CITY COMMISSION MEETING AGENDA

CITY COMMISSION          DAYTON, OHIO          APRIL 21, 2021

6:00 P.M.

I. AGENDA SCHEDULE

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

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

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

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

1. Purchase Orders:

   CITY COMMISSION OFFICE
   A1. Ohio Newspapers, Inc. dba Dayton Daily News (legal publication services as needed through 12-31-21) $6,000.00
1. (Cont’d):

**LAW**

B1. Benesch, Friedlander, Coplan & Aronoff LLP (professional legal services as needed through 12-31-21) $60,000.00

**POLICE**

C1. Vance Outdoors, Inc. (tasers and laser equipment) 39,488.22

**PUBLIC WORKS**

D1. Reliable Transmission Service Midwest, Inc. (parts supplied and labor to repair heavy equipment transmission as needed through 12-31-21) 15,000.00

D2. Rush Truck Centers of Ohio, Inc. (truck parts supplies and related items as needed through 12-31-21) 10,000.00

D3. Van Martin Windows & Roofing LLC (roofing maintenance as needed through 12-31-21) 10,000.00

**WATER**

E1. Bulk Transit Corp. (bulk pebble lime hauling as needed through 12-31-25) 670,000.00

-Depts. of Law, Police, Public Works, Water and the City Commission Office.

Total: $810,488.22

II. LEGISLATION:

Emergency Ordinances – First and Second Reading:

2. **No. 31879-21** Approving the Amended Rules and Regulations of the City of Dayton, Ohio Environmental Advisory Board, and Declaring an Emergency.

3. **No. 31880-21** Establishing a Cap on the Fee That Third Parties Can Charge to Restaurants Located in the City of Dayton for Delivering Food Which Cap Shall be no More than 15% of the Total Food Cost Charged by the Restaurant to the Customer, in Order to Protect the Viability of Restaurants Which are Essential to the Health and Well-Being of City Residents and the City’s Economy and Further Prohibiting a Reduction in Compensation for Food Delivery Drivers as a Result of this Cap, and Declaring an Emergency.
4. **No. 31881-21** Authorizing the Sale of Real Estate Located near the Northeast Corner of East First at North Patterson Boulevard to Dayton Lincoln Acquisition, LLC, an entity of Crawford Hoying and Woodard Resources, for a Public Purpose, and Declaring an Emergency.

**Emergency Resolution – First and Second Reading:**

5. **No. 6571-21** Approving the Submission of a Grant Application for the Fiscal Year 2022 Ohio Airport Grant Program to the Ohio Department of Transportation, Office of Aviation; Authorizing the Acceptance of a Grant from the State of Ohio Department of Transportation, Office of Aviation in an Amount Not to Exceed Five Hundred Thousand Dollars and Zero Cents ($500,000.00) on behalf of the City of Dayton; and Declaring an Emergency.

6. **No. 6572-21** Declaration of a Climate Emergency, including a Commitment to Renewable Resources, and Declaring an Emergency.

**Resolution – Second Reading**

7. **No. 6570-21** Honorarily Naming East Monument Avenue Between North Main Street and North Patterson Boulevard as “Det. Jorge Del Rio Way.”

**III. MISCELLANEOUS:**

**ORDINANCE NO.** 31882-21  
**RESOLUTION NO.** 6573-21  
**IMPROVEMENT RESOLUTION NO.** 3599-21  
**INFORMAL RESOLUTION NO.** 988-21
### 2021 Purchase Orders

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

**Description**

**CITY COMMISSION OFFICE**

(A1) **P0210517 – OHIO NEWSPAPERS, INC. dba DAYTON DAILY NEWS, DAYTON, OH**

- Legal publication services as needed through 12/31/2021.
- These services are required to provide public and legal notices for the City.
- This amendment increases the previously authorized amount of $10,000.00 by $6,000.00 for a total not to exceed $16,000.00 and therefore requires City Commission approval.
- 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>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-1200-1191-52</td>
<td>$6,000.00</td>
</tr>
</tbody>
</table>

**Signatures/Approval**

Approved by City Commission

Clerk

Date

Updated 06/2016
(B1) **P0210808 – BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP, CLEVELAND, OH**
- Professional legal services as needed through 12/31/2021.
- These services are to provide legal consultation and representation on behalf of the City related to distribution rates and electric aggregation.
- The law firm of Benesch, Friedlander, Coplan & Aronoff LLP is recommended based upon past proven 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>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-5200-1152-63</td>
<td>$60,000.00</td>
</tr>
</tbody>
</table>

**POLICE**

(C1) **P0210813 – VANCE OUTDOORS, INC., COLUMBUS, OH**
- Tasers and taser equipment.
- These goods are required to replace broken or expired tasers and taser equipment.
- Rates are in accordance with the State of Ohio Term Schedule Contract pricing #800551 and Index #STS847.
- The Departments 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>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6221-1301-71</td>
<td>$39,488.22</td>
</tr>
</tbody>
</table>

**PUBLIC WORKS – FLEET MANAGEMENT**

(D1) **P0210085 – RELIABLE TRANSMISSION SERVICE MIDWEST, INC., DAYTON, OH**
- Parts, supplies and labor to repair heavy equipment transmissions as needed through 12/31/2021.
- These goods and services are required to maintain the City’s fleet equipment.
- Reliable Transmission Service Midwest, Inc. is an authorized regional dealer for Allison brand transmissions with the capability to service heavy equipment; therefore, this purchase was negotiated.
- This amendment increases the previously authorized amount of $30,000.00 by $15,000.00 for a total not to exceed $45,000.00 and therefore requires City Commission approval.
- Reliable Transmission Service Midwest, Inc. qualifies as a Dayton local entity.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Fleet Management</td>
<td>61000-6470-1167-99</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>
PUBLIC WORKS – FLEET MANAGEMENT (CONTINUED)

(D2) P0210400 – RUSH TRUCK CENTERS OF OHIO, INC., VANDALIA, OH
- Truck parts, supplies and related items as needed through 12/31/2021.
- These goods are required to maintain and repair the City’s fleet equipment.
- Rush Truck Centers of Ohio, Inc. is recommended as the sole local distributor for International brand equipment; therefore, this purchase was negotiated.
- This amendment increases the previously authorized amount of $30,000.00 by $10,000.00 for a total not to exceed $40,000.00 and therefore requires City Commission approval.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Fleet Management</td>
<td>61000-6470-1167-99</td>
<td>$10,000.00</td>
</tr>
</tbody>
</table>

PUBLIC WORKS – PROPERTY MANAGEMENT

(D3) P0210368 – VAN MARTIN WINDOWS & ROOFING LLC, DAYTON, OH
- Roofing maintenance as needed through 12/31/2021.
- These goods are required to maintain roofs throughout the City’s facilities.
- Rates are in accordance with the City of Dayton’s existing price agreement IFP 20015N with pricing through 3/31/2024.
- This amendment increases the previously authorized amount of $10,000.00 by $10,000.00 for a total not to exceed $20,000.00 and therefore requires City Commission approval.
- Van Martin Windows & Roofing LLC qualifies as a Dayton local entity.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6480-1172-54</td>
<td>$10,000.00</td>
</tr>
</tbody>
</table>
WATER – WATER SUPPLY AND TREATMENT

(E1) P0210814 – BULK TRANSIT CORP. PLAIN CITY, OH

- Bulk pebble lime hauling as needed through 12/31/2021.
- These services are required to haul/deliver pebble lime from City facilities to various locations.
- Four (4) possible vendors were solicited and four (4) bids were received. This order establishes a price agreement per IFB 21013S with pricing through 3/31/2025.
- The Department of Water requests additional authority of $540,000.00 through 3/31/2025.
- The Department of Water recommends acceptance of the low bid(s). Multiple awards are recommended to ensure ongoing competition and supply availability.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Water Operating</td>
<td>53000-3430-1159-54</td>
<td>$130,000.00</td>
</tr>
<tr>
<td>2022</td>
<td>Water Operating</td>
<td>53000-3430-1159-54</td>
<td>$160,000.00</td>
</tr>
<tr>
<td>2023</td>
<td>Water Operating</td>
<td>53000-3430-1159-54</td>
<td>$160,000.00</td>
</tr>
<tr>
<td>2024</td>
<td>Water Operating</td>
<td>53000-3430-1159-54</td>
<td>$160,000.00</td>
</tr>
<tr>
<td>2025</td>
<td>Water Operating</td>
<td>53000-3430-1159-54</td>
<td>$60,000.00</td>
</tr>
</tbody>
</table>

The aforementioned departments recommend approval of these orders.
AN ORDINANCE

Approving the Amended Rules and Regulations of the City of Dayton, Ohio Environmental Advisory Board, and Declaring an Emergency.

WHEREAS, The public interest requires that the quality of the environment be protected, maintained, and improved; and

WHEREAS, The Environmental Advisory Board advises the City of Dayton on matters related to environmental quality of the City of Dayton; and

WHEREAS, The Environmental Advisory Board, subject to approval from the Commission, is required to adopt rules and regulations for its operation; and

WHEREAS, The Environmental Advisory Board has adopted amended rules and regulations for its operation and it is necessary for the immediate preservation of the public peace, property, health and safety that this ordinance approving those rules and regulations take effect at the earliest possible date; now, therefore,

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

Section 1. That this Commission hereby approves the amended Environmental Advisory Board’s Rules and Regulations, which are attached hereto and incorporated herein by references.

Section 2. 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...........APRIL 21................., 2021

SIGNED BY THE MAYOR.................APRIL 21................., 2021

Mayor of the City of Dayton, Ohio

ATTEST:

Clerk of Commission

APPROVED AS TO FORM:

City Attorney
April 12, 2021

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

FROM: Michael Powell, Director  
Department of Water

SUBJECT: EAB Amended Rules and Regulations

The Environmental Advisory Board (EAB) has updated its Rules and Regulations. The Rules and Regulations add provisions to increase the diversity of EAB members, update the way that correspondence is sent to board members, and provide additional details of procedure for appeals to the EAB.

Pursuant to R.C.G.O. §53.42, the EAB Rules and Regulations are subject to the approval of the Commission. This approval has always been accomplished by passing an ordinance approving the Rules and Regulations. Attached to this memorandum are the ordinance approving the Rules and Regulations, the proposed Rules and Regulations signed by the EAB, and a redlined version of the Rules and Regulations so that you can see precisely what is being changed.

Please feel free to contact Division of Environmental Management Division Manager Michele Simmons at Ext. 3796 or John Musto in the Law Department at Ext. 4116.

Attachments

c: Joe Parlette  
Aaron Zolin  
Michele Simmons  
John Musto
RULES AND REGULATIONS OF THE CITY OF DAYTON, OHIO
ENVIRONMENTAL ADVISORY BOARD

ARTICLE I. PURPOSE

The purpose of the Environmental Advisory Board ("Board") is to ensure the quality of the environment be protected, maintained, and improved; and to assure that the operations of the City of Dayton are not harmful to the environment. The Board serves as an advisor to the City Manager, the City Commission, City Departments, Boards, Regional Agencies, and citizens on matters related to the environmental quality of the City of Dayton, either in response to requests from the City or as a result of a need observed by the Board.

ARTICLE II. MEMBERSHIP

A. There shall be nine (9) members of the Board serving no more than nine (9) consecutive years on the Environmental Advisory Board. Any member of the Board who fails to attend three (3) consecutive meetings without communication of an explanation for the absence to the Chairperson shall be presumed to have resigned from membership on the Board and shall be notified of the presumption.

B. Associate Board Membership. At the option of the Board, Associate Board Members may be recruited from surrounding area colleges and universities. Associate Board Members shall be appointed by the Board and serve for a term of two years. Prospective appointees shall be recommended by representatives of institutions of higher education from the Dayton region. The Board shall select Associate Members based on their interest, expertise, creativity, and a demonstrated commitment to the resolution of environmental concerns. Associate Members contribute to the deliberations of the Board in a non-voting capacity and are not considered members for purposes of determining a quorum of the Board.

C. When filling future vacancies on the Board, the City will endeavor to solicit interest from residents who represent communities of color, and low-income neighborhoods, as well as advocates for environmental protection, energy and sustainability.

D. Those ineligible for membership shall include:

1. Those holding elective office in the City of Dayton
2. Individuals who have a substantial and continuing conflict of interest.

ARTICLE III. OFFICERS

The Board shall select, each year, one of its members to serve as Chairperson, another to serve as Vice Chairperson, and such other officers as the Board may deem appropriate for the implementation of its business. The term of office for each officer shall normally expire at the date of the first meeting of the Board in January, at which time new officers shall be elected by members of the Board.
ARTICLE IV. COMUNICATIONS

A. Board Spokesman. The normal spokesperson of the Board shall be its Chairperson, or, if the Chairperson is unavailable, its Vice Chairperson.

B. Personal Viewpoints. When any member of the Board is called upon to answer questions, make speeches, or to make other public communications connected with matters before the Board, the member of the Board should distinguish his or her personal viewpoints from the official action of the Board with the following guidelines:

1. A truthful statement of whether or not a particular subject has been under consideration by the Board may be made.

2. A statement of whether or not the Board has made a decision, or a recommendation may be made and the substance of the decision or recommendation may be disclosed; and

3. The Board member may make a statement of his own personal opinion of the subject matter but must be careful to differentiate his personal opinion from the decision or recommendation made by the Board.

ARTICLE V. MEETINGS

Board meetings shall be scheduled at a time and place convenient to the largest number of the members of the Board.

A. Frequency of Meetings: Meetings ordinarily will be held at least once a month. Special meetings will be held if the City Manager or a member of the City Commission requests a meeting, or the Board Chairperson calls a meeting to attend to a problem that cannot practically be deferred until the next scheduled meeting.

B. Agenda: An agenda shall be published for each meeting and sent electronically to members of the Board in advance of each meeting and to the Clerk of the City Commission, the City Manager, Directors of City Departments and Heads of Boards and Agencies, and to persons requesting same.

C. Minutes: Minutes shall be prepared for each meeting and circulated to all members of the Board prior to the meeting following the meeting for which the minutes were prepared.

D. Order of Business: Any member of the Environmental Advisory Board may discuss any matter that is before the Board and may bring any matter of the environmental quality concern to the attention of the Board at any meeting.

E. Outside Speakers: The City Manager, the representative of any City Department, or any member of the City Commission may speak at any meeting of the Environmental Advisory Board with the purpose of presenting a problem or requesting advice or assistance. People who
are not members of the Environmental Advisory Board may be invited to speak to the Environmental Advisory Board at its regular meetings or at special meetings. Any person may submit a written request to the Chairperson for permission to speak at a meeting of the Environmental Advisory Board. The Chairperson shall have the authority to approve or reject the request, or to approve the request with whatever conditions the Chairperson deems reasonable with regard to length of time for the presentation and definition of subject matter to be discussed. The Chairman shall report all such requests and his actions with regard to such requests to the Board which may overrule the Chairperson's decision by a majority vote.

F. Open Meetings: Every meeting of the Board shall be open to the public.

G. Quorum: Five members shall constitute a quorum at all meetings of the Board.

H. Notice of Meetings: The Board shall post notice of the time and place of its regular meetings on the City of Dayton’s website and shall issue a news release to all media that have requested notification of the meetings. For any meetings other than its regular meetings, the Board shall also issue a statement of the meeting’s purpose and post it on the website as well as include it in the news release. When requested, individuals can receive email notification of every meeting by filling out an application with the City of Dayton Office of Public Affairs.

ARTICLE VI. CONFLICT OF INTEREST

Membership in the Board does not constitute holding a public office under the provisions of Ohio Revised Code 102.01; nevertheless, no member of the Board shall participate in the discussion or in the decision-making process in any matter where he or she is aware of the fact that a financial, personal or professional interest creates a conflict of interest. If a member has a conflict of interest he or she is required to abstain from the discussion and voting and is encouraged to absent himself from the discussion. If a member has a question as to whether or not he or she has a conflict of interest, he may disclose the fact to the Board with the request for a decision on the question whether or not there is a conflict. Any member of the Board may raise by motion the question of whether or not another member of the Board has a conflict of interest which would preclude that member from participation in the discussion or decision-making process on any particular subject. The Board shall consider the motion and render a decision.

ARTICLE VII. AUTHORITY

A. R.C.G.O. Section 44.44 provides the Board with the power to call before it any officer or employee as the Board shall deem appropriate to provide information necessary for the exercise of its duties.

B. R.G.C.O. Section 53.23 provides the Board with jurisdiction over applications to exempt chemicals from the City of Dayton’s Source Water Protection Ordinance, R.C.G.O. Sections 53.01-53.99.

C. Pursuant to R.G.C.O. Section 53.42, the Board is given the authority to take appeals, investigate matters related to said appeals, deny, uphold, or otherwise modify or waive the Water Director's (the “Director”) actions on a case-by-case basis from Notices of Violation pursuant to Section
53.43; from assessments issued under Section 53.99; and from actions taken pursuant to Section 53.41.

ARTICLE VIII. EXEMPTIONS OF CHEMICALS PURSUANT TO R.C.G.O. 53.23

A. APPLICATION

An application for substance exemption pursuant to the requirements of the Dayton Source Water Protection Ordinance, R.C.G.O. Section 53.23, must be filed with the Chairperson, Environmental Advisory Board, 320 W. Monument Avenue, Dayton, Ohio 45402.

Every application for chemical exemption shall consist of a letter requesting the exemption of the substance(s) and be accompanied by the following:

1. Name of the substance and all chemical compounds.
2. State of substance: Solid, gaseous, liquid, or other form.
3. Safety Data Sheet (Globally Harmonized System of Classification and Labeling of Chemicals) or Material Safety Data Sheet.
4. Reason(s) why the substance should be exempted from the SWPP reporting.
5. Name, address, phone number, and e-mail address of applicant and a brief description of the applicant’s business.
6. Note: Additional information such as the following may be requested by the EAB:
   a. The rationale, addressing fate and transport pathways and potential risks to human health, natural resources and the environment, supporting the exemption of the chemical(s).
   b. A listing of all known combustion and incomplete combustion products of the substance(s).

B. INITIAL DETERMINATION OF EAB WATER COMMITTEE

The EAB’s Water Committee, conducting itself under these Rules and Regulations and Rules of the City Of Dayton, Ohio Environmental Advisory Board Water Committee, shall review the application and shall determine if the information provided in the application is sufficient or if additional information is necessary and/or useful for the exemption. If the EAB Water Committee determines that additional information is necessary or useful for the exemption, then the EAB Water Committee shall send a written request for additional information in order to evaluate the exemption. The review of the exemption shall not be continued until the applicant provides the EAB Water Committee with the requested information. Should the applicant fail to provide the requested information within sixty (60) days, the request shall be deemed abandoned, and the matter closed.

Once the EAB Water Committee is satisfied that the application is sufficient and it has the necessary information, it shall make an initial written recommendation to the Chairperson using the criteria listed below.

1. CRITERIA FOR DETERMINING AN EXEMPTION
A substance may only be exempted where it is proven by clear and convincing evidence that its solubility, toxicity, and products resulting from complete or incomplete combustion, degradation, and reaction pose no risk of adversely affecting groundwater. Areas of consideration include, but are not limited to:

a. Fate and transport pathway: The potential to move and/or change.
b. Health Risk.

In considering the risk, credible worst-case scenarios, such as fire, explosion, or chemical incident shall be considered. Substances that may react during a fire, explosion or chemical incident and that may ultimately enter the aquifer may not be exempted regardless of the potential hazards of the substance in and of itself. Additional relevant factors may be considered at the discretion of the Board.

2. REQUEST FOR A HEARING.

Notice of the recommendation of the EAB Water Committee will be sent by the Chairperson to the applicant as well as the Director of the Department of Water. If the EAB Water Committee recommends denying the exemption, the applicant shall have twenty (20) days from the date the Chairperson mails the written recommendation to submit a written request to the Chairperson for a hearing before the Board on the exemption. If the applicant fails to request a hearing within the twenty (20) day period, the applicant will be deemed to have waived its right to a hearing on the matter and the request for an exemption will be deemed denied.

If the applicant timely requests a hearing on the exemption or the EAB Water Committee recommends approval of the exemption, the matter will be scheduled for a hearing before the Board for a final determination on the exemption. The Chairperson shall schedule the hearing before the Board within sixty (60) days of the date the applicant requested the hearing, or a later time if agreed to by the applicant.

C. HEARING BEFORE THE BOARD

1. NOTICE

All hearings of the Board on exemptions shall be public and written notice stating the date, time and location of such hearing shall be sent at least fourteen (14) days in advance of such hearing to the applicant. Furthermore, the Board shall post notice of the hearing on the City of Dayton’s website. The notice shall state the applicant’s name and address; the name of the substance sought to be exempted; and the date, time, and location of the hearing. In addition, when requested, individuals can receive email notification of the hearing by filling out an application with the City of Dayton Office of Public Affairs.

2. PROCEDURE

Quorum for the hearing shall be five (5) members of the Board. The Board shall have full authority to control the procedure of the hearing, including the authority to admit or exclude testimony or other evidence and to rule upon all objections. In doing so, the Board shall not be
bound by the Rules of Evidence. The Board conducting the hearing shall have the authority to take any actions that it deems necessary and proper for the conduct of such hearing. All testimony shall be taken under oath or affirmation and shall be recorded by a certified stenographic reporter. The parties at the hearing shall be the Director of the Department of Water, represented by the City Attorney, and the applicant. All testimony shall be subject to cross-examination by the party against whom it is offered.

3. DECISIONS OF THE BOARD

The Board, after due consideration of the record, shall within thirty (30) days after the hearing issue a decision on the exemption. A concurring vote of the majority of the members of the Board shall be necessary to grant an exemption. In the event of a tie vote of the members of the Board, the exemption will be deemed denied. The decision of the Board shall be filed with the Chairperson, and the Chairperson shall serve copies of the decision upon the applicant and the Director. The decision of the Board shall be a final order and may be appealed either by the applicant or the City of Dayton, as provided by Ohio law.

D. REOPENING OF DECISION GRANTING EXEMPTION

1. NOTICE

If the Board after granting an exemption obtains new information establishing that the exempted substance does in fact pose a risk to groundwater, the Board has the authority to schedule a hearing to determine whether the exemption should remain. The Chairperson shall provide written notice to the applicant at its last known address describing the new information and providing 30-day’s notice of the scheduled hearing. Likewise, the Board shall post notice of the hearing on the City of Dayton’s website. The notice shall contain the time, date, and location of the hearing, along with the chemical substance at issue. When requested, individuals can receive email notifications of every hearing by filling out an application with the City of Dayton Office of Public Affairs.

2. PROCEDURE

Quorum for the hearing shall be 5 (five) members of the Board. The Board shall have full authority to control the procedure of the hearing, including the authority to admit or exclude testimony or other evidence and to rule upon all objections. In doing so, the Board shall not be bound by the Rules of Evidence. The Board conducting the hearing shall have the authority to take any actions that it deems necessary and proper for the conduct of such hearing. All testimony shall be taken under oath or affirmation and shall be recorded by a certified stenographic reporter. The parties at the hearing shall be the Director of the Department of Water, represented by the City Attorney, and the applicant that had originally obtained the exemption. All testimony shall be subject to cross-examination by the party against whom it is offered.

3. DECISION OF THE BOARD
The Board, after due consideration of the record, shall within thirty (30) days after the hearing issue a decision on the exemption. The Board shall withdraw the exemption if it determines that based upon the new information entered into the record that the substance poses a risk to groundwater. A concurring vote of the majority of the members of the Board shall be necessary to revoke an exemption. In the event of a tie vote of the members of the Board, the exemption shall remain. The decision of the Board shall be filed with the Chairperson, and the Chairperson shall serve copies of the decision on the last known address of the original applicant and the Director of the Department of Water. The decision of the Board shall be a final order, subject to appeal under Ohio law.

ARTICLE IX. APPEALS FROM WATER DIRECTOR’S DECISION PURSUANT TO R.C.G.O. 53.42

A. NOTICE OF APPEAL

The Director shall forward all appeals filed in accordance with Section 53.42 to the Chairperson of the Environmental Advisory Board for review (Chairperson). If the Chairperson deems a notice of appeal incomplete and that the notice of appeal will be denied, unless the required supplemental information and/or documentation is filed with the Chairperson within ten (10) days. If the complete notice of appeal with all of the requested information and/or documentation is not filed with the Chairperson within ten (10) days, the appellant shall be deemed to have waived its right to appeal and the appeal shall be deemed denied and the Chairperson shall notify the appellant in writing.

If the Chairperson determines that the notice of appeal is complete, the Chairperson shall schedule a hearing before the Board within sixty (60) days of the date that the notice of appeal was filed. The Chairperson may postpone or continue the hearing sua sponte or upon motion of the appellant or the Director. In setting the hearing date, the Chairperson shall consider: (1) the number and complexity of the issues to be resolved; (2) the number of witnesses and their availability; (3) the amount of civil discovery reasonably necessary to prepare for the hearing; and (4) the availability of the Board. The Board shall confer with the parties or their legal counsel to establish a case management schedule to govern the appeal and the hearing, including an appropriate time for civil discovery, to be governed by the Ohio Rules of Civil Procedure.

B. HEARING BEFORE THE BOARD

1. NOTICE

All hearings of the Board to rule upon appeals pursuant to Section 53.42 shall be public and written notice stating the date, time and location of such hearing shall be sent at least fourteen (14) days in advance of such hearing to the appellant. Further, the Board shall post notice of the hearing on the City of Dayton website. Notice shall include the location, date, and time of the hearing, as well as the name of the appellant, and the subject matter of the appeal. When requested, individuals can receive email notification of the hearing by filling out an application with the City of Dayton’s Office of Public Affairs.
2. PROCEDURE

Quorum for the hearing shall be five (5) members of the Board. The Board shall have full authority to control the procedure of the hearing, including the authority to admit or exclude testimony or other evidence and to rule upon all objections. In doing so, the Board shall not be bound by the Rules of Evidence. The Board conducting the hearing shall have the authority to take any actions that it deems necessary and proper for the conduct of such hearing. All testimony shall be taken under oath or affirmation and shall be recorded by a certified stenographic reporter. The parties at the hearing shall be the Director of the Department of Water, represented by the City Attorney, and the appellant. All testimony shall be subject to cross-examination by the party against whom it is offered. The burden of proof and preceding shall reside with the appellant.

3. DECISION OF THE BOARD

The Board, after due consideration of the record, shall within thirty (30) days after the hearing issue a decision on the appeal in writing, which decision may be to affirm, disaffirm, or modify the Director’s decision being appealed. The Chairperson may postpone or continue this period sua sponte or upon motion of the appellant or the Director to allow for: (1) transcription of the record, or (2) filing of post-hearing proposed findings of fact and conclusions of law by the parties. A concurring vote of five (5) of the members of the Board shall be necessary to reverse or modify any decision of the Director. In the event of a concurring vote of less than five (5) members of the Board, the action of the Director shall be considered as having been affirmed by the Board. The decision of the Board shall be filed with the Chairperson, and the Chairperson shall serve copies of the decision upon the appellant and the Director. The decision of the Board shall be a final order and may be appealed either by the appellant or the City of Dayton, as provided by Ohio law.
ARTICLE X. AMENDMENTS

These Rules and Regulations may be amended or modified by the Board subject to the approval of the City Commission

City of Dayton
Environmental Advisory Board

Adopted: April 9, 2021

By: ____________________________
Katherine M. Arnett, Chairperson

Attest: _________________________
Tim Pritchard, Vice-Chairperson
RULES AND REGULATIONS OF THE CITY OF DAYTON, OHIO
ENVIRONMENTAL ADVISORY BOARD

ARTICLE I. PURPOSE

The purpose of the Environmental Advisory Board ("Board") is to ensure the quality of the environment be protected, maintained, and improved; and to assure that the operations of the City of Dayton are not harmful to the environment. The Board serves as an advisor to the City Manager, the City Commission, City Departments, Boards, Regional Agencies, and citizens on matters related to the environmental quality of the City of Dayton, either in response to requests from the City or as a result of a need observed by the Board.

ARTICLE II. MEMBERSHIP

A. There shall be nine (9) members of the Board serving no more than nine (9) consecutive years on the Environmental Advisory Board. Any member of the Board who fails to attend three (3) consecutive meetings without communication of an explanation for the absence to the Chairperson shall be presumed to have resigned from membership on the Board and shall be notified of the presumption.

B. Associate Board Membership. At the option of the Board, Associate Board Members may be recruited from surrounding area colleges and universities. Associate Board Members shall be appointed by the Board and serve for a term of two years. Prospective appointees shall be recommended by representatives of institutions of higher education from the Dayton region. The Board shall select Associate Members based on their interest, expertise, creativity, and a demonstrated commitment to the resolution of environmental concerns. Associate Members contribute to the deliberations of the Board in a non-voting capacity and are not considered members for purposes of determining a quorum of the Board.

C. – C. When filling future vacancies on the Board, the City will endeavor to solicit interest from residents who represent communities of color, and low-income neighborhoods, as well as advocates for environmental protection, energy and sustainability.

D. Those ineligible for membership shall include:

1. Those holding elective office in the City of Dayton;
2. Individuals who have a substantial and continuing conflict of interest.

ARTICLE III. OFFICERS

The Board shall select, each year, one of its members to serve as Chairperson, another to serve as Vice Chairperson, and such other officers as the Board may deem appropriate for the implementation of its business. The term of office for each officer shall normally expire at the
date of the first meeting of the Board in January, at which time new officers shall be elected by members of the Board.

ARTICLE IV. COMMUNICATIONS

A. Board Spokesman. The normal spokesperson of the Board shall be its Chairperson, or, if the Chairperson is unavailable, its Vice Chairperson.

B. Personal Viewpoints. When any member of the Board is called upon to answer questions, make speeches, or to make other public communications connected with matters before the Board, the member of the Board should distinguish his or her personal viewpoints from the official action of the Board with the following guidelines:

1. A truthful statement of whether or not a particular subject has been under consideration by the Board may be made.

2. A statement of whether or not the Board has made a decision, or a recommendation may be made and the substance of the decision or recommendation may be disclosed; and

3. The Board member may make a statement of his own personal opinion of the subject matter, but must be careful to differentiate his personal opinion from the decision or recommendation made by the Board.

ARTICLE V. MEETINGS

Board meetings shall be scheduled at a time and place convenient to the largest number of the members of the Board.

A. Frequency of Meetings: Meetings ordinarily will be held at least once a month. Special meetings will be held if the City Manager or a member of the City Commission requests a meeting, or the Board Chairperson calls a meeting to attend to a problem that cannot practically be deferred until the next scheduled meeting.

B. Agenda: An agenda shall be published for each meeting and sent electronically to members of the Board in advance of each meeting and to the Clerk of the City Commission, the City Manager, Directors of City Departments and Heads of Boards and Agencies, and to persons requesting same.

C. Minutes: Minutes shall be prepared for each meeting and circulated to all members of the Board prior to the meeting following the meeting for which the minutes were prepared.

D. Order of Business: Any member of the Environmental Advisory Board may discuss any matter that is before the Board and may bring any matter of the environmental quality concern to the attention of the Board at any meeting.
E. Outside Speakers: The City Manager, the representative of any City Department, or any member of the City Commission may speak at any meeting of the Environmental Advisory Board with the purpose of presenting a problem or requesting advice or assistance. People who are not members of the Environmental Advisory Board may be invited to speak to the Environmental Advisory Board at its regular meetings or at special meetings. Any person may submit a written request to the Chairperson for permission to speak at a meeting of the Environmental Advisory Board. The Chairperson shall have the authority to approve or reject the request, or to approve the request with whatever conditions the Chairperson deems reasonable with regard to length of time for the presentation and definition of subject matter to be discussed. The Chairman shall report all such requests and his actions with regard to such requests to the Board which may overrule the Chairperson's decision by a majority vote.

F. Open Meetings: Every meeting of the Board shall be open to the public.

G. Quorum: Five members shall constitute a quorum at all meetings of the Board.

H. Notice of Meetings: The Board shall post notice of the time and place of its regular meetings on the City of Dayton’s website and shall issue a news release to all media that have requested notification of the meetings. For any meetings other than its regular meetings, the Board shall also issue a statement of the meeting’s purpose and post it on the website as well as include it in the news release. When requested, individuals can receive email notification of every meeting by filling out an application with the City of Dayton Office of Public Affairs.

ARTICLE VI. CONFLICT OF INTEREST

Membership in the Board does not constitute holding a public office under the provisions of Ohio Revised Code 102.01; nevertheless, no member of the Board shall participate in the discussion or in the decision-making process in any matter where he or she is aware of the fact that a financial, personal or professional interest creates a conflict of interest. If a member has a conflict of interest he or she is required to abstain from the discussion and voting and is encouraged to absent himself from the discussion. If a member has a question as to whether or not he or she has a conflict of interest, he may disclose the fact to the Board with the request for a decision on the question whether or not there is a conflict. Any member of the Board may raise by motion the question of whether or not another member of the Board has a conflict of interest which would preclude that member from participation in the discussion or decision-making process on any particular subject. The Board shall consider the motion and render a decision.

ARTICLE VII. AUTHORITY

A. R.C.G.O. Section 44.44 provides the Board with the power to call before it any officer or employee as the Board shall deem appropriate to provide information necessary for the exercise of its duties.

B. R.G.C.O. Section 53.23 provides the Board with jurisdiction over applications to exempt chemicals from the City of Dayton’s Source Water Protection Ordinance, R.C.G.O. Sections 53.01-53.99.
C. Pursuant to R.G.C.O. Section 53.42, the Board is given the authority to take appeals, investigate matters related to said appeals, deny, uphold, or otherwise modify or waive the Water Director's (the "Director") actions on a case-by-case basis from Notices of Violation pursuant to Section 53.43; from assessments issued under Section 53.99; and from actions taken pursuant to Section 53.41.

ARTICLE VIII. EXEMPTIONS OF CHEMICALS PURSUANT TO R.C.G.O. 53.23

A. APPLICATION

An application for substance exemption pursuant to the requirements of the Dayton Source Water Protection Ordinance, R.C.G.O. Section 53.23, must be filed with the Chairperson, Environmental Advisory Board, 320 W. Monument Avenue, Dayton, Ohio 45402.

Every application for chemical exemption shall consist of a letter requesting the exemption of the substance(s) and be accompanied by the following:

1. Name of the substance and all chemical compounds,
2. State of substance: Solid, gaseous, liquid, or other form,
3. Safety Data Sheet (Globally Harmonized System of Classification and Labeling of Chemicals) or Material Safety Data Sheet,
4. Reason(s) why the substance should be exempted from the SWPP reporting,
5. Name, address, phone number, and e-mail address of applicant and a brief description of the applicant’s business.
6. Note: Additional information such as the following may be requested by the EAB:
   a. The rationale, addressing fate and transport pathways and potential risks to human health, natural resources and the environment, supporting the exemption of the chemical(s),
   b. A listing of all known combustion and incomplete combustion products of the substance(s).

B. INITIAL DETERMINATION OF EAB WATER COMMITTEE

The EAB’s Water Committee, conducting itself under these Rules and Regulations and Rules of the City Of Dayton, Ohio Environmental Advisory Board Water Committee, shall review the application and shall determine if the information provided in the application is sufficient or if additional information is necessary and/or useful for the exemption. If the EAB Water Committee determines that additional information is necessary or useful for the exemption, the EAB Water Committee shall send a written request for additional information in order to evaluate the exemption. The review of the exemption shall not be continued until the applicant provides the EAB Water Committee with the requested information. Should the applicant fail to provide the requested information within sixty (60) days, the request shall be deemed abandoned, and the matter closed.

Once the EAB Water Committee is satisfied that the application is sufficient and it has the necessary information, it shall make an initial written recommendation to the Chairperson using the criteria listed below.
1. CRITERIA FOR DETERMINING AN EXEMPTION

A substance may only be exempted where it is proven by clear and convincing evidence that its solubility, toxicity, and products resulting from complete or incomplete combustion, degradation, and reaction pose no risk of adversely affecting groundwater. Areas of consideration include, but are not limited to:

   a. Fate and transport pathway: The potential to move and/or change.
   b. Health Risk.

In considering the risk, credible worst-case scenarios, such as fire, explosion, or chemical incident shall be considered. Substances that may react during a fire, explosion or chemical incident and that may ultimately enter the aquifer may not be exempted regardless of the potential hazards of the substance in and of itself. Additional relevant factors may be considered at the discretion of the Board.

2. REQUEST FOR A HEARING.

Notice of the recommendation of the EAB Water Committee will be sent by the Chairperson to the applicant as well as the Director of the Department of Water. If the EAB Water Committee recommends denying the exemption, the applicant shall have twenty (20) days from the date the Chairperson mails the written recommendation to submit a written request to the Chairperson for a hearing before the Board on the exemption. If the applicant fails to request a hearing within the twenty (20) day period, the applicant will be deemed to have waived its right to a hearing on the matter and the request for an exemption will be deemed denied.

If the applicant timely requests a hearing on the exemption or the EAB Water Committee recommends approval of the exemption, the matter will be scheduled for a hearing before the Board for a final determination on the exemption. The Chairperson shall schedule the hearing before the Board within sixty (60) days of the date the applicant requested the hearing, or a later time if agreed to by the applicant.

C. HEARING BEFORE THE BOARD

1. NOTICE

All hearings of the Board on exemptions shall be public and written notice stating the date, time and location of such hearing shall be sent at least fourteen (14) days in advance of such hearing to the applicant. Furthermore, the Board shall post notice of the hearing on the City of Dayton’s website. The notice shall state the applicant’s name and address; the name of the substance sought to be exempted; and the date, time, and location of the hearing. In addition, when requested, individuals can receive email notification of the hearing by filling out an application with the City of Dayton Office of Public Affairs.

2. PROCEDURE
Quorum for the hearing shall be five (5) members of the Board. The Board shall have full authority to control the procedure of the hearing, including the authority to admit or exclude testimony or other evidence and to rule upon all objections. In doing so, the Board shall not be bound by the Rules of Evidence. The Board conducting the hearing shall have the authority to take any actions that it deems necessary and proper for the conduct of such hearing. All testimony shall be taken under oath or affirmation; and shall be recorded by a certified stenographic reporter. The parties at the hearing shall be the Director of the Department of Water, represented by the City Attorney, and the applicant. All testimony shall be subject to cross-examination by the party against whom it is offered.

3. DECISIONS OF THE BOARD

The Board, after due consideration of the record, shall within thirty (30) days after the hearing issue a decision on the exemption. A concurring vote of the majority of the members of the Board shall be necessary to grant an exemption. In the event of a tie vote of the members of the Board, the exemption will be deemed denied. The decision of the Board shall be filed with the Chairperson, and the Chairperson shall serve copies of the decision upon the applicant and the Director. The decision of the Board shall be a final order; and may be appealed either by the applicant or the City of Dayton, as provided by Ohio law.

D. REOPENING OF DECISION GRANTING EXEMPTION

1. NOTICE

If the Board after granting an exemption obtains new information establishing that the exempted substance does in fact pose a risk to groundwater, the Board has the authority to schedule a hearing to determine whether the exemption should remain. The Chairperson shall provide written notice to the applicant at its last known address describing the new information and providing 30-day’s notice of the scheduled hearing. Likewise, the Board shall post notice of the hearing on the City of Dayton’s website. The notice shall contain the time, date, and location of the hearing, along with the chemical substance at issue. When requested, individuals can receive email notifications of every hearing by filling out an application with the City of Dayton Office of Public Affairs.

2. PROCEDURE

Quorum for the hearing shall be 5 (five) members of the Board. The Board shall have full authority to control the procedure of the hearing, including the authority to admit or exclude testimony or other evidence and to rule upon all objections. In doing so, the Board shall not be bound by the Rules of Evidence. The Board conducting the hearing shall have the authority to take any actions that it deems necessary and proper for the conduct of such hearing. All testimony shall be taken under oath or affirmation; and shall be recorded by a certified stenographic reporter. The parties at the hearing shall be the Director of the Department of Water, represented by the City Attorney, and the applicant that had originally obtained the exemption. All testimony shall be subject to cross-examination by the party against whom it is offered.
3. DECISION OF THE BOARD

The Board, after due consideration of the record, shall within thirty (30) days after the hearing issue a decision on the exemption. The Board shall withdraw the exemption if it determines that based upon the new information entered into the record that the substance poses a risk to groundwater. A concurring vote of the majority of the members of the Board shall be necessary to revoke an exemption. In the event of a tie vote of the members of the Board, the exemption shall remain. The decision of the Board shall be filed with the Chairperson, and the Chairperson shall serve copies of the decision on the last known address of the original applicant and the Director of the Department of Water. The decision of the Board shall be a final order, subject to appeal under Ohio law.

ARTICLE IX. APPEALS FROM WATER DIRECTOR’S DECISION PURSUANT TO R.C.G.O. 53.42

A. NOTICE OF APPEAL

The Director shall forward all appeals filed in accordance with Section 53.42 to the Chairperson of the Environmental Advisory Board for review (Chairperson). If the Chairperson deems a notice of appeal incomplete, the Chairperson shall notify the appellant in writing that the notice of appeal is incomplete and that the notice of appeal will be denied, unless the required supplemental information and/or documentation is filed with the Chairperson within ten (10) days. If the complete notice of appeal with all of the requested information and/or documentation is not filed with the Chairperson within ten (10) days, the appellant shall be deemed to have waived its right to appeal and the appeal shall be deemed denied and the Chairperson shall notify the appellant in writing.

If the Chairperson determines that the notice of appeal is complete, the Chairperson shall schedule a hearing before the Board within sixty (60) days of the date that the notice of appeal was filed. The Chairperson may postpone or continue the hearing sua sponte unless the appellant agrees to a later date for the hearing or upon motion of the appellant or the Director. In setting the hearing date, the Chairperson shall consider: (1) the number and complexity of the issues to be resolved; (2) the number of witnesses and their availability; (3) the amount of civil discovery reasonably necessary to prepare for the hearing; and (4) the availability of the Board. The Board shall confer with the parties or their legal counsel to establish a case management schedule to govern the appeal and the hearing, including an appropriate time for civil discovery, to be governed by the Ohio Rules of Civil Procedure.

B. HEARING BEFORE THE BOARD

1. NOTICE

All hearings of the Board to rule upon appeals pursuant to Section 53.42 shall be public and written notice stating the date, time and location of such hearing shall be sent at least fourteen (14) days in advance of such hearing to the appellant. Further, the Board shall post notice of the hearing on the City of Dayton website. Notice shall include the location, date, and time of the hearing, as well as the name of the appellant, and the subject matter of the appeal. When
requested, individuals can receive email notification of the hearing by filling out an application with the City of Dayton’s Office of Public Affairs.

2. PROCEDURE

Quorum for the hearing shall be five (5) members of the Board. The Board shall have full authority to control the procedure of the hearing, including the authority to admit or exclude testimony or other evidence and to rule upon all objections. In doing so, the Board shall not be bound by the Rules of Evidence. The Board conducting the hearing shall have the authority to take any actions that it deems necessary and proper for the conduct of such hearing. All testimony shall be taken under oath or affirmation, and shall be recorded by a certified stenographic reporter. The parties at the hearing shall be the Director of the Department of Water, represented by the City Attorney, and the appellant. All testimony shall be subject to cross-examination by the party against whom it is offered. The burden of proof and precedence shall reside with the appellant.

3. DECISION OF THE BOARD

The Board, after due consideration of the record, shall within thirty (30) days after the hearing issue a decision on the appeal in writing, which decision may be to affirm, disaffirm, or modify the Director’s decision being appealed. A concurring vote of five (5) of the members of the Board shall be necessary to reverse or modify any decision of the Director. In the event of a tie, the Chairperson shall serve copies of the decision upon the appellant and the Director. The decision of the Board shall be a final order, and may be appealed either by the appellant or the City of Dayton, as provided by Ohio law.
ARTICLE X. AMENDMENTS

These Rules and Regulations may be amended or modified by the Board subject to the approval of the City Commission

City of Dayton
Environmental Advisory Board

Adopted: ________________

By: ________________________________
    Katherine M. Arnett, Chairperson

Attest: ______________________________
    Tim Pritchard, Vice-Chair

Page 9
RULES AND REGULATIONS OF THE CITY OF DAYTON, OHIO
ENVIRONMENTAL ADVISORY BOARD

ARTICLE I. PURPOSE

The purpose of the Environmental Advisory Board ("Board") is to ensure the quality of the environment be protected, maintained, and improved; and to assure that the operations of the City of Dayton are not harmful to the environment. The Board serves as an advisor to the City Manager, the City Commission, City Departments, Boards, Regional Agencies, and citizens on matters related to the environmental quality of the City of Dayton, either in response to requests from the City or as a result of a need observed by the Board.

ARTICLE II. MEMBERSHIP

A. There shall be nine (9) members of the Board serving no more than nine (9) consecutive years on the Environmental Advisory Board. Any member of the Board who fails to attend three (3) consecutive meetings without communication of an explanation for the absence to the Chairperson shall be presumed to have resigned from membership on the Board and shall be notified of the presumption.

B. Associate Board Membership. At the option of the Board, Associate Board Members may be recruited from surrounding area colleges and universities. Associate Board Members shall be appointed by the Board and serve for a term of two years. Prospective appointees shall be recommended by representatives of institutions of higher education from the Dayton region. The Board shall select Associate Members based on their interest, expertise, creativity, and a demonstrated commitment to the resolution of environmental concerns. Associate Members contribute to the deliberations of the Board in a non-voting capacity and are not considered members for purposes of determining a quorum of the Board.

C. When filling future vacancies on the Board, the City will endeavor to solicit interest from residents who represent communities of color, and low-income neighborhoods, as well as advocates for environmental protection, energy and sustainability.

D. Those ineligible for membership shall include:

1. Those holding elective office in the city of Dayton;
2. Individuals who have a substantial and continuing conflict of interest.

ARTICLE III. OFFICERS

The Board shall select, each year, one of its members to serve as Chairperson, another to serve as Vice Chairperson, and such other officers as the Board may deem appropriate for the implementation of its business. The term of office for each officer shall normally expire at the
date of the first meeting of the Board in January, at which time new officers shall be elected by members of the Board.

ARTICLE IV. COMUNICATIONS

A. Board Spokesman. The normal spokesperson of the Board shall be its Chairperson, or, if the Chairperson is unavailable, its Vice Chairperson.

B. Personal Viewpoints. When any member of the Board is called upon to answer questions, make speeches, or to make other public communications connected with matters before the Board, the member of the Board should distinguish his or her personal viewpoints from the official action of the Board with the following guidelines:

1. A truthful statement of whether or not a particular subject has been under consideration by the Board may be made.

2. A statement of whether or not the Board has made a decision, or a recommendation may be made and the substance of the decision or recommendation may be disclosed; and

3. The Board member may make a statement of his own personal opinion of the subject matter, but must be careful to differentiate his personal opinion from the decision or recommendation made by the Board.

ARTICLE V. MEETINGS

Board meetings shall be scheduled at a time and place convenient to the largest number of the members of the Board.

A. Frequency of Meetings: Meetings ordinarily will be held at least once a month. Special meetings will be held if the City Manager or a member of the City Commission requests a meeting, or the Board Chairperson calls a meeting to attend to a problem that cannot practically be deferred until the next scheduled meeting.

B. Agenda: An agenda shall be published for each meeting and mailed electronically to members of the Board in advance of each meeting and to the Clerk of the City Commission, the City Manager, Directors of City Departments and Heads of Boards and Agencies, and to persons requesting same.

C. Minutes: Minutes shall be prepared for each meeting and circulated to all members of the Board prior to the meeting following the meeting for which the minutes were prepared.

D. Order of Business: Any member of the Environmental Advisory Board may discuss any matter that is before the Board and may bring any matter of the environmental quality concern to the attention of the Board at any meeting.
E. Outside Speakers: The City Manager, the representative of any City Department, or any member of the Commission may speak at any meeting of the Environmental Advisory Board with the purpose of presenting a problem or requesting advice or assistance. People who are not members of the Environmental Advisory Board may be invited to speak to the Environmental Advisory Board at its regular meetings or at special meetings. Any person may submit a written request to the Chairperson for permission to speak at a meeting of the Environmental Advisory Board. The Chairperson shall have the authority to approve or reject the request, or to approve the request with whatever conditions the Chairperson deems reasonable with regard to length of time for the presentation and definition of subject matter to be discussed. The Chairperson shall report all such requests and his actions with regard to such requests to the Board which may overrule the Chairperson's decision by a majority vote.

F. Open Meetings: Every meeting of the Board shall be open to the public.

G. Quorum: Five members shall constitute a quorum at all meetings of the Board.

H. Notice of Meetings: The Board shall post notice of the time and place of its regular meetings on the City of Dayton’s website and shall issue a news release to all media that have requested notification of the meetings. For any meetings other than its regular meetings, the Board shall also issue a statement of the meeting’s purpose and post it on the website as well as include it in the news release. When requested, individuals can receive email notification of every meeting by filling out an application with the City of Dayton Office of Public Affairs.

ARTICLE VI. CONFLICT OF INTEREST

Membership in the Board does not constitute holding a public office under the provisions of Ohio Revised Code 102.01; nevertheless, no member of the Board shall participate in the discussion or in the decision-making process in any matter where he or she is aware of the fact that a financial, personal or professional interest creates a conflict of interest. If a member has a conflict of interest he or she is required to abstain from the discussion and voting and is encouraged to absent himself from the discussion. If a member has a question as to whether or not he or she has a conflict of interest, he may disclose the fact to the Board with the request for a decision on the question whether or not there is a conflict. Any member of the Board may raise by motion the question of whether or not another member of the Board has a conflict of interest which would preclude that member from participation in the discussion or decision-making process on any particular subject. The Board shall consider the motion and render a decision.

ARTICLE VII. AUTHORITY

A. R.C.G.O. Section 44.44 provides the Board with the power to call before it any officer or employee as the Board shall deem appropriate to provide information necessary for the exercise of its duties.

B. R.G.C.O. Section 53.23 provides the Board with jurisdiction over applications to exempt chemicals from the City of Dayton’s Source Water Protection Ordinance, R.C.G.O. Sections 53.01-53.99.
C. Pursuant to R.G.O. Section 53.42, the Board is given the authority to take appeals, investigate matters related to said appeals, deny, uphold, or otherwise modify or waive the Water Director's (the "Director") actions on a case-by-case basis from Notices of Violation pursuant to Section 53.43; from assessments issued under Section 53.99; and from actions taken pursuant to Section 53.41.

ARTICLE VIII. EXEMPTIONS OF CHEMICALS PURSUANT TO R.C.G.O. 53.23

A. APPLICATION

An application for substance exemption pursuant to the requirements of the Dayton Source Water Protection Ordinance, R.C.G.O. Section 53.23, must be filed with the Chairperson, Environmental Advisory Board, 320 W. Monument Avenue, Dayton, Ohio 45402.

Every application for chemical exemption shall consist of a letter requesting the exemption of the substance(s) and be accompanied by the following:

1. Name of the substance and all chemical compounds;
2. State of substance: Solid, gaseous, liquid, or other form;
3. Safety Data Sheet (Globally Harmonized System of Classification and Labeling of Chemicals) or Material Safety Data Sheet;
4. Reason(s) why the substance should be exempted from the SWPP reporting;
5. Name, address, phone number, and e-mail address of applicant and a brief description of the applicant’s business.
6. Note: Additional information such as the following may be requested by the EAB:
   a. The rationale, addressing fate and transport pathways and potential risks to human health, natural resources and the environment, supporting the exemption of the chemical(s);
   b. A listing of all known combustion and incomplete combustion products of the substance(s).

B. INITIAL DETERMINATION OF EAB WATER COMMITTEE

The EAB’s Water Committee, conducting itself under these Rules and Regulations and Rules of the City Of Dayton, Ohio Environmental Advisory Board Water Committee, shall review the application and shall determine if the information provided in the application is sufficient or if additional information is necessary and/or useful for the exemption. If the EAB Water Committee determines that additional information is necessary or useful for the exemption, the EAB Water Committee shall send a written request for additional information in order to evaluate the exemption. The review of the exemption shall not be continued until the applicant provides the EAB Water Committee with the requested information. Should the applicant fail to provide the requested information within sixty (60) days, the request shall be deemed abandoned, and the matter closed.

Once the EAB Water Committee is satisfied that the application is sufficient and it has the necessary information, it shall make an initial written recommendation to the Chairperson using the criteria listed below.
1. CRITERIA FOR DETERMINING AN EXEMPTION

A substance may only be exempted where it is proven by clear and convincing evidence that its solubility, toxicity, and products resulting from complete or incomplete combustion, degradation, and reaction pose no risk of adversely affecting groundwater. Areas of consideration include, but are not limited to:

   a. Fate and transport pathway: The potential to move and/or change.
   b. Health Risk.

In considering the risk, credible worst-case scenarios, such as fire, explosion, or chemical incident shall be considered. Substances that may react during a fire, explosion or chemical incident and that may ultimately enter the aquifer may not be exempted regardless of the potential hazards of the substance in and of itself. Additional relevant factors may be considered at the discretion of the Board.

2. REQUEST FOR A HEARING.

Notice of the recommendation of the EAB Water Committee will be sent by the Chairperson to the applicant as well as the Director of the Department of Water. If the EAB Water Committee recommends denying the exemption, the applicant shall have twenty (20) days from the date the Chairperson mails the written recommendation to submit a written request to the Chairperson for a hearing before the Board on the exemption. If the applicant fails to request a hearing within the twenty (20) day period, the applicant will be deemed to have waived its right to a hearing on the matter and the request for an exemption will be deemed denied.

If the applicant timely requests a hearing on the exemption or the EAB Water Committee recommends approval of the exemption, the matter will be scheduled for a hearing before the Board for a final determination on the exemption. The Chairperson shall schedule the hearing before the Board within sixty (60) days of the date the applicant requested the hearing, or a later time if agreed to by the applicant.

C. HEARING BEFORE THE BOARD

1. NOTICE

All hearings of the Board on exemptions shall be public and written notice stating the date, time and location of such hearing shall be sent at least fourteen (14) days in advance of such hearing to the applicant. Furthermore, the Board shall post notice of the hearing on the City of Dayton’s website. The notice shall state the applicant’s name and address; the name of the substance sought to be exempted; and the date, time, and location of the hearing. In addition, when requested, individuals can receive email notification of the hearing by filling out an application with the City of Dayton Office of Public Affairs.

2. PROCEDURE
Quorum for the hearing shall be five (5) members of the Board. The Board shall have full authority to control the procedure of the hearing, including the authority to admit or exclude testimony or other evidence and to rule upon all objections. In doing so, the Board shall not be bound by the Rules of Evidence. The Board conducting the hearing shall have the authority to take any actions that it deems necessary and proper for the conduct of such hearing. All testimony shall be taken under oath or affirmation; and shall be recorded by a certified stenographic reporter. The parties at the hearing shall be the Director of the Department of Water, represented by the City Attorney, and the applicant. All testimony shall be subject to cross-examination by the party against whom it is offered.

3. DECISIONS OF THE BOARD

The Board, after due consideration of the record, shall within thirty (30) days after the hearing issue a decision on the exemption. A concurring vote of the majority of the members of the Board shall be necessary to grant an exemption. In the event of a tie vote of the members of the Board, the exemption will be deemed denied. The decision of the Board shall be filed with the Chairperson, and the Chairperson shall serve copies of the decision upon the applicant and the Director. The decision of the Board shall be a final order; and may be appealed either by the applicant or the City of Dayton, as provided by Ohio law.

D. REOPENING OF DECISION GRANTING EXEMPTION

1. NOTICE

If the Board after granting an exemption obtains new information establishing that the exempted substance does in fact pose a risk to groundwater, the Board has the authority to schedule a hearing to determine whether the exemption should remain. The Chairperson shall provide written notice to the applicant at its last known address describing the new information and providing 30-day’s notice of the scheduled hearing. Likewise, the Board shall post notice of the hearing on the City of Dayton’s website. The notice shall contain the time, date, and location of the hearing, along with the chemical substance at issue. When requested, individuals can receive email notifications of every hearing by filling out an application with the City of Dayton Office of Public Affairs.

2. PROCEDURE

Quorum for the hearing shall be 5 (five) members of the Board. The Board shall have full authority to control the procedure of the hearing, including the authority to admit or exclude testimony or other evidence and to rule upon all objections. In doing so, the Board shall not be bound by the Rules of Evidence. The Board conducting the hearing shall have the authority to take any actions that it deems necessary and proper for the conduct of such hearing. All testimony shall be taken under oath or affirmation; and shall be recorded by a certified stenographic reporter. The parties at the hearing shall be the Director of the Department of Water, represented by the City Attorney, and the applicant that had originally obtained the exemption. All testimony shall be subject to cross-examination by the party against whom it is offered.
3. DECISION OF THE BOARD

The Board, after due consideration of the record, shall within thirty (30) days after the hearing issue a decision on the exemption. The Board shall withdraw the exemption if it determines that based upon the new information entered into the record that the substance poses a risk to groundwater. A concurring vote of the majority of the members of the Board shall be necessary to revoke an exemption. In the event of a tie vote of the members of the Board, the exemption shall remain. The decision of the Board shall be filed with the Chairperson, and the Chairperson shall serve copies of the decision on the last known address of the original applicant and the Director of the Department of Water. The decision of the Board shall be a final order, subject to appeal under Ohio law.

ARTICLE IX. APPEALS FROM WATER DIRECTOR’S DECISION PURSUANT TO R.C.G.O. 53.42

A. NOTICE OF APPEAL

The Director shall forward all appeals filed in accordance with Section 53.42 to the Chairperson of the Environmental Advisory Board for review (Chairperson). If the Chairperson deems a notice of appeal incomplete, the Chairperson shall notify the appellant in writing that the notice of appeal is incomplete and that the notice of appeal will be denied, unless the required supplemental information and/or documentation is filed with the Chairperson within ten (10) days. If the complete notice of appeal with all of the requested information and/or documentation is not filed with the Chairperson within ten (10) days, the appellant shall be deemed to have waived its right to appeal and the appeal shall be deemed denied and the Chairperson shall notify the appellant in writing.

If the Chairperson determines that the notice of appeal is complete, the Chairperson shall schedule a hearing before the Board within sixty (60) days of the date that the notice of appeal was filed. The Chairperson may postpone or continue the hearing sua sponte unless the appellant agrees to a later date for the hearing, or upon motion of the appellant or the Director. In setting the hearing date, the Chairperson shall consider: (1) the number and complexity of the issues to be resolved; (2) the number of witnesses and their availability; (3) the amount of civil discovery reasonably necessary to prepare for the hearing; and (4) the availability of the Board. The Board shall confer with the parties or their legal counsel to establish a case management schedule to govern the appeal and the hearing, including an appropriate time for civil discovery, to be governed by the Ohio Rules of Civil Procedure.

B. HEARING BEFORE THE BOARD

1. NOTICE

All hearings of the Board to rule upon appeals pursuant to Section 53.42 shall be public and written notice stating the date, time and location of such hearing shall be sent at least fourteen (14) days in advance of such hearing to the appellant. Further, the Board shall post notice of the hearing on the City of Dayton website. Notice shall include the location, date, and time of the hearing, as well as the name of the appellant, and the subject matter of the appeal. When
requested, individuals can receive email notification of the hearing by filling out an application with the City of Dayton’s Office of Public Affairs.

2. PROCEDURE

Quorum for the hearing shall be five (5) members of the Board. The Board shall have full authority to control the procedure of the hearing, including the authority to admit or exclude testimony or other evidence and to rule upon all objections. In doing so, the Board shall not be bound by the Rules of Evidence. The Board conducting the hearing shall have the authority to take any actions that it deems necessary and proper for the conduct of such hearing. All testimony shall be taken under oath or affirmation, and shall be recorded by a certified stenographic reporter. The parties at the hearing shall be the Director of the Department of Water, represented by the City Attorney, and the appellant. All testimony shall be subject to cross-examination by the party against whom it is offered. The burden of proof and precluding shall reside with the appellant.

3. DECISION OF THE BOARD

The Board, after due consideration of the record, shall within thirty (30) days after the hearing issue a decision on the appeal in writing, which decision may be to affirm, disaffirm, or modify the Director’s decision being appealed. A concurring vote of five (5) members of the Board may postpone or continue this period sua sponte or upon motion of the appellant or the Director to allow for: (1) transcription of the record, or (2) filing of post-hearing proposed findings of fact and conclusions of law by the parties. A concurring vote of five (5) of the members of the Board shall be necessary to reverse or modify any decision of the Director. In the event of a concurring vote by the less than five (5) members of the Board, the action of the Director shall be considered as having been affirmed by the Board. The decision of the Board shall be filed with the Chairperson, and the Chairperson shall serve copies of the decision upon the appellant and the Director. The decision of the Board shall be a final order, and may be appealed either by the appellant or the City of Dayton, as provided by Ohio law.
ARTICLE X. AMENDMENTS

These Rules and Regulations may be amended or modified by the Board subject to the approval of the City Commission.

City of Dayton
Environmental Advisory Board

Adopted: ______________________

By: ____________________________
    Katherine M. Arnett, Chairperson

Attest: __________________________
       Tim Pritchard, Vice-Chair/Chairperson
AN ORDINANCE

Establishing a Cap on the Fee That Third Parties Can Charge to Restaurants Located in the City of Dayton for Delivering Food, Which Cap Shall be no More than 15% of the Total Food Cost Charged by the Restaurant to the Customer, in Order to Protect the Viability of Restaurants Which are Essential to the Health and Well-Being of City Residents and the City's Economy and Further Prohibiting a Reduction in Compensation for Food Delivery Drivers as a Result of this Cap, and Declaring an Emergency.

WHEREAS, On March 13, 2020, the President of the United States declared a national emergency to allow the government to marshal additional resources to combat the virus; and,

WHEREAS, On March 9, 2020, the Governor of the State of Ohio, Mike DeWine, declared a State of Emergency in Executive Order 2020-01D; and,

WHEREAS, On March 12, 2020, Mayor of the City of Dayton, Nan Whaley, and the City Manager of the City of Dayton, Shelley Dickstein, declared a State of Emergency in response to the spread of COVID-19; and,

WHEREAS, Effective March 15, 2020, the Governor and the Ohio Department of Health issued an order closing all bars and restaurants to onsite food and beverage service and limiting restaurants to providing only carry-out and delivery service; and,

WHEREAS, On March 22, 2020, after multiple instances of community spread of the virus that causes COVID-19, the Ohio Department of Health issued a Director's Order prohibiting gatherings of more than ten (10) individuals, closing non-essential businesses, and ordering all persons to stay in their residences unless on essential business; and,

WHEREAS, On April 2, 2020, the Ohio Department of Health issued a Director's Order to extend the March 22, 2020 order due to the rapid spread of COVID-19 in the region; and,

WHEREAS, On April 30, 2020, the Ohio Department of Health issued a Director's Order allowing limited businesses to reopen subject to compliance with social distancing and safety measures and otherwise extending its March 22, 2020 order's prohibition on social gathering and stay-at-home requirements; and,

WHEREAS, During the COVID-19 pandemic, it is critical that restaurants stay open as they are performing essential functions, along with grocery stores and other food services, to provide the public with access to food; and,

WHEREAS, The social distancing measures required to mitigate the spread of the COVID-19 virus means that delivery and take-out options for restaurants are critical to the public's accessibility of food and addressing any community food insecurity; and,

WHEREAS, The COVID-19 pandemic has had a significant impact on the local economy impacting the restaurant, food service, and other related industries resulting in economic hardship.
for business owners due to loss of business income, layoffs, and reduced work hours for a significant percentage of this workforce; and,

WHEREAS, Restricting restaurants to take-out and delivery service places a sudden and severe financial strain on many restaurants, particularly those that are small, independently-owned, or minority-owned businesses that already operate on thin financial margins, adding to economic pressures in the industry that predate the current public health crisis; and,

WHEREAS, It is in the public interest to take action to maximize restaurant revenue from delivery and carry-out orders that are a lifeline and currently the main source of revenue for Dayton's restaurant industry to better enable these businesses to survive the impacts of the COVID-19 pandemic and continue supporting a diverse workforce and contributing to the vitality of Dayton's neighborhoods; and,

WHEREAS, Many consumers are eager to support local restaurants and use third-party, app-based delivery platforms to place orders with those restaurants, and these third-party platforms charge commission fees to restaurants based on the purchase price of its food; and,

WHEREAS, While each service agreement between restaurants and third-party delivery platforms vary, all these agreements include delivery commission fees that can include agreements with commission fees of up to thirty percent (30%) or more of the purchase price; and,

WHEREAS, Restaurants, and particularly small family-owned restaurants with few locations, have limited bargaining power to negotiate lower commission fees with third-party, app based delivery platforms due to limited number of companies in the marketplace to provide such delivery services, and face dire financial circumstances during this COVID-19 pandemic because take-out and delivery are the only options to keep the business in operation; and,

WHEREAS, Capping the commission fee to a maximum of fifteen percent (15%) of the purchase price on delivery or pick-up orders while restaurants are unable to provide unrestricted dine-in service will accomplish the fundamental government purpose of easing the financial burden on struggling restaurants during this public health emergency and promoting the availability of prepared food via delivery service while not unduly burdening third-party, app-based delivery platforms; and,

WHEREAS, During this time of local economic shutdown and limited reopening resulting from the COVID-19 pandemic, many vulnerable workers have found work as food delivery drivers for third-party food delivery services to support themselves and their families; and,

WHEREAS, Third-party food delivery services will further undermine already vulnerable workers if these services reduce compensation rates to drivers as a result of this Ordinance capping food delivery fees

WHEREAS, In order to implement the changes in a timely manner, and for the immediate preservation of the public peace, property, health and safety, it is necessary that this Ordinance take effect immediately; now, therefore,

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

Section 1. That, as of the effective date of this Ordinance, third-party food delivery services are prohibited from charging a restaurant a commission fee per online, delivery, or pick-up order for
the use of its services that totals more than fifteen percent (15%) of the purchase price of such online order. This delivery fee cap shall only be in effect from the effective date of this Ordinance until one hundred twenty (120) days after the end of the public emergency as declared by Gov. Mike DeWine and Mayor Nan Whaley.

Section 2. That, for purposes of this Ordinance, the following definitions apply:

a. "Purchase price" means the menu price of an online order. Such term excludes taxes, gratuities, and any other fees that may make up the total cost to the customer of an online order.

b. "Restaurant" means a business in which food and/or beverage preparation and service is provided for individual consumption either on- or off-premises, and in which any service of alcoholic beverages is accessory to the service of food.

c. "Third party food delivery services" means any website, mobile application, or other internet service that offers or arranges for the sale and/or delivery of food and beverages prepared by restaurants.

Section 3. That if a third-party food delivery service charges a restaurant a fee that exceeds the amount specified in Section 1 of this Ordinance, the restaurant shall provide written notice to the third-party food delivery service requesting a refund within seven (7) days of the notice. If the third-party food delivery service does not provide the refund within seven (7) days of the request from a restaurant or the third-party food delivery service continues to charge fees in violation of this ordinance, a restaurant can enforce this Ordinance by means of a civil action seeking damages and injunctive relief.

Section 4. That a third-party food delivery service shall not be found to have violated this Ordinance if between the effective date of this Ordinance and one week following the effective date of this Ordinance, it imposes a fee per order for the use of its services that totals more than fifteen percent (15%) of the purchase price of such order, provided it refunds the portion of the fee that exceeds fifteen percent (15%) of the purchase price to the restaurant by December 31, 2021.

Section 5. That no third-party food delivery service may reduce the compensation rates paid to any delivery service driver or garnish gratuities paid to any driver as a result of this Ordinance going into effect.

Section 6. That the proper City officials are hereby authorized to do all things necessary and proper to carry out the provisions of Sections 1 through 5 hereof.

Section 7. That this Ordinance shall not be construed or interpreted to interfere with or impair any contracts between restaurants and third-party food delivery services that exist as of the effective date of this Ordinance.
Section 8. That for the reasons stated in the preamble this Ordinance is declared an emergency and shall take effect immediately upon its passage.

PASSED BY THE COMMISSION........APRIL 21........, 2021

SIGNED BY THE MAYOR..................APRIL 21........, 2021

[Signature]
Mayor of the City of Dayton, Ohio

Attest:

[Signature]
Clerk of the Commission

Approved as to form:

[Signature]
City Attorney
AN ORDINANCE

Authorizing the Sale of Real Estate Located near the Northeast Corner of East First at North Patterson Boulevard to Dayton Lincoln Acquisition, LLC, an entity of Crawford Hoying and Woodard Resources, for a Public Purpose, and Declaring an Emergency.

WHEREAS, On May 5, 1999, the Commission of the City of Dayton adopted its strategic plan, CitiPlan Dayton: The 20/20 Vision ("CitiPlan 20/20"), of which redevelopment, reuse and revitalization are key components; and,

WHEREAS, On September 15, 1999, the City acquired the Property, as more particularly described in the attached Exhibit A, for the purposes of redevelopment; and,

WHEREAS, On July 19, 2000, by Ordinance No. 29840-00, the Commission of the City of Dayton adopted Webster Station West Urban Renewal Plan ("Plan") and amended said Plan by Ordinance No. 31269-13 on October 23, 2013; and,

WHEREAS, The proposed seventy one (71) unit multi-family rental development, known as The Sutton, is in substantial conformance with the intent, spirit and detail of the Urban Renewal Plan. The proposed massing, scale, placement, materials and façade shape the new construction and strengthens the architectural scale and character of Webster Station as outlined in the Urban Renewal Plan. The large glass tenant entry oriented to First Street ensures pedestrian visibility, access and activation at the corner as outlined in the recently adopted Downtown Corridor Plan and Framework. The design and layout of the street-level and streetscape plan will ensure a seamless fit and pedestrian connectivity with the established Patterson Boulevard Canal Parkway; and,

WHEREAS, The City is committed to stimulating economic growth, vibrancy, and private sector investment within its municipal boundaries that results in high-density, mixed-use, areas that combine office, retail, living and amenity spaces while retaining the characteristics of our authentic urban environment; and,

WHEREAS, Dayton Lincoln Acquisition, LLC and its related entities have made an offer to purchase the Property from the City in exchange for the relocation and upgrade of the lighting control center that powers Don Crawford Plaza, along Patterson Boulevard, and connecting to RiverScape MetroPark valued at One Hundred Nine Thousand Dollars and Zero Cents ($109,000.00); and,

WHEREAS, The City Commission finds this sale to be in the public interest, in order to promote economic development, foster job creation and improve the quality of life within the City of Dayton; and,

WHEREAS, It is necessary that this Ordinance take effect immediately upon its adoption in order to complete the transfer in a timely manner and for the immediate preservation of the public peace, property, health and safety; now, therefore
BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That the offer to purchase the Property is hereby accepted by the City Commission in accordance with Section 36.44 of the Revised Code of General Ordinances of the City of Dayton, Ohio.

Section 2. That the City Manager is authorized to proceed with the sale of the Property to Dayton Lincoln Acquisition, LLC or a related entity and to execute any and all documents necessary to facilitate the transfer.

Section 3. That the City Manager is authorized and directed to execute the Quit Claim Deed, on behalf of the City.

Section 4. That, prior to execution of the Quit Claim Deed, the City Manager is authorized to accept a Performance Bond in the amount of One Hundred Nine Thousand Dollars and Zero Dollars ($109,000.00) so, in the event Dayton Lincoln Acquisition, LLC does not complete the lighting control work, work may be completed according to the scope outlined in Exhibit B and as depicted in Exhibit C.

Section 5. That the Property shall be sold for the purposes set forth in the various preambles of this Ordinance and for the consideration described in Exhibit B and depicted in Exhibit C and valued at One Hundred Nine Thousand Dollars and Zero Cents ($109,000.00).

Section 6. That for the reasons stated in the preamble hereof, this Ordinance is declared to be an emergency measure and shall take effect immediately upon passage.

PASSED BY THE COMMISSION...APRIL 21, 2021

SIGNED BY THE MAYOR......APRIL 21......, 2021

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
The Sutton – Northeast Corner of East First Street at Patterson Boulevard
EXHIBIT A – Legal Description

Situat in Section 4, Town 1, Range 7, M.R.s., City of Dayton, Montgomery County, Ohio; part of Lots 693, 694, 699, and 700 of the revised and consecutive numbers of Lots on the Plat of the City of Dayton; also being the same lands conveyed to the Board of Commissioners of the City of Dayton, Ohio in Deed Microfiche 99-635D05 of the Montgomery County, Ohio Recorder’s Office:

BEGINNING at an existing concrete monument with a brass disk at the intersection of the centerlines of North St. Clair Street and East First Street;

Thence with the centerline of East First Street (Right of Way varies) North 79°08’24” East, 545.59 feet to a set mag nail;

Thence leaving said centerline North 10°46’44” West, 46.50 feet to a set cross notch at the intersection of the North Right of Way line of East First Street (93.00 feet Right of Way adjoins subject property) and the East Right of Way line of North Patterson Boulevard (108.79 feet Right of Way);

Thence with said North Right of Way line North 79°08’24” East, 31.47 feet to a set cross notch and the TRUE POINT OF BEGINNING;

Thence with a NEW DIVISION LINE, through the aforesaid Board of Commissioners of the City of Dayton, Ohio lands, North 10°53’31” West, 181.50 feet to a set cross notch in the South Right of Way line of Cooper Street (49.50 feet Right of Way);

Thence with said South Right of Way line, North 79°08’24” East, 68.00 feet to a point on the West existing building line of a concrete and brick building occupying the lands granted to Lincoln Storage Inc. in Deed Microfiche 79-533E08, said point being witnessed by a set cross notch lying on the Northerly prolongation of said building line at 11.00 feet;

Thence with said existing building line South 10°53’31” East, 181.50 feet to a point in the aforesaid North Right of Way line of East First Street, said point witnessed by a set cross notch lying on the Southerly prolongation of said building line at 3.00 feet;

Thence with said North Right of Way line South 79°08’24” West, 68.00 feet to the TRUE POINT OF BEGINNING.

Containing 0.2833 acres of land

PID R72-00702-0002 and R72-00702-004

Lots 693 and 700

Part Lots 694 and 699
EXHIBIT B – SCOPE

1. DISCONNECT AND REMOVE EXISTING CITY ELECTRICAL EQUIPMENT TO BE REPLACED WITH NEW AT THE NORTH END OF DISCONNECT AND REMOVE EXISTING CITY ELECTRICAL EQUIPMENT TO BE REPLACED WITH NEW AT THE NORTH END OF DELCO LOFTS BUILDING. FIELD VERIFY AND INVENTORY ALL UNDERGROUND SOURCE AND BRANCH WIRE AND CONDUIT ROUTING FOR REWORK.

2. DISCONNECT AND REMOVE EXISTING CITY ELECTRICAL EQUIPMENT. RE-CONNECT CIRCUITRY AS SHOWN ON THIS DISCONNECT AND REMOVE EXISTING CITY ELECTRICAL EQUIPMENT. RE-CONNECT CIRCUITRY AS SHOWN ON THIS SHEET AND SHEET E4.04.

3. DISCONNECT AND REMOVE EXISTING CITY ELECTRICAL EQUIPMENT COMPLETELY. EQUIPMENT SHALL NOT BE REPLACED. DISCONNECT AND REMOVE EXISTING CITY ELECTRICAL EQUIPMENT COMPLETELY. EQUIPMENT SHALL NOT BE REPLACED.

4. DISCONNECT AND REMOVE IRRIGATION CONTROLLER AND RELOCATE AT NEW CITY EQUIPMENT LINE-UP AS SHOWN. DISCONNECT AND REMOVE IRRIGATION CONTROLLER AND RELOCATE AT NEW CITY EQUIPMENT LINE-UP AS SHOWN. PROVIDE NEW LINE VOLTAGE BRANCH CIRCUIT PER ELECTRICAL ONE-LINE DIAGRAM - CITY EQUIPMENT, SHEET E4-04. FIELD COORDINATE WITH CITY REPRESENTATIVE TO EXTEND LOW VOLTAGE CONTROL WIRING AS NECESSARY.

5. LOCATION OF NEW ELECTRICAL DISTRIBUTION EQUIPMENT TO REPLACE EXISTING. ALL EQUIPMENT SHALL BE MOUNTED LOCATION OF NEW ELECTRICAL DISTRIBUTION EQUIPMENT TO REPLACE EXISTING. ALL EQUIPMENT SHALL BE MOUNTED WITHIN 132" OF DELCO LOFTS WALL SPACE - NO WORK SHALL OCCUR ON NEIGHBORING PROPERTY (LINCOLN STORAGE BUILDING). PROVIDE GALVANIZED STEEL STRUT SUPPORT STRUCTURE AS NECESSARY FOR EQUIPMENT MOUNTING.

6. PROVIDE 6" DIAMETER PROTECTIVE PIPE BOLLARD AS DETAILED ON B/E0.02, THIS SHEET. LOCATE TO ALLOW FULL PROVIDE 6" DIAMETER PROTECTIVE PIPE BOLLARD AS DETAILED ON B/E0.02, THIS SHEET. LOCATE TO ALLOW FULL EQUIPMENT ACCESS AND WORKING CLEARANCES. VERIFY ALL FINAL REQUIREMENTS WITH CITY REPRESENTATIVE PRIOR TO WORK.

7. EXISTING PORTION OF UNDERGROUND SERVICE LATERAL FOR THE DON CRAWFORD PLAZA, EV CHARGING STATIONS ON EXISTING PORTION OF UNDERGROUND SERVICE LATERAL FOR THE DON CRAWFORD PLAZA, EV CHARGING STATIONS ON N. PATTERSON BLVD, AND FESTIVAL POWER OUTLETS ALONG N. PATTERSON BLVD (CITY EQUIPMENT) TO REMAIN.

8. INTERCEPT EXISTING UNDERGROUND SERVICE LATERAL AND EXTEND TO NEW SERVICE EQUIPMENT. PROVIDE QUAZITE INTERCEPT EXISTING UNDERGROUND SERVICE LATERAL AND EXTEND TO NEW SERVICE EQUIPMENT. PROVIDE QUAZITE PG-STYLE FLUSH PULL BOX WITH HD20 LID.

9. DISCONNECT AND REMOVE EXISTING OVERHEAD FEEDERS TO N. PATTERSON BLVD FESTIVAL POWER OUTLETS AND EV DISCONNECT AND REMOVE EXISTING OVERHEAD FEEDERS TO N. PATTERSON BLVD FESTIVAL POWER OUTLETS AND EV CAR CHARGING STATIONS.
10. PROVIDE AERIAL CABLE WITH MESSENGER ACROSS N. PATTERSON BLVD VIA EXISTING UTILITY POLES. FIELD PROVIDE AERIAL CABLE WITH MESSENGER ACROSS N. PATTERSON BLVD VIA EXISTING UTILITY POLES. FIELD COORDINATE FINAL HEIGHT OF CONDUCTORS, INCLUDING CABLE SAG, TO BE 18'-0" AFG MINIMUM ABOVE STREET. MINIMUM ABOVE STREET. DROP SUPPORTED CONDUCTORS TO EXISTING WEATHER HEAD (SEE NOTE 9 ABOVE), EXTEND TO EXISTING EV CAR CHARGING STATION POWER DISTRIBUTION ENCLOSURE, AND PROVIDE FINAL TERMINATIONS.

11. PROVIDE AERIAL CABLE WITH MESSENGER ACROSS PLAZA ACCESS DRIVE TO SERVE N. PATTERSON BLVD EV CHARGERS AND FESTIVAL POWER DROPS. COORDINATE AERIAL ROUTE WITH EXISTING SITE ELEMENTS INCLUDING BUT NOT LIMITED TO PLAZA ENTRY SIGN AND TREE LINE. TRIM TREES AS REQUIRED FOR SELECTED ROUTE.

12. INTERCEPT EXISTING PLAZA BRANCH CIRCUITS AND EXTEND TO NEW DISTRIBUTION PANEL. PROVIDE QUAZITE INTERCEPT EXISTING PLAZA BRANCH CIRCUITS AND EXTEND TO NEW DISTRIBUTION PANEL. PROVIDE QUAZITE PG-STYLE FLUSH PULL BOX(ES) WITH HD20 LID(S), SIZE AND QUANTITY AS NECESSARY.

13. PROVIDE NEW 8-POLE, 30 AMP LIGHTING CONTACTER IN NEMA 3R ENCLOSURE SIMILAR TO SQUARE D #8903L PROVIDE NEW 8-POLE, 30 AMP LIGHTING CONTACTER IN NEMA 3R ENCLOSURE SIMILAR TO SQUARE D #8903L SERIES, WITH PHOTOCELL SIMILAR TO PRECISION MULTIPLE #ST-15. INVENTORY ALL EXISTING LIGHTING BRANCH CIRCUITS CONTROLLED BY EXISTING LIGHTING CONTACTER AND EXTEND NEW PORTIONS OF APPLICABLE CIRCUITS THROUGH NEW LIGHTING CONTACTER.


15. EXTEND NEW N. PATTERSON BLVD FESTIVAL POWER OVERHEAD CONDUCTORS WITH MESSENGER WIRE ON EXISTING EXTEND NEW N. PATTERSON BLVD FESTIVAL POWER OVERHEAD CONDUCTORS WITH MESSENGER WIRE ON EXISTING UTILITY POLES. FIELD COORDINATE FINAL HEIGHT OF CONDUCTORS, INCLUDING CABLE SAG, TO BE 18'-0" AFG MINIMUM ABOVE PUBLIC STREETS, PARKING AREAS, AND DRIVEWAYS, AND 12'-0" AFG MINIMUM IN ALL OTHER ABOVE PUBLIC STREETS, PARKING AREAS, AND DRIVEWAYS, AND 12'-0" AFG MINIMUM IN ALL OTHER MINIMUM IN ALL OTHER IN ALL OTHER LOCATIONS. INDEPENDENTLY SUPPORT EACH RUN. FIELD MEASURE FINAL CABLE DISTANCE FOR MESSENGER WIRE SUPPORT CALCULATION - DO NOT SCALE PLANS.

16. PROVIDE 2-PORT INSULATED MECHANICAL LUG TAP KITS ON EACH PHASE AND NEUTRAL CONDUCTOR PROVIDE 2-PORT INSULATED MECHANICAL LUG TAP KITS ON EACH PHASE AND NEUTRAL CONDUCTOR.
EXHIBIT A – Legal Description

Situate in Section 4, Town 1, Range 7, M.R.s., City of Dayton, Montgomery County, Ohio; part of Lots 693, 694, 699, and 700 of the revised and consecutive numbers of Lots on the Plat of the City of Dayton; also being the same lands conveyed to the Board of Commissioners of the City of Dayton, Ohio in Deed Microfiche 99-635D05 of the Montgomery County, Ohio Recorder's Office:

BEGINNING at an existing concrete monument with a brass disk at the intersection of the centerlines of North St. Clair Street and East First Street;

Thence with the centerline of East First Street (Right of Way varies) North 79°08’24” East, 545.59 feet to a set mag nail;

Thence leaving said centerline North 10°46’44” West, 46.50 feet to a set cross notch at the intersection of the North Right of Way line of East First Street (93.00 feet Right of Way adjoins subject property) and the East Right of Way line of North Patterson Boulevard (108.79 feet Right of Way);

Thence with said North Right of Way line North 79°08’24” East, 31.47 feet to a set cross notch and the TRUE POINT OF BEGINNING;

Thence with a NEW DIVISION LINE, through the aforesaid Board of Commissioners of the City of Dayton, Ohio lands, North 10°53’31” West, 181.50 feet to a set cross notch in the South Right of Way line of Cooper Street (49.50 feet Right of Way);

Thence with said South Right of Way line, North 79°08’24” East, 68.00 feet to a point on the West existing building line of a concrete and brick building occupying the lands granted to Lincoln Storage Inc. in Deed Microfiche 79-533E08, said point being witnessed by a set cross notch lying on the Northerly prolongation of said building line at 11.00 feet;

Thence with said existing building line South 10°53’31” East, 181.50 feet to a point in the aforesaid North Right of Way line of East First Street, said point witnessed by a set cross notch lying on the Southerly prolongation of said building line at 3.00 feet;

Thence with said North Right of Way line South 79°08’24” West, 68.00 feet to the TRUE POINT OF BEGINNING.

Containing 0.2833 acres of land
PID R72-00702-0002 and R72-00702-004
Lots 693 and 700
Part Lots 694 and 699
EXHIBIT B – SCOPE

1. DISCONNECT AND REMOVE EXISTING CITY ELECTRICAL EQUIPMENT TO BE REPLACED WITH NEW AT THE NORTH END OF DISCONNECT AND REMOVE EXISTING CITY ELECTRICAL EQUIPMENT TO BE REPLACED WITH NEW AT THE NORTH END OF DELCO LOFTS BUILDING. FIELD VERIFY AND INVENTORY ALL UNDERGROUND SOURCE AND BRANCH WIRE AND CONDUIT ROUTING FOR REWORK.

2. DISCONNECT AND REMOVE EXISTING CITY ELECTRICAL EQUIPMENT. RE-CONNECT CIRCUITRY AS SHOWN ON THIS DISCONNECT AND REMOVE EXISTING CITY ELECTRICAL EQUIPMENT. RE-CONNECT CIRCUITRY AS SHOWN ON THIS SHEET AND SHEET E4.04.

3. DISCONNECT AND REMOVE EXISTING CITY ELECTRICAL EQUIPMENT COMPLETELY. EQUIPMENT SHALL NOT BE REPLACED. DISCONNECT AND REMOVE EXISTING CITY ELECTRICAL EQUIPMENT COMPLETELY. EQUIPMENT SHALL NOT BE REPLACED.

4. DISCONNECT AND REMOVE IRRIGATION CONTROLLER AND RELOCATE AT NEW CITY EQUIPMENT LINE-UP AS SHOWN. DISCONNECT AND REMOVE IRRIGATION CONTROLLER AND RELOCATE AT NEW CITY EQUIPMENT LINE-UP AS SHOWN. PROVIDE NEW LINE VOLTAGE BRANCH CIRCUIT PER ELECTRICAL ONE-LINE DIAGRAM - CITY EQUIPMENT, SHEET E4.04. FIELD COORDINATE WITH CITY REPRESENTATIVE TO EXTEND LOW VOLTAGE CONTROL WIRING AS NECESSARY.

5. LOCATION OF NEW ELECTRICAL DISTRIBUTION EQUIPMENT TO REPLACE EXISTING. ALL EQUIPMENT SHALL BE MOUNTED LOCATION OF NEW ELECTRICAL DISTRIBUTION EQUIPMENT TO REPLACE EXISTING. ALL EQUIPMENT SHALL BE MOUNTED WITHIN 132" OF DELCO LOFTS WALL SPACE. - NO WORK SHALL OCCUR ON NEIGHBORING PROPERTY (LINCOLN STORAGE BUILDING). PROVIDE GALVANIZED STEEL STRUT SUPPORT STRUCTURE AS NECESSARY FOR EQUIPMENT MOUNTING.

6. PROVIDE 6" DIAMETER PROTECTIVE PIPE BOLLARD AS DETAILED ON B/E0.02, THIS SHEET. LOCATE TO ALLOW FULL. PROVIDE 6" DIAMETER PROTECTIVE PIPE BOLLARD AS DETAILED ON B/E0.02, THIS SHEET. LOCATE TO ALLOW FULL EQUIPMENT ACCESS AND WORKING CLEARANCES. VERIFY ALL FINAL REQUIREMENTS WITH CITY REPRESENTATIVE PRIOR TO WORK.

7. EXISTING PORTION OF UNDERGROUND SERVICE LATERAL FOR THE DON CRAWFORD PLAZA, EV CHARGING STATIONS ON EXISTING PORTION OF UNDERGROUND SERVICE LATERAL FOR THE DON CRAWFORD PLAZA, EV CHARGING STATIONS ON N. PATTERSON BLVD, AND FESTIVAL POWER OUTLETS ALONG N. PATTERSON BLVD (CITY EQUIPMENT) TO REMAIN.

8. INTERCEPT EXISTING UNDERGROUND SERVICE LATERAL AND EXTEND TO NEW SERVICE EQUIPMENT. PROVIDE QUAZITE INTERCEPT EXISTING UNDERGROUND SERVICE LATERAL AND EXTEND TO NEW SERVICE EQUIPMENT. PROVIDE QUAZITE PG-STYLE FLUSH PULL BOX WITH HD20 LID.

9. DISCONNECT AND REMOVE EXISTING OVERHEAD FEEDERS TO N. PATTERSON BLVD FESTIVAL POWER OUTLETS AND EV DISCONNECT AND REMOVE EXISTING OVERHEAD FEEDERS TO N. PATTERSON BLVD FESTIVAL POWER OUTLETS AND EV CAR CHARGING STATIONS.
10. PROVIDE AERIAL CABLE WITH MESSENGER ACROSS N. PATTERSON BLVD VIA EXISTING UTILITY POLES. FIELD PROVIDE AERIAL CABLE WITH MESSENGER ACROSS N. PATTERSON BLVD VIA EXISTING UTILITY POLES. FIELD COORDINATE FINAL HEIGHT OF CONDUCTORS, INCLUDING CABLE SAG, TO BE 18'-0" AFG MINIMUM ABOVE STREET. MINIMUM ABOVE STREET. ABOVE STREET. DROP SUPPORTED CONDUCTORS TO EXISTING WEATHER HEAD (SEE NOTE 9 ABOVE), EXTEND TO EXISTING EV CAR CHARGING STATION POWER DISTRIBUTION ENCLOSURE, AND PROVIDE FINAL TERMINATIONS.

11. PROVIDE AERIAL CABLE WITH MESSENGER ACROSS PLAZA ACCESS DRIVE TO SERVE N. PATTERSON BLVD EV CHARGERS AND FESTIVAL POWER DROPS. COORDINATE AERIAL ROUTE WITH EXISTING SITE ELEMENTS INCLUDING BUT NOT LIMITED TO PLAZA ENTRY SIGN AND TREE LINE. TRIM TREES AS REQUIRED FOR SELECTED ROUTE.

12. INTERCEPT EXISTING PLAZA BRANCH CIRCUITS AND EXTEND TO NEW DISTRIBUTION PANEL. PROVIDE QUAZITE INTERCEPT EXISTING PLAZA BRANCH CIRCUITS AND EXTEND TO NEW DISTRIBUTION PANEL. PROVIDE QUAZITE PG-STYLE FLUSH PULL BOX(ES) WITH HD20 LID(S), SIZE AND QUANTITY AS NECESSARY.

13. PROVIDE NEW 8-POLE, 30 AMP LIGHTING CONTACTOR IN NEMA 3R ENCLOSURE SIMILAR TO SQUARE D #8903L PROVIDE NEW 8-POLE, 30 AMP LIGHTING CONTACTOR IN NEMA 3R ENCLOSURE SIMILAR TO SQUARE D #8903L SERIES, WITH PHOTOCELL SIMILAR TO PRECISION MULTIPLE #ST-15. INVENTORY ALL EXISTING LIGHTING BRANCH CIRCUITS CONTROLLED BY EXISTING LIGHTING CONTACTOR AND EXTEND NEW PORTIONS OF APPLICABLE CIRCUITS THROUGH NEW LIGHTING CONTACTOR.


15. EXTEND NEW N. PATTERSON BLVD FESTIVAL POWER OVERHEAD CONDUCTORS WITH MESSENGER WIRE ON EXISTING EXTEND NEW N. PATTERSON BLVD FESTIVAL POWER OVERHEAD CONDUCTORS WITH MESSENGER WIRE ON EXISTING UTILITY POLES. FIELD COORDINATE FINAL HEIGHT OF CONDUCTORS, INCLUDING CABLE SAG, TO BE 18'-0" AFG MINIMUM ABOVE PUBLIC STREETS, PARKING AREAS, AND DRIVEWAYS, AND 12'-0" AFG MINIMUM IN ALL OTHER ABOVE PUBLIC STREETS, PARKING AREAS, AND DRIVEWAYS, AND 12'-0" AFG MINIMUM IN ALL OTHER MINIMUM IN ALL OTHER IN ALL OTHER LOCATIONS. INDEPENDENTLY SUPPORT EACH RUN. FIELD MEASURE FINAL CABLE DISTANCE FOR MESSENGER WIRE SUPPORT CALCULATION - DO NOT SCALE PLANS.

16. PROVIDE 2-PORT INSULATED MECHANICAL LUG TAP KITS ON EACH PHASE AND NEUTRAL CONDUCTOR PROVIDE 2-PORT INSULATED MECHANICAL LUG TAP KITS ON EACH PHASE AND NEUTRAL CONDUCTOR.
A RESOLUTION

Approving the Submission of a Grant Application for the Fiscal Year 2022 Ohio Airport Grant Program to the Ohio Department of Transportation, Office of Aviation; Authorizing the Acceptance of a Grant from the State of Ohio Department of Transportation, Office of Aviation in an Amount Not to Exceed Five Hundred Thousand Dollars and Zero Cents ($500,000.00) on behalf of the City of Dayton; and Declaring an Emergency.

WHEREAS, The Ohio Department of Transportation, Office of Aviation, Ohio Airport Grant Program provides financial assistance to publicly owned public use airports in the State that do not receive Federal Aviation Administration ("FAA") Air Carrier Enplanement Funds or Air Cargo Entitlements; and

WHEREAS, The City of Dayton owns, operates and maintains the Dayton-Wright Brothers Airport, a general aviation airport that does not receive FAA Air Carrier Enplanement Funds or Air Cargo Entitlements; and

WHEREAS, The local Airport Improvement Program at the Dayton-Wright Brothers Airport includes undertaking certain projects such as pavement rehabilitation and related improvements, obstruction removal, runway and taxiway marking, lighting rehabilitation, and other aviation-related projects; and

WHEREAS, These projects will be funded by the Ohio Department of Transportation through the Ohio Airport Grant Program in an aggregate amount not to exceed Five Hundred Thousand Dollars and Zero Cents ($500,000.00) with an aggregate local cash match not to exceed Twenty-Six Thousand Three Hundred Sixteen Dollars and Zero Cents ($26,316.00) to be provided by City of Dayton Department of Aviation funds; 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, In order to adhere to the grant application submission date 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 authorizes the City Manager, or her designee, to submit a grant application and supporting documents to the Ohio Department of Transportation, Office of Aviation for participation in the Fiscal Year 2022 Ohio Airport
Grant Program for eligible projects defined as airport pavement resurfacing and reconstruction, airport obstruction removal and marking, runway and taxiway marking, lighting rehabilitation, and other aviation-related projects at the Dayton Wright-Brothers Airport.

Section 2. That the City Manager, or her designee, is authorized to execute any and all documents and agreements on behalf of the City of Dayton which are necessary to accept the grant awards in an amount not to exceed Five Hundred Thousand Dollars and Zero Cents ($500,000.00) with an aggregate local cash match not to exceed Twenty-Six Thousand Three Hundred Sixteen Dollars and Zero Cents ($26,316.00) from the Ohio Department of Transportation, Office of Aviation under the Fiscal Year 2022 Ohio Airport Grant Program.

Section 3. That for the reasons stated in the preamble hereof, the Commission declares this resolution to be an emergency measure that shall take effect immediately upon its adoption.

ADOPTED BY THE COMMISSION...APRIL 21...., 2021

SIGN ED BY THE MAYOR ...............APRIL 21...., 2021

Mayor of the City of Dayton, Ohio

ATTEST:

Clerk of Commission

APPROVED AS TO FORM:

City Attorney
April 7, 2021

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

FROM: Gilbert Turner, Director
       Department of Aviation

SUBJECT: A Resolution – for the FY 2022 Ohio Airport Grant Program

The Department of Aviation submits the attached Resolution for Commission approval. This Resolution authorizes the City Manager or her designee to apply and accept a grant from the Ohio Department of Transportation, Office of Aviation for eligible projects at Dayton Wright Brothers Airport.

Aviation is requesting grant funding to remove & repaint airfield markings at the Dayton Wright Brothers Airport. This grant requires a 5% local cash match. The eligible project total is $526,316.00, of which $500,000.00 is being requested from the Ohio Airport Grant Program and $26,316.00 from Aviation cash capital.

Attached is an executable copy of the resolution approved by the Law Department, a copy of the M&B Grant Application Approval Form, the original CF and a draft application letter. If there are any questions regarding the resolution, please contact me at (937) 454-8212.

GT/ems

Encl.

cc: File
GRANT APPLICATION APPROVAL FORM

Date: March 11, 2021

Department/Division

Submitting Application: Department of Aviation

Project Title: FY2022 Ohio Airport Grant Program

CFDA Title and Number: N/A

Brief Description of Project:

| Airfield marking removal and remarking at the Dayton Wright Brothers Airport. The eligible costs of the project will be $526,316.00. If awarded, the Ohio Airport Grant would fund 95% and the City match would be 5%, $26,316.00. |

Name and telephone number of staff person to be called when signed application is ready: Elizabeth Spreng 454-6529

Name of staff person responsible for this grant: Mike Cross

Deadline for submission to funding agency: April 30, 2021

When will grant award decision be made: September 2021

<table>
<thead>
<tr>
<th>LEVEL</th>
<th>AGENCY/FUNDING SOURCE</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td></td>
<td>$0</td>
</tr>
<tr>
<td>State of Ohio</td>
<td>Ohio Dept. of Transportation</td>
<td>$500,000.00</td>
</tr>
<tr>
<td>Montgomery County</td>
<td></td>
<td>$0</td>
</tr>
<tr>
<td>City of Dayton</td>
<td></td>
<td>$26,316.00</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td>$0</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$526,316.00</td>
</tr>
</tbody>
</table>

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

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

Director’s Signature: [Signature] 3/11/2021

Review and Approval

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

E-SIGNED by Diane Shannon on 2021-04-01 19:44:51 GMT

Director, Office of Procurement, Management and Budget  Date

E-SIGNED by LaShea Lofton on 2021-04-05 15:08:38 GMT

Director of Finance (IF CASH MATCH IS REQUIRED) Date

E-SIGNED by Shelley Dickstein on 2021-03-31 21:53:39 GMT

City Manager’s Office Date
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>3/11/2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>3/31/2022</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$ 26,316.00</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 26,316.00</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
</tr>
<tr>
<td>Original CT/CF</td>
<td>$ -</td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td>$ -</td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td>$ -</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
</tr>
</tbody>
</table>

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

Amount: $ 26,316.00

Fund Code: 51228 3210 1221 - 43 -

Fund Code: XXXX - XXX - XXXX - XX - XXXX - XXXX

Amount: 

Fund Code: XXXX - XXX - XXXX - XX - XXXX - XXXX

Attach additional pages for more FOAPALs

Vendor Name: City of Dayton
Vendor Address: 101 W. Third Street Dayton OH 45402
Federal ID: 316000175
Commodity Code: 96811
Purpose: The City of Dayton Department of Aviation cash match for FY2022 Ohio Airport Grant Program for Dayton Wright Brothers Airport.
Contact Person: Mike Cross
Aviation/Planning & Engineering Department/Division: 3/11/2021

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.

E-SIGNED by LaShea Lofton on 2021-04-05 20:37:57 GMT
Finance Director Signature: CF21-0122
Date: 2021-04-05

CF Prepared by: T.W.
Date: CF/CT Number:

Finance Department
October 18, 2011
April 6, 2021

Mr. James Bryant, Administrator
Office of Aviation
Ohio Department of Transportation
2829 W. Dublin-Granville Rd.
Columbus, OH 43235-2786

RE: Application for Funding - FY2022 – Ohio Airport Grant Program

AIRPORT: Dayton Wright Brothers Airport (MGY) – Project Priority 1 of 1

Dear Mr. Bryant,

The City of Dayton – Department of Aviation (Sponsor of the Dayton Wright Brothers Airport (MGY)) hereby requests $500,000.00 in State funds under the Ohio Airport Grant Program for the following project:

1. Remove and Repaint Airfield Marking

This project is to Remove/Repaint ~ 93,000 SF of existing airfield markings to meet minimum requirements of the FAA Technical Circular AC5340-1M and safety standards to reduce the debris that is being created due to the flaking of multiple layers of paint applied in the past. Also included, are any necessary pavement repairs that could result from the removal multiple layers of existing paint.

This amount represents a 95% share of the total eligible construction, engineering design, and construction administration/observation costs. The City of Dayton will be contributing 5% as required.

The following documents have been uploaded to the Grant web portal:

- Detailed description of need for the requested grant funds
- Detailed project description and project cost estimate
- Standard Assurance
- Resolution authorizing the Application
- Project Schedule
- Project Plan detailing area on the airport where the project work is to be completed
- Updated Pavement Maintenance Plan & Pavement Work History
• A current GA Airport Security Plan consistent with the most recent security guidelines published by the Transportation Security Administration

This project is important for the City and to the aviation community of Southwest Ohio.

Should you have any questions or need additional information regarding this application, please contact:

Elizabeth Spreng
Dayton International Airport
3600 Terminal Drive, Suite 300
Vandalia, Ohio 45377
(937) 454-6529
espreng@flydayton.com

Sincerely,

Gilbert B. Turner
Director of Aviation
A RESOLUTION

Declaration of a Climate Emergency, including a Commitment to Renewable Resources, and Declaring an Emergency.

WHEREAS, According to the National Aeronautics and Space Administration (NASA) and its Goddard Institute for Space Studies (GISS), the global temperature during each of the past 5 years has been the warmest on record; and,

WHEREAS, Scientists indicate that at the current rate of warming, the planet will be experiencing catastrophic conditions within approximately 10 years; and,

WHEREAS, According to the United Nations Panel on Climate Change, all nation must reduce total CO2 emissions by 45 percent by 2030, and must eliminate carbon emissions by 2050 to limit global temperature rise to no more than 1.5 degrees Celsius, in order to avoid catastrophic change undermining economic, natural, and social systems; and,

WHEREAS, On August 26th, 2020, the Commission of the City of Dayton unanimously adopted a comprehensive Sustainability Strategy for the City. Among its 115 actions, the Strategy calls for efforts to address climate change threats, curb and mitigate greenhouse gas emissions, including carbon, and indicted that the City should declare a climate emergency; and,

WHEREAS, Climate change threatens the stability of the U.S. economy by damaging property, threatening infrastructure, impacting human health, worker productivity, forestry, fisheries, agriculture and tourism, which could cost the U.S. $520 billion each year; and,

WHEREAS, On January 27, 2021, the President of the United States issued Executive Order No. 14008 which calls for the following actions at the Federal level:

i. The relevant agencies will designate climate change as a priority for both foreign policy and national security.
ii. The U.S. will rejoin the 2016 Paris Climate Accords.
iii. The government will take a government-wide approach to combat the climate crisis, including prioritizing actions on climate change in all policy-making and budget processes.
iv. Halt subsidies from the Federal Government to the fossil fuel industry, and,
v. Covert the federal fleet, including the Postal Service, to electric vehicles by 2035; and,

WHEREAS, On January 28, 2021, General Motors Company announced that it would halt the production of cars and trucks with internal combustion engines in favor of electric
vehicles by 2035; and,

WHEREAS, The climate crisis cannot be separated from the ongoing efforts to achieve public health threats, as well as economic and racial justice; and,

WHEREAS, In July 2020 the Climate Mayors (including Dayton) sent a letter to Congressional leaders calling for a significant Federal investment that will facilitate a post-pandemic green and equitable economic recovery, featuring the use of clean energy; and,

WHEREAS, Climate change has increased the frequency and intensity of natural disasters. According to the National Ocean Atmospheric Administration (NOAA), the last several years of natural disasters have been some of the most destructive in U.S. history. In 2019 alone, NOAA estimated that $45 billion dollars were needed for disaster recovery and relief. Climate change is expected to cause more severe weather events and the resulting economic burden, particularly at the local and state levels; and,

WHEREAS, Dayton is expected to experience more severe flash flooding as well as periods with little to no rain. We can also expect warmer winters, hotter summers, and more severe weather events similar to the 2019 Memorial Day tornadoes; and,

WHEREAS, According to the Center for Disease Control (CDC), climate change and other human stressors exert considerable influence on human health and disease. As climate change worsens, existing health threats will intensify and new health threats will emerge. This includes health threats from flooding, prolonged droughts, temperature extremes, wildfires, food security, transportation disruptions, stress disorders and disease carried by vectors. Similar to COVID-19, we may see more novel disease due to climate change and will have to quickly adapt to the consequences; and,

WHEREAS, Renewable energy represents an enormous economic opportunity for the creation of jobs, an increase in economic security, and an expansion of local prosperity; and,

WHEREAS, The cost of utility-scale wind and solar energy is rapidly decreasing, thereby easing the financial burden on low-income households, fostering equality as a percent of household incomes, reducing the volatility of energy prices, and making renewable energy more affordable; and,

WHEREAS, Individual rooftop solar, other renewable energy sources, and energy efficiency techniques offer an opportunities to address poverty, stimulate new economic activity and reduce costs on those currently adversely impacted by high energy bills; and,

WHEREAS, It is critical that Dayton begin moving forward to address these issues in order to make timely and adequate progress toward the goals stated below; and,

WHEREAS, For the immediate preservation of the public peace, property, health and safety, it is necessary that this Resolution take effect immediately; now, therefore,

BE IT RESOLVED BY THE COMMISSION OF THE CITY OF DAYTON:
Section 1. The Commission of the City of Dayton hereby declares that, due to the sense of urgency, the number and magnitude of the diverse measures that need to be pursued, and the number of potential partners and interested organizations that will likely need to participate, a climate emergency currently exits. Consequently, timely and effective actions need to be taken across all City operations and activities.

Section 2. By 2050, the City commits to achieving 100% clean, renewable electrical energy.

i. By 2025, conduct a greenhouse gas inventory to ensure the City establishes implementation measures sufficient to address those emissions.

ii. By 2035, purchase one hundred percent (100%) renewable energy for municipal electricity consumption.

iii. By 2040, purchase or secure one hundred percent (100%) renewable energy for the community-wide electricity supply.

iv. By 2050, purchase or secure one hundred percent (100%) renewable energy for all energy-use sectors including transportation.

v. In the short term, priority will be given to methods and techniques that lower energy costs through increased building and operational efficiencies, including weatherization, cogeneration, district heating and cooling, decentralized electricity generation and smart grids/microgrids, additional measures designed to reduce energy consumption, and programs that create an energy-saving culture in Dayton’s workforce, residents and businesses.

vi. By 2035, convert one hundred percent (100%) of the City fleet to electric or other renewably-powered vehicles, including the necessary infrastructure needed to support these vehicles.

vii. In the longer term, pursue direct investments in renewable resources over the purchase of unbundled Renewable Energy Credits (RECs). Ultimately, RECs will be phased out in favor of more direct energy supplies.

Section 3. The City will consult the Environmental Advisory Board (EAB) on the best methods and approaches to achieve the goals set forth in Section 2. When filling future vacancies on the Board, the City will solicit interest from residents who represent communities of color, and low-income neighborhoods, as well as advocates for environmental protection energy and sustainability.

Section 4. A transition to renewable energy presents an opportunity to redress historical inequities in our community. To ensure Dayton takes advantage of this opportunity, the City will undertake the following:

i. Establish targeted programs and incentives to foster greater equality in energy burden as a percent of household incomes.

ii. Train and hire people from within communities of color and women that have traditionally been underrepresented in renewable energy, energy efficiency, and the workforce needed to implement a successful renewable energy transition.

iii. Conduct a jobs analysis to ensure that existing fossil fuel jobs are either
maintained or justly transitioned to comparable paying jobs.

iv. Ensure equitable access to distributed renewable energy ownership including community-solar projects and rooftop solar installation.

Section 5. For the reason set forth in the preamble hereof, the Commission declares this Resolution to be an emergency measure which shall take effect immediately upon its passage.

ADOPTED BY THE COMMISSION, April 21, 2021

SIGNED BY THE MAYOR, April 21, 2021

[Signature]
Mayor of the City of Dayton, Ohio

Attest:

[Signature]
Clerk of the Commission

Approved as to form:

[Signature]
City Attorney
A RESOLUTION

Honorably Naming East Monument Avenue Between North Main Street and North Patterson Boulevard as "Det. Jorge Del Rio Way."

WHEREAS, An application has been made by Lt. Stephen Clark on behalf of Kathy Del Rio to honorarily designate East Monument Avenue Between North Main Street and Patterson Boulevard as "Det. Jorge Del Rio Way" for a two year period due to his legacy of service and sacrifice to the community; and

WHEREAS, Det. Del Rio was a thirty (30) year veteran of the Dayton Police Department and was a Drug Enforcement Administration Task Force Officer for nineteen (19) years; and

WHEREAS, Det. Del Rio was particularly noted for his honor, dedication, courage, and commitment in service; and

WHEREAS, Det. Del Rio, while serving a search warrant on November 4, 2019, sustained fatal injuries, representing the ultimate sacrifice to the community he served; and

WHEREAS, The portion of East Monument Avenue to be given the honorary designation is adjacent to a building where Det. Del Rio maintained an office; and

WHEREAS, The City Commission adopted Resolution 5014-99 on July 28, 1999, which established the rules and procedures for the naming of public facilities and rights-of-way, and this proposal is consistent with the policy outlined in said resolution; and

WHEREAS, The City Plan Board, on March 9, 2021 reviewed the proposal, Case PLN2021-00034, and recommended approval of the two-year designation; now, therefore,

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

Section 1. East Monument Avenue between North Main Street and North Patterson Boulevard is honorarily designated as Det. Jorge Del Rio Way for a two-year period commencing thirty days after the passage of this resolution.

Section 2. The official name of East Monument Avenue is unchanged.
Section 3. The City Manager is directed to implement this resolution in a timely manner.

Adopted by the Commission ......................... APRIL 21 2021

Signed by the Mayor ................................ APRIL 21 2021

[Signature]
Mayor of the City of Dayton, Ohio

Attest:

[Signature]
Clerk of the Commission

Approved as to form:

[Signature]
City Attorney