>
</tr>
<tr>
<td></td>
<td>65000-5600</td>
</tr>
<tr>
<td><strong>Issue 9 - General Fund - 10001</strong></td>
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<tr>
<td>10001-9980</td>
<td>Non-Departmental</td>
</tr>
<tr>
<td></td>
<td>40000-6400</td>
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<tr>
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<td>40000-6400</td>
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<tr>
<td><strong>Subtotal Transfers Out 10001</strong></td>
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<tr>
<td>75000-5300</td>
<td>Income Tax Fund</td>
</tr>
<tr>
<td></td>
<td>16999-2300</td>
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<td></td>
<td>40000-6400</td>
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<td></td>
<td>59000-6550</td>
</tr>
<tr>
<td><strong>Subtotal Transfers Out 75000</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Total General Fund Transfers Out** 18,187,700

(4) Capital Projects

| 40001-49999 | General Capital Fund | 31100-5300 | G.O. Debt | 337,000 |

**PROPRIETARY FUND TYPE**

(6) Enterprise Funds

<table>
<thead>
<tr>
<th>51000 and 51001-9960</th>
<th>Aviation Operating Fund</th>
<th>51002-52999-3200</th>
<th>Aviation Capital</th>
<th>3,908,900</th>
</tr>
</thead>
<tbody>
<tr>
<td>51002-52999-3200</td>
<td>Aviation Capital</td>
<td>51000-51000-3200</td>
<td>Aviation Operating</td>
<td>5,280,600</td>
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<tr>
<td>53000-9970</td>
<td>Water Operating Fund</td>
<td>53001-53996-3400</td>
<td>Water Capital</td>
<td>7,500,000</td>
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<td>53997-9970</td>
<td>Well Field Protection</td>
<td>53008-3470</td>
<td>Well Field Improvements</td>
<td>1,000,000</td>
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<td>55000-9970</td>
<td>Sanitary Sewer Operating Fund</td>
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<td>Sanitary Sewer Capital</td>
<td>6,925,000</td>
</tr>
<tr>
<td>From</td>
<td>To</td>
<td>2022 Transfers Out</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------</td>
<td>-------------------</td>
<td>--------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Storm Water</td>
<td>Storm Water</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating Fund</td>
<td>Operating Fund</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>58000-9970</td>
<td>58001-58999-3400</td>
<td>1,163,700</td>
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<tr>
<td>Total Enterprise Fund Transfers Out</td>
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<tr>
<td>TOTAL ALL FUNDS</td>
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<td>44,302,900</td>
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</tr>
</tbody>
</table>

Section 4. That all books of accounts, warrants, orders, vouchers, and other official documents that refer to any appropriation shall identify the fund from which monies are appropriated or drawn by the code number set forth in the detailed budget.

Section 5. That the temporary appropriations made by Ordinance Number 31945-21, which was approved by the Commission on December 8, 2021, shall be considered as part of and charged against the sum appropriated for the same purpose by this Ordinance.

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

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

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
February 8, 2022

TO: Shelley Dickstein, City Manager

FROM: Diane T. Shannon, Director
       Department of Procurement, Management & Budget

SUBJECT: 2022 Original Appropriation Ordinance

Attached for your review and submission to the City Commission is the 2022 Original Appropriation Ordinance. Overall, the original appropriation totals $901.4 million. We are requesting the first reading on February 16 and the second reading and City Commission approval on February 23, as a non-emergency ordinance. The appropriation will take effect on March 25, 2022.

The appropriation ordinance reflects the budget as presented and discussed with the City Commission during the two budget work sessions held in November and December and as reflected in the 2022 Budget Resolution and Temporary Appropriation with modifications summarized below.

1. The original General Fund appropriation of $224.5 million reflects an increase of $4.2 million itemized below:
   - An increase of $104,000 in Planning, Neighborhoods & Development for carrying costs related to 34 N. Main Street and a short-term rental study with Granicus
   - $2.6 million increase in the Development Fund covers a $71,500 payoff of the Levitt loan and $2.5 million for emergency repairs to the Centre City building to protect the health and safety of the public
   - $1.5 million in 2021 carry-over budget for development activities

2. An increase of $29,000 in Street Maintenance for radio user fees.

3. An increase of $1.7 million to Continuum of Care to reflect the 2022 Action Plan.

4. CDBG Non-Operating increases by $3.4 million reflecting COVID-19 supplemental funding.

5. The Local Fiscal Recovery Fund increases $25.2 million, reflecting the declared 2020 revenue replacement funds that are flexible in use and may be used for any governmental service.
6. An increase of $1.3 million in the Other Special Revenue category covers the $1.0 million original budget for the payment of the City’s Hotel/Motel Tax collections to the Convention Facilities Authority (CFA), along with budgets for the Community Paramedicine and Regional Medical Response System that were inadvertently omitted from the Temporary Appropriation.

7. General Capital increases by $13.9 million reflecting various 2021 year-end transfers, including $5.0 million in G.O. debt issuance for planned improvements at the former Parkside Homes site (Kettering Field).

8. Water Operating transfers out increase by $1.0 million to fund capital improvement projects approved by the Wellfield Board. Water Capital funds increase by a like amount.

9. The 2022 original appropriation includes the current year appropriation along with the prior year’s unexpended appropriation balance for all non-operating and capital funds. The temporary budget, adopted in December of 2021, included the 2022 current year appropriation only and did not include any carry-over budget. The prior year’s unexpended appropriation balance (carry-over budget) adjustments are listed below.

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<th>Carry-Over</th>
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<td>254,000</td>
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<td>Emergency Solutions</td>
<td>2,320,600</td>
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<tr>
<td>Continuum of Care</td>
<td>2,176,500</td>
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<tr>
<td>CDBG Non-Operating</td>
<td>9,866,800</td>
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<tr>
<td>HOME Non-Operating</td>
<td>5,427,200</td>
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<tr>
<td>Miscellaneous Grants</td>
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<tr>
<td>Local Fiscal Recovery</td>
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<tr>
<td>Other Special Revenue</td>
<td>1,370,300</td>
</tr>
<tr>
<td>General Capital</td>
<td>50,828,400</td>
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<tr>
<td>Aviation Capital</td>
<td>22,193,400</td>
</tr>
<tr>
<td>Water Capital</td>
<td>27,609,400</td>
</tr>
<tr>
<td>Sewer Capital</td>
<td>41,121,100</td>
</tr>
<tr>
<td>Storm Water Capital</td>
<td>6,066,100</td>
</tr>
<tr>
<td>Golf Capital</td>
<td>44,800</td>
</tr>
<tr>
<td><strong>Total Carry-Over Budget</strong></td>
<td><strong>$228,536,900</strong></td>
</tr>
</tbody>
</table>

Please let me know if you have any questions or require additional information.

DTS/sb

Attachment

cc: Mr. Parlette, Ms. Lofton, M&B Staff
<table>
<thead>
<tr>
<th>Fund</th>
<th>Dept.</th>
<th>Description</th>
<th>Purpose</th>
<th>Approved Amount</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>10000</td>
<td>PND</td>
<td>C&amp;M Budget Increase</td>
<td>34 N. Main Street</td>
<td>104,000</td>
<td>Carrying costs for 34 N. Main held by the Land Bank.</td>
</tr>
<tr>
<td>10000</td>
<td>Non-Departmental</td>
<td>C&amp;M Budget Decrease</td>
<td>To increase transfers out</td>
<td>(62,000)</td>
<td>Add $29,000 for short term rental study with Granicus</td>
</tr>
<tr>
<td>10000</td>
<td>Non-Departmental</td>
<td>Transfers Out Increase</td>
<td>CDBG Indirect cost expenses</td>
<td>62,000</td>
<td>To cover the Indirect Cost expense.</td>
</tr>
<tr>
<td>10000</td>
<td>Public Works</td>
<td>C&amp;M Budget Decrease</td>
<td>Security Camera project</td>
<td>(50,000)</td>
<td>Move funds to capital fund.</td>
</tr>
<tr>
<td>10000</td>
<td>Public Works</td>
<td>Transfers Out Increase</td>
<td>To move funds to Capital Project</td>
<td>50,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total #</strong></td>
<td><strong>Total #</strong></td>
<td><strong>Total General Fund</strong></td>
<td></td>
<td>$ 104,000</td>
<td></td>
</tr>
<tr>
<td>16300</td>
<td>PND</td>
<td>Transfers Out Increase</td>
<td>2021 Levitt Loan paid-in-full</td>
<td>71,500</td>
<td>Early pay-off of Levitt Loan</td>
</tr>
<tr>
<td>16301</td>
<td>PND</td>
<td>C&amp;M Budget Increase</td>
<td>Centre City health and safety improvements</td>
<td>2,500,000</td>
<td>Structural improvements for health and safety with expectation of redevelopment</td>
</tr>
<tr>
<td>21000</td>
<td>Public Works</td>
<td>C&amp;M Budget Increase</td>
<td>Radio user fees</td>
<td>29,000</td>
<td>Fees now assigned to Departmental budgets</td>
</tr>
<tr>
<td>22519</td>
<td>Finance</td>
<td>Original Budget</td>
<td>Convention Facilities Authority</td>
<td>1,000,000</td>
<td>Hotel/Motel Tax payments to CFA per agreement</td>
</tr>
<tr>
<td>22211</td>
<td>Fire</td>
<td>Original Budget</td>
<td>Community Paramedicine</td>
<td>243,800</td>
<td>Original budget omitted in Temporary Appropriation</td>
</tr>
<tr>
<td>22210</td>
<td>Fire</td>
<td>Original Budget</td>
<td>Regional Medical Response System</td>
<td>75,700</td>
<td>Original budget omitted in Temporary Appropriation</td>
</tr>
<tr>
<td>25529</td>
<td>PND</td>
<td>Original Budget</td>
<td>Shelter Plus Action plan budget</td>
<td>1,713,500</td>
<td>Original budget omitted in Temporary Appropriation</td>
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<tr>
<td>26210</td>
<td>PND</td>
<td>Original Budget</td>
<td>CDBG-CV budget</td>
<td>3,388,200</td>
<td>Original budget omitted in Temporary Appropriation -- supplemental COVID-19 funding</td>
</tr>
<tr>
<td><strong>Total #</strong></td>
<td><strong>Total #</strong></td>
<td><strong>Total Special Revenue</strong></td>
<td></td>
<td>$ 6,440,200</td>
<td></td>
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<tr>
<td>29001</td>
<td>Non-Departmental</td>
<td>Original Budget</td>
<td>Original Budget</td>
<td>$ 25,165,700</td>
<td>2020 Revenue Replacement flexible funds</td>
</tr>
<tr>
<td>40000</td>
<td>General Capital</td>
<td>Original Budget</td>
<td>Various Capital Projects</td>
<td>$ 25,165,700</td>
<td></td>
</tr>
<tr>
<td><strong>Total #</strong></td>
<td><strong>Total #</strong></td>
<td><strong>Total Capital Projects Fund</strong></td>
<td></td>
<td>$ 13,905,900</td>
<td>Original budget associated with debt and year-end transfers</td>
</tr>
<tr>
<td>53997</td>
<td>Water Operating</td>
<td>Increase Transfers Out</td>
<td>Fund Capital Improvement Projects</td>
<td>$ 1,000,000</td>
<td>To fund Capital Improvement projects in Wellfield</td>
</tr>
<tr>
<td>53008</td>
<td>Water Capital</td>
<td>Original Budget</td>
<td>Fund Capital Improvement Projects</td>
<td>$ 1,000,000</td>
<td>To fund Capital Improvement projects in Wellfield</td>
</tr>
<tr>
<td><strong>Total #</strong></td>
<td><strong>Total #</strong></td>
<td><strong>Total Water Capital Fund</strong></td>
<td></td>
<td>$ 1,000,000</td>
<td></td>
</tr>
<tr>
<td><strong>Grand Total All Funds</strong></td>
<td></td>
<td><strong>Grand Total All Funds</strong></td>
<td></td>
<td>$ 50,197,300</td>
<td></td>
</tr>
<tr>
<td><strong>2021 Carryover Budget</strong></td>
<td></td>
<td><strong>2021 Carryover Budget</strong></td>
<td></td>
<td>$ 228,536,900</td>
<td></td>
</tr>
<tr>
<td><strong>Grand Total All Funds</strong></td>
<td></td>
<td><strong>Grand Total All Funds</strong></td>
<td></td>
<td>$ 278,734,200</td>
<td></td>
</tr>
</tbody>
</table>
A RESOLUTION

Approving the Submission of a Grant Application to the Ohio Public Works Commission Clean Ohio Conservation Fund Grant Application; Authorizing the Acceptance of Ohio Public Works Commission Clean Ohio Conservation Fund Grant Application, and Declaring an Emergency.

WHEREAS, The State of Ohio through the Ohio Public Works Commission administers financial assistance for Riparian repair to Wolf Creek; and

WHEREAS, The City’s request is based upon an analysis of unmet infrastructure needs and contingent upon an approved grant application submitted to the District 4 Public Works Integrating Committee; and

WHEREAS, Participation in these programs requires the availability of matching funds as spelled out in the application to abide by all procedures as noted in the Standing Rules with matching funds of proposed project not to exceed Four Hundred Thousand Dollars and Zero Cents ($400,000.00) in order to secure One Million Four Hundred Thousand Dollars and Zero Cents ($1,400,000.00) in grant funding to cover fiscal year 2023; and

WHEREAS, The City of Dayton is located within the area covered by the District 4 Public Works Integrating Committee and is entitled to apply singly or jointly for these funds for necessary improvements; and

WHEREAS, Section 36.10 of the Revised Code of General Ordinances of the City of Dayton authorizes the City Manager to submit grant applications on behalf of the City of Dayton; and

WHEREAS, The submission date of the grant application is February 24, 2022, therefore it is necessary for the immediate preservation of the public peace, property, health, and safety that this resolution take effect at an early date; now, therefore,

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

SECTION 1. That this Commission approves the City Manager’s submission of a grant application and supporting documents to the District 4 Public Works Integrating Committee for participation in the Green Space Conservation Program.

SECTION 2. That the City Manager is authorized to execute any and all documents and agreements on behalf of the City of Dayton, which are necessary to accept grant awards in an amount not to exceed One Million Four Hundred
January 27, 2022

TO: Shelley Dickstein  
   City Manager

FROM: Joseph Weinel, Chief Engineer  
   Division of Civil Engineering

SUBJECT: Resolution for Clean Ohio Conservation Grant Application

Attached are an original and a copy of a Resolution approving the submission of a grant application to the Ohio Public Works Commission District 4 Integrating Committee for Program Year 16 for the Wolf Creek Stream Restoration Project. The Resolution must be approved by the Dayton City Commission and be included with the project applications, which are due February 24, 2022. Please present this Resolution to the City Commission at its February 9, 2022 meeting as an Emergency (two readings at one meeting). The Department of Law has reviewed and approved this document as to form.

The proposed restoration project will address significant existing degradation of the stream channel represented by steep, eroding channel banks along the left descending bank of the channel.

The project submittal has been approved by the Transportation Policy Committee.

If you have any questions, please contact me at 4218.

JRW

Attachments

Cc: Mr. Parlette  
Ms. Lofton  
Mr. Stovall
A RESOLUTION

Authorizing the City Manager to Accept Funding from the Montgomery County Land Reutilization Corporation in the Maximum Amount of Sixty-Two Thousand Five Hundred Dollars and Zero Cents ($62,500.00) on Behalf of the City of Dayton, Ohio, and Declaring an Emergency.

WHEREAS, The Montgomery County Land Reutilization Corporation ("MCLRC") facilitates the reclamation, rehabilitation and reutilization of vacant, abandoned, tax-foreclosed or other real property within the County; and,

WHEREAS, MCLRC has developed a Planning Grant Program to further the development of plans and strategies within communities to guide redevelopment efforts; and,

WHEREAS, The City of Dayton ("City") and MCLRC desire to enter into a Grant Agreement ("Grant Agreement"), a form of which is attached to and incorporated into this Resolution as Exhibit A, whereby MCLRC has agreed to provide the City with a maximum grant amount of Sixty-Two Thousand Five Hundred Dollars and Zero Cents ($62,500.00) to fund planning activities in the Westwood Neighborhood of Dayton; and,

WHEREAS, This Commission of the City of Dayton ("Commission") finds it in the best interest of the City to accept this award of grant funding; and,

WHEREAS, To provide for the timely acceptance of the grant funds and for the immediate preservation of the public property, health and safety, and the usual operations of City departments, it is necessary that this Resolution take effect immediately; now, therefore,

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

Section 1. That the City Manager, or her designee, is authorized and directed to execute any and all documents, including the Grant Agreement attached as Exhibit A, on behalf of the City, which are necessary to accept an amount of Sixty-Two Thousand Five Hundred Dollars and Zero Cents ($62,500.00) from MCLRC.

Section 2. For the reasons stated in the preamble hereof, the Commission declares this Resolution to be an emergency measure which shall take effect immediately upon its adoption.

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

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

ATTEST:

Clerk of Commission

APPROVED AS TO FORM:

City Attorney

Mayor of the City of Dayton, Ohio
February 2, 2022

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

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

SUBJECT: Resolution for the Acceptance of a Planning Grant from the Montgomery County Landbank

The Department of Planning, Neighborhoods & Development recommends the passage of the attached Resolution for the acceptance of funds in the amount of $62,500.00 for the purpose of the development of a neighborhood plan for Westwood. PND will utilize professional services from a qualified vendor to develop the plan and engage with residents and stakeholders. Vendor selection will occur through a competitive Request for Proposals process.

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

TK/hrb

Attachments

C: Mr. Musto; Mr. Kroeger; Ms. Browning; file
MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION
PLANNING GRANT AGREEMENT

THIS AGREEMENT is entered into as of ________________, 2022, by and between
MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION, an Ohio corporation
for non-profit, having an address of 130 West Second Street, Dayton, Ohio ("MCLRC"), and The
City of Dayton, MONTGOMERY COUNTY, OHIO ("Participant").

WITNESSETH:

WHEREAS, in August of 1961, O.R.C. Section 1724.01 became effective and provided
for the establishment of county land reutilization corporations for the purpose of facilitating the
reclamation, rehabilitation and reutilization of vacant, abandoned, tax-foreclosed or other real
property within the county for whose benefit the corporation is organized for the purpose of
promoting economic and housing development in the county; and

WHEREAS, pursuant to O.R.C. Section 1724.02, MCLRC has, among other powers, the
power to do all acts and things necessary or convenient to carry out the purposes of O.R.C. Section
1724.01; and

WHEREAS, MCLRC has developed a Planning Grant Program to further the development
of plans and strategies within the communities to guide their redevelopment efforts; and

WHEREAS, Participant has requested that MCLRC extend funds for use by Participant to
develop a plan (the "Project") with respect to property within Participant's community and located
in Montgomery County, Ohio and more particularly identified and described in "Attachment A"
to this Agreement (the "Project Area"); and
WHEREAS, MCLRC and Participant are desirous of mutually cooperating to complete the Project on the terms and conditions stated in this Agreement, and for the purposes provided in “Attachment A”; and

WHEREAS, Participant has sufficient management capability needed to assume the primary administration of the Project, and agreed to involving the MCLRC in its efforts; and

WHEREAS, in light of the foregoing, MCLRC is willing to extend grant funds to Participant for the Project on the terms and conditions stated in this Agreement; and

WHEREAS, on December 21, 2021, by approved motion, MCLRC’s Board of Directors (the “Board”) approved a grant to Participant in the amount of $50,000.00 (the “Grant Funds”), from the Land Bank Fund, to provide funding support for the Project; and

WHEREAS, MCLRC’s Executive Director (the “Director”) has authority to enter into agreements with Participant on behalf of MCLRC for the purpose of extending grants for use in connection with the Project.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements stated in this Agreement, the parties to this Agreement, with the intent to be legally bound, agree as follows:

1. MCLRC agrees to extend to Participant a grant (the “Grant”) in the total principal sum of Fifty-Thousand Dollars ($50,000.00) (the “Grant Funds”), which Participant agrees to use solely and exclusively for developing a plan for the Project Area. No funds will be provided to reimburse the expenses associated with Participant’s staff or its services in support of the Project. Participant will assume the responsibility for administering the Project and will complete the same within one year following the approval of the grant by the MCLRC Board of Directors, unless
provided otherwise by its Director, and in compliance with all applicable legal requirements.

Before awarding the contract for the Project, Participant will provide to MCLRC both the Request for Proposal issued for the Project and an explanation of the Participant’s basis for selecting the contractor. MCLRC will have the right to approve the contractor prior to Participant’s award, which approval shall not be unreasonably withheld. Participant further agrees that it will certify the total costs of the Project, including the amount of the MCLRC Grant Funds required in connection with the Project, which shall be submitted with supporting documentation to MCLRC for reimbursement. Participant will for five years following the award of the grant provide written notice annually (January) to the MCLRC of the status of the Project’s development and / or the implementation thereof.

2. Upon the parties’ signature of this Agreement, MCLRC agrees to provide to Participant the full amount of the Grant Funds on a reimbursement basis, which shall be matched by Participant in an amount equal to twenty-five percent (25%) of the cost of the Project. These matching funds have been provided to the MCLRC by Key Bank and participant shall be reimbursed up to $62,500. Participant agrees to deliver to MCLRC copies of invoices, checks, bills and other supporting documentation detailing the work that has been completed as of the date of the reimbursement request, and documentation supporting the amount of monies expended by Participant in the furtherance of the Project. The detail in these statements will include the date of each expenditure, name of the persons or businesses paid, goods or services for which payment was made, and any other information reasonably requested by the Director. Upon completion of
the Project, Participant will deliver to the Director a report certifying Participant's expenditures for the total Project.

3. The Grant Funds are to be used solely for the development of a plan. If MCLRC determines that any portion of the Grant Funds were used for any purpose other than for the Project and in accordance with this Agreement, then Participant will repay MCLRC the amount improperly expended within fourteen (14) calendar days after written notice to it by MCLRC that such an improper expenditure has occurred. MCLRC will state in the notice the amount that it believes has been misapplied.

4. Participant agrees that it will maintain all documentation, financial records and other evidence of activities related to the Project, consistent with the records retention requirements of the Ohio Revised Code, for a period of four (4) years after the completion or termination of the Project. After this four (4) year retention period, Participant must notify MCLRC, in writing, of its intent to destroy said records. MCLRC reserves the right to extend the retention period for such records, and if it decides to do so, it will notify Participant in writing. Otherwise, MCLRC will issue to Participant a written Certificate of Records Disposal, it being understood that no records in Participant's possession will be destroyed until Participant has received a Certificate of Records Disposal. Participant also agrees to notify persons or business entities with which it does business in the prosecution of the work comprising the Project of the fact that such person or business entity is receiving public funds and that such funds may be audited by the County Auditor or the State Auditor even though they have been received by a private person or business entity.
5. Under no circumstances will MCLRC be responsible or liable to any person or business for, or on account of, any disbursement of, or failure to disburse, the Grant Funds or any part thereof, and no contractor, subcontractor, vendor, material supplier, laborer or other party will have a right or claim against MCLRC under this Agreement or in connection with the administration of the Grant.

6. MCLRC will have no duties or obligations whatsoever in connection with the work to be performed pursuant to this Agreement and will have no other obligations except to reimburse the Grant Funds subject to and in accordance with the terms and conditions of this Agreement. MCLRC will not be responsible for the performance or default by Participant or any contractor, subcontractor, vendor, material supplier or other party and will not be responsible in any manner with respect to the completion, protection or correction of any work performed as part of the Project or the payment of any costs or expenses incurred in connection with the Project or any other obligations of Participant. Except as expressly stated in this Agreement, nothing in this Agreement or otherwise will be construed as any warranty or representation of any kind by MCLRC with respect to the Project or otherwise.

7. The parties agree that this Agreement will not be assigned by Participant.

8. During the performance of this Agreement, Participant will not discriminate against any employee or applicant for employment, or any person or business entity considered for engagement by Participant in connection with the Project, because of race, color, religion, sex, national origin, ancestry, handicap, age, political belief or place of birth. Participant will ensure that applicants are employed, that employees are treated during employment and that persons and
businesses engaged in the Project are treated, without regard to race, color, religion, sex, national origin, ancestry, handicap, age, political belief or place of birth. Such action will include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Participant and all persons claiming through Participant agree not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this Agreement, or in reference to any contractors or subcontractors of said Participant.

9. No remedy provided in this Agreement is exclusive of any other available remedy or remedies, but each is cumulative and in addition to every other remedy given to MCLRC under this Agreement or now or hereafter existing at law or in equity.

10. No delay or omission of MCLRC in exercising or enforcing any of its rights, powers, privileges, discretion or remedies will constitute a waiver thereof, and no waiver by MCLRC of any default of Participant under this Agreement will operate as a waiver of any other default. No term or provision of this Agreement will be waived except with the prior written consent of MCLRC.

11. If any term or provision of this Agreement or the application thereof to any entity, person or circumstance is held by a court of competent jurisdiction to be invalid, unenforceable or illegal, then the remainder of this Agreement, or the application of such term or provision to entities, persons or circumstances other than those as to which it is held invalid, unenforceable or
illegal, will not be affected thereby, and each remaining term and provision of this Agreement will be valid and enforceable to the fullest extent permitted by law.

12. This Agreement contains the entire agreement of the parties with respect to the subject matter addressed in this Agreement. This Agreement will supersede all previous communications, representations or agreements, either written or oral, between the parties to this Agreement. This Agreement will not be modified in any manner except by an instrument, in writing, signed by the parties to this Agreement and approved by proper Resolution of the parties, if necessary.

13. This Agreement and any modifications, amendments, or alterations, are governed, construed, and enforced under the laws of the State of Ohio.

14. The signatures to this Agreement will act as express representations that the signing agents are authorized to bind their respective principals to all rights, duties, remedies, obligations and responsibilities incurred by way of this Agreement.

[Signature page follows immediately]
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first stated above.

CITY OF DAYTON, OHIO

__________________________
City Manager

MONTGOMERY COUNTY LAND REUTILIZATION CORPORATION

E-SIGNED by Michael Grauwelman
By: ________________________ on 2022-01-27 14:18:36 GMT

Title: Michael J. Grauwelman
Executive Director

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

__________________________ , 2022

Min. / Bk. _______ Pg. _________

APPROVED AS TO FORM AND CORRECTNESS:
1/25/2022

X John Musto for
City Attorney

Signed by: Musto, John