



CITY COMMISSION MEETING AGENDA

CITY COMMISSION

DAYTON, OHIO

JULY 29, 2020

6:00 P.M.

I. AGENDA SCHEDULE

Please register to speak on items 9, 11 and 13 with the Clerk of the Commission.

(Sign-up sheets at entrance of Commission Chambers.)

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

II. CITY MANAGER RECOMMENDATIONS (Item #8 above)

The following recommendations are offered for City Commission approval.

A. Purchase Orders, Agreements and Contracts:

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

1. Purchase Orders:

HUMAN RELATIONS COUNCIL

- A1. Comptech Computer Technologies, Inc.** (temporary staffing services
as needed through 12-31-23) **\$61,100.00**

1. (Cont'd):

POLICE

- B1. Katherine Platoni, PsyD.** (professional counseling services as needed through 12-31-20) **\$4,000.00**
- B2. Kiesler Police Supply** (Paragon survival armor through 08-31-22) **20,401.00**
-PO200993
- B3. Kiesler Police Supply** (Glocks through 05-31-23) -PO200994 **21,574.00**

PROCUREMENT, MANAGEMENT AND BUDGET

- C1. American Minority Business Forms, Inc., dba American Diversity Business Solutions** (hand sanitizer) **28,875.00**

PUBLIC WORKS

- D1. Comptech Computer Technologies, Inc.** (temporary staffing services as needed through 12-31-23) **12,000.00**

WATER

- E1. Hyundai Ideal Electric Company** (refurbishment of two pump motors) **24,000.00**
 - E2. Duke's Root Control, Inc.** (Jet Power II grease liquefier) **10,000.00**
-Depts. of Police, Procurement, Mgmt. & Budget, Public Works, Water and The Human Relations Council. **Total: \$181,950.00**
2. **Drug Impairment Detection Services, LLC dba StreeTime Technologies – Service Agreement** – for maintenance services for equipment that assists with drug testing for clients – The Municipal Court/Court Administrator. **\$32,400.00**
(Thru 07/31/23)
3. **Ohio Energy Project – Contract Modification** – first amendment to provide an energy education program for third and fourth grade students in all Dayton Public Schools' elementary schools during the 2020-2021 school year– Dept. of Economic Development. **\$50,000.00**
(Thru 08/31/21)

B. Construction Contracts:

- 4. **Peterson Construction Co. – Contract Modification** – for the Westwood Pump Station Screening Improvements, Change Order No. 1 – Dept. of Water/Water Engineering. **\$190,000.00**
(Thru 06/30/21)

C. Revenue to City:

5. **Griffin Farms – Lease Agreement** – for lease of land at the Dayton-Wright Brothers Airport – Dept. of Aviation. **\$65,539.80**
(Thru 12/31/22)

E. Other – Contributions, Etc.:

6. **Terracon Consultants, Inc. – Other** – for payment of voucher in connection with the redevelopment project at the former Cliburn Manor site on Burns Avenue – Dept. of Economic Development. **\$3,080.30**

**COMMISSIONER
FAIRCHILD**

IV. LEGISLATION:

Emergency Ordinances – First and Second Reading:

7. **No. 31827-20** Amending the City’s Appropriations for the Year 2020, and Declaring an Emergency.

**COMMISSIONER
JOSEPH**

8. **No. 31828-20** Appropriating Property Designated as Parcels 26 WD, 31 SH, and 31 T in Connection with the Wright Dunbar Bikeway Project, and Declaring an Emergency.

**COMMISSIONER
MIMS**

Emergency Resolution – First and Second Reading:

9. **No. 6521-20** Authorizing the Acceptance of a Grant Award for a Fair Housing Assistance Program from the United States Department of Housing and Urban Development in an Amount Not to Exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), and Declaring an Emergency.

**COMMISSIONER
SHAW**

VI. MISCELLANEOUS:

ORDINANCE NO. 31829-20

RESOLUTION NO. 6522-20

IMPROVEMENT RESOLUTION NO. 3598-20

INFORMAL RESOLUTION NO. 979-20



City Manager's Report

From 2730 – PMB/Procurement

Date July 29, 2020

Expense Type Purchase Order

Total Amount \$181,950.00

Supplier, Vendor, Company, Individual

Name See Below

Address See Below

2020 Purchase Orders

Fund Source(s)	Fund Code(s)	Fund Amount(s)
See below	See below	See below
Includes Revenue to the City <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Affirmative Action Program <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		

Description

HUMAN RELATIONS COUNCIL

(A1) P0200997 – COMPTECH COMPUTER TECHNOLOGIES, INC., CENTERVILLE, OH

- Temporary staffing services as needed through 12/31/2020.
- These services are required to augment staff to maintain daily operations.
- Rates are in accordance with the City of Dayton's existing price agreement IFB 18066JL with pricing through 12/31/2023.
- The Human Relations Council recommends approval of this order.

Fiscal Year	Fund Source(s)	Fund Code(s)	Fund Amount(s)
2020	Other Professional Services	10000-1400-1159-57	\$61,100.00

Signatures/Approval

Melissa A. Wilson, CPPB 7-20-2020

Diane J. Phareson 7.20.2020

John P. ... 7/23/2020

Approved by City Commission

Clerk

Date

POLICE(B1) P0200557 – KATHERINE PLATONI, PSYD, CENTERVILLE, OH

- Professional counseling services as needed through 12/31/2020.
- These services are required to provide trauma counseling, intervention and evaluation services for law enforcement personnel.
- Katherine Platoni, PsyD, is recommended based upon proven past performance to ensure consistent quality, compatibility and operational continuity; therefore, this purchase was negotiated.
- This amendment increases the previously authorized amount of \$9,000.00 by \$4,000.00 for a total not to exceed \$13,000.00 and therefore requires City Commission approval.
- The Department of Police recommends approval of this order.

<u>Fiscal Year</u>	<u>Fund Source(s)</u>	<u>Fund Code(s)</u>	<u>Fund Amount(s)</u>
2020	Other Professional Services	10000-6210-1159-71	\$4,000.00

(B2) P0200993 – KIESLER POLICE SUPPLY, JEFFERSONVILLE, IN

- Paragon survival armor.
- These goods are required to protect the City's 110th recruit class.
- Rates are in accordance with the City of Dayton's existing price agreement IFB S18032 with pricing through 8/31/2022.
- The Department of Police recommends approval of this order.

<u>Fiscal Year</u>	<u>Fund Source(s)</u>	<u>Fund Code(s)</u>	<u>Fund Amount(s)</u>
2020	Supplies and Materials	10000-6221-1301-71	\$20,401.00

(B3) P0200994 – KIESLER POLICE SUPPLY, JEFFERSONVILLE, IN

- Glock's.
- These goods are required to arm the City's 110th recruit class.
- Rates are in accordance with the City of Dayton's existing price agreement S19013 with pricing through 5/31/2023.
- The Department of Police recommends approval of this order.

<u>Fiscal Year</u>	<u>Fund Source(s)</u>	<u>Fund Code(s)</u>	<u>Fund Amount(s)</u>
2020	Supplies and Materials	10000-6221-1301-71	\$21,574.00

PROCUREMENT, MANAGEMENT AND BUDGET – PROCUREMENT(C1) P0200996 – AMERICAN MINORITY BUSINESS FORMS, INC. dba AMERICAN DIVERSITY BUSINESS SOLUTIONS, WEST CHESTER, OH

- Hand sanitizer.
- These goods are required for City of Dayton first responders to minimize their exposure to the COVID-19 infection while on duty due to the COVID-19 global pandemic.
- Pursuant to Section 86 of the City of Dayton Charter, the City has declared an emergency, the necessary funds have been encumbered, and the supplier has been notified to proceed.
- American Diversity Business Forms, Inc. dba American Diversity Business Solutions is recommended based upon product availability and price.
- The Department of Procurement, Management and Budget recommends approval of this order.

<u>Fiscal Year</u>	<u>Fund Source(s)</u>	<u>Fund Code(s)</u>	<u>Fund Amount(s)</u>
2020	Supplies and Materials	10000-9980-1301-99	\$28,875.00

PUBLIC WORKS – PROPERTY MANAGEMENT(D1) P0200382 – COMPTECH COMPUTER TECHNOLOGIES, INC., CENTERVILLE, OH

- Temporary staffing services as needed through 12/31/2020.
- These services are required to augment staff to maintain daily operations.
- Rates are in accordance with the City of Dayton's existing price agreement IFB 18066JL with pricing through 12/31/2023.
- This amendment increases the previously authorized amount of \$10,000.00 by \$12,000.00 for a total not to exceed \$22,000.00 and therefore requires City Commission approval.
- The Department of Public Works recommends approval of this order.

<u>Fiscal Year</u>	<u>Fund Source(s)</u>	<u>Fund Code(s)</u>	<u>Fund Amount(s)</u>
2020	Other Professional Services	10000-6480-1159-54	\$12,000.00

WATER – WATER SUPPLY AND TREATMENT(E1) P0200995 – HYUNDAI IDEAL ELECTRIC COMPANY, MANSFIELD, OH

- Refurbishment of two (2) pump motors.
- These services are required to refurbish / clean distribution pump motors.
- Hyundai Ideal Electric Company is recommended as the Original Equipment Manufacturer (OEM); therefore, this purchase was negotiated.
- The Department of Water recommends approval of this order.

<u>Fiscal Year</u>	<u>Fund Source(s)</u>	<u>Fund Code(s)</u>	<u>Fund Amount(s)</u>
2020	Other Equipment Maintenance	53000-3430-1167-54	\$24,000.00

WATER – WATER UTILITY FIELD OPERATIONS

(E2) P0201007 – DUKE’S ROOT CONTROL, INC., SYRACUSE, NY

- Jet Power II grease liquefier.
- These goods are required to break up grease dumped down drains.
- Duke’s Root Control, Inc. is recommended as the sole distributor for Jet Power II; therefore, this purchase was negotiated.
- This amendment (which is an extension of P0200272) increases the previously authorized amount of \$10,000.00 by \$10,000.00 for a total not to exceed \$20,000.00 and therefore requires City Commission approval. The previous purchase order was closed after the funds were exhausted. Due to more people being at home, the need is greater for the grease liquefier.
- The Department of Water recommends approval of this order.

<u>Fiscal Year</u>	<u>Fund Source(s)</u>	<u>Fund Code(s)</u>	<u>Fund Amount(s)</u>
2020	Supplies and Materials	55000-3445-1301-54	\$10,000.00

The aforementioned departments recommend approval of this order.



City Manager's Report

2

From **2510 - Municipal Court**

Date **July 29, 2020**

Expense Type **Service Agreement**

Supplier, Vendor, Company, Individual

Total Amount **\$32,400.00 thru 7/31/2023**

Name **Drug Impairment Detection Services, LLC
dba StreeTime Technologies**

Address **71 Newtown Road, Suite 281
Danbury, CT 06810**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
Probation Fees	22112-2510-1159-74	\$32,400.00

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

Description

Service Agreement

The Dayton Municipal Court requests permission to enter into a Services Agreement with Drug Impairment Detection Services, LLC, DBA StreeTime Technologies in the amount of \$32,400.00. This Agreement will provide maintenance services for the PC, Eye Scanner, Networking PCIe card, Printer, Fingerprint Scanner, Breathalyzer, and Computer Monitor. This equipment assists our Probation and Pretrial Services Department with drug testing for clients.

Terms of this Agreement are for three (3) years effective August 1, 2020 through July 31, 2023, at a cost of \$900.00 monthly, \$10,800.00 yearly, and totaling \$32,400.00.

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

A Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Division

Ann Marie Murray

Department

J.P. Paulina 7/29/2020

City Manager

Clerk

Date

CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

New Contract
 Renewal Contract
 Change Order:

Contract Start Date	8/1/2020
Expiration Date	7/31/2023
Original Commission Approval	\$ 32,400.00
Initial Encumbrance	\$ 10,800.00
Remaining Commission Approval	\$ 21,600.00
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>\$ 10,800.00</u> Fund Code <u>22112 - 2510 - 1159 - 74 - XXXX - XXXX</u> <small style="display: flex; justify-content: space-between; font-size: 0.8em;"> Fund Org Acct Prog Act Loc </small>	Amount: _____ Fund Code <u>XXXX - XXX - XXXX - XX - XXXX - XXXX</u> <small style="display: flex; justify-content: space-between; font-size: 0.8em;"> Fund Org Acct Prog Act Loc </small>
Amount: _____ Fund Code <u>XXXX - XXX - XXXX - XX - XXX - XXXX</u> <small style="display: flex; justify-content: space-between; font-size: 0.8em;"> Fund Org Acct Prog Act Loc </small>	Amount: _____ Fund Code <u>XXXX - XXX - XXXX - XX - XXXX - XXXX</u> <small style="display: flex; justify-content: space-between; font-size: 0.8em;"> Fund Org Acct Prog Act Loc </small>

Attach additional pages for more FOAPALS

Vendor Name: Drug Impairment Detection Services LLC, DBA Streetime Tech.

Vendor Address: 71 Newtown Road, Suite 281 Danbury CT 06810

Street City State Zipcode + 4

Federal ID: 06-1629690

Commodity Code: 68093

Purpose: Three (3) year annual Services Agreement totaling \$32,400.00 / \$10,800.00 yearly effective 8-1-2020 through 7-31-2023.

Contact Person: Ann Marie Murray Municipal Court / Administration 7/16/2020

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.

Finance Director Signature

7/21/2020
 Date

CF Prepared by

7-20-2020
 Date

CT 20 - 2617
 CF/CT Number

JCM
7-26-20



StreetTime Technologies

Drug Impairment Detection Services

City of Dayton

AGREEMENT FOR SERVICES FOR PASSPOINT EQUIPMENT

Drug Impairment Detection Services LLC, DBA Streetime Technologies (hereinafter referred to as the "COMPANY") and City of Dayton (hereinafter referred to as the "CUSTOMER") enter into this Agreement as follows:

1. OBJECT

COMPANY agrees to provide, and the CUSTOMER agrees to accept a Maintenance Service Agreement for the period starting August 1, 2020, and, ending July 31, 2023 for the following equipment:

PC, Eye Scanner, Networking PCIe card, Printer, Fingerprint Scanner, Breathalyzer, Computer monitor (hereinafter collectively referred to as "Equipment").

CUSTOMER shall pay COMPANY a sum not to exceed Thirty-Two Thousand Four Hundred Dollars and Zero Cents (\$32,400.00) for the Services actually provided in accordance with this Agreement. Payment is due yearly in the amount of Ten Thousand Eight Hundred Dollars and Zero Cents (\$10,800.00).

2. MAINTENANCE SERVICE

COMPANY shall provide all necessary labor, transport, replacement parts and test Equipment to maintain the Equipment in good operating condition.

The COMPANY's Maintenance Service shall consist of the following:

- a. **Routine Maintenance Service.** The COMPANY will conduct weekly remote calibration checks on the Equipment to make sure it's running properly. The COMPANY will also maintain the CUSTOMER's database, and as well as perform periodic checks on the CUSTOMER's client data to ensure the data is kept up to date.
- b. **Special Calls Requested by the CUSTOMER.** From receipt of a problem report from any of the CUSTOMER's installation sites, the COMPANY shall report in person to the site within twenty-four (24) working hours. In no instance will the COMPANY's maintenance personnel attend to the reports of defects later than the next working day.

Should the COMPANY be unable to repair the Equipment within twenty-four (24) hours after arriving on-site, the COMPANY shall immediately provide the Customer with Equipment of at least the equivalent model until the repair on the CUSTOMER's Equipment is complete. The business hours are Monday to Friday between 8:00 a.m. to 5:00 p.m., Mountain Standard Time, on the CUSTOMER'S premises (excluding public holidays). The COMPANY shall keep the CUSTOMER informed of the problem report resolution progress.

- c. **Relocation of Equipment.** The COMPANY undertakes to relocate the Equipment at end when requested by the CUSTOMER. Transport is to be provided by the CUSTOMER. The Equipment so relocated or Installed shall continue to be covered by this Agreement.

3. GENERAL CONDITIONS

- a. The CUSTOMER shall allow the COMPANY's Field Engineer, after prior notice given in advance, full access to the Equipment at all times as may be necessary for the proper maintenance of the Equipment and shall if required, make available to the COMPANY's Field Engineer a member of its staff who is familiar with the CUSTOMER'S software.
- b. The CUSTOMER can make alterations, modifications, or install attachments to the Equipment only after having officially informed the COMPANY. The COMPANY has the right to send its Field Engineer to check during the installation process and inform the CUSTOMER formally of any risks or problems involved. Only the changes brought about do not form part of the maintenance contract.
- c. If the hard disk or any medium on which information is stored is to be changed then the old one should remain in the custody of the CUSTOMER.
- d. The COMPANY agrees to maintain in confidence and not to disclose, reproduce or copy any materials, documentation or specifications which are provided to the COMPANY hereunder, or which are found at the premises.

4. MAINTENANCE SERVICE

The COMPANY warrants a maintenance service of at least five (5) years following the date of purchase of Equipment and undertakes to have an adequate spare parts coverage for the repair and replacement of items necessary for the efficient functioning of the equipment. After the Equipment has been in use for five (5) years, the COMPANY may request an overhaul of the Equipment. Such overhaul shall be subject to the approval of the CUSTOMER.

5. INDEMNIFICATION

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

6. INTELLECTUAL PROPERTY RIGHTS INDEMNIFICATION

- a. The COMPANY represents that it possesses the skill and experience necessary and all licenses required to perform the services under this Agreement. The COMPANY will indemnify, defend, and hold harmless the CUSTOMER, at the COMPANY's expense, against any action brought by a third party against the CUSTOMER to the extent that the action is based upon a claim that the Equipment or Maintenance Services directly infringes any copyrights or U.S. patents or misappropriates any trade secrets, and the COMPANY will pay those costs and damages finally awarded by a court of competent jurisdiction against the CUSTOMER in any such action that are specifically attributable to such claim or those costs and damages agreed to by the COMPANY in a monetary settlement of such action.
- b. If the CUSTOMER's use of the Equipment or Maintenance Services is, or in the COMPANY's opinion is likely to become, enjoined as a result of an infringement claim, the COMPANY will, at



StreeTime Technologies

Drug Impairment Detection Services

its option and expense, either (i) procure the right to continue using the Equipment or Maintenance Services; (ii) replace or modify the Equipment or Maintenance Services so that it becomes non-infringing and remains functionally equivalent; or (iii) if, despite its commercially reasonable efforts, the COMPANY is unable to do either (i) or (ii), the COMPANY will accept return of the Equipment or Maintenance Services, terminate the rights herein, and pay to the CUSTOMER a prorated refund of the money paid to the COMPANY for the Equipment and Maintenance Services.

c. Notwithstanding the foregoing, the COMPANY will have no obligation with respect to any infringement claim based upon (i) any use of the Equipment or Maintenance Services that is not in accordance with this Agreement or the corresponding Equipment or Maintenance Services documentation; or (ii) any modification of the Equipment or Maintenance Services by any person other than the COMPANY if such infringement would not have occurred but for such modification.

d. This Section states the COMPANY's entire liability, and the CUSTOMER's sole and exclusive remedy, for infringement claims and actions. The foregoing obligations are subject to the CUSTOMER notifying the COMPANY promptly in writing of such action, giving the COMPANY sole control of the defense thereof and any related settlement negotiations, and cooperating and, at the COMPANY's reasonable request and expense (including reasonable attorneys' fees), assisting in such defense.

7. INSURANCE

Without limiting the CUSTOMER's right to indemnification, the COMPANY shall secure and provide to the CUSTOMER prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:

- a. Worker's compensation insurance as required by law for the COMPANY and any agents, employees, and staff that the COMPANY may employ.
- b. Commercial general liability insurance, including coverage for premises and operations, contractual liability, personal injury liability, and independent contractor's liability (if applicable), in the minimum amount of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, which shall name as additional insured and protect the CUSTOMER, and its officers, agents, and employees, from and against any and all claims, losses, actions, and judgments for damages or injury to persons or property arising out of or in connection with the COMPANY's acts.

8. RIGHT OF CONTROL

The CUSTOMER agrees that it will have no right to control or direct the details, manner, or means by which the COMPANY accomplishes the results of the services performed hereunder. The COMPANY has no obligation to work any particular hours or days or any particular number of hours or days other than otherwise set forth in this agreement. The COMPANY must not let its other contracts or services interfere with the performance of its services under this Agreement.



9. INDEPENDENT CONTRACTOR

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

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

10. GOVERNING LAW

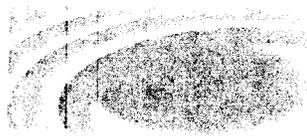
This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws. Any suit regarding this Agreement must be brought in a court of competent jurisdiction in Montgomery County, Ohio.

11. NON-DISCRIMINATION

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

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

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]



**SureTime
Technologies**
Drug Impairment Detection Services

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

City of Dayton, Ohio

Drug Impairment Detection Service

.....
City Manager

Christopher Crucilla
.....
Christopher Crucilla, CEO

**APPROVED AS TO FORM
AND CORRECTNESS:**

[Signature]
.....
City Attorney

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

....., 2020

Min./ Bk. Pg.

.....
Clerk of the Commission



City Manager's Report

3.

From **2600 - Economic Development**

Date **July 29, 2020**

Expense Type **Contract Modification**

Supplier, Vendor, Company, Individual

Total Amount **\$50,000.00** thru 08-31-2021

Name **Ohio Energy Project**

Address **200 East Wilson Bridge Road
Worthington, OH 43085**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
DP&L Settlement for Res. Energy Edu	22516-2600-1223-41	\$50,000.00

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

Description

First Amendment to Services Agreement

The Department of Economic Development is requesting approval of a First Amendment to Services Agreement with the non-profit Ohio Energy Project (OEP). City of Dayton has received funding from the Dayton Power & Light Company ("DP&L Funding") to facilitate the development and implementation of a curriculum for Dayton Public Schools ("DPS") that will assist DPS in meeting the Ohio Learning Standards for Science. This funding enabled OEP to provide curriculum to DPS for last year, and this amendment will utilize the DP&L Funds to provide funding for \$50,000.00 in additional services in the upcoming school year.

OEP staff will provide an energy education program for 3rd and 4th grade students in all of Dayton Public Schools' elementary schools during the 2020-2021 school year. The program will include professional development, curriculum, and teaching kits. The program will directly support teachers in meeting Ohio's learning standards for science, required by the Ohio Department of Education. This brings the total agreement to \$100,000.00.

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

The Amendment will be effective upon execution and will expire on August 31, 2021.

A Certificate of Funds for \$50,000.00 is attached.

Signatures/Approval

Approved by City Commission

Division Fred P. Weber

Department [Signature]
City Manager 7/23/2020

Clerk _____

Date _____

CERTIFICATE OF FUNDS

CT20-2317

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

New Contract
 Renewal Contract
 Change Order

Contract Start Date	7/28/2019
Expiration Date	8/31/2021
Original Commission Approval	\$ 100,000.00
Initial Encumbrance	\$ 50,000.00
Remaining Commission Approval	\$ 50,000.00
Original CT/CF	CT192317
Increase Encumbrance	\$ 50,000.00
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 checked="" type="checkbox"/>	Copy of City Manager's Report
<input checked="" type="checkbox"/>	Copy of Original Certificate of Funds

Amount: <u>\$ 50,000.00</u> Fund Code <u>22516 - 2600 - 1223 - 41 - - -</u> <small style="display: flex; justify-content: space-around; font-size: small;">Fund Org Acct Prog Act Loc</small>	Amount: _____ Fund Code <u>XXXX - XXX - XXXX - XX - XXXX - XXXX</u> <small style="display: flex; justify-content: space-around; font-size: small;">Fund Org Acct Prog Act Loc</small>
Amount: _____ Fund Code <u>XXXX - XXX - XXXX - XX - XXX - XXXX</u> <small style="display: flex; justify-content: space-around; font-size: small;">Fund Org Acct Prog Act Loc</small>	Amount: _____ Fund Code <u>XXXX - XXX - XXXX - XX - XXXX - XXXX</u> <small style="display: flex; justify-content: space-around; font-size: small;">Fund Org Acct Prog Act Loc</small>

Attach additional pages for more FOAPALs

Vendor Name: Ohio Energy Project

Vendor Address: 200 East Wilson Bridge Road Worthington OH 43085
Street City State Zipcode + 4

Federal ID: 31-1305046

Commodity Code: 91838

Purpose: To provide an energy education program for all Dayton Public Schools' during the 2020 - 2021 school year.

Contact Person: Jill Bramini Economic Development 7/15/2020
Department/Division Date

Originating Department Director's Signature: *Ford 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.

Jill Bramini
Finance Director Signature

Joseph M. ...
CF Prepared by

7/21/2020
Date

7/21/2020 CT 20-2317
Date CF/CT Number

SA 07/21/2020
VB

July 15, 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 – First Amendment to Services Agreement with
Ohio Energy Project

The Department of Economic Development is requesting approval of a First Amendment to Services Agreement with the non-profit Ohio Energy Project (OEP). The City has received funding from the Dayton Power & Light Company ("DP&L Funding") to facilitate the development and implementation of a curriculum for Dayton Public Schools ("DPS") that assists DPS in meeting the Ohio Learning Standards for Science. This funding enabled OEP to provide curriculum to DPS for last year, and this amendment will utilize the DP&L Funds to provide funding for \$50,000.00 in additional services in the upcoming school year.

This Agreement is important because the services OEP provides assist DPS in meeting the Ohio Learning Standards for Science.

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

FPW

FIRST AMENDMENT TO SERVICES AGREEMENT

THIS FIRST AMENDMENT TO SERVICES AGREEMENT (“Amendment”), is made and entered into between the City of Dayton, Ohio, (“City”) a municipal corporation in and of the State of Ohio and Ohio Energy Project (“OEP”), a non-profit corporation incorporated under the laws of the State of Ohio and having its principal offices located at 200 East Wilson Bridge Road, Worthington, OH 43004.

WHEREAS, The City of Dayton has received funding from the Dayton Power & Light Company (“DP&L Grant”) to facilitate the development and implementation of a curriculum (“Curriculum”) for Dayton Public Schools (“DPS”) that will assist DPS in meeting the Ohio Learning Standards for Science; and,

WHEREAS, The City of Dayton and DPS have identified OEP as having the necessary capability to assist DPS in developing the Curriculum and providing the necessary professional training of DPS faculty to implement the Curriculum; and,

WHEREAS, OEP and DPS have agreed to the Scope of Services and Budget (“Scope of Services”) set forth on **Exhibit A** attached hereto and incorporated herein; and,

WHEREAS, The City entered into a Services Agreement (“Agreement”) with OEP which was approved by the Commission of the City of Dayton on July 10, 2019; and,

WHEREAS, DPS is very pleased with the services OEP provided and wishes to continue to have OEP provide services for the upcoming academic year; and,

WHEREAS, The City has requested and OEP has agreed to provide additional services under the Agreement and City has sufficient DP&L Grant funds.

NOW THEREFORE, in consideration of the mutual promises herein, the parties have agreed to amend the Agreement as follows:

Section 1. Article 1, Scope of Services, is hereby deleted in its entirety and replaced with the following:

ARTICLE 1. SCOPE OF SERVICES

OEP shall perform the work and services set forth within the Scope of Work as revised June 23, 2020, attached hereto as (“Exhibit A, Scope of Services and Budget”) and incorporated herein, on behalf of DPS.

Section 2. The first paragraph of Article 2, Term and Termination, is hereby deleted and replaced with the following:

This Agreement shall commence upon full execution by the City and it shall expire on August 31, 2021 unless terminated or amended by mutual written agreement.

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

ARTICLE 3. COMPENSATION

The services provided pursuant to this Agreement are solely funded by the DP&L Grant, and the total compensation under this Agreement shall not exceed One Hundred Thousand Dollars and Zero Cents (\$100,000.00), and the portion of the funds to be spent between August 31, 2020 and August 31, 2021 shall be paid pursuant to the following schedule:

- | | |
|---|-------------|
| 1. Execution of Amendment | \$ 5,000.00 |
| 2. Purchase of 3rd and 4 th Grade Teaching Kits & Supplies | \$28,000.00 |
| 3. Completion of Faculty Workshops/Education | \$ 5,000.00 |
| 4. Completion of First Semester of School Year | \$ 6,000.00 |
| 5. Submittal of Final Report | \$ 6,000.00 |

With respect to Item 2 in the above payment schedule, OEP, upon receipt of the materials from the vendor(s), shall inspect the same, provide written certification to City that the materials have been received and are of acceptable quantity and quality, and forward the invoice to City. Subject to City's satisfaction with OEP's certification, City shall issue a payment to OEP in the amount of the invoice(s) for said materials. There shall be no requirement that OEP pay such invoice(s) for the materials prior to the City making payment therefore. As the Faculty Workshops/Education, First Semester of the School Year, and Final Report in the above payment schedule are completed, OEP shall submit an invoice to City. City will issue payment to OEP upon receipt of certification from DPS that the services for which payment is invoiced have been satisfactorily performed. The invoice shall state the time period covered and include a report detailing the specific services provided.

The funding referred to above will be used solely and exclusively by OEP for the services set forth in the Scope of Services, and appropriate accounting procedures will be established to track the use of these funds.

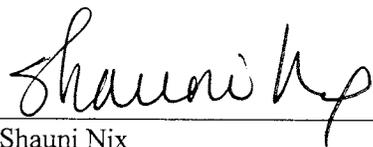
Section 4. Except as amended herein, all other terms and conditions of this Agreement shall remain in full force and effect.

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

CITY OF DAYTON, OHIO

OHIO ENERGY PROJECT

City Manager

By: 

Shauni Nix

**APPROVED AS TO FORM AND
CORRECTNESS:**

Its: Executive Director

 Recoverable Signature

X Amelia N. Blankenship

City Attorney

Signed by: Blankenship, Amelia

The services provided pursuant to this Agreement are solely funded by the DP&L Grant, and the total compensation under this Agreement shall not exceed One Hundred Thousand Dollars and Zero Cents (\$100,000.00), and the portion of the funds to be spent between August 31, 2020 and August 31, 2021 shall be paid pursuant to the following schedule:

- | | |
|---|-------------|
| 1. Execution of Amendment | \$ 5,000.00 |
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| 4. Completion of First Semester of School Year | \$ 6,000.00 |
| 5. Submittal of Final Report | \$ 6,000.00 |

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The funding referred to above will be used solely and exclusively by OEP for the services set forth in the Scope of Services, and appropriate accounting procedures will be established to track the use of these funds.

Section 4. Except as amended herein, all other terms and conditions of this Agreement shall remain in full force and effect.

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

CITY OF DAYTON, OHIO

OHIO ENERGY PROJECT

City Manager

By: _____
Shauni Nix

**APPROVED AS TO FORM AND
CORRECTNESS:**

Its: Executive Director

7/14/2020

X Amelia N. Blankenship

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
Scope of Services and Budget

City of Dayton Scope of Work
Dayton Energy Education Program
submitted by Ohio Energy Project
Revised June 23, 2020

Scope of Work

Ohio Energy Project proposes the Scope of Work and Budget for the 2020-2021 school year.

Plan of Action/Timeline

1. Communicate with Dayton Public Schools Leadership: April 2020

Bonnie Porter, Dayton Public Schools Science Curriculum Coordinator verified interest in continuing their partnership with the Ohio Energy Project and identified 3rd and 4th grade to provide training and resources.

2. Develop Professional Development Plan & Dayton Specific Teaching Kits: May-July 2020

The focus of OEP's work with Dayton Public Schools will be providing professional development training and curriculum for educators and teaching equipment kits for every elementary school. Targeted grades for 2020-2021 are 3rd and 4th. A portion of the budget has been allocated to provide replacement supplies for the 5th and 7th grade teaching equipment kits provided during the 2019-2020 school year.

3rd Grade Content: 10 Sources of Energy, Renewable Energy Resources, Energy Efficiency

4th Grade Content: Electricity & Circuits, Thermal Energy, Climate Change

3. Facilitate Professional Development Workshops and Faculty Education: July-September 2020

OEP will facilitate professional development workshops for 3rd and 4th grade science educators. Every participating educator will receive curriculum and resources. Each school building will receive a kit of grade-level specific lab equipment and materials. Providing one kit per school will allow OEP to invest more materials in each building allowing for hands-on experiences for every student. The kit materials and equipment are non-consumable and have been designed and tested with the goal of selecting materials that can be used in the classroom for several years.

Due to COVID-19, OEP will offer several methods to train educators and will include ideas to implement activities if students are distance learning in the fall.

- Zoom professional development workshop on July 15, 2020. The workshop will be recorded so teachers unable to participate live can view it later.
- In-person professional development on July 16 and August 5, 2020. The August 5th date is part of the district's in-service training prior to the start of school.
- During the school year, OEP will facilitate two live Zoom question and answer sessions for each grade-level to offer feedback and answer questions while teachers are facilitating the program with their students. Q & A sessions will be held in November 2020 and February 2021.
- Supplies will be given to teachers attending the August 5th workshop date or delivered directly to schools if teachers attend one of the July dates.

- OEP will create videos of the 3rd and 4th grade activities and post them on OEP's YouTube page. Videos of the activities can be used if distance learning extends into the 2020-21 school year.

4. Follow-up and Evaluation Tools: August 2020-May 2021

- Post-workshop pencil and paper evaluation to provide immediate feedback on the professional development workshop. August 2020
- Zoom Q & A sessions during the school year for teachers. November 2020 and February 2021
- Monthly communications and support to participating teachers via email and/or conference calls. September 2020-May 2021
- Student pre/post assessments to be used by the educators before and after their energy units to track student achievement. School Year 2020-2021
- Post-program online evaluation after completing the energy unit in the 2020-2021 school year to allow teachers to comment on the effectiveness of the curriculum, lessons and classroom teaching kit. May 2021

5. Reporting to the City of Dayton: December 2020-May 2021

- A progress report will be submitted following the summer/fall professional development. December 2020
- OEP will submit a portfolio to the National Energy Education Development Project (NEED) for their annual competition recognizing outstanding programs in the nation. The portfolio will highlight the partnership between the City of Dayton, Dayton Public Schools and the Ohio Energy Project. April 2021
- Results from teacher evaluations and student pre vs post polls will be compiled and reported in the Final Project Report. May 2021

**Ohio Energy Project
City of Dayton Budget**

	Number	Cost	Total
School Kit Supplies			
Curriculum (per teacher)	55	\$ 50	\$ 2,750
Teacher Supplies (per teacher)	55	\$ 50	\$ 2,750
3rd Grade Teaching Kits (per school)	15	\$ 650	\$ 9,750
4th Grade Teaching Kits (per school)	15	\$ 700	\$ 10,500
Replacement Supplies 5th Grade Teaching Kits (per school)	15	\$ 150	\$ 2,250
Replacement Supplies 7th Grade Teaching Kits (per school)	4	\$ 200	\$ 800
Professional Development			
Consumables for professional development training	4	\$ 200	\$ 800
Personnel (hours)			
Program planning and implementation	125	\$ 75	\$ 9,375
Travel			
OEP Staff Travel (meals, gas)	3	\$ 120	\$ 360
Substitute Costs and/or Teacher Stipends			
Substitute costs for professional development (if training is provided after school or virtually, sub costs will be used as an additional teacher stipend for attending the training)			
Teacher stipends for submitting evaluation and student pre/post polls	55	\$ 150	\$ 8,250
Sub Total			<u>\$ 47,585</u>
Indirect Costs			<u>\$ 2,415</u>
			\$ 50,000

CERTIFICATE OF FUNDS

CT19-2317

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

New Contract
 Renewal Contract
 Change Order

Contract Start Date	upon execution
Expiration Date	08/31/20
Original Commission Approval	\$ 50,000.00
Initial Encumbrance	\$ 50,000.00
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>\$ 50,000.00</u> Fund Code <u>22516 - 2600 - 1221 - 41 - - -</u> <small style="display: flex; justify-content: space-between; font-size: 0.8em;"> Fund Org Acct Prog Act Loc </small>	Amount: _____ Fund Code <u>XXXX - XXX - XXXX - XX - XXXX - XXXX</u> <small style="display: flex; justify-content: space-between; font-size: 0.8em;"> Fund Org Acct Prog Act Loc </small>
Amount: _____ Fund Code <u>XXXX - XXXX - XXXX - XX - XXX - XXXX</u> <small style="display: flex; justify-content: space-between; font-size: 0.8em;"> Fund Org Acct Prog Act Loc </small>	Amount: _____ Fund Code <u>XXXX - XXX - XXXX - XX - XXXX - XXXX</u> <small style="display: flex; justify-content: space-between; font-size: 0.8em;"> Fund Org Acct Prog Act Loc </small>

Attach additional pages for more FOAPALs

Vendor Name: Ohio Energy Project
 Vendor Address: 200 East Wilson Bridge Road Worthington OH 43085

Street City State Zipcode + 4

 Federal ID: 31-1305046
 Commodity Code: 91838
 Purpose: To provide an energy education program for all Dayton Public Schools' during the 2019 - 2020 school year.

Contact Person: Ronelle Kinney Economic Development 6/28/2019

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

7-2-19
 Date

[Signature]
 CF Prepared by

7/1/19
 Date

CT19-2317
 CF/CT Number

6/28/19
 Keled on
 7/1/19
 October 18, 2011

SERVICES AGREEMENT

THIS SERVICES AGREEMENT ("Agreement") is made between the City of Dayton, Ohio ("City"), a municipal corporation in and of the State of Ohio, and Ohio Energy Project ("OEP"), a non-profit corporation incorporated under the laws of the State of Ohio and having its principal offices located at 200 East Wilson Bridge Road, Worthington, OH 43004.

WITNESSETH THAT:

WHEREAS, The City has received funding from the Dayton Power & Light Company ("DP&L Grant") to facilitate the development and implementation of a curriculum ("Curriculum") for Dayton Public Schools ("DPS") that will assist DPS in meeting the Ohio Learning Standards for Science; and,

WHEREAS, The City and DPS have identified OEP as having the necessary capability to assist DPS in developing the Curriculum and providing the necessary professional training of DPS faculty to implement the Curriculum; and,

WHEREAS, OEP and DPS have agreed to a Scope of Services and Budget ("Scope of Services").

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

ARTICLE 1. SCOPE OF SERVICES

OEP shall perform the work and services set forth within the Scope of Services, attached hereto and incorporated herein as Exhibit A, on behalf of DPS.

ARTICLE 2. TERM AND TERMINATION

This Agreement is effective upon execution by the City and will expire August 31, 2020, unless extended by mutual agreement by the parties in writing and as approved by the Commission of the City of Dayton as necessary.

Either party may terminate this Agreement at any time with or without cause upon giving the other party thirty (30) days advance written notice. The notice of termination shall be made by mailing written notice to the addresses listed below by certified mail to its usual place of business, with a copy thereof to Dayton Public Schools. If such termination occurs, OEP will be paid for the services actually performed and necessary expenses actually incurred up to the effective date of termination.

ARTICLE 3. COMPENSATION

The services provided pursuant to this Agreement are solely funded by the DP&L Grant, and the total compensation under this Agreement shall not exceed Fifty Thousand Dollars and Zero Cents (\$50,000.00), which shall be paid pursuant to the following schedule:

- | | |
|---|-------------|
| 1. Execution of Agreement | \$ 5,000.00 |
| 2. Purchase of 5 th and 7 th Grade Teaching Kits & Supplies | \$28,000.00 |
| 3. Completion of August Workshops | \$ 5,000.00 |
| 4. Completion of First Semester of the School Year | \$ 6,000.00 |
| 5. Submittal of Final Report | \$ 6,000.00 |

With respect to the 5th and 7th Grade Teaching Kits & Supplies in the above payment schedule, OEP, upon receipt of the materials from the vendor(s), shall inspect the same, provide written certification to City that the materials have been received and are of acceptable quantity and quality, and forward the invoice to City. Subject to City's satisfaction with OEP's certification, City shall issue a payment to OEP in the amount of the invoice(s) for said materials. There shall be no requirement that OEP pay such invoice(s) for the materials prior to the City making payment therefore. As the August Workshops, First Semester of the School Year, and the Final Report in the above payment schedule are completed, OEP shall submit an invoice to City. City will issue payment to OEP upon receipt of certification from DPS that the services for which payment is invoiced have been satisfactorily performed. The invoice shall state the time period covered and include a report detailing the specific services provided.

The funding referred to above will be used solely and exclusively by OEP for the services set forth in the Scope of Services, and appropriate accounting procedures will be established to track the use of these funds.

ARTICLE 4. LIABILITY AND INDEMNIFICATION

OEP shall defend, indemnify, and hold harmless the City and its elected officials, employees, and agents from and against all judgments, losses, damages, and expenses for bodily injury, death, and physical damage to real or tangible personal property, to the extent such judgments, losses, damages, or expenses are caused by OEP's acts, errors, or omissions arising out of its performance herein.

The parties hereto specifically agree, notwithstanding any other provision in this Agreement to the contrary, that the City will not, under any circumstances, be liable or responsible for any negligent acts, errors, or omissions of OEP.

Regardless of completion of the services, obligations, and duties provided for in this Agreement, or if this Agreement is terminated for any reason, the terms and conditions of this Article will survive.

ARTICLE 5. 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:

OEP: Shauni Nix
 Executive Director
 Ohio Energy Project
 200 East Wilson Bridge Road
 Suite 320
 Worthington, OH 43004

The City: Ford P. Weber
 Director
 Department of Economic Development
 City of Dayton, Ohio
 101 West Third Street
 Dayton, Ohio 45402

Copy to DPS: Dr. Elizabeth J. Lolli, Ph.D.
 Superintendent
 Dayton Public Schools

115 South Ludlow Street
Dayton, Ohio 45402

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

ARTICLE 6. EQUAL EMPLOYMENT OPPORTUNITY

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

It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton constitutes a material condition of this contract as fully as if specifically rewritten herein and that failure to comply therewith will constitute a breach hereof.

ARTICLE 7. INDEPENDENT CONTRACTOR

OEP will, at all times, be an independent contractor and not subject to control by the City, except as provided pursuant to this Agreement. As an independent contractor, the parties hereby agree that the relationship between the parties will not be held out or construed as employer-employee, joint venture, or principal-agent. Neither party shall act or represent itself in such a manner as to assume or create any obligation on behalf of, or in the name of, the other party, without the prior written and express authority to do so by a duly authorized representative.

OEP understands and agrees that any and all persons retained or hired to perform the duties and responsibilities under this Agreement are not the City's employees and are not entitled to any of the emoluments of City employment. OEP acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System ("OPERS") membership. Further, OEP will be responsible to withhold and pay, or cause such agents, contractors, or sub-contractors to withhold and pay, all local, state, and federal taxes.

ARTICLE 8. COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original and such counterparts shall constitute one and the same instrument.

ARTICLE 9. INSURANCE

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

- (1) General/Comprehensive liability insurance, with a combined single limit of One Million Dollars and Zero Cents (\$1,000,000.00) for each occurrence and One Million Dollars and Zero Cents (\$1,000,000.00) in the aggregate; and,
- (2) Workers' compensation insurance, in such amounts as required by Ohio law, and Employer's liability; and, insurance with a limit of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00) for each occurrence.

All policies of general/comprehensive liability insurance required herein shall name City, its elected officials, officers, employees, agents, and volunteers as additional insureds. All insurance policies, excluding Workers'

compensation insurance, shall contain the requirement that City be notified thirty (30) days in advance of any termination or diminution of coverage.

Within thirty (30) days of the execution of this Agreement, OEP shall furnish City with copies of certificates of insurance demonstrating compliance with the insurance requirements contained within.

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

ARTICLE 10. GENERAL PROVISIONS

- A. Conflict of Interest. OEP covenants that it has no interest and shall not acquire any interest, direct or indirect, that would cause conflict in any manner or degree with the performance of this Agreement or completion of the project.
- B. Governing Law and Venue. This Agreement is 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, and is deemed to be executed in Dayton, Ohio. Any suit regarding this Agreement must be brought in a court of competent jurisdiction in Montgomery County, Ohio.
- C. Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and OEP.
- D. Assignment. Neither the City nor OEP may assign any rights or duties under this Agreement without the prior written consent of the other party. 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 will prevent OEP from employing independent consultants, associates, and subcontractors to assist in the performance of the services.
- E. Waiver. A waiver by either the City or OEP of any breach of this Agreement shall be in writing. Such a waiver will be effective only in the specific instance and for the specific purpose for which it is given and will not affect the waiving party's rights with respect to any other or further breach.
- F. Integration. This Agreement represents the entire and integrated agreement between the City and OEP. This Agreement supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.
- G. Political Contributions. OEP affirms and certifies that it complies with Ohio Revised Code 3517.13 limiting political contributions.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

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

CITY OF DAYTON, OHIO

Shelly Dickstein
City Manager

Date: 7-28-19

OHIO ENERGY PROJECT

By: Shauni Nix 5/20/18
Shauni Nix

Its: Executive Director

APPROVED AS TO FORM
AND CORRECTNESS:

John Marks for
City Attorney RK

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

July 10, 2019

Min./Bk. I-15 Pg. 0617

Rachella Lawrence
Clerk of the Commission

Exhibit A

Scope of Services and Budget

Scope of Work

Dayton Public Schools Energy Education Program

Ohio Energy Project ("OEP") Staff will develop and deliver grade level professional development, curriculum and teaching kits for all of Dayton Public Schools' ("DPS") 16 elementary buildings and 4 schools with 7th grade classrooms during the 19-20 school year. OEP's partnership in the district will directly support teachers in meeting Ohio's Learning Standards for Science. These standards are required by the Ohio Department of Education. Each year, OEP will impact new teachers at targeted grade levels for professional development, in coordination with the elementary and junior/high school science coordinators.

Plan of Action/Timeline.

- 1. Develop Professional Development Plan & Dayton Specific Teaching Kits: June 2019**
- 2. Facilitate Professional Development Workshops: August 8, 2019**

OEP will offer two professional development workshops -- for grades 5 and 7. This will allow every grade-level science teacher the ability to participate at these two grades. By selecting two grade-levels, each school will receive a kit of materials allowing teachers to conduct hands-on activities engaging every student. These workshops will directly impact every 5th and 7th grade teacher in the district.

- 3. Follow-up and Evaluation Tools: August 2019-May 2020**

OEP will provide the following follow up and evaluation tools:

- Post-workshop pencil and paper evaluation to provide immediate feedback on the professional development workshop. August 8, 2019
- Monthly communications and support to participating teachers via email and/or conference calls. September 2019-May 2020
- Student pre/post assessments to be used by the educators before and after their energy units to track student achievement. School Year 2019-20
- Post-program online evaluation after completing the energy unit in the 2019-20 school year to allow teachers to comment on the effectiveness of the curriculum, lessons and classroom teaching kit. May 2020
- In-person follow up evaluation meeting to document classroom experiences and provide feedback directly from educators. Spring 2020

- 4. Reporting to the City of Dayton: September 2019-May 2020**

OEP will report to the City of Dayton as follows:

- A progress report will be submitted following the August 2019 professional development. September 2019
- OEP will submit a portfolio to the National Energy Education Development Project (NEED) for their annual competition recognizing outstanding programs in the nation. The portfolio will

highlight the partnership between the City of Dayton, Dayton Public Schools and the Ohio Energy Project. April 2020

- Results from teacher evaluations and student pre vs post polls will be compiled and reported in the Final Project Report. May 2020

We, as representatives of the Ohio Energy Project and Dayton Public Schools, agree to the components in the Scope of Work for the Dayton Public Schools Energy Education Program.

Please sign below:

Date:

Shauni Nix

5/16/19

Shauni Nix, Executive Director, Ohio Energy Project

Bonnie Porter

5/14/19

Bonnie Porter, Curriculum and Instruction Assessment Specialist, Science K-8

Christopher Perkins

5/14/19

Christopher Perkins, Academic Coordinator, Secondary Science.

**Ohio Energy Project
City of Dayton Budget**

	Number	Cost	Total
School Kit Supplies*			
Curriculum (per teacher)	25	\$ 100	\$ 2,500
Teacher Supplies (per teacher)	25	\$ 200	\$ 5,000
5th Grade Teaching Kits (per school)	16	\$ 1,000	\$ 16,000
7th Grade Teaching (per school)	4	\$ 1,750	\$ 7,000
Breakfast/Lunch**			
Food for August 8 professional development	2	\$ 250	\$ 500
Food for follow up/evaluation meeting	1	\$ 250	\$ 250
Personnel (hours)			
Program planning and implementation	110	\$ 75	\$ 8,250
Travel			
OEP Staff Travel (meals, gas)	3	\$ 120	\$ 360
Follow Up &			
Developing Dayton reporting materials			\$ 1,500
Teacher Stipends***			
Teacher stipends for submitting evaluation and student pre/post polls	25	\$ 250	\$ 6,250
Sub Total			<u>\$ 47,610</u>
Indirect Costs			<u>\$ 2,390</u>
			<u>\$ 50,000</u>

Revisions to Budget Narrative :

*After meeting with DPS curriculum leaders, two grade levels were selected to implement the materials and training district -wide. Therefore, instead of providing individual teachers with supplies, a teaching kit will be provided for each school: 16 elementary buildings for 5th grade and 4 buildings for 7th grade.

**The professional development workshops will be held at a school facility donated by the district. Room rental charges were reallocated to provide a catered meal for teachers.

***The professional development workshop will be held on August 8, 2019. This is a required school day (without students) for teachers. Since school is not yet in session, costs allocated for substitute teacher costs will allow OEP to offer a stipend to educators returning post -program evaluations and student pre vs. post poll data to Ohio Energy Project.



City Manager's Report

4.

From 3420 - Water/Water Engineering

Date July 29, 2020

Supplier, Vendor, Company, Individual

Expense Type Contract Modification

Name Peterson Construction Co.

Total Amount \$ 190,000.00 (thru 6/30/2021)

Address 18817 SR 501 N.

Wapakoneta, OH 45895

Fund Source(s)	Fund Code(s)	Fund Amount(s)
2020 Sanitary Capital Fund (Cash)	55003-3460-1424-54-SF1904	\$190,000.00

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

Description

WESTWOOD PUMP STATION SCREENING IMPROVEMENTS CHANGE ORDER NO. 1

The Department of Water requests permission to enter into Change Order No. 1 with Peterson Construction Co., in the amount of \$190,000.00 for the Westwood Pump Station Screening Improvements Project. After beginning initial work, it was found that additional work needed to be performed to complete the project. The additional work to be performed on the project includes, but is not limited to, installation of three HP 100 dry-pit pumps, new 12" suction valves and new discharge and check valves, removal of existing paint in the basement and repair of a leak in Pump No. 2. This project will also include temporary bypass pumping during the time the pumps are out of service.

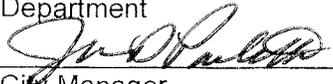
The original Agreement was approved on September 11, 2019 in the amount of \$594,000.00. This Change Order No. 1 will increase the contract amount to \$784,000.00.

This Change Order No. 1 is being funded using 2020 Sanitary Capital Fund (Cash).

A Certificate of Funds and a copy of Change Order No.1 are attached.

Signatures/Approval

Division
 Aaron S. Zonin Digitally signed by Aaron S. Zonin
Date: 2020.07.17 09:48:40 -04'00'

Department

 City Manager *7/23/2020*

Approved by City Commission

Clerk

Date

CERTIFICATE OF FUNDS

CT19-2340
CORD #1

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

 X New Contract Renewal Contract Change Order:

Contract Start Date	9/11/2019
Expiration Date	6/30/2021
Original Commission Approval	\$ 594,000.00
Initial Encumbrance	\$ 594,000.00
Remaining Commission Approval	\$ -
Original CT/CF	CT19-2340
Increase Encumbrance	\$ 190,000.00
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> \$ 190,000.00 </u> Fund Code <u>55003 - 3460 - 1424 - 54 - SF1904 -</u> <div style="display: flex; justify-content: space-between; font-size: small;"> FundOrgAcctProgActLoc </div>	Amount: <u> </u> Fund Code <u> - - - - </u> <div style="display: flex; justify-content: space-between; font-size: small;"> FundOrgAcctProgActLoc </div>
Amount: <u> </u> Fund Code <u> - - - - </u> <div style="display: flex; justify-content: space-between; font-size: small;"> FundOrgAcctProgActLoc </div>	Amount: <u> </u> Fund Code <u> - - - - </u> <div style="display: flex; justify-content: space-between; font-size: small;"> FundOrgAcctProgActLoc </div>

Attach additional pages for more FOAPALS

Vendor Name: Peterson Construction Company

Vendor Address: 18817 SR 501 North Wapakoneta OH 45895
Street City State Zipcode + 4

Federal ID: 34-1342365

Commodity Code: 93691

Purpose: Increasing funds for Change Order No. 1 for the Contract for Westwood Screening Improvements.

Contact Person: Lisa Burton-Yates Water/Water Engineering 7/17/2020
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>7/21/2020</u> Date	
Finance Director Signature		
<u></u>	<u>7/21/2020</u> Date	<u>CT19-2340</u> <u>CORD #1</u> CF/CT Number
CF Prepared by		

CHANGE ORDER NUMBER 1

This Change Order Number 1, entered into this _____ day of _____, 2020, is between the City of Dayton, Ohio (“City”) and Peterson Construction Company (“Contractor”).

WITNESSETH THAT:

WHEREAS, the City and Contractor entered into a contract for the Westwood Pump Station Screening Improvements project (Open Market) (“Project”), CT19-2340 dated September 11, 2019 (“Contract”), to install a new screen at the Westwood Pump Station; and

WHEREAS, the City and Contractor agree that extra work, or altered work, must be performed to complete the Project; and

WHEREAS, the City and Contractor agree that the extra work or altered work or both require the Contract to be modified; and

WHEREAS, the City and Contractor agree upon the amount to be paid for the extra work or altered work, or both, to be performed.

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

Section 1. Under this Change Order Number 1, Contractor shall perform the following work beyond the contract amount:

- a. Installation of three 100 HP dry pit Pumps (provided by the City) and replacement of existing suction and discharge valves as shown on Drawings prepared by RA dated 3/30/20 sheets M-1-M-3.
- b. Removal of existing paint in the basement as described in Peterson e-mail dated 6-10-2020.
- c. Fixing of Leak of Pump No. 2 as described in Peterson’s “Fix Leaking Lead joint” proposal dated June 18, 2020.

Section 2. In consideration of Contractor’s performance of the additional work described in Section 1 above, the City will pay Contractor an amount not to exceed One Hundred Ninety Thousand Dollars and Zero Cents (\$190,000.00) beyond the contract amount. Payment for services will be paid as follows:

a. Installation of pumps	\$ 198,753.00
b. Removal of paint	\$ 12,480.00
c. Fix Leaking Lead Joint	\$ 28,993.00
d. Contingencies	\$ 41,730.00
e. Deduct contingencies in existing Contract	<u>\$ -91,956.00</u>
Total	\$ 190,000.00

Section 3. In consideration of Contractor’s performance of the additional work described in Section 1 above, and related additional payment described in Section 2 above, the total contract amount shall be modified from Five Hundred Ninety Four Thousand Dollars and Zero cents (\$594,000.00) to Seven Hundred Eighty Four Thousand Dollars and Zero cents (\$784,000.00).

Section 4. The terms and compensation provided by this Change Order Number 1 constitute full compensation and complete satisfaction for all direct and indirect costs, and interest related thereto, which has been or may be incurred in connection with this change in the work, including, but not limited to, any

delays, inefficiencies, disruption or suspension, extended overhead, profit, interest, acceleration, and cumulative impact of this and any previously issued change orders.

Section 5. Except as modified by this Change Order Number 1, the Contract remains unchanged and in full force and effect.

IN WITNESS WHEREOF, the City and Contractor, each by a duly authorized representative, have executed this Change Order Number 1 as of the date first set forth above.

THE CITY OF DAYTON, OHIO

City Manager

Peterson Construction Company.

By *Michael S. Penn* 10/26/2020

Title PROJECT MANAGER

**APPROVED AS TO FORM
AND CORRECTNESS:**

[Signature]
City Attorney

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

_____, 2020

Min. / Bk. _____ Pg. _____

Clerk of the Commission

CERTIFICATE OF FUNDS

CT19-2340

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

 X New Contract Renewal Contract Change Order:

Contract Start Date	9/11/2019
Expiration Date	6/30/2021
Original Commission Approval	\$ 594,000.00
Initial Encumbrance	\$ 594,000.00
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> \$ 594,000.00 </u> Fund Code <u>55003 - 3460 - 1424 - 54 - SF1904 -</u> <div style="display: flex; justify-content: space-between; font-size: 0.8em;"> FundOrgAcctProgActLoc </div>	Amount: <u> </u> Fund Code <u> - - - - - </u> <div style="display: flex; justify-content: space-between; font-size: 0.8em;"> FundOrgAcctProgActLoc </div>
Amount: <u> </u> Fund Code <u> - - - - - </u> <div style="display: flex; justify-content: space-between; font-size: 0.8em;"> FundOrgAcctProgActLoc </div>	Amount: <u> </u> Fund Code <u> - - - - - </u> <div style="display: flex; justify-content: space-between; font-size: 0.8em;"> FundOrgAcctProgActLoc </div>

Attach additional pages for more FOAPALS

Vendor Name: Peterson Construction Company

Vendor Address: 18817 SR 501 North Wapakoneta OH 45895
Street City State Zipcode + 4

Federal ID: 34-1342365

Commodity Code: 93691

Purpose: Award of Contract for Westwood Screening Improvements

Contact Person: Lisa Burton-Yates Water/Water Engineering 8/29/2019
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.

Finance Director Signature

Jessica Williams
 CF Prepared by

9-3-19
 Date

9/3/19
 Date

CT19-2340
 CF/CT Number

8/30/19
 October 18, 2011



City Manager's Report

5.

From **3460 - Water/Water Reclamation**

Date **September 11, 2019**

Expense Type **Award of Contract**

Supplier, Vendor, Company, Individual

Total Amount **\$594,000.00 (thru 6/30/2021)**

Name **Peterson Construction Co.**

Address **18817 SR 501 N.
Wapakoneta, OH 45895**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
2019 Sanitary Capital Fund (Cash)	55003-3460-1424-54-SF1904	\$594,000.00

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

Description

**Westwood Pump Station Screening Improvements
(Open Market)**

The Department of Water requests permission to enter into a Contract with Peterson Construction Co. in the amount of \$594,000.00 for the Westwood Pump Station Screening Improvements project. This amount includes the base bid of \$495,000.00 and Alternate No. 1 – Contingency Allowance for \$99,000.00 (20% of the base bid). This project consists of replacement of the mechanical screen in the Westwood Pump Station Screen Building. The work includes piping, valves and appurtenances for a fully functioning system.

Two bids were received for this project on July 18, 2019. After evaluating the bids, Peterson Construction Co.'s bid was determined to be the lowest. The estimated cost for the project (including Alternate No. 1 – Contingency Allowance) was \$941,000.00. The time of completion is 200 Calendar Days. The expiration date identified on the Certificate of Funds is June 30, 2021.

This project is being funded using 2019 Sanitary Capital Fund (Cash).

A Certificate of Funds, Tabulation of Bids, and the Bid Form from the firm recommended for award are attached.

Signatures/Approval

Division

Department

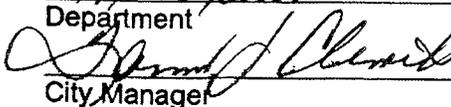
City Manager

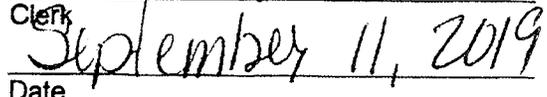
Approved by City Commission

Clerk

Date





(N.B. – This Contract Document and Bond Form will be filled in under the direction of the Director of Public Works, Dayton, Ohio after the Award of Contract.)

CONTRACT AGREEMENT

This agreement made and entered into this 10th day of October, 2019, by and between the City of Dayton, Ohio party of the first part and Peterson Construction Co., party of the second part for the **Westwood Pump Station Screening Improvements (Open Market)** project in pursuance of the following to wit:

WITNESSETH: That the parties hereto for themselves, their heirs, administrators, executors or successors, have agreed that the party of the second part shall furnish all the necessary appliances, tools, material and labor of every description and carry out and complete in a good workmanlike manner the aforesaid work in accordance with the Plans and Specifications for this project with supplements and changes thereto.

All provisions contained in the "Invitation to Bid", "Contract Bond", "The General Provisions, Section 100 of the City of Dayton (COD), Department of Public Works, Division of Civil Engineering, Construction and Material Specifications, dated October 1, 2008, "Amendments to the City of Dayton General Provisions", "Project Specifications" "Special Provisions", "Plans", "Notices to Contractor", and Addenda are hereby embodied as part of this agreement, as though they were attached hereto.

It is further agreed that the party of the second part shall assume all responsibility for the work, and take all precautions preventing injuries to persons and damage to property on or about the work. He shall assume the defense of, and shall indemnify and save harmless, the City and its individual officers and agents from all claims relating to injury to any or all persons or damage to property, which claim or claims are connected with or arise out of or are incidental to the work to be performed under this contract.

The City of Dayton specifically reserves the right to deposit any disputed funds, payments, or claims into an escrow account and to discharge all or any further obligation by the City by reason of such deposit into escrow.

It is further agreed that the party of the first part will pay therefore the price named and set forth in the Bid of the party of the second part, subject to the terms and conditions of this agreement, the total being the approximate sum of:

FIVE HUNDRED NINETY-FOUR THOUSAND DOLLARS AND ZERO CENTS.

\$399,000.00 CONSIDERATION FOR MATERIALS

\$195,000.00 CONSIDERATION FOR OTHER OBLIGATIONS

*\$594,000.00 The actual sum to be paid, however, will be the aggregate total determined by the work actually performed by the party of the second part pursuant to the Contract, calculated upon the unit price as set forth in the Bid.

IN WITNESS WHEREOF, the parties of this agreement have hereunto set their hand and seals.

Dated the day and year first herein written.

THE CITY OF DAYTON, OHIO

BY: Keith Steeba
Director of Public Works

CONTRACTOR

Peterson Contruction Co.

BY: Robert K. Knapke
Robert K. Knapke
Vice President
(TITLE)

Approved as to Form and Correctness

[Signature]
City Attorney

Approved by:

[Signature]
City Manager

Approved by the City Commission of the City of Dayton, Ohio

September 11, 2019 Min. Bk. I-15 Pg. 0670
Rashella Lavender
Clerk of Commission

*Awarded Base Bid and Alt. No. 1 (contingency).



City Manager's Report

5.

From **3210 - Aviation/AP Admin & Finance**

Date **July 29, 2020**

Expense Type **Lease Agreement**

Supplier, Vendor, Company, Individual

Total Amount **\$65,539.80 thru 12/31/2022**

Name **Griffin Farms**

Address **Gregory D. Griffin
6100 Diamond Mill Rd.
Germantown, Ohio 45327**

Fund Source(s)	Fund Code(s)	Fund Amount(s)
Aviation Operating	51000-3217-23151-43	\$65,539.80

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

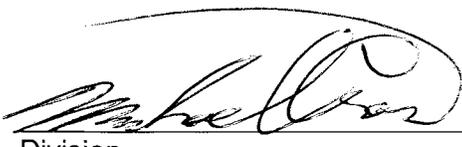
Description

GRIFFIN FARMS LEASE AGREEMENT - DAYTON-WRIGHT BROTHERS AIRPORT

The Department of Aviation requests permission to enter into a Lease Agreement with Griffin Farms for the lease of land at the Dayton-Wright Brothers Airport ("Airport"). In the agreement, the lessee agrees to plant an herbicide resistant (aka Round-Up Ready) corn and/or bean crop on approximately 127.2 acres of farmable real property located on certain areas of the Airport.

The Lease Agreement is for a period of approximately three (3) years, terminating on December 31, 2022.

The rental rate for the 127.2 acres is \$171.75 per acre/per year for a total annual rental of \$21,846.60. \$6,554.00 is payable on July 15, and the remaining \$15,292.60 is payable on November 15. The total three-year contract amount is \$65,539.80. The attached contract has been approved by the Law Department for form and correctness. A Certificate of Revenue is attached.



Signatures/Approval

Approved by City Commission

Division _____
Department _____

Clerk _____

City Manager *J. P. ... 7/23/2020*

Date _____

CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

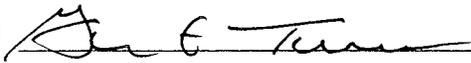
Customer Information: Name Griffin Farms
Address Attn: Greg Griffin 6100 Diamond Mill Rd.
City Germantown State OH Zip+4 45327 -
Customer # @00000140 Address Location #
Federal ID#

Revenue Information: Fund 51000 Organization 3217 Revenue 23151 Program 43

Contract Information: Contract Start Date 7/1/2020 Contract Expiration Date 12/31/2022

Billing Information: Rate: See Below Arrears x Pre-bill X
Monthly (1st month of billing)
Quarterly (1st month of quarter)
Semi-annual (1st month of half) July 15 - \$6,554.00 & November 15 - \$15,292.60 (annual total \$21,846.60)
Annual (1st month of billing)
Other (explain)
Rate Change Date N/A Rate Change Amount N/A

Description of Services (wording on invoice):
Lease of Farm Land at the Dayton-Wright Brothers Airport
(127.2 acres @ \$171.75/acre)

Departmental Approval 

TO BE COMPLETED BY FINANCE

Revenue Contract Number 1-0140 Auditor  Date 7/17/2020

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

Director of Finance 

July 15, 2020

TO: Shelley Dickstein
City Manager

FROM: Gilbert Turner 
Director of Aviation

SUBJECT: Griffin Farms Lease Agreement at the Dayton-Wright Brothers Airport

The Department of Aviation proposes the execution of the Lease Agreement for Mr. Greg Griffin to farm property at the Dayton-Wright Brothers Airport. This 3-year agreement updates the current agreement, which is in Hold Over as outlined in Article XII of the agreement. In the event portions of the property are developed before its expiration, the contract will be amended at that time. If the property remains undeveloped the contract agreement will require no additional action.

Should you have any questions, please feel free to contact me or Mike Cross 937-454-8226.

**LEASE AGREEMENT
(Griffin Farms)**

THIS LEASE AGREEMENT, ("Lease") is made and entered into this _____ day of _____, 2020 between the City of Dayton, Ohio ("Lessor"), a municipal corporation in and of the State of Ohio, and Griffin Farms ("Lessee"), a sole proprietorship.

WITNESSETH THAT:

WHEREAS, Lessor owns the improved real property, known and referred to as the Dayton-Wright Brothers Airport ("Airport"), which is situated in the Townships of Miami and Clearcreek, Counties of Montgomery and Warren and State of Ohio;

WHEREAS, Lessor has identified that certain areas of the Airport can be used for growing and harvesting agricultural crops;

WHEREAS, The planting of an herbicide tolerant corn or bean crop will reduce the effort to prepare the land for conversion to tall grass prairie;

WHEREAS, Lessee desires to continue to farm the land through the conversion; and

WHEREAS, The parties desire to set forth the terms and conditions for the lease of the Premises, identified herein.

NOW, THEREFORE, in consideration of the mutual promises herein contained and the mutual benefits to be derived, **IT IS AGREED AS FOLLOWS:**

ARTICLE I - LEASED REAL PROPERTY

- A. Lessor leases to Lessee approximately 127.2 acres of farmable real property located on certain areas of the Airport ("Premises"). Specifically, the Premises leased hereunder are located and further identified in Exhibit A – 2020 Farm Map, which is attached hereto and incorporated herein.
- B. Lessee understands that Lessor intends to convert the Premises into tall grass prairie at some time in the future.
- C. Lessee agrees to plant an herbicide resistant (aka. Round-Up Ready) corn and/or bean crop.

- D. Lessee, by execution of this Lease, acknowledges that it fully knows the condition of the Premises and attests that no representation concerning the Premises or its fitness for a particular agricultural use has been made by Lessor or any of Lessor's elected officials, officers, agents and/or employees. Lessor shall not be obligated to make any repairs, improvements or alterations to the Premises during the term of this Lease. Further, Lessor shall not be liable for any damage or injury occasioned by any unsafe, defective or dangerous condition on or about the Premises leased, which is existing or may in the future arise or exist.
- E. Lessor may, at any time and from time to time, decrease the total acreage of the Premises. In the event of a decrease in the Premises acreage, Lessor will provide Lessee with thirty (30) days written notice and Exhibit A will be amended to reflect such decrease in acreage.
- F. Lessor may, from time to time during the term of this Lease, designate and make available other Lessor-owned property for agricultural farming purposes, and Lessee shall have the right of first refusal to lease same. If Lessor designates any such property for agricultural farming uses, Lessor shall notify Lessee in writing of the availability of the additional acreage. Within thirty (30) days after the date of Lessor's notice, Lessee shall notify the Lessor of its election to lease the additional acreage and this Lease shall be amended to include such additional property as part of the leased Premises. However, if Lessee fails to respond within the 30-day period or Lessee notifies Lessor that it does not desire to lease the additional acreage, the Lessor shall have right to lease such farmable property to any third party of its choosing.
- G. In the event Lessor cancels this Lease pursuant to Article XIV, Subsection B or Lessor decreases the Premises acreage, as permitted under Subsection C above, Lessor will reimburse Lessee by direct payment and/or rental credit for any crop loss and/or prepaid land rental due to such action as follows:
1. For loss of unharvested planted crops without regard to growth stage or harvestability, One Hundred Thirty-Five Dollars (\$135.00) per acre, except as provided in Subsection 2 below;
 2. For loss of unharvested planted crops when such loss occurs at harvest time, the market rate for such crop(s) lost; and
 3. Reimbursement for prepaid rental for the deleted acreage.
- H. By execution hereof, Lessee acknowledges and agrees that all crops shall be planted at least five hundred thirty feet (530') from the centerline of any runway and one thousand feet (1,000') from the edge of the displaced threshold as depicted on Exhibit A. City may require Lessee to remove any crops infringing on these areas at any time and at Lessee's sole cost and expense, with no reimbursement. If Lessee fails to remove the crops within fifteen (15) days from written notice to Lessee, then Lessor may remove such crops and Lessor will bill Lessee for the cost of such removal.

ARTICLE II - USE OF PREMISES

- A. Lessee shall have the exclusive use of the Premises for the production and harvesting of agricultural crops only. Lessee shall not engage in sod stripping or other agricultural activities that would in any way deteriorate the grading or quality of the Premises. Lessee shall employ the best agricultural practices to preserve the productive capacity of the soil, including, but not limited to, crop rotation, use of fertilizers, nitrogen or similar products.
- B. Nothing herein shall prevent Lessee from allowing the Premises to lie fallow as long as Lessee takes appropriate steps to protect the land from erosion. If the Premises lie fallow, Lessee shall provide mowing of weeds or grasses as directed by Lessor.
- C. The Premises shall be used only for the purposes specified in this Lease. Lessee shall actively use the Premises for those purposes during the term of this Lease or cause them to be so used. Lessee shall not at any time abandon the Premises without the prior written consent of Lessor.
- D. Lessee shall not do or permit anything to be done on or about the Premises that would in any way conflict with any applicable law, ordinance, guideline, order, rule or regulation issued by any competent governmental authority. Lessee shall not use or allow the Premises to be used for any improper, immoral or unlawful purpose.
- E. Lessor may, from time to time during the term of this Lease, require access to the premises to continue the preparation of the land for the conversion to tall grass prairie. Lessor will inform Lessee prior to entry for this purpose.

ARTICLE III – FEDERAL REQUIREMENTS

Lessee shall comply with the following provisions for non-aeronautical use:

- 1. Lessor reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of the Lessee and without interference or hindrance;
- 2. Lessor reserves the right, but shall not be obligated to the Lessee, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of the Lessee in this regard;
- 3. The Lease shall be subordinate to the provisions of and requirements of any existing or future agreements between Lessor and the United States, relative to the development, operation, or maintenance of the Airport;

4. Lessee agrees to comply with the notification and review requirements covered in Title 14 U.S. Code of Federal Regulations (“CFR”) Part 77 (FAA Form 7460-1) in the event any future structure or building is planned for the Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises;
5. Lessor reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein leased. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from, or operation on the Airport;
6. Lessee expressly agrees for itself, its successors and assigns that it will not construct, nor permit to stand, on said Premises any building, structure, poles, trees, or other object, whether natural or otherwise, of a height in excess of Title 14 CFR Part 77 surfaces relating to Airport;
7. Lessor reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of entry onto the real property herein conveyed to cut, remove, or lower any building, structure, poles, trees, or other object, whether natural or otherwise, of a height in excess of Title 14 CFR Part 77 surfaces relating to Airport. This public right shall include the right to mark or light as obstructions to air navigation, any and all buildings, structures, poles, trees, or other object that may at any time project or extend above said surfaces;
8. Lessee expressly agrees for itself, its successors and assigns, to not hereafter use, nor permit, nor suffer use of the Premises in such a manner as to create electrical interference with radio communication between the installation upon the Airport and aircraft or as to make it difficult for fliers to distinguish between airport lights and others, or as to impair visibility in the vicinity of the Airport, or as otherwise to endanger the landing, taking off, or maneuvering of aircraft; and
9. Lessee expressly agrees for itself, its successors and assigns, to not hereafter use, nor permit, nor suffer the use of the Premises in such a manner as to create a potential for attracting birds and other wildlife which may pose a hazard to aircraft.

ARTICLE IV - RIGHTS AND OBLIGATIONS OF LESSEE

- A. Lessee shall, at its expense, obtain from all authorities having jurisdiction over the business and operation of Lessee to be conducted on the Premises all licenses, certificates, permits or other authorizations that are required for the conduct of its business and operations on the Premises, that are necessary to comply with the requirements of this Lease and those necessary for the exercise of any right or obligation granted herein. Lessee, however, shall not be deemed to have waived any right to exhaust administrative and/or judicial remedies that may be available to Lessee regarding any dispute or contest related to any authorization required. The Airport Rules and Regulations may be accessed at <http://www.flydayton.com/wp-content/uploads/2018/02/DAY-Rules-and-Regulations-October-4-2017.pdf> or may be obtained from Airport administration upon request.
- B. Lessor shall comply with any current or future regulations regarding Airport security, including, but not limited to, criminal background checks.
- C. Lessee shall repair or pay for any and all damages to Lessor and its property caused by any wrongful, intentional and/or negligent acts or omissions of Lessee, its agents, employees, invitees, guests and contractors arising out of Lessee's use or occupancy of the Premises or in the exercise of any right or obligation granted herein.
- D. Lessee shall not do anything or permit anything to be done within, on or from the Premises that would interfere with the effectiveness or accessibility of the storm drainage, sewer system and/or the farm drainage tiles. Further, Lessee shall be responsible for the maintenance and repair of all farm drainage tiles located on the Premises.
- E. Lessee shall report annually or more frequently if required, the acreage and crop information for the Premises to the appropriate U.S. Farm Service Agency (or any such successor or replacement federal agency) regardless of whether Lessee receives or is eligible to receive federal farm subsidies.
- F. Lessee shall, at its expense, provide and use suitable receptacles for the storing of all trash, garbage and other refuse created in the exercise of any right or obligation under this Lease. Lessee shall, at its expense, provide for the complete and proper removal and disposal away from the Premises and the Airport of all refuse collected.
- G. Lessee shall not erect, allow or permit to be maintained on the Premises, or upon the exterior of any improvement on the Premises, any billboards or advertising signs, except those which have the prior written approval of Lessor.
- H. Lessee shall not use Airport roads, parking areas, ramps, runways or taxiways in the conduct of its activities permitted under this Lease. If the use of said roads, parking areas, ramps, runways or taxiways is unavoidable, then Lessee shall obtain appropriate clearances and/or authorizations to do so prior to such entry or crossing. Lessee shall not engage in any activity that would inhibit, prevent and/or disrupt aircraft operations

or the safety thereof. In addition, Lessee shall, at its expense, clear and remove any dirt, stones, agricultural waste and other debris from said roads, parking areas, ramps, runways or taxiways resulting from such use.

- I. Lessee shall close and secure any Airport access gate used to enter and exit any portion of the Premises immediately after using same. Lessee shall not, at any time, leave such gates open, unsecured or unattended. If, by the fault of Lessee, Lessor is assessed any monetary fine or penalty for a violation of any applicable law, ordinance, rule or regulation regarding the security of the Airport and use of such Airport access gate(s), Lessee shall pay such fine or penalty.
- J. In the event, any acreage is deleted from the Premises, Lessor may request that Lessee plow and disc such acreage, and Lessee hereby agrees to do so within a reasonable time following such request. Lessor agrees to reimburse Lessee by direct payment or rental credit for each such request at the rate of Two Hundred Dollars (\$200.00) per acre.
- K. Lessee shall not plant any agricultural crop within ten (10) feet from any Airport perimeter fence. Lessor may spray herbicides along such Airport fences and/or may mow any vegetation within ten (10) feet of such fences. Lessee shall not use any herbicide or pesticide that would be in violation of any federal, state or local law, rule, ordinance, directive, order or regulation. Lessee shall be solely responsible for the clean-up of any environmental damage to the Premises or adjoining lands resulting from the use of any herbicide, pesticide or other chemicals on the Premises.
- L. Lessee shall bear all costs associated with the production and harvesting of agricultural crops upon the Premises. Such costs shall include any and all costs incurred by Lessee in making the Premises suitable for farming. Lessor shall not be responsible for or have any obligation to reimburse Lessee for any crop loss.
- M. Lessee shall at no time create a nuisance or hazard to the Airport, its users, or the surrounding neighborhoods. In the event Lessee has fertilizers or other substances delivered to be used on the Premises, such substances must be worked into the soil within ten (10) days in order to minimize any odors or nuisances.
- N. The rights granted herein shall be subject to all statutes, ordinances, rules and regulations as now or may hereafter be applied to the operation of the Airport or the operations of Lessee.

ARTICLE V - TERM

This Lease shall be effective from execution, terminating on December 31, 2022.

ARTICLE VI - RENTAL

- A. Lessee shall pay Lessor, as rental for the Premises, the sum of Twenty-One Thousand Eight Hundred Forty-Six dollars and Sixty Cents (\$21,846.60) which is equivalent to one hundred seventy-one dollars and seventy-five cents (\$171.75) per acre.
- B. Lessee shall pay the aforesaid rental fee in two installments, being the sum of Six Thousand Five Hundred Fifty-Four dollars (\$6,554.00) for the first installment and Fifteen Thousand Two Hundred Ninety-Two Dollars and Sixty Cents (\$15,292.60) for the second installment, which shall be due to Lessor, in advance and without notice, on the first day of July and November, respectively.
- C. Rental payments shall be paid in two installments, which shall be due, without notice, on July 15th and November 15th of each year this Lease is effective. Rental installment payments shall be sent to Lessor at the following address:

City of Dayton, Ohio
P. O. Box 632094
Cincinnati, Ohio 45263-2094

or at such other address as Lessor shall, in writing, direct.

- D. Upon execution of this Agreement Lessee shall tender to Lessor a "Security Deposit" in the amount of Two Thousand Five Hundred Dollars (\$2,500.00), which shall be retained by Lessor during the term of this Lease. The City will accept the existing Two Thousand Five Hundred Dollars (\$2,500.00) security deposit from the original lease as the deposit for this lease. Upon expiration and/or termination of this Lease, if Lessee has complied with all terms and conditions of this Lease, Lessor will refund the Security Deposit to Lessee, but if Lessee has not complied with such terms and conditions, Lessor will withhold such amount(s) from the Security Deposit as may be necessary to cure the breach or failure and will, as applicable, remit any balance to Lessee. The refund of the Security Deposit, if applicable, will be made within thirty (30) days from the effective date of termination and/or expiration of this Lease.
- E. Without waiving any other right or action available to Lessor in the event of default in payment of rentals or fees hereunder, if Lessee is delinquent for a period of thirty (30) days or more in paying to Lessor any rental or fee due and owing to Lessor pursuant to this Lease, Lessee shall pay to Lessor a late charge thereon at the rate of two percent (2%) per month from the date such item was due and owing until full payment (plus late charges) have been paid. Late charges shall not occur with respect to disputed items being contested in good faith by Lessee.

ARTICLE VII - RIGHTS AND OBLIGATIONS OF LESSOR

- A. Lessor shall have the right to adopt and enforce reasonable rules and regulations, with respect to the use of the Airport and facilities thereon, which Lessee agrees to observe, obey and enforce.
- B. Lessor's Director of Aviation and his duly authorized representative(s) shall have at any and all reasonable times the full and unrestricted right to enter the Premises for the purposes of inspecting the Premises and doing any and all things which the Lessor is obligated or authorized to do as set forth herein, or which may be deemed necessary for the proper general conduct and operation of the Airport and in the exercise of the Lessor's police power.
- C. Lessor warrants quiet enjoyment of the rights and privileges granted herein, subject to Subsection B of this Article VII, during the term hereof, and upon the performance of Lessee's covenants contained herein.
- D. All gas, oil and mineral rights in the soil covered by this Lease are specifically reserved to Lessor, and Lessor reserves the right to use so much of the surface of the land as may be necessary for gas, oil or mineral development or for rights-of-way thereto.

ARTICLE VIII – NON-DISCRIMINATION

- A. Lessee, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that, in the event facilities are constructed, maintained or otherwise operated on the Premises described in this Lease for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provisions of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation, and as said regulations may be amended, superseded or modified.
- B. Lessee, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status or handicap shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said facilities, (2) in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status or handicap shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally assisted programs of the

Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964 and as said regulations as may be amended, superseded or modified.

- C. In the event of breach of any of the above non-discrimination covenants, City shall have the right to terminate this Lease and to re-enter and repossess the Premises and facilities thereon and hold the same as if said Lease had never been made or issued. Notwithstanding the foregoing, it is specifically agreed that nothing in this Article shall prevent Lessee from exhausting all administrative and/or judicial remedies available to Lessee in resisting or defending against any claims or claim of breach or default or noncompliance hereunder.

ARTICLE IX - INSURANCE AND INDEMNITY

- A. Lessee shall defend, indemnify, and save and hold harmless Lessor, its elected officials, officers, agents and employees, from and against any and all claims and actions, and all expenses incidental to the investigation and defense thereof, based upon or arising out of any accident or damages suffered by any persons and arising from, or in any way connected with, Lessee's use or occupancy of the Premises, and/or any condition of the Premises, fixtures, structures, or other improvements thereon, and/or Lessee's exercise of any right granted herein, and/or Lessee's performance, breach or default in the performance of any obligation to be performed pursuant to this Lease, and/or any wrongful, intentional and/or negligent act or omission of Lessee, its agents, employees, guests, invitees, volunteers, tenants, contractors and suppliers.
- B. Lessee shall defend, indemnify, and save and hold harmless Lessor, its elected officials, officers, agents and employees, from and against any mechanics or other lien or order for the payment of money filed against the Premises, Lessor or any property of Lessor, arising out of any act or omission of Lessee or anyone claiming through or under Lessee. Lessee shall, at Lessee's expense, cause the same to be cancelled or discharged of record and shall save and hold harmless Lessor from and against any and all costs, expenses, claims, losses or damages including reasonable counsel fees resulting therefrom or by reason thereof.
- C. Lessee shall, at its expense, maintain with an insurance company authorized to do business in the State of Ohio and having at least an "A" rating by A. M. Best, comprehensive general liability insurance in a sum of not less than One Million Dollars (\$1,000,000.00) combined single limit for bodily injury and property damage. Current certificate(s) of insurance for each policy or concurrent policies of comprehensive general liability insurance required hereunder shall be furnished to Lessor. Such policies shall name the City of Dayton, its elected officials, officers, employees, agents and volunteers as additional insureds and provide written notice of cancellation to Lessor at least thirty (30) days prior to the effective date of cancellation. Upon request, Lessee shall furnish Lessor with a complete copy of such policy of insurance required hereunder.

ARTICLE X - ASSIGNMENT AND SUBLETTING

The leasehold and rights granted herein are personal property of Lessee. No assignment or subleasing of this Lease shall be permitted. Any purported assignment or sublease in violation hereof shall be void.

ARTICLE XI - SUCCESSORS AND ASSIGNS BOUND BY COVENANTS

All covenants, stipulations and agreements in this Lease shall extend to and bind the legal representatives, successors and assigns of the respective parties hereto.

ARTICLE XII - HOLDING OVER

In the event that Lessee holds over and remains in possession of the Premises and the rights granted herein after expiration of this Lease and without any written renewal thereof, such holding over shall not be deemed to operate as a renewal or extension of this Lease, but shall only create a tenancy from month to month which may be terminated at any time by Lessor or Lessee. Lessor may increase the rents payable hereunder with thirty (30) days prior written notice to Lessee during any such holding over period.

ARTICLE XIII - TERMINATION BY LESSEE

- A. Lessee may terminate this Lease if Lessor defaults in the performance of any material covenant or promise required to be performed by it herein, and Lessor fails to remedy such default and/or take prompt action to remedy such default within thirty (30) days after written notice to remedy same. However, if by reason of the nature of such default the same cannot be remedied within said thirty (30) days, then Lessee may only terminate this Lease if Lessor failed to commence the remedying of such default within the thirty (30) days following Lessee's written demand or having so commenced, fails thereafter to continue with diligence the remedying thereof.
- B. Lessee may terminate this Lease at any time, without cause, by providing thirty (30) days prior written notice to Lessor.
- C. Lessee shall not be entitled to a refund of any prepaid rent if Lessee elects to terminate this Agreement pursuant to this Article.

ARTICLE XIV - TERMINATION BY LESSOR

- A. In addition to all other remedies available to Lessor, Lessor may terminate this Lease should any one or more of the following events occur:
 - 1. If a receiver for Lessee's assets is appointed by a court of competent jurisdiction;

2. If Lessee shall be divested of its rights, powers and privileges under this Lease by operation of law;
3. If Lessee defaults in the payment of rents due hereunder, and said default is not cured by payment of all outstanding amounts due and owing within fifteen (15) days after Lessor notifies Lessee in writing of the default;
4. If Lessee defaults in the performance of any material covenant or promise required to be performed by it herein, excepting the payment of rents, and Lessee fails to remedy such default and/or take prompt action to remedy such default within thirty (30) days after written notice to remedy same. However, if by reason of the nature of such default the same cannot be remedied within said thirty (30) days, then Lessor may cancel this Lease if Lessee failed to commence the remedying of such default within the thirty (30) days following Lessor's written demand or having so commenced, fails thereafter to continue with diligence the remedying thereof; or
5. Violations by Lessee, its suppliers, guests, invitees, agents or employees, of applicable laws, ordinances, codes, rules and regulations issued by any competent governmental authority, or revocations of permits or licenses required in the performance of this Lease, if the same shall not be corrected or action taken to correct, within thirty (30) days after Lessee's receipt of written notice, which shall state in detail the violation.

B. Lessor may terminate this Lease at any time, without cause, by providing thirty (30) days prior written notice to Lessee.

ARTICLE XV - INVALID PROVISIONS

In the event any covenant, condition or provision herein contained is held invalid or illegal by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision herein contained shall not constitute a material breach of this Lease; provided that the validity of any such covenant, condition or provision does not materially prejudice either the Lessor or Lessee in its respective rights and obligations contained in the valid covenants, conditions or provisions of this Lease.

ARTICLE XVI - WAIVER

A. No waiver by either party at any time of any of the terms, conditions, covenants, or agreements of this Lease, or noncompliance therewith, shall be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant or agreement herein contained, nor of the strict and prompt performance thereof by the other. No waiver by Lessor shall be effective or binding unless it is reduced to a writing approved by the Director of Aviation and executed by a duly authorized representative of Lessor.

- B. No option, right, power, remedy or privilege of either party shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options or remedies given to each party by this Lease are cumulative and no one of them shall be exclusive of the other or exclusive of any remedies provided by law except as specifically provided herein and that the exercise of one right, power, option or remedy by either party shall not impair its right or any other right, power, option or remedy, except as specifically provided herein.

ARTICLE XVII - GENERAL PROVISIONS

- A. The term City or Lessor, as used in this Lease, means the City of Dayton, Ohio, and where this Lease speaks of approval and consent by the City, such approval is understood to be manifested by act of the City's Director of Aviation, except as otherwise expressly stated in this Lease.
- B. Notices to Lessor provided for in this Lease shall be sufficient if sent by certified mail, postage prepaid, addressed to:

City of Dayton, Ohio - Department of Aviation
James M. Cox Dayton International Airport
3600 Terminal Drive, Suite 300
Vandalia, Ohio 45377
Attn: Director of Aviation

or such other address as the Lessor shall direct in writing.

- C. Notices to Lessee provided for in this Lease shall be sufficient if sent by certified mail, postage prepaid, addressed to:

Griffin Farms
Gregory D. Griffin
6100 Diamond Mill Rd
Germantown Ohio 45327

or such other address as Lessee shall direct in writing.

- D. Lessee represents that it has carefully reviewed the terms and conditions of this Lease and is familiar with such terms and conditions and agrees faithfully to comply with the same to the extent to which said terms and conditions apply to its activities as authorized and required by the Lease.
- E. Any headings of this Lease are for convenience of reference only and do not define or limit the provisions thereof. In this Lease, unless the context otherwise requires, the terms "hereby", "herein", "hereof", "hereto", "hereunder" and any similar terms used in this manner refer to this Lease. All section references, unless otherwise expressly indicated, are to sections in this Lease. Any references to any exhibit or document shall be deemed to

include all supplements and/or amendments to any such exhibits or documents. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties, and obligations of such persons or entities in accordance with this Lease.

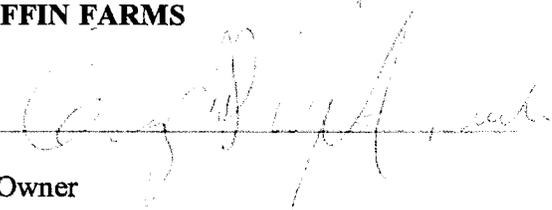
- F. By execution of this Lease, Lessee hereby irrevocably submits to the original jurisdiction of the courts located within the County of Montgomery, State of Ohio, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Lease.
- G. Lessee and any person claiming by or through Lessee shall look solely to legally available Airport discretionary funds for enforcement of any liability of the Lessor under this Lease, and not any other funds or assets of the Lessor whatsoever.
- H. Neither Lessee nor any contractor of Lessee shall be entitled to claim any exemption from sales or use taxes or similar taxes by reason of the Lessor's ownership of fee title to the Premises.
- I. By entering into this Lease, Lessor shall in no way be deemed a partner or joint venturer with Lessee, nor shall any term or provision hereof be construed in any way to grant, convey or create any rights or interests to any person or entity not a party to this Lease.
- J. The parties may amend this Lease, at any time, provided that no such amendment shall be effective unless it is reduced to a writing, which makes specific reference to this Lease, executed by a duly authorized representative of each party, approved by the Lessor's Director of Aviation and, if required or applicable, approved by the Commission of the City of Dayton, Ohio.
- K. This Lease represents the entire and integrated agreement between Lessor and Lessee. This Lease supersedes all prior and contemporaneous communications, representations, understandings, agreements or contracts, whether oral or written, relating to the subject matter of this Lease.
- L. This Lease 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused this Lease to be executed by their duly authorized officers and their respective seals to be hereunto affixed the day and year first above written.

GRIFFIN FARMS

By: _____



Its: Owner

CITY OF DAYTON, OHIO

City Manager

**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



City Manager's Report

6.

From **2600 - Economic Development**

Date **July 29, 2020**

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

Total Amount **\$3,080.30**

Supplier, Vendor, Company, Individual

Name Terracon Consultants, Inc.

Address 611 Lunken Park Drive
Cincinnati, OH 45226-1813

Fund Source(s)	Fund Code(s)	Fund Amount(s)
Real Estate Development	16304-2600-1159-41	\$ 3,080.30

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

Description

Payment of Voucher – Terracon Consultants, Inc.

The Department of Economic Development requests approval of a payment of voucher, in connection with a redevelopment project at the former Cliburn Manor site on Burns Avenue. Terracon Consultants, Inc. (Terracon) is providing environmental consulting services under an existing Professional Services Agreement (PSA) associated with the City's Brownfield Assessment Grant from the U.S. EPA.

In 2018, the EPA authorized the use of the grant funds to conduct an environmental assessment of the Cliburn Manor site. After completing the Phase I report, the consulting team began working on the Phase II study, at the direction of staff. However, the EPA then revisited the project's eligibility status and determined the site did not meet their criteria for funding.

As a result, the EPA decided that the completed Phase I report could still be reimbursed under the original authorization, but the Phase II work, which had already begun, would not be eligible for funding. Staff immediately cancelled the consultant's work order upon notice from EPA.

Due to the circumstances described above, the City is obligated to pay for the work that was completed during the interim period. The existing PSA cannot be used to pay for the services rendered because it is entirely funded by the EPA grant. Since the invoice exceeds the \$2,500 payment threshold, City Commission approval is required.

A Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Division _____

Fred P. Weber

Department _____

City Manager _____

Jim P. ... 7/23/2020

Clerk _____

Date _____

July 15, 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: Payment of Voucher – Terracon Consultants, Inc.

The Department of Economic Development requests City Commission approval of a payment of voucher, in connection with a redevelopment project at the former Cliburn Manor site on Burns Avenue. The payment is for Terracon Consultants, Inc. (Terracon), who is providing environmental consulting services under an existing Professional Services Agreement (PSA) associated with the City's Brownfield Assessment Grant from the U.S. EPA.

In 2018, the EPA authorized the use of the grant funds to conduct an environmental assessment of the Cliburn Manor site. After completing the Phase I report, the consulting team began working on the Phase II study, at the direction of staff. However, the EPA then revisited the project's eligibility status and determined the site did not meet their criteria for funding.

As a result, the EPA decided that the completed Phase I report could still be reimbursed under the original authorization, but the Phase II work, which had already begun, would not be eligible for funding. Staff immediately cancelled the consultant's work order upon notice from EPA.

Due to the circumstances described above, the City is obligated to pay for the work that was completed during the interim period. The existing PSA cannot be used to pay for the services rendered, because it is entirely funded by the EPA grant. Since the invoice exceeds the \$2,500 payment threshold, City Commission approval is required.

If you have any questions, please contact me at extension 3621 or Keith Klein of our staff by email.

FPW/kek

Terracon

INVOICE

611 Lunken Park Dr
Cincinnati, OH 45226-1813
513-321-5816

Project Mgr: Kevin Reid

Project: Burns Ave Phase II
200 Burns Avenue
Dayton, OH 45402

To: City of Dayton OH
Attn: Keith Klein
101 W 3rd St
Dayton, OH 45402-1814

REMIT TO:

Invoice Number: TD78049

Terracon Consultants, Inc.
PO Box 959673
St Louis, MO 63195-9673

Federal E.I.N.: 42-1249917

Project Number: N1197067
Invoice Date: 6/19/2020
For Period: 3/22/2020 to 6/13/2020

Quantity	Description of Services	Rate	Total
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TASK: Sampling and Analysis Plan (SAP)

Direct Project Labor

1.00 Hour(s)	Senior Project Manager I	\$195.00	\$195.00
15.25 Hour(s)	Senior Project Manager	\$150.00	\$2,287.50
	Subtotal		\$2,482.50
	Task Total		\$2,482.50

TASK: Field work

Direct Project Labor

3.50 Hour(s)	Senior Project Manager	\$150.00	\$525.00
	Subtotal		\$525.00

Direct Project Expense

130.00 Mile(s)	Mileage	\$0.560	\$72.80
	Subtotal		\$72.80
	Task Total		\$597.80

Per the signed Task Order dated March 25, 2020.

Invoice Total \$3,080.30

O.k. to pay - Keith Klein
7/14/2020 *KEK*

TERMS: DUE UPON PRESENTATION OF INVOICE

31817-20

By: No.

AN ORDINANCE

Amending the City's Appropriations for the Year
2020, and Declaring an Emergency.

WHEREAS, On June 17, 2020, this Commission passed an appropriation ordinance for the year 2020, being Ordinance Number 31817-20, which provided for the appropriation of Six Hundred Eighty-Four Million Eight Hundred Ninety-Six Thousand One Hundred Dollars and Zero Cents (\$684,896,100.00) to the various funds of the City of Dayton; and,

WHEREAS, The City Manager and Department Directors arranged a work program for 2020 for which there are now modifications in several funds that require amendment to the 2020 appropriations made in Ordinance Number 31817-20; and,

WHEREAS, The City's Charter and State law mandate that no expenditures be made except pursuant to appropriations authorized by the Commission; and,

WHEREAS, To provide for the usual daily operations of the various departments of the City until the end of the current calendar year, it is necessary that this Ordinance take effect at the earliest possible date; now, therefore,

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

Section 1. That appropriations for the year 2020 made by this Commission pursuant to Ordinance No. 31817-20 of monies available to the City, or in the process of collection by the City, and not otherwise encumbered, are amended as shown within the following funds:

GOVERNMENTAL FUND TYPE	2020 Appropriations (First Revised)	2020 Appropriations (Second Revised)
<u>(1) General Fund - 10</u>		
1200 Clerk of Commission	1,302,500	1,302,500
1300 Civil Service Board	1,525,100	1,525,100
1400 Human Relations Council	1,001,100	1,001,100
2100 City Manager's Office	1,380,800	1,380,800
2101 Public Affairs	1,260,800	1,260,800
2105 Office of Sustainability	212,500	212,500
2300 Dept. of Planning and Community Development (including Housing Inspection)		
Expenses	3,677,000	3,677,000
Transfers Out	150,000	150,000
Total	3,827,000	3,827,000
2500 Clerk of Courts	3,891,900	3,891,900
2510 Municipal Court	4,909,600	4,909,600

		2020 Appropriations (First Revised)	2020 Appropriations (Second Revised)
2600	Department of Economic Development (including Zoning Admin. & Building Inspection)	3,691,000	3,691,000
2700	Dept. of Procurement, Management & Budget	1,852,000	1,852,000
3400	Department of Water	118,400	118,400
5200	Department of Law	2,903,600	2,903,600
5300	Department of Finance	4,050,400	4,050,400
5500	Department of Information Technology	7,022,100	7,022,100
5600	Department of Human Resources	1,164,500	1,164,500
6200	Department of Police		
	Expenses	53,121,200	53,121,200
	Transfers Out	850,700	850,700
	Total	53,971,900	53,971,900
6300	Department of Fire	42,853,900	42,853,900
6400	Department of Public Works	26,001,400	26,001,400
6500	Department of Recreation & Youth Services (incl. Convention Ctr.)	5,726,700	5,726,700
9980	Non-Departmental		
	Expenses	2,063,500	2,863,500
	Transfers Out	989,100	989,100
	Total	3,052,600	3,852,600
Issue 9 - General Fund - 10001			
6400	Department of Public Works	624,000	624,000
9980	Non-Departmental		
	Transfers Out	7,928,500	7,928,500
	Total	7,928,500	7,928,500
	Total Issue 9 - General Fund	8,552,500	8,552,500
Community Golf & Recreation Fund - 13000			
6550	Department of Recreation & Youth Services	715,000	715,000
	Total Community Golf & Recreation Fund	715,000	715,000
16999	Special Projects		
	Expenses	15,732,400	15,832,400
	Transfers Out	3,878,000	3,878,000
	Total	19,610,400	19,710,400
75000	Income Tax Fund		
	Transfers Out	5,250,000	5,250,000
	Total	5,250,000	5,250,000
Total General Fund		205,847,700	206,747,700
<u>(2) Special Revenue</u>			
Roadway Maintenance Fund – 21999			
Street Maintenance Fund - 21000			
6400	Department of Public Works	6,065,700	6,065,700
	Total Roadway Maintenance Fund	6,065,700	6,065,700

		2020	2020
		Appropriations	Appropriations
		(First Revised)	(Second Revised)
Street Maintenance Capital - 21200			
6400	Department of Public Works	1,900,000	1,900,000
	Total Street Maintenance Capital	1,900,000	1,900,000
Highway Maintenance Fund - 21100			
6400	Department of Public Works	722,900	722,900
	Total Highway Maintenance Fund	722,900	722,900
Total Roadway Maintenance Fund		8,688,600	8,688,600
HUD Programs Operating			
Community Dev. Block Grant Fund - 26204-26209 and 26102			
2300	Dept. of Planning and Community Development	3,511,400	3,511,400
5300	Department of Finance	80,000	80,000
	Total Community Dev. Block Grant Fund	3,591,400	3,591,400
HOME Operating Fund - 27000			
2300	Dept. of Planning and Community Development	134,100	134,100
	Total HOME Operating Fund	134,100	134,100
Total HUD Programs Operating		3,725,500	3,725,500
HUD Programs Non-Operating			
Fair Housing Grant Fund - 23000 - 23999			
	Various Departments	50,000	50,000
	Total	50,000	50,000
	Prior Year's Unexpended Appropriation	157,900	157,900
	Total Fair Housing Grant Fund	207,900	207,900
Emergency Solutions Grant - 25002			
	Various Departments	2,251,900	2,251,900
	Total	2,251,900	2,251,900
	Prior Year's Unexpended Appropriation	480,500	480,500
	Total Emergency Solutions Grant	2,732,400	2,732,400
Continuum of Care Grant - 25525 - 25599			
	Various Departments	2,795,700	2,795,700
	Total	2,795,700	2,795,700
	Prior Year's Unexpended Appropriation	1,637,200	1,637,200
	Total Continuum of Care Grant	4,432,900	4,432,900
Community Dev. Block Grant Non-Operating Fund - 26001 - 26906			
	Various Departments	6,359,300	6,359,300
	Total	6,359,300	6,359,300
	Prior Year's Unexpended Appropriation	8,152,900	8,152,900
	Total Community Dev. Block Grant Non-Operating Fund	14,512,200	14,512,200

	2020 Appropriations (First Revised)	2020 Appropriations (Second Revised)
HOME Non-Operating Fund - 27001 - 27999		
Various Departments	0	0
Total	0	0
Prior Year's Unexpended Appropriation	4,200,600	4,200,600
Total HOME Non-Operating Fund	4,200,600	4,200,600
Total HUD Programs Non-Operating	26,086,000	26,086,000
Miscellaneous Grants - 28000; 29000		
Various Departments	2,925,700	14,491,900
Total	2,925,700	14,491,900
Prior Year's Unexpended Appropriation	12,710,700	12,710,700
Total Miscellaneous Grants	15,636,400	27,202,600
Other Special Revenue - 22111-515		
Various Departments	10,380,200	10,380,200
Total	10,380,200	10,380,200
Prior Year's Unexpended Appropriation	897,100	897,100
Total Other Special Revenue Fund	11,277,300	11,277,300
Total Special Revenue	65,413,800	76,980,000
<u>(3) Debt Service</u>		
General Debt Retirement Fund - 31100-33100		
5300 Department of Finance	10,447,300	10,447,300
Total General Debt Retirement Fund	10,447,300	10,447,300
Total Debt Service	10,447,300	10,447,300
<u>(4) Capital Project Funds</u>		
General Capital Fund - 40000		
Various Capital Projects	30,743,000	30,743,000
Transfers Out	337,000	337,000
Total	31,080,000	31,080,000
Prior Year's Unexpended Appropriation	39,018,300	39,018,300
Total Capital Project Funds	70,098,300	70,098,300
<u>(5) Permanent Funds</u>		
Permanent Fund - 71000		
Various Departments	50,000	50,000
Total Permanent Fund	50,000	50,000
TOTAL GOVERNMENTAL FUND	351,857,100	364,323,300

		2020	2020
		Appropriations	Appropriations
		(First Revised)	(Second Revised)
PROPRIETARY FUND TYPE			
<i>(6) Enterprise Funds</i>			
Aviation Operating Fund - 51000 and 51001			
3200-9990	Department of Aviation		
	Expenses	35,237,100	35,237,100
	Transfers Out	1,680,200	1,680,200
	Total	36,917,300	36,917,300
	Total Aviation Operating Fund	36,917,300	36,917,300
Aviation Capital Fund - 51002 - 52999			
	Various Capital Projects	8,065,400	8,065,400
	Transfers Out	5,049,500	5,049,500
	Total	13,114,900	13,114,900
	Prior Year's Unexpended Appropriation	27,830,000	27,830,000
	Total Aviation Capital Fund	40,944,900	40,944,900
Water Operating Fund - 53000, 53997 and 53998			
2600	Department of Economic Development	132,000	132,000
3400	Department of Water - 3400 and 9970		
	Expenses	53,095,400	53,095,400
	Transfers Out	9,333,300	9,333,300
	Total	62,428,700	62,428,700
5300	Department of Finance	4,235,400	4,235,400
	Total Water Operating Fund	66,796,100	66,796,100
Water Capital Fund - 53001 - 53996			
	Various Capital Projects	9,358,300	9,358,300
	Total	9,358,300	9,358,300
	Prior Year's Unexpended Appropriation	27,232,800	27,232,800
	Total Water Capital Fund	36,591,100	36,591,100
Sanitary Sewer Operating Fund - 55000			
3400	Department of Water - 3400 and 9970		
	Expenses	33,307,800	33,307,800
	Transfers Out	7,000,000	7,000,000
	Total	40,307,800	40,307,800
	Total Sanitary Sewer Operating Fund	40,307,800	40,307,800
Sanitary Sewer Capital Fund - 55001 - 55999			
	Various Capital Projects	24,000,000	24,000,000
	Total	24,000,000	24,000,000
	Prior Year's Unexpended Appropriation	22,129,700	22,129,700
	Total Sanitary Sewer Capital Fund	46,129,700	46,129,700
Storm Water Operating Fund - 58000			
3400	Department of Water - 3400 and 9970		
	Expenses	5,550,800	5,550,800
	Transfers Out	1,000,000	1,000,000
	Total	6,550,800	6,550,800

		2020 Appropriations (First Revised)	2020 Appropriations (Second Revised)
6400	Department of Public Works		
	Expenses	1,377,600	1,377,600
	Transfers Out	0	0
	Total	1,377,600	1,377,600
	Total Storm Water Operating Fund	7,928,400	7,928,400
Storm Water Capital Fund - 58001 - 58999			
	Various Capital Projects	4,000,000	4,000,000
	Total	4,000,000	4,000,000
	Prior Year's Unexpended Appropriation	3,943,400	3,943,400
	Total Storm Water Capital Fund	7,943,400	7,943,400
Golf Operating Fund - 59000			
6500	Department of Recreation & Youth Services		
	Expenses	3,075,000	3,075,000
	Transfers Out	0	0
	Total	3,075,000	3,075,000
	Total Golf Operating Fund	3,075,000	3,075,000
Golf Capital - 59001			
	Various Capital Projects	0	0
	Total	0	0
	Prior Year's Unexpended Appropriation	99,900	99,900
	Total Golf Capital Fund	99,900	99,900
Total Enterprise Funds		286,733,600	286,733,600
(7) Internal Service Funds			
Fleet Management Fund - 61000			
6400	Department of Public Works	8,056,700	8,056,700
	Total Fleet Management Fund	8,056,700	8,056,700
Document Management Services Fund - 62100			
5500	Department of Central Services	617,500	617,500
	Total Stores and Reproduction Fund	617,500	617,500
Healthcare Self Insurance - 63000			
5600	Department of Human Resources	30,738,100	30,738,100
	Total Healthcare Self Insurance Fund	30,738,100	30,738,100
Workers' Compensation Fund - 65000			
5600	Department of Human Resources	4,827,700	4,827,700
	Total Workers' Compensation Fund	4,827,700	4,827,700
Plumbing Shop - 66000			
6400	Department of Public Works	753,200	753,200
	Total Plumbing Shop	753,200	753,200

		2020 Appropriations (First Revised)	2020 Appropriations (Second Revised)
Fire Fleet Management - 67000			
6330	Department of Fire	1,312,200	1,312,200
Total Fire Fleet Management Fund		1,312,200	1,312,200
Total Internal Service Funds		46,305,400	46,305,400
TOTAL PROPRIETARY FUND		333,039,000	333,039,000
TOTAL ALL OPERATING FUNDS		684,896,100	697,362,300

Section 2. That the City Manager is authorized to advance up to One Million Dollars and Zero Cents (\$1,000,000.00) from the General Fund to HUD Non-Operating Programs due to timing of grant agreements.

Section 3. That the City Manager is authorized to transfer funds in the amounts set forth in Section 1 and as described below:

				1st Revised	2nd Revised
				Transfers Out	Transfers Out
GOVERNMENTAL FUND TYPE					
<i>(1) General Fund - 10</i>					
	<i>From</i>		<i>To</i>		
10000-2300	Planning and Community Development	16999-2300	Special Projects	150,000	150,000
10000-6200	Police	28000-6200	Miscellaneous Grants	810,700	810,700
	Police	16000-2380	Special Projects	40,000	40,000
10000-9980	Non-Departmental	16999-2700	Special Projects	400,000	400,000
		16999-5600	Special Projects	295,000	295,000
		16999-1400	Special Projects	150,000	150,000
		28999-1400	Miscellaneous Grants	100,000	100,000
		40000-1300	Capital	44,100	44,100
	Subtotal Transfers Out			989,100	989,100
Issue 9 - General Fund - 10001					
10001-9980	Non-Departmental	16999-2300	Special Project	4,300,000	4,300,000
		40000-6400	Capital	3,384,500	3,384,500
		40000-6400	Capital	244,000	244,000
	Subtotal Transfers Out			7,928,500	7,928,500
16999-2600	Special Projects	40000-2600	Capital	34,900	34,900
		31100-5300	G.O. Debt	598,300	598,300
		65000-5600	Workers' Compensation Fund	1,420,000	1,420,000
16999-9980		10000-9980	General Fund	1,824,800	1,824,800
	Subtotal Transfers Out			3,878,000	3,878,000

				1st Revised	2nd Revised
				Transfers Out	Transfers Out
75000-5300	Income Tax Fund	16999-2600	Special Projects	3,000,000	3,000,000
		16999-2300	Special Projects	750,000	750,000
		40000-6400	Capital	1,500,000	1,500,000
	Subtotal Transfers Out			5,250,000	5,250,000
	Total General Fund Transfers Out			19,046,300	19,046,300
	(4) Capital Projects				
40001-49999	General Capital Fund	31100-5300	G.O. Debt	337,000	337,000
	PROPRIETARY FUND TYPE				
	(6) Enterprise Funds				
51000 and 51001-9960	Aviation Operating Fund	51002 - 52999-3200	Aviation Capital	1,680,200	1,680,200
51002-52999-3200	Aviation Capital	51000 - 51000-3200	Aviation Operating	5,049,500	5,049,500
53000-9970	Water Operating Fund	53001 - 53996-3400	Water Capital	9,333,300	9,333,300
55000-9970	Sanitary Sewer Operating Fund	55001 - 55999-3400	Sanitary Sewer Capital	7,000,000	7,000,000
58000-9970	Storm Water Operating Fund	58001 - 58999-3400	Storm Water Capital	1,000,000	1,000,000
	Total Enterprise Funds			24,063,000	24,063,000
	TOTAL ALL FUNDS			43,446,300	43,446,300

Section 4. That all books of accounts, warrants, orders, vouchers or other official reference to any appropriation shall indicate the appropriated funds involved or to be drawn upon by the code number as set forth in the detailed budget.

Section 5. That Ordinance Number 31817-20, passed by this Commission on June 17, 2020 is repealed.

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

PASSED BY THE COMMISSION..... 2020

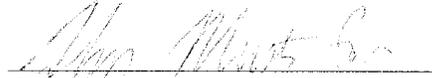
SIGNED BY THE MAYOR....., 2020

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:



City Attorney

13th and 30th Reading
2/24/20
E.

By:.....

No.....

AN ORDINANCE

Appropriating Property Designated as Parcels 26 WD, 31 SH, and 31 T in Connection with the Wright Dunbar Bikeway Project, and Declaring an Emergency.

WHEREAS, This Commission, by Resolution No. 6505-20, adopted on May 27, 2020, declared its intention to appropriate the real property interests hereinafter described ("Property") in connection with the Wright Dunbar Bikeway Project ("Project"); and,

WHEREAS, The property being appropriated is for the Project to install improvements along West Third Street from Bank Street to Williams Street that is open to the public without charge; and,

WHEREAS, The owners of the parcels comprising the Property are unable to come to an agreement with City or are unable to deliver clear title to the City; and,

WHEREAS, The total appraised value of the parcels comprising the Property is Two Thousand Nine Hundred Fifty-Eight Dollars and Zero Cents (\$2,958.00); and,

WHEREAS, The estimated filing fees and other costs in connection with assessing the compensation to be paid for the Property are in the amount of One Thousand Dollars and Zero Cents (\$1,000.00); and,

WHEREAS, The City must acquire the Property for the Project at the earliest date possible, it is necessary for the immediate preservation of the public peace, property, health and safety, that this ordinance take effect immediately upon passage to avoid delay in completing the Project; now, therefore,

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

Section 1. That the Commission hereby appropriates, for the purposes stated in the preamble hereof, a temporary construction easements in, under, over, and through the real property described in Exhibits marked "B" through "D" attached hereto (collectively, the "Property"), the owners of record and the appraised value for the real property being as follows:

Parcel 26 WD	
Deed Holders:	Tasty & Fresh Meat Market, Inc.
Appraised Value:	\$300.00
BPI:	R72-086-04-0034,0035, 0036, 0037
Parcel 31 SH and 31 T	
Deed Holders:	San Marco Dayton, LLC
Appraised Value:	\$2,658.00
BPI:	R72-085-02-0041, 0042, 0043

Section 2. That the City Attorney is hereby authorized and directed to apply to the Court of Common Pleas, Montgomery County, Ohio, for the purpose of assessing the compensation to be paid for each parcel of the Property.

Section 3. That the costs and expense for the appropriation described herein shall be paid out of the following account:

WRIGHT DUNBAR BIKEWAY
41760-6450-1421-54
TWO THOUSAND NINE HUNDRED FIFTH-EIGHT DOLLARS
(\$2,958.00)

Section 4. For the reasons stated in the preamble hereof, the Commission declares this ordinance to be an emergency measure that shall take effect immediately upon its passage.

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:

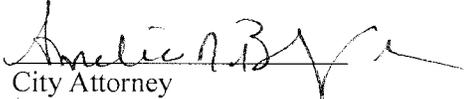

City Attorney

EXHIBIT B

Page 1 of 2

LPA RX 851 WD

Rev. 06/09

Ver. Date 11/07/2019

PID 103177

**PARCEL 26-WD
MOT - WRIGHT DUNBAR BIKE
ALL RIGHT, TITLE AND INTEREST IN FEE SIMPLE
IN THE FOLLOWING DESCRIBED PROPERTY
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS
IN THE NAME AND FOR THE USE OF THE
THE CITY OF DAYTON, MONTGOMERY COUNTY, OHIO**

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

[Surveyor's description of the premises follows]

Situated in Section 33, Town 2, Range 6 East, the City of Dayton, Montgomery County, Ohio, and being part of that real estate conveyed to Tasty & Fresh Meat Market, Inc., Corporation/Samir J. Elmahouli, by deed recorded in I. R. Deed 07-006875, also being part of Lot No. 10559 of the revised and consecutive numbers of lots on the revised plat of the City of Dayton, Ohio, of A. Pruden's Subdivision as the same is recorded in Plat Book "B", Page 29 (all references to deeds microfiche, plats, surveys, etc. refer to the records of the Montgomery County, Ohio Recorder's Office, unless noted otherwise) with stations and offsets referenced to the centerline plat of survey for **MOT-Wright-Dunbar Bike** as the same is recorded in Plat Book 234, Page 46, of the Montgomery County, Ohio Recorder's Office, and being more particularly described as follows:

BEGINNING at a set iron pin with cap being the intersection of the existing south right-of-way of Third Street (a 66' wide right-of-way) and the existing west right-of-way of Mound Street (a 50' wide right-of-way), also being the northeast corner of Lot No. 10559 of A. Pruden's Subdivision, also being located 33.00 feet right of station 180+79.85 of the centerline of survey of Third Street;

Thence South zero degrees seven minutes thirty-four seconds West (S 00°07'34" W), leaving the existing south right-of-way of Third Street along the existing west right-of-way of Mound Street for a distance of sixteen and 82/100 feet (16.82') to a set iron pin with cap being located in the proposed west right-of-way of Mound Street, being 49.50 feet right of station 180+76.58 of the centerline of survey of Third Street;

EXHIBIT B

LPA RX 851 WD

Rev. 06/09

Thence leaving the existing west right-of-way of Mound Street along the proposed west right-of-way of Mound Street the following two (2) courses:

- 1) North twenty-seven degrees twenty-five minutes forty-nine seconds West (N 27°25'49" W) for a distance of ten and 94/100 feet (10.94') to a set iron pin with cap being located 39.00 feet right of station 180+73.50 of the centerline of survey of Third Street;
- 2) North eleven degrees six minutes zero seconds West (N 11°06'00" W) for a distance of six and 00/100 feet (6.00') to a set iron pin with cap being in the existing south right-of-way of Third Street, located 33.00 feet right of station 180+73.50 of the centerline survey of Third Street;

Thence North seventy-eight degrees fifty-four minutes zero seconds East (N 78°54'00" E), leaving the proposed west right-of-way of Mound Street along the existing south right-of-way of Third Street for a distance of six and 35/100 feet (6.35') to the **TRUE PLACE OF BEGINNING**.

The above described parcel contains a total of 14/10,000 acres (0.0014 acres) more or less acres from Auditor's Parcel No. R72-08604-0037.

Prior Instrument References as of the date of this survey are as follows: Tasty & Fresh Meat Market, Inc., Corporation/Samir J. Elmahouli, by deed recorded in I. R. Deed 07-006875, of the deed records of the Montgomery County, Ohio Recorder's Office.

Bearings for this description are based State Plane Coordinate System for the State of Ohio (South Zone), NAD 83, (95) NAVD 88.

The above description was prepared under the direction and supervision of Paul W. Feie, Ohio Registered Surveyor No. 6723 in October of 2018, and is based upon a field survey performed by Briggs Creative Services, LLC for the City of Dayton, Montgomery County, Ohio

BRIGGS CREATIVE SERVICES, LLC

By: *Paul W. Feie* Date: *11/28/19*
 Paul W. Feie
 Ohio Registered Surveyor No. 6723



PAUL W. FEIE, P.E., P.S.
 MONTGOMERY COUNTY ENGINEER
 APPROVED FOR POINT OF BEGINNING,
 ALIGNMENT AND CLOSURE ONLY
 DATE: 11/28/19 PROJECT: 1819-0011E
 BY: *William B. ...*

EXHIBIT C

LPA RX 871 SH

Page 1 of 3

Rev. 06/09

Ver. Date 02/21/2020

PID 103177

**PARCEL 31-SH
MOT -WRIGHT DUNBAR BIKE
PERPETUAL EASEMENT FOR HIGHWAY PURPOSES
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS
IN THE NAME AND FOR THE USE OF THE
CITY OF DAYTON, MONTGOMERY COUNTY, OHIO**

An exclusive perpetual easement for public highway and road purposes, including, but not limited to any utility construction, relocation and/or utility maintenance work deemed appropriate by the City Of Dayton, **Montgomery** County, Ohio, its successors and assigns forever.

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

[Surveyor's description of the premises follows]

Situated in Section 33, Town 2, Range 6 East, the City of Dayton, Montgomery County, Ohio, and being part of that real estate conveyed to San Marco Dayton, LLC by deed recorded in I. R. Deed 20-000392, also being part of Lot Nos. 10551, 10552 and 10553 of the revised and consecutive numbers of lots on the revised plat of the City of Dayton, Ohio, of A. Pruden's Subdivision as the same is recorded in Plat Book "B", Page 29 (all references to deeds microfiche, plats, surveys, etc. refer to the records of the Montgomery County, Ohio Recorder's Office, unless noted otherwise) with stations and offsets referenced to the centerline plat of survey for **MOT-Wright-Dunbar Bike** as the same is recorded in Plat Book 234, Page 46, of the Montgomery County, Ohio Recorder's Office, and being more particularly described as follows:

COMMENCING at a set iron pin with cap being the prior intersection of the south right-of-way of Third Street (a 66' wide right-of-way) and the east right-of-way of Horace Street (a 50' wide right-of-way), also being the northwest corner of Lot No. 10553 of A. Pruden's Subdivision, additional right-of-way acquired by the City of Dayton, Ohio recorded in Deed Microfiche No. 73-190-E09, said point being located 33.00 feet right of station 183+57.72 of the centerline survey of Third Street;

Thence North seventy-eight degrees fifty-four minutes zero seconds East, (N 78°54'00" E), along the former south right-of-way of Third Street and the north line of said Lot No. 10553 for a

EXHIBIT C

Page 2 of 3

LPA RX 871 SH

Rev. 06/09

distance of five and 64/100 feet (5.64') to a set iron pin with cap, said point being 33.00 feet right of station 183+63.36 of the centerline survey of Third Street, also being the **TRUE PLACE OF BEGINNING** for the land herein described;

Thence North seventy-eight degrees fifty-four minutes zero seconds East (N 78°54'00" E), continuing along the existing south right-of-way of Third Street for a distance of ninety-four and 86/100 feet (94.86') to a set iron pin with cap, being the northeast corner of Lot No. 10551, being the northeast corner of the grantor's tract and located 33.00 feet right of station 184+58.22 of the centerline of survey of Third Street;

Thence South eleven degrees thirty-two minutes twenty-two seconds East (S 11°32'22" E), leaving the existing south right-of-way of Third Street along the east line of said Lot No. 10551 and the east line of the grantor's tract for a distance of fourteen and 00/100 feet (14.00') to a set iron pin with cap, being in the proposed south right-of-way of Third Street, being located 47.00 feet right of station 184+58.33 of the centerline survey of Third Street;

Thence South seventy-eight degrees fifty-four minutes zero seconds West (S 78°54'00" W) leaving the east line of said Lot No. 10551 and the east line of the grantor's tract along the proposed south right-of-way of Third Street for a distance of one hundred and 50/100 feet (100.50') to a set iron pin with cap, being in the existing east right-of-way of Horace Street, being located 47.00 feet right of station 183+57.83 of the centerline survey of Third Street;

Thence leaving the proposed south right-of-way of Third Street along the existing east right-of-way of Horace Street the following two (2) courses;

- 1) North eleven degrees thirty-two minutes twenty-two seconds West (N 11°32'22" W) for a distance of eight and 83/100 feet (8.83') to a set iron pin with cap, said point being 38.17 feet right of station 183+57.76 of the centerline of Third Street;
- 2) Along the arc of a curve to the right having a radius of twenty and 00/100 feet (20.00') for an arc distance of seven and 67/100 feet (7.67'), the chord of said arc being subtended by a central angle of twenty-one degrees fifty-eight minutes nine seconds (21°58'09") and a long chord bearing North thirty-six degrees eleven minutes twenty seconds East (N 36°11'20" E) for a distance of seven and 62/100 feet (7.62') to the **TRUE PLACE OF BEGINNING**.

The above described parcel contains a total of 321/10,000 acres (0.0321 acres) more or less from Auditor's Parcel No. R72-08502-0041.

EXHIBIT D

LPA RX 887 T

Page 1 of 3

Rev. 07/09

Ver. Date 02/21/2020

PID 103177

**PARCEL 31-T
MOT - WRIGHT DUNBAR BIKE
TEMPORARY EASEMENT FOR THE PURPOSE OF
PERFORMING THE WORK NECESSARY TO
GRADING AND SEEDING
FOR 12 MONTHS FROM DATE OF ENTRY BY THE
THE CITY OF DAYTON, MONTGOMERY COUNTY, OHIO**

|Surveyor's description of the premises follows|

Situated in Section 33, Town 2, Range 6 East, the City of Dayton, Montgomery County, Ohio, and being part of that real estate conveyed to San Marco Dayton, LLC by deed recorded in I. R. Deed 20-000392, also being part of Lot Nos. 10551, 10552 and 10553 of the revised and consecutive numbers of lots on the revised plat of the City of Dayton, Ohio, of A. Pruden's Subdivision as the same is recorded in Plat Book "B", Page 29 (all references to deeds microfiche, plats, surveys, etc. refer to the records of the Montgomery County, Ohio Recorder's Office, unless noted otherwise) with stations and offsets referenced to the centerline plat of survey for **MOT-Wright-Dunbar Bike** as the same is recorded in Plat Book 234, Page 46, of the Montgomery County, Ohio Recorder's Office, and being more particularly described as follows:

COMMENCING at a set iron pin with cap, being the prior intersection of the south right-of-way of Third Street (a 66' wide right-of-way) and the east right-of-way of Horace Street (a 50' wide right-of-way), also being the northwest corner of Lot No. 10553 of A. Pruden's Subdivision, additional right-of-way acquired by the City of Dayton, Ohio recorded in Deed Microfiche No. 73-190-E09, said point being located 33.00 feet right of station 183+57.72 of the centerline survey of Third Street;

Thence South eleven degrees thirty-two minutes twenty-two seconds East, (S 11°32'22" E), along the former and existing east right-of-way of Horace Street and the west line of said Lot No. 10553 for a distance of fourteen and 00/100 feet (14.00') to a set iron pin with cap being in the proposed south right-of-way of Third Street said point being 47.00 feet right of station 183+57.83 of the centerline survey of Third Street, also being the **TRUE PLACE OF BEGINNING** for the land herein described;

Thence North seventy-eight degrees fifty-four minutes zero seconds East (N 78°54'00" E) leaving the existing east right-of-way of Horace Street along the proposed south right-of-way of Third Street for a distance of one hundred and 50/100 feet (100.50') to a set iron pin in the east

EXHIBIT D

Page 2 of 3

LPA RX 887 T

Rev. 07/09

line of said Lot No. 10551, being located 47.00 feet right of station 184+58.33 of the centerline survey of Third Street;

Thence South eleven degrees thirty-two minutes twenty-two seconds East (S 11°32'22" E), leaving the proposed south right-of-way of Third Street along the east line of said Lot No. 10551 and the grantor's east line for a distance of five and 00/100 feet (5.00') to the south line of a proposed temporary construction easement, located 52.00 feet right of station 184+58.37 of the centerline survey of Third Street;

Thence South seventy-eight degrees fifty-four minutes zero seconds West (S 78°54'00" W) leaving the east line of said Lot No. 10551 and the east line of the grantor's tract along the south line of said temporary construction easement for a distance of one hundred and 50/100 (100.50') to the existing east right-of-way of Horace Street, located 52.00 feet right of station 183+57.87 of the centerline survey of Third Street;

Thence North eleven degrees thirty-two minutes twenty-two seconds West (N 11°32'22" W), leaving the south line of said proposed temporary construction easement along the existing east right-of-way of Horace Street for a distance of five and 00/100 feet (5.00') to the **TRUE PLACE OF BEGINNING.**

The above described parcel contains a total of 114/10,000 acres (0.0114 acres) more or less from Auditor's Parcel No. R72-08502-0041.

Prior Instrument References as of the date of this survey are as follows: being part of that real estate conveyed to San Marco Dayton, LLC by deed recorded in I. R. Deed 20-000392, of the Montgomery County, Ohio Recorder's Office.

Bearings for this description are based State Plane Coordinate System for the State of Ohio (South Zone), NAD 83, (95) NAVD 88.

MEMORANDUM



July 17, 2020

To: Shelley Dickstein
City Manager

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

Subject: Ordinance for Appropriation

Attached is the Ordinance to appropriate two parcels in connection with the Wright Dunbar Bikeway project. Please present this Ordinance to the City Commission as an emergency.

The parcels are being appropriated because the City has been unable to locate the legal owners or the property owner has been unable to deliver clear title. Resolution No. 6505-20, adopted on May 27, 2020 declared the Commission's intention to appropriate.

If you have any questions, please contact Joe Weinel at extension 4218.

Attachments

KGS/jrw

19 Public Hearing 9.
6521-10

BY:.....

NO:.....

A RESOLUTION

Authorizing the Acceptance of a Grant Award for a Fair Housing Assistance Program from the United States Department of Housing and Urban Development in an Amount Not to Exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), and Declaring an Emergency.

WHEREAS, The United States Department of Housing and Urban Development (“HUD”) is offering Fair Housing Assistance Program grants; and

WHEREAS, HUD determined that the Human Relations Council of the City of Dayton (“Human Relations Council”) is a substantially equivalent jurisdiction for purposes of processing complaints of housing discrimination within the City of Dayton; and

WHEREAS, By previous agreements with HUD, the Human Relations Council received grant funding for processing housing discrimination complaints; and

WHEREAS, HUD has offered the Human Relations Council an additional Fair Housing Assistance Program grant award in the amount of Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) to continue processing complaints of housing discrimination; and

WHEREAS, The Commission finds it in the best interest of the City of Dayton to accept this award of funding; and

WHEREAS, In order that complaints of housing discrimination may be timely resolved and for the immediate preservation of the public peace, property, health and safety, it is necessary that this resolution take effect at the earliest possible date; now, therefore,

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

Section 1. That the City Manager or her designee is authorized and directed to execute any documents or amendments necessary to accept this additional Fair Housing Assistance Program grant award from HUD, in an amount not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00).

Section 2. That for the reasons stated in the preamble hereof, the Commission declares this resolution to be an emergency measure which shall take effect immediately upon its adoption.

ADOPTED BY THE COMMISSION, 2020

SIGNED BY THE MAYOR....., 2020

MAYOR OF THE CITY OF DAYTON, OHIO

ATTEST:

Clerk of the Commission

APPROVED AS TO FORM:



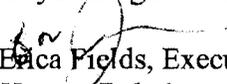
City Attorney

MEMORANDUM



July 23, 2020

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

FROM:  Erica Fields, Executive Director
Human Relations Council

SUBJECT: FHAP Cooperative Agreement Amendment– FY 2019- 2020

Please find attached a resolution, approved as to form by the Law Department, authorizing the acceptance of an additional \$25,000 to our fair housing grant from the U.S. Department of Housing and Urban Development (HUD). Also, attached is a copy of the original grant and resolution approved by the City Commission on October 16, 2019, and an additional award of \$10,000 with the resolution.

The Human Relations Council has substantial equivalency with HUD; as such, funds are received based on complaints processed the previous year and required training. We request this item be placed on the City Manager's calendar for July 29, 2020.

If you have any questions, please call me at x1402. Thank you.

EF/jm

Assistance Award/Amendment

**U.S. Department of Housing
and Urban Development
Office of Administration**

1. Assistance Instrument <input checked="" type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Grant		2. Type of Action Award <input type="checkbox"/> Amendment <input checked="" type="checkbox"/>	
3. Instrument Number FF205K205019	4. Amendment Number	5. Effective Date of this Action	6. Control Number TAX ID 31-6000175
7. Name and Address of Recipient City of Dayton Human Relations Commission 371 West Second Street Dayton, Ohio 45402		8. HUD Administering Office Region V FHEO 77 West Jackson Blvd., Room 2101 Chicago, Illinois 60604	
		8a. Name of Administrator Lon Meltesen	8b. Telephone Number 312.913.8400
10. Recipient Project Manager Erica Fields		9. HUD Government Technical Representative Elva M. Lewis	
11. Assistance Arrangement <input type="checkbox"/> Cost Reimbursement <input type="checkbox"/> Cost Sharing <input checked="" type="checkbox"/> Fixed Price	12. Payment Method <input type="checkbox"/> Treasury Check Reimbursement <input type="checkbox"/> Advance Check <input checked="" type="checkbox"/> Automated Clearinghouse	13. HUD Payment Office Fort Worth Field Accounting, P.O. Box 2905 Fort Worth, TX 76113-2905	
14. Assistance Amount		15. HUD Accounting and Appropriation Data	
Previous HUD Amount \$10,000.00		15a. Appropriation Number 8620/210144	15b. Reservation number FHEO-05-20-03
HUD Amount this action \$25,000.00		Amount Previously Obligated \$10,000.00	
Total HUD Amount \$35,000.00		Obligation by this action \$25,000.00	
Recipient Amount \$0		Total Obligation \$35,000.00	
Total Instrument Amount \$35,000.00			

16. Description:

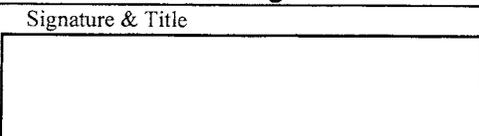
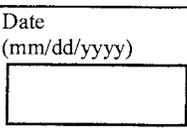
These funds are obligated to the Agency for the purpose(s) identified in the Award Letter of CARES ACT FUND :

Fund Code	Description	Amount Obligated in this Action
PA2	COVID-19 Partnership	\$25,000.00
SE3	COVID-19 Special Enforcement Effort	
Total		\$25,000.00

These funds are being awarded under the CARES Act of 2020. This Cooperative Agreement/Amendment is comprised of the following documents:

1. HUD-1044
2. HUD Award Letter of CARES ACT FUND
3. FHAP COVID-19 Funds Notice

The performance period for this Agreement begins July 31, 2020 and ends June 30, 2021. The funds obligated by this instrument expire on June 30, 2025. The recipient must comply with the Fair Housing Assistance Program regulations at 24 C.F.R. § 115, the Memorandum of Understanding between the Recipient and HUD (including all subsequent addenda), the FY2020 FHAP Guidance, and the FHAP COVID-19 Funds Notice.

17. <input type="checkbox"/> Recipient is required to sign and return three (3) copies of this document to the HUD Administering Office		18. <input type="checkbox"/> Recipient is not required to sign this document.	
19. Recipient (By Name) Erica Fields, Executive Director		20. HUD (By Name) Lon Meltesen, Regional Director	
Signature & Title 		Signature & Title 	
Date (mm/dd/yyyy) 7-21-20		Date (mm/dd/yyyy) 	

BY: Mr. HINS.....

NO: 6442-12.....

A RESOLUTION

Authorizing the Acceptance of a Grant Award for a Fair Housing Assistance Program from the United States Department of Housing and Urban Development in an Amount Not to Exceed Forty Three Thousand Six Hundred Forty Dollars and Zero Cents (\$43,640.00), and Declaring an Emergency.

WHEREAS, The United States Department of Housing and Urban Development ("HUD") offers Fair Housing Assistance Program grants; and,

WHEREAS, HUD determined that the Human Relation Council is a substantially equivalent jurisdiction for processing housing discrimination complaints; and,

WHEREAS, HUD has again offered the Human Relations Council a Fair Housing Assistance Program Grant to assist in the funding of its housing discrimination program; and,

WHEREAS, This Commission finds it in the best interest of the City of Dayton and its residents to accept this grant award; and,

WHEREAS, In order to ensure the continued timely resolution of housing discrimination complaints and for the immediate preservation of the public peace, property, health and safety and the usual operation of City departments it is necessary that this resolution take effect at the earliest possible date; now, therefore,

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

Section 1. That the City Manager, or her designee, is authorized and directed to execute the grant agreement and any other documents necessary to accept the Fair Housing Assistance Program grant award from HUD, in an amount not to exceed Forty Three Thousand and Six Hundred Forty Dollars and Zero Cents (\$43,640.00), to fund the continued processing of housing discrimination complaints by the Human Relations Council.

Section 2. That for the reasons stated in the preamble hereof, this Resolution is declared to be an emergency measure and shall take effect immediately upon its adoption.

ADOPTED BY THE COMMISSION October 16, 2019

SIGNED BY THE MAYOR October 16, 2019

Ken Whaley
MAYOR OF THE CITY OF DAYTON, OHIO

ATTEST:
Rachelle Lassiter
Clerk of the Commission

APPROVED AS TO FORM:
[Signature]
City Attorney

Assistance Award/Amendment

U.S. Department of Housing and
Urban Development
Office of Administration

Assistance Instrument X Cooperative Agreement <input type="checkbox"/> Grant		2. Type of Action X Award Amendment	
3. Instrument Number FF205K195019	4. Amendment Number	5. Effective Date of this Action	6. Control Number Tax ID 31-6000175
7. Name and Address of Recipient City of Dayton Human Relations Council 371 W. 2nd Street, Suite 100 Dayton, Ohio 45402		8. HUD Administering Office Region v FHEO 77 West Jackson Blvd, Rm. 2101 Chicago, Illinois 60604	
10. Recipient Project Manager Erica Fields, Executive Director		8a. Name of Administrator Maurice McGough	8b. Telephone Number (312) 913-8429
11. Assistance Arrangement <input type="checkbox"/> Cost Reimbursement <input type="checkbox"/> Cost Sharing <input checked="" type="checkbox"/> Fixed Price		9. HUD Government Technical Representative Elva Lewis (614) 280.6112	
12. Payment Method <input type="checkbox"/> Treasury Check Reimbursement <input type="checkbox"/> Advance Check <input checked="" type="checkbox"/> Automated Clearinghouse		13. HUD Payment Office Fort Worth Field Accounting PO Box 2905, Ft. Worth, Texas 76113-2905	
14. Assistance Amount		15. HUD Accounting and Appropriation Data	
Previous HUD Amount	\$0.00	15a. Appropriation Number 8619/200144	15b. Reservation number FHEO-05-19-02
HUD Amount this action	\$43,640.00	Amount Previously Obligated \$0.00	
Total HUD Amount	\$43,640.00	Obligation by this action \$43,640.00	
Recipient Amount	\$0.00	Total Obligation \$43,640.00	
Total Instrument Amount	\$43,640.00		

16. Description

This instrument authorizes the following funds to be obligated to the Agency.

Fund Code	Description	Amount Obligated in this Action
TIN	Case Processing (Carryover Funds)	\$0.00
TIN	Case Processing (Current Funds)	\$27,840.00
TIN	Post-Cause Supplement (Carryover)	\$0.00
TIN	Post-Cause Supplement (Current Funds)	\$0.00
ADC	Administrative Costs	\$7,000.00
TRG	Training	\$8,800.00
PA1	Partnership	
SEE	Special Enforcement Effort	
	Total	\$43,640.00

- Appendix A: FY2019 Statement of Work
- Attachment A: FY2019 Criteria for Processing
- Attachment B: FY2019 Standards for Timeliness
- Attachment C: Payment Amounts for FHAP Case Processing
- Attachment D: eLOCCS Security Procedures

The performance period for this Agreement is July 1, 2019 to June 30, 2020

Funds in the FHAP program expire five (5) years from the end of the performance period.

The recipient must comply with all rules and regulations in accordance with the Fair Housing Assistance Program regulations (24 CFR § 115), the Memorandum of Understanding between the Recipient and HUD (including all subsequent addenda), and the FY2019 FHAP Guidance.

2019 CONTRIBUTIONS AGREEMENT

SCHEDULE OF ARTICLES

1. SCOPE OF WORK (FIXED PRICE)
2. PERIODS OF PERFORMANCE
3. INSPECTION AND ACCEPTANCE
4. CONDUCT OF WORK
5. INSTRUMENT AMOUNT AND REQUESTS FOR PAYMENT
6. NARRATIVE REPORT
7. CRITERIA FOR PROCESSING
8. 2 C.F.R. PART 200
9. USE OF COOPERATIVE AGREEMENT FUNDS AND NO COMINGLING
10. MAINTENANCE OF EFFORT
11. HUD'S SUBSTANTIAL INVOLVEMENT
12. ASSURANCES
13. USE OF CONSULTANTS
14. PUBLICATIONS AND NEWS RELEASES
15. REPRODUCTION OF REPORTS
16. FLOW DOWN PROVISIONS
17. DISPUTES
18. MAINTENANCE OF RECORDS
19. CUSTOMER SERVICE STANDARDS
20. REPORTING REQUIREMENTS
21. TRAINING
22. INITIAL CONTACT DATE
23. CHANGES LIMITING EFFECTIVENESS OF RECIPIENT'S LAW
24. FHAP AND FIRST AMENDMENT
25. TESTING

26. RELEASE OF INFORMATION WHILE COMPLAINT IS OPEN
27. SEXUAL ORIENTATION, GENDER IDENTITY, MARITAL STATUS, AND SOURCE OF INCOME
CAUSE DETERMINATIONS

Appendix A: Statement of Work

Attachment A: Criteria for Processing

Attachment B: Standards for Timeliness

Attachment C: Payment Amounts for FHAP Complaint Processing

Attachment D: LOCCS Security Procedures (FHAP)

1. **SCOPE OF WORK (FIXED PRICE)**

The Recipient (or Agency) shall furnish all the necessary personnel, materials, services, equipment, facilities (except at otherwise specified herein) and otherwise do all things necessary for or incidental to the performance of the work set forth in the Statement of Work (SOW) and all attachments for the firm fixed price set forth herein.

2. **PERIODS OF PERFORMANCE**

The Recipient shall provide all services hereunder during the periods of performance. For the FY2019 Cooperative Agreement, the periods of performance are as follows:

Complaint Processing: July 1, 2018 – June 30, 2019 ← *dates wrong*

Administrative Costs, Training: October 1, 2018 – September 30, 2019 ← *dates wrong*

3. **INSPECTION AND ACCEPTANCE**

The Government Technical Monitor (GTM), if so delegated, may accomplish inspection and acceptance of all but the final products. The Government Technical Representative (GTR) shall accomplish acceptance of all final products. The GTR is identified in Block 9 of the HUD-1044.

4. **CONDUCT OF WORK**

During the effective period of this instrument, the GTR or GTM shall be responsible for monitoring the technical effort of the Recipient, unless the Recipient is notified in writing by the Cooperative Agreement Officer (CAO) of a replacement. The CAO is identified in Block 8a of the HUD-1044.

Only the CAO has the power to authorize deviations from this instrument, including deviations from the Statement of Work. In the event the Recipient does deviate without written approval of the CAO, such deviation shall be at the risk of the Recipient, and any costs related thereto shall be borne by the Recipient.

5. **INSTRUMENT AMOUNT AND REQUESTS FOR PAYMENT**

Agencies that have received Capacity Building funds for one year may be eligible for Contributions funds. Contributions funds consist of three categories: Complaint Processing; Administrative Costs; and Training. For FY2019, HUD may also provide Special Enforcement Efforts (SEE) funds as well as Partnership funds.

for FY 2020

- Complaint Processing – GTRs shall determine payment amounts based upon the FY2019 Payment Amounts for FHAP Complaint Processing, which are found at Attachment C.

- **Administrative Costs** –AC funds are tied to the quantity of a Contributions agency’s caseload. As introduced in FY2018, HUD will continue to provide an increased amount of AC funds to FHAP agencies operating in high-cost areas. The enhancement will be provided by applying a locality adjustment developed by HUD’s Office of Policy Development and Research to the FHAP agency’s base award. The locality adjustment recognizes and is intended to ameliorate the fact that some FHAP agencies operate in areas with higher labor costs and other economic and administrative cost factors. For FY2019, we will apply only those locality adjustments that result in an increase in AC funding. The FHAP Division will monitor the effects of this change and refinements may be made in subsequent years.

For FY2019, FHAP agencies that acceptably process 100 or more complaints during the Complaint Processing Period will receive 20% of the agency’s total FHAP obligation for FY2018, with a locality adjustment where appropriate. For purposes of this calculation, “total FHAP obligation” will not include any Partnership funds or SEE funds the agency may have received in FY2018.

- **Special Enforcement Effort (SEE) Funds** – For FY2019, the Department has \$ 145,146 available for Special Enforcement Efforts funding in two categories, as set forth below. **Note** that the categories are separate and distinct, with different application procedures. The total combined amount the Department will provide in SEE funds is \$145,146; the funds are available strictly on a first come, first served basis until exhausted. FHAP agencies seeking SEE funds under either category must meet the regulatory requirements of 24 C.F.R. § 115.305.
 - a. **Enforcement Fund**: In order to provide meaningful support for post-cause enforcement - and thereby increase the number of post-cause enforcement actions taken by FHAP agencies - the FHAP Division is continuing the Enforcement Fund first established in FY2016. Decisions on requests for funds from FHAP agencies will be made in headquarters on a case-by-case basis, with the actual fund commitment taking place in the field as with all other FHAP funds. Funding for this initiative will come from the existing authority for Special Enforcement Efforts at 24 C.F.R. § 115.305. Detailed guidance on the distribution and use of SEE funds for this category will be provided separately.
 - b. **Extraordinary Costs Assistance**: Distinct from the Enforcement Fund, FHAP agencies will be allowed to submit requests for SEE funds for costs related to investigations and enforcement that are outside the “ordinary” costs of investigation and enforcement. These costs may arise in either the investigation or enforcement phase of complaint processing. Examples include, but are not limited to, costs related to interpreters, testing, and expert witnesses (*e.g.*, design and construction experts, expert testimony related to damages, *etc.*).

Unlike the application process for the Enforcement Fund, a FHAP agency will request these funds in writing directly from their respective GTR/Region Director. Once the

GTR/Region Director has determined that costs are documented and a request is eligible, the Region Director will request a funds assignment from the FHAP Director.

- **Partnership Funds** - For FY2019, the Department has \$200,000 available for Partnership funds. The purpose of Partnership funds is for a FHAP agency to utilize the services of individuals and/or public, private, for-profit, or not-for-profit organizations that have expertise needed to effectively carry out the provisions of the agency's fair housing law.

Given the relatively low amount of Partnership funds available for FY2019, the FHAP Division intends to invite interested FHAP agencies to submit proposals for their use. These funds are available strictly on a first come, first served basis until exhausted.

The maximum amount for performance under the Articles of this Cooperative Agreement, Appendix, and Attachments, is the total amounts of all categories of Contributions funds (*i.e.*, Complaint Processing, Administrative Costs, and Training as well as SEE and Partnership funds if such funds are made available). Draw-downs are permitted at the discretion of the GTR. Complete draw-downs of the total amount obligated for Complaint Processing funds shall be permitted at any point after June 30, 2019, and before September 30, 2019. Payment is subject to withholding if the CAO determines that the Recipient is not complying with all terms of the Cooperative Agreement, the Appendix, and all Attachments hereto.

6. **NARRATIVE REPORT**

A Narrative Report describing activities undertaken during the periods of performance pursuant to which payment is being requested is required. The Narrative Report shall include a listing of complaints acceptably processed, including the name of complainant, respondent, and date closed, type of closure, date referred to legal for enforcement action, and descriptions of all activities undertaken to justify all administrative closures. This list must demonstrate that the agency receives and processes a reasonable number of complaints cognizable under the Fair Housing Act, as required in 24 C.F.R. § 115.206(e)(7). The Narrative Report shall also include a description of outreach activities undertaken in support of fair housing case processing to educate the public on fair housing rights and responsibilities. The GTR/GTM should verify that the Recipient is undertaking the education and outreach activities identified. If the Recipient meets the requirements outlined in the *FY2019 FHAP Funding Guidance*, remaining funds may be used to undertake the fair housing education and outreach activities.

7. **CRITERIA FOR PROCESSING**

The Criteria for Processing are the standards by which HUD determines whether a complaint, cognizable under the Fair Housing Act and processed by the Recipient, warrants reimbursement with FHAP funds. The Criteria for Processing are incorporated as Attachment A.

8. 2 C.F.R. PART 200

The Administrative Requirements for Grants and Cooperative Agreements (2 C.F.R. part 200) are hereby incorporated by reference. The Agency must be familiar with these requirements and verify to the GTR/GTM that the Recipient has a copy on file. A copy of Part 200 may be obtained from your GTR/GTM.

9. USE OF COOPERATIVE AGREEMENT FUNDS AND NO COMINGLING

The Recipient is entitled to receive the fixed amount identified in Block 14 of the HUD-1044 for satisfactory completion of the work to be performed, regardless of costs incurred. FHAP funds must be used for the purpose that HUD provided the funds including the processing of complaints cognizable under the Fair Housing Act, training under the Fair Housing Act and the state or local fair housing law, administrative costs associated with fair housing complaint processing, creation and maintenance of data and information systems, and the development and maintenance of fair housing education and outreach projects. The Recipient must segregate FHAP funds from the Recipient's and the state or local government's other funds.

10. MAINTENANCE OF EFFORT

The Recipient must spend at least 20 percent of its total annual budget on fair housing activities if it enforces antidiscrimination law(s) other than a fair housing law. The term "total annual budget" means the entire budget assigned by the jurisdiction to the agency for enforcing and administering antidiscrimination laws, but does not include FHAP funds.

Maintenance of effort also means that the Recipient shall not unilaterally reduce the level of financial resources currently committed to fair housing. Budget and staff reductions occasioned by legislative action outside the control of the Recipient will not, alone, result in a determination of ineligibility. However, HUD will take such actions into consideration in assessing the ongoing viability of a Recipient's fair housing program.

11. HUD'S SUBSTANTIAL INVOLVEMENT

- A. HUD intends to have substantial involvement in the review and approval of all aspects of the work to be carried out as a result of an award under this Agreement.
- B. Anticipated substantial involvement may include, but is not necessarily limited to, the following:
 - 1. Review and guidance during and upon completion of cases cognizable under the Fair Housing Act;
 - 2. Requests for additional information on cases to provide clarification or for completeness of a case investigation or file;

3. Development and presentation of national and regional office fair housing investigation and conciliation training;
4. Participation in the development and presentation of in-house investigation and conciliation training;
5. Participation and approval of education and outreach programs or materials;
6. Provision of appropriate directives and guidance for case processing;
7. Assistance in the investigation, conciliation, and/or enforcement of fair housing cases cognizable under the Fair Housing Act;
8. Requests for updates on the final status of cause determinations; and
9. Review and analysis of agency's fair housing law for determinations of continued substantial equivalence to the Fair Housing Act.

12. ASSURANCES

As a condition for the receipt of FHAP funds, the Recipient assures HUD that it will:

- A. Provide a drug-free workplace;
- B. Comply with the provision of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7324-7328) which limits the political activities of employees whose principle employment activities are funded in whole or part with Federal funds;
- C. Establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain;
- D. Comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Sections 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F);
- E. Comply with all federal nondiscrimination laws including, but not necessarily limited to: (a) Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin by recipients of federal financial assistance (b) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex by recipients of federal financial assistance ; (c) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability by recipients of federal financial assistance, and (d) the Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age by recipients of federal financial assistance;

- F. Comply with all applicable requirements of federal laws, executive orders, regulations, and policies governing this program; and\
- G. Comply with the requirements of the Resource Conservation and Recovery Act which mandates that state agencies using federal funds for procurement programs give preference to products containing recycled materials when purchasing specific products identified in guidelines developed by the Environmental Protection Agency (40 C.F.R. §§ 247 – 253).

13. USE OF CONSULTANTS

Salary payments to consultants under this instrument shall not exceed the equivalent of the maximum daily rate paid to level IV of the Executive Schedule, as evidenced by current pay vouchers.

14. PUBLICATIONS AND NEWS RELEASES

A. Definition. For the purpose of this clause, “publication” includes:

- (1) Any document containing information for public consumption;
- (2) The act of, or any act that may result in, disclosing information to the public; or
- (3) Any products resulting from the education and outreach efforts of the Recipient that are planned to be made available to the public through dedication, assignment by the Government, or other such means as HUD shall determine.

B. Government Ownership of Official Products of Work

All interim and final reports and information, data analyses, special methodology, findings, and their related documents and work products, including reports, work sheets, survey instruments, computer tapes, and any other physical materials and products produced directly under the SOW of this instrument are considered Official Products of Work, owned by the U.S. Government and held for the benefit of the public.

C. Publication of Official Products of Work

Official Products of Work, quotations there from, paraphrasing, or disclosures of interim findings may not be published without the approval of the GTR for a period of sixty (60) days after acceptance of the product by the GTR. Thereafter, the Recipient shall be free to publish without HUD approval.

D. Acknowledgement and Disclaimer

All Official Products of Work, or any part thereof, and any Independent Products and Special Products arising out of this instrument, when published by Recipient or other participants in the work, shall contain the following acknowledgment and disclaimer:

“The work that provided the basis for this publication was supported by funding under a Cooperative Agreement with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Government.”

E. Notice of News Release and Public Announcements

Copies of all press releases, formal announcements, and other planned, written issuances containing news or information concerning this instrument that may be made by the Recipient or its staff, or any subcontractor or other person or organization participating in the work of this instrument shall be provided to the GTR at the earliest possible time. News releases and other public announcements may not disclose any interim finding or quote or paraphrase any part of any Official Product of Work without complying with paragraph D above, entitled Acknowledgement and Disclaimer.

The Recipient agrees that no news releases or public announcements involving FHAP funded activities will be released to the public without prior HUD approval. The Recipient further agrees that it will submit any and all press releases/news announcements, studies and/or other products developed with FHAP funds to the GTR for review and approval of at least two weeks prior to its release, unless HUD agrees to waive the two-week submission requirements. Publication flyers, and other routine documents previously approved by the GTR and/or the Department, may be published without further HUD approval.

15. REPRODUCTION OF REPORTS

In accordance with Government Printing and Binding Regulations, reproduction of reports, data or other written materials, if required herein, is authorized, provided that the materials produced do not exceed 5,000 production units of any page and the items consisting of multiple pages do not exceed 25,000 production units in aggregate.

16. FLOW DOWN PROVISIONS

The Recipient shall include provisions of this instrument in all contracts of employment with persons who perform any part of the work under this instrument, and with all subcontractors and other persons or organizations participating in any part of the work under this instrument. There shall be provisions for a further flow down of such requirements to each sub-tier of employees and subcontractors to the extent feasible. If the Recipient subcontracts to a public or private organization any activity for which it receives FHAP funds, it must ensure in writing that the organization is complying with all relevant civil rights laws including: (a) Title VI of the Civil Rights Act of 1964; (b) Title IX of the Education Amendments of 1972, as amended; (c) Section 504 of the Rehabilitation Act of 1973; and (d) the Age Discrimination Act of 1975.

17. DISPUTES

During performance of the instrument, disagreements may arise between the Recipient and the GTR on various issues, such as the acceptability of complaints forwarded for reimbursement. If a dispute arises, the CAO shall be the final authority on the matter and shall prepare a final decision, taking into account all facts and documentation presented. The CAO's decision shall be mailed, emailed, faxed, or telephonically provided to the Recipient.

18. MAINTENANCE OF RECORDS

The GTR and CAO are to maintain all appropriate records relating to the implementation of this cooperative agreement for a period of 5 years for the GTR files and a period of 7 years for the CAO files. The files for the CAO are to be kept in a secure place and should be accessible to others only with the CAO's permission. After 7 and 5 years respectively, the records may be archived at the records center.

The Recipient agrees to maintain records demonstrating its financial administration of FHAP funds. The Recipient also agrees to maintain records of its performance under FHAP, including all past performance assessment reports, performance improvement plans, and other documents relative to the Recipient's performance.

The Recipient agrees to permit reasonable public access to its records as required at 24 C.F.R. § 115.308(c) (*i.e.*, records are made available at the agency's office during normal working hours for public review). The Recipient agrees to permit the Secretary of HUD, Inspector General of HUD, Comptroller General of the United States, and any of their authorized representatives, access to all the pertinent books, accounts, reports, files, and other payments for surveys, audits, examinations, excerpts and transcripts as they relate to the agency's participation in the FHAP. The Recipient agrees to keep files in such a fashion as to permit the audits under applicable Office of Management and Budget circulars, procurement regulations and guidelines, and the Single Audit requirements for state and local agencies.

19. CUSTOMER SERVICE STANDARDS

The Recipient agrees to ensure that any and all individuals associated with fair housing complaints, including aggrieved persons, complainants, respondents, and representatives, are treated with dignity and respect. The Recipient agrees to maintain regular contact with parties to a complaint, including not allowing more than 30 business days to pass without some form of contact with parties. The Recipient agrees that its staff will not communicate disinterest or distrust in the complaint process to any of the parties to the complaint. Complaints to HUD from individuals associated with FHAP fair housing complaints will be reviewed by the GTR. The GTR will work with the Recipient and the individual to resolve the matter. In addition, customer satisfaction issues identified that may impact the timely and effective processing of fair housing complaints will be considered when HUD conducts performance assessments of the Recipient in accordance with 24 C.F.R. § 115.206.

20. REPORTING REQUIREMENTS

The Recipient agrees to provide the GTR timely information on all fair housing complaints cognizable under the Fair Housing Act, from receipt to closure, regardless of whether payment has been received by the Recipient.

The Recipient agrees to fully utilize the HUD Enforcement Management Systems (HEMS) and input information in HEMS in a timely manner. Failure to meet this requirement shall result in HUD identifying such failure as a deficiency in the FHAP agency's performance assessment, thereby authorizing HUD to proceed with performance deficiency procedures enumerated in the FHAP regulation at 24 C.F.R. § 115.210.

21. TRAINING

The Recipient agrees to send staff to mandatory training sponsored by HUD, including, but not necessarily limited to, the National Fair Housing Training Academy and the National Fair Housing Policy Conference.

22. INITIAL CONTACT DATE

The Recipient must use the Initial Contact Date field in HEMS to record the actual date on which a complainant first contacts the Recipient or FHEO to inquire about filing a housing discrimination complaint, or to report an alleged discriminatory housing practice. The Recipient will be required to comply with the following procedures with respect to documenting a complainant's initial contact.

For cases initially filed with the Recipient, the Recipient must:

- A) Maintain records of each complainant's initial contact with the Recipient, including records of all telephone, e-mail, letters, and in-person contacts;
- B) Place the original record of a complainant's initial contact, or a copy of that record, in the case file under the complainant's evidence section of the file, consistent with the requirements of Chapter 10 of the Title VIII Manual; and
- C) Ensure that the Initial Contact Date field in HEMS reflects the earliest date of contact referenced in the case file.

For cases initially filed with FHEO, the Recipient:

- A) Must ensure that the Initial Contact Date filed in HEMS reflects the earliest date of contact referenced in the case file referred to the Recipient by FHEO;
- B) Must not change the date that FHEO entered in the Initial Contact Date field in HEMS even if records contained in the case file received from FHEO reflect a later date of contact by the complainant. If FHEO has entered an initial date of contact in HEMS that is earlier than any contact date referenced in the case file,

the Recipient must contact the FHEO regional office to obtain any records of contact that may have been omitted from the case file.

23. CHANGES LIMITING EFFECTIVENESS OF RECIPIENT'S LAW

Pursuant to 24 C.F.R. § 115.211(a), if a state or local fair housing law that a Recipient enforces is amended, or rules or procedures concerning the fair housing law are adopted, or judicial or other authoritative interpretations of the fair housing law are issued, the Recipient must notify HUD's Fair Housing Assistance Program Division within 60 days of its discovery. This requirement also applies to the amendment, adoption, or interpretation of any related law that bears on any aspect of the effectiveness of the FHAP agency's fair housing law. Send correspondence to:

Director, Fair Housing Assistance Program Division
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
451 Seventh Street, SW, Room 5206
Washington, DC 20410

24. FHAP AND THE FIRST AMENDMENT

None of the funding made available under the FHAP may be used to investigate or prosecute any activity engaged in by one or more persons that may be protected by the First Amendment of the United States Constitution.

25. TESTING

The following requirements apply to testing activities funded under the FHAP:

- A) Testing must be done in accordance with a HUD-approved testing methodology;
- B) Testers must not have prior felony convictions or convictions of any crimes involving fraud or perjury;
- C) Testers must receive training or be experienced in testing procedures and techniques;
- D) Testers and the organizations conducting tests, and the employees and agents of these organizations, may not: 1) have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury; 2) be a relative or acquaintance of any party in a case; 3) have had any employment or other affiliation, within five years, with the person or organization; or 4) or be a competitor of the person or organization to be tested in the listing, rental, sale or financing of real estate.

26. RELEASE OF INFORMATION WHILE COMPLAINT IS OPEN

As a general rule, the Recipient will not release information collected during the course of the investigation while the complaint is open. There are three exceptions. First, the Recipient will provide information to HUD, consistent with Section 11 of this document. Second, a party to a complaint being investigated by the Recipient is entitled to receive a copy of any document it submitted during the investigation of the complaint. Third, during conciliation, a conciliator may opt to use the strategy of revealing portions of the evidentiary section of the investigative file to the parties. This type of disclosure may also occur during an investigation when a Recipient investigator questions a party or a witness about a document or a statement in a document.

27. SEXUAL ORIENTATION, GENDER IDENTITY, MARITAL STATUS, AND SOURCE OF INCOME CAUSE DETERMINATIONS

Recipient must submit to the Fair Housing Assistance Program (FHAP) Division copies of sexual orientation, gender identity, marital status, and source of income cause determinations. The General Section of HUD's Notice of Funding Availability (NOFA) deems ineligible applicants that have not satisfactorily resolved a cause determination from a FHAP agency for a systemic violation of a state or local prohibition of sexual orientation, gender identity, and source of income housing discrimination. Additionally, on February 3, 2012, HUD issued a final rule entitled Equal Access to Housing in HUD Programs Regardless of Sexual Orientation and Gender Identity, which mandates recipients of HUD funds, FHA-insured lenders, and FHA-mortgagors to provide access to HUD programs without regard to sexual orientation, gender identity, and marital status. Receipt of cause determinations from FHAP agencies on these issues will assist HUD in determining whether an applicant is ineligible for funding under the NOFA and/or has violated the Equal Access Rule. FHAP agencies should submit such determinations electronically to LGBTfairhousing@hud.gov, or send hardcopies to:

Director, Fair Housing Assistance Program Division
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
451 Seventh Street, SW, Room 5206
Washington, DC 20410

**APPENDIX A - CONTRIBUTIONS AGREEMENT STATEMENT OF WORK
FY2019**

1. The Recipient agrees to process housing discrimination complaints cognizable under the Fair Housing Act in accordance with the Agreement for the Interim Referral of Complaints and Other Utilization of Services (Interim Agreement) or Memorandum of Understanding (MOU) between the Recipient and HUD, the Schedule of Articles, the Criteria for Processing, and 24 C.F.R. Part 115.
2. The Recipient agrees to cooperate with HUD in the processing of housing discrimination complaints cognizable under the Fair Housing Act in accordance with the Interim Agreement, MOU, the Schedule of Articles, the Criteria for Processing, and 24 C.F.R. Part 115.
3. The Recipient agrees to augment its fair housing enforcement efforts by engaging in outreach and education, and engaging and participating in training and technical assistance pursuant to the Interim Agreement and MOU.
4. The Recipient agrees to follow HUD's guidance in processing complaints cognizable under the Fair Housing Act unless and until the Department rescinds such requirement in writing to the Recipient.
5. The Recipient agrees to identify to HUD all staff assigned to carry out fair housing activities by name, position, salary, relevant experience, and percentage of time spent carrying out fair housing responsibilities.
6. The Recipient may be required to participate in customer satisfaction evaluation activities under this agreement. The Recipient agrees to furnish to HUD all information collected from its customers in the form specified by HUD.
7. If the Recipient has aged cases, upon request from HUD, the Recipient must provide updates to HUD on its handling of aged cases and submit a plan to the GTR/GTM for closing such cases.

ATTACHMENT A

FY2019 Criteria for Processing

The Criteria for Processing (Criteria) are the standards by which HUD determines whether a complaint, cognizable under the federal Fair Housing Act and processed by a substantially equivalent state or local agency, meets the minimum requirements for quality and timeliness, and identify the documents that must be submitted to HUD in order to receive reimbursement. The Criteria are designed to assure the uniform, timely, and quality processing of housing discrimination complaints processed under substantially equivalent fair housing laws.

The Criteria are enumerated under major subheadings, most of which describe the type of closure, (e.g., cause, no cause, conciliation). Subheadings I through III set out criteria that apply to most complaints. Subheadings IV through VII set forth additional criteria specific to particular types of complaint closure. For example, to meet the criteria for an administrative closure, criteria under subheadings I (Complaint Filing), II (Notification), III (Cause and No Cause Determinations), VII (Administrative Closures) may need to be met.

An agency must meet the Criteria for each complaint processed and provide all complaint-related documentation identified in the Criteria to HUD within 30 days of completion of complaint processing. Such documentation must be submitted to HUD via the HUD Enforcement Management System (HEMS). An agency's failure to input all required information in HEMS in a timely manner will negatively impact an agency's performance rating. HUD will address a failure to meet the Criteria through performance deficiency procedures including, but not limited to, technical assistance, performance improvement plans, and suspension from FHAP participation. See 24 C.F.R. § 115.307(a)(3) and 24 C.F.R. § 115.210.

HUD utilizes complaint closure review forms which combine the Criteria for Processing and the Standards for Timeliness into checklists for each type of complaint closure. These forms are available to FHAP agencies as an additional technical assistance tool to support high quality case processing.

I. COMPLAINT FILING

A. Quality Requirements:

1. All complaints must be timely filed in accordance with the substantially equivalent state or local fair housing law.
2. All complaints must be in writing, signed by the complainant, and contain the following information:
 - a. The name and address of complainant;
 - b. The name and address of each respondent;
 - c. If a specific property is involved, the property's address and physical description, such as apartment, condominium, house or vacant lot; and
 - d. A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice.
3. Where the agency determines that there is insufficient information in the complaint to commence an investigation, the agency must notify the complainant in writing by no later than the 5th day after receipt of the complaint and inform the complainant what information he or she must provide in order to commence an investigation and identify a reasonable timeframe for submitting such information. The agency must notify the complainant that unless he or she provides the required information within the specified timeframe, the agency may dismiss the complaint.
4. The FHAP agency must permit complaints to be filed with the assistance of an authorized representative or organization of the complainant.
5. The FHAP agency must permit complaints to be reasonably and fairly amended at any time. Such amendments may include, but are not limited to: a) amendments to cure technical defects or omissions; b) clarification, amplifications, or amendments of allegations in a complaint; or c) joinder of additional or substitute respondents. The FHAP agency should consider amended complaints as having been filed on the date the original complaint was filed.
6. If a FHAP agency requires complaints to be notarized, HUD will not reimburse the agency for a complaint not filed because the complainant did not get the complaint notarized. To preserve the rights of aggrieved persons, a FHAP agency must refer such complaints to HUD for investigation under the federal Fair Housing Act as soon as practicable and, where necessary, consent to their reactivation.

7. Pursuant to 24 CFR § 115.210, and the March 7, 2001 memorandum entitled “Limitations on Accepting as Dual-Filings FHAP Cases That Implicate First Amendment,” HUD will not reimburse FHAP agencies for complaints that implicate the First Amendment of the U.S. Constitution. The FHAP agency must alert HUD to complaints that it receives that may implicate the First Amendment so that HUD may analyze the complaint and determine if reimbursement is appropriate.
8. Pursuant to a Memorandum of Understanding between HUD and the Internal Revenue Service, the FHAP agency must identify in HEMS whether the property named in a complaint receives Low Income Housing Tax Credits. This is required for every complaint.
9. The FHAP agency must refer complaints to HUD when the agency receives allegations involving a practice that is not prohibited by the substantially equivalent State or local law, but which is prohibited by the federal Fair Housing Act.
10. If a housing discrimination complaint is filed against a recipient of federal financial assistance and therefore implicates civil rights laws that FHEO enforces other than the federal Fair Housing Act (multi-jurisdictional), the FHAP agency shall notify FHEO so that FHEO may process that portion of the complaint. Other civil rights laws enforced by FHEO include:
 - a. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d) (prohibiting discrimination on the basis of race, color or national origin in programs or activities receiving federal financial assistance);
 - b. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (prohibiting discrimination based on disability in programs or activities receiving federal financial assistance);
 - c. Section 109 of the Housing and Community Development Act of 1974, 42 U.S.C. § 5309 (prohibiting discrimination on the basis of race, color, national origin, religion or sex in any program or activity funded in whole or in part by the community development block grant programs);
 - d. Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* (prohibiting discrimination based on disability in programs, services and activities made available by public entities);
 - e. Architectural Barriers Act, 42 U.S.C. § 4151 *et seq.* (providing that buildings, including publicly owned residences, designed constructed, leased or altered with certain federal funds must be accessible to persons with disabilities); and

- f. Age Discrimination Act of 1975, 42 U.S.C. § 6101 (prohibiting discrimination based on age in programs or activities receiving federal financial assistance).
- B. Required Documents: A signed, dated copy of the complaint, any requests for amendment(s) to the complaint, and evidence of compliance with the timeframes and requirements identified above.
- C. Complaint Filing with Multiple Complainants or Respondents: FHAP agencies will be reimbursed only for complaints that involve separate, distinct discriminatory actions that require a separate investigation. Where allegations may be made against two or more respondents, separate complaints should be filed against each respondent only when each respondent's conduct stands alone as a separate violation of the Act. Furthermore, if complainants are married and both are aggrieved persons, a single, joint complaint should be filed. If there are children under age 18 who reside in the household who may have been injured by the alleged discriminatory housing practice(s), they should be listed as "Other Aggrieved Persons" on that same complaint. FHAP agencies should not typically file separate complaints for spouses or children under 18 residing in the household.

II. NOTIFICATION

- A. Quality Requirements: The FHAP agency must notify HUD within 5 days of receiving complaints that are cognizable under the federal Fair Housing Act. In addition, the FHAP agency must serve notice of the complaint to each complainant and respondent in accordance with the timeframes identified in the substantially equivalent law and the following requirements.
 - 1. The notification letter to the complainant must consist of an acknowledgement of receipt of the complaint for filing, the designation of a complaint number, information related to the agency's processing procedures including the name and telephone number of a FHAP agency contact, and the complainant's rights and obligations under the substantially equivalent law, including time limits and choice of forums.
 - 2. The notification letter to each of the respondents must consist of a description of the alleged housing discrimination practice upon which the complaint is based, include a copy of the complaint, and identify the name and telephone number of a FHAP agency contact. The notice to each respondent must advise respondent of his or her procedural rights and obligations, including the right to file an answer within the timeframe identified in the substantially equivalent law.
 - 3. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of the investigation, may be joined as an additional or substitute respondent by service of a written notice. The notice must explain the basis for the agency's belief that the joined person is properly joined as a respondent and include information identified in paragraph 2 above.

- B. Required Documents: For complaints that are filed directly with the FHAP agency, the agency must enter information in HEMS regarding the complaint within five days of receiving the complaint, sufficiently notifying HUD of the complaint. In addition, the agency must provide HUD with a copy of the notification letters sent to the parties and must update HEMS to indicate when the agency sent the notification letters.

III. CRITERIA FOR CAUSE AND NO CAUSE DETERMINATION

Every cause or no cause determination must be based on an investigation that includes sufficient consideration of the complainant's and respondent's evidence, and a sufficient evaluation of any and all conflicting evidence. A cause or no cause determination must be based on a review of all relevant evidence the agency obtained during the investigation. The agency shall not act as an advocate for either the complainant or respondent and shall weigh the evidence objectively in light of the relevant substantially equivalent law. The basis for the cause or no cause determination must be well-documented.

A. Quality Requirements:

In addition to the criteria set forth in subheadings I and II above:

1. Before the end of the 30th day after the complaint is filed, the FHAP agency must initiate a comprehensive investigation of issues raised in the complaint. Respondent's defenses, relevant policies and practices, as well as all other relevant data, must be identified and analyzed and the complainant, respondent, and all relevant witnesses must be interviewed. Contradictions between complainant's allegations and respondent's response must be investigated and when applicable, comparative data must be obtained. Information must be independently corroborated. Simply obtaining respondents' statements rebutting complainant's allegations is insufficient to resolve disputed issues of fact.
2. HUD recommends that FHAP agencies develop investigative plans for every complaint processed that is cognizable under the Fair Housing Act. For guidance on developing an investigative plan, FHAP agencies should refer to Chapter 7 of HUD Handbook 8024.01 REV-2 (Title VIII Complaint Intake, Investigation, and Conciliation Handbook).
3. In planning the investigation, the investigator and his or her supervisor must determine, on a complaint-by-complaint basis, whether on-site inspections and/or interviews are required. For most complaints, on-site inspections and/or interviews are the most thorough way to conduct an investigation. Some cases, e.g., where the complaint does not involve factual disputes or where evidence clearly demonstrates the allegations do not have merit, may not require an onsite visit.

4. During the period beginning with the filing of a complaint and ending with the FHAP agency's determination or charge of discrimination, the agency, to the extent feasible, must attempt to conciliate the complaint (*see* more detail on criteria for conciliation in Section IV of this document).
 5. If the agency does not complete the investigative activities with respect to a complaint within 100 days from the date of receipt, it must notify the parties in writing of the reason(s) for the delay. Such notification letters must be sent within 110 days of the filing of the complaint.
 6. At the end of each investigation, the agency shall prepare a Final Investigative Report (FIR). A FIR shall be dated and signed by at least one supervisor. The FIR shall contain:
 - a. The names and dates of contacts with the parties and witnesses, except that the report will not disclose the names of witnesses who request anonymity;
 - b. A summary of correspondence and other contacts with the complainant and the respondent;
 - c. A summary description identifying other pertinent records examined;
 - d. A summary of statements by witnesses, if applicable; and/or
 - e. Interrogatories and answers provided, if applicable.
 7. Each Determination shall be signed and dated by an authorized FHAP official.
 8. The FHAP agency shall send the closure package to HUD within 30 days of closure. (See B below).
 9. The FHAP agency will cooperate with HUD by providing information at regular intervals or upon request related to individual complaint investigations. Upon request, the FHAP agency shall provide status reports for each complaint that is over 100 days old.
- B. Required Documents: The case file shall include all evidence indicating that a comprehensive investigation was commenced and completed in accordance with the above requirements including, but not limited to: a copy of a signed, dated complaint; a copy of a FHAP agency determination, dated and signed by an authorized FHAP official; proof that a FHAP agency sent its determination letter to all parties; an FIR that meets the above listed requirements; an investigative plan (when such plan exists); a copy of the 100-day letters and evidence that they were sent; and all other information pertinent to the investigation, including but not limited to interview notes, documentation of conciliation attempts and, when necessary, independent evidence corroborating respondent's defense(s).

IV. CRITERIA FOR POST-CAUSE COMPLAINTS HEARD IN AN ADMINISTRATIVE HEARING, CIVIL ACTION, OR THROUGH JUDICIAL REVIEW

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

- A. Quality Requirements: After a cause determination and a charge of discrimination, or its equivalent, has been issued, and assuming the conciliation was attempted and failed, the complaint must be referred to appropriate counsel to prosecute the charge on behalf of the complainant, at government expense, before an administrative hearing body or civil court.
- B. Documents Required: HUD will accept such a complaint for reimbursement if the agency provides documentation of such a referral in, for example, correspondence, logs or pleadings. Additionally, the FHAP agency shall provide any final administrative hearing decision, consent decree, or settlement agreement entered to HUD within 30 days of such action. If the agency does not provide this information, HUD may request, and the agency will be required to return, up to 50% of the reimbursement previously paid to the agency for the complaint.

Special Note: While the agency may obtain reimbursement on these complaints prior to final disposition by an administrative hearing body or a civil court, the agency must subsequently report to HUD the final status of such complaints. See 24 C.F.R. § 115.206(e)(8). FHAP agencies must input final status information directly in HEMS within 30 days of the administrative or judicial determination.

- C. Post-Cause Administrative Hearings or Judicial Filings: An agency may receive additional funds for engaging in certain post-cause enforcement actions. If, pursuant to the substantially equivalent law, an agency either conducts an administrative hearing or files a civil action upon election to enforce a finding of reasonable cause, HUD may provide additional payment.

Where the triggering event (*i.e.*, conduct of administrative hearing or filing of civil action) for the supplemental payment does not occur, an agreement reached after a cause finding will not qualify as an enforcement action for purposes of this supplemental payment. Such cases will be reimbursed as any other cause case unless the disposition is a conciliation agreement (*i.e.*, an agreement signed by the parties and the FHAP agency), in which case it will be reimbursed as any other case closed with a conciliation agreement. Where the triggering event has occurred, a FHAP agency will receive the supplemental payment even where the case is resolved by a subsequent agreement, *e.g.*, through a consent decree.

Agencies will receive this increased supplemental payment when the agency has engaged in post-cause enforcement actions and has documented its actions in HEMS. This documentation must occur in order for the GTR/GTM to authorize payment.

V. CRITERIA FOR CONCILIATION

During the period beginning with the filing of a complaint and ending with the agency's no cause determination or charge of discrimination, the agency, to the extent feasible, must attempt to conciliate the complaint. In conciliating a complaint, agencies must attempt to achieve a just resolution of the complaint and obtain assurances that the respondent will satisfactorily remedy any violations of the rights of the complainant and take actions to ensure the elimination of alleged discriminatory housing practices and the prevention of their occurrences in the future. These standards for conciliation remain in effect even if conciliation/settlement takes place after the agency's cause determination.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

- A. Quality Requirements/Required Documents: The FHAP agency must provide HUD with a signed and dated complaint, a chronology of actions taken up to the conciliation, copies of closure letters sent to the parties indicating that the complaint was closed due to a successful conciliation, together with a copy of the executed conciliation agreement.

The conciliation agreement must be in writing, dated and signed by complainant, respondent, and the authorized FHAP agency representative, and include:

1. HUD and FHAP complaint numbers
2. Names of the parties;
3. Address and description of the subject property;
4. An effective date and the term in which the agreement remains in effect;
5. Relief that remedies the discrimination alleged in the complaint or is otherwise agreed upon by the parties and appropriate based on evidence obtained in the investigation of the matter;
6. As appropriate, relief that adequately vindicates the public interest, and prohibits future discriminatory housing practices by respondent;
7. A statement that the agreement constitutes closure of the complaint at HUD and the FHAP agency;
8. A statement that the agreement shall be made public unless the complainant and respondent otherwise agree, and an authorized representative of the agency determines that disclosure is not required to further the purposes of the substantially equivalent law. Circumstances that may result in partial or complete nondisclosure of a conciliation agreement may include, but are not limited to:
 - Sexual harassment claims;

- A complainant's physical or mental condition, or medical diagnoses; or
 - The fact that a complainant is a resident in a domestic violence shelter or other protected residence which complainant believes may, if disclosed, be a safety risk.
9. Provisions that allow the FHAP agency to effectively monitor compliance with the agreement.
 10. A statement that violations of other civil rights laws have been alleged (if applicable).

NOTE: A conciliation agreement does not prohibit HUD from taking action against respondent under other civil rights laws. When a complaint is subject to concurrent processing by HUD under other civil rights laws, the FHAP agency may not execute an agreement that resolves matters in regard to these laws without HUD's consent.

VI. CRITERIA FOR CLOSURES BY SETTLEMENT WITHOUT FHAP AGENCY INVOLVEMENT (A.K.A., WITHDRAWALS WITH RESOLUTION)

If complainant and respondent resolve the complaint without the FHAP agency's involvement, the complainant may withdraw the complaint by submitting a withdrawal request to the FHAP agency.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

- A. Quality Requirements. The withdrawal request must be written; it must be signed and dated by complainant or complainant's authorized representative; identify the respondent(s) to whom the withdrawal applies; contain the HUD and FHAP agency complaint numbers; state the reason(s) complainant seeks to withdraw the complaint; contain a statement that the withdrawal was not obtained by coercion or threat of retaliation from any person, including but not limited to the respondent; and identify the terms of the resolution.
- B. Required Documents: The FHAP agency must provide FHEO with: a signed and dated complaint; a chronology of the FHAP agency actions prior to the withdrawal request; a copy of the signed and dated withdrawal request; documentation showing that the agency notified the complainant and respondent that the investigation would be terminated as a result of the withdrawal, and that the complainant could re-file the complaint if the terms of the resolution are not satisfied and the re-filing is received within the time limit for filing a complaint under the substantially equivalent law; and a copy of the closure letter.

NOTE: The FHAP agency must not encourage or facilitate resolution without its involvement in lieu of proceeding with conciliation. If HUD discovers that such occurred, it will be addressed through performance deficiency procedures.

VII. CRITERIA FOR ADMINISTRATIVE CLOSURES

Performance Standard 2 in the FHAP regulations, at 24 C.F.R. § 115.206(e)(2), requires that administrative closures only be utilized in limited and appropriate circumstances. It is critical that FHAP agencies not close complaints administratively except under the specific circumstances set forth below.

- A. Withdrawals without Resolution. If complainant decides to withdraw a complaint, even though the complaint has not been resolved, complainant must submit a withdrawal request.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: The withdrawal request must: be written; signed and dated by complainant or complainant's authorized representative; identify the respondent(s) to whom the withdrawal applies; contain the HUD and FHAP agency complaint numbers; state the reason(s) complainant seeks to withdraw the complaint; contain a statement that complainant is aware that the withdrawal terminates the FHAP agency's investigation; contain a statement that the withdrawal was not obtained by coercion or threat of retaliation from any person, including but not limited to the respondent.
2. Required Documents: The FHAP agency must provide FHEO: a signed and dated complaint; a chronology of FHAP agency actions prior to receipt of the withdrawal request; a copy of the signed and dated withdrawal request that meets the Quality Requirements set out above; and a copy of the closure letter provided to all parties indicating closure due to withdrawal by complainant without resolution.

NOTE: If the withdrawal request indicates that there was coercion or threat of retaliation FHAP payment may be denied.

- B. Inability to Locate Complainant. The FHAP agency may administratively close a complaint when additional information is needed from complainant and he or she cannot be located.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: If correspondence sent by the agency is returned with an indication that the complainant moved and left no forwarding address, the agency must take the following progressive steps to locate the complainant before administratively closing the complaint:
 - a. Place at least four telephone calls to complainant's residence, cell phone

number, and place of employment, two during normal business hours to work number and two during non-business hours to a residential/cell number. If an email address is available, the agency must attempt to email the complainant at least two times.

- b. Attempt to contact persons identified by complainant at intake to inquire as to complainant's whereabouts.
- c. Check other sources in an effort to obtain complainant's current contact information (*e.g.*, telephone directory, Internet searches, postal service, 411 information, utility company, or witnesses previously identified by complainant).
- d. Send a letter to the complainant's last known address by certified mail, advising complainant of the agency's intent to close the case unless complainant contacts the agency within ten days. If the tenth day elapses without a response, the case may be closed administratively by means of a written notice sent to all parties, including complainant at complainant's last known address.

NOTE: If the FIR shows that the complaint was closed due to the inability to contact complainant without following the steps outlined above, the FHAP agency will not be reimbursed for processing the complaint.

2. Required Documents: The FHAP agency must provide the following documentation to FHEO: a signed and dated complaint; evidence that the above progressive steps were taken to locate complainant; evidence that the certified letter was returned unclaimed, and a copy of the closure letter sent to the parties indicating closure due to inability to locate complainant.

C. Inability to Locate Respondent

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: A FHAP agency must make every effort to identify the correct name and address of each respondent in a complaint. However, there may be circumstances where a respondent cannot be identified or located. If the complaint identifies multiple respondents and only one cannot be adequately identified, the agency must not close the complaint administratively. Rather, the investigation must proceed and further efforts must be made during the investigation to identify the respondent whose correct name or address remains unknown. The complaint may be amended to remove those respondents who

could not be located.

If a sole respondent or all respondents cannot be identified or located, the complaint may be closed administratively if the agency first takes the following steps:

- a. The FHAP agency must attempt to obtain additional information from available sources that could result in identifying or locating the respondent, including Internet searches, cell phone numbers, cross reference directories, or property tax records that may identify the owner or prior residents of the property in question and provide enough information to identify or locate the respondent, serve the complainant, and begin the formal investigation.
- b. If a source appears to know the identity or location of a respondent that the FHAP agency seeks, but that source refuses to provide the information voluntarily, the FHAP agency must subpoena the information.
- c. As appropriate, the FHAP agency should attempt an on-site visit, which may help locate and identify the respondent.
- d. If the above efforts to locate or identify the respondent are unsuccessful, a letter must be sent to the complainant giving him or her 10 days to provide information needed to locate or identify respondents.

NOTE: In the absence of sufficient information, the case may be closed administratively, and written notice by regular and certified mail should be sent to the parties.

Required Documents: The FHAP agency must provide the following documentation to FHEO: a signed and dated complaint; evidence that the above progressive steps were taken to locate the respondent, including the signed letters identified in 1(d) above giving notice to complainant or complainant's representative, evidence that certified letters were returned unclaimed, and closure letters to complainant or complainant's representative indicating inability to locate respondent(s).

- D. Failure of Complainant to Cooperate with the Investigation. A complaint may be administratively closed when complainant fails to respond to reasonable requests for information that is needed in order for the FHAP agency to make a determination.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements:

- a. The FHAP agency must inform the complainants and their representatives of their duty to cooperate with the investigation and the risk of the agency administratively closing the complaint if they fail to cooperate.
 - b. The FHAP agency must make repeated attempts to contact complainants and their representatives by telephone and mail requesting the needed information. If these efforts are fruitless, the FHAP agency must send a letter to the complainant by certified mail return receipt giving complainant at least ten days from receipt of letter to provide the needed information to the agency.
 - c. If the complainant's cooperation cannot be obtained using the above procedures, and the letter is not returned by the post office (i.e., marked addressee unknown, moved, left no forwarding address, etc.), the complaint should then be closed for failure to cooperate.
 - d. If the complaint is closed for failure of complainant to cooperate with the investigation, a closure letter must be sent to the complainant.
2. Required Documents: The following documents must be provided to FHEO: a signed and dated complaint; evidence that the above progressive steps were taken to obtain complainant's cooperation, including the signed letter identified in 1(b) above giving notice to the complainant or the complainant's representative; and a copy of closure letter to the parties indicating closure because of failure of complainant to cooperate with the investigation.

E. Lack of Jurisdiction

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: In order to qualify for reimbursement, the lack of jurisdiction must not have been apparent on the face of the complaint at the time of filing, and must have become known only after further investigation. The following are examples of facts uncovered during an investigation that may justify reimbursement for an administrative closure for lack of jurisdiction: a) the complainant has not suffered the alleged harm needed to establish standing; b) the subject property qualifies for an exemption to coverage of both the Fair Housing Act and the substantially equivalent law. Note that if HUD, but not the agency, has jurisdiction over the complaint, the complaint must be referred to HUD for processing.
2. Required Documentation: The FHAP agency must provide the following documentation to FHEO: reason(s) for closing the complaint for lack of jurisdiction that demonstrates why HUD does not have jurisdiction, and that the lack of jurisdiction could not have been determined at intake; copies of closure

ATTACHMENT C

FY2019 Payment Amounts for FHAP Complaint Processing

Effective Conciliation*:	\$3,200
Cause or no cause:	\$3,000
Post-cause enforcement action supplemental payments:	
• Administrative Hearing held:	\$5,000
• Civil Action filed:	\$8,000
Administrative Closures:	\$1,500
Withdrawals with Resolution:	\$1,500

***Effective Conciliation** – an “effective” conciliation is one that provides both substantive individual relief for the complainant(s) and meaningful public interest relief. Substantive individual relief includes both monetary relief and other affirmative relief required to make the complainant(s) whole (*e.g.*, approval or restoration of a housing opportunity, approval of a reasonable accommodation or reasonable modification request). The monetary relief afforded to the complainant should not be *de minimis*; it should compensate the complainant(s) for the harm alleged and be commensurate with relief obtained in other similar cases.

For purposes of determining whether a conciliation warrants the higher payment, public interest relief can take a variety of forms depending on the circumstances of a given complaint. Generally, it means the conciliation agreement contains certain requirements such as implementation of nondiscriminatory policies; changes to existing policies and practices; attendance at fair housing training; and/or other action that provides remediation or relief for individuals *other than a complainant(s)*. Public interest relief may also encompass prospective relief such as agreeing to ongoing testing to assure compliance; relief for additional victims not identified in complaints; agreeing to make changes in policies at all of a respondent’s properties (not just the subject property); participation in education and outreach activities; and/or other affirmative relief that protects the public interest.

A pattern of requiring only fair housing training is not meaningful public interest relief. In deciding whether the higher payment is warranted, HUD monitors will consider in every case whether other reasonable, appropriate forms of public interest should have been considered. Additionally, public interest relief cannot be meaningful or effective unless reporting and recordkeeping provisions are included to ensure that all required actions are completed. A conciliation that fails to provide substantive individual relief and public interest relief will be reimbursed at the Full Investigation amount of \$3,000.00.

Attachment D

LOCCS Security Procedures (FHAP)

The Line of Credit Control System (LOCCS) is the primary grant disbursement system for HUD programs, including the Fair Housing Assistance Program (FHAP). Grant disbursements are facilitated via the internet through the eLOCCS system. As participants in the FHAP, substantially equivalent state or local agencies are permitted access to LOCCS and eLOCCS.

The Department's Rules of Behavior and security guidelines require that the Approving Official for LOCCS transactions be the CEO, Board Officer, or Agency Director of an organization. An "Approving Official" is a LOCCS administrator who manages "users" in LOCCS. The Approving Official cannot be an individual serving in an interim or acting position and must have decision-making authority for the organization. The Approving Official is the only individual permitted to be the Secure Connection Coordinator, and those duties may not be delegated.

To comply with IT Security guidelines, each individual with access to LOCCS must safeguard his/her User ID and Password. User IDs and Passwords must NOT be shared with others. Only authorized users should access LOCCS. Please note: there is a requirement for a separate LOCCS User ID and password from Secure Systems access for both users and approving officials.

In the event the authorized user leaves the organization, the HUD Government Technical Representative (GTR) assigned to the current grant must be notified and a form HUD-27054 must be submitted to the GTR to terminate the employee who has left the organization and to authorize a new user, to be identified by the FHAP agency.

HUD embraces a "Zero Tolerance Philosophy" for failure to secure important financial information. Failure to abide by conditions above or the general *Rules of Behavior* below applicable to all HUD computer systems will result in the following consequences: access for the individual will be terminated and will not be reinstated. The FHAP agency will be required to identify another individual to assume the role of the disqualified individual (*i.e.*, as the approving official or authorized user).

Rules of Behavior for HUD Systems

The U.S. Department of Housing and Urban Development has granted access to the FHAP agency to utilize the Department's automated information resources (*e.g.*, HEMS). As a condition of receiving this access the Agency is required to be aware of the Department's system security policies and to abide by these policies. Security policy emphasizes awareness practices for the purpose of safeguarding the Department's valuable information resources.

The system user identification (USERID) and password issued to users are the FHAP agency's means to access these resources. They are to be used solely in connection with the performance of the responsibilities as set forth in the job description, contract or agreement(s) with the Department. Use by anyone other than authorized users is expressly prohibited. You agree to be responsible for the confidentiality of the assigned information and accountable for all activity

with your user identification (USERID). Further, you agree that you will not provide this confidential USERID/password to another user nor will you sign on to HUD systems so that another person may access or operate the workstation in your absence or on your behalf. ***Actions of this type constitute a breach of system security and will result in immediate termination of your assigned USERID/password from the system.***

In addition, authorized users agree to:

- (a) Log-off the system when leaving the system/workstation area;
- (b) Refrain from leaving written passwords in the workstation area;
- (c) Avoid creating a personal password that can be easily associated with you;
- (d) Avoid posting printouts of sensitive output data on bulletin boards;
- (e) Avoid leaving system output reports unattended or unsecured;
- (f) Control input documents by returning them to files or forwarding them to the appropriate contact person in your office;
- (g) Avoid violation of the Privacy Act which requires confidentiality of personal data contained in government and contractor data files;
- (h) Immediately contact the HUD Inspector General's Office, as appropriate, regarding any suspected violation or breach of system security;
- (i) Cooperate in providing personal background information to be used in conducting security background checks to the extent required by Federal regulations;
- (j) Respond to any inquiries and requests for information you may receive from either the HUD Headquarters or management officials regarding system security practices.
- (k) Protect all electronic/optical media and hardcopy documentation containing sensitive information and properly dispose of it by shredding hardcopy documentation, or by contacting the HITS Help Desk to dispose of electronic/optical media.
- (l) Avoid saving sensitive HUD information on the local drive of a laptop, personally owned computer, or other mobile or portable technology ("flash drives", removable/external hard drives, etc.).
- (m) If sensitive data must be stored on any type of HUD-approved mobile/portable technology (laptops, removable hard drives, "flash drives", etc.), ensure that it is protected via encryption.
- (n) Individuals who telework or remotely access HUD information should do so only through approved remote access solutions (such as hudmobile.hud.gov), and should safeguard all sensitive information accessed in this manner

Assistance Award/Amendment

U.S. Department of Housing and
Urban Development
Office of Administration

1. Assistance Instrument X Cooperative Agreement <input type="checkbox"/> Grant		2. Type of Action X Award Amendment	
3. Instrument Number FF205K205019	4. Amendment Number	5. Effective Date of this Action	6. Control Number Tax ID 31-6000175
7. Name and Address of Recipient City of Dayton Human Relations Council 371 W. 2nd Street, Suite 100 Davton, Ohio 45402		8. HUD Administering Office Region v FHEO 77 West Jackson Blvd, Rm. 2101 Chicago, Illinois 60604	
10. Recipient Project Manager Erica Fields, Executive Director		8a. Name of Administrator Lon Meltesen	8b. Telephone Number (312) 913-8400
11. Assistance Arrangement <input type="checkbox"/> Cost Reimbursement <input type="checkbox"/> Cost Sharing X Fixed Price		9. HUD Government Technical Representative Elva Lewis (614) 280.6112	
12. Payment Method <input type="checkbox"/> Treasury Check Reimbursement <input type="checkbox"/> Advance Check X Automated Clearinghouse		13. HUD Payment Office Fort Worth Field Accounting PO Box 2905, Ft. Worth, Texas 76113-2905	
14. Assistance Amount		15. HUD Accounting and Appropriation Data	
Previous HUD Amount	\$0.00	15a. Appropriation Number 8620/201144	15b. Reservation number FHEO-05-20-01
HUD Amount this action	\$10,000.00	Amount Previously Obligated	\$0.00
Total HUD Amount	\$10,000.00	Obligation by this action	\$10,000.00
Recipient Amount	\$0.00	Total Obligation	\$10,000.00
Total Instrument Amount	\$10,000.00		

16. Description

This instrument authorizes the following funds to be obligated to the Agency.

Fund Code	Description	Amount Obligated in this Action
TIN	Case Processing (Carryover Funds)	\$0.00
TIN	Case Processing (Current Funds)	\$0.00
TIN	Post-Cause Supplement (Carryover)	\$0.00
TIN	Post-Cause Supplement (Current Funds)	
ADC	Administrative Costs	
TRG	Training	
PA1	Partnership	\$10,000.00
SEE	Special Enforcement Effort	
	Total	\$10,000.00

The performance period for this Agreement is July 1, 2020 to June 30, 2021

Funds in the FHAP program expire five (5) years from the end of the performance period.

The recipient must comply with all rules and regulations in accordance with the Fair Housing Assistance Program regulations (24 CFR § 115), the Memorandum of Understanding between the Recipient and HUD (including all subsequent addenda), and the FY2017 FHAP Guidance.

17. <input checked="" type="checkbox"/> Recipient is required to sign and return three (3) copies of this document to the HUD Administering Office		18. <input type="checkbox"/> Recipient is not required to sign this document.	
19. Recipient (By Name) Erica Fields, Executive Director		20. HUD (By Name) Lon Meltesen, Regional Director	
Signature & Title 	Date (mm/dd/yyyy) 5-15-20	Signature & Title	Date (mm/dd/yyyy)

form HUD-1044 (8/90)
ref. Handbook 2210.17

BY: Mr. Mims.....

NO: 6509-20.....

A RESOLUTION

Authorizing the Acceptance of a Grant Award Concerning a Fair Housing Assistance Program from the United States Department of Housing and Urban Development in an Amount Not to Exceed Ten Thousand Dollars and Zero Cents (\$10,000.00), and Declaring an Emergency.

WHEREAS, The United States Department of Housing and Urban Development ("HUD") is offering Fair Housing Assistance Program Grants; and

WHEREAS, HUD determined that the Human Relations Council of the City of Dayton ("Human Relations Council") is a substantially equivalent jurisdiction for purposes of processing complaints of housing discrimination within the City of Dayton; and

WHEREAS, By previous agreements with HUD, the Human Relations Council received grant funding for processing housing discrimination complaints; and

WHEREAS, HUD has offered the Human Relations Council a Fair Housing Assistance Program Grant Award in the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00) to continue processing complaints of housing discrimination; and

WHEREAS, The Commission finds it in the best interest of the City of Dayton to receive this award of grant funding; and

WHEREAS, In order for complaints of housing discrimination to be timely resolved and for the immediate preservation of the public peace, property, health and safety, it is necessary that this Resolution take effect at the earliest possible date; now, therefore,

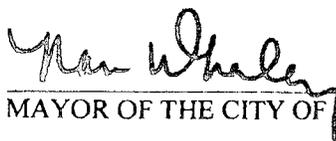
BE IT RESOLVED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That the City Manager, or her designee, is authorized and directed to execute a grant agreement and any other documents necessary to accept a Fair Housing Assistance Program Grant Award from HUD, in an amount not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00).

Section 2. That for the reasons stated in the preamble hereof, the Commission declares this resolution to be an emergency measure which shall take effect immediately upon its adoption.

ADOPTED BY THE COMMISSION June 3....., 2020

SIGNED BY THE MAYOR June 3....., 2020


MAYOR OF THE CITY OF DAYTON, OHIO

ATTEST:

Rashella Lawrence

Clerk of the Commission

APPROVED AS TO FORM:

Ann M. ...

City Attorney

Assistance Award/Amendment

**U.S. Department of Housing
and Urban Development
Office of Administration**

1. Assistance Instrument <input checked="" type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Grant		2. Type of Action Award <input type="checkbox"/> Amendment <input checked="" type="checkbox"/>	
3. Instrument Number FF205K205019	4. Amendment Number	5. Effective Date of this Action	6. Control Number TAX ID 31-6000175
7. Name and Address of Recipient City of Dayton Human Relations Commission 371 West Second Street Dayton, Ohio 45402		8. HUD Administering Office Region V FHEO 77 West Jackson Blvd., Room 2101 Chicago, Illinois 60604	
10. Recipient Project Manager Erica Fields		8a. Name of Administrator Lon Meltesen	8b. Telephone Number 312.913.8400
11. Assistance Arrangement <input type="checkbox"/> Cost Reimbursement <input type="checkbox"/> Cost Sharing <input checked="" type="checkbox"/> Fixed Price		12. Payment Method <input type="checkbox"/> Treasury Check Reimbursement <input type="checkbox"/> Advance Check <input checked="" type="checkbox"/> Automated Clearinghouse	
13. HUD Payment Office Fort Worth Field Accounting, P.O. Box 2905 Fort Worth, TX 76113-2905		9. HUD Government Technical Representative Elva M. Lewis	
14. Assistance Amount Previous HUD Amount \$10,000.00 HUD Amount this action \$25,000.00 Total HUD Amount \$35,000.00 Recipient Amount \$0 Total Instrument Amount \$35,000.00		15. HUD Accounting and Appropriation Data 15a. Appropriation Number 8620/210144 15b. Reservation number FHEO-05-20-03 Amount Previously Obligated \$10,000.00 Obligation by this action \$25,000.00 Total Obligation \$35,000.00	

16. Description:

These funds are obligated to the Agency for the purpose(s) identified in the Award Letter of CARES ACT FUND:

Fund Code	Description	Amount Obligated in this Action
PA2	COVID-19 Partnership	\$25,000.00
SE3	COVID-19 Special Enforcement Effort	
Total		\$25,000.00

These funds are being awarded under the CARES Act of 2020. This Cooperative Agreement/Amendment is comprised of the following documents:

1. HUD-1044
2. HUD Award Letter of CARES ACT FUND
3. FHAP COVID-19 Funds Notice

The performance period for this Agreement begins July 31, 2020 and ends June 30, 2021. The funds obligated by this instrument expire on June 30, 2025. The recipient must comply with the Fair Housing Assistance Program regulations at 24 C.F.R. § 115, the Memorandum of Understanding between the Recipient and HUD (including all subsequent addenda), the FY2020 FHAP Guidance, and the FHAP COVID-19 Funds Notice.

17. <input type="checkbox"/> Recipient is required to sign and return three (3) copies of this document to the HUD Administering Office		18. <input type="checkbox"/> Recipient is not required to sign this document.	
19. Recipient (By Name) Erica Fields, Executive Director		20. HUD (By Name) Lon Meltesen, Regional Director	
Signature & Title	Date (mm/dd/yyyy)	Signature & Title	Date (mm/dd/yyyy)