

CITY COMMISSION MEETING AGENDA

CITY COMMISSION

DAYTON, OHIO

JUNE 24, 2020

8:30 A.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 – **COMMISSIONER MIMS**
3. Pledge of Allegiance
4. Roll Call
5. Approval of Minutes
6. Communications and Petitions Distribution (if any)
7. Special Awards/Recognition
8. Discussion of City Manager's Recommendations (See Section II)
9. Citizen Comments on City Manager's Recommendations
10. City Commission Action on City Manager's Recommendations
11. Public Hearing: N/A
12. Discussion Item: N/A
13. Comments by Citizens - Please register to speak with the Clerk of Commission (Non - Calendar items) sign-up sheets at entrance of Commission Chambers
14. Comments by City Manager
15. Comments by City Commission
16. Work Session: N/A
17. Miscellaneous (See Section VI)

II. CITY MANAGER RECOMMENDATIONS (Item #8 above)

The following recommendations are offered for City Commission approval.

A. Purchase Orders, Agreements and Contracts:

(All contracts are valid until delivery is complete or through December 31st of the current year).

1. **David E. Rager Management Consulting, LLC – Contract Modification** – fourth amendment to cover additional as-needed Utility Management Consulting Services – Dept. of Water/Water Engineering.
\$60,000.00
(Thru 12/31/22)

2. **Raftelis Financial Consultants, Inc. – Contract Modification** – third amendment for additional as-needed consulting services – Dept. of Water/Water Engineering. **\$125,000.00**
(Thru 12/31/22)

C. Revenue to City:

3. **Greater Dayton Premier Management – Service Agreement** – for Community Based Police Officer Services – Dept. of Police. **\$297,700.00**
(Thru 06/30/21)

D. Neighborhood Agreement:

4. **Sunlight Village, Inc. – Development Agreement** – to assist with interior/exterior building improvements, electrical/plumbing, HVAC upgrades, signage and lighting activities for property located at 3320 West Third Street – Dept. of Economic Development. **\$60,000.00**
(Thru 12/31/21)
5. **UrbanNovation Development Group, LLC – Development Agreement** – to assist with interior/exterior building improvements, electrical/plumbing, HVAC upgrades, signage and lighting activities for property located at 1000 West Third Street – Dept. of Economic Development. **\$175,000.00**
(Thru 12/31/21)

E. Other – Contributions, Etc.:

6. **City of Kettering, Ohio – Other** – for Mutual Aid Payment to remove dangerous debris in the public right-of-way – Dept. of Public Works. **\$80,316.94**
7. **City of Oakwood, Ohio – Other** – for Mutual Aid Payment to remove dangerous debris in the public right-of-way – Dept. of Public Works. **\$15,953.86**
8. **Vandalia-Butler City Schools – Other** – for the Community Reinvestment Area (CRA) Income Tax Sharing Payments – Dept. of Economic Development. **\$721,647.66**
(Thru 12/31/20)

**COMMISSIONER
SHAW**

IV. LEGISLATION:

Emergency Resolution – First and Second Reading:

**COMMISSIONER
FAIRCHILD**

9. No. 6513-20 Authorizing Acceptance of Funds Under Section I of the Coronavirus Aid, Relief, and Economic Security Act, 116 Public Law 136, and Declaring an Emergency.

Ordinance – First Reading:

10. No. 31820-20 Authorizing the City Manager to Accept a Grant Award from the Ohio Department of Transportation for an Amount of Three Hundred Twenty-Six Thousand Seven Hundred Dollars and Zero Cents (\$326,700.00) in Federal Safety Funds.

Ordinance – Second Reading:

11. No. 31819-20 Consenting to Repair Concrete Pavement on U.S. Route 35 Within the City of Dayton, and Agreeing to Cooperate in Matters Incidental Thereto, Including the Execution of Agreements Necessary to Implement this Ordinance.

VI. MISCELLANEOUS:

ORDINANCE NO. 31821-20

RESOLUTION NO. 6514-20

IMPROVEMENT RESOLUTION NO. 3598-20

INFORMAL RESOLUTION NO. 978-20



City Manager's Report

From **3420 - Water/Water Engineering**

Date **June 24, 2020**

Expense Type **Contract Modification**

Supplier, Vendor, Company, Individual

Total Amount **\$60,000.00 (thru 12/31/2022)**

Name **David E. Rager Management Consulting, LLC.**

Address **444 Warren Avenue
Cincinnati, Ohio 45220**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
2020 Water Operating Funds	53000-3420-1159-54	\$10,000.00
2020 Sanitary Operating Funds	55000-3420-1159-54	\$50,000.00

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

Description

**AS-NEEDED UTILITY MANAGEMENT CONSULTING AGREEMENT
FOURTH AMENDMENT**

The Department of Water requests permission to enter into a Fourth Amendment with David E. Rager Management Consulting, LLC in the Amount of \$60,000.00. This Amendment will cover additional "as-needed" Utility Management Consulting Services. The consulting services will be used only when requested by the City. David E. Rager Management Consulting, LLC was selected based upon its unique qualifications, expertise in the utility management field, and past performance.

The original Agreement was approved on April 27, 2016 in the amount of \$75,000.00. The First Amendment was approved on December 28, 2016 in the amount of \$30,000.00. The Second Amendment was approved on November 15, 2017 in the amount of \$40,000.00. The Third Amendment was approved on July 16, 2018 and extended the term to December 31, 2020. This Fourth Amendment will increase the contract amount to \$205,000.00 and extend the term to December 31, 2022.

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

A Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Division _____

Department _____

City Manager _____

Clerk _____

Date _____

**FOURTH AMENDMENT TO THE
AGREEMENT FOR CONSULTING SERVICES**

THIS FOURTH AMENDMENT is dated this ____ day of _____, 2020, between the City of Dayton, Ohio ("City") and David E. Rager Management Consulting, LLC ("Contractor"), 444 Warren Avenue, Cincinnati, Ohio 45220.

WHEREAS, On April 27, 2016, the Commission of the City of Dayton, Ohio, approved an Agreement for Consulting Services, CT16-1416, ("Agreement") between the City and Contractor; and,

WHEREAS, On January 23, 2017, the parties executed a First Amendment to the Agreement, CT16-1416, between the City and Contractor; and,

WHEREAS, On November 15, 2017, the parties executed a Second Amendment to the Agreement, CT16-1416, between the City and Contractor; and,

WHEREAS, On July 16, 2018, the parties executed a Third Amendment to the Agreement, CT16-1416, between the City and Contractor; and,

WHEREAS, The Contractor agrees to provide the additional services requested by the City and the City agrees to pay the Contractor for such services.

NOW THEREFORE, the City and the Contractor agree to amend their Agreement as follows:

1. Article 1, Term, is hereby deleted in its entirety and replaced with the following:

ARTICLE 1. TERM

The Agreement shall commence upon execution by the city and it shall expire upon expenditure of all funds provided herein or on December 31, 2022, whichever date is earlier. The City, however, reserves the right to extend the term of this Agreement to a later date by mutual written agreement, as described in Article 10, J.

2. Article 3, A, Total Compensation, is hereby deleted in its entirety and replaced with the following:

ARTICLE 3. COMPENSATION

A. TOTAL COMPENSATION

The total remuneration of this Agreement shall not exceed TWO HUNDRED AND FIVE THOUSAND DOLLARS AND ZERO CENTS (\$205,000.00) for all services to be provided by Contractor pursuant to this Agreement. The Contractor shall be paid at an hourly rate of ONE HUNDRE FORTY-FIVE DOLLARS AND ZERO CENTS (\$145.00) for actual hours worked. This rate is all inclusive, additional costs, including but not limited to extraordinary travel made at the request of the City will be reimbursed OUT OF THE total compensation amount as outlined in Article 3, B Travel.

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

IN WITNESS WHEREOF, the City and Contractor have caused this Fourth Amendment to be executed, each by a duly authorized representative, on the date first set forth above.

CITY OF DAYTON

**DAVID E. RAGER MANAGEMENT
CONSULTING, LLC**

City Manager

By:  _____

Title: Principle

**APPROVED AS TO FORM
AND CORRECTNESS:**



City Attorney

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

_____, 2020

Min. Bk _____ Pg. _____

Clerk of the Commission

MEMORANDUM



June 12, 2020

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

FROM: Michael Powell, Director
Department of Water

A handwritten signature in black ink, appearing to read "Michael Powell".

SUBJECT: Water Department Contract Items for June 24th Commission Meeting

The Department of Water is recommending the award of three contracts for approval on the June 24, 2020 City of Dayton Commission Meeting. The Department of Water considers each of these contracts essential to maintaining operations. Each of the items are detailed below:

RAFTELIS FINANCIAL CONSULTANTS

The Department of Water requests permission to enter into a Third Amendment Agreement with Raftelis Financial Consultants, Inc. in the amount of \$125,000.00 for additional As-Needed Consulting Services. As-Needed professional services will include continued work on the Cost of Service Modeling and utility rate planning for water, sanitary, and the storm water utilities.

The original Agreement was approved on January 23, 2019 in the amount of \$175,000.00. The First Amendment was approved on March 14, 2019 to change the language of the agreement. The Second Amendment was approved on October 16, 2019 in the amount of \$150,000.00. This Third Amendment will increase the contract amount to \$450,000.00.

DAVID E. RAGER MANAGEMENT CONSULTING

The Department of Water requests permission to enter into a Fourth Amendment with David E. Rager Management Consulting, LLC in the Amount of \$60,000.00. This Amendment will cover additional "as-needed" Utility Management Consulting Services. The consulting services will be used only when requested by the City. David E. Rager Management Consulting, LLC was selected based upon its unique qualifications, expertise in the utility management field, and past performance.

The original Agreement was approved on April 27, 2016 in the amount of \$75,000.00. The First Amendment was approved on December 28, 2016 in the amount of \$30,000.00. The Second Amendment was approved on November 15, 2017 in the amount of \$40,000.00. The Third Amendment was approved on July 16, 2018 and extended the term to December 31, 2020. This Fourth Amendment will increase the contract amount to \$205,000.00 and extend the term to December 31, 2022.

FROST, BROWN, TODD LLC

The Department of Water requests permission to enter into a Professional Services Agreement with Frost, Brown, Todd LLC in the amount of \$600,000.00 for professional legal services on an “as-needed” basis and any other documents or agreements as requested. The professional services provided will assist in the development of Department of Water goals, objectives, and priorities as identified by the City.

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on December 31, 2022.

c: Joe Parlette

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**CITY OF DAYTON
CITY MANAGER'S REPORT**

TO: City Manager

Date April 27, 2016

FROM: Water / Water Engineering
Department/Division

Code 53003-3420-1159-54-WD1501 (\$37,500)
55004-3420-1159-54-WD1501 (\$37,500)

Fund Title 2016 Water & Sewer Capital Funds

(CHECK ONE)

Amount \$ 75,000.00 (Thru 6/2018)

- Purchase Order Lease Agreement
 Price Agreement Estimate of Cost
 Award of Contract Payment of Voucher
 Other Professional Services Agreement

Supplier/Vendor/Company/Individual:

NAME David E. Rager Management Consulting, LLC
ADDRESS 444 Warren Avenue
Cincinnati, OH 45220

Justification and description of purchase, contract or payment:

AS-NEEDED UTILITY MANAGEMENT CONSULTING AGREEMENT

The Department of Water requests permission to enter into a Consulting Services Agreement with David E. Rager Management Consulting, LLC in the amount of \$75,000.00 for As-Needed Utility Management Consulting Services. The consulting services will be used only when requested by the City. The services to be provided include:

- Assist in the development of Department of Water goals, objectives, policies, and priorities.
- Plan and coordinate work as directed by the Director of the Department of Water.
- Provide staff assistance to the Director of the Department of Water and other executive level staff.
- Participate in various internal and external meetings.
- Review significant reports, plans, and documents.
- Other related tasks as directed by the Director of the Department of Water.

David E. Rager Management Consulting, LLC was selected based upon its unique qualifications, expertise in the utility management field, and past performance, therefore this Agreement was negotiation.

The Agreement is being funded using 2016 Water & Sewer Capital Funds.

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on June 30, 2018.

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

Approved Affirmative Action Program on File Yes

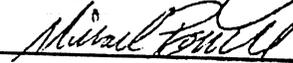
No NA

Approved by City Commission

Clerk

Date

FORM NO. MS-16


Division

Department

City Manager

AGREEMENT FOR CONSULTING SERVICES

THIS AGREEMENT is between the City of Dayton, Ohio ("City") and David E. Rager Management Consulting, LLC ("Contractor"), 444 Warren Avenue, Cincinnati, Ohio 45220.

WITNESSETH:

WHEREAS, The City desires certain professional services in connection with "as-needed" services in the City of Dayton, Ohio; and,

WHEREAS, Contractor is willing to perform such professional services and represents that they are fully qualified to perform such services; and,

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

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

ARTICLE 1. TERM

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on June 30, 2018, whichever date is earlier. The City, however, reserves the right to extend the term of this Agreement to a later date by mutual written agreement, as described in Article 10, subsection J.

ARTICLE 2. SERVICES TO BE PERFORMED BY CONTRACTOR

A. PROFESSIONAL QUALIFICATIONS

Contractor is qualified and permitted by law to perform the professional services to be furnished under the terms of this Agreement. Contractor represents and warrants that they are qualified to perform the services to be provided herein and are permitted to do the work they perform. Contractor shall furnish the City with a certified statement setting forth the technical qualifications and the general and specific experience with utility management work, together with other substantiating information as to the Contractor's qualifications and experience.

B. SERVICES TO BE PERFORMED

Contractor shall provide, upon the City's request, one or more of the following services:

1. Assist in the development of Department of Water goals, objectives, policies, and priorities as identified by the City.
2. Plan and coordinate project work as directed by the Director of the Department of Water.
3. Provide staff assistance to the Director of the Department of Water and other executive level staff as appropriate.
4. Participate in various internal and external meetings.
5. Review significant reports, plans, and documents as identified by the City.
6. Research, analyze, and evaluate service delivery methods and techniques identified through the "Water Efficiency Master Plan" study.
7. Research, analyze, and evaluate service delivery methods and techniques identified in the wastewater collection and treatment system.
8. Other related tasks as directed by the Director of the Department of Water.

The services to be furnished by Contractor under this Agreement are to be performed on an "on demand" basis. Unless the City requests Contractor's services in the manner outlined below, no expenditures under

this Agreement are authorized and Contractor shall be ineligible for reimbursement for that particular service.

C. ON-CALL SERVICES

The Contractor shall be compensated for twenty (20) hours of on-call services per month. Services provided shall be at the direction of the Director of the Department of Water. The Contractor shall provide the City each month with written documentation of on-call services provided and shall notify the City when the number of hours for services in a calendar month is anticipated to exceed twenty (20) hours.

Prior to commencing the work in excess of twenty (20) hours in a calendar month, the Contractor shall obtain the written approval of the Director of the Department of Water. Within ten (10) business days from the date of receipt of a Work Request or other mutually agreed upon date, Contractor shall provide the City with a written "Scope of Services," which shall include the price for the Work Request service and a time frame for completion of the specified service.

Upon the City's review of the Scope of Services, the City shall indicate its acceptance of Scope of Services and authorize the service to be performed by furnishing Contractor with a written "Notice to Proceed," which shall reference and incorporate the Scope of Services.

D. DELIVERABLES

All documents, such as audits or assessments, shall be signed and sealed by a principal of the Contractor. All Deliverables shall include a cover letter that references this Agreement's contract number.

ARTICLE 3. COMPENSATION

A. TOTAL COMPENSATION

The total remuneration of this Agreement shall not exceed SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) for all services to be provided by Contractor pursuant to this Agreement. The Contractor shall be paid at an hourly rate of ONE HUNDRED FORTY-FIVE DOLLARS AND ZERO CENTS (\$145.00) for actual hours worked. This rate is all-inclusive, additional costs, including but not limited to extraordinary travel made at the request of the City will be reimbursed out of the total compensation amount as outlined in Article 3, subsection B, Travel.

B. TRAVEL

The City acknowledges and agrees that Contractor is not required to travel in performance of any part of the Services. However, if the Parties agree to Contractor travelling as part of the Services then the City agrees to reimburse Contractor for its travel expenses reasonably incurred in performance of the Services. However, payment for such reimbursable expenses is subject to the following limitations:

1. Travel costs shall be billed only for approved, on-site training specifically requested by the Director of the City of Dayton Water Department. Air travel reimbursement is limited to coach/economy rates. Local automobile travel expenses are included in the hourly rates paid as compensation for services. Automobile travel expenses for any destination outside of Montgomery County, Ohio will be reimbursable at the rate of as set by the U. S. Internal Revenue Service for business mileage reimbursement. Contractor shall not be reimbursed for travel expenses to any meetings in Montgomery County, Ohio, or any adjoining Ohio counties.
2. Reimbursable expenses are limited to those out-of-pocket expenses paid by Contractor to some third party, excluding itself, and its employees, excluding any other contractor and sub-contractor and excluding any third party in which Infor has an ownership interest or

Infor receives payments or benefits in consideration for service or product orders given to that third party.

3. Amounts billed as reimbursable expenses are limited to direct costs incurred by Contractor and shall not include any multiple or additional percentage of those costs.
4. In order to be reimbursable, expenses must have been reasonably appropriate or must have been necessary, when evaluated in the light of the services to be performed. The cost of alcoholic beverages or entertainment shall not be reimbursed.
5. Signed, legible and explanatory receipts must be submitted for all reimbursable expenses.

C. INVOICES

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

ARTICLE 4. CITY'S RESPONSIBILITIES

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

ARTICLE 5. STANDARD OF CARE

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

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

ARTICLE 6. LIABILITY AND INDEMNIFICATION

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

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

ARTICLE 7. CONFIDENTIALITY

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

To the extent permitted by law, each party agrees that for a period of two (2) years following the date of

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

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

ARTICLE 8. OWNERSHIP OF DOCUMENTS & INTELLECTUAL PROPERTY

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

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

ARTICLE 9. TERMINATION

This Agreement may be terminated by the City upon written notice in the event of substantial failure by Contractor to perform in accordance with the terms of this Agreement. Contractor shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

Either party may terminate or suspend performance of this Agreement for convenience upon thirty (30) days prior written notice. In the event of termination by the City hereunder, the City will pay Contractor for Services actually provided up to the date of termination.

Any such termination shall not relieve the vendor of any liability to the City for damages sustained by virtue of any breach by the Contractor. The City will be under no further monetary obligation or commitment to the Contractor. The City may terminate this contract at any time upon thirty (30) days written notice to the Contractor.

In the event of termination, the City may, at its option, exercise any remedy available to it, including those available under the Uniform Commercial Code, according to Ohio law.

ARTICLE 10. STANDARD TERMS

A. DELAY IN PERFORMANCE

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

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

B. GOVERNING LAW AND VENUE

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

C. COMMUNICATIONS

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

Contractor: David E. Rager Management Consulting, LLC
444 Warren Avenue
Cincinnati, Ohio 45220
Attention: David E. Rager

City: City of Dayton, Department of Water
320 West Monument Avenue
Dayton, Ohio 45402
Attention: Mr. Michael Powell
Interim Director, Department of Water

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

D. EQUAL EMPLOYMENT OPPORTUNITY

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

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

E. WAIVER

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

F. SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or

enforceability of any other portion or provision of this Agreement. Any void, unenforceable, invalid or illegal provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision, which is of the essence of this Agreement, be determined void.

G. INDEPENDENT CONTRACTOR

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

Contractor, its employees and any persons retained or hired by Contractor to perform the duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Further, Contractor shall be responsible to withhold and pay, or cause such agents, contractors and sub-contractors to withhold and pay, all applicable local, state and federal taxes.

Contractor acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System ("OPERS") membership.

H. ASSIGNMENT

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

I. THIRD PARTY RIGHTS

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

J. AMENDMENT

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

The parties may mutually agree to extend the term of this Agreement to a later date. The Director of the Department of Water is authorized to extend the term of this Agreement for the City.

K. RECORDS

Contractor shall keep its records related to the matters covered by this Agreement in compliance and conformity with generally accepted accounting practices. At any time during normal business hours and as often as the City may deem necessary, Contractor shall make available to the City all of its records with respect to all matters covered herein, and will permit the City, at its expense, to audit, examine, and

make excerpts or transcripts from such records and to have audits made of all contracts, invoices, materials, payrolls, records of personnel, conditions or employment and other data pertaining in whole or part to matters covered within this Agreement. In performing any independent audit, Contractor shall require the auditor to reasonably comply with all applicable City rules and regulations governing such procedures.

L. POLITICAL CONTRIBUTIONS

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

M. INTEGRATION

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

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

CITY OF DAYTON, OHIO

**DAVID E. RAGER MANAGEMENT
CONSULTING, LLC**

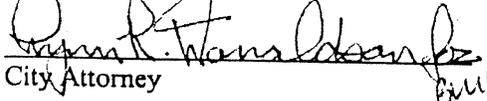


City Manager
Date: May 6, 2016

By: 

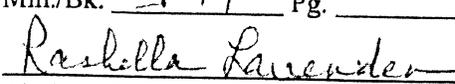
Its: Principal

**APPROVED AS TO FORM
AND CORRECTNESS:**



City Attorney *Bill*

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

April 27, 2016
Min./Bk. I-14 Pg. _____


Clerk of Commission



City Manager's Report

6.

From **3420 - Water/Water Engineering**

Date **December 28, 2016**

Expense Type **Contract Modification**

Supplier, Vendor, Company, Individual

Total Amount **\$30,000.00 (thru 6/2018)**

Name **David E. Rager Management Consulting, LLC.**

Address **444 Warren Avenue
Cincinnati, Ohio 45220**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
2016 Water Capital Funds	53003-3420-1159-54-WD1501	\$15,000.00
2016 Sewer Capital Funds	55004-3420-1159-54-WD1501	\$15,000.00

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

Description

**AS-NEEDED UTILITY MANAGEMENT CONSULTING AGREEMENT
FIRST AMENDMENT**

The Department of Water requests permission for a First Amendment (Amendment) with David E. Rager Management Consulting, LLC in the Amount of \$30,000.00. This Amendment will cover additional "as-needed" Utility Management Consulting Services. The consulting services will be used only when requested by the City. David E. Rager Management Consulting, LLC was selected based upon its unique qualifications, expertise in the utility management field, and past performance.

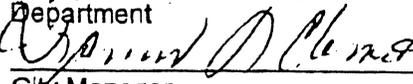
The original Agreement was approved on April 27, 2016 in the amount of \$75,000.00. The First Amendment will increase the contract amount to \$105,000.00.

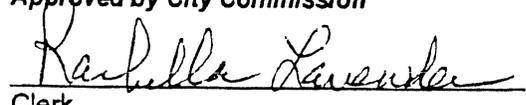
The First Amendment has been reviewed by the Law Department as to form and correctness.

A Certificate of Funds is attached.

Signatures/Approval

Division _____

 Department _____

 City Manager

Approved by City Commission

 Clerk
 Date December 28, 2016

**FIRST AMENDMENT TO THE
AGREEMENT FOR CONSULTING SERVICES**

This First Amendment is dated this 23 day of January, 2017, between the City of Dayton, Ohio ("City") and David E. Rager Management Consulting, LLC with an office at 444 Warren Avenue, Cincinnati, Ohio 45220 (hereinafter referred to as the "Contractor").

WHEREAS, On April 27, 2016 the Commission of the City of Dayton, Ohio, approved an Agreement for Consulting Services, CT16-1416, ("Agreement") between the City and Contractor; and

WHEREAS, The parties desire to enter into a First Amendment to modify the terms of the Agreement; and,

NOW, THEREFORE, in consideration of the foregoing, the parties hereby agree to amend the Agreement as follows:

1. Article 2, Subsection C, On-Call Services is deleted in its entirety and replaced with the following:

C. ON-CALL SERVICES

The Contractor shall be compensated for eighty (80) hours of on-call services per month. Services provided shall be at the direction of the Director of the Department of Water. The Contractor shall provide the City each month with written documentation of on-call services provided and shall notify the City when the number of hours for services in a calendar month is anticipated to exceed eighty (80) hours.

Prior to commencing the work in excess of eighty (80) hours in a calendar month, the Contractor shall obtain the written approval of the Director of the Department of Water. Within ten (10) business days from the date of receipt of a Work Request or other mutually agreed upon date, Contractor shall provide the City with a written "Scope of Services", which shall include the price for the Work Request services and a time frame for completion of the specified services.

Upon the City's review of the Scope of Services, the City shall indicate its acceptance of Scope of Services and authorize the service to be performed by furnishing Contractor with a written "Notice to Proceed", which shall reference and incorporate the Scope of Services.

2. Article 3, Subsection A, Total Compensation is deleted in its entirety and replaced with the following:

A. TOTAL COMPENSATION

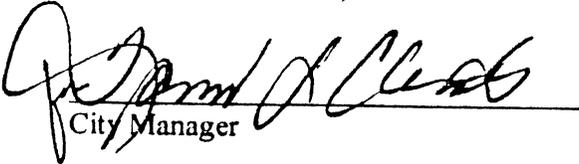
The total remuneration of this Agreement shall not exceed ONE HUNDRED FIVE THOUSAND DOLLARS (\$105,000.00) for all services to be provided by Contractor pursuant to this Agreement. The Contractor shall be paid at an hourly rate of ONE HUNDRED FORTY-FIVE DOLLARS AND ZERO CENTS (\$145.00) for actual hours worked. This rate is all-inclusive, additional costs, including but not limited to

extraordinary travel made at the request of the City will be reimbursed OUT OF THE total compensation amount as outlined in Article 3, subsection B, Travel.

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

IN WITNESS WHEREOF, the City and Contractor have caused this First Amendment to be executed, each by a duly authorized representative, on the date first set forth above.

CITY OF DAYTON, OHIO


City Manager

DAVID E. RAGER MANAGEMENT CONSULTING, LLC

By 
Title Principal

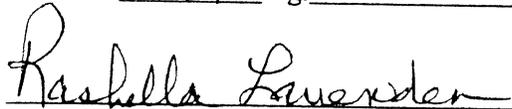
APPROVED AS TO FORM AND CORRECTNESS:


City Attorney LSB

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

December 28, 2017

Min./Bk. I-14 Pg. _____


Clerk of the Commission



City Manager's Report

3.

From 3420 - Water/Water Engineering

Date October 11, 2017

Expense Type Contract Modification

Total Amount \$40,000.00 (thru 6/2018)

Supplier, Vendor, Company, Individual

Name David E. Rager Management Consulting, LLC.

Address 444 Warren Avenue
Cincinnati, Ohio 45220

Fund Source(s)	Fund Code(s)	Fund Amount(s)
2018 Water Capital Funds	53003-3420-1159-54-WD1501	\$40,000.00

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

Description

AS-NEEDED UTILITY MANAGEMENT CONSULTING AGREEMENT
SECOND AMENDMENT

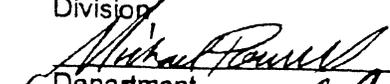
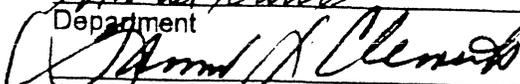
The Department of Water requests permission for a Second Amendment (Amendment) with David E. Rager Management Consulting, LLC in the Amount of \$40,000.00. This Amendment will cover additional "as-needed" Utility Management Consulting Services. The consulting services will be used only when requested by the City. David E. Rager Management Consulting, LLC was selected based upon its unique qualifications, expertise in the utility management field, and past performance.

The original Agreement was approved on April 27, 2016 in the amount of \$75,000.00. The First Amendment was approved on December 28, 2016 in the amount to \$30,000.00. This Second Amendment will increase the contract amount to \$145,000.00.

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

A Certificate of Funds is attached.

Signatures/Approval

Division _____

 Department _____

 City Manager

Approved by City Commission

 Clerk
 Date October 11, 2017

**SECOND AMENDMENT TO THE
AGREEMENT FOR CONSULTING SERVICES**

This Second Amendment is dated this 15 day of November, 2017, between the City of Dayton, Ohio ("City") and David E. Rager Management Consulting, LLC with an office at 444 Warren Avenue, Cincinnati, Ohio 45220 (hereinafter referred to as the "Contractor").

WHEREAS, On April 27, 2016 the Commission of the City of Dayton, Ohio, approved an Agreement for Consulting Services, CT16-1416, ("Agreement") between the City and Contractor; and,

WHEREAS, The parties desire to enter into a Second Amendment to modify the terms of the Agreement as modified by the First Amendment executed on January 23, 2017.

NOW, THEREFORE, in consideration of the foregoing, the parties hereby agree to amend the Agreement as follows:

1. Article 3, Subsection A, Total Compensation is deleted in its entirety and replaced with the following:

A. TOTAL COMPENSATION

The total remuneration of this Agreement shall not exceed ONE HUNDRED FORTY-FIVE THOUSAND DOLLARS (\$145,000.00) for all services to be provided by Contractor pursuant to this Agreement. The Contractor shall be paid at an hourly rate of ONE HUNDRED FORTY-FIVE DOLLARS AND ZERO CENTS (\$145.00) for actual hours worked. This rate is all-inclusive, additional costs, including but not limited to extraordinary travel made at the request of the City will be reimbursed OUT OF THE total compensation amount as outlined in Article 3, subsection B, Travel.

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

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the City and Contractor have caused this Second Amendment to be executed, each by a duly authorized representative, on the date first set forth above.

CITY OF DAYTON, OHIO



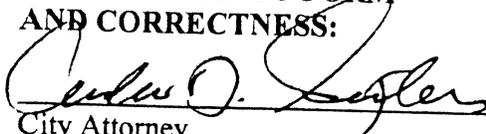
City Manager

DAVID E. RAGER MANAGEMENT
CONSULTING, LLC

By 

Title Principal

APPROVED AS TO FORM
AND CORRECTNESS:

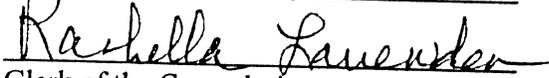


City Attorney *MSK*

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

October 11, 2017

Mfn./Bk. I-15 Pg. 0057



Clerk of the Commission

CERTIFICATE OF FUNDS

CT 16-1416

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

New Contract Renewal Contract Change Orders

Contract Start Date	4/27/2016
Expiration Date	12/31/2020
Original Commission Approval	\$ 145,000.00
Initial Encumbrance	\$ 145,000.00
Remaining Commission Approval	\$ -
Original CT/CF	CT16-1416
Increase Encumbrance	-
Decrease Encumbrance	-
Remaining Commission Approval	-

Required Documentation

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

Amount: _____ Fund Code _____ <small style="display: flex; justify-content: space-between; font-size: 8px;"> FundOrgAcctProgActLoc </small>	Amount: _____ Fund Code _____ <small style="display: flex; justify-content: space-between; font-size: 8px;"> FundOrgAcctProgActLoc </small>
Amount: _____ Fund Code _____ <small style="display: flex; justify-content: space-between; font-size: 8px;"> FundOrgAcctProgActLoc </small>	Amount: _____ Fund Code _____ <small style="display: flex; justify-content: space-between; font-size: 8px;"> FundOrgAcctProgActLoc </small>

Attach additional pages for more FOAPALS

Vendor Name: David E. Rager Management Consulting, LLC

Vendor Address: 444 Warren Avenue, Cincinnati, OH 45220

StreetCityStateZipcode + 4

Federal ID: xxx-xx-4723

Commodity Code: 91897

Purpose: Third Amendment of Contract for As-Needed Utility Management Consulting Services for Time Extension Only

Contact Person: Lisa Burton-Yates Water/Water Engineering 7/11/2018

Department/DivisionDate

Originating Department Director's Signature:

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: 7-24-18 _____

Date

CF Prepared by: Louise Williams 7/23/18 CT16-1416

Date CF/CT Number

SA 7/23/18

**THIRD AMENDMENT TO THE
AGREEMENT FOR UTILITY MANAGEMENT CONSULTING**

This Third Amendment is dated this 16th day of July, 2018, between the City of Dayton, Ohio ("City") and David E. Rager Management Consulting, LLC with an office at 444 Warren Avenue, Cincinnati, Ohio 45220 ("Contractor").

WHEREAS, On April 27, 2016, the Commission of the City of Dayton, Ohio, approved an Agreement for Services, CT16-1416, ("Agreement") between the City and Contractor; and,

WHEREAS, On January 23, 2017, the parties executed a First Amendment to the Agreement CT16-1416, between the City and Consultant; and,

WHEREAS, On November 15, 2017, the parties executed a Second Amendment to the CT16-1416, between the City and Consultant; and,

WHEREAS, The parties desire to enter into a Third Amendment to extend the term of the Agreement; and,

WHEREAS, The Contractor agrees to provide the additional services requested by the City and the City agrees to pay Contractor for such services.

NOW THEREFORE, the City and the Contractor agree to amend their Agreement as follows:

1. Article 1, Term, is deleted in its entirety and replaced with the following:

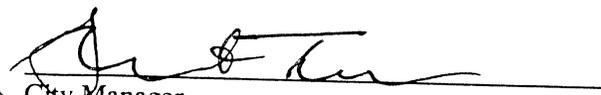
ARTICLE 1. TERM

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on December 31, 2020, whichever date is earlier. The City, however, reserves the right to extend the term of this Agreement to a later date by mutual written agreement, as described in Article 10, J.

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

IN WITNESS WHEREOF, the City and Contractor have caused this Third Amendment to be executed, each by a duly authorized representative, on the date first set forth above.

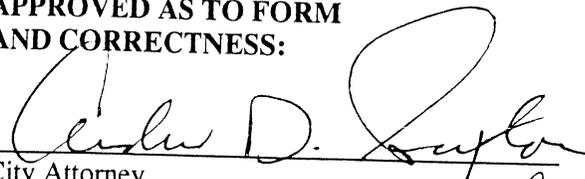
CITY OF DAYTON, OHIO


for City Manager

**DAVID E. RAGER MANAGEMENT
CONSULTING, LLC**

By 
Title Principal

**APPROVED AS TO FORM
AND CORRECTNESS:**


City Attorney



City Manager's Report

2.

From **3420- Water/Water Engineering**

Date **June 24, 2020**

Expense Type **Contract Modification**

Supplier, Vendor, Company, Individual

Total Amount **\$125,000.00 (thru 12/31/2022)**

Name **Raftelis Financial Consultants, Inc.**

Address **4 British American Blvd.
Latham, NY 12110**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
2020 Water Operating Fund	53000-3420-1159-54	\$50,000.00
2020 Sanitary Operating Fund	55000-3420-1159-54	\$75,000.00

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

Description

**AS-NEEDED PROFESSIONAL SERVICES AGREEMENT
THIRD AMENDMENT**

The Department of Water requests permission to enter into a Third Amendment Agreement with Raftelis Financial Consultants, Inc. in the amount of \$125,000.00 for additional As-Needed Consulting Services. As-Needed professional services will include continued work on the Cost of Service Modeling and utility rate planning for water, sanitary, and the storm water utilities. In addition, other as-needed financial services will provide support for the development of a Sanitary Sewer Service Agreement with Montgomery County.

The original Agreement was approved on January 23, 2019 in the amount of \$175,000.00. The First Amendment was approved on March 14, 2019 to change the language of the agreement. The Second Amendment was approved on October 16, 2019 in the amount of \$150,000.00. This Third Amendment will increase the contract amount to \$450,000.00.

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

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

Signatures/Approval

Approved by City Commission

Division _____

Department _____

City Manager _____

Clerk _____

Date _____

CERTIFICATE OF FUNDS

CD 20-2218

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

New Contract
 Renewal Contract
 Change Order:

Contract Start Date	1/23/2019
Expiration Date	12/31/2022
Original Commission Approval	\$ 325,000.00
Initial Encumbrance	\$ 325,000.00
Remaining Commission Approval	\$ -
Original CT/CF	CT19-2218
Increase Encumbrance	\$ 125,000.00
Decrease Encumbrance	\$ -
Remaining Commission Approval	

Required Documentation

<input checked="" type="checkbox"/>	Initial City Manager's Report
<input checked="" type="checkbox"/>	Initial Certificate of Funds
<input checked="" type="checkbox"/>	Initial Agreement/Contract
<input type="checkbox"/>	Copy of City Manager's Report
<input type="checkbox"/>	Copy of Original Certificate of Funds

Amount: <u>\$ 50,000.00</u> (Seq. 1) Fund Code <u>53000 - 3420 - 1159 - 54 - - - -</u> <small style="display: flex; justify-content: space-between; font-size: 8px;"> Fund Org Acct Prog Act Loc </small>	Amount: <u>\$ 75,000.00</u> (Seq. 2) Fund Code <u>55000 - 3420 - 1159 - 54 - - - -</u> <small style="display: flex; justify-content: space-between; font-size: 8px;"> Fund Org Acct Prog Act Loc </small>
Amount: _____ Fund Code _____ <small style="display: flex; justify-content: space-between; font-size: 8px;"> Fund Org Acct Prog Act Loc </small>	Amount: _____ Fund Code _____ <small style="display: flex; justify-content: space-between; font-size: 8px;"> Fund Org Acct Prog Act Loc </small>

Attach additional pages for more FOAPALs

Vendor Name: Raftelis Financial Consultants, Inc.
 Vendor Address: 4 British American Blvd. Latham NY 12110

Street City State Zipcode + 4

 Federal ID: 20-1054069
 Commodity Code: 91-897
 Purpose: Third Amendment to the Agreement for As-Needed Professional Consulting Services

Contact Person: Lisa Burton-Yates Water/Water Engineering 6/12/2020

Department/Division Date

 Originating Department Director's Signature:

SECTION II - to be completed by the Finance Department

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

<u></u>	<u>06/16/2020</u>	
Finance Director Signature	Date	
<u></u>	<u>06/16/2020</u>	<u>CD 20-2218</u>
CF Prepared by	Date	CF/CT Number
		<u>6/16/2020</u>

MEMORANDUM



June 12, 2020

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

FROM: Michael Powell, Director 
Department of Water

SUBJECT: Water Department Contract Items for June 24th Commission Meeting

The Department of Water is recommending the award of three contracts for approval on the June 24, 2020 City of Dayton Commission Meeting. The Department of Water considers each of these contracts essential to maintaining operations. Each of the items are detailed below:

RAFTELIS FINANCIAL CONSULTANTS

The Department of Water requests permission to enter into a Third Amendment Agreement with Raftelis Financial Consultants, Inc. in the amount of \$125,000.00 for additional As-Needed Consulting Services. As-Needed professional services will include continued work on the Cost of Service Modeling and utility rate planning for water, sanitary, and the storm water utilities.

The original Agreement was approved on January 23, 2019 in the amount of \$175,000.00. The First Amendment was approved on March 14, 2019 to change the language of the agreement. The Second Amendment was approved on October 16, 2019 in the amount of \$150,000.00. This Third Amendment will increase the contract amount to \$450,000.00.

DAVID E. RAGER MANAGEMENT CONSULTING

The Department of Water requests permission to enter into a Fourth Amendment with David E. Rager Management Consulting, LLC in the Amount of \$60,000.00. This Amendment will cover additional "as-needed" Utility Management Consulting Services. The consulting services will be used only when requested by the City. David E. Rager Management Consulting, LLC was selected based upon its unique qualifications, expertise in the utility management field, and past performance.

The original Agreement was approved on April 27, 2016 in the amount of \$75,000.00. The First Amendment was approved on December 28, 2016 in the amount of \$30,000.00. The Second Amendment was approved on November 15, 2017 in the amount of \$40,000.00. The Third Amendment was approved on July 16, 2018 and extended the term to December 31, 2020. This Fourth Amendment will increase the contract amount to \$205,000.00 and extend the term to December 31, 2022.

FROST, BROWN, TODD LLC

The Department of Water requests permission to enter into a Professional Services Agreement with Frost, Brown, Todd LLC in the amount of \$600,000.00 for professional legal services on an “as-needed” basis and any other documents or agreements as requested. The professional services provided will assist in the development of Department of Water goals, objectives, and priorities as identified by the City.

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on December 31, 2022.

c: Joe Parlette

**THIRD AMENDMENT TO THE
AGREEMENT FOR CONSULTING SERVICES**

THIS THIRD AMENDMENT, dated this ____ day of _____, 2020, between the City of Dayton, Ohio ("City") and Raftelis Financial Consultants, Inc., 4 British American Blvd., Latham, NY 12110 (hereinafter referred to as the "Consultant").

WHEREAS, On January 23, 2019, the Commission of the City of Dayton, Ohio, approved an Agreement for Consulting Services, CT19-2218, ("Agreement") between the City and Consultant; and,

WHEREAS, On March 14, 2019, the Commission of the City of Dayton, Ohio, approved the First Amendment to the Agreement CT19-2218, between the City and Consultant to amend the language of the Agreement; and,

WHEREAS, On October 16, 2019, the Commission of the City of Dayton, Ohio, approved the Second Amendment to the Agreement CT19-2218, between the City and Consultant to amend the amount of the Agreement; and,

WHEREAS, The City desires additional as-needed consulting services and Consultant is willing to perform such services for additional compensation.

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

1. Article 1, Term is deleted in its entirety and replaced with the following:

ARTICLE 1 - TERM

The Agreement shall commence upon execution by the city and it shall expire upon expenditure of all funds provided herein or on December 31, 2022, whichever date is earlier. The City, however, reserves the right to extend the term of this Agreement to a later date by mutual written agreement, as described in Article 10, J.

2. Article 3,A, Compensation, is hereby deleted in its entirety and replaced with the following:

ARTICLE 3 - COMPENSATION

- A. The total remuneration of this Agreement shall not exceed FOUR HUNDRED FIFTY THOUSAND DOLLARS AND ZERO CENTS (\$450,000.00) for all services to be provided by Consultant pursuant to this Agreement, including professional fees for actual hours worked and direct expenses incurred in performing the scope of services. The Consultant shall be paid at an hourly rate for actual hours worked as identified in Attachment A-1, attached hereto and incorporated herein.

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

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

IN WITNESS WHEREOF, the City and Consultant have caused this Third Amendment to be executed, each by a duly authorized representative, on the date first set forth above.

CITY OF DAYTON

RAFTELIS FINANCIAL CONSULTANTS, INC.

City Manager

By: *John M. M... 4/29/20*

Title: *Vice President*

APPROVED AS TO FORM
AND CORRECTNESS:

4/9/2020

X Amelia N. Blankenship for

City Attorney

Signed by: Blankenship, Amelia

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

_____, 2020

Min. Bk. _____ Pg. _____

Clerk of the Commission

**ATTACHMENT A1
TO
AGREEMENT FORCONSULTING SERVICES**

City: City of Dayton, Ohio
Project: As-Needed Professional Consulting Services
Consultant: Raftelis Financial Consultants, Inc.

Raftelis' Standard Billing Rates

<u>Position</u>	<u>Hourly Billing Rate</u>
Executive Vice President	\$320
Vice President/Principal	\$290
Senior Manager	\$265
Manager	\$240
Senior Consultant	\$210
Consultant	\$185
Associate	\$155
Administration	\$80
Technology/ Communications Charge*	\$10

*Technology/ Communications Charge – this is an hourly fee charged monthly for each hour worked on the project to recover telephone, facsimile, computer, postage/ overnight delivery, conference calls, electronic/ computer webinars, photocopies, etc.



City Manager's Report

2.

From **3420- Water/Water Engineering**

Date **October 16, 2019**

Expense Type **Service Agreement**

Supplier, Vendor, Company, Individual

Total Amount **\$150,000.00 (thru 12/30/20)**

Name **Raftelis Financial Consultants, Inc.**

Address **4 British American Blvd.
Latham, NY 12110**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
2019 Water Capital Fund	53003-3420-1159-54-WD1501	\$75,000.00
2019 Sanitary Capital Fund	55004-3420-1159-54-WD1501	\$75,000.00

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

Description

AS-NEEDED PROFESSIONAL SERVICES AGREEMENT SECOND AMENDMENT

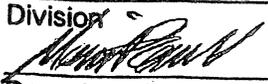
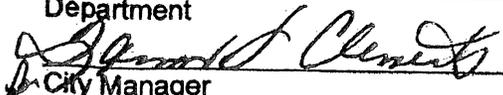
The Department of Water requests permission to enter into a Second Amendment Agreement with Raftelis Financial Consultants, Inc. in the amount of \$150,000.00 for additional As-Needed Consulting Services. As-Needed professional services will include continued work on the Cost of Service Modeling and utility rate planning for water, sanitary, and the storm water utilities. In addition, other as-needed financial services will provide support for the development of a Sanitary Sewer Service Agreement with Montgomery County.

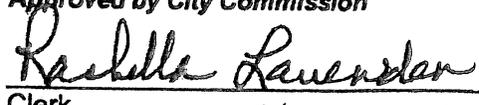
The original Agreement was approved on January 23, 2019 in the amount of \$175,000.00. The First Amendment was approved on March 14, 2019 to change the language of the agreement. This Second Amendment will increase the contract amount to \$325,000.00.

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

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

Signatures/Approval

Division _____

 Department _____

 City Manager

Approved by City Commission

 Clerk
 Date October 16, 2019

**SECOND AMENDMENT TO THE
AGREEMENT FOR CONSULTING SERVICES**

THIS SECOND AMENDMENT, dated this _____ day of _____, 2019, between the City of Dayton, Ohio (“City”) and Raftelis Financial Consultants, Inc., 4 British American Blvd., Latham, NY 12110 (hereinafter referred to as the “Consultant”).

WHEREAS, On January 23, 2019 the Commission of the City of Dayton, Ohio, approved an Agreement for Consulting Services, CT19-2218, (“Agreement”) between the City and Consultant; and

WHEREAS, On March 14, 2019, the City of Dayton, Ohio, approved the First Amendment to the Agreement CT19-2218, between the City and Consultant; to amend the language of the Agreement,

WHEREAS, The City desires additional as-needed consulting services to and Consultant is willing to perform such services for additional compensation.

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

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

ARTICLE 3 – COMPENSATION

- A. The total remuneration of this Agreement shall not exceed **THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$325,000.00)** for all services to be provided by Consultant pursuant to this Agreement, including professional fees for actual hours worked and direct expenses incurred in performing the scope of services. The Consultant shall be paid at an hourly rate for actual hours worked as identified in Attachment A, attached hereto and incorporated herein.

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

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

(REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the City and Consultant have caused this Second Amendment to be executed, each by a duly authorized representative, on the date first set forth above.

CITY OF DAYTON, OHIO

Donald J. Clements
City Manager

RAFTELIS FINANCIAL CONSULTANTS, INC.

By *John M. McAndrews*
Title *Vice President*

APPROVED AS TO FORM
AND CORRECTNESS:

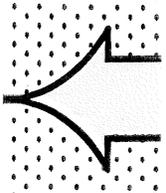
David N. Biv
City Attorney

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

October 14, 2019

Min./BK. *I-15* Pg. *0703*

Cinda W. ...
Clerk of the Commission



CERTIFICATE OF FUNDS

CT19-2218

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED **CORR # 1**

New Contract Renewal Contract Change Order

Contract Start Date	1/23/2019
Expiration Date	12/30/2020
Original Commission Approval	\$ 175,000.00
Initial Encumbrance	\$ 175,000.00
Remaining Commission Approval	\$ -
Original CT/CF	CT19-2218
Increase Encumbrance	\$ 150,000.00
Decrease Encumbrance	\$ -
Remaining Commission Approval	

Required Documentation

<input checked="" type="checkbox"/>	Initial City Manager's Report
<input checked="" type="checkbox"/>	Initial Certificate of Funds
<input checked="" type="checkbox"/>	Initial Agreement/Contract
<input type="checkbox"/>	Copy of City Manager's Report
<input type="checkbox"/>	Copy of Original Certificate of Funds

Amount: <u>\$ 75,000.00</u> (Seq. 1) Fund Code <u>53003 - 3420 - 1159 - 54 - WD1501 -</u> <small>Fund Org Acct Prog Act Loc</small>	Amount: <u>\$ 75,000.00</u> (Seq. 2) Fund Code <u>55004 - 3420 - 1159 - 54 - WD1501 -</u> <small>Fund Org Acct Prog Act Loc</small>
Amount: _____ Fund Code _____ <small>Fund Org Acct Prog Act Loc</small>	Amount: _____ Fund Code _____ <small>Fund Org Acct Prog Act Loc</small>

Attach additional pages for more FOAPALS

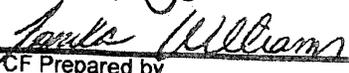
Vendor Name: Raftelis Financial Consultants, Inc.
 Vendor Address: 4 British American Blvd. Latham NY 12110
Street City State Zipcode + 4
 Federal ID: 20-1054069
 Commodity Code: 91-897
 Purpose: Award for As-Needed Professional Consulting Services

Contact Person: Lisa Burton-Yates Water/Water Engineering 10/4/2019
Department/Division Date
 Originating Department Director's Signature: 

SECTION II - to be completed by the Finance Department

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

 10-8-19
 Finance Director Signature Date

 10/7/19
 CF Prepared by Date

CT19-2218
 CF/CT Number **CORR # 1**

**ATTACHMENT A
TO
AGREEMENT FOR CONSULTING SERVICES**

City: City of Dayton, Ohio
Project: As-Needed Professional Consulting Services
Engineer: Raftelis Financial Consultants, Inc.

Raftelis' 2019 Standard Billing Rates

<u>Position</u>	<u>Hourly Billing Rate</u>
Executive Vice President	\$320
Vice President/Principal	\$290
Senior Manager	\$265
Manager	\$240
Senior Consultant	\$210
Consultant	\$185
Associate	\$155
Administration	\$80
Technology/ Communications Charge*	\$10

*Technology/ Communications Charge – this is an hourly fee charged monthly for each hour worked on the project to recover telephone, facsimile, computer, postage/ overnight delivery, conference calls, electronic/ computer webinars, photocopies, etc.

**FIRST AMENDMENT TO THE
AGREEMENT FOR CONSULTING SERVICES**

THIS FIRST AMENDMENT, dated this 14th day of March, 2019, is between the City of Dayton, Ohio ("City") and Raftelis Financial Consultants, Inc. ("Consultant"), 952 Troy-Schenectady Road, Suite 103, Latham, NY 12110.

WHEREAS, The City entered into a Consulting Services Agreement for professional services for the City's Water Department; and,

WHEREAS, The City and Consultant desire to amend the Agreement to clarify Article III.

NOW, THEREFORE, The City and Consultant hereby agree to amend the Agreement as follows:

Section 1. Article III of the Agreement is hereby deleted in its entirety and replaced with the following:

ARTICLE 3. COMPENSATION

A. The total remuneration of this Agreement shall not exceed ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$175,000.00) for all services to be provided by Consultant pursuant to this Agreement, including professional fees for actual hours worked and direct expenses incurred in performing the scope of services. The Consultant shall be paid at an hourly rate for actual hours worked as identified in Attachment A, attached hereto and incorporated herein.

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

B. TRAVEL

The City agrees to reimburse Consultant for travel expenses incurred in the performance of the professional services performed. Consultant shall submit invoices, not more frequently than monthly, for reimbursement of travel expenses. Such invoices shall refer to the specific task for which the expenditure was related, state the total amount of reimbursement requested, and contain a detailed listing, by category and type, of each travel expense actually incurred. However, payment for such reimbursable expenses is subject to the following limitations:

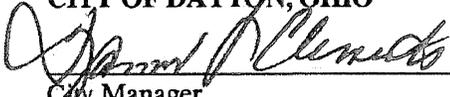
1. Air travel reimbursement is limited to coach/economy rates. Local automobile travel expenses are included in the hourly rates paid as compensation for services. Automobile travel expenses for any destination outside of Montgomery County, Ohio will be reimbursable at the rate of as set by the U. S. Internal Revenue Service for business mileage reimbursement.
2. Reimbursable expenses are limited to those out-of-pocket expenses paid by Consultant to some third party, excluding itself, and its employees, excluding any other consultant and sub-consultants and excluding any third party in which Consultant has an ownership interest or Consultant receives payments or benefits in consideration for service or product orders given to that third party.

3. Amounts billed as reimbursable expenses are limited to direct costs incurred by Consultant and shall not include any multiple or additional percentage of those costs.
4. In order to be reimbursable, expenses must have been reasonably appropriate or must have been necessary, when evaluated in the light of the services to be performed. The cost of alcoholic beverages or entertainment shall not be reimbursed.
5. Signed, legible and explanatory receipts must be submitted for all reimbursable expenses.

Upon verification and review, the City will tender payment of travel reimbursement invoices within thirty (30) days from receipt thereof, unless the invoice is disputed.

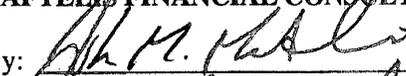
IN WITNESS WHEREOF, the parties have each caused this First Amendment to be executed by a duly authorized representative on the date set forth above.

CITY OF DAYTON, OHIO



City Manager

RAFTELIS FINANCIAL CONSULTANTS, INC.

By: 

Its: 

Vice President

APPROVED:



Director, Department of Water

**APPROVED AS TO FORM
AND CORRECTNESS:**



City Attorney 

No Commission Action Required



City Manager's Report

7

From **3420- Water/Water Engineering**

Date **January 23, 2019**

Supplier, Vendor, Company, Individual

Expense Type **Service Agreement**

Name **Raftelis Financial Consultants, Inc.**

Total Amount **\$175,000.00 (thru 12/30/2020)**

Address **952 Troy-Schenectady Road, Suite 103
Latham, NY 12110**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
2019 Water Capital Fund	53003-3420-1159-54-WD1501	\$50,000.00
2019 Sanitary Capital Fund	55004-3420-1159-54-WD1501	\$100,000.00
2019 Storm Capital Fund	58002-3420-1159-54-WD1501	\$25,000.00

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

Description

AS-NEEDED PROFESSIONAL SERVICES AGREEMENT

The Department of Water requests permission to enter into a Consulting Services Agreement with Raftelis Financial Consultants, Inc. in the amount of \$175,000.00 for As-Needed Consulting Services. As-Needed professional services will include Cost of Service Modeling and utility rate planning for water, sanitary, and the storm water utilities. In addition, other as-needed financial services will provide support for the development of a Sanitary Sewer Service Agreement with Montgomery County.

This project is being fully funded using 2019 Sanitary, Water, and Storm Capital Funds.

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on December 30, 2020.

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

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

Signatures/Approval

Division _____
[Signature]
 Department _____
[Signature]
 City Manager

Approved by City Commission
[Signature]
 Clerk
[Signature]
 Date

AGREEMENT FOR CONSULTING SERVICES

THIS AGREEMENT is made and entered into this 20th day of Feb, 2019, between the City of Dayton, Ohio ("City") and Raftelis Financial Consultants, Inc. ("Consultant"), 952 Troy-Schenectady Road, Suite 103, Latham, NY 12110.

WITNESSETH:

WHEREAS, the City desires certain professional services in connection with "as-needed" services in the City of Dayton, Ohio;

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

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

NOW THEREFORE, in consideration of the promises contained in this Agreement ("Agreement"), the City and the Consultant agree as follows:

ARTICLE 1. TERM

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on December 30, 2020, whichever date is earlier. The City, however, reserves the right to extend the term of this Agreement to a later date by mutual written agreement, as described in Article 10, J.

ARTICLE 2. SERVICES TO BE PERFORMED BY CONSULTANT

A. PROFESSIONAL QUALIFICATIONS

Consultant is qualified and permitted by law to perform the professional services to be furnished under the terms of this Agreement. Consultant represents and warrants that they are qualified to perform the services to be provided herein and are permitted to do the work they perform.

B. SERVICES TO BE PERFORMED

Consultant shall provide, upon the City's request, one or more of the following services:

- 1) Assist in the development of the Department of Water goals, objectives, policies, and priorities as identified by the City.
- 2) Plan and coordinate project work as directed by the Director of the Department of Water.
- 3) Provide staff assistance to the Director of the Department of Water and other executive level staff as appropriate (this may include Raftelis personnel on-site as requested).
- 4) Participate in various internal and external meetings.
- 5) Review significant reports, plans, and documents as identified by the City.
- 6) Research, analyze, and prepare financial information related to development of water, sanitary, and storm cost of service financial models.
- 7) Research, analyze, and evaluate service delivery methods and techniques identified for water, sanitary, and storm utilities.
- 8) Develop and update cash flow projections and financial models and plans as requested.
- 9) Other services as directed by the Director of the Department of Water.

The services to be furnished by Consultant under this Agreement are to be performed on an "on demand" basis. Unless the City requests Consultant's services in the manner outlined below, no expenditures under this Agreement are authorized and Consultant shall be ineligible for reimbursement for that particular service.

C. DELIVERABLES

All documents, such as audits or assessments, shall be signed and sealed by a principal of the Consultant. All Deliverables shall include a cover letter that references this Agreement's contract number.

ARTICLE 3. COMPENSATION

The total remuneration of this Agreement shall not exceed ONE HUNDRED SEVENTY FIVE THOUSAND DOLLARS AND ZERO CENTS (\$175,000.00) for all services to be provided by Consultant pursuant to this Agreement, including professional fees for actual hours worked and direct expenses incurred in performing the scope of services. The Consultant shall be paid at an hourly rate for actual hours worked as identified in Attachment A, attached hereto and incorporated herein.

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

ARTICLE 4. CITY'S RESPONSIBILITIES

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

ARTICLE 5. STANDARD OF CARE

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

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

ARTICLE 6. LIABILITY AND INDEMNIFICATION

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

To the fullest extent permitted by law: (1) Consultant's liability to the City for all claims, losses, damages, and expenses resulting in any way from the performance or non-performance of the Services shall not exceed the total compensation actually received by Consultant under this Agreement; and, (2) neither party to this Agreement shall be liable to the other party for any special, incidental, indirect or consequential damages of any kind, that may result from this Agreement.

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

ARTICLE 7. CONFIDENTIALITY

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

To the extent permitted by law, each party agrees that for a period of two (2) years following the date of disclosure of the confidential or proprietary information, it will not disclose such information of the other

to any third party without the other party's written consent. During this two-year period, each party will protect the confidential or proprietary information in the same manner that it protects its own confidential information of a similar nature. Each party agrees that it will only copy the confidential or proprietary information to the extent necessary to perform the work and services contracted for pursuant to this Agreement.

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

ARTICLE 8. OWNERSHIP OF DOCUMENTS & INTELLECTUAL PROPERTY

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

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

ARTICLE 9. TERMINATION

This Agreement may be terminated by the City upon written notice in the event of substantial failure by Consultant to perform in accordance with the terms of this Agreement. Consultant shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The City may terminate or suspend performance of this Agreement for the City's convenience upon thirty (30) days prior written notice to Consultant. In the event of termination by the City hereunder, the City will pay Consultant for Services actually provided up to the date of termination.

Any such termination shall not relieve the vendor of any liability to the City for damages sustained by virtue of any breach by the Consultant. The City will be under no further monetary obligation or commitment to the Consultant. The City may terminate this contract at any time upon thirty (30) days written notice to the Consultant.

In the event of termination, the City may, at its option, exercise any remedy available to it, including the Uniform Commercial Code, according to Ohio law.

ARTICLE 10. STANDARD TERMS

A. DELAY IN PERFORMANCE

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

Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing

continued performance and the efforts being made to resume performance of this Agreement.

B. GOVERNING LAW AND VENUE

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

C. COMMUNICATIONS

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

Consultant: Raftelis Financial Consultants, Inc.
4 British American Blvd
Latham, NY 12110
Attention: John Mastracchio
Vice President

City: City of Dayton, Department of Water
320 West Monument Avenue
Dayton, Ohio 45402
Attention: Michael Powell
Director

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

D. EQUAL EMPLOYMENT OPPORTUNITY

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

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

E. WAIVER

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

F. SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void, unenforceable, invalid or illegal provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that

comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision, which is of the essence of this Agreement, be determined void.

G. INDEPENDENT CONTRACTOR

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

Consultant, its employees and any persons retained or hired by Consultant to perform the duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Further, Consultant shall be responsible to withhold and pay, or cause such agents, contractors and sub-contractors to withhold and pay, all applicable local, state and federal taxes.

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

H. ASSIGNMENT

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

I. THIRD PARTY RIGHTS

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

J. AMENDMENT

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

The parties may mutually agree to extend the term of this Agreement to a later date. The Director of the Department of Water is authorized to extend the term of this Agreement for the City.

K. RECORDS

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

L. POLITICAL CONTRIBUTIONS

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

M. INTEGRATION

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

[Remainder of this page intentionally left blank]

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

CITY OF DAYTON, OHIO

RAFTELIS FINANCIAL CONSULTANTS, INC.

Samuel J. Clements
for City Manager

By: *John M. Mustardo*

Date: *2.22.19*

Its: *Vice President*

APPROVED:

William Paul
Director, Department of Water

APPROVED AS TO FORM
AND CORRECTNESS:

BMT
City Attorney

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

January 23, 2019

Min./Bk. *I-15* Pg. *0489*

Rachelle Reverden
Clerk of Commission

Attachment A – Raftelis’ 2019 Standard Billing Rates

<u>Position</u>	<u>Hourly Billing Rate</u>
Executive Vice President	\$320
Vice President/Principal	\$290
Senior Manager	\$265
Manager	\$240
Senior Consultant	\$210
Consultant	\$185
Associate	\$155
Administration	\$80
Technology/Communications Charge*	\$10

* Technology/Communications Charge – this is an hourly fee charged monthly for each hour worked on the project to recover telephone, facsimile, computer, postage/overnight delivery, conference calls, electronic/computer webinars, photocopies, etc.



City Manager's Report

7

From **3420- Water/Water Engineering**

Date **January 23, 2019**

Expense Type **Service Agreement**

Supplier, Vendor, Company, Individual

Total Amount **\$175,000.00 (thru 12/30/2020)**

Name **Raftelis Financial Consultants, Inc.**

Address **952 Troy-Schenectady Road, Suite 103
Latham, NY 12110**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
2019 Water Capital Fund	53003-3420-1159-54-WD1501	\$50,000.00
2019 Sanitary Capital Fund	55004-3420-1159-54-WD1501	\$100,000.00
2019 Storm Capital Fund	58002-3420-1159-54-WD1501	\$25,000.00

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

Description

AS-NEEDED PROFESSIONAL SERVICES AGREEMENT

The Department of Water requests permission to enter into a Consulting Services Agreement with Raftelis Financial Consultants, Inc. in the amount of \$175,000.00 for As-Needed Consulting Services. As-Needed professional services will include Cost of Service Modeling and utility rate planning for water, sanitary, and the storm water utilities. In addition, other as-needed financial services will provide support for the development of a Sanitary Sewer Service Agreement with Montgomery County.

This project is being fully funded using 2019 Sanitary, Water, and Storm Capital Funds.

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on December 30, 2020.

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

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

Signatures/Approval

Division _____

Department _____

[Signature]

 City Manager

Approved by City Commission

[Signature]

 Clerk

[Signature]

 Date

AGREEMENT FOR CONSULTING SERVICES

THIS AGREEMENT is made and entered into this 20th day of Feb., 2019, between the City of Dayton, Ohio ("City") and Raftelis Financial Consultants, Inc. ("Consultant"), 952 Troy-Schenectady Road, Suite 103, Latham, NY 12110.

WITNESSETH:

WHEREAS, the City desires certain professional services in connection with "as-needed" services in the City of Dayton, Ohio;

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

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

NOW THEREFORE, in consideration of the promises contained in this Agreement ("Agreement"), the City and the Consultant agree as follows:

ARTICLE 1. TERM

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on December 30, 2020, whichever date is earlier. The City, however, reserves the right to extend the term of this Agreement to a later date by mutual written agreement, as described in Article 10, J.

ARTICLE 2. SERVICES TO BE PERFORMED BY CONSULTANT

A. PROFESSIONAL QUALIFICATIONS

Consultant is qualified and permitted by law to perform the professional services to be furnished under the terms of this Agreement. Consultant represents and warrants that they are qualified to perform the services to be provided herein and are permitted to do the work they perform.

B. SERVICES TO BE PERFORMED

Consultant shall provide, upon the City's request, one or more of the following services:

- 1) Assist in the development of the Department of Water goals, objectives, policies, and priorities as identified by the City.
- 2) Plan and coordinate project work as directed by the Director of the Department of Water.
- 3) Provide staff assistance to the Director of the Department of Water and other executive level staff as appropriate (this may include Raftelis personnel on-site as requested).
- 4) Participate in various internal and external meetings.
- 5) Review significant reports, plans, and documents as identified by the City.
- 6) Research, analyze, and prepare financial information related to development of water, sanitary, and storm cost of service financial models.
- 7) Research, analyze, and evaluate service delivery methods and techniques identified for water, sanitary, and storm utilities.
- 8) Develop and update cash flow projections and financial models and plans as requested.
- 9) Other services as directed by the Director of the Department of Water.

The services to be furnished by Consultant under this Agreement are to be performed on an "on demand" basis. Unless the City requests Consultant's services in the manner outlined below, no expenditures under this Agreement are authorized and Consultant shall be ineligible for reimbursement for that particular service.

C. DELIVERABLES

All documents, such as audits or assessments, shall be signed and sealed by a principal of the Consultant. All Deliverables shall include a cover letter that references this Agreement's contract number.

ARTICLE 3. COMPENSATION

The total remuneration of this Agreement shall not exceed ONE HUNDRED SEVENTY FIVE THOUSAND DOLLARS AND ZERO CENTS (\$175,000.00) for all services to be provided by Consultant pursuant to this Agreement, including professional fees for actual hours worked and direct expenses incurred in performing the scope of services. The Consultant shall be paid at an hourly rate for actual hours worked as identified in Attachment A, attached hereto and incorporated herein.

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

ARTICLE 4. CITY'S RESPONSIBILITIES

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

ARTICLE 5. STANDARD OF CARE

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

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

ARTICLE 6. LIABILITY AND INDEMNIFICATION

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

To the fullest extent permitted by law: (1) Consultant's liability to the City for all claims, losses, damages, and expenses resulting in any way from the performance or non-performance of the Services shall not exceed the total compensation actually received by Consultant under this Agreement; and, (2) neither party to this Agreement shall be liable to the other party for any special, incidental, indirect or consequential damages of any kind, that may result from this Agreement.

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

ARTICLE 7. CONFIDENTIALITY

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

To the extent permitted by law, each party agrees that for a period of two (2) years following the date of disclosure of the confidential or proprietary information, it will not disclose such information of the other

to any third party without the other party's written consent. During this two-year period, each party will protect the confidential or proprietary information in the same manner that it protects its own confidential information of a similar nature. Each party agrees that it will only copy the confidential or proprietary information to the extent necessary to perform the work and services contracted for pursuant to this Agreement.

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

ARTICLE 8. OWNERSHIP OF DOCUMENTS & INTELLECTUAL PROPERTY

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

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

ARTICLE 9. TERMINATION

This Agreement may be terminated by the City upon written notice in the event of substantial failure by Consultant to perform in accordance with the terms of this Agreement. Consultant shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The City may terminate or suspend performance of this Agreement for the City's convenience upon thirty (30) days prior written notice to Consultant. In the event of termination by the City hereunder, the City will pay Consultant for Services actually provided up to the date of termination.

Any such termination shall not relieve the vendor of any liability to the City for damages sustained by virtue of any breach by the Consultant. The City will be under no further monetary obligation or commitment to the Consultant. The City may terminate this contract at any time upon thirty (30) days written notice to the Consultant.

In the event of termination, the City may, at its option, exercise any remedy available to it, including the Uniform Commercial Code, according to Ohio law.

ARTICLE 10. STANDARD TERMS

A. DELAY IN PERFORMANCE

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

Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing

continued performance and the efforts being made to resume performance of this Agreement.

B. GOVERNING LAW AND VENUE

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

C. COMMUNICATIONS

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

Consultant: Raftelis Financial Consultants, Inc.
4 British American Blvd
Latham, NY 12110
Attention: John Mastracchio
Vice President

City: City of Dayton, Department of Water
320 West Monument Avenue
Dayton, Ohio 45402
Attention: Michael Powell
Director

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

D. EQUAL EMPLOYMENT OPPORTUNITY

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

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

E. WAIVER

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

F. SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void, unenforceable, invalid or illegal provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that

comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision, which is of the essence of this Agreement, be determined void.

G. INDEPENDENT CONTRACTOR

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

Consultant, its employees and any persons retained or hired by Consultant to perform the duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Further, Consultant shall be responsible to withhold and pay, or cause such agents, contractors and sub-contractors to withhold and pay, all applicable local, state and federal taxes.

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

H. ASSIGNMENT

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

I. THIRD PARTY RIGHTS

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

J. AMENDMENT

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

The parties may mutually agree to extend the term of this Agreement to a later date. The Director of the Department of Water is authorized to extend the term of this Agreement for the City.

K. RECORDS

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

L. POLITICAL CONTRIBUTIONS

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

M. INTEGRATION

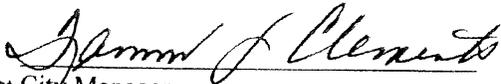
This Agreement represents the entire and integrated agreement between the City and Consultant. This Agreement supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

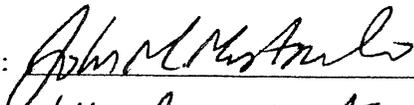
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IN WITNESS WHEREOF, the City and Consultant, each by a duly authorized representative, have executed this Agreement on the date first written above.

CITY OF DAYTON, OHIO

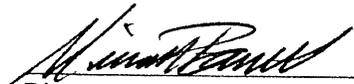
RAFTELIS FINANCIAL CONSULTANTS, INC.


for City Manager

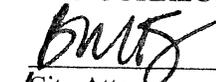
By: 
Its: Vice President

Date: 2.22.19

APPROVED:


Director, Department of Water

APPROVED AS TO FORM
AND CORRECTNESS:


City Attorney

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

January 23, 2019

Min./Bk. I-15 Pg. 0489


Clerk of Commission

Attachment A – Raftelis' 2019 Standard Billing Rates

<u>Position</u>	<u>Hourly Billing Rate</u>
Executive Vice President	\$320
Vice President/Principal	\$290
Senior Manager	\$265
Manager	\$240
Senior Consultant	\$210
Consultant	\$185
Associate	\$155
Administration	\$80
Technology/Communications Charge*	\$10

* Technology/Communications Charge – this is an hourly fee charged monthly for each hour worked on the project to recover telephone, facsimile, computer, postage/overnight delivery, conference calls, electronic/computer webinars, photocopies, etc.

**FIRST AMENDMENT TO THE
AGREEMENT FOR CONSULTING SERVICES**

THIS FIRST AMENDMENT, dated this 14th day of March, 2019, is between the City of Dayton, Ohio ("City") and Raftelis Financial Consultants, Inc. ("Consultant"), 952 Troy-Schenectady Road, Suite 103, Latham, NY 12110.

WHEREAS, The City entered into a Consulting Services Agreement for professional services for the City's Water Department; and,

WHEREAS, The City and Consultant desire to amend the Agreement to clarify Article III.

NOW, THEREFORE, The City and Consultant hereby agree to amend the Agreement as follows:

Section 1. Article III of the Agreement is hereby deleted in its entirety and replaced with the following:

ARTICLE 3. COMPENSATION

A. The total remuneration of this Agreement shall not exceed ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$175,000.00) for all services to be provided by Consultant pursuant to this Agreement, including professional fees for actual hours worked and direct expenses incurred in performing the scope of services. The Consultant shall be paid at an hourly rate for actual hours worked as identified in Attachment A, attached hereto and incorporated herein.

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

B. TRAVEL

The City agrees to reimburse Consultant for travel expenses incurred in the performance of the professional services performed. Consultant shall submit invoices, not more frequently than monthly, for reimbursement of travel expenses. Such invoices shall refer to the specific task for which the expenditure was related, state the total amount of reimbursement requested, and contain a detailed listing, by category and type, of each travel expense actually incurred. However, payment for such reimbursable expenses is subject to the following limitations:

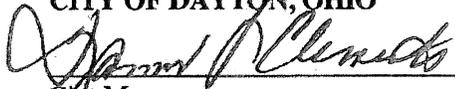
1. Air travel reimbursement is limited to coach/economy rates. Local automobile travel expenses are included in the hourly rates paid as compensation for services. Automobile travel expenses for any destination outside of Montgomery County, Ohio will be reimbursable at the rate of as set by the U. S. Internal Revenue Service for business mileage reimbursement.
2. Reimbursable expenses are limited to those out-of-pocket expenses paid by Consultant to some third party, excluding itself, and its employees, excluding any other consultant and sub-consultants and excluding any third party in which Consultant has an ownership interest or Consultant receives payments or benefits in consideration for service or product orders given to that third party.

3. Amounts billed as reimbursable expenses are limited to direct costs incurred by Consultant and shall not include any multiple or additional percentage of those costs.
4. In order to be reimbursable, expenses must have been reasonably appropriate or must have been necessary, when evaluated in the light of the services to be performed. The cost of alcoholic beverages or entertainment shall not be reimbursed.
5. Signed, legible and explanatory receipts must be submitted for all reimbursable expenses.

Upon verification and review, the City will tender payment of travel reimbursement invoices within thirty (30) days from receipt thereof, unless the invoice is disputed.

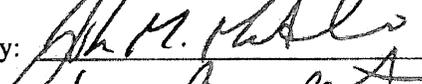
IN WITNESS WHEREOF, the parties have each caused this First Amendment to be executed by a duly authorized representative on the date set forth above.

CITY OF DAYTON, OHIO



City Manager

RAFTELIS FINANCIAL CONSULTANTS, INC.

By: 

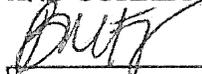
Its: 

APPROVED:



Director, Department of Water

**APPROVED AS TO FORM
AND CORRECTNESS:**



City Attorney 

****No Commission Action Required****

**ATTACHMENT A
TO
AGREEMENT FOR CONSULTING SERVICES**

City: City of Dayton, Ohio
Project: As-Needed Professional Consulting Services
Engineer: Raftelis Financial Consultants, Inc.

Raftelis' 2019 Standard Billing Rates

<u>Position</u>	<u>Hourly Billing Rate</u>
Executive Vice President	\$320
Vice President/Principal	\$290
Senior Manager	\$265
Manager	\$240
Senior Consultant	\$210
Consultant	\$185
Associate	\$155
Administration	\$80
Technology/ Communications Charge*	\$10

*Technology/ Communications Charge – this is an hourly fee charged monthly for each hour worked on the project to recover telephone, facsimile, computer, postage/ overnight delivery, conference calls, electronic/ computer webinars, photocopies, etc.

CERTIFICATE OF FUNDS

CT19-2218

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED *CORD #1*

New Contract Renewal Contract Change Order

Contract Start Date	1/23/2019
Expiration Date	12/30/2020
Original Commission Approval	\$ 175,000.00
Initial Encumbrance	\$ 175,000.00
Remaining Commission Approval	\$ -
Original CT/CF	CT19-2218
Increase Encumbrance	\$ 150,000.00
Decrease Encumbrance	\$ -
Remaining Commission Approval	\$ -

Required Documentation

<input checked="" type="checkbox"/>	Initial City Manager's Report
<input checked="" type="checkbox"/>	Initial Certificate of Funds
<input checked="" type="checkbox"/>	Initial Agreement/Contract
<input type="checkbox"/>	Copy of City Manager's Report
<input type="checkbox"/>	Copy of Original Certificate of Funds

Amount: <u>\$ 75,000.00</u> (Seq. 1) Fund Code <u>53003 - 3420 - 1159 - 54 - WD1501 -</u> <small style="margin-left: 40px;">Fund Org Acct Prog Act Loc</small>	Amount: <u>\$ 75,000.00</u> (Seq. 2) Fund Code <u>55004 - 3420 - 1159 - 54 - WD1501 -</u> <small style="margin-left: 40px;">Fund Org Acct Prog Act Loc</small>
Amount: _____ Fund Code _____ <small style="margin-left: 40px;">Fund Org Acct Prog Act Loc</small>	Amount: _____ Fund Code _____ <small style="margin-left: 40px;">Fund Org Acct Prog Act Loc</small>

Attach additional pages for more FOAPALs

Vendor Name: Rafelis Financial Consultants, Inc.
 Vendor Address: 4 British American Blvd. Latham NY 12110
Street City State Zipcode + 4
 Federal ID: 20-1054069
 Commodity Code: 91-897
 Purpose: Award for As-Needed Professional Consulting Services

Contact Person: Lisa Burton-Yates Water/Water Engineering 10/4/2019
Department/Division Date

Originating Department Director's Signature:

SECTION II - to be completed by the Finance Department

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

 10-8-19
 Finance Director Signature Date

 10/7/19
 CF Prepared by Date

CT19-2218
 CF/CT Number *CORD #1*



City Manager's Report

2.

From **3420- Water/Water Engineering**

Date **October 16, 2019**

Expense Type **Service Agreement**

Total Amount **\$150,000.00 (thru 12/30/20)**

Supplier, Vendor, Company, Individual

Name **Raftelis Financial Consultants, Inc.**

Address **4 British American Blvd.
Latham, NY 12110**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
2019 Water Capital Fund	53003-3420-1159-54-WD1501	\$75,000.00
2019 Sanitary Capital Fund	55004-3420-1159-54-WD1501	\$75,000.00

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

Description

AS-NEEDED PROFESSIONAL SERVICES AGREEMENT SECOND AMENDMENT

The Department of Water requests permission to enter into a Second Amendment Agreement with Raftelis Financial Consultants, Inc. in the amount of \$150,000.00 for additional As-Needed Consulting Services. As-Needed professional services will include continued work on the Cost of Service Modeling and utility rate planning for water, sanitary, and the storm water utilities. In addition, other as-needed financial services will provide support for the development of a Sanitary Sewer Service Agreement with Montgomery County.

The original Agreement was approved on January 23, 2019 in the amount of \$175,000.00. The First Amendment was approved on March 14, 2019 to change the language of the agreement. This Second Amendment will increase the contract amount to \$325,000.00.

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

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

Signatures/Approval

Division _____

Department _____

Alfonso J. Clements
City Manager

Approved by City Commission

Rachelle Lavender
Clerk

October 16, 2019
Date

**SECOND AMENDMENT TO THE
AGREEMENT FOR CONSULTING SERVICES**

THIS SECOND AMENDMENT, dated this _____ day of _____, 2019, between the City of Dayton, Ohio (“City”) and Raftelis Financial Consultants, Inc., 4 British American Blvd., Latham, NY 12110 (hereinafter referred to as the “Consultant”).

WHEREAS, On January 23, 2019 the Commission of the City of Dayton, Ohio, approved an Agreement for Consulting Services, CT19-2218, (“Agreement”) between the City and Consultant; and

WHEREAS, On March 14, 2019, the City of Dayton, Ohio, approved the First Amendment to the Agreement CT19-2218, between the City and Consultant; to amend the language of the Agreement,

WHEREAS, The City desires additional as-needed consulting services to and Consultant is willing to perform such services for additional compensation.

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

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

ARTICLE 3 – COMPENSATION

- A. The total remuneration of this Agreement shall not exceed THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$325,000.00) for all services to be provided by Consultant pursuant to this Agreement, including professional fees for actual hours worked and direct expenses incurred in performing the scope of services. The Consultant shall be paid at an hourly rate for actual hours worked as identified in Attachment A, attached hereto and incorporated herein.

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

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

(REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the City and Consultant have caused this Second Amendment to be executed, each by a duly authorized representative, on the date first set forth above.

CITY OF DAYTON, OHIO

Donald J. Clements
City Manager

RAFTELIS FINANCIAL CONSULTANTS, INC.

By *John M. McAndrews*
Title *Vice President*

APPROVED AS TO FORM
AND CORRECTNESS:

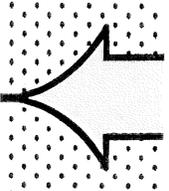
And N. B. V. 1
City Attorney

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

October 14, 2019

Min./BK. *I-15* Pg. *0703*

Cinda Weimer
Clerk of the Commission





City Manager's Report

From **6243 - Police/West Patrol Ops Div**

Date **June 24, 2020**

Expense Type **Service Agreement**

Supplier, Vendor, Company, Individual

Total Amount **\$297,700.00 (thru 6/30/21)**

Name **Greater Dayton Premier Management**

Address **400 Wayne Ave.
Dayton, Ohio 45410**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
GDPM Community Policing	16006-6243-22611-71	\$297,700.00

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

Description

Community Based Police Officers Service Agreement

The Department of Police requests permission to enter into a Service Agreement which will continue Community Policing collaboration with Greater Dayton Premier Management (GDPM) as outlined in the attached 2020-2021 Agreement and Attachment A.

GDPM shall reimburse the City of Dayton for personnel costs associated with the specialized assignment of three (3) full-time Community Based Police Officers. GDPM requests reassignment of officers during an estimated period, December 7, 2020 through December 20, 2020, to limit their cost and remain within their available budget for this service.

The current Agreement ends June 30, 2020. The period for this Agreement is July 1, 2020 through June 30, 2021.

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

A Certificate of Revenue is attached.

MB



Division

Signatures/Approval

Approved by City Commission



Department

Clerk



City Manager

Date

AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2020, between the City of Dayton, Ohio, an Ohio municipal corporation (hereinafter referred to as the "City") and Greater Dayton Premier Management, (hereinafter referred to as "GDPM"), located at 400 Wayne Ave., Dayton, Ohio 45410.

WITNESSETH THAT:

WHEREAS, the City and GDPM desire to decrease crime and increase safety within GDPM owned and operated housing sites within the City of Dayton by continuation of a community based police program;

WHEREAS, the City can provide police personnel to work with the neighborhoods defined, in efforts to facilitate a friendly law enforcement presence in the geographic area of the City of Dayton as identified herein.

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

Section 1. Scope of Services

The City shall provide the policing services, as described in Attachment A, which is incorporated herein by reference, at the GDPM owned and operated housing sites.

Section 2. Funding

For the services provided pursuant to this Agreement, GDPM will grant to the City a maximum of Two Hundred Ninety-Seven Thousand Seven Hundred Dollars and Zero Cents (\$297,700.00) during a twelve (12) month period or when funds are expended, whichever comes first.

GDPM shall pay the City for the services of the police personnel assigned pursuant to this Agreement a maximum regular hourly rate of \$34.48 per hour, plus fringes, for each police officer.

The City will invoice GDPM monthly for services completed. All invoices shall state the invoice period, total amount requested, provide detailed documentation and other information and/or support required for the invoiced amount. Unless disputed, GDPM shall tender payment within thirty (30) days from receipt of the invoice and all required supporting documentation.

The hourly rates listed above reflect an amount equal to the current maximum regular hourly rate of pay as established by the current agreement between the City and the Fraternal Order of Police, John C. Post Lodge #44 for each rank of police personnel, plus fringe benefits. GDPM agrees to pay any increase in the forgoing hourly rates necessitated by negotiation of a new labor agreement or regulation, order or law binding upon the City. "Fringe benefits," as used herein includes: pension, unemployment, vacation, holiday, sick leave, workers' compensation, health insurance, dental insurance, basic life/death/disability insurance, employee termination, uniform allowance, shift differential, longevity, physical fitness incentive and educational incentive, as determined by the City's Finance Department.

Section 3. Independence of Operation

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

All police services provided hereunder are bound by the current agreement between the City and the Fraternal Order of Police, John C. Post Lodge #44.

The award and/or payment of funds by GDPM shall not be construed to create any special duty or relationship, contractual or otherwise, between the City and the entities of Greater Dayton Premier Management. The City shall exercise its sole discretion in providing community based police services within the geographic areas. The City shall construe no provision of this Agreement as a waiver of immunity.

Section 4. Measurement of Outcomes

The City's Police Department, assigned police personnel and representatives of GDPM will track interventions and agency referrals using their respective protocols. The City will prepare and submit monthly reports to GDPM concerning the services provided during the preceding month. These monthly reports shall be in a mutually agreed upon format, shall contain mutually agreed upon information, and shall be provided to GDPM no later than the 15th day of each month that this Agreement is effective.

Additionally, the City shall provide timely notification to GDPM or its designee of major incidents or events of interest (related to crime and/or activities involving the assigned police personnel that occur within the geographical areas). Further, the City shall cooperate and agrees to submit to GDPM or its designee, as may be requested from time to time, reports that provide a statistical review of crimes (including "Class A" crimes in the geographical areas). Such reports shall include, but not be limited to, the description of the crime, date and time of the crime, resulting intervention/punishment by the judicial system, monthly trends/comparison, annual trends/comparisons and any other information as may be reasonably requested by GDPM.

Section 5. Services Provided by the Dayton Police Department

It is expressly understood that the GDPM Community Police Program, established by this agreement, is a supplemental police effort, over and above service levels that would normally be provided to this neighborhood if this program did not exist. Personnel assigned to the GDPM Community Police Program shall be removed from the neighborhood during their tour of duty only for well-defined emergencies as determined by the Chief of Police, or his designee.

Section 6. Term

As part of planned cost containment, the City will not provide these services between December 7, 2020 and December 20, 2020 for a maximum of 240 work hours, which is equal to one (1) pay period, exact dates for personnel may be adjusted. If necessary, additional planned cost containment beyond the dates mentioned above, would be at the end of the contract period, when all funds have been expended, as noted in paragraph one Section 2. The term of this Agreement

shall begin July 1, 2020 and expire June 30, 2021 or when funds are expended in full, whichever comes first.

Section 7. Notices

All notices permitted or required by this Agreement shall be deemed given when mailed by certified mail, return receipt requested, postage paid, addressed to the other party using the following addresses:

Greater Dayton Premier Management
Mr. Jim Goodwill, Security Assistant
400 Wayne Ave.
Dayton, Ohio 45410

With a copy to: CEO

City of Dayton
Attention: Chief of Police
335 West Third Street
Dayton, Ohio 45402

With a copy to: City of Dayton, Law Department

Section 8. Equal Opportunity

The parties agree to comply with all applicable federal, state and local laws regarding equal employment opportunity and non-discrimination in employment practices and personnel policies.

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

Section 9. Amendment

Either party may recommend amendments to this Agreement, at any time, provided that no such amendment shall be effective unless it is reduced to a writing, which makes specific reference to this Agreement, and is executed by a duly authorized representative of each and all parties.

Section 10. Political Contributions

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

Section 11. Integration

This Agreement with Attachment A represents the entire and integrated Agreement between the City of Dayton and GDPM. This Agreement supersedes all prior and contemporaneous

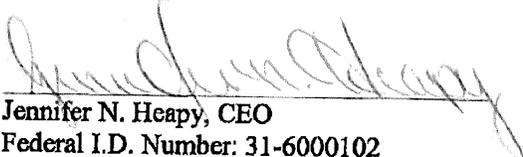
communications, representations, understandings, agreements or contracts, whether oral or written, relating the subject matter of the Agreement and Attachment A.

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

CITY OF DAYTON, OHIO

**GREATER DAYTON PREMIER
MANAGEMENT**

City Manager


Jennifer N. Heapy, CEO
Federal I.D. Number: 31-6000102
Phone: (937) 910-7500

APPROVED BY:



Director and Chief of Police

**APPROVED AS TO FORM AND
CORRECTNESS:**

6/5/2020

X John Musto for

City Attorney

Signed by: Musto, John

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

_____, 2020

Min./Bk. _____ Pg. _____

Clerk of Commission

Attachment A

The following further describes the Community Police Program for Greater Dayton Premier Management, hereinafter referred to as GDPM, and the Agreement between the City of Dayton.

1. GDPM, through its duly authorized representative, requests the services of three (3) officers on a full-time basis to provide police services within its communities on ten (10) hour shifts and the officers will normally be scheduled in a manner to cover Monday through Friday, unless directed otherwise by a GDPM representative. All scheduling will be completed in accordance to the current labor agreement with the City of Dayton.. The shift will be defined by spending ten (10) hours patrolling all GDPM housing sites within the City as is feasible, given work load. GDPM may also request that the officers be assigned to a specific GDPM site to address specific concerns based on the need as determined by GDPM.
2. GDPM will provide telephone services to City police personnel assigned hereunder. The City shall furnish all other equipment, supplies and labor necessary thereto under the GDPM Community Police Program.
3. It is expressly understood and agreed by both parties that a sergeant shall have oversight responsibilities under this Agreement and shall report any and all security activities directly to GDPM Security and to the Department Chain of Command according to Police procedures. Additional reporting requests are described in Section 5 of the Agreement and apply as requested.
4. The City will invoice GDPM for the services provided based on the current hourly pay rates, plus fringe benefits, as set forth in Section 2 of the Agreement. Overtime rates with benefits will apply as appropriate to any additional requested services.
5. The City agrees to remove or replace (either on a temporary or a permanent basis) any officer assigned to GDPM if said officer is absent from work for more than two (2) consecutive weeks, regardless of the reason. The City may determine the preferred method of replacement depending on available manpower; to adjust invoicing, amend contract or to provide overtime force for coverage at additional hourly cost to the customer, but not to exceed the contractual amount available.

"Attachment B"
Intergovernmental Agreement
General Terms and Conditions

1. **Representations:** Each party represents that: a) it will abide by all applicable federal, state, or local statutes or regulations; b) the individual signing this Agreement has the authority to do so; c) it has the ability and authority to perform each of its obligations under this Agreement and d) it is not subject to any government wide debarment or suspension preventing its eligibility for participation in federally funded contracts.
2. **Appropriations:** In the event funding from state, federal, or other sources is withdrawn, reduced or limited in any way, after the effective date of this Agreement and prior to expiration, and upon five (5) days written notice, GDPM may terminate this Agreement under the Termination Clause below.
3. **Remedies for Default:** Should either party fail, for any reason, to comply with the obligations of this Agreement, the other party shall have the right to terminate this Agreement and/or pursue any other remedy allowed by law or in equity.
4. **Waiver of Default:** Waiver of any default shall not be deemed a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed a waiver of any other subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
5. **Termination:**
 - 5.1. Either party may terminate this Agreement for cause and/or for convenience at any time upon 30 days written notice to the other party. Said Notice of Termination shall specify the effective date of the termination. If GDPM is the terminating party, upon receipt of the notice from GDPM, the Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise); and (ii) deliver to GDPM all information, reports, papers, and other materials accumulated or generated in performance of this Agreement, whether completed or in process.
 - 5.2. GDPM shall be liable only for payment for services rendered before the effective date of the termination.
6. **Inspection and Acceptance:** GDPM has the right to review, require correction, if necessary, and accept the work products produced by Contractor. Such review(s) shall be carried out within 30 days. Any product of work shall be deemed accepted as submitted if GDPM does not issue written comments and/or required corrections within 30 days from the date of receipt of such product.
7. **Records:** GDPM, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.
8. **Assignment:** This Agreement and any related agreement may not be assigned, or otherwise transferred without the express prior written consent of the other party.
9. **Controlling Law:** Parties agree that this Agreement will be interpreted under the laws of the State of Ohio, and that any suit filed to enforce any term of this Agreement shall be filed only in a court of competent jurisdiction in Montgomery County, Ohio.
10. **Conflict of Interest:** Parties agree to comply with all applicable local, state, and federal rules and regulations with respect to conflicts of interest.
11. **Equal Opportunity/Nondiscrimination:** During the performance of this Agreement, the Parties shall comply with all federal and state nondiscrimination laws, regulations and policies.
12. **Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended:** Parties agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

"Attachment B"
Intergovernmental Agreement
General Terms and Conditions

13. **Energy Efficiency:** If applicable, the Parties shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State of Ohio.
14. **Status:** It is understood that the Contractor is acting as an independent contractor and is not to be considered an employee of GDPM, and will not assume any right, privilege or duties of an employee, unless expressly stated otherwise.
15. **Liens:** The Contractor is prohibited from placing any lien on GDPM owned property due to any issue arising out of this Agreement or related agreement.
16. **Non-Exclusivity:** This Agreement and any resultant agreement are non-exclusive agreements. Either party may perform or enter into agreements to perform the services subject to this Agreement.
17. **Severability:** If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable to any extent, the remaining provisions of this Agreement will remain enforceable to the fullest extent permitted by law.
18. **Force Majeure:** Neither party shall be liable for failure to perform if such failure is caused by conditions beyond its control including, but not limited to, Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.
19. **Insurance:** Each party is self-insured and will maintain insurance policies or self-insurance programs to fund their respective liabilities. Contractor shall provide proof of such coverage upon request.
20. **Modifications:** This Agreement may only be modified by written agreement executed by both Parties. If any such modification causes an increase or decrease in the hourly rate, the not-to-exceed amount of any resultant agreement, or the time required for performance of any part of the work or otherwise affects the conditions of this Agreement or resultant agreement, GDPM shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the agreement accordingly.



City Manager's Report

4.

From **2600 - Economic Development**

Date **June 24, 2020**

Expense Type **Development Agreement**

Supplier, Vendor, Company, Individual

Total Amount **\$60,000.00** thru 12-31-2021

Name **Sunlight Village, Inc.**

Address **3320 West Third Street
Dayton, Ohio 45417**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
West Dayton Development Fund	22502-2600-1224-41	\$60,000.00

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

Description

West Dayton Development Trust Fund Agreement

The Department of Economic Development requests approval to enter into a Development Agreement with Sunlight Village, Inc. ("Sunlight Village"). The Agreement will provide \$60,000.00 to Sunlight Village in the form of a grant to assist with funding the interior and exterior building improvements; electrical, plumbing, and HVAC system upgrades; machinery and equipment; furniture and fixtures; and new signage and lighting activities for their property located at 3320 West Third Street.

Sunlight Village plans to expand their mental health and wellness center currently positioned to be a community asset focused on reducing mental health stigmas and barriers to wellness by increasing educational opportunities and awareness to residents in West Dayton.

The Agreement will commence upon execution and expire on December 31, 2021.

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

A map and a Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Division _____

Jord P. Weber

Department _____

J.P. ...

City Manager _____

Clerk _____

Date _____

MEMORANDUM



June 12, 2020

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

LaShea Lofton, Director
Finance Department

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

SUBJECT: Request for Approval – Development Agreement with Sunlight Village, Inc.

Attached for City Commission approval is a Development Agreement with Sunlight Village, Inc. (Company) in the amount of \$60,000.00. The Company will expand their mental health and wellness center, located at 3320 West Third Street, to include programming on reducing mental health stigmas and barriers to wellness for youth and young adults residing in West Dayton.

This project is critical to increasing access to culturally competent mental health and wellness services to youth, young adults, and families, especially those now dealing with the impact of COVID-19.

If you have any questions, please contact me at extension 3621 or Veronica Morris of my staff by email.

FPW/vlm

WEST DAYTON DEVELOPMENT TRUST FUND AGREEMENT
Sunlight Village, Inc.

THIS WEST DAYTON DEVELOPMENT TRUST FUND AGREEMENT (“Agreement”) is made and entered into between **Sunlight Village, Inc.**, a not-for-profit corporation organized and existing under the laws of the State of Ohio, currently located at 3320 West Third Street, Dayton, Ohio 45417 (“Company”), and the **City of Dayton, Ohio**, a municipal corporation in and of the State of Ohio (“City”).

WITNESSETH THAT:

WHEREAS, The purpose of the West Dayton Development Trust Fund (“WDDTF”) is to fund projects that primarily benefit and enhance the growth and development of the West Dayton area, which is defined as the West Land Use District; and,

WHEREAS, City desires to stimulate, promote and increase economic, community development, and wellness activities that provide meaningful, long-term benefits and improvements to West Dayton residents; and,

WHEREAS, Company plans to expand their mental health and wellness center currently positioned to be a community asset focused on reducing mental health stigmas and barriers to wellness by increasing educational opportunities and awareness; and,

WHEREAS, City finds that the project as defined herein will benefit the community and further the purpose of the WDDTF and wishes to support the Company in carrying out the project under the terms and conditions set forth herein; and,

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, City and Company agree as follows:

ARTICLE 1. DEFINITIONS.

For the purposes this Agreement, the following words and phrases shall have the following meanings ascribed to them respectively, regardless of whether or not the words and phrases are capitalized:

West Dayton Development Trust Fund Grant. A grant provided hereunder by the City of Dayton to assist Company in leveraging private investment and partnership opportunities in the West Land Use District and enhancing the quality of life therein.

Facility. The real property located at 3320 West Third Street, Dayton, Ohio. The Facility is located along the West Third Street Corridor and within the Arlington Heights neighborhood.

Project. Improving and equipping the Facility for use as commercial and retail space, without limitation, interior and exterior building improvements; electrical, plumbing, and HVAC system upgrades; machinery and equipment; furniture and fixtures; and new signage and lighting.

Project Costs. The costs company incurs and pays in completing the Project, including those which may be prior to the term of this Agreement. Expenses for professional services and other “soft costs” are excluded from this definition.

Eligible Project Costs. Those Project Costs actually incurred and paid for by Company during the term of this Agreement.

ARTICLE 2. PROJECT TIMELINE.

Company shall commence the Project within one hundred twenty (120) days of Agreement execution and complete the Project on or before December 31, 2021, unless such time for commencement and/or completion is extended upon mutual written agreement between the parties to this Agreement. As further delineated herein, all construction activities and other work required to complete the Project shall be performed and completed in accordance with all applicable federal, state, and local laws, rules, regulations, and orders, including all applicable building, zoning, well field, and fire code requirements.

ARTICLE 3. FUNDING.

City will provide Company a West Dayton Development Trust Fund Grant to reimburse Company for Eligible Project Costs in an amount not to exceed the lesser of (i) Sixty Thousand Dollars and Zero Cents (\$60,000.00) or (ii) the Grant Cap as defined herein. The parties contemplate that the Project Costs will be approximately One Hundred Fifty Five Thousand Dollars and Zero Cents (\$155,000.00). Rounding the decimal point up in favor of the Company, Sixty Thousand Dollars is approximately thirty-eight and seventh-tenths percent (38.7%) (the "Reimbursement Percentage") of the Project Costs. Therefore, the Grant Cap shall be thirty-eight and seventh-tenths percent (38.7%) of the Project Costs ("Grant Cap"). (As an example, if the Project Costs are \$100,000, the grant cap would be 38.7% of that amount (\$38,700).

Company shall use the West Dayton Development Trust Fund Grant for reimbursement of Eligible Project Costs. All properly evidenced Project Costs may be included as Project Costs and factored into calculating the Grant Cap; however, only Eligible Project Costs are reimbursable. Company is solely responsible for all Project Costs in excess of the funding provided by City hereunder.

Company shall submit a Request for Reimbursement of the West Dayton Development Trust Fund Grant periodically (no more than monthly) utilizing a cover form substantially similar to that attached hereto and incorporated herein as **Exhibit A**. Each Request for Reimbursement shall state the applicable time frame covered and the total amount requested; detail the work and/or services performed; and contain such records, information, and/or documentation to substantiate the Eligible Project Costs for which reimbursement is sought. Company shall also provide cancelled checks as evidence of payment of such costs. Expenses incurred as part of the Project Costs for purposes of calculating the Reimbursement Percentage and Grant Cap must be documented in substantially the same manner as Eligible Project Costs. Appropriate City inspection personnel will verify all Project Costs. Unless disputed, City will disburse payment within forty-five (45) days from receipt of the Request for Reimbursement.

ARTICLE 4. SPECIFIC CONDITIONS.

- A. Company shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds for the Project. All construction activities and other work required to complete the Project shall be performed and completed in accordance with all applicable federal, state, and local laws, rules, regulations, and orders, including all building, zoning and fire code requirements. Company shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

- B. Developer agrees that the City's Procurement Enhancement Plan ("PEP") participation goals for certified Small Business Enterprises ("SBEs"), Minority Business Enterprises ("MBEs"), Women's Business Enterprises ("WBEs"), and Dayton Local Small Businesses ("DLSBs") apply to the Project. The Developer and any Developer Affiliates have the obligation to require individual company compliance with the PEP. The PEP participation goals are:

Total PEP Participation:	20%
MBE:	15%
WBE:	5%

C. Counting Toward Goals.

(i) To count toward the Project's PEP Participation Goals, a company contracting on the Project must be certified with the City's Human Relations Council ("HRC") and must be certified to perform the proposed work. The City encourages Company and Company's construction contractors to review the list of PEP-certified companies at <https://citybots.com/Home/Links> (click on the "PEP Certification List" button) and to obtain a copy of each PEP-certified firm's Certificate.

(ii) If a company is not currently PEP-certified, it may apply for PEP certification at any time; however, once a company is certified, only the portion of work performed on or after the company's PEP certification date shall count toward the Project's PEP Participation Goals. If a company's PEP certification expires, only the portion of work performed while the company's PEP certification was active shall count toward the Project's PEP Participation Goals.

(iii) For each PEP-certified firm, Company or Company's construction contractor shall submit to the HRC an executed PEP Participation Form describing the work to be performed, the dollar amount of the PEP firm's contract or subcontract, and the dollar amount to be counted toward the Project's PEP Participation Goals. The HRC shall acknowledge receipt of each PEP Participation Form within two (2) business days, and shall attempt to verify the PEP firm's participation within five (5) business days. A verified PEP firm's participation can be counted in any category (i.e., SBE, MBE, WBE, and/or DLSB) in which the firm is certified.

- D. If it becomes necessary for review, audit, or verification purposes, Company shall allow City to inspect applicable, confidential records.
- E. Company agrees to supply additional information upon reasonable request by the City and to cooperate in any audit or review of the funding provided hereunder.
- F. Reimbursement to Company will be made proportionally to the percentage of Project funding provided hereunder by City and identified above.

ARTICLE 5. TERM AND TERMINATION.

- A. This Agreement may be immediately terminated in the event of or under any of the following circumstances:
1. A receiver for Company's assets is appointed by a court of competent jurisdiction.
 2. Company is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Company's failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Company to remedy such failure within thirty (30) days from the date of written notice from City.
4. Company's violation of any applicable federal, state, or local law applicable to the Project and construction thereof.
5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Company desires to terminate this Agreement.

In the event of termination prior to Project completion and if City provided any funds to Company hereunder, Company shall repay to City within forty-five (45) business days from the effective date of termination all funds provided hereunder and, upon such repayment, Company shall be released from its obligations hereunder. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 6. INDEMNIFICATION.

Company shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys' fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Company, and its agents, employees, contractors, sub-contractors, and representatives in undertaking and completing the Project, and/or Company's failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 7 EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 8. POLITICAL CONTRIBUTIONS.

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

ARTICLE 9. RECORDS AND RETENTION.

Company shall use Generally Accepted Accounting Principles ("GAAP") or the Income Tax Accounting Method in recording and documenting all costs and expenditures related in whole or part to the Project. All costs and expenditures for the Project for which Company will be reimbursed hereunder shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other accounting documents and other evidence (collectively, "Records"). All Records shall be clearly identified and readily accessible. At any time during normal business hours and as often as City may reasonably request,

Company shall make available to City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees, all of its Records related to this Agreement and the Project. Company shall permit City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies and any of their designees to audit, examine, and make excerpts or transcripts from such Records and to have audits made of all contracts, invoices, materials, payrolls, personnel records, conditions of employment and other data pertaining in whole or in part to matters covered by this Agreement.

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Company and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of three (3) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Company shall retain such Records until completion of the actions and resolution of all issues or the expiration of the three year period, whichever occurs later.

ARTICLE 10. TAX REPRESENTATION.

Company certifies that, as of the date of execution, it does not owe any delinquent taxes to the City of Dayton and/or does not owe delinquent taxes for which Company is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code or, if such delinquent taxes are owed, Company currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, or Company filed a petition in bankruptcy under 11 U.S.C. Section 101. et seq., or such a petition has been filed against Company. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

ARTICLE 11. GENERAL PROVISIONS.

- A. Conflict of Interest. Company represents that to the best of its knowledge it has no interest that would undermine the impartiality of either party because of the conflict between the party's self-interest and this agreement or public interest in any manner or degree. Company further covenants that it will not acquire any such interest, directly or indirectly during the term of this Agreement.
- B. Entire Understanding. This Agreement represents the entire and integrated agreement between the parties. This Agreement supersedes all prior and contemporaneous communications, representations, understandings, agreements or contracts, whether oral or written, relating to the subject matter of this Agreement.
- C. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws. Any arbitration, litigation or other legal matter regarding this Agreement or performance by either party must be brought in a court of competent jurisdiction in Montgomery County, Ohio.
- D. Amendment. The parties may amend this Agreement, provided that no such amendment shall be effective unless it is reduced to a writing, which makes specific reference to this Agreement, is executed by a duly authorized representative of each party to this Agreement and, if required or applicable, is approved by the Commission of the City of Dayton, Ohio.

- E. Waiver. A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect City's rights with respect to any other or further breach.
- F. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the Project or any activities to be completed by Company.
- G. Communications. Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City: Veronica Morris
 Department of Economic Development
 City of Dayton
 P.O. Box 22, 101 W. Third Street
 Dayton, OH 45401

For Company: Robbie Brandon, Executive Director
 Sunlight Village, Inc.
 3320 West Third Street
 Dayton, OH 45417

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

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

[Remainder of this page intentionally left blank]

SUNLIGHT VILLAGE, INC.

By: 

Print name: Robbie Barron

Its: Exec. Director

CITY OF DAYTON, OHIO

City Manager

Date

**APPROVED AS TO FORM
AND CORRECTNESS:**

5/13/2020

Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

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

_____, 2020

Min. / Bk. _____ Pg. _____

Clerk of the Commission

Exhibit A

DATE _____ VENDOR/ORGANIZATION _____

AMOUNT REQUESTED _____

The above-named vendor/organization hereby submits this request for reimbursement. We have reviewed our agreement with the City of Dayton and believe our request meets the eligibility requirements for reimbursement as detailed below.

_____ The expenses for which reimbursement is sought or which, if applicable, comprise project costs that are the basis of calculating the Reimbursement Percentage, were actually incurred as established by the attached documentation. (In the case of improvements to real property, this would most likely be invoices and proof of payment (i.e. copy of cancelled check) for construction and/or equipment/materials. For professional services agreements, this would most likely be a list of activities performed and the hours and wages that correlate thereto.)

_____ The expenses were incurred and/or services were performed during the eligible time frame set forth in the agreement.

_____ The expenses were incurred for eligible activities as set forth in the agreement.

_____ Activity reports have been duly submitted to the Department of Economic Development if required. (This generally pertains to professional services agreements.)

_____ The project is "completed" if required. Evidence of completion of the project (photos, Certificate of Use and Occupancy, etc.) is attached hereto.

_____ Organization has met all job creation and retention requirements if applicable or is on track to meet such requirements. (Detail job creation and retention requirements and status thereof below if appropriate.)

ADDITIONAL INFORMATION:

[Over]

For more information, please feel free to contact me unless another person is identified below.

Submitted by:

Signature: _____

Title: _____

Phone: _____

Email: _____

Alternative contact for further information if applicable:

Name

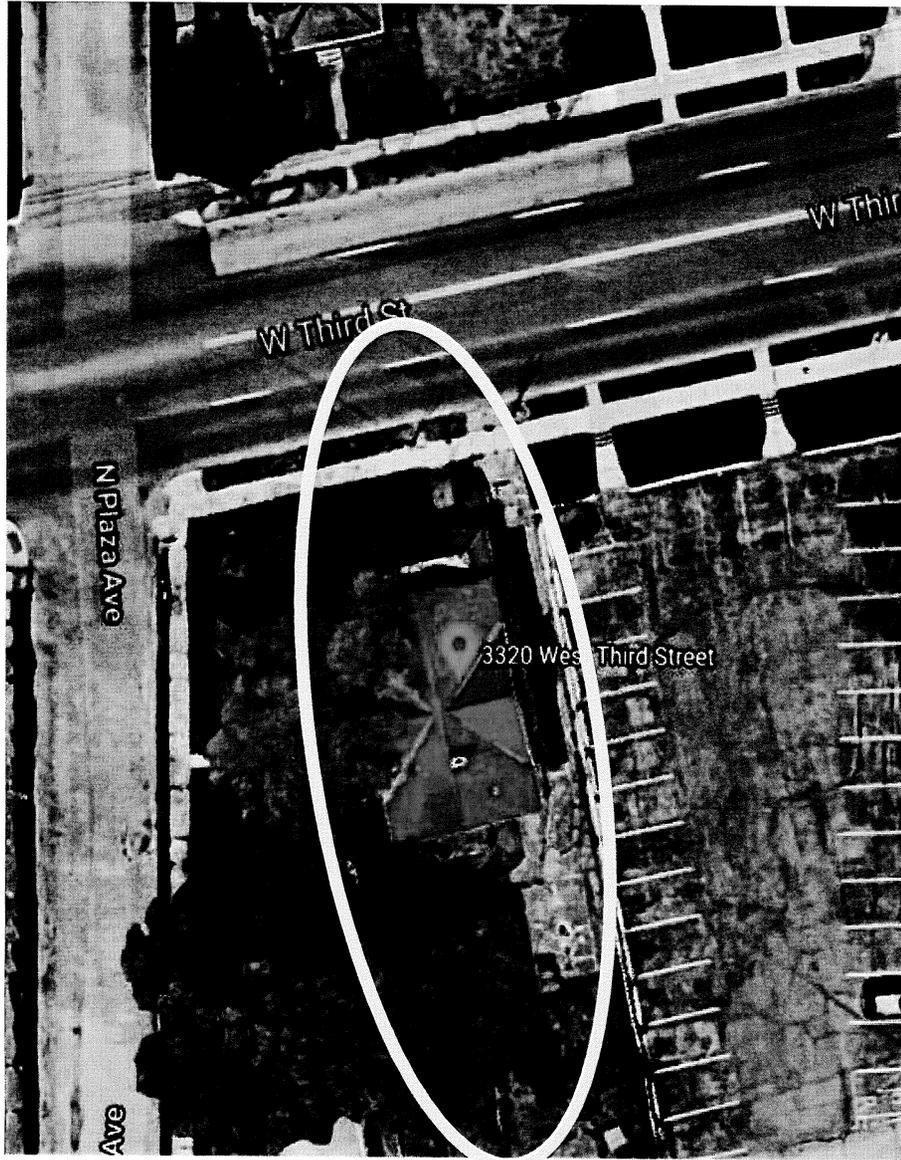
Title

Email

Phone

Aerial and Street View

Sunlight Village, Inc. – 3320 W. Third St.





City Manager's Report

5.

From **2600 - Economic Development**

Date **June 24, 2020**

Expense Type **Development Agreement**

Total Amount **\$175,000.00 thru 12-31-2021**

Supplier, Vendor, Company, Individual

Name **UrbanNovation Development Group, LLC**

Address **3401 West Sirius Avenue, Unit 18
Las Vegas, NV 89102**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
West Dayton Development Fund	22502-2600-1224-41	\$175,000.00

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

Description

West Dayton Development Trust Fund Agreement

The Department of Economic Development requests approval to enter into a Development Agreement with UrbanNovation Development Group LLC. ("UNDG"). The Agreement will provide \$175,000.00 to UNDG in the form of a grant to assist with funding the interior and exterior building improvements; electrical, plumbing, and HVAC system upgrades; machinery and equipment; furniture and fixtures; and new signage and lighting activities for their property located at 1000 West Third Street.

UNDG plans to redevelop their commercial building, also known as the Allaman Building, into commercial retail space to provide leasable spaces for local retail and restaurant owners that will help to create density in neighborhood and provide living lifestyle amenities to enhance the sense of community among residents and visitors in the area.

The Agreement will commence upon execution and expire on December 31, 2021.

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

A map and a Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Division _____
David P. Weber

Department _____
John D. Paulson

City Manager _____

Clerk _____

Date _____

CERTIFICATE OF FUNDS

CT20-2599

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

 x New Contract Renewal Contract Change Order:

Contract Start Date	upon execution
Expiration Date	12/31/2021
Original Commission Approval	\$ 175,000.00
Initial Encumbrance	\$ 175,000.00
Remaining Commission Approval	\$ -
Original CT/CF	
Increase Encumbrance	\$ -
Decrease Encumbrance	\$ -
Remaining Commission Approval	\$ -

Required Documentation

<u> x </u>	Initial City Manager's Report
<u> x </u>	Initial Certificate of Funds
<u> x </u>	Initial Agreement/Contract
<u> </u>	Copy of City Manager's Report
<u> </u>	Copy of Original Certificate of Funds

Amount: <u> \$ 175,000.00 </u> Fund Code <u> 22502 - 2600 - 1224 - 41 - - </u> <small style="display: block; text-align: center;">Fund Org Acct Prog Act Loc</small>	Amount: <u> </u> Fund Code <u> XXXX - XXX - XXX - XX - XXX - XXX </u> <small style="display: block; text-align: center;">Fund Org Acct Prog Act Loc</small>
Amount: <u> </u> Fund Code <u> XXXX - XXX - XXX - XX - XXX - XXX </u> <small style="display: block; text-align: center;">Fund Org Acct Prog Act Loc</small>	Amount: <u> </u> Fund Code <u> XXXX - XXX - XXX - XX - XXX - XXX </u> <small style="display: block; text-align: center;">Fund Org Acct Prog Act Loc</small>

Attach additional pages for more FOAPALS

Vendor Name: UrbanNovations Development Group, LLC

Vendor Address: 3401 West Sirius Avenue, Suite 18 Las Vegas Nevada 89102
Street City State Zip code + 4

Federal ID: 38-4126425

Commodity Code: 91849

Purpose: Development agreement to fund interior and exterior building improvements; electrical, plumbing, and HVAC system upgrades; machinery and equipment; furniture and fixtures; and new signage and lighting activities for property at 1000 West Third Street.

Contact Person: Jill Bramini Economic Development 5/14/2020
Department/Division Date

Originating Department Director's Signature: *Fred P. Weber*

SECTION II - to be completed by the Finance Department

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

 C. Lashae Brown 06/16/2020
Finance Director Signature Date

 Indira Williams 06/16/2020 CT20-2599
CF Prepared by Date CF/CT Number

6-15-2020
fb

June 9, 2020

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

LaShea Lofton, Director
Finance Department

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

SUBJECT: Request for Approval – Development Agreement with UrbanNovation
Development Group LLC

Attached for City Commission approval is a Development Agreement with UrbanNovation Development Group LLC (Company) in the amount of \$175,000.00. The Company will undertake the redevelopment of their currently vacant conference center located at 1000 West Third Street into leasable commercial spaces for local restaurant or other small business owners that will create a destination location that will also enhance the sense of community among residents and entrepreneurs in the area.

This project is critical to serving as a catalyst for development by adding much needed amenities for businesses to attract employees and developers for market rate housing and continuing the redevelopment momentum in the Wright Dunbar/Wolf Creek geography.

If you have any questions, please contact me at extension 3621 or Veronica Morris of my staff by email.

FPW/vlm

WEST DAYTON DEVELOPMENT TRUST FUND AGREEMENT
UrbanNovation Development Group LLC

THIS WEST DAYTON DEVELOPMENT TRUST FUND AGREEMENT (“Agreement”) is made and entered into between **UrbanNovation Development Group LLC**, a limited liability corporation organized and existing under the laws of the State of Ohio, currently located at 3401W Sirius Ave Unit 18 Las Vegas NV 89102 (“**Company**”), and the **City of Dayton, Ohio**, a municipal corporation in and of the State of Ohio (“**City**”).

WITNESSETH THAT:

WHEREAS, the purpose of the West Dayton Development Trust Fund (“**WDDTF**”) is to fund projects that primarily benefit and enhance the growth and development of the West Dayton area, which is defined as the West Land Use District; and,

WHEREAS, City desires to stimulate, promote and increase economic and community development activities that provide meaningful, long-term benefits and improvements to West Dayton residents; and,

WHEREAS, Company plans to redevelop their commercial building located at 1000 West Third Street into commercial retail space that will provide leasable spaces for local retail and restaurant owners that will help to create density in neighborhood and provide living lifestyle amenities to enhance the sense of community among residents and visitors in the area; and,

WHEREAS, City finds that the project as defined herein will benefit the community and further the purpose of the WDDTF and wishes to support the Company in carrying out the project under the terms and conditions set forth herein; and,

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, City and Company agree as follows:

ARTICLE 1. DEFINITIONS.

For the purposes this Agreement, the following words and phrases shall have the following meanings ascribed to them respectively, regardless of whether or not the words and phrases are capitalized:

West Dayton Development Trust Fund Grant. A grant provided hereunder by the City of Dayton to assist Company in leveraging private investment and partnership opportunities in the West Land Use District and enhancing the quality of life therein.

Facility. The real property located at 1000 West Third Street, Dayton, Ohio. The Facility is located within the Wright-Dunbar Historic Business District.

Project. Improving and equipping the Facility for use as commercial and retail space, without limitation, interior and exterior building improvements; electrical, plumbing, and HVAC system upgrades; machinery and equipment; furniture and fixtures; and new signage and lighting.

Project Costs. The costs company incurs and pays in completing the Project, including those which may be prior to the term of this Agreement. Expenses for professional services and other “soft costs” are excluded from this definition.

Eligible Project Costs. Those Project Costs actually incurred and paid for by Company during the term of this Agreement.

ARTICLE 2. PROJECT TIMELINE.

Company shall commence the Project within one hundred twenty (120) days of Agreement execution and complete the Project on or before December 31, 2021, unless such time for commencement and/or completion is extended upon mutual written agreement between the parties to this Agreement. As further delineated herein, all construction activities and other work required to complete the Project shall be performed and completed in accordance with all applicable federal, state, and local laws, rules, regulations, and orders, including all applicable building, zoning, well field, and fire code requirements.

ARTICLE 3. FUNDING.

City will provide Company a West Dayton Development Trust Fund Grant to reimburse Company for Eligible Project Costs in an amount not to exceed the lesser of (i) One Hundred Seventy-Five Thousand Dollars and Zero Cents (\$175,000.00) or (ii) the Grant Cap as defined herein. The parties contemplate that the Project Costs will be approximately One Million Eighty-Four Thousand Dollars and Zero Cents (\$1,084,000.00). Rounding the decimal point up in favor of the Company, One Hundred Seventy-Five Thousand Dollars and Zero Cents (\$175,000.00) is approximately sixteen and one-tenth percent (16.1%) (the "Reimbursement Percentage") of the Project Costs. Therefore, the Grant Cap shall be sixteen and one-tenth percent (16.1%) of the Project Costs ("Grant Cap"). (As an example, if the Project Costs are \$1,000,000, the grant cap would be 16.1% of that amount (\$161,000).

Company shall use the West Dayton Development Trust Fund Grant for reimbursement of Eligible Project Costs. All properly evidenced Project Costs may be included as Project Costs and factored into calculating the Grant Cap; however, only Eligible Project Costs are reimbursable. Company is solely responsible for all Project Costs in excess of the funding provided by City hereunder.

Company shall submit a Request for Reimbursement of the Project Grant periodically (no more than monthly) utilizing a cover form substantially similar to that attached hereto and incorporated herein as **Exhibit A**. Each Request for Reimbursement shall state the applicable time frame covered and the total amount requested; detail the work and/or services performed; and contain such records, information, and/or documentation to substantiate the Eligible Project Costs for which reimbursement is sought. Company shall also provide cancelled checks as evidence of payment of such costs. Expenses incurred as part of the Project Costs for purposes of calculating the Reimbursement Percentage and Grant Cap must be documented in substantially the same manner as Eligible Project Costs. Appropriate City inspection personnel will verify all Project Costs. Unless disputed, City will disburse payment within forty-five (45) days from receipt of the Request for Reimbursement.

ARTICLE 4. SPECIFIC CONDITIONS.

- A. Company shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds for the Project. All construction activities and other work required to complete the Project shall be performed and completed in accordance with all applicable federal, state, and local laws, rules, regulations, and orders, including all building, zoning and fire code requirements. Company shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Developer agrees that the City's Procurement Enhancement Plan ("PEP") participation goals for certified Small Business Enterprises ("SBEs"), Minority Business Enterprises ("MBEs"), Women's Business Enterprises ("WBEs"), and Dayton Local Small Businesses ("DLSBs") apply to the Project. The Developer and any Developer Affiliates have the obligation to require individual company compliance with the PEP. The PEP participation goals are:

Total PEP Participation:	20%
MBE:	15%
WBE:	5%

C. Counting Toward Goals.

(i) To count toward the Project's PEP Participation Goals, a company contracting on the Project must be certified with the City's Human Relations Council ("HRC") and must be certified to perform the proposed work. The City encourages Company and Company's construction contractors to review the list of PEP-certified companies at <https://citybots.com/Home/Links> (click on the "PEP Certification List" button) and to obtain a copy of each PEP-certified firm's Certificate.

(ii) If a company is not currently PEP-certified, it may apply for PEP certification at any time; however, once a company is certified, only the portion of work performed on or after the company's PEP certification date shall count toward the Project's PEP Participation Goals. If a company's PEP certification expires, only the portion of work performed while the company's PEP certification was active shall count toward the Project's PEP Participation Goals.

(iii) For each PEP-certified firm, Company or Company's construction contractor shall submit to the HRC an executed PEP Participation Form describing the work to be performed, the dollar amount of the PEP firm's contract or subcontract, and the dollar amount to be counted toward the Project's PEP Participation Goals. The HRC shall acknowledge receipt of each PEP Participation Form within two (2) business days, and shall attempt to verify the PEP firm's participation within five (5) business days. A verified PEP firm's participation can be counted in any category (i.e., SBE, MBE, WBE, and/or DLSB) in which the firm is certified.

- D. If it becomes necessary for review, audit, or verification purposes, Company shall allow City to inspect applicable, confidential records.
- E. Company agrees to supply additional information upon reasonable request by the City and to cooperate in any audit or review of the funding provided hereunder.
- F. Reimbursement to Company will be made proportionally to the percentage of Project funding provided hereunder by City and identified above.

ARTICLE 5. TERM AND TERMINATION.

- A. This Agreement may be immediately terminated in the event of or under any of the following circumstances:
1. A receiver for Company's assets is appointed by a court of competent jurisdiction.
 2. Company is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Company's failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Company to remedy such failure within thirty (30) days from the date of written notice from City.
4. Company's violation of any applicable federal, state, or local law applicable to the Project and construction thereof.
5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Company desires to terminate this Agreement.

In the event of termination prior to Project completion and if City provided any funds to Company hereunder, Company shall repay to City within forty-five (45) business days from the effective date of termination all funds provided hereunder and, upon such repayment, Company shall be released from its obligations hereunder. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 6. INDEMNIFICATION.

Company shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys' fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Company, and its agents, employees, contractors, sub-contractors, and representatives in undertaking and completing the Project, and/or Company's failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 7. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 8. POLITICAL CONTRIBUTIONS.

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

ARTICLE 9. RECORDS AND RETENTION.

Company shall use Generally Accepted Accounting Principles ("GAAP") or the Income Tax Accounting Method in recording and documenting all costs and expenditures related in whole or part to the Project. All costs and expenditures for the Project for which Company will be reimbursed hereunder shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other accounting documents and other evidence (collectively, "Records"). All Records shall be clearly identified and readily accessible. At any time during normal business hours and as often as City may reasonably request,

Company shall make available to City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees, all of its Records related to this Agreement and the Project. Company shall permit City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies and any of their designees to audit, examine, and make excerpts or transcripts from such Records and to have audits made of all contracts, invoices, materials, payrolls, personnel records, conditions of employment and other data pertaining in whole or in part to matters covered by this Agreement.

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Company and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of three (3) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Company shall retain such Records until completion of the actions and resolution of all issues or the expiration of the three year period, whichever occurs later.

ARTICLE 10. TAX REPRESENTATION.

Company certifies that, as of the date of execution, it does not owe any delinquent taxes to the City of Dayton and/or does not owe delinquent taxes for which Company is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code or, if such delinquent taxes are owed, Company currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, or Company filed a petition in bankruptcy under 11 U.S.C. Section 101. et seq., or such a petition has been filed against Company. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

ARTICLE 11. GENERAL PROVISIONS.

- A. Conflict of Interest. Company represents that to the best of its knowledge it has no interest that would undermine the impartiality of either party because of the conflict between the party's self-interest and this agreement or public interest in any manner or degree. Company further covenants that it will not acquire any such interest, directly or indirectly during the term of this Agreement.
- B. Entire Understanding. This Agreement represents the entire and integrated agreement between the parties. This Agreement supersedes all prior and contemporaneous communications, representations, understandings, agreements or contracts, whether oral or written, relating to the subject matter of this Agreement.
- C. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws. Any arbitration, litigation or other legal matter regarding this Agreement or performance by either party must be brought in a court of competent jurisdiction in Montgomery County, Ohio.
- D. Amendment. The parties may amend this Agreement, provided that no such amendment shall be effective unless it is reduced to a writing, which makes specific reference to this Agreement, is executed by a duly authorized representative of each party to this Agreement and, if required or applicable, is approved by the Commission of the City of Dayton, Ohio.

- E. Waiver. A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect City's rights with respect to any other or further breach.
- F. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the Project or any activities to be completed by Company.
- G. Communications. Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City: Veronica Morris
 Department of Economic Development
 City of Dayton
 P.O. Box 22, 101 West Third Street
 Dayton, OH 45401

For Company: Ronny Aharon, Managing Member
 UrbanNovation Development Group LLC
 3401 West Sirius Avenue, Unit 18
 Las Vegas, NV 89102

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

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

[Remainder of this page intentionally left blank]

URBANNOVATION DEVELOPMENT GROUP LLC

By: 

Print name: Ronny Aharon

Its: Manager

CITY OF DAYTON, OHIO

City Manager

Date

**APPROVED AS TO FORM
AND CORRECTNESS:**

5/13/2020

Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

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

_____, 2020

Min. / Bk. _____ Pg. _____

Clerk of the Commission

Exhibit A

DATE _____ VENDOR/ORGANIZATION _____

AMOUNT REQUESTED _____

The above-named vendor/organization hereby submits this request for reimbursement. We have reviewed our agreement with the City of Dayton and believe our request meets the eligibility requirements for reimbursement as detailed below.

_____ The expenses for which reimbursement is sought or which, if applicable, comprise project costs that are the basis of calculating the Reimbursement Percentage, were actually incurred as established by the attached documentation. (In the case of improvements to real property, this would most likely be invoices and proof of payment (i.e. copy of cancelled check) for construction and/or equipment/materials. For professional services agreements, this would most likely be a list of activities performed and the hours and wages that correlate thereto.)

_____ The expenses were incurred and/or services were performed during the eligible time frame set forth in the agreement.

_____ The expenses were incurred for eligible activities as set forth in the agreement.

_____ Activity reports have been duly submitted to the Department of Economic Development if required. (This generally pertains to professional services agreements.)

_____ The project is “completed” if required. Evidence of completion of the project (photos, Certificate of Use and Occupancy, etc.) is attached hereto.

_____ Organization has met all job creation and retention requirements if applicable or is on track to meet such requirements. (Detail job creation and retention requirements and status thereof below if appropriate.)

ADDITIONAL INFORMATION:

[Over]

For more information, please feel free to contact me unless another person is identified below.

Submitted by:

Signature: _____

Title: _____

Phone: _____

Email: _____

Alternative contact for further information if applicable:

Name

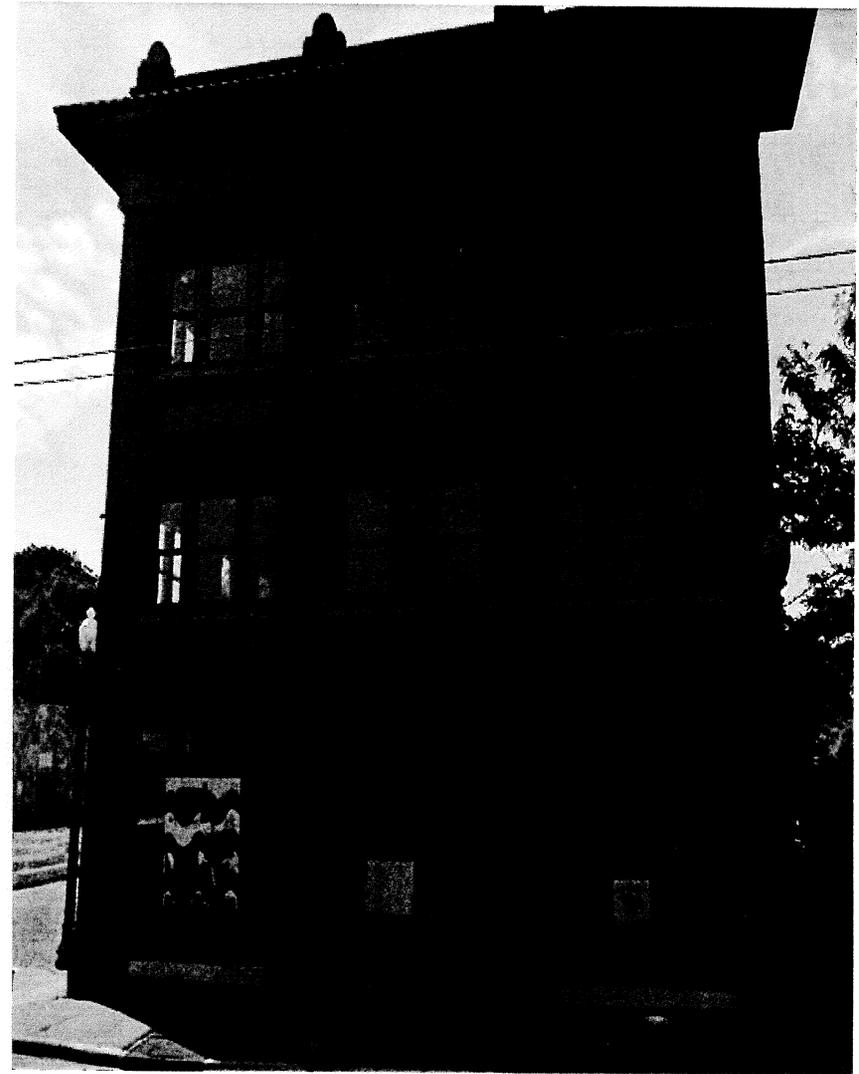
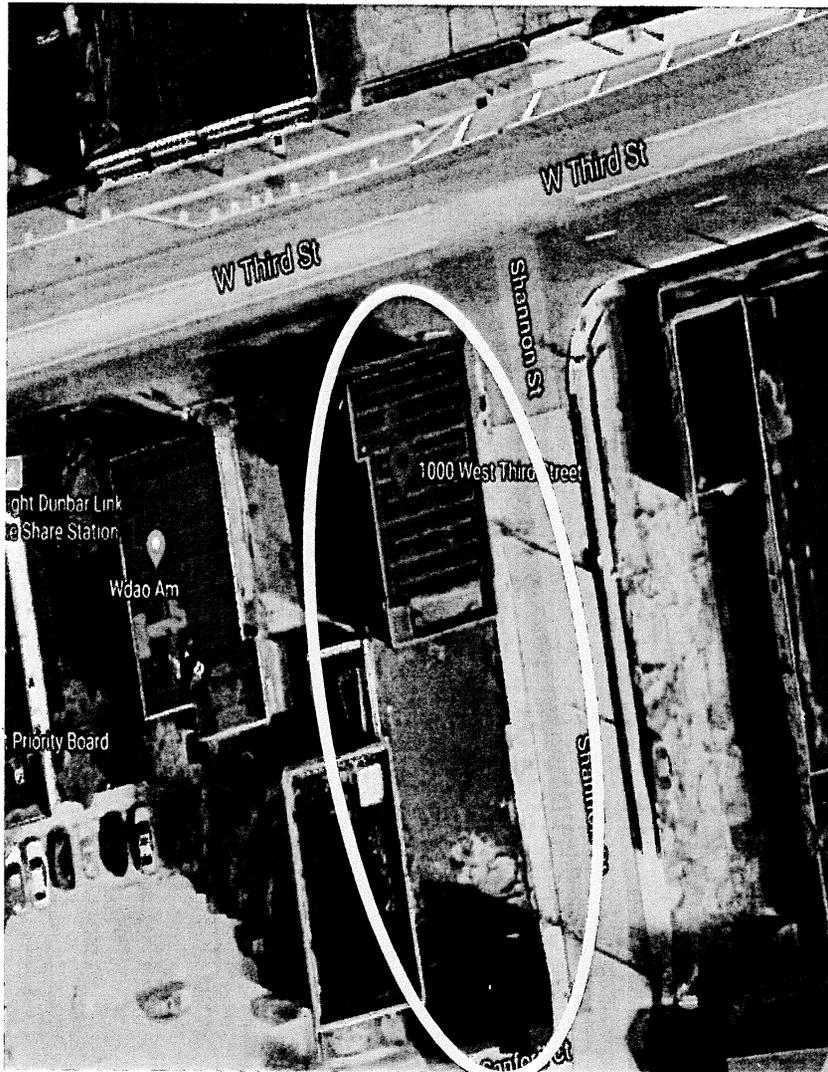
Title

Email

Phone

Aerial and Street View

UrbanNotivations Development Group, LLC





City Manager's Report

6

From **6410 - Public Works Director**

Date **June 24, 2020**

Expense Type **Other, (See Description Below)**

Total Amount **\$80,316.94**

Supplier, Vendor, Company, Individual

Name **City of Kettering, Ohio**

Address **3600 Shroyer Road
Kettering, OH 45429**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
FEMA Memorial Day Tornadoes Reimbursement Fund	28108-6410-1159-54	80,316.94

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

Description

MUTUAL AID PAYMENT TO CITY OF KETTERING

In the aftermath of the 2019 Memorial Day Tornadoes, the City of Dayton received assistance from neighboring communities to remove dangerous debris in the public Right of Way. Between May 28, 2019 and June 4, 2019, City of Kettering Public Works crews provided 1,247 hours of debris removal assistance to the City of Dayton Department of Public Works. This assistance helped clear the Right of Way in the heavily impacted neighborhood of Old North Dayton.

The City of Dayton entered into a Memorandum of Understanding (MOU) with the City of Kettering on June 19, 2019 while the 2019 Memorial Day Tornadoes State of Emergency was in effect. The MOU is specific to Mutual Aid that was performed by the City of Kettering during the aftermath of the 2019 Memorial Day Tornadoes.

In accordance with Federal guidelines as established in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the City of Dayton applied for a Federal Emergency Management (FEMA) Public Assistance grant for debris removal from the public Right of Way for work performed by the Cities of Dayton, Kettering and Oakwood. On May 8, 2020, FEMA awarded the City of Dayton \$602,692 for the Right of Way Debris Removal project. The \$80,316.94 payment to the City of Kettering includes the Federal share of 75% (\$60,237.71), the State of Ohio's share of 12.5% (\$10,039.62) and the City of Dayton's cash match of 12.5% (\$10,039.62).

A Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Division

Department

City Manager

Clerk

Date

CERTIFICATE OF FUNDS

C720-2596

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

 New Contract
 Renewal Contract
 Change Order

Contract Start Date	06/19/19
Expiration Date	12/30/20
Original Commission Approval	\$ 80,316.94
Initial Encumbrance	\$ 80,316.94
Remaining Commission Approval	\$ -
Original CT/CF	\$ -
Increase Encumbrance	
Decrease Encumbrance	\$ -
Remaining Commission Approval	\$ -

Required Documentation

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

Amount: <u> </u> \$ <u>80,316.94</u> Fund Code <u>28108</u> <u>6410</u> - <u>1159</u> - <u>54</u> - <u>XXXX</u> - <u>XXXX</u> <small style="margin-left: 20px;">Fund Org Acct Prog Act Loc</small>	Amount: <u> </u> Fund Code <u> </u> - <u> </u> - <u> </u> - <u> </u> - <u>XXXX</u> - <u>XXXX</u> <small style="margin-left: 20px;">Fund Org Acct Prog Act Loc</small>
Amount: <u> </u> Fund Code <u> </u> - <u> </u> - <u> </u> - <u> </u> - <u>XXXX</u> - <u>XXXX</u> <small style="margin-left: 20px;">Fund Org Acct Prog Act Loc</small>	Amount: <u> </u> Fund Code <u>XXXXX</u> - <u>XXXX</u> - <u>XXXX</u> - <u>XX</u> - <u>XXXX</u> - <u>XXXX</u> <small style="margin-left: 20px;">Fund Org Acct Prog Act Loc</small>

Attach additional pages for more FOAPALS

Vendor Name: City of Kettering, Ohio

Vendor Address: 3600 Shroyer Road Kettering Ohio 45429
Street City State Zipcode + 4

Federal ID: 316000617

Commodity Code: 91881

Purpose: The City of Dayton entered into a Mutual Aid agreement with the City of Kettering on June 19, 2019 during the 2019 State of Emergency for the Memorial Day tornadoes. The City of Kettering provided debris removal assistance in the direct aftermath of the tornadoes. In accordance with the FEMA Public Assistance program, the City of Dayton applied for, and received grant award for work from the providing jurisdiction, the City of Kettering.

Contact Person: Melody Walls/Hilary Browning Public Works/PMB 6/3/2020
Department/Division Date

Originating Department Director's Signature: *JMS* 6-8-2020

SECTION II - to be completed by the Finance Department

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

C. Joshua Simon 06/11/2020
 Finance Director Signature Date

Janina Williams 06/11/2020 C720-2596
 CF/Prepared by Date CF/CT Number

SA 6/11/2020

Reimbursement Category	Kettering	Oakwood
Force Account Labor Reimbursement	25,994.74	6,933.86
Equipment Use Reimbursement	54,322.20	9,020.00
Total	80,316.94	15,953.86

Reimbursement Source	Kettering	Oakwood
FEMA	60,237.71	11,965.40
Ohio EMA	10,039.62	1,994.23
Dayton's Cash Match	10,039.62	1,994.23
Total Reimbursement	80,316.94	15,953.86

Memorandum of Understanding

This Memorandum of Understanding ("MOU") is entered into on this 19 day of June, 2019, by and between the City of Dayton, Ohio ("Requesting Jurisdiction"), and the City of Kettering, Ohio ("Providing Jurisdiction").

WHEREAS, on the evening of May 27, 2019 several tornadoes touched down in the city of Dayton causing significant damage to public and private property ("Storm"); and

WHEREAS, given the magnitude of the Storm damage and resulting power outage, the Dayton City Manager on the morning of May 28, 2019 declared a state of emergency for the city of Dayton; and

WHEREAS, the Requesting Jurisdiction requests assistance from the Providing Jurisdiction to provide personnel and equipment to assist with certain services defined herein.

NOW, THEREFORE, the parties do mutually agree as follows:

1. The scope of the disaster requires aid in the form of personnel and equipment that is beyond the ability of the Requesting Jurisdiction. The Providing Jurisdiction will provide, at its discretion, personnel and equipment that can be reasonably spared for purposes of debris removal, hauling, and disposal from the Requesting Jurisdiction's public right-of-way.
2. All equipment and personnel loaned hereunder shall be returned upon demand of the Providing Jurisdiction or when released by the Requesting Jurisdiction.
4. This MOU is limited in scope to the May 27, 2019 Storm.
5. The Requesting Jurisdiction agrees to compensate the Providing Jurisdiction for its reasonable employee, material costs, and equipment costs for the provision of services described above.
6. This MOU contains the entire understanding between the parties, and there are no understandings or representations not set forth or incorporated by reference herein.
7. In the performance of this MOU, each party shall comply with all applicable Federal, State, and Local laws, rules, and regulations.

IN WITNESS WHEREOF, the Requesting Jurisdiction and the Providing Jurisdiction, each by duly signed representatives, have executed this Memorandum of Understanding as of the day and date set forth above.

The City of Dayton, Ohio

Shelley DeStain
City Manager

Approved As To Form
And Correctness:

John M... for
City Attorney

The City of Kettering, Ohio

By: Mark ...

Its: CITY MANAGER

APPROVED AS TO FORM:

Hammer
Law Director

****No Commission Action Required****



City Manager's Report

7

From **6410 - Public Works Director**

Date **June 24, 2020**

Expense Type **Other, (See Description Below)**

Total Amount **\$15,953.86**

Supplier, Vendor, Company, Individual

Name **City of Oakwood, Ohio**

Address **30 Park Avenue
Oakwood, OH 45419**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
FEMA Memorial Day Tornadoes Reimbursement Fund	28108-6410-1159-54	15,953.86

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

Description

MUTUAL AID PAYMENT TO CITY OF OAKWOOD

In the aftermath of the 2019 Memorial Day Tornadoes, the City of Dayton received assistance from neighboring communities to remove dangerous debris in the public Right of Way. Between May 28, 2019 and June 7, 2019, City of Oakwood Public Works crews provided 235 hours of debris removal assistance to the City of Dayton Department of Public Works. This assistance helped clear the Right of Way in the Wright View neighborhood.

The City of Dayton entered into a Memorandum of Understanding (MOU) with the City of Oakwood on June 19, 2019 while the 2019 Memorial Day Tornadoes State of Emergency was in effect. The MOU is specific to Mutual Aid that was performed by the City of Kettering during the aftermath of the 2019 Memorial Day Tornadoes.

In accordance with Federal guidelines as established in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the City of Dayton applied for a Federal Emergency Management (FEMA) Public Assistance grant for debris removal from the public Right of Way for work performed by the Cities of Dayton, Kettering and Oakwood. On May 8, 2020, FEMA awarded the City of Dayton \$602,692 for the Right of Way Debris Removal project. The \$15,953.86 payment to the City of Oakwood includes the Federal share of 75% (\$11,965.40), the State of Ohio's share of 12.5% (\$1,994.23) and the City of Dayton's cash match of 12.5% (\$1,994.23).

A Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Division _____

Department _____

City Manager _____

Clerk _____

Date _____

Reimbursement Category	Kettering	Oakwood
Force Account Labor Reimbursement	25,994.74	6,933.86
Equipment Use Reimbursement	54,322.20	9,020.00
Total	80,316.94	15,953.86

Reimbursement Source	Kettering	Oakwood
FEMA	60,237.71	11,965.40
Ohio EMA	10,039.62	1,994.23
Dayton's Cash Match	10,039.62	1,994.23
Total Reimbursement	80,316.94	15,953.86

Asumani, Saleh

From: Browning, Hilary
Sent: Thursday, June 11, 2020 11:44 AM
To: Asumani, Saleh
Cc: Johnson, Cheryl
Subject: Mutual Aid Spreadsheet for Oakwood and Kettering
Attachments: Dayton Debris Removal Force Account Mutual Aid FA Materials and Equipment Database Updated 03-13-2020.xlsx

Hi Saleh:

Please see the attached reconciliation sheet which justifies the Mutual Aid for Oakwood and Kettering by the Labor Hour and Equipment Usage Hour, as defined by the FEMA PAPPG, the guidelines that are used for disaster recovery grants. These sheets were verified by FEMA CRC, and were the basis for our joint Public Assistance filing for the Right of Way Debris Removal project. Though it is very small text- these spreadsheets are attached to our sub-recipient grant agreement. The total hours of labor that is noted on each CMR corresponds to this database.

About this spreadsheet: 1) FEMA requires that we apply for Mutual Aid in tandem with the City's own Force Account labor. Therefore, you will find in this spreadsheet multiple tabs. 2) The first two tabs are summaries of the Labor and Equipment hours, the basis of reimbursement. 3) All subsequent tabs are databases of every employee that worked, their vehicle, labor hours, and reimbursable fringe rate (Please note that the reimbursement fringe rate is a capped percent, defined by FEMA). There is also a reconciliation sheet for the Mutual Aid as the very last tab, which was a way for us to check against the grant sources. 4) There is lastly a VLOOKUP table that references that FEMA reimbursement rates for equipment. These reimbursement rates are as prescribed by FEMA.

Please note that FEMA Public Assistance is not a traditional reimbursable grant. It is scoped retrospectively, and therefore all documents, including the reconciliation sheet attached, are certified by FEMA during the Essential Elements of Information process.

I lastly request that this document not be shared widely. This document contains wage rates, OT rates, benefits, fringes and hours worked not just for our employees, but for Kettering and Oakwood. I would ask that you treat this document as confidential, to the extent that you are able.

Thanks, Hilary



Hilary Ross Browning

Senior Management Analyst

Department of Procurement, Management & Budget | City of Dayton

101 W. Third Street | Dayton, Ohio 45401

Office 937.333.3754 | Fax 937.333.4282 | www.daytonohio.gov

#DaytonCounts 2020CENSUS.GOV

Due to the ongoing COVID-19 crisis, I am working remotely. I am available

Tuesday through Friday, 07:30 AM until 18:00 PM.

Memorandum of Understanding

This Memorandum of Understanding ("MOU") is entered into on this 19 day of June, 2019, by and between the City of Dayton, Ohio ("Requesting Jurisdiction"), and the City of Oakwood, Ohio ("Providing Jurisdiction").

WHEREAS, on the evening of May 27, 2019 several tornadoes touched down in the city of Dayton causing significant damage to public and private property ("Storm"); and

WHEREAS, given the magnitude of the Storm damage and resulting power outage, the Dayton City Manager on the morning of May 28, 2019 declared a state of emergency for the city of Dayton; and

WHEREAS, the Requesting Jurisdiction requests assistance from the Providing Jurisdiction to provide personnel and equipment to assist with certain services defined herein.

NOW, THEREFORE, the parties do mutually agree as follows:

1. The scope of the disaster requires aid in the form of personnel and equipment that is beyond the ability of the Requesting Jurisdiction. The Providing Jurisdiction will provide, at its discretion, personnel and equipment that can be reasonably spared for purposes of debris removal, hauling, and disposal from the Requesting Jurisdiction's public right-of-way.
2. All equipment and personnel loaned hereunder shall be returned upon demand of the Providing Jurisdiction or when released by the Requesting Jurisdiction.
3. This MOU is limited in scope to the May 27, 2019 Storm.
4. The Requesting Jurisdiction agrees to compensate the Providing Jurisdiction for its reasonable employee costs, material costs, and equipment costs for the provision of services described above.
5. This MOU contains the entire understanding between the parties, and there are no understandings or representations not set forth or incorporated by reference herein.
6. In the performance of this MOU, each party shall comply with all applicable Federal, State, and Local laws, rules, and regulations.

IN WITNESS WHEREOF, the Requesting Jurisdiction and the Providing Jurisdiction, each by duly signed representatives, have executed this Memorandum of Understanding as of the day and date set forth above.

The City of Dayton, Ohio

Shelley Dickstein
City Manager

Approved As To Form
And Correctness:

John M. ...
City Attorney

The City of Oakwood, Ohio

By: John Norbert S. Klopsch
Its: City Manager

****No Commission Action Required****



City Manager's Report

8.

From **2600 - Economic Development**

Date **June 24, 2020**

Expense Type **Other, (See Description Below)**

Total Amount **\$721,647.66** thru 12-31-2020

Supplier, Vendor, Company, Individual

Name **Vandalia-Butler City Schools**

Address **500 S. Dixie Drive
Vandalia, Ohio 45377**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
Development Fund	16300-2600-1224-41	\$721,647.66

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

Description

Community Reinvestment Area (CRA) Income Tax Sharing Payments

The Department of Economic Development is requesting approval to disburse the annual income tax revenue sharing payment to the Vandalia-Butler City Schools Board of Education ("Vandalia-Butler Schools"). This revenue sharing payment relates to income taxes generated within the Airport Community Reinvestment Area (Airport CRA) and is pursuant to an Intergovernmental Revenue Sharing Agreement ("Revenue Sharing Agreement") entered into with Vandalia-Butler Schools on December 26, 2018. The Revenue Sharing Agreement formalizes the process by which the City is complying with Ohio law as described below.

ORC §5709.82 provides that in the event a building situated within the boundaries of a CRA generates more than One Million Dollars and Zero Cents (\$1,000,000.00) of payroll from new employees in a year during which it benefits from real property tax exemption, the City is required to share the income tax revenue generated by the amount by which the new payroll exceeds One Million Dollars and Zero Cents (\$1,000,000.00) with the affected local school district.

This payment is based on the new employment payroll for the Airport CRA during calendar years 2017-2019. This payment supplements our earlier payment, which was solely based on Energizer Holdings Inc., and includes Chewy, Inc.; PSA Airlines, Inc.; Land O' Lakes, Inc.; ALPLA; and H&H Aircraft Services, Inc.

The Revenue Sharing Agreement provides that the annual income tax sharing payments shall be made on or before June 30th each year and expires on June 30, 2039.

A Certificate of Funds for \$721,647.66 is attached.

Signatures/Approval

Approved by City Commission

Division _____

Department _____

City Manager _____

Clerk _____

Date _____

June 11, 2020

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

LaShea Lofton, Director
Finance Department

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

SUBJECT: Request for Approval – Annual Revenue Payment to Vandalia-Butler
Schools for Airport CRA

The Department of Economic Development is requesting approval to disburse the annual income tax revenue sharing payment to the Vandalia-Butler City Schools Board of Education (“Vandalia-Butler Schools”). This revenue sharing payment relates to income taxes generated within the Airport Community Reinvestment Area (Airport CRA) and is pursuant to an Intergovernmental Revenue Sharing Agreement (“Revenue Sharing Agreement”) entered into with Vandalia-Butler Schools on December 26, 2018. The Revenue Sharing Agreement formalizes the process by which the City is complying with Ohio law.

This payment is based on the new employment payroll for the Airport CRA during calendar years 2017-2019. This payment supplements our earlier payment, which was solely based on Energizer Holdings Inc., and includes Chewy, Inc.; PSA Airlines, Inc.; Land O’ Lakes, Inc.; ALPLA; and H&H Aircraft Services, Inc. The City is required to share the income tax revenue generated by the amount by which the new payroll exceeds One Million Dollars and Zero Cents (\$1,000,000.00) with the affected local school district.

The Revenue Sharing Agreement provides that the annual income tax sharing payments shall be made on or before June 30th each year.

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

FPW



City Manager's Report

16.

From **2600 - Economic Development**

Date **May 13, 2020**

Expense Type **Other, (See Description Below)**

Total Amount **\$215,430.79 thru 12-31-2020**

Supplier, Vendor, Company, Individual

Name **Vandalia-Butler City Schools**

Address **500 S. Dixie Drive
Vandalia, Ohio 45377**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
Development Fund	16300-2600-1224-41	\$215,430.79

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

Description

Community Reinvestment Area (CRA) Income Tax Sharing Payments

The Department of Economic Development is requesting approval to disburse the annual income tax revenue sharing payment to the Vandalia-Butler City Schools Board of Education ("Vandalia-Butler Schools"). This revenue sharing payment relates to income taxes generated within the Airport Community Reinvestment Area (Airport CRA) and is pursuant to an Intergovernmental Revenue Sharing Agreement ("Revenue Sharing Agreement") entered into with Vandalia-Butler Schools on December 26, 2018. The Revenue Sharing Agreement formalizes the process by which the City is complying with Ohio law as described below.

ORC §5709.82 provides that in the event a building situated within the boundaries of a CRA generates more than One Million Dollars and Zero Cents (\$1,000,000.00) of payroll from new employees in a year during which it benefits from real property tax exemption, the City is required to share the income tax revenue generated by the amount by which the new payroll exceeds One Million Dollars and Zero Cents (\$1,000,000.00) with the affected local school district.

This payment is based on the new employment payroll for the Airport CRA during calendar year 2019. Energizer Holdings Inc. is currently the only company that generated more than One Million Dollars and Zero Cents (\$1,000,000.00) of new payroll.

The annual income tax sharing payments shall be made on or before June 30th each year and expires on June 30, 2039.

A Certificate of Funds for \$215,430.79 is attached.

Signatures/Approval

Division _____

Fred P. Weber

Department _____

[Signature]

City Manager

Approved by City Commission

Rachelle Lavender

Clerk

Date

May 13, 2020

CERTIFICATE OF FUNDS

CT20-2305

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

 X New Contract Renewal Contract Change Order

Contract Start Date	upon execution
Expiration Date	12/31/2020
Original Commission Approval	\$ 215,430.79
Initial Encumbrance	\$ 215,430.79
Remaining Commission Approval	\$ -
Original CT/CF	CT192205, CT192305
Increase Encumbrance	\$ -
Decrease Encumbrance	\$ -
Remaining Commission Approval	\$ -

Required Documentation

<u> X </u>	Initial City Manager's Report
<u> X </u>	Initial Certificate of Funds
<u> </u>	Initial Agreement/Contract
<u> </u>	
<u> </u>	Copy of City Manager's Report
<u> </u>	Copy of Original Certificate of Funds

Amount: <u> \$ 215,430.79 </u> Fund Code <u> 16300 - 2600 - 1224 - 41 - - </u> <div style="font-size: small; text-align: center;"> Fund Org Acct Prog Act Loc </div>	Amount: <u> </u> Fund Code <u> XXXX - XXXX - XXXX - XX - - </u> <div style="font-size: small; text-align: center;"> Fund Org Acct Prog Act Loc </div>
Amount: <u> </u> Fund Code <u> XXXXX - XXXX - XXXX - XX - XXXX - XXXX </u> <div style="font-size: small; text-align: center;"> Fund Org Acct Prog Act Loc </div>	Amount: <u> </u> Fund Code <u> XXXXX - XXXX - XXXX - XX - XXXX - XXXX </u> <div style="font-size: small; text-align: center;"> Fund Org Acct Prog Act Loc </div>

Attach additional pages for more FOAPALS

Vendor Name: Vandalia-Butler City School

Vendor Address: 500 S. Dixie Drive Vandalia OH 45377

Street City State Zipcode + 4

Federal ID: 31-6000747

Commodity Code: 91849

Purpose: School payment for 2019 payroll withholdings year 3 of 15. Encumber with 2020 funds.

Contact Person: Jill Bramini Economic Development 4/30/2020

Department/Division Date

Originating Department Director's Signature: *Fred P. Weber*

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.

 [Signature]
 Finance Director's Signature

 05-05-2020
 Date

 [Signature]
 CF Prepared by

 05/05/2020 CT20-2305
 Date CF/CT Number

KB 5/11/20



City Manager's Report

6.

From **2600 - Economic Development**

Date **June 12, 2019**

Expense Type **Other, (See Description Below)**

Total Amount **\$216,292.31 thru 12-31-2019**

Supplier, Vendor, Company, Individual

Name **Vandalia-Butler City Schools**

Address **500 S. Dixie Drive
Vandalia, Ohio 45377**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
Development Fund	16300-2600-1221-41	\$216,292.31

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

Description

Community Reinvestment Area (CRA) Income Tax Sharing Payments

The Department of Economic Development is requesting approval to disburse the annual income tax revenue sharing payment to the Vandalia-Butler City Schools Board of Education ("Vandalia-Butler Schools"). This revenue sharing payment relates to income taxes generated within the Airport Community Reinvestment Area (Airport CRA) and is pursuant to an Intergovernmental Revenue Sharing Agreement ("Revenue Sharing Agreement") entered into with Vandalia-Butler Schools on December 26, 2018. The Revenue Sharing Agreement formalizes the process by which the City is complying with Ohio law as described below.

ORC §5709.82 provides that in the event a building situated within the boundaries of a CRA generates more than One Million Dollars and Zero Cents (\$1,000,000.00) of payroll from new employees in a year during which it benefits from real property tax exemption, the City is required to share the income tax revenue generated by the amount by which the new payroll exceeds One Million Dollars and Zero Cents (\$1,000,000.00) with the affected local school district.

This payment is based on the new employment payroll for the Airport CRA during calendar year 2018. Spectrum Brands is currently the only company that generated more than One Million Dollars and Zero Cents (\$1,000,000.00) of new payroll.

The annual income tax sharing payments shall be made on or before June 30th each year and expires on June 30, 2039.

A Certificate of Funds for \$216,292.31 is attached.

Signatures/Approval

Division _____
David P. Weber
 Department _____
Harold Clouse
 City Manager _____

Approved by City Commission

Rashella Lawrence
 Clerk _____

June 12, 2019
 Date _____

CERTIFICATE OF FUNDS

CT19-2305

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

 X New Contract Renewal Contract Change Order:

Contract Start Date	upon execution
Expiration Date	12/31/19
Original Commission Approval	\$ 216,292.31
Initial Encumbrance	\$ 216,292.31
Remaining Commission Approval	\$
Original CT/CF	\$
Increase Encumbrance	\$
Decrease Encumbrance	\$
Remaining Commission Approval	\$

Required Documentation

<u> X </u>	Initial City Manager's Report
<u> X </u>	Initial Certificate of Funds
<u> X </u>	Initial Agreement/Contract
<u> </u>	Copy of City Manager's Report
<u> </u>	Copy of Original Certificate of Funds

Amount: <u> \$ 216,292.31 </u> Fund Code <u> 16300 - 2600 - 1221 - 41 - </u> <div style="display: flex; justify-content: space-between; font-size: small;"> Fund Org Acct Prog Act Loc </div>	Amount: <u> </u> Fund Code <u> XXXX - XXXX - XXXX - XX - </u> <div style="display: flex; justify-content: space-between; font-size: small;"> Fund Org Acct Prog Act Loc </div>
Amount: <u> </u> Fund Code <u> XXXXX - XXXX - XXXX - XX - XXXX - XXXX </u> <div style="display: flex; justify-content: space-between; font-size: small;"> Fund Org Acct Prog Act Loc </div>	Amount: <u> </u> Fund Code <u> XXXX - XXXX - XXXX - XX - XXXX - XXXX </u> <div style="display: flex; justify-content: space-between; font-size: small;"> Fund Org Acct Prog Act Loc </div>

Attach additional pages for more FOAPALs

Vendor Name: Vandalia-Butler City School

Vendor Address: 500 S. Dixie Drive Vandalla OH 45377

Street
City
State
Zipcode + 4

Federal ID: 31-6000747

Commodity Code: 91849

Purpose: School payment for 2018 payroll withholdings year 2 of 15. Encumber with 2019 funds.

Contact Person: Ronelle Kinney Economic Development 5/28/2019

Department/Division
Date

Originating Department Director's Signature: Zond P. Weber

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.

 [Signature]
 Finance Director Signature

 Lorrie Williams
 CF Prepared by

 08/4/19
 Date

 6/4/19
 Date

 CT19-2305
 CF/CT Number

10/18/2011 10:10:19 AM

YEHU

10/18/19



City Manager's Report

18.

From **2600 - Economic Development**

Date **December 26, 2018**

Expense Type **Other, (See Description Below)**

Total Amount **\$142,687.50 thru 3-31-2019**

Supplier, Vendor, Company, Individual

Name **Vandalia-Butler City Schools Board of Education**

Address **500 S. Dixie Drive
Vandalia, Ohio 45377**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
Development Fund	16300-2600-1221-41	\$142,687.50

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

Description

Community Reinvestment Area (CRA) Income Tax Sharing Payments

The Department of Economic Development requests approval to enter into an Intergovernmental Revenue Sharing Agreement with the Vandalia-Butler City Schools Board of Education ("VBS") regarding income tax sharing payments triggered by projects receiving real property tax abatement in the Airport Community Reinvestment Area ("Airport CRA"). ORC §5709.82 provides that in the event a building situated within the boundaries of a CRA generates more than One Million Dollars and Zero Cents (\$1,000,000.00) of payroll from new employees in a year during which it benefits from real property tax exemption, the City is required to share the income tax revenue generated by the amount by which the new payroll exceeds One Million Dollars and Zero Cents (\$1,000,000.00) with the affected local school district.

This agreement establishes the process for verifying and calculating the amount of such annual income tax sharing payments and provides that such payments shall be made on or before June 30th of the following year. In addition, the agreement provides that a one-time payment in the amount of One Hundred Forty-two Thousand Six Hundred Eighty-seven Dollars and Fifty Cents (\$142,687.50) is based on the new payroll generated in 2017 at the Spectrum Brands facility be paid on or before March 31, 2019.

The Agreement will commence upon execution and expires on June 30, 2039.

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

A Certificate of Funds for \$142,687.50 is attached.

Signatures/Approval

Division _____

Department _____

Paul P. Weber
Samuel J. Clement
 for City Manager

Approved by City Commission

Ann Warren

Clerk

December 24, 2018

Date

INTERGOVERNMENTAL REVENUE SHARING AGREEMENT

This INTERGOVERNMENTAL REVENUE SHARING AGREEMENT (“Agreement”), is made and entered into on the later of the dates of execution (“Effective Date”) by and between THE CITY OF DAYTON, OHIO (“City”), a municipal corporation, and the VANDALIA-BUTLER CITY SCHOOLS BOARD OF EDUCATION (“VBS”), a public school district. The City and VBS may each be referred to herein as a “Party” and may be referred to collectively as the “Parties.”

WHEREAS, City and VBS have encouraged the attraction, retention, and expansion of businesses and the acquisition and development of real property in an area located at Dayton International Airport that has been established as a Community Reinvestment Area (“CRA”) under Chapter 3735 of the Ohio Revised Code (“ORC”) (such area referred to herein as the “Airport CRA”);

WHEREAS, the real property that has been established as the Airport CRA is located within the jurisdiction of VBS;

WHEREAS, City and VBS encourage the creation of new businesses and employment opportunities within the City’s municipal boundaries;

WHEREAS, pursuant to ORC §5709.82 in the event the owner of property situated within the boundaries of a CRA generates more than One Million Dollars and Zero Cents (\$1,000,000.00) of payroll (“Threshold Amount”) from New Employees (as defined in ORC §5709.82(A)(1)) in a year during which it benefits from real property tax exemption, the City is required to share the income tax revenue generated by the amount by which the payroll generated by New Employees exceeds the Threshold Amount with VBS;

WHEREAS, the Spectrum Brands light manufacturing and distribution facility (“Spectrum Building”), located at 2800 Concorde Drive, is located within the boundaries of the Airport CRA, has been granted a real property tax exemption pursuant to its investment in the Airport CRA, and has generated more than the Threshold Amount of annual payroll from New Employees;

WHEREAS, additional improvements to real property, including new commercial facilities, are under construction and the Parties contemplate that additional commercial development will continue to occur within the Airport CRA (all such buildings under construction or constructed in the future are collectively referred to as “Future Commercial Buildings”); and,

WHEREAS, City and VBS wish to specify the manner and process by which any such income tax revenue sharing is calculated, and any such payments are disbursed with the respect to the Spectrum Building and Future Commercial Buildings.

NOW, THEREFORE, in consideration of the foregoing premises and the promises and covenants contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1. VERIFICATION OF NEW ANNUAL PAYROLL AND CALCULATION OF INCOME TAX REVENUE SHARING.

No later than June 30th of each year, during the Term of this Agreement (as defined in Article 4(E)), the City shall perform all of the following acts:

1. Verify the amount of annual payroll generated by New Employees during the preceding tax year that is attributable to the Spectrum Building and to each Future Commercial Building that benefited from real property tax exemption in the preceding tax year (“New Employee Payroll Amount”);
2. Calculate the corresponding amount of income tax revenue for each owner of real property located in the Airport CRA that generated more than Threshold Amount in payroll from New Employees and received real property tax exemption in the preceding tax year (“Net New Employee Payroll Amount”);
3. Multiply the Net New Employee Payroll Amount by the City income tax rate in effect for the applicable tax year (“Net Municipal Income Tax Withholding”);
4. Divide the Net Municipal Income Tax Withholding by two (2) to generate the income tax revenue sharing payment (“Revenue Sharing Payment”).

Such Revenue Sharing Payment shall be transmitted by City to VBS by wire transfer or other means as mutually agreed upon by City and VBS. The Parties understand and agree that during any individual tax year in which the payroll generated by New Employees does not equal or exceed the Threshold Amount, the City is not required to make a Revenue Sharing Payment.

ARTICLE 2. SPECTRUM BUILDING SINGLE PAYMENT FOR TAX YEAR 2017.

The following shall serve as an example of the calculation of the Revenue Sharing Payment set forth in Article 1 and apply to the Revenue Sharing Payment pursuant to the Spectrum Building for tax year 2017.

1. City has verified that the New Employee Payroll Amount at the Spectrum Building for calendar year 2017 is Twelve Million Four Hundred Fifteen Thousand Dollars and Zero Cents (\$12,415,000.00);
2. Subtracting the first One Million Dollars (constituting the Threshold Amount) of new payroll results in a Net New Employee Payroll Amount of Eleven Million Four Hundred Fifteen Thousand Dollars and Zero Cents (\$11,415,000.00);

3. Multiplying the Net New Employee Payroll Amount of Eleven Million Four Hundred Fifteen Thousand Dollars and Zero Cents (\$11,415,000.00) by the current City income tax rate of Two and one-half percent (2.5%) produces a Net Municipal Income Tax Withholding of Two Hundred Eighty-five Thousand Three Hundred Seventy-five Dollars and Zero Cents (\$285,375.00); and
4. Dividing the Net Municipal Income Tax Withholding by two (2) generates a Revenue Sharing Payment of One Hundred Forty-two Thousand Six Hundred Eighty-seven Dollars and Fifty Cents (\$142,687.50), which payment will be transmitted to VBS on or before March 31, 2019.

By accepting the Revenue Sharing Payment of \$142,687.50, VBS agrees that this payment is the entire and full Revenue Sharing Payment owed by the City to VBS for tax year 2017.

ARTICLE 3. ONGOING REVENUE SHARING PAYMENTS.

Beginning in tax year 2018 and continuing through December 31, 2038, Revenue Sharing Payments attributable to the Spectrum Building and Future Commercial Buildings, if any, shall be made on or before June 30th of the following year in accordance with the process set forth in this Agreement. For avoidance of doubt, the final Revenue Sharing Payment under this Agreement, for tax year 2038, shall be made on or before June 30, 2039.

ARTICLE 4. LIMITED OBLIGATION

Nothing in this Agreement shall be construed or interpreted to pledge the full faith and credit of the City to make the Revenue Sharing Payment under this Agreement, nor shall the City be obligated to make Revenue Sharing Payment in excess of the amount of the Revenue Sharing Payment.

ARTICLE 5. GENERAL PROVISIONS.

- A. Waiver of Notice. VBS hereby waives all notice requirements as set forth in Chapters 3735 and 5709 of the ORC, respectively, for all buildings that receive commercial CRA tax exemption that are subject to the provisions of this Agreement.
- B. Amendment. This Agreement may be amended or modified by the Parties hereto only by a writing, executed by a duly authorized representative for each party, and by their respective legislative authorities if necessary.
- C. Entire Agreement. This Agreement sets forth the entire agreement and understanding between the Parties as to the subject matter hereof and merges and supersedes all prior discussions, agreements and undertakings of every kind and nature between the Parties with respect to the subject matter of this Agreement.

**SIGNATURE PAGE
TO
INTERGOVERNMENTAL REVENUE SHARING AGREEMENT**

IN WITNESS WHEREOF, City and VBS, each by a duly authorized representative, have made and entered into this Agreement on the later of the dates of execution by the Parties hereto.

VANDALIA-BUTLER CITY SCHOOL DISTRICT

By: *Eric H. Beavers*

Its: TREASURER/CFO

CITY OF DAYTON, OHIO

Shelly D. Stein
City Manager

**APPROVED AS TO FORM
AND CORRECTNESS:**

BHMTJ
City Attorney MWG

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

December 26, 2018

Min. / Bk. I-15 Pg. 14/72

Rachella Lawrence
Clerk of the Commission

1st and 2nd Reading 9.
6513-20

By:

No

A RESOLUTION

Authorizing Acceptance of Funds Under Section 1
of the Coronavirus Aid, Relief, and Economic Security
Act, 116 Public Law 136, and Declaring an Emergency.

WHEREAS, The Coronavirus Aid, Relief, and Economic Security Act, 116 Public Law 136, (the "CARES Act") was signed into law by the President of the United States on March 27, 2020; and,

WHEREAS, The 133rd Ohio General Assembly (hereinafter "General Assembly") established a process for distributing funds provided by the "Coronavirus Aid, Relief, and Economic Security Act" to local government "subdivisions"; and,

WHEREAS, The General Assembly requires subdivisions receiving funds, to pass a resolution affirming that funds from the County Coronavirus Relief Distribution Fund may be expended only to cover costs of the subdivision consistent with the requirements of section 5001 of the CARES Act as described in 42 U.S.C. 601(d), and any applicable regulations before receiving said funds; and,

WHEREAS, The City of Dayton, Ohio is requesting its share of funds from the County Coronavirus Relief Distribution Fund; and,

WHEREAS, 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 RESOLVED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That this City Commission affirms that all funds received from the County Coronavirus Relief Distribution Fund be expended only to cover costs of the subdivision consistent with the requirements of section 5001 of the CARES Act as described in 42 U.S.C. 601(d), and any applicable regulations and guidance only to cover expenses that:

- (1) Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
- (2) Were not accounted for in City of Dayton's most recently approved budget as of March 27, 2020; and,
- (3) Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

Section 2. That this City Commission authorizes the Fiscal Officer for the City of Dayton to take all necessary action to:

- (1) On or before October 15, 2020, pay any unencumbered balance of money in the City of Dayton's local coronavirus relief fund to the County Treasurer;

- (2) On or before December 28, 2020, pay the balance of any money in the City of Dayton's local coronavirus relief fund to the state treasury in the manner prescribed by the Director of the Ohio Office of Budget and Management; and,
- (3) Provide any information related to any payments received under the process established by the General Assembly to the Director of the Ohio Office of Budget and Management as requested.

Section 3. 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....., 2020

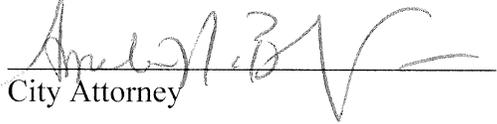
SIGNED BY THE MAYOR....., 2020

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:



City Attorney

June 15, 2020

TO: Mayor Whaley
Commissioner Joseph
Commissioner Mims
Commissioner Shaw
Commissioner Fairchild

FROM: Shelley Dickstein
City Manager

SUBJECT: Coronavirus Relief Distribution Fund Acceptance

Attached is a resolution to accept funds from the County Coronavirus Relief Distribution Fund distributed according to the CARES Act guidance. We request that this resolution be read twice at the June 24 meeting.

SD/er

Attachment

1st Reading 10.
3/8/20-20

By:.....

No.....

AN ORDINANCE

Authorizing the City Manager to Accept a Grant Award from the Ohio Department of Transportation for an Amount of Three Hundred Twenty-Six Thousand Seven Hundred Dollars and Zero Cents (\$326,700.00) in Federal Safety Funds.

WHEREAS, The State of Ohio Department of Transportation (“ODOT”) has identified the need for sidewalk along Gettysburg Avenue from Nicholas Road to Prison Drive in the City of Dayton; and,

WHEREAS, The City of Dayton intends to cooperate with the State of Ohio Director of Transportation in the planning, design, and construction of said improvement; now, therefore,

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

Section 1. That the City Manager is authorized, on behalf of the City of Dayton, to execute all documents and agreements necessary to accept a grant from the Ohio Department of Transportation in an amount of Three Hundred Twenty-Six Thousand Seven Hundred Dollars and Zero Cents (\$326,700.00).

Section 2. That the City shall cooperate with the Director of Transportation in the Project as follows:

- A. The City will assume and bear all costs of the Project, less the amount of Federal-Aid set aside by the Director of Transportation for financing the Project from funds allocated by the Federal Highway Administration, U.S. Department of Transportation.
- B. In addition, the City also agrees to assume and bear One Hundred Percent (100%) of the cost of any construction items requested by the City for the Project which are not necessary for the Project, as determined by the State and Federal Highway Administration.

Section 3. That the City agrees that all right-of-way required for the Project will be acquired and/or made available in accordance with current State and Federal regulations. The City also understands that right-of-way costs include eligible utility costs. The City agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

Section 4. That upon completion of the Project, and unless otherwise agreed, the City shall: (1) provide adequate maintenance of the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C. Section 116; (2) provide ample financial provisions, as necessary, for such maintenance of the Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

Section 5. That the City Manager is hereby authorized on behalf of the City to enter into contracts with the Director of Transportation to complete the Project.

Passed by the Commission....., 2020

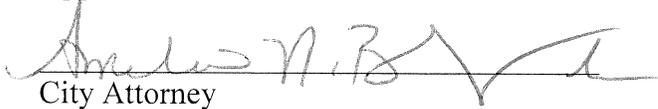
Signed by the Mayor....., 2020

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:



City Attorney

MEMORANDUM



June 10, 2020

To: Shelley Dickstein
City Manager

FROM: Keith Steeber, City Engineer
Division of Civil Engineering

KGS

SUBJECT: Safety Funding Grant

Attached is the Ordinance consenting to accept a Grant Award from the Ohio Department of Transportation to construct sidewalk along Gettysburg Avenue from Nicholas Road to Prison Drive. The grant amount is for \$326,700. Please present the Ordinance to the City Commission at its June 24 and July 1 meetings. The Department of Law has reviewed and approved this document as to form.

If you have any questions, please contact Joe Weinel of this office at 4218.

KGS/jrw

Attachments

2nd Reading 11.
31819-20

By.....

No.....

AN ORDINANCE

Consenting to Repair Concrete Pavement on U. S. Route 35
Within the City of Dayton, and Agreeing to Cooperate in
Matters Incidental Thereto, Including the Execution of
Agreements Necessary to Implement this Ordinance.

WHEREAS, The State of Ohio Department of Transportation (“ODOT”) has identified the need for repairing concrete pavement on U. S. Route 35, identified by ODOT as MOT-35-14.37; and

WHEREAS, The City of Dayton intends to cooperate with the State of Ohio Director of Transportation in the planning, design, and construction of said improvement; now, therefore,

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

Section 1. That the Commission hereby gives consent to the Director of Transportation to repair concrete pavement on U. S. Route 35, said project being in the public interest and identified by ODOT as MOT-35-14.37 (“Project”).

Section 2. That the City shall cooperate with the Director of Transportation in the Project as follows:

- A. The City will assume and bear all costs of the Project, less the amount of Federal-Aid set aside by the Director of Transportation for financing the Project from funds allocated by the Federal Highway Administration, U.S. Department of Transportation.
- B. In addition, the City also agrees to assume and bear One Hundred Percent (100%) of the cost of any construction items requested by the City for the Project which are not necessary for the Project, as determined by the State and Federal Highway Administration.

Section 3. That the City agrees that all right-of-way required for the Project will be acquired and/or made available in accordance with current State and Federal regulations. The City also understands that right-of-way costs include eligible utility costs. The City agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

Section 4. That upon completion of the Project, and unless otherwise agreed, the City shall: (1) provide adequate maintenance of the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C. Section 116; (2) provide ample financial provisions, as necessary, for such maintenance of the Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

Section 5. That the City Manager is hereby authorized on behalf of the City to enter into contracts with the Director of Transportation to complete the Project.

Passed by the Commission....., 2020

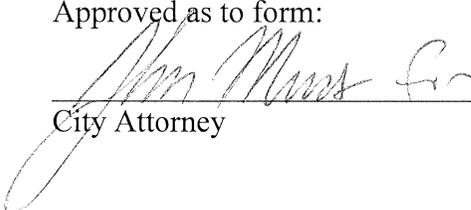
Signed by the Mayor....., 2020

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:



City Attorney

MEMORANDUM



June 8, 2020

TO: Shelley Dickstein
City Manager

FROM: Keith Steeber, City Engineer *KGS*
Division of Civil Engineering

SUBJECT: U. S. Route 35 Concrete Repairs
MOT-35-14.37, PID 109710
Preliminary Legislation

Attached is legislation between the City of Dayton and the Ohio Department of Transportation for a project that repairs concrete pavement on U. S. Route 35. The project will be 100% funded from ODOT funds and will be performed through ODOT's District 7 Office. Work is expected to begin in the spring of 2022.

Please present the attached Ordinance to the City Commission at its June 17, 2020 meeting. The Department of Law has approved the document as to form, and a copy of ODOT's request for consent legislation is attached.

If you have any questions, please contact me at 3838.

KGS

Attachments

Cc: Mr. Parlette
Ms. Clements
Mr. Stovall

Steeber, Keith

From: Robin.Castle@dot.ohio.gov
Sent: Friday, March 27, 2020 1:58 PM
To: Steeber, Keith
Subject: PID 109710 - MOT-35-14.37 - Consent Legislation
Attachments: PID 109710 - MOT Dayton - CLEG.doc

Good Morning,

Attached please find a template for preliminary consent legislation for the project known as PID 109710 - MOT-35-14.37 currently in the ODOT District 7 Fiscal Year 2022 Work Plan. This project will perform concrete pavement repairs on both mainline and ramps on US 35 with a portion in the City of Dayton.

The attached is only a template. The City can use this template or use legislation format of their own. Original signatures are no longer required and when complete, the enacted and signed legislation can be scanned and returned to me or it can be sent by US Mail to my attention at the address below. If for any reason the City would like me to pick up the legislation, I will be happy to do so.

A little about the project, PID 109710 - MOT-35-14.37 is currently scheduled to sale in state fiscal year 2022 - quarter 4. Maps and general information can be found on the ODOT TIMS website at the link here: <https://gis.dot.state.oh.us/tims/projects>. Schedule and funding information can be found here: <https://ellisproj.dot.state.oh.us/>

In order to keep the project on its current schedule we would like to receive the completed legislation no later than Tuesday, September 1, 2020.

If you have any questions or need anything further, please let me know.

Thank you for cooperation,

Robin A. Castle

Program Administrator 2

ODOT District Seven

1001 St. Mary's Avenue, Sidney, OH 45365

D7: 937-497-6888 - D8: 513-933-6559

transportation.ohio.gov

Project Location →

**Edgemont
Neighborhood**

