I. AGENDA SCHEDULE

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

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

II. CITY MANAGER RECOMMENDATIONS (Item #8 above)

The following recommendations are offered for City Commission approval.

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

1. Purchase Orders:

   AVIATION
   A1. Bay Pointe Technology LTD (BitDefender end-point detection and response services, three (3) year subscription renewal) $25,395.20
1. (Cont'd):

<table>
<thead>
<tr>
<th>Department</th>
<th>Company Name</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AVIATION</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A2.</td>
<td>Burrs, Dr. Linda J. dba Step Up To Success! LLC</td>
<td>(professional executive coaching as needed through 12/31/21)</td>
<td>28,125.00</td>
</tr>
<tr>
<td><strong>FIRE</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B1.</td>
<td>Carl’s Body Shop, Inc.</td>
<td>(automobile shop repair services as needed through 12/31/22)</td>
<td>40,000.00</td>
</tr>
<tr>
<td>B2.</td>
<td>Horton Emergency Vehicles Company</td>
<td>(emergency vehicle parts, materials and supplies as needed through 12/31/21)</td>
<td>5,000.00</td>
</tr>
<tr>
<td><strong>HUMAN RESOURCES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C1.</td>
<td>4 Imprint, Inc.</td>
<td>(professional and advertising items)</td>
<td>25,419.90</td>
</tr>
<tr>
<td><strong>INFORMATION TECHNOLOGY</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D1.</td>
<td>Dell Marketing LP</td>
<td>(Dell hardware server and storage disks)</td>
<td>55,339.40</td>
</tr>
<tr>
<td>D2.</td>
<td>Dude Solutions, Inc./Facilitydude.Com dba Facilitydude.Com.</td>
<td>(Asset Essentials Core Plus software and support services)</td>
<td></td>
</tr>
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<td><strong>POLICE</strong></td>
<td></td>
<td></td>
<td>22,254.22</td>
</tr>
<tr>
<td>E1.</td>
<td>Kiesler Police Supply</td>
<td>(Survival Armor Paragon 6 Level IIIA vests with shock shields)</td>
<td>23,949.00</td>
</tr>
<tr>
<td>E2.</td>
<td>Kiesler Police Supply</td>
<td>(27 Gen4 Glocks)</td>
<td>12,663.00</td>
</tr>
<tr>
<td><strong>PUBLIC WORKS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F1.</td>
<td>Midway Trailer Sales LLC</td>
<td>(ten 2021 tube top utility trailers)</td>
<td>46,546.80</td>
</tr>
<tr>
<td><strong>WATER</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>G1.</td>
<td>DLT Solutions LLC</td>
<td>(software licensure, maintenance, and support through 9/27/25)</td>
<td>95,866.24</td>
</tr>
<tr>
<td>G2.</td>
<td>Everett J Prescott, Inc.</td>
<td>(water main pipes, fittings, valves, and related items as needed through 12/31/21)</td>
<td>40,000.00</td>
</tr>
</tbody>
</table>

-Depts. of Aviation, Fire, Human Resources, Information Technology, Police, Public Works, and Water. **Total:** 420,558.76
2. **ESO Solutions, Inc. – Service Agreement** – renewal of the original Master Service Agreement for software as a service module for Fire and Inspections. -Department of Fire  
   $24,061.21  
   (Thru 8-13-22)

3. **L.J. DeWeese Co., Inc. – Contract Modification** – Wolf Creek Bike Path Connection (5% DBE Participation Goal/5% DBE Participation Achieved) (Federal Construction Funds) - Department of Public Works  
   $14,186.00  
   (Thru 06/30/23)

4. **O.R. Colan Associates LLC – Service Agreement** – to perform property acquisition services in connection with the Salem Avenue Reconstruction Phase 3 Project. - Department of Public Works  
   $27,615.00  
   (Thru 12/31/27)

D. **Development Agreement:**

5. **QQE Summit, LLC – Development Agreement** – to assist in the expansion of the business in Dayton. – Department of Planning, Neighborhoods and Development.  
   $100,000.00  
   (Thru 12/31/27)

E. **Other – Contributions, Etc.:**

6. **Environmental Systems Research Institute, Inc. – Service Agreement** – three-year licensing agreement. - Department of Water  
   $387,000.00  
   (Thru 07/31/24)

IV. **LEGISLATION:**

**Emergency Resolution – First and Second Reading**

7. **No. 6596-21** Approving the Submission of Grant Applications to the District 4 (Montgomery County, Ohio) Public Works Commission Integrating Committee; Authorizing the Acceptance of Grant Awards from the State of Ohio Public Works Commission of the State Issue 1 Program for Public Capital Infrastructure Improvements in an Amount Not to Exceed Four Million Two Hundred Seventy Thousand Dollars and Zero Cents ($4,270,000.00) on Behalf of the City of Dayton, and Declaring an Emergency.
VI. MISCELLANEOUS:

ORDINANCE NO. 31908-21

RESOLUTION NO. 6597-21

IMPROVEMENT RESOLUTION NO. 3599-21

INFORMAL RESOLUTION NO. 992-21
AVIATION

(A1) **P0211049 – BAY POINTE TECHNOLOGY LTD., RICHLFIELD, OH**
- BitDefender end-point detection and response services, three (3) year subscription renewal.
- These services are required as the increase of remote work from home access requires tighter security controls to guard against cybersecurity attacks and data breaches.
- Bay Pointe Technology Ltd is an authorized reseller for BitDefender; therefore, this purchase was negotiated.
- The Department of Aviation recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>DIA Airport Operations</td>
<td>51000-3210-1166-43</td>
<td>$25,395.20</td>
</tr>
</tbody>
</table>
AVIATION (CONTINUED)

(A2) P0211060 – BURRS, DR. LINDA J. dba STEP UP TO SUCCESS! LLC, MIAMISBURG, OH

- Professional executive coaching as needed through 12/31/2021.
- These services are required to provide executive coaching in leadership, organizational performance, and interpersonal skills.
- Burrs, Dr. Linda J. dba Step Up To Success! LLC is recommended based upon proven past performance and continuity of services; therefore, this purchase was negotiated.
- The Departments of Aviation and Human Resources recommend approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>DIA Airport Operations</td>
<td>51000-3210-1156-43</td>
<td>$28,125.00</td>
</tr>
</tbody>
</table>

FIRE

(B1) P0210181 – CARL’S BODY SHOP, INC., DAYTON, OH

- Automobile shop repair services as needed through 12/31/2021.
- These services are required to maintain the City’s Department of Fire fleet.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 17027JL with pricing through 12/31/2022.
- This amendment increases the previously authorized amount of $2,500.00 by $15,000.00 for a total not to exceed $17,500.00 and therefore requires City Commission approval.
- Carl’s Body Shop, Inc. qualifies as a Dayton local entity.
- The Department of Fire requests additional authority of $25,000.00 through 12/31/2022.
- The Department of Fire recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Fire Fleet Management</td>
<td>67000-6330-1301-71</td>
<td>$15,000.00</td>
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<tr>
<td>2022</td>
<td>Fire Fleet Management</td>
<td>67000-6330-1301-71</td>
<td>$25,000.00</td>
</tr>
</tbody>
</table>

(B2) P0210185 – HORTON EMERGENCY VEHICLES COMPANY, GROVE CITY, OH

- Emergency vehicle parts, materials and supplies as needed through 12/31/2021.
- These goods are required to repair the City’s Department of Fire emergency fleet.
- Horton Emergency Vehicles Company is the Original Equipment Manufacturer (OEM); therefore, this purchase was negotiated.
- This amendment increases the previously authorized amount of $10,000.00 by $5,000.00 for a total not to exceed $15,000.00 and therefore requires City Commission approval.
- The Department of Fire recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Fire Fleet Management</td>
<td>67000-6330-1301-71</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>
HUMAN RESOURCES

(C1) P0211059 – 4 IMPRINT, INC., OSHKOSH, WI

- Professional and advertising items.
- These goods are required to promote employee health and safety at the City’s Annual Health and Safety Fair on October 08, 2021.
- Three (3) possible vendors were solicited and three (3) responses were received.
- The Department of Human Resources recommends acceptance of the lowest and best response.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
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<td>2021</td>
<td>Claims Administration/Worker’s Comp</td>
<td>65000-5610-1301-62</td>
<td>$25,419.90</td>
</tr>
</tbody>
</table>

INFORMATION TECHNOLOGY

(D1) P0211061 – DELL MARKETING LP, ROUND ROCK, TX

- Dell hardware server and storage disks.
- These goods are required to replace and maintain the Commvault back-up servers and recovery solution.
- Rates are in accordance with the State of Ohio Term Schedule Contract pricing #534109 and Index #STS033.
- The Department of Information Technology recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2021</td>
<td>Technology Fund</td>
<td>40018-5560-1413-65</td>
<td>$55,339.40</td>
</tr>
</tbody>
</table>

(D2) P0211054 – DUDE SOLUTIONS, INC./FACILITYDUDE.COM dba FACILITYDUDE.COM, CARY, NC

- Asset Essentials Core Plus software and support services.
- These goods and services are required to track and manage daily work orders, schedule preventative maintenance, costs, and inventory. These goods are also used to submit various building and custodial requests.
- Rates are in accordance with the Sourcewell Contract #090320-SDI with pricing through 12/31/2021.
- The Department of Information Technology recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-5560-1166-65</td>
<td>$22,254.22</td>
</tr>
</tbody>
</table>
POLICE

(E1) P0210747 – KIESLER POLICE SUPPLY, JEFFERSONVILLE, IN

- Survival Armor Paragon 6 Level IIIA vests with shock shields.
- These goods are required to equip the new recruit class.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB S18032 with pricing through 8/31/2022.
- This amendment increases the previously authorized amount of $94,909.00 by $23,949.00 for a total not to exceed $118,858.00 and therefore requires City Commission approval.
- The Department of Police recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6221-1301-71-PD0320</td>
<td>$23,949.00</td>
</tr>
</tbody>
</table>

(E2) P0211027 – KIESLER POLICE SUPPLY, JEFFERSONVILLE, IN

- Twenty-seven (27) Gen4 Glocks.
- These goods are required to equip the new recruit class.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB S19013 with pricing through 5/31/2023.
- The Department of Police recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
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<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6221-1301-71-PD0320</td>
<td>$12,663.00</td>
</tr>
</tbody>
</table>

PUBLIC WORKS – STREET MAINTENANCE

(F1) P0211052 – MIDWAY TRAILER SALES LLC, HARRISON TOWNSHIP, OH

- Ten (10) 2021 tube top utility trailers.
- These goods are required to support the daily operations of the Division of Street Maintenance and will replace Units #1154, 1189, #1381, #1382, #1384, #1661, #1778, #1779, #2481 and #2482 which will be disposed of in the best interest of the City.
- Midway Trailer Sales LLC is recommended as the OEM regional distributor; therefore, this purchase was negotiated.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Street Maintenance</td>
<td>21000-6430-1412-54</td>
<td>$23,273.40</td>
</tr>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6430-1412-54</td>
<td>$23,273.40</td>
</tr>
</tbody>
</table>
WATER – WATER ENGINEERING

(G1) P0211062 – DLT SOLUTIONS LLC, HERNDON, VA
- Software licensure, maintenance, and support through 9/27/2022.
- These goods and services are required to support the City’s Computer Aided Drafting (CAD) system.
- DLT Solutions LLC is recommended as the manufacturer’s sole authorized distributor; therefore, this purchase was negotiated.
- The Departments of Public Works and Water request additional authority of $75,000.00 through 9/27/2025.
- The Departments of Public Works and Water recommend approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Water Operating</td>
<td>53000-3420-1164-54</td>
<td>$10,433.12</td>
</tr>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6450-1166-54</td>
<td>$10,433.12</td>
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<tr>
<td>2022</td>
<td>Water Operating</td>
<td>53000-3420-1164-54</td>
<td>$12,500.00</td>
</tr>
<tr>
<td>2022</td>
<td>General Fund</td>
<td>10000-6450-1166-54</td>
<td>$12,500.00</td>
</tr>
<tr>
<td>2023</td>
<td>Water Operating</td>
<td>53000-3420-1164-54</td>
<td>$12,500.00</td>
</tr>
<tr>
<td>2023</td>
<td>General Fund</td>
<td>10000-6450-1166-54</td>
<td>$12,500.00</td>
</tr>
<tr>
<td>2024</td>
<td>Water Operating</td>
<td>53000-3420-1164-54</td>
<td>$12,500.00</td>
</tr>
<tr>
<td>2024</td>
<td>General Fund</td>
<td>10000-6450-1166-54</td>
<td>$12,500.00</td>
</tr>
</tbody>
</table>

WATER – WATER UTILITY FIELD OPERATIONS

(G2) P0210432 – EVERETT J PRESCOTT, INC., WEST CARROLTON, OH
- Water main pipes, fittings, valves, and related items as needed through 12/31/2021.
- These goods are required to maintain the City’s water distribution center.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 20006S with pricing through 12/31/2022.
- This amendment increases the previously authorized amount of $90,000.00 by $40,000.00 for a total not to exceed $130,000.00 and therefore requires City Commission approval.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Water Inventory</td>
<td>53998-3445-1350-54</td>
<td>$40,000.00</td>
</tr>
</tbody>
</table>

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

From: 6340 - Fire/Strategic Prog & Safety
Supplier, Vendor, Company, Individual: ESO Solutions, Inc.
Address: 11500 Alterra Parkway, Ste Austin, TX 78758

Date: August 4, 2021
Expense Type: Service Agreement
Total Amount: $ 24,061.21 thru (8-13-2022)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>10000-6340-1159-72</td>
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<td>Enterprise Fund</td>
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<tr>
<td>Water Enterprise Fund</td>
<td>53997-3470-1159-55</td>
<td>$6,000.00</td>
</tr>
</tbody>
</table>

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

Description:

Professional Services Agreement - Second Amendment

The Departments of Fire ("DFD"), Aviation ("Aviation") and Water request permission to enter into a renewal of the original Master Service Agreement with ESO Solutions, Inc. in the amount of $24,061.21 for Software as a Service modules for Fire and Inspections.

This agreement will allow the DFD and the Aviation - Fire Department to continue Fire and Inspection recording within these modules. Inspections within the Wellfield Protection area will be impacted by this agreement and as a result, the Department of Water is funding a portion of this agreement.

The original agreement was approved July 10, 2019 in the amount of $29,800.00. The First Amendment was approved August 24, 2020 in the amount of $23,360.40 and increased the agreement amount to $53,160.40. The Second Amendment will increase the agreement amount to $77,221.61 and will expire August 13, 2022.

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

The Funding Source is the General Fund-General Fund, Enterprise Fund-DIA Airport Operations, Water Enterprise Fund-Wellfield Protection.

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

Thomas M Rice
Division
Nicholas A. Hostford (Acting)
City Manager

Signatures/Approval

Approved by City Commission

Clerk
Date

Updated 10/2019
Digital Version Updated 04/2020
## SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
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</tr>
<tr>
<td>Expiration Date</td>
<td>08/13/22</td>
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<tr>
<td>Original Commission Approval</td>
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<tr>
<td>Initial Encumbrance</td>
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<tr>
<td>Remaining Commission Approval</td>
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<tr>
<td>Original CT/CF</td>
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<td>Increase Encumbrance</td>
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<tr>
<td>Decrease Encumbrance</td>
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<tr>
<td>Remaining Commission Approval</td>
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### Amounts

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<td>10000 - 6340 - 1159 - 72 -</td>
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<tr>
<td>53997 - 3470 - 1159 - 55 -</td>
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### Fund Codes

<table>
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<tbody>
<tr>
<td>51000 - 3223 - 1159 - 43 -</td>
<td>$1,639.09</td>
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<tr>
<td>XXXX - XXXX - XXXX - XX - XXXX - XXXX -</td>
<td></td>
</tr>
</tbody>
</table>

### Attach additional pages for more FOAPALs

**Vendor Name:** ESO Solutions, Inc.

**Vendor Address:**
- 11500 Alterra Parkway, Ste. Austin TX 78758
- Street City State Zipcode + 4

**Federal ID:** 36-4566209

**Commodity Code:** 96199

**Purpose:** Payment for Fire and Inspection ESO modules renewal for one (1) year

### Contact Person:

- Kevin Kuntz 333-4508

### Fire Department

- **Department/Division:** Fire
- **Date:** 7/22/2021
- **Signature:** Lykins, Jeff
  - Digitally signed by Lykins, Jeff
  - Date: 2021.07.22 22:35:46 -05'00'

- **Department/Division:** Aviation
  - **Signature:** Gilbert Turner
  - Digitally signed by Gilbert Turner
  - Date: 2021.07.22 17:19:45 -04'00'

- **Department/Division:** Water
  - **Signature:** Aaron S. Zonin
  - Digitally signed by Aaron S. Zonin
  - Date: 2021.07.23 11:25:48 -04'00'

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

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

**Finance Director Signature:**
- **Date:** 7/27/2021

**CF Prepared by:**
- **Date:** 7/26/21

**CF/CT Number:** CD 21-2314

**October 18, 2011**
CONTRACT EXTENSION
AMENDMENT TO
MASTER SUBSCRIPTION AND LICENSE AGREEMENT

This Master Subscription and License Agreement Contract Extension Amendment (the “Amendment”) is made and entered into as of ____________ (the “Effective Date”) by and between ESO Solutions, Inc., (“ESO”), and the City of Dayton, (“Customer”), (each a “Party” and collectively the “Parties”).

WHEREAS, ESO is in the business of providing software services (the “Services”) to businesses and municipalities;

WHEREAS, Customer would like to amend its subscription with ESO; and

WHEREAS, ESO is willing to agree to said amendment further described below.

NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Customer and ESO mutually agree as follows:

1. Modifications. The Parties agree that the terms and conditions of this Amendment modify the terms and conditions contained in the Master Subscription and License Agreement effectively dated on or about December 14th, 2018 (the “Agreement”). All other terms and conditions remain the same. Taken together this Amendment and the Agreement (including Exhibits) constitute the entire agreement between the Parties regarding the Services purchased.

2. Extension. Customer desires, and ESO agrees, to modify the Agreement by extending the Term of the Agreement as follows:

   a. The Parties agree to extend the Agreement for an additional term, which will begin immediately upon expiration of the current term period and will end on August 13, 2022.

3. Counterparts; Execution. This Amendment and any amendments hereto may be executed by the Parties individually or in any combination, in one or more counterparts, each of which shall be an original and all of which shall together constitute one and the same agreement. Execution and delivery of this Amendment and any amendments by the Parties shall be legally valid and effective through: (i) executing and delivering the paper copy of the document, (ii) transmitting the executed paper copy of the documents by facsimile transmission or electronic mail in “portable document format” (“.pdf”) or other electronically scanned format, or (iii) creating, generating, sending, receiving or storing by electronic means this Amendment and any amendments, the execution of which is accomplished through use of an electronic process and executed or adopted by a Party with the intent to execute this Amendment (i.e. “electronic signature” through a process such as DocuSign®). In making proof of this Amendment, it shall not be necessary to produce or account for more than one such counterpart executed by the Party against whom enforcement of this Amendment is sought.
IN WITNESS WHEREOF, the undersigned expressly agree and warrant that they are authorized to sign and enter into this Amendment on behalf of the Party for which they sign and have executed this Amendment on the Effective Date first written above.

ESO:

[Signature]

Courtney Johnson

[Printed Name]

CFO

[Title]

7/26/2021

[Date]

CUSTOMER:

[Signature]

[Printed Name]

[Title]

[Date]

APPROVED AS TO FORM AND CORRECTNESS:

☑ Recoverable Signature

X Amelia N. Blankenship for

City Attorney

Signed by: Blankenship, Amelia
APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO:

_________________________, 2021

Min. / Bk. _____  Pg. _____

_________________________

Clerk of the Commission
Please send payments to:
ESO Solutions, Inc.
PO Box 679449
Dallas, TX 75267-9449

**Quote**

*Date:* 6/4/2021  
*Quote#:* Q060421  
*Terms:* Net 30

**Bill To**
Dayton Fire Department  
300 N Main St  
Dayton OH 45402  
United States  
robert.lotz@daytonohio.gov

**Ship To**
Dayton Fire Department  
300 N Main St  
Dayton  
OH 45402  
US

<table>
<thead>
<tr>
<th>Item</th>
<th>From</th>
<th>To</th>
<th>QTY</th>
<th>UOM</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td>ESO Properties</td>
<td>8/14/2021</td>
<td>8/13/2022</td>
<td>13</td>
<td>Stations</td>
<td>$4,365.60</td>
</tr>
<tr>
<td>Includes CAMEO integration, Pre-Plan view. Stores property and occupant history (presence of chemicals and tanks, Incidents, and previous inspections).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ESO Fire Incidents</td>
<td>8/14/2021</td>
<td>8/13/2022</td>
<td>13</td>
<td>Stations</td>
<td>$11,813.12</td>
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<td>Includes Auto EHR-import or Auto-CAD import, federal NFIRS data reporting, software updates and upgrades.</td>
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<tr>
<td>ESO Inspections</td>
<td>8/14/2021</td>
<td>8/13/2022</td>
<td>13</td>
<td>Stations</td>
<td>$5,129.45</td>
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<tr>
<td>Includes the ability to manage multiple code sets, using those to developed customized Check-lists for inspections. The application allows you to schedule, manage, execute and finalize inspections as well as reschedule any required follow up inspections.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Telestaff Integration</td>
<td>8/14/2021</td>
<td>8/13/2022</td>
<td>30,000</td>
<td>Incidents</td>
<td>$2,753.04</td>
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<td>Integration with Telestaff Rostering to place staff on the appropriate calls.</td>
<td></td>
<td></td>
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**Total (Without Tax):** $24,061.21  
**Tax:** $0.00  
**Grand Total:** $24,061.21

**Remit Payment to:**
ESO Solutions, Inc.  
PO Box 679449  
Dallas, TX 75267-9449

Amounts quoted are per your agreement(s) which may include annual uplift and an increase in quantities based on usage overages. Your payment of this invoice serves as acceptance of such increases.

Questions? Contact:  
AccountsReceivable@eso.com  
866-766-9471 option 8

ESO will never e-mail you soliciting payment information. Please call us or e-mail AccountsReceivable@eso.com if you have any questions or wish to make a change.

**Tax ID:** 36-4566209

1 of 1
City Manager's Report

From 6340 - Fire/Strategic Prog & Safety
Supplier, Vendor, Company, Individual
Name ESO Solutions, Inc.
Address 11500 Alterra Parkway, Ste
Austin, TX 78758

Date July 10, 2019
Expense Type Service Agreement
Total Amount $29,800.00

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tbody>
<tr>
<td>General Fund</td>
<td>10000-6340-1159-72</td>
<td>$18,800.00</td>
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<tr>
<td>DIA Airport Operations</td>
<td>51000-3223-1159-43</td>
<td>$5,000.00</td>
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<tr>
<td>Wellfield Protection</td>
<td>53997-3470-1159-55</td>
<td>$6,000.00</td>
</tr>
</tbody>
</table>

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

Description

ESO Fire and Inspections Module Agreement

City Commission approval is requested to enter into an Agreement with ESO Solutions, Inc. in the amount of $29,800.00 for Software as a Service modules from the City of Dayton’s current Electronic Health Records vendor, ESO Solutions, Inc. for Fire and Inspections.

This agreement will allow the Dayton Fire Department and the Department of Aviation Fire Department to transition Fire and Inspection records from the current MIS system. Inspections within the Wellfield Protection area will be impacted by this agreement and as a result the Department of Water is funding a portion of this agreement.

The term of the agreement will being July 31, 2019 and will run through July 30,2020 .

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

A Certificate of Funds in the amount of $29,800.00 is attached.

Signatures/Approval

Approved by City Commission

Clerk July 10, 2019

Date Updated 1/2019

Division

Department

City Manager

FORM NO. MS-16
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>07/31/19</td>
<td></td>
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<tr>
<td>Expiration Date</td>
<td>07/30/20</td>
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<td>Original Commission Approval</td>
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<td>Initial Encumbrance</td>
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<tr>
<td>Remaining Commission Approval</td>
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<td>Original CT/CF</td>
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<tr>
<td>Increase Encumbrance</td>
<td>$</td>
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<tr>
<td>Remaining Commission Approval</td>
<td>$</td>
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<table>
<thead>
<tr>
<th>Required Documentation</th>
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<tbody>
<tr>
<td>Initial City Manager's Report</td>
</tr>
<tr>
<td>Initial Certificate of Funds</td>
</tr>
<tr>
<td>Initial Agreement/Contract</td>
</tr>
<tr>
<td>Copy of City Manager's Report</td>
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<tr>
<td>Copy of Original Certificate of Funds</td>
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<table>
<thead>
<tr>
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<td>Org</td>
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<tr>
<td>$ 6,000.00</td>
<td>53997 - 3470 - 1159 - 55 - -</td>
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<table>
<thead>
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<tr>
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<td>Org</td>
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<tr>
<td>XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
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</tr>
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</table>

Attach additional pages for more FOAPALs

Vendor Name: ESO Solutions, Inc.
Vendor Address: 11500 Alterra Parkway, Ste. Austin TX 78758
Street City State Zipcode + 4
Federal ID: 36-4566209
Commodity Code: 96199
Purpose: Payment for Fire and Inspection ESO modules for one (1) year

Contact Person: Kevin Kuntz 333-4508
Fire Department 6/28/2019
Department/Division Date
Originating Department Director's Signature: 
Originating Department Director's Signature: 
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: Lawrence Williams
Date: 7/2/19
CF/CT Number: 111-192314
CF Prepared by: 
Date: 7/1/19
CF/CT Number: 111-192314

Finance Department
<table>
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<tr>
<th>Product Name</th>
<th>Product Description</th>
<th>Quantity</th>
<th>Total Price/Discounts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire Incidents - Career FD - 1st Station</td>
<td>Includes mobile application NFIRS widget, Auto EHR-import or Auto-CAD import, federal NFIRS data reporting, software updates and upgrades. Fee Type: Recurring</td>
<td>1 /Stations</td>
<td>$1,295.00</td>
</tr>
<tr>
<td>Fire Properties - Career FD - 1st Station</td>
<td>Initial station subscription for Properties – the data collection application for Properties &amp; Occupancies – includes CAMEO Integration, Pre-Plan view, and stores property and occupant history (presence or chemicals &amp; tanks, incidents, and previous inspection). Fee Type: Recurring</td>
<td>1 /Stations</td>
<td>$495.00</td>
</tr>
<tr>
<td>Fire Incidents - Career - Additional Stations</td>
<td>Includes mobile application NFIRS widget, Auto EHR-import or Auto-CAD import, federal NFIRS data reporting, software updates and upgrades. Fee Type: Recurring</td>
<td>12 /Stations</td>
<td>$9,840.00</td>
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<tr>
<td>Fire Inspections - Career - Additional Stations</td>
<td>Additional station subscription for ESO’s Inspections Application for Career Fire Departments. Fee Type: Recurring</td>
<td>12 /Stations</td>
<td>$4,240.00</td>
</tr>
<tr>
<td>Fire Inspections - Career FD - 1st Station</td>
<td>Initial station subscription for inspections – includes the ability to manage multiple code sets, using those to developed customized Check-lists for inspections. The application allows you to schedule, manage, execute and finalize inspections – as well Fee Type: Recurring</td>
<td>1 /Stations</td>
<td>$595.00</td>
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<tr>
<td>Fire Properties - Career - Additional Stations</td>
<td>Additional station subscription for ESO’s Properties Application for Career Fire Departments. Fee Type: Recurring</td>
<td>12 /Stations</td>
<td>$3,620.00</td>
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<td>IFC 2015 Codes - Ohio Amendments - 1st Station</td>
<td>Complete set of IFC 2015 Codes - Ohio Amendments to be used within the Inspections application. Fee Type: One-Time</td>
<td>1 /Stations</td>
<td>$995.00</td>
</tr>
<tr>
<td>IFC 2015 Codes - Ohio Amendments - Additional Stations</td>
<td>Complete set of IFC 2015 Codes - Ohio Amendments to be used within the Inspections application. Fee Type: One-Time</td>
<td>12 /Stations</td>
<td>$1,140.00</td>
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<td>Telesstaff Integration</td>
<td>Fee Type: Recurring</td>
<td>30000 /Incidents</td>
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<td>Fire Training</td>
<td>Daily rate Fee Type: One-Time</td>
<td>3 /Day</td>
<td>$2,985.00</td>
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<td>Fire Training Travel Costs</td>
<td>One-time fee - covers all travel costs associated with on-site training option. Fee Type: One-Time</td>
<td>2000 /Travel Cost</td>
<td>$2,000.00</td>
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</tbody>
</table>

List Price: $29,800.00
Discounts: $0.00
Tax: $0.00
Total: $29,800.00
SAAS - TERMS AND CONDITIONS:

1. Notwithstanding anything in the foregoing or the ESO Master Subscription and License Agreement ("MSLA") executed between the parties and effectively dated on or about December 14th, 2018, the City of Dayton will pay Twenty-Nine Thousand Eight Hundred Dollars and Zero Cents ($29,800.00) for the services described in this Sales Order. The total remittance under this Sales Order shall not exceed Twenty-Nine Thousand Eight Hundred Dollars and Zero Cents ($29,800.00). The MSLA shall govern all other aspects of this Sales Order.

2. The Effective Date of this Sales Order shall be the earlier of: i) the date of the signature below or ii) the "Effective Date" identified in the header of this Sales Order.

3. Except in the event Customer has selected a Third-Party Payer, the fees above shall be invoiced as follows:
   a. Training and Training Travel fees, if any, shall be invoiced on or about the Effective Date.
   b. During the first year, 100% of the remaining fees shall be invoiced fifteen days after the Effective Date. ("Subscription Date")
   c. During the second year and any renewal years thereafter, 100% of the recurring fees shall be due on the anniversary of the Subscription Date.

Customer: City of Dayton, Ohio

[Signature]
Joseph D. Parlette
[Print Name]
Deputy City Manager
[Title]
July 31, 2019
[Date]

APPROVED AS TO FORM AND CORRECTNESS

[Signature]
CITY ATTORNEY
[Date]

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

[Signature]
CLERK OF THE COMMISSION
[Date]

ESO Solutions, Inc

[Signature]
Kalel Munden
[Print Name]
General Counsel
[Title]
July 23, 2019
[Date]

THANK YOU FOR CHOOSING ESO SOLUTIONS
Sales Order For: City of Dayton, Ohio  
Sales Order Number: Q015479  
Effective Date*: 07/31/2019  
ESO Account Manager: Chad Miller

Fill in Contact Info Below

<table>
<thead>
<tr>
<th>Contact</th>
<th>Name</th>
<th>Email</th>
<th>Phone</th>
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<tbody>
<tr>
<td>Primary Business Contact</td>
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<tr>
<td>Invoicing Contact</td>
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<tr>
<td>Legal Contact</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Software Administrator</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Contact</td>
<td></td>
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<tr>
<td>Privacy/HIPAA Contact</td>
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<tr>
<td>Tax Exempt?</td>
<td>YES OR NO</td>
<td>If YES, return Exempt Certificate with Agreement</td>
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<tr>
<td>Purchase Order Required?</td>
<td>YES OR NO</td>
<td>If YES, return PO with Agreement</td>
<td></td>
</tr>
</tbody>
</table>

Please email the signed sales order to legal@esosolutions.com and your sales representative.

THANK YOU FOR CHOOSING ESO SOLUTIONS
City Manager’s Report

From 6340 - Fire/Strategic Prog & Safety
Supplier, Vendor, Company, Individual
Name ESO Solutions, Inc.
Address 11500 Alterra Parkway, Ste
Austin, TX 78758

Date August 12, 2020
Expense Type Service Agreement
Total Amount $ 23,360.40 thru (8-13-2021)

Fund Source(s) | Fund Code(s) | Fund Amount(s)
--- | --- | ---
General Fund | 10000-6340-1159-72 | $15,841.15
DIA Airport Operations | 51000-3223-1159-43 | $1,519.25
Wellfield Protection | 53997-3470-1159-55 | $6,000.00

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

Description

ESO Fire and Inspections Module

The Departments of Fire ("DFD"), Aviation ("Aviation") and Water request permission to enter into a renewal of the original Master Service Agreement with ESO Solutions, Inc. in the amount of $23,360.40 for Software as a Service modules for Fire and Inspections.

This agreement will allow the DFD and the Aviation Fire Department to continue Fire and Inspection recording within these modules. Inspections within the Wellfield Protection area will be impacted by this agreement and as a result the Department of Water is funding a portion of this agreement.

The original agreement was approved July 10, 2019 in the amount of $29,800.00.

The term of the agreement will begin August 14, 2020 and will run through August 13, 2021.

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

A Certificate of Funds in the amount of $23,360.40 is attached.

Thomas M Rice
Division Lykins, Jeff
Department City Manager
FORM NO. MS-16

Signatures/Approval

Approved by City Commission

Rashelle Lavender
Cliff
August 12, 2020
Date

Updated 10/2019
Digital Version Updated 04/2020
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
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<tbody>
<tr>
<td>Contract Start Date</td>
<td>07/31/19</td>
<td>Required Documentation</td>
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<tr>
<td>Expiration Date</td>
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<td>Initial City Manager's Report</td>
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<tr>
<td>Original Commission Approval</td>
<td>$ 53,160.40</td>
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<td>Remaining Commission Approval</td>
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<td>Increase Encumbrance</td>
<td>$ 23,360.40</td>
<td>Copy of City Manager's Report</td>
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<td>Decrease Encumbrance</td>
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<td>Copy of Original Certificate of Funds</td>
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<td>Remaining Commission Approval</td>
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</tr>
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</table>

<p>| Amount: | $15,841.15 |
| Fund Code | 10000 - 8340 - 1159 - 72 - 1 |</p>
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<th>Prg</th>
<th>Acct</th>
<th>Loc</th>
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<p>| Amount: | $1,519.25 |
| Fund Code | 50000 - 3223 - 1159 - 43 - 1 |</p>
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<th>Prg</th>
<th>Acct</th>
<th>Loc</th>
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<p>| Amount: | $6,000.00 |
| Fund Code | 53997 - 3470 - 1159 - 55 - 1 |</p>
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<th>Org</th>
<th>Acct</th>
<th>Prg</th>
<th>Acct</th>
<th>Loc</th>
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</thead>
</table>

Attach additional pages for more FOAPALs

Vendor Name: ESO Solutions, Inc.
Vendor Address: 11500 Alterra Parkway, Ste. 98758
Street City State Zipcode
Federal ID: 36-4568209
Commodity Code: 98199
Purpose: Payment for Fire and Inspection ESO modules renewal for one (1) year.

Contact Person: Kevin Kurtz 333-4508
Fire Department Date: 7/28/2020

Originating Department Director's Signature: Lykins Jeff
Department/Division: Fire

Originating Department Director's Signature: Gilbert Turner
Date: 7/28/2020
Department/Division: Aviation

Originating Department Director's Signature: Michael Powell
Department/Division: Water

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 Officer Signature: /s/ Sherry Allen
Date: 7/28/2020

Finance Officer Prepared by: /s/ David J. Falcon
Date: 7/28/2020
CF/IO Number: 2316

Finance Department
October 18, 2011
### CUSTOMER CONTACT
- **End User**: Dayton Fire Department
- **Name**: Robert Lotz
- **Email**: robert.lotz@daytonohio.gov
- **Phone**: 937-333-4511

### BILLING CONTACT
- **Payor**: Dayton Fire Department
- **Name**: Robert Lotz
- **Email**: robert.lotz@daytonohio.gov
- **Address**: 300 N Main St, Dayton OH 45402
- **Phone**: 937-333-4511
- **Billing Frequency**: Annual
- **Initial Term**: 12 months
- **Total Annual Recurring**: $23,360.40

### Fire
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<tr>
<th>Product</th>
<th>Volume</th>
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<th>Fee Type</th>
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<tr>
<td>ESO Properties</td>
<td>13 Stations</td>
<td>$4,238.45</td>
<td>Recurring</td>
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<tr>
<td>Telestaff Integration</td>
<td>30000 Incidents</td>
<td>$2,672.85</td>
<td>Recurring</td>
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<tr>
<td>ESO Inspections</td>
<td>13 Stations</td>
<td>$4,980.05</td>
<td>Recurring</td>
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<tr>
<td>ESO Fire Incidents</td>
<td>13 Stations</td>
<td>$11,469.05</td>
<td>Recurring</td>
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**Total Recurring**: $23,360.40
**Total One-Time**: $0.00

**TOTAL**: $23,360.40

---

**TERMS AND CONDITIONS:**

1. Notwithstanding anything in the foregoing or the ESO Master Subscription and License Agreement ("MSLA") executed between the parties and effectively dated on or about December 14, 2018, the City of Dayton will pay Twenty-Three Thousand Three Hundred Sixty Dollars and Forty Cents ($23,360.40) for the services described in this Sales Order. The total remittance under this Sales Order shall not exceed Twenty-Three Thousand Three Hundred Sixty Dollars and Forty Cents ($23,360.40). The MSLA shall govern all other aspects of this Sales Order.

2. The City of Dayton and ESO mutually agree to renew the ESO Master Agreement and License Agreement ("MSLA") for a period of one (1) year. This renewal period shall begin on August 14, 2020, and terminate on August 13, 2021 ("Renewal Period").

3. The Effective Date of this Quote shall be the date of signature below.

4. If Customer has selected a third party to pay fees on their behalf, the applicable fees above shall be invoiced to the third party on Customer's behalf.

---

*Additional fees may be applied by Customer's billing or CAD vendor for certain integrations or interfaces, and Customer is encouraged to discuss this with the applicable vendor.

*If present, applicable taxes shall be waived if Customer submits a valid certificate of tax exemption to ESO upon or prior to submission of the signed Quote.
City of Dayton, on behalf of the Dayton Fire Department

[Signature]
Joseph D. Parlette
[Print Name]
Deputy City Manager
[Title]
[Today's Date]

For Fire, EHR, Assets, Firehouse, Education, Safety Pad, Scheduling, the following payment terms apply:
Fees are invoiced at the Billing Frequency 15 days after the Effective Date, with recurring fees due on the anniversary.

APPROVED AS TO FORM AND CORRECTNESS

CITY ATTORNEY

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

CLERK OF THE COMMISSION
<table>
<thead>
<tr>
<th>Product</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ESO Properties</td>
<td></td>
</tr>
<tr>
<td>Telestaff Integration</td>
<td></td>
</tr>
<tr>
<td>ESO Inspections</td>
<td></td>
</tr>
<tr>
<td>ESO Fire Incidents</td>
<td></td>
</tr>
</tbody>
</table>

Quote Date: 07/13/2020
Customer Name: Dayton Fire Department
Quote #: Q-15956
Quote valid until: 08/12/2020
ESO Account Manager: Scott Kelly
Please fill in your contact information below:

<table>
<thead>
<tr>
<th>Name</th>
<th>Email</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary Business Contact</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Invoicing Contact</td>
<td></td>
<td></td>
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<tr>
<td>Legal Contact</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Software Administrator Contact</td>
<td></td>
<td></td>
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<tr>
<td>Privacy HIPAA Contact</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax Exempt</td>
<td>YES OR NO</td>
<td>If YES, return Exempt Certificate with Agreement</td>
</tr>
<tr>
<td>Purchase Order Required?</td>
<td>YES OR NO</td>
<td>If YES, return PO with Agreement</td>
</tr>
</tbody>
</table>

Please email the signed sales order to legal@eso.com and your sales representative.
WOLF CREEK BIKE PATH CONNECTION
(5% DBE PARTICIPATION GOAL / 5% DBE PARTICIPATION ACHIEVED)
(FEDERAL CONSTRUCTION FUNDS)

The Department of Public Works proposes Change Order No. 1 for $14,186.00 to the existing contract with L.J. DeWeese Co., Inc for the Wolf Creek Bike Path Connection project. The work includes the removal of concrete pavement and necessary backfill material to bring the proposed bike path to grade for completion.

This Change Order No. 1 is fully funded from Wolf Creek Bike Path Improvements funds.

The original contract amount was $122,426.75. Change Order No. 1, which totals $14,186.00, will increase the contract amount with L.J. DeWeese Co., Inc for the Wolf Creek Bike Path Connection project to $136,612.75.

This Change Order No. 1 has been reviewed by the Department of Law as to form and correctness.

A copy of Change Order No. 1 and the Certificate of Funds are attached.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>NEW CONTRACT</th>
<th>RENEWAL CONTRACT</th>
<th>CHANGE ORDER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td>X</td>
</tr>
<tr>
<td>Expiration Date</td>
<td>June 30, 2023</td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$122,426.75</td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$122,426.75</td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original CT/CF</td>
<td>CT21-2916</td>
<td>X</td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td>$14,186.00</td>
<td>X</td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Amount: | $14,186.00 |
| Fund Code | 41761 6450 1424 54 |
| Fund | Org | Acct | Prog | Act | Loc |

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

Vendor Name: L.J. DeWeese Co., Inc.
Vendor Address: 3616 Tipp-Cowlesville Rd. Tipp City Ohio 45371
Federal ID: 31-0602186
Commodity Code: 91831
Purpose: Wolf Creek Bike Path Connection (5% DBE Participation Goal)
(Federal Construction Funds)

Contact Person: David Escobar
PW/Civil Engineering Department/Division 937-333-3849
Originating Department Director's Signature: 

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: 
Date: 7/8/2021

CF Prepared by: 
Date: 7/8/2021
CF/CT Number: CT21-2916
Change Order Number 1

This Change Order Number 1, entered into this ____ day of ____________, 2021, is between the City of Dayton, Ohio ("City") and L.J. DeWeese Co., Inc ("Contractor").

WITNESSETH THAT:

WHEREAS, the City and Contractor entered into a contract for the Wolf Creek Bike Path Connection project (5% DBE Participation Goal) ("Project"), CT21-2916 dated April 15, 2021 ("Contract"), to build a shared use path to extend the Wolf Creek Bike Path from its existing terminus, 300' south of Little Richmond Road, to Little Richmond.; 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:

a. Item 202, Concrete Pavement Removed 481 S. Y.
b. Item 304, Aggregate Base 23.98 C.Y.

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 Fourteen Thousand One Hundred Eighty-Six Dollars and Zero Cents. ($14,186.00). Payment for services will be paid as follows:

a. Item 202, Concrete Pavement Removed (481 S. Y. @ $27.00/S. Y.) $12,987.00
b. Item 304, (23.98 C.Y. @ $20.00/C.Y.) $1,199.00

Total $14,186.00

Section 3. 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 4. 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.

APPROVED BY THE COMMISSION OF THE CITY OF DAYTON OHIO:

______________________________, 20____

Min. Bk. _____ Pg. _____

Clerk of the Commission

THE CITY OF DAYTON, OHIO

_____________________________________
City Manager

L.J. DEWESE CO., INC

By

Title

APPROVED AS TO FORM AND CORRECTNESS:

_____________________________________
City Attorney
WOLF CREEK BIKE PATH CONNECTION
(7% DBE PARTICIPATION GOAL/5% DBE PARTICIPATION ACHIEVED)
FEDERAL CONSTRUCTION FUNDS)

This project will convert the northbound curb lane of James H. McGee Blvd. into a 12' concrete path. This project will also extend the Wolf Creek Bike Path from its current terminus 300' south of Little Richmond Road to Little Richmond Road.

Six bids were received for this project. It is recommended that the contract be awarded to the lowest bidder, L.J. DeWeese Co., Inc. in the amount of $122,426.75, the base bid. The estimated cost for this project is $162,000.00. The time bid for completion June 30, 2021.

This project is being funded using Wolf Creek Bike Path Improvements Funds and 2020 Infrastructure Wolf Creek Bike Path Improvements Funds.

A Certificate of Funds, Tabulation of Bids, ODOT DBE affirmation, Bid Form from the firm recommended for award, and location map are attached.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X  NEW CONTRACT

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>Upon Execution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
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<tr>
<td>Initial Encumbrance</td>
<td>$122,426.75</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Required Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial City Manager’s Report</td>
</tr>
<tr>
<td>Initial Certificate of Funds</td>
</tr>
<tr>
<td>Initial Agreement/Contract</td>
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<table>
<thead>
<tr>
<th>Amount: $101,226.75</th>
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<tbody>
<tr>
<td>Fund Code 41761 - 6450 - 1424 - 54 -</td>
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<table>
<thead>
<tr>
<th>Amount: $21,200.00</th>
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</thead>
<tbody>
<tr>
<td>Fund Code 49036 - 6450 - 1424 - 54 -</td>
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</table>

Vendor Name: L.J. DeWeese Co., Inc.
Vendor Address: 3616 Tipp-Cowiesville Rd. Tipp City Ohio 45371
Federal ID: 31-0602186
Commodity Code: 91831
Purpose: Wolf Creek Bike Path Connection (5% DBE Participation Goal) (Federal Construction Funds)

Contact Person: Joseph Weinel, Chief Engineer

Originating Department Director’s Signature: [Signature] 1-14-2021

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: [Signature] 1-15-2021

CF Prepared by: Jason Williams 1-15-2021
CF/CT Number: CT01-2916

October 19, 2011
SALEM AVENUE RECONSTRUCTION PHASE 3
AGREEMENT FOR CONSULTING SERVICES

The Department of Public Works requests permission to enter into an agreement with O.R. Colan Associates, LLC. to perform the property acquisition services in connection with the Salem Avenue Reconstruction Phase 3 project. The consultant will perform all necessary right-of-way acquisition services.

These property acquisition services are being funded by General Capital funds. Three firms responded to the request for proposal with O.R. Colan Associates, LLC scoring the most points.

The agreement commences upon execution by the City and shall terminate on December 31, 2027. The agreement has been approved by the Law Department as to form and correctness.

A Certificate of Funds is attached.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

Renewal Contract

Change Order:

Contract Start Date: Upon Execution
Expiration Date: 12/31/27
Original Commission Approval: $27,615.00
Initial Encumbrance: $27,615.00
Remaining Commission Approval: $-

Original CT/CF
Increase Encumbrance
Decrease Encumbrance: $-
Remaining Commission Approval

NO DRAFT DOCUMENTS PERMITTED

Required Documentation

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

Amount: $27,615.00

Fund Code: 41488 - 6450 - 1159 - 54 - 

Fund - Org - Acct - Prog - Act - Loc

Amount: 

Fund Code: 

Fund - Org - Acct - Prog - Act - Loc

Attach additional pages for more FOAPALs

Vendor Name: O.R. Colan Associates, LLC
Vendor Address: 7005 Shannon Willow Rd., Suite 100 Charlotte NC 28226
Federal ID: 01-0780018
Commodity Code: 96164
Purpose: Professional Service Agreement for Property Acquisition Services for the Salem Avenue Reconstruction Phase 3 Project.

Contact Person: Joe Weinel
Public Works/Civil Engineering
Department/Division: 7/7/2021
Date

Originating Department Director's Signature:

SECTION II - to be completed by the Finance Department

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

Finance Director Signature:

Date: 7/7/2021

CF Prepared by:

Date: 7/12/2021

CF/CT Number: CT21-3024

October 18, 2021
AGREEMENT FOR CONSULTING SERVICES

THIS PROFESSIONAL SERVICE AGREEMENT ("Agreement"), dated this ____ day of __________, 2021 is between the City of Dayton, Ohio, a municipal corporation of the State of Ohio ("City") and O.R. Colan Associates, LLC ("Consultant").

WITNESSETH THAT:

WHEREAS, City submitted a Request For Proposal for Property Acquisition Services for the Salem Avenue Reconstruction, Phase 3 project; and,

WHEREAS, Consultant responded to City’s Request for Proposal, setting forth that it is experienced and qualified to provide the property acquisition services for the Project, and willing to provide such professional Property Acquisition Services to City; and,

WHEREAS, Consultant’s response to the Request for Proposal has been accepted by City.

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

ARTICLE 1 – SERVICES TO BE PERFORMED

Consultant shall perform the property acquisition services for the Salem Avenue Reconstruction, Phase 3 project, hereinafter referred to as the Project described in the Request for Proposal, hereinafter referred to as the RFP, a copy of which is attached as Exhibit A and incorporated herein by reference. To the extent not inconsistent with Exhibit A, Consultant shall perform the work and services for the project and comply with the representations detailed in Consultant’s response the RFP, hereinafter referred to as the Proposal, a copy of which is attached as Exhibit B and incorporated herein by reference.

For purposes of this Agreement, all professional surveying services to be performed by Consultant shall be hereinafter referred to as the “Services.” Consultant shall have no liability for defects in the Services attributable to Consultant’s reliance upon or use of data, design criteria, drawings, specifications, or other information furnished by City or third parties retained by City. The final documents, including digital copies of any plans, become the property of City upon payment.

Consultant shall provide its services pursuant to the Agreement in accordance with current accepted professional standards appropriate for the size, complexity, schedule, and other characteristics of the Project in the jurisdiction where the project is located ("Standard of Care").

ARTICLE 2- COMPENSATION

A. The City shall pay Consultant a sum not to exceed Twenty-Seven Thousand Six Hundred Fifteen Dollars and Zero Cents ($27,615.00) for the Services actually provided in accordance with this Agreement. Payment for the Services shall be based upon the rates for each service to be provided as set forth in the Proposal dated June 4, 2021 attached as Exhibit B.
B. Consultant shall invoice City, not more frequently than monthly, for payment. Such invoices shall state the invoice period and total amount requested, and contain itemized listing of the Services provided and the amount for each such Services. Unless disputed in good faith, City shall tender payment of all invoiced within thirty (30) days from receipt thereof.

ARTICLE 3- TERM

This Agreement shall commence upon execution by City and shall terminate on December 31, 2027, unless extended to a later date by mutual written amendment to this agreement or terminated according to Article 6 of this Agreement.

ARTICLE 4- INDEMNIFICATION

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

ARTICLE 5- INSURANCE

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

(1) General/Comprehensive liability insurance, with a combined single limit of One Million Dollars ($1,000,000) for each occurrence and One Million Dollars ($1,000,000) in the aggregate; and
(2) Automobile liability insurance, with a combined single limit of One Million Dollars ($1,000,000) for each person and One Million Dollars ($1,000,000) for each accident; and
(3) Workers’ compensation insurance, in such amounts as required by Ohio law, and Employer’s liability insurance with a limit of Five Hundred Thousand Dollars ($500,000) for each occurrence; and
(4) Professional liability insurance, with a minimum annual aggregate of Five Hundred Thousand Dollars ($500,000); and
(5) Errors and omissions insurance in the amount of Five Hundred Thousand Dollars ($500,000), to protect the City from any errors that Consultant and/or its employees may commit in the performance of the Services.

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, Consultant shall furnish City with copies of certificates of insurance demonstrating compliance with the insurance requirements contained within.

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

ARTICLE 6- TERMINATION

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

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

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

ARTICLE 7- COMMUNICATIONS

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

Consultant: O. R. Colan Associates, LLC
8790 Governor’s Hill Drive, Suite 101
Cincinnati, Ohio 45249
Attention: Anna Lee Durastanti

City: City of Dayton
Department of Public Works
101 West Third Street
Dayton, Ohio 45402
Attention: Frederick M. Stovall, Director

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of Consultant and City.
ARTICLE 8- NON DISCRIMINATION

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

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

ARTICLE 9- CONFIDENTIALITY

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

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

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

ARTICLE 10- OWNERSHIP OF DOCUMENTS & INTELLECTUAL PROPERTY

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

Consultant shall retain its rights in standard scripts, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of Consultant.
ARTICLE 11- GENERAL PROVISIONS

A. Waiver

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

B. Delay

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

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

C. Governing Law & Venue

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

D. Meetings and Evaluation

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

E. Independent Contractor

By executing this Agreement, Consultant acknowledges and agrees that it will be providing Services to City as an “independent contractor.” As an independent contractor for City, Consultant is prohibited from representing or allowing others to construe the parties’ relationship in a manner inconsistent with this Paragraph. Consultant shall have no authority to assume or create any obligation on behalf of, or in the name of City, without the express prior written approval of a duly authorized representative of City.
Consultant understands and agrees that it is not a City employee, and therefore, will not be entitled to, nor will it make any claim for, any of the emoluments of employment with the City of Dayton. Further, Consultant will be solely responsible to withhold and pay all applicable local, state, federal taxes and Workers’ Compensation Insurance. Contractor is not a “public employee” for the purpose of the Ohio Public Employees Retirement System (OPERS) membership

F. Assignment

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

G. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Consultant.

H. Amendment

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

I. Effect of Conflicting Documents

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

I. Entire Agreement/Integration

This Agreement together with Exhibits A represents the entire and integrated agreement between City and Consultant. This Agreement supersedes all prior and contemporaneous communications, representations, agreements or contracts, whether oral or written, relating to the subject matter of this Agreement.
IN WITNESS WHEREOF, City and Consultant, each by a duly authorized representative, have executed this Agreement as of the day and date first set forth above.

CITY OF DAYTON, OHIO

__________________________
City Manager

O. R. COLAN ASSOCIATES, LLC

By: ______________________
Title: Divisional Director

APPROVED AS TO FORM AND CORRECTNESS:

__________________________
City Attorney

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

__________________________, 20__
Min./Bk. _____ Pg. _____

Clerk of the Commission
City Manager’s Report

From: 2600 - Planning, Neighborhoods & Dev. / Development
Supplier, Vendor, Company, Individual: QQE Summit, LLC
Address: 131 Janney Road
Dayton, Ohio 45404

Date: August 4, 2021
Expense Type: Development Agreement
Total Amount: $100,000.00 (thru 12-31-2027)

Fund Source(s) | Fund Code(s) | Fund Amount(s)
--- | --- | ---
Special Revenue Fund | 22512-2600-1224-41 | $100,000.00

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

Description

Development Agreement

The Department of Planning, Neighborhoods & Development – Division of Development requests approval to enter into a Development Agreement with QQE Summit, LLC (QQE) to assist in the expansion of their business in Dayton. QQE will invest approximately Two Million Five Hundred Thousand Dollars ($2,500,000.00) in building leasehold improvements, machinery and equipment, and relocation costs to relocate to 2800 Old Springfield Road. The company is pledging to create approximately 25 new jobs and retain 94 existing jobs with an average salary of approximately $42,500.00 over the next three years.

The City is contributing $100,000.00 of grant funding from the DP&L – Energy Efficient Fund for energy efficiency related improvements including LED lighting and HVAC. This Agreement makes the funds available to the company on a reimbursement basis as eligible expenses are incurred for the project. The incentives are necessary to address gap funding.

The Agreement will commence upon execution and expire on December 31, 2027. The Agreement includes a “clawback” provision, if the pledged payroll growth is not achieved.

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

Funding source is the Special Revenue Fund – DP&L – Energy Efficient Fund.

A map and Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Clerk
Date

Updated 10/2019

FORM NO. MS-16
# CERTIFICATE OF FUNDS

## SECTION I - to be completed by User Department

- **New Contract**: X
- **Renewal Contract**: 
- **Change Order**: 

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

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

- **Finance Director Signature**: [Signature]
- **Date**: 7/27/2021

- **CF Prepared by**: [Signature]
- **Date**: 7/20/2021

**Vendor Name**: QQE Summit, LLC
- **Vendor Address**: 131 Janney Road Dayton Ohio 45404
- **Federal ID**: 85-0997867
- **Commodity Code**: 91849
- **Purpose**: Development Agreement for relocation, acquisition of machinery and equipment, LED lighting, HVAC and other Tenant Improvements at the facility.

**Contact Person**: Jill Bramini

**Planning, Neighborhoods & Development/Development**: 7/14/2021

**Department/Division**: [Signature]

**Originating Department Director’s Signature**: [Signature]

**Date**: 7/27/2021

---

**October 18, 2011**
DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT ("Agreement") is made and entered into between QQE Summit, LLC, a limited liability company in the State of Ohio, currently located at 131 Janney Road, Dayton, Ohio 45404 ("Company"), and the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio, ("City").

WITNESSETH THAT:

WHEREAS, City desires to improve its job base by attracting businesses to Dayton and encouraging expansion of existing businesses; and

WHEREAS, Company pledges to retain full-time permanent employment positions in the City of Dayton; and

WHEREAS, City finds it beneficial and in its best interests to provide support to Company for the Project under the terms and conditions set forth herein.

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

ARTICLE 1. DEFINITIONS.

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

Development Grant. A grant provided hereunder by the City of Dayton for the purpose of growing the city’s tax base by assisting Company in the creation and/or retention of jobs in the City of Dayton. The Project Grant defined herein falls within this definition.

Eligible Project Costs. Those Project Costs for LED lighting, HVAC, and other energy efficient tenant improvements that are actually incurred and paid for by Company during the term of this Agreement.

Employment Commitment. The number full-time permanent employment positions, both retained and new, Company promises as a material condition of this Agreement.

Facility. 2800 Old Springfield Road, Dayton, Ohio 45377.

Full-time Employee. An employee working an average of at least 35 hours per week/annually. This does not include part-time or contract employees.

Full-time Equivalent Employee. Two part-time employees working a total of at least 35 hours/week.

Maintained Job. A position that will remain even if the project does not go forward.

New Job. Any full-time equivalent position not yet in existence at the time of this Agreement that will be created and filled by Company.

Project. Relocation, acquisition of machinery and equipment, LED lighting, HVAC and other Tenant Improvements at the Facility.
**Project Costs.** The costs Company incurs and pays in completing the Project, including those which may be prior to the term of this Agreement. Expenses for professional services and other “soft costs” are excluded from this definition.

**Retained Job.** Any full-time equivalent position already in existence at the time of this Agreement that is currently funded by Company (one that could be lost if the project does not go forward).

**ARTICLE 2. PROJECT TIMELINE.**

Company shall commence the Project within one hundred eighty (180) days of Agreement execution and complete the Project on or before December 31, 2022, unless such time for commencement and/or completion is extended upon mutual written agreement between the parties to this Agreement. As further delineated herein, all construction activities and other work required to complete the Project shall be performed and completed in accordance with all applicable federal, state, and local laws, rules, regulations, and orders, including all applicable building, zoning, well field, and fire code requirements.

**ARTICLE 3. FUNDING.**

City will provide Company a Development Grant to reimburse Company for Eligible Project Costs in an amount not to exceed the lesser of (i) One Hundred Thousand Dollars and Zero Cents ($100,000.00) or (ii) the Grant Cap as defined herein. The parties contemplate that the Project Costs will be approximately Two Million Five Hundred Thousand Dollars and Zero Cents ($2,500,000.00). One Hundred Thousand Dollars and Zero Cents ($100,000.00) is four percent (4.0%) (“Reimbursement Percentage”) of the Project Costs. Therefore, the Grant Cap shall be four percent (4.0%) of the Project Costs (“Grant Cap”). As an example, if the Project Costs are $1,000,000 the grant cap would be 4.0% of that amount ($40,000).

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

Company shall submit a Request for Reimbursement of the Development Grant utilizing a cover form substantially similar to that attached hereto and incorporated herein as Exhibit A. The Request for Reimbursement shall state the applicable time frame covered and the total amount requested; detail the work and/or services performed; and contain such records, information, and/or documentation to substantiate the Eligible Project Costs for which reimbursement is sought. Company shall also provide cancelled checks as evidence of payment of such costs. Expenses incurred as part of the Project Costs for purposes of calculating the Reimbursement Percentage and Grant Cap must be documented in substantially the same manner as Eligible Project Costs. Appropriate City personnel will verify all Project Costs. Unless disputed, City will disburse payment within forty-five (45) days from receipt of the Request for Reimbursement.

**ARTICLE 4. EMPLOYMENT AND WAGE WITHHOLDING TAXES COMMITMENT**

A. At the time of execution of this Agreement, Company has ninety-four (94) full-time employment positions in the City of Dayton with an annual payroll of Three Million Eight Hundred Forty-Eight Thousand Four Hundred Five Dollars ($3,848,405) at the Facility. Pursuant to this project and as additional consideration for City’s execution of this Agreement, Company shall:

1. retain 94 full-time permanent employment positions in the City of Dayton throughout the term of this Agreement;
2. create and fill an additional 25 full-time equivalent permanent employment positions in the City of Dayton by December 31, 2024; and

3. maintain 119 full-time equivalent permanent employment positions in the City of Dayton throughout the remaining term of this Agreement.

Income Tax Withholding Taxes Due to City. The parties acknowledge and understand that Company’s commitment to create and retain jobs in the City of Dayton, as specified above, is the consideration upon which this Agreement is based. Company therefore agrees that by establishing and maintaining the employment figures as projected, Company shall pay annual minimum income taxes (based on the current 2.5% applicable tax rate) to City from Company’s employee wages subject to withholding in the amounts stated below (“Committed Employee Wage Withholding Taxes”) each year.

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** The Committed Employee Wage Withholding Taxes to be Paid are subject to and shall be adjusted for changes in the City’s Income Tax rate.

For any year after the Development Grant is distributed in which the annual wage withholding taxes paid to City by Company falls below the amount stated in the “Committed Employee Wage Withholding Taxes to be Paid” for the corresponding year, Company shall pay such deficiency to City by March 31st of the following year. If Company repays the entire amount of the grant, or portion of the grant that has been paid at that time, this Agreement may be terminated as described herein.

B. Credit for Income Tax Withholding. For any given year, Company shall not receive a monetary credit for exceeding the amount of wage withholding taxes paid to City.

ARTICLE 5. SPECIFIC CONDITIONS.

A. Company shall comply with all applicable federal, state, and local laws, including applicable prevailing wage laws, rules, regulations, and orders governing receipt and use of municipal and other public funds for the Project. All construction activities and other work required to complete the Project shall be performed and completed in accordance with all applicable federal, state, and local laws, rules, regulations, and orders, including prevailing wage laws, and all building, zoning and fire code requirements. Company shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Company’s average hourly wage actually paid to employees shall be no less than the Living Wage as set forth in the City of Dayton Living Wage Ordinance (R.C.G.O. §§35.70 – 35.74).

C. If it becomes necessary for review, audit, or verification purposes, Company shall allow City to inspect applicable, confidential records.

D. Company agrees to supply additional information upon request by the City of Dayton and to cooperate in any audit or review of the funding provided hereunder.

E. Company shall sign and agrees to the Authorization for Release of Tax Records attached hereto and incorporated herein as Exhibit B.

ARTICLE 6. TERM AND TERMINATION.

A. This Agreement shall commence upon execution by City and it shall remain in effect until December 31, 2027 unless extended to a later date by amendment or earlier terminated.

B. This Agreement may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Company’s assets is appointed by a court of competent jurisdiction.
2. Company is divested of its rights, powers, and privileges under this Agreement by operation of law.
3. Company’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Company to remedy such failure within thirty (30) days from the date of written notice from City.
4. Company’s violation of any applicable federal, state, or local law applicable to the Project and construction thereof.
5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Company desires to terminate this Agreement.

In the event of termination prior to Project completion and if City provided any funds to Company hereunder, Company shall repay to City within thirty (30) business days from the effective date of termination all funds provided hereunder and, upon such repayment, Company shall be released from its obligations hereunder. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 7. INDEMNIFICATION.

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

ARTICLE 8. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 9. POLITICAL CONTRIBUTIONS

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

ARTICLE 10. RECORDS AND RETENTION.

Company shall use Generally Accepted Accounting Principles ("GAAP") in recording and documenting all costs and expenditures related in whole or part to the Project. All costs and expenditures for the Project for which Company will be reimbursed hereunder shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other accounting documents and other evidence (collectively, "Records"). All Records shall be clearly identified and readily accessible. At any time during normal business hours and as often as City may request, Company shall make available to City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees, all of its Records related to this Agreement and the Project. Company shall permit City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies and any of their designees to audit, examine, and make excerpts or transcripts from such Records and to have audits made of all contracts, invoices, materials, payrolls, personnel records, conditions of employment and other data pertaining in whole or in part to matters covered by this Agreement.

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

ARTICLE 11. TAX REPRESENTATION.

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

ARTICLE 12. GENERAL PROVISIONS.

A. Conflict of Interest. Company represents that to the best of its knowledge it has no interest that would undermine the impartiality of either party because of the conflict between the party's self-
interest and this agreement or public interest in any manner or degree. Company further covenants that it will not acquire any such interests, directly or indirectly during the term of this Agreement.

B. **Entire Understanding.** This Agreement represents the entire and integrated agreement between the parties. This Agreement supersedes all prior and contemporaneous communications, representations, understandings, agreements or contracts, whether oral or written, relating to the subject matter of this Agreement.

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

D. **Amendment.** The parties may amend this Agreement, provided that no such amendment shall be effective unless it is reduced to a writing, which makes specific reference to this Agreement, is executed by a duly authorized representative of each party to this Agreement and, if required or applicable, is approved by the Commission of the City of Dayton, Ohio.

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

F. **Relationship.** This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the Project or any activities to be completed by Company.

G. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

   **For City:**
   Mary A. Faulkner
   Department of Planning, Neighborhoods, and Development
   City of Dayton
   P.O. Box 22, 101 West Third Street
   Dayton, OH 45401

   **For Company:**
   Ryan Kelly, President
   QQE Summit, LLC
   2800 Old Springfield Road
   Dayton, Ohio 45377

H. **Severability.** The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any provision of this Agreement void shall in no way affect the validity or enforceability of any other provision of this Agreement. Any void, unenforceable, invalid, or illegal provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular provision.
IN WITNESS WHEREOF, City and Company, each by a duly authorized representative, have executed this Agreement as of the date set forth below.

QQE SUMMIT, LLC

By: __________________________

Print Name: Ryan Kelly, President
Authorized Signatory

July 20, 2021
Date

CITY OF DAYTON, OHIO

____________________________________
City Manager

____________________________________
Date

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

_______________________________, 2021

Min. / Bk. _______  Pg. _______

_______________________________
Clerk of the Commission

APPROVED AS TO FORM
AND CORRECTNESS:

7/13/2021

X  Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia
LICENSING AGREEMENT

The Department of Water requests permission to enter into a three-year licensing Agreement with Environmental Systems Research Institute, Inc. (ESRI) in the amount of $387,000.00 for a Small Government Term Enterprise License Agreement (SGELA). The SGELA provides the City with unlimited licenses of most software ESRI offers, including desktop software like ArcMap (Advanced, Standard, and Basic) and Server software like ArcGIS Enterprise. The Agreement includes a single use license for both ArcGIS for Aviation: Charting for Desktop and Airports for Desktop. Additionally, the Agreement includes 1,000 ArcGIS online named viewers, 1,000 ArcGis Online Creators and ArcGis Enterprise creators, 110,000 ArcGIS Online service credits and 10 Insights for ArcGIS named users. With the SGELA, the City will have complete flexibility in deploying GIS as needed.

ESRI is the developer of the software, which is a copyright protected and proprietary product. Purchasing the SGELA is only available directly from the developer and will ensure the City has continuous direct support. Also, the manufacturer periodically issues updates to their software. By purchasing the software licenses and support directly, the City is guaranteed to receive the updated software as it is released.

The project is being funded using 2021, 2022, and 2023 Water Operating Funds, and DIA Airport Operations Funds.

The Agreement shall commence on execution and it shall expire on July 31, 2024.

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

A Certificate of Funds is attached in the amount of $129,000.00.

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

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

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Attach additional pages for more FOAPALS

**Vendor Name:** Environmental Systems Research Institute, Inc. (ESRI)

**Vendor Address:**
380 New York Street  
Redlands  
CA  
92373-8100

**Federal ID:** 95-2775732

**Commodity Code:** 98574

**Purpose:** To cover Year One of a Three Year Software Licensing Agreement

---

**Contact Person:** Lisa Burton-Yates

**Water/ Water Engineering**

**Date:** 7/26/2021

**Department/Division**

**Originating Department Director's Signature:**

Michael Powell

**Date:** 7/27/2021

**Originating Department Director's Signature:**

Gilbert Turner

**Date:** 7/27/2021

SECTION II - to be completed by the Finance Department

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

**Finance Director Signature:**

**Date:** 7/27/2021

**Department:** Finance Department

---

**CF Prepared by:**

**Date:** 7/27/2021

**CF/CT Number:**

---

**Notes:**

October 19, 2011
**Quotation # Q-448451**

**Date:** July 15, 2021  
**Customer # 40740**  
**Contract # ENTERPRISE AGREEMENT**

**City of Dayton**  
**Water Dept**  
**320 W Monument Ave**  
**Dayton, OH 45402-3017**

**ATTENTION:** Brian Arnold  
**PHONE:** 937-333-2515  
**EMAIL:** brian.arnold@daytonohio.gov

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**For questions contact:**  
Nick Meyers  
Email: nmeyers@esri.com  
Phone: (909) 793-2853 x8305

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The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at [http://www.esri.com/en-us/legal/terms-and-conditions](http://www.esri.com/en-us/legal/terms-and-conditions), and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at [http://www.esri.com/en-us/legal/terms-and-conditions](http://www.esri.com/en-us/legal/terms-and-conditions) apply to your purchase of that item. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at [http://www.esri.com/en-us/legal/terms-and-conditions](http://www.esri.com/en-us/legal/terms-and-conditions) apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.

**This offer is limited to the terms and conditions incorporated and attached herein.**
Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: (909) 793-2853    Fax: (909) 307-3049
DUNS Number: 06-313-4175    CAGE Code: 0AMS3

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 7/15/2021 To: 10/13/2021

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Quotation # Q-448451

Date: July 15, 2021
Customer # 40740    Contract # ENTERPRISE AGREEMENT
City of Dayton
Water Dept
320 W Monument Ave
Dayton, OH 45402-3017
ATTENTION: Brian Arnold
PHONE: 937-333-2515
EMAIL: brian.arnold@daytonohio.gov

Early may charge a fee to cover expenses related to any customer request to use a proprietary vendor management, procurement, or invoice program.

For questions contact:
Nick Meyers
Email: nmeyers@esri.com
Phone: (909) 793-2853 x8305

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MEYERSN
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Environmental Systems Research Institute, Inc.  
380 New York St  
Redlands, CA 92373-8100  
Phone: (909) 793-2853  
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ArcGIS Aviation Airports for ArcGIS Desktop Single Use Term License

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Quotation # Q-448451

Date: July 15, 2021

Customer # 40740  
Contract # ENTERPRISE AGREEMENT

City of Dayton  
Water Dept  
320 W Monument Ave  
Dayton, OH 45402-3017

ATTENTION: Brian Arnold  
PHONE: 937-333-2515  
EMAIL: brian.arnold@daytonohio.gov

| Subtotal:    | $387,000.00 |
| Sales Tax:   | $0.00       |
| Estimated Shipping and Handling (2 Day Delivery): | $0.00 |
| Contract Price Adjust: | $0.00 |
| **Total:**   | **$387,000.00** |

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For questions contact:  
Nick Meyers  
Email: nmeyers@esri.com  
Phone: (909) 793-2853 x8305

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MEYERSN  
This offer is limited to the terms and conditions incorporated and attached herein.
SMALL ENTERPRISE AGREEMENT
COUNTY AND MUNICIPALITY GOVERNMENT
(E214-5)

This Agreement is by and between the organization identified in the Quotation ("Customer") and Environmental Systems Research Institute, Inc. ("Esri").

This Agreement sets forth the terms for Customer’s use of Products and incorporates by reference (i) the Quotation and (ii) the Master Agreement. Should there be any conflict between the terms and conditions of the documents that comprise this Agreement, the order of precedence for the documents shall be as follows: (i) the Quotation, (ii) this Agreement, and (iii) the Master Agreement. This Agreement shall be governed by and construed in accordance with the laws of the state in which Customer is located without reference to conflict of laws principles, and the United States of America federal law shall govern in matters of intellectual property. The modifications and additional rights granted in this Agreement apply only to the Products listed in Table A.

Table A
List of Products

Uncapped Quantities
Desktop Software and Extensions (Single Use)
ArcGIS Desktop Advanced
ArcGIS Desktop Standard
ArcGIS Desktop Basic
ArcGIS Desktop Extensions: ArcGIS 3D Analyst,
ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst,
ArcGIS Publisher, ArcGIS Network Analyst, ArcGIS
Schematics, ArcGIS Workflow Manager, ArcGIS Data
Reviewer

Enterprise Software and Extensions
ArcGIS Enterprise and Workgroup
(Advanced and Standard)
ArcGIS Monitor
ArcGIS Enterprise Extensions: ArcGIS 3D Analyst,
ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst,
ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS
Workflow Manager

ArcGIS Additional Capability Servers
ArcGIS Image Server

Developer Tools
ArcGIS Engine
ArcGIS Engine Extensions: ArcGIS 3D Analyst, ArcGIS
Spatial Analyst, ArcGIS Engine Geodatabase Update,
ArcGIS Network Analyst, ArcGIS Schematics
ArcGIS Runtime (Standard)
ArcGIS Runtime Analysis Extension

Limited Quantities
One (1) Professional subscription to ArcGIS Developer
Two (2) ArcGIS CityEngine Single Use Licenses
1,000 ArcGIS Online Viewers
1,000 ArcGIS Online Creators
110,000 ArcGIS Online Service Credits
1,000 ArcGIS Enterprise Creators
10 ArcGIS Insights in ArcGIS Enterprise
10 ArcGIS Insights in ArcGIS Online
100 ArcGIS Tracker for ArcGIS Enterprise
100 ArcGIS Tracker for ArcGIS Online
6 ArcGIS Parcel Fabric User Type Extensions (Enterprise)
6 ArcGIS Utility Network User Type Extensions (Enterprise)

OTHER BENEFITS

<table>
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<tr>
<th>Description</th>
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<tr>
<td>Number of Esri User Conference registrations provided annually</td>
<td>4</td>
</tr>
<tr>
<td>Number of Tier 1 Help Desk individuals authorized to call Esri</td>
<td>4</td>
</tr>
<tr>
<td>Maximum number of sets of backup media, if requested*</td>
<td>2</td>
</tr>
<tr>
<td>Five percent (5%) discount on all individual commercially available instructor-led training classes at Esri facilities purchased outside this Agreement</td>
<td></td>
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*Additional sets of backup media may be purchased for a fee
Customer may accept this Agreement by signing and returning the whole Agreement with (i) the Quotation attached, (ii) a purchase order, or (iii) another document that matches the Quotation and references this Agreement ("Ordering Document"). ADDITIONAL OR CONFLICTING TERMS IN CUSTOMER'S PURCHASE ORDER OR OTHER DOCUMENT WILL NOT APPLY, AND THE TERMS OF THIS AGREEMENT WILL GOVERN. This Agreement is effective as of the date of Esri's receipt of an Ordering Document, unless otherwise agreed to by the parties ("Effective Date").

Term of Agreement: Three (3) years

This Agreement supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to the licensing of the Products. Except as provided in Article 4—Product Updates, no modifications can be made to this Agreement.

Accepted and Agreed:

___________________________________________
(Customer)

By: _______________________________________
Authorized Signature

Printed Name: _______________________________

Title: _______________________________________

Date: _______________________________________

CUSTOMER CONTACT INFORMATION

Contact: Brian Arnold

Address: 320 W. Monument Ave.

City, State, Postal Code: Dayton, OH 45402

Country: USA

Quotation Number (if applicable): ____________

Telephone: 937-333-2515

Fax: ________________________________

E-mail: Brian.Arnold@dayton.gov

ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.

Alejandra Merino
Manager, International Contracts

JUN 30 2021
1.0—Additional Definitions

In addition to the definitions provided in the Master Agreement, the following definitions apply to this Agreement:

"Case" means a failure of the Software or Online Services to operate according to the Documentation where such failure substantially impacts operational or functional performance.

"Deploy", "Deployed" and "Deployment" mean to redistribute and install the Products and related Authorization Codes within Customer’s organization(s).

"Fee" means the fee set forth in the Quotation.

"Maintenance" means Tier 2 Support, Product updates, and Product patches provided to Customer during the Term of Agreement.

"Master Agreement" means the applicable master agreement for Esri Products incorporated by this reference that is (i) found at https://www.esri.com/en-us/legal/terms/full-master-agreement and available in the installation process requiring acceptance by electronic acknowledgment or (ii) a signed Esri master agreement or license agreement that supersedes such electronically acknowledged master agreement.

"Product(s)" means the products identified in Table A—List of Products and any updates to the list Esri provides in writing.

"Quotation" means the offer letter and quotation provided separately to Customer.

"Technical Support" means the technical assistance for attempting resolution of a reported Case through error correction, patches, hot fixes, workarounds, replacement deliveries, or any other type of Product corrections or modifications.

"Tier 1 Help Desk" means Customer’s point of contact(s) to provide all Tier 1 Support within Customer’s organization(s).

"Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk.

"Tier 2 Support" means the Esri Technical Support provided to the Tier 1 Help Desk when a Case cannot be resolved through Tier 1 Support.

2.0—Additional Grant of License

2.1 Grant of License. Subject to the terms and conditions of this Agreement, Esri grants to Customer a personal, nonexclusive, nontransferable license solely to use, copy, and Deploy quantities of the Products listed in Table A—List of Products for the Term of Agreement (i) for the applicable Fee and (ii) in accordance with the Master Agreement.

2.2 Consultant Access. Esri grants Customer the right to permit Customer’s consultants or contractors to use the Products exclusively for Customer’s benefit. Customer will be solely responsible for compliance by consultants and contractors with this Agreement and will ensure that the consultant or contractor discontinues use of Products upon completion of work for Customer. Access to or use of Products by consultants or contractors not exclusively for Customer’s benefit is prohibited. Customer may not permit its consultants or contractors to install Software or Data on consultant, contractor, or third-party computers or remove Software or Data from Customer locations, except for the purpose of hosting the Software or Data on Contractor servers for the benefit of Customer.

3.0—Term, Termination, and Expiration

3.1 Term. This Agreement and all licenses hereunder will commence on the Effective Date and continue for the duration identified in the Term of Agreement, unless this Agreement is terminated earlier as provided herein. Customer is only authorized to use Products during the Term of Agreement. For an Agreement with a limited term, Esri does not grant Customer an indefinite or a perpetual license to Products.

3.2 No Use upon Agreement Expiration or Termination. All Product licenses, all Maintenance, and Esri User Conference registrations terminate upon expiration or termination of this Agreement.

3.3 Termination for a Material Breach. Either party may terminate this Agreement for a material breach by the other party. The breaching party will have thirty (30) days from the date of written notice to cure any material breach.

3.4 Termination for Lack of Funds. For an Agreement with government or government-
owned entities, either party may terminate this Agreement before any subsequent year if Customer is unable to secure funding through the legislative or governing body's approval process.

3.5 Follow-on Term. If the parties enter into another agreement substantially similar to this Agreement for an additional term, the effective date of the follow-on agreement will be the day after the expiration date of this Agreement.

4.0—PRODUCT UPDATES

4.1 Future Updates. Esri reserves the right to update the list of Products in Table A—List of Products by providing written notice to Customer. Customer may continue to use all Products that have been Deployed, but support and upgrades for deleted items may not be available. As new Products are incorporated into the standard program, they will be offered to Customer via written notice for incorporation into the Products schedule at no additional charge. Customer's use of new or updated Products requires Customer to adhere to applicable additional or revised terms and conditions in the Master Agreement.

4.2 Product Life Cycle. During the Term of Agreement, some Products may be retired or may no longer be available to Deploy in the identified quantities. Maintenance will be subject to the individual Product Life Cycle Support Status and Product Life Cycle Support Policy, which can be found at https://support.esri.com/en/other-resources/product-life-cycle. Updates for Products in the mature and retired phases may not be available. Customer may continue to use Products already Deployed, but Customer will not be able to Deploy retired Products.

5.0—MAINTENANCE

The Fee includes standard maintenance benefits during the Term of Agreement as specified in the most current applicable Esri Maintenance and Support Program document (found at https://www.esri.com/en-us/legal/terms/maintenance). At Esri's sole discretion, Esri may make patches, hot fixes, or updates available for download. No Software other than the defined Products will receive Maintenance. Customer may acquire maintenance for other Software outside this Agreement.

a. Tier 1 Support

1. Customer will provide Tier 1 Support through the Tier 1 Help Desk to all Customer's authorized users.

2. The Tier 1 Help Desk will be fully trained in the Products.

3. At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.

4. The Tier 1 Help Desk will be the initial point of contact for all questions and reporting of a Case. The Tier 1 Help Desk will obtain a full description of each reported Case and the system configuration from the user. This may include obtaining any customizations, code samples, or data involved in the Case.

5. If the Tier 1 Help Desk cannot resolve the Case, an authorized Tier 1 Help Desk individual may contact Tier 2 Support. The Tier 1 Help Desk will provide support in such a way as to minimize repeat calls and make solutions to problems available to Customer's organization.

6. Tier 1 Help Desk individuals are the only individuals authorized to contact Tier 2 Support. Customer may change the Tier 1 Help Desk individuals by written notice to Esri.

b. Tier 2 Support

1. Tier 2 Support will log the calls received from Tier 1 Help Desk.

2. Tier 2 Support will review all information collected by and received from the Tier 1 Help Desk including preliminary documented troubleshooting provided by the Tier 1 Help Desk when Tier 2 Support is required.

3. Tier 2 Support may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to
supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.

4. Tier 2 Support will attempt to resolve the Case submitted by Tier 1 Help Desk.

5. When the Case is resolved, Tier 2 Support will communicate the information to Tier 1 Help Desk, and Tier 1 Help Desk will disseminate the resolution to the user(s).

6.0—ENDORSEMENT AND PUBLICITY

This Agreement will not be construed or interpreted as an exclusive dealings agreement or Customer's endorsement of Products. Either party may publicize the existence of this Agreement.

7.0—ADMINISTRATIVE REQUIREMENTS

7.1 OEM Licenses. Under Esri’s OEM or Solution OEM programs, OEM partners are authorized to embed or bundle portions of Esri products and services with their application or service. OEM partners' business model, licensing terms and conditions, and pricing are independent of this Agreement. Customer will not seek any discount from the OEM partner or Esri based on the availability of Products under this Agreement. Customer will not decouple Esri products or services from the OEM partners' application or service.

7.2 Annual Report of Deployments. At each anniversary date and ninety (90) calendar days prior to the expiration of this Agreement, Customer will provide Esri with a written report detailing all Deployments. Upon request, Customer will provide records sufficient to verify the accuracy of the annual report.

8.0—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT

8.1 Orders, Delivery, and Deployment

a. Upon the Effective Date, Esri will invoice Customer and provide Authorization Codes to activate the nondestructive copy protection program that enables Customer to download, operate, or allow access to the Products. If this is a multi-year Agreement, Esri may invoice the Fee up to thirty (30) calendar days before the annual anniversary date for each year.

b. Undisputed invoices will be due and payable within thirty (30) calendar days from the date of invoice. Esri reserves the right to suspend Customer's access to and use of Products if Customer fails to pay any undisputed amount owed on or before its due date. Esri may charge Customer interest at a monthly rate equal to the lesser of one percent (1.0%) per month or the maximum rate permitted by applicable law on any overdue fees plus all expenses of collection for any overdue balance that remains unpaid ten (10) days after Esri has notified Customer of the past-due balance.

c. Esri’s federal ID number is 95-2775-732.

d. If requested, Esri will ship backup media to the ship-to address identified on the Ordering Document, FOB Destination, with shipping charges prepaid. Customer acknowledges that should sales or use taxes become due as a result of any shipments of tangible media, Esri has a right to invoice and Customer will pay any such sales or use tax associated with the receipt of tangible media.

8.2 Order Requirements. Esri does not require Customer to issue a purchase order. Customer may submit a purchase order in accordance with its own process requirements, provided that if Customer issues a purchase order, Customer will submit its initial purchase order on the Effective Date. If this is a multi-year Agreement, Customer will submit subsequent purchase orders to Esri at least thirty (30) calendar days before the annual anniversary date for each year.

a. All orders pertaining to this Agreement will be processed through Customer's centralized point of contact.

b. The following information will be included in each Ordering Document:

   (1) Customer name; Esri customer number, if known; and bill-to and ship-to addresses
   (2) Order number
   (3) Applicable annual payment due
9.0—Mergers, Acquisitions, or Divestitures

If Customer is a commercial entity, Customer will notify Esri in writing in the event of (i) a consolidation, merger, or reorganization of Customer with or into another corporation or entity; (ii) Customer’s acquisition of another entity; or (iii) a transfer or sale of all or part of Customer’s organization (subsections i, ii, and iii, collectively referred to as “Ownership Change”). There will be no decrease in Fee as a result of any Ownership Change.

9.1 If an Ownership Change increases the cumulative program count beyond the maximum level for this Agreement, Esri reserves the right to increase the Fee or terminate this Agreement and the parties will negotiate a new agreement.

9.2 If an Ownership Change results in transfer or sale of a portion of Customer’s organization, that portion of Customer’s organization will transfer the Products to Customer or uninstall, remove, and destroy all copies of the Products.

9.3 This Agreement may not be assigned to a successor entity as a result of an Ownership Change unless approved by Esri in writing in advance. If the assignment to the new entity is not approved, Customer will require any successor entity to uninstall, remove, and destroy the Products. This Agreement will terminate upon such Ownership Change.
A RESOLUTION

Approving the Submission of Grant Applications to the District 4 (Montgomery County, Ohio) Public Works Commission Integrating Committee; Authorizing the Acceptance of Grant Awards from the State of Ohio Public Works Commission for the State Issue 1 Program for Public Capital Infrastructure Improvements in an Amount Not to Exceed Four Million Two Hundred Seventy Thousand Dollars and Zero Cents ($4,270,000.00) on Behalf of the City of Dayton, and Declaring an Emergency.

WHEREAS, The voters of Ohio Passed Issue 1 authorizing the State of Ohio to issue bonds for the purpose of financing or assisting local governments in financing Public Infrastructure Capital Improvements; and

WHEREAS, The General Assembly passed Amended Substitute House Bill 381 in June of 1989, which among other sections amended Section 164.05 and added Section 164.14 to the Ohio Revised Code, thereby creating a Local Transportation Improvement Fund to be administered through the District Public Works Integrating Committees in a manner similar to the Issue 1 Program, expenditures from said fund being limited to roads, bridges, and other public infrastructure improvements; and

WHEREAS, The City of Dayton has been notified that Twelve Million Six Hundred Ninety-Six Thousand Dollars and Zero Cents ($12,696,000.00) will be available to the jurisdictions within the area covered by the District 4 Public Works Integrating Committee in total for the fiscal year 2023; and

WHEREAS, The City’s request is based upon an analysis of unmet infrastructure needs and contingent upon an approved grant application submitted to the District 4 Public Works Integrating Committee; and

WHEREAS, Participation in these programs requires the availability of matching funds as spelled out in the application to abide by all procedures as noted in the Standing Rules with matching funds of proposed projects not to exceed Six Million Seven Hundred Ninety Thousand Dollars and Zero Cents ($6,790,000.00) in order to secure Four Million Two Hundred Seventy Thousand Dollars and Zero Cents ($4,270,000.00) in grant and loan funding to cover fiscal year 2023; and

WHEREAS, The City of Dayton is located within the area covered by the District 4 Public Works Integrating Committee and is entitled to apply singly or jointly for these funds for necessary infrastructure improvements; and

WHEREAS, Section 36.10 of the Revised Code of General Ordinances of the City of Dayton authorizes the City Manager to submit grant applications on behalf of the City of Dayton; and
WHEREAS, The submission date of the grant application is August 25, 2021, therefore it is necessary for the immediate preservation of the public peace, property, health, and safety that this resolution take effect at an early date; now, therefore,

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

SECTION 1. That this Commission approves the City Manager’s submission of a grant application and supporting documents to the District 4 Public Works Integrating Committee for participation in the State Issue 1 Program for eligible Public Infrastructure Capital Improvements defined as the acquisition, construction, reconstruction, improvement, planning and equipping of roads and bridges, wastewater treatment systems, water supply systems, solid waste disposal facilities, flood control systems, and storm water and sanitary collection, storage, and treatment facilities, including real property, interests in real property, facilities, and equipment related or incidental to those facilities.

SECTION 2. That the City Manager is authorized to execute any and all documents and agreements on behalf of the City of Dayton, which are necessary to accept grant awards in an amount not to exceed Four Million Two Hundred Seventy Thousand Dollars and Zero Cents ($4,270,000.00) from the State of Ohio Public Works Commission under the State Issue 1 Program for eligible Public Infrastructure Capital Improvements.

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

ADOPTED BY THE COMMISSION...............2021

SIGNED BY THE MAYOR..........................2021

Mayor of the City of Dayton, Ohio

ATTEST:

Clerk of the Commission

APPROVED AS TO FORM:

City Attorney