CITY COMMISSION MEETING AGENDA

CITY COMMISSION  DAYTON, OHIO  SEPTEMBER 2, 2020

6:00 P.M.

I. AGENDA SCHEDULE

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

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

II. CITY MANAGER RECOMMENDATIONS (Item #8 above)

The following recommendations are offered for City Commission approval.

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

1. Purchase Orders:

   PLANNING & COMMUNITY DEVELOPMENT
   A1. Bladecutter's Lawn Service Inc. (building demolition) $25,787.00
1. (Cont’d):

**POLICE**

B1. Brite Computers/UpState Wholesale Supply (NetMotion mobility software maintenance and support renewal) $15,931.13

B2. CDW Government, Inc. (computer tablets and accessories) 41,355.50

B3. Tri-Tech Forensics, Inc. (active shooter response kits and combat application tourniquets) 19,768.55

**PUBLIC AFFAIRS**

C1. iVideo Technologies, LLC (replacing existing camera system and hardware) 106,144.87

**WATER**

D1. Sullivan Environmental Technologies (replacement parts and pumps as needed through 12-31-20) 234,979.00

D2. Day-Con Supplies LLC (medical first aid supplies as needed through 07-31-21) 8,000.00

D3. CHWR, Inc. dba CHW Mechanical Services (heating, ventilation and air conditioning preventative maintenance and repairs as needed through 04-30-21) 7,500.00

D4. JNJ Fabrication and Welding LLC (machine shop and fabricating services as needed through 06-30-24) 280,000.00

- Deps. of Planning & Community Development, Police, Public Affairs, and Water.

Total: $739,466.05


$380,500.00

(Thru 12/31/23)

B. Construction Contracts:

3. Peterson Construction, Co. – Award of Contract – for the Centrate Force Main (10% SBE Participation Goal/10.5% SBE Participation Achieved) – Dept. of Water/Water Reclamation.

$152,229.00

(Thru 12/31/21)
C. Revenue to the City:

4. Dayton Montgomery County Port Authority – Other – first amendment
to add the Friends of Levitt as a party to the agreement for Levitt Pavilion
Dayton – Dept. of Economic Development. $415,078.00
(Thru 12/31/31)

IV. LEGISLATION:

Emergency Resolution – First and Second Reading:

5. No. 6529-20

Authorizing the Purchase of Equipment and the Subsequent
Reimbursement for the costs incurred by the Federal Bureau
of Investigation Agency to the City of Dayton, and Declaring
an Emergency.

Resolution – Second Reading:

6. No. 6527-20

Declaring the Intention of the Commission to Vacate Cooper
Street from Meigs Street to the East Property Line of City Lot
#2913.

V. PLANNING ACTION

A. PUBLIC HEARING:

7. To rezone 12.531 +/- acres located on Needmore Road near Old Troy Pike
from SR-2 Suburban Single-Family Residential to SMF Suburban Multi-
Family for a proposed future multi-family development. The Parcel
Identification Numbers that comprise this case are: R722 17304 0011 and
R722 17304 0017 – Case No. PLN2020-00142.

VI. MISCELLANEOUS:

ORDINANCE NO. 31830-20
RESOLUTION NO. 6530-20
IMPROVEMENT RESOLUTION NO. 3598-20
INFORMAL RESOLUTION NO. 979-20
City Manager’s Report

From 2730 – PMB/Procurement

Name See Below
Address See Below

Date September 2, 2020
Expense Type Purchase Order
Total Amount $739,466.05

2020 Purchase Orders

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

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

PLANNING AND COMMUNITY DEVELOPMENT – HOUSING INSPECTION

(A1) P0201053 – BLADECUTTER’S LAWN SERVICE INC., HARRISON TOWNSHIP, OH
- Building demolition.
- These services are required to demolish a fire damaged building located on North Main Street.
- Pursuant to section 86 of the City of Dayton Charter, the Director of Planning and Community Development has declared an emergency, the necessary funds have been encumbered and the suppliers have been notified to proceed.
- The Department of Planning and Community Development recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>Demolition Charges</td>
<td>16022-2320-1174-32</td>
<td>$25,787.00</td>
</tr>
</tbody>
</table>

Signatures/Approval

Approved by City Commission

Clerk
Date

Updated 06/2016

FORM NO. MS-16
POLICE

(B1) P0201055 – BRITE COMPUTERS/UPSTATE WHOLESALE SUPPLY, VICTOR, NY

- NetMotion mobility software maintenance and support renewal.
- These services are required to provide reliable data communications for the Mobile Data Computers (MDCs) in emergency vehicles.
- Brite Computers/Upstate Wholesale Supply is recommended based upon proven past performance to ensure consistent quality, compatibility and operational continuity; therefore, this purchase was negotiated.
- 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>
</tr>
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<tr>
<td>2020</td>
<td>Maintenance Agreements</td>
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<tr>
<td>2020</td>
<td>Maintenance Agreements</td>
<td>10000-6340-1166-71</td>
<td>$5,831.13</td>
</tr>
</tbody>
</table>

(B2) P0201046 – CDW GOVERNMENT, INC., VERNON HILLS, IL

- Computer tablets and accessories.
- These goods are required for staff to communicate and collaborate in an environment where working in close proximity is discouraged or prohibited as a result of Covid-19.
- Rates are in accordance with the National IPA Technology Solutions Contract #2018011-01.
- One hundred percent (100%) of funding is from Corona Virus Emergency Supplemental Funding Program (CESF).
- 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>2020</td>
<td>Supplies and Materials</td>
<td>28146-6210-1301-71</td>
<td>$41,355.50</td>
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</tbody>
</table>

(B3) P0201056 – TRI-TECH FORENSICS, INC., SOUTHPORT, NC

- Active shooter response kits and combat application tourniquets.
- These goods are required to equip sergeant’s cruisers with emergency supplies for mass casualty events.
- Tri-Tech Forensics, Inc. is recommended as the sole source provider of the Sling Pack Active Shooter Response Kit; therefore, this purchase was negotiated.
- 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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</thead>
<tbody>
<tr>
<td>2020</td>
<td>Supplies and Materials</td>
<td>10000-6221-1301-71</td>
<td>$19,768.55</td>
</tr>
</tbody>
</table>
PUBLIC AFFAIRS

(C1) P0201047 – iVIDEO TECHNOLOGIES LLC, STRONGSVILLE, OH

- Replacing existing camera system and hardware.
- These goods and services are required to replace obsolete equipment in the City’s Commission Chambers.
- Rates are in accordance with the State of Ohio Term Schedule Contract #800821 and Index #STS581.
- The Department of Public Affairs recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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</thead>
<tbody>
<tr>
<td>2020</td>
<td>Computer Hardware</td>
<td>40018-2101-1413-61</td>
<td>$106,144.87</td>
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</table>

WATER – WATER RECLAMATION

(D1) P0200030 – SULLIVAN ENVIRONMENTAL TECHNOLOGIES, FT. MITCHELL, KY

- Replacement parts and pumps as needed through 12/31/2020.
- These goods are required for both inventory and to repair existing pumps for the Water Reclamation Division.
- Sullivan Environmental Technologies is recommended as the sole regional municipal distributor for Moyno, Grundfos and other brands of pumps; therefore, this purchase was negotiated.
- This amendment increases the previously authorized amount of $453,342.00 by $234,979.00 for a total not to exceed $688,321.00 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>
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<tr>
<td>2020</td>
<td>Infrastructure</td>
<td>55003-3460-1424-54-SF1606</td>
<td>$234,979.00</td>
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</table>

WATER – WATER SUPPLY AND TREATMENT

(D2) P0200268 – DAY-CON SUPPLIES LLC, HARRISON TOWNSHIP, OH

- Medical first aid supplies, as needed through 12/31/2020.
- These goods are required to stock inventories for Dayton Water Department operations.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 16052N, with pricing through 7/31/2021.
- This amendment increases the previously authorized amount of $20,000.00 by $8,000.00 for a total not to exceed $28,000.00 and therefore requires City Commission.
- The Department of Water recommends approval of this order.

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<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
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<th>Fund Amount(s)</th>
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<tr>
<td>2020</td>
<td>Inventory</td>
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</table>
WATER – WATER UTILITY FIELD OPERATIONS

(D3) P0200475 – CHWR, INC. dba CHW MECHANICAL SERVICES, SPRING VALLEY, OH

- Heating, ventilation and air conditioning preventative maintenance and repairs as needed through 12/31/2020.
- These services are required for repairs at Water Distribution.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 17021D with firm pricing extended through 4/30/2021.
- This amendment increases the previously authorized amount of $10,000.00 by $7,500.00 for a total not to exceed $17,500.00 and therefore requires City Commission approval.
- The Department of Water recommends approval of this order.

<table>
<thead>
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<tr>
<td>2020</td>
<td>Other Maintenance of Facilities</td>
<td>53000-3445-1172-54</td>
<td>$7,500.00</td>
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</table>

(D4) P0201052 – JNJ FABRICATION AND WELDING LLC, RIVERSIDE, OH

- Machine shop and fabricating services as needed through 12/31/2020.
- These services are required to maintain the machinery used in the process of treating high quality drinking water.
- Eighteen (18) possible vendors were solicited and three (3) bids were received. This order establishes a price agreement per IFB S20019 with pricing through 6/30/2024.
- The Department of Water requests additional authority of $220,000.00 through 6/30/2024.
- The Department of Water recommends acceptance of the low bid.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
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<td>2022</td>
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<td>2023</td>
<td>Maintenance Agreements</td>
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<td>2024</td>
<td>Maintenance Agreements</td>
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<td>$40,000.00</td>
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The aforementioned departments recommend approval of this order.
City Manager’s Report

From 3210 - Aviation/AP Admin & Finance
Supplier, Vendor, Company, Individual
Dayton Area Chamber of Commerce
Name Education and Public Improvement Foundation
Address 8 North Main Street, Suite 100
Dayton, Ohio 45402

Date September 2, 2020
Expense Type Service Agreement
Total Amount $380,500.00 (thru 12/31/23)

Fund Source(s) Fund Code(s) Fund Amount(s)
Aviation Operating 51000-3210-1192-43 $380,500.00

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

Description

AGREEMENT FOR THE DAYTON INTERNATIONAL AIRPORT BUSINESS TRAVELER CENTER

The Department of Aviation requests permission to enter into a three (3) year Management Agreement ("Agreement") with the Dayton Area Chamber of Commerce Education and Public Improvement Foundation ("Chamber") for the operation and management of the Business Traveler Center at the Airport not to exceed Three Hundred Eighty Thousand Five Hundred Dollars and Zero Cents ($380,500.00). Services to be provided include, but are not limited to, the hiring and training of all personnel, providing refreshments and amenities in the center such as magazines, and providing business travelers with up-to-the-hour travel information as posted.

The term of this agreement is September 9, 2020 to December 31, 2023. The Chamber will receive the following amounts annually:

2020 $ 28,200.00
2021 $115,200.00
2022 $117,400.00
2023 $119,700.00

This contract has two (2) one (1) year renewals that are at the sole discretion of the City.

The Agreement was reviewed and approved as to form and correctness by the Department of Law. A Certificate of Funds in the amount of $28,200.00, which represents the remainder of 2020, is attached.

Signatures/Approval

Approved by City Commission

Division

Department

City Manager

Clerk

Date

FORM NO. MS-16

Updated 8/2020
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>x</th>
<th>New Contract</th>
<th>______</th>
<th>Renewal Contract</th>
<th>______</th>
<th>Change Order</th>
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<td>Contract Start Date</td>
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<td>Expiration Date</td>
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<td>Initial Encumbrance</td>
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<td>Decrease Encumbrance</td>
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<td>Remaining Commission Approval</td>
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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

<table>
<thead>
<tr>
<th>Amount:</th>
<th>$28,200.00</th>
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</thead>
<tbody>
<tr>
<td>Fund Code</td>
<td>51000 - 3210 - 1192 - 43 - XXXX - XXXX</td>
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<tr>
<td>Fund</td>
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</table>

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<th>Amount:</th>
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<tbody>
<tr>
<td>Fund Code</td>
</tr>
<tr>
<td>Fund</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALS

Vendor Name: Dayton Area Chamber of Commerce Education and Public Improvement Foundation
Vendor Address: 8 North Main Street, Suite 100, Dayton, Ohio 45402
Federal ID: 310257370
Commodity Code: 91875
Purpose: The funds are for the operation and management of the Dayton International Airport Business Travelers Center. (Original Commission approval: $380,500.00 - $28,200.00 (2020).

Contact Person: Linda Hughes 454-8406
Department/Division: Aviation
Date: 8/21/2020

SECTION II - to be completed by the Finance Department

I hereby certify that the amount of money required to meet the payment(s) called for in the aforesaid request have been lawfully

Finance Director Signature: [Signature] 8/24/2020
Date: 8/24/2020

CF Prepared by: [Signature] 8/24/2020
CF/CT Number: CD 20-1742

October 18, 2011
August 21, 2020

TO: Shelley Dickstein  
City Manager

FROM: Gilbert Turner  
Director of Aviation

SUBJECT: Business Travelers Center (BTC) Management Agreement

The Department of Aviation requests permission to enter into a three (3) year Management Agreement ("Agreement") with the Dayton Area Chamber of Commerce Education and Public Improvement Foundation ("Chamber") for the operation and management of the Business Traveler Center at the Airport. Services to be provided include, but are not limited to, the hiring and training of all personnel, providing amenities in the center such as magazines, and providing business travelers with up-to-the-hour travel information as posted.

During this COVID-19 pandemic, and now that our daily passenger loads frequently surpass the 1,000 mark the BTC provides an additional and familiar amenity for our passengers to assist in social distancing themselves as they travel through the Dayton International Airport.

Should you have any questions, please feel free to contact me or Linda Hughes at 937-454-8406.

GBT/lkh
Attachment

cc: Mr. Parlette
Mrs. Lofton
MANAGEMENT AND OPERATIONS AGREEMENT FOR
THE DAYTON INTERNATIONAL AIRPORT BUSINESS TRAVELER CENTER

THIS MANAGEMENT AND OPERATIONS AGREEMENT FOR THE DAYTON INTERNATIONAL AIRPORT BUSINESS TRAVELER CENTER ("Agreement"), dated this ___ day of _____________, 2020, is between the CITY OF DAYTON, OHIO, a municipal Corporation in and of the State of Ohio, ("City") and the DAYTON AREA CHAMBER OF COMMERCE EDUCATION AND PUBLIC IMPROVEMENT FOUNDATION, a not for profit corporation incorporated under the laws of the State of Ohio, with its local place of business at 8 N Main St, #100, Dayton, Ohio 45402, (hereinafter called "Chamber").

WITNESSETH THAT:

WHEREAS, The City owns and operates the James M. Cox Dayton International Airport (hereinafter referred to as "Airport"), which is situated in the City of Dayton, Counties of Montgomery and Miami and State of Ohio;

WHEREAS, The Airport does not have an airline-sponsored club for frequent travelers and the business community within the greater Dayton region indicated that there is a need for business traveler amenities at the Airport;

WHEREAS, The City of Dayton has provided the Business Traveler Center ("BTC") within the Airport’s passenger terminal, which provides amenities including telephone and fax services, conference room space and internet connectivity for business travelers; and

WHEREAS, The City has determined that the Dayton Area Chamber of Commerce Education and Public Improvement Foundation ("Chamber") is experienced and qualified to provide necessary concierge type services to the BTC and that it is beneficial to have the Chamber operate and manage the BTC at the Airport on and subject to the terms and conditions set forth herein;

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

ARTICLE I. SCOPE OF SERVICES

The Chamber is responsible for the operation and management of the BTC at the Airport. The Chamber shall routinely consult with the City and implement such policies and practices requested by the City related to the operation and management of the BTC so that the BTC remains an asset for the City.

The standard hours of operations for the BTC will be Monday through Friday between the hours of 7:00 a.m. and 6:00 p.m. However, The Chamber shall collaborate with the City’s Director of Aviation and alter the operating schedule as needed in accordance with passenger traffic.

It is agreed that the Chamber’s responsibilities hereunder include, but are not necessarily limited to, hiring and training all personnel needed to operate the BTC, providing refreshments and other
amenities requested or needed by the business traveler.

The Chamber agrees that the refreshments, to the fullest extent possible and unless otherwise approved by the City, shall be procured and furnished by the City’s food and beverage concessionaire. Such refreshments shall not be offered to persons other than the guests and invitees of the BTC and shall not include alcoholic beverages.

The Chamber shall conduct an Awareness and Promotion Campaign to encourage greater utilization of the BTC. The campaign shall target both civilians and military personnel at WPAFB and the Chamber’s 2200 company members located in within the Chamber’s nine-county region.

The Chamber will provide comment cards for on-going feedback and survey Chamber members via social media. The Chamber will solicit and secure discounts from Airport vendors for BTC Cardholders.

The City will provide general janitorial and maintenance services (in the manner provided for other areas of the Airport's passenger terminal), provide computer technical assistance for the computers provided for use by patrons of the BTC, and pay the cost for all utilities for the BTC. In addition, the City may provide such other services and/or assistance as may be reasonably requested by the Chamber for the BTC.

**ARTICLE II. TERM**

This Agreement shall commence on September 9, 2020 and shall expire on December 31, 2023, unless earlier terminated pursuant to Article VIII herein.

Upon the sole discretion of the City, the City may renew this Agreement for up to two (2) additional optional one (1) year renewals, which if exercised, would allow for a total five (5) year term. At least ninety (90) days prior to the expiration of the then current Term, the City shall notify the Chamber of its intent to exercise any renewal option. No renewal of this Agreement shall be effective unless it is reduced to writing, approved by the City’s Director of Aviation, executed by a duly authorized representative of the City and Chamber and if required, approved by the Commission of the City of Dayton.

**ARTICLE III. FUNDING**

The City’s total remuneration for the Initial Term under this Agreement shall not exceed Three Hundred Eighty Thousand Five Hundred Dollars and Zero Cents ($380,500.00) for the management and operation of the BTC, inclusive of all costs and expenses related to such management and operation. The City will make funds available to the Chamber in the following manner:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>$ 28,200.00</td>
</tr>
<tr>
<td>2021</td>
<td>$115,200.00</td>
</tr>
<tr>
<td>2022</td>
<td>$117,400.00</td>
</tr>
<tr>
<td>2023</td>
<td>$119,700.00</td>
</tr>
</tbody>
</table>
The Chamber shall submit invoices to the City requesting disbursement of funds. The City will release payment of the invoices within thirty (30) days from receipt thereof. In the event the City releases an advance disbursement of funds, the Chamber shall maintain the funds in a separate account, or sub-account, so that the funds will not be commingled with other Chamber funds or used for unauthorized purposes. If, upon expiration or early termination of this Agreement, any advanced funds remain unexpended, the Chamber will return the unexpended balance to the City within thirty (30) days from the date of expiration or early termination. The foregoing requirement shall survive the expiration or early termination of this Agreement.

It is agreed that all tangible items procured with the funds provided by the City hereunder shall be the sole property of the City, and the Chamber only shall have the right to use such items for the operation of the BTC during the term hereof. All work product developed or created by the Chamber and any third party engaged by the Chamber, including all marketing/advertising materials, shall become the property of the City, if any of the funds provided hereunder were used to procure such work product.

If a renewal period is awarded the funding for that renewal period shall be negotiated prior to the execution of an amendment formalizing the renewal.

ARTICLE IV. INDEPENDENT CONTRACTOR

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

The Chamber, its employees and any persons retained or hired by the Chamber to perform the any duties and responsibilities at the BTC are not City employees, and therefore, such persons are not entitled to any of the emoluments of employment with the City of Dayton and the Chamber shall indemnify the City against any such claims by its employees, agents, contractors and consultants for such City employee benefits. The Chamber is responsible to withhold and pay or, if such persons are contractors, require its contractors to pay, all applicable local, state and federal taxes.

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

ARTICLE V. EQUAL OPPORTUNITY AND NON-DISCRIMINATION

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

ARTICLE VI. RECORDS, RETENTION AND AUDIT

The Chamber shall use Generally Accepted Accounting Principles ("GAAP") in recording and documenting all costs and expenditures relating to this Agreement and the management and operation of the BTC. All such costs and expenditures shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other accounting documents and shall be clearly identified and readily accessible for inspection, copying and audit. At any time during normal business hours and as often as the City may deem necessary, the Chamber shall make available to the City and its designee's its records with respect to the matters covered under this Agreement, and will permit the City and its designee's to audit, examine, and make excerpts or transcripts from such records and to have audits made of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data pertaining in whole or in part to this Agreement.

All of the Chamber's records relating to this Agreement, including any and all supporting documentation for invoices submitted to the City, shall be retained by the Chamber for a minimum period of three (3) years after the early 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 3-year period, the Chamber shall retain such records until completion of the actions and resolution of all issues or the expiration of the 3-year period, whichever occurs later.

The City reserves the right to require the Chamber to audit this Agreement and all City funds provided hereunder. In performing any such audit, the Chamber shall require the auditor to comply with all applicable City rules and regulations governing such procedures. The Chamber shall pay the cost of any such audit and not bill or otherwise invoice the City for the cost as an expense payable with the funds provided hereunder.

ARTICLE VII. INDEMNIFICATION

The Chamber shall defend, indemnify and hold harmless the City, its elected officials, officers, employees, volunteers, and agents from and against legal liability for all claims, losses, damages, and expenses to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of the Chamber, its employees, volunteers, contractors and agents in the operation and management of the BTC.

ARTICLE VIII. TERMINATION

The City may terminate this Agreement at any time and for any reason by providing the
Chamber thirty (30) days advance written notice of termination. This Agreement may also be terminated by mutual written agreement between the parties.

ARTICLE IX. COMPLIANCE WITH AIRPORT SECURITY MEASURES

At all times while upon Airport property, the Chamber and its employees, agents and contractors shall comply with all applicable federal, state and local laws, rules, policies, directives and/or procedures applicable to airports in general and those specific to the Airport, especially those involving security and access to restricted areas of the Airport. The Chamber shall remain primarily liable for any violations of the foregoing by its employees, agents and contractors and will indemnify the City for payment of any fee, penalty or other sanction imposed for such violation.

The Chamber shall arrange for and ensure that all personnel retained for the operation and management of the BTC are properly identified with an "Airport Identification Badge" or such other access media designated by the City, and that Badge must be prominently displayed at all times while such persons are at the Airport during regularly scheduled work hours as required under 49 CFR Part 1542, as may be amended or revised, and/or the City's approved Airport Security Program. The Chamber shall comply with all the City’s policies, procedures and requirements for the issuance of the Airport Identification Badge, and waives any claim against the City resulting from the City’s refusal to issue or revocation of a Badge pursuant to applicable laws, rules, regulations, policies and procedures. The Chamber and its employees and contractors shall at all times comply with the Airport Rules and Regulations.

ARTICLE X. MEETINGS AND REPORTS

The Chamber shall meet regularly with the City and its designees to review and discuss performance of this Agreement and the management and operation of the BTC. Such meetings shall be held at mutually agreeable times and places.

Upon request of the City, the Chamber shall submit a report(s), which shall detail the activities, work and services provided or to be undertaken at the BTC. The Chamber will also submit a year-end report to the City within ninety (90) days after early termination or expiration of this Agreement, containing such information and data as the City may request. This reporting requirement shall survive the expiration or early termination of this Agreement.

ARTICLE XI. GENERAL PROVISIONS

A. Amendment

This Agreement may be amended by mutual agreement between the City and the Chamber. However, no amendment is effective unless reduced to writing, which shall make specific reference to this Agreement, approved by the City’s Director of Aviation, signed by a duly authorized representative of the City and the Chamber and, if required, approved by the Commission of the City of Dayton, Ohio.
B. Entire Agreement/Integration

This Agreement represents the entire integrated Agreement between the City and the Chamber. 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. Notices and Communications

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

The City: Dayton
City of Dayton, Ohio
Department of Aviation
3600 Terminal Drive, Suite 300
Vandalia, Ohio 45377
Attn: Director of Aviation

The Chamber: Dayton
Dayton Area Chamber of Commerce Education and Public Improvement Foundation
8 North Main Street, Suite 100
Dayton, Ohio 45402
Attn: President

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

D. Conflict of Interest; Ohio Revised Code § 3517.13 Compliance

The Chamber covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which would cause conflict in any manner or degree with the performance of this Agreement. The Chamber affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

E. Subordination

This Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between the City and the United States, its departments and agencies, relative to the development, operation or maintenance of the Airport.

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

CITY OF DAYTON, OHIO

City Manager

DAYTON AREA CHAMBER OF COMMERCE EDUCATION AND PUBLIC IMPROVEMENT FOUNDATION

Christopher E. Kershner, President

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney

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

__________________________, 2020

Min./Bk. __________ Pg. ________

Clerk of Commission
City Manager's Report

From 3460 - Water/Water Reclamation
Supplier, Vendor, Company, Individual Peterson Construction Co.
Address 18817 SR 501 N.
Wapakoneta, OH 45895

Date September 2, 2020
Expense Type Award of Contract
Total Amount $152,229.00 (thru 12/31/2021)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020 Sanitary Capital</td>
<td>55003-3460-1424-54-SF2001</td>
<td>$152,229.00</td>
</tr>
</tbody>
</table>

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

Description

CENTRATE FORCE MAIN
(10% SBE PARTICIPATION GOAL/ 10.5% SBE PARTICIPATION ACHIEVED)

The Department of Water requests permission to enter into a Contract with Peterson Construction Co. in the amount of $152,229.00 for the Centrate Force Main project. This amount includes the base bid of $138,390.00 and Alternate No. 1 - Contingency Allowance for $13,839.00 (10% of the base bid). This project consists of relocating and burying 500 linear feet of 8" HDPE (high density polyethylene pipe) force main that is currently laid on the ground at the Water Reclamation Facility. This project will also include the installation of a redundant 8" force main that can be used in the event the existing 8" force main gets clogged.

Three bids were received for this project on August 13, 2020. After evaluating the bids, Peterson Construction Co.'s bid was determined to be the lowest. The estimated cost for the project (including Alternate No. 1 - Contingency Allowance) was $250,000.00. The time of completion is December 1, 2020. The expiration date identified on the Certificate of Funds is December 31, 2021.

This project is being fully funded using 2020 Sanitary Capital Funds (Cash).

A Certificate of Funds, Tabulation of Bids, Human Relations Council's verification letter, and the Bid Form from the firm recommended for award are attached.

Signatures/Approval

Approved by City Commission

Clerk

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>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contract Start Date</strong></td>
<td><strong>9/2/2020</strong></td>
<td><strong>Required Documentation</strong></td>
</tr>
<tr>
<td><strong>Expiration Date</strong></td>
<td><strong>12/31/2021</strong></td>
<td><strong>X</strong></td>
</tr>
<tr>
<td><strong>Original Commission Approval</strong></td>
<td><strong>$152,229.00</strong></td>
<td><strong>X</strong></td>
</tr>
<tr>
<td><strong>Initial Encumbrance</strong></td>
<td><strong>$152,229.00</strong></td>
<td><strong>X</strong></td>
</tr>
<tr>
<td><strong>Remaining Commission Approval</strong></td>
<td><strong>$-</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Original CT/CF</strong></td>
<td><strong>$-</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Increase Encumbrance</strong></td>
<td><strong>$-</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Decrease Encumbrance</strong></td>
<td><strong>$-</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Remaining Commission Approval</strong></td>
<td><strong>$-</strong></td>
<td></td>
</tr>
</tbody>
</table>

| Amount: | **$152,229.00** |
| Fund Code | **55003 - 3460 - 1424 - 54 - SF2001 -** |

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

Attach additional pages for more FOAPALs

**Vendor Name:** Peterson Construction Company

**Vendor Address:** 18817 SR 501 N Wapakoneta OH 45895

**Federal ID:** 34-1342365

**Commodity Code:** 93691

**Purpose:** Award of Contract for Centrate Force Main

**Contact Person:** Lisa Burton-Yates

**Water/Water Engineering**

**Department/Division:**

**Date:** 8/21/2020

**Originating Department Director's Signature:** Michael Powell

Digitally signed by Michael Powell

**Date:** 2020.08.21 09:42:52 -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:** 8/26/2020

**of Prepared by:**

**Date:** 8/25/2020

**CF/ICT Number:** 8/25/2022

October 18, 2021
### Centrate Force Main (#7187323)
**Owner:** City of Dayton, OH  
**Solicitor:** Dayton OH, City of

08/13/2020 12:00 PM EDT

<table>
<thead>
<tr>
<th>Section Title</th>
<th>Peterson Construction Co Extension</th>
<th>Sunesis Construction Co Extension</th>
<th>Performance Site Development, LLC Extension</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Bid</td>
<td>$138,390.00</td>
<td>$172,227.00</td>
<td>$193,429.00</td>
</tr>
<tr>
<td>Alternate No. 1 Ct</td>
<td>$13,839.00</td>
<td>$17,222.70</td>
<td>$19,342.90</td>
</tr>
<tr>
<td>Base Bid Total:</td>
<td>$138,390.00</td>
<td>$172,227.00</td>
<td>$193,429.00</td>
</tr>
</tbody>
</table>
August 17, 2020

TO: Nick Dailey
Chief Engineer
Department of Water

FROM: Chrisondra Goodwine, Contract Compliance Officer
Human Relations Council (HRC)

SUBJECT: Centrate Force Main Project (10% SBE Participation Goal)

The apparent low bidder, Peterson Construction Company, submitted a bid utilizing one (1) PEP-certified contractors to meet the project’s participation goal. The HRC’s contract compliance analysis has verified that Peterson Construction Company is an approved bidder in the City of Dayton’s Affirmative Action Assurance program and that the company’s authorized representative signed the Contractor’s Certification to indicate fair hiring practices.

The recommended company to receive the above-mentioned construction award is as follows:

<table>
<thead>
<tr>
<th>PRIME CONTRACTOR</th>
<th>AMOUNT OF BASE BID</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peterson Construction Company</td>
<td>$152,229.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CERTIFIED BUSINESS PARTICIPATION</th>
<th>COMMITTED DOLLAR AMT</th>
<th>% TOWARD GOAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mad River Construction</td>
<td>$16,000.00</td>
<td>10.5%</td>
</tr>
</tbody>
</table>

The attached participation forms should be included with the contract agreement. Contract compliance will consist of meeting verified participation and minimal worker utilization goals, as stated in the Affirmative Action Program Equal Employment Opportunity form certified in the bid submission. If you have any questions or concerns, please feel free to contact me at (937) 333-1405.

CAG
PEP-CERTIFIED PARTICIPATION FORM

Instructions for Bidders / Proposers: Submit one executed copy of this form for each Procurement Enhancement Plan (PEP)-Certified Firm whose participation you plan to count toward the project/contract's participation goal(s). This form must be included with your Bid. To split a PEP-Certified Firm's participation among more than one goal, submit a separate form for each goal (i.e., SBE, MBE, WBE, or DLSB).

SECTION 1: BIDDER / PROPOSER INFORMATION

Name of Bidder / Proposer's Firm: Peterson Construction Company
Address: 18817 SR 501 North
City: Wapakoneta State: OH ZIP: 45895
Telephone: (419) 941-2233 Email: rknape@petersonconstructionco.com
Primes Base Bid $152,229.00
Name of Project: Centrate Force Main

SECTION 2: PEP-CERTIFIED BUSINESS & PARTICIPATION INFORMATION

Name of PEP-Certified Firm: Mad River Construction
PEP-Certified Firm's Tax ID#: 20-8201848
Scope of Work to Be Performed by Certified Firm: General Construction, Pipe & Valves

<table>
<thead>
<tr>
<th>Total Dollar Amount Towards Goal</th>
<th>Percentage Towards Goal</th>
<th>Amount to Be Paid to This PEP Firm for the Work Described:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Bid $16,000.00</td>
<td>% 10</td>
<td>$16,000.00</td>
</tr>
<tr>
<td>Materials $11,000.00</td>
<td>% 7</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>Labor $5,000.00</td>
<td>% 3</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

SECTION 3: AFFIRMATIONS

The above-named Bidder / Proposer affirms, under penalty of perjury, that it has negotiated in good faith with the above-named PEP-Certified Firm and will utilize the above-named PEP-Certified Firm for the type(s) of work and for the dollar amount(s) described above.

(Signature of Bidder/Proposer's Authorized Agent)
Robert K. Knapke
(Printed Name of Bidder/Proposer's Authorized Agent)
Vice President

(Date)

08/06/20

IF THE BIDDER/OFFEROR IS NOT AWARDED A CONTRACT, OR IF THE HRC DOES NOT APPROVE OF THE TERMS AS STATED ABOVE, THEN ANY AND ALL REPRESENTATIONS ON THIS PARTICIPATION FORM SHALL BE NULL AND VOID.
PEP PARTICIPATION COMMITMENT AND/OR WAIVER REQUEST FORM

Instructions for Bidders/Proposers: Submit one (1) executed copy of this form with your Bid/Proposal.

- If Option 1 is selected, you must also submit one (1) executed PEP-Certified SBE/MBE/WBE/DLSB Participation Form for each PEP-Certified Firm whose participation you plan to count toward the project/contract’s participation goal(s).
- If Option 2 (WAIVER REQUEST) is selected, you must also submit documentation of your Good Faith Efforts to the City of Dayton Human Relations Council (HRC) within two (2) business days of the Bid Opening / Proposal Due Date. Bidders/Proposers will receive no further reminders about this deadline.

The undersigned affirms that the Bidder/Proposer has satisfied the requirements of the Bid/RFP Specification in the following manner: (Check the box for Option 1 and/or Option 2, complete the appropriate spaces, and sign below.)

**Option 1.** The Bidder/Proposer has secured enough commitment(s) from one or more PEP-Certified Firms to meet or exceed the project’s PEP participation goal(s). The Bidder/Proposer is committed to a minimum of:

<table>
<thead>
<tr>
<th>10 % SBE</th>
<th>% MBE</th>
<th>% WBE</th>
<th>% DLSB</th>
</tr>
</thead>
</table>

participation on this contract, as detailed on the executed PEP-Certified SBE/MBE/WBE/DLSB Participation Form(s) submitted with this Bid/Proposal.

**Option 2 (WAIVER REQUEST).** The Bidder/Proposer is unable to meet the project’s PEP participation goal(s) and requests that the following goal(s) be waived: (Check all that apply.)

☐ SBE ☐ MBE ☐ WBE ☐ DLSB

The Bidder/Proposer’s documentation of Good Faith Efforts to meet the participation goal(s) checked above must be submitted to the HRC within two (2) business days of the Bid Opening / Proposal Due Date. The Bidder/Proposer will receive no further reminders about this deadline.

A waiver will be granted based on a Bidder/Proposer’s documented Good Faith Efforts, and only when the HRC determines that the Bidder/Proposer has completed all of the following activities:

1. **Solicited the interest of all PEP-Certified Firms having the capability to perform the work of the contract.** The Bidder/Proposer must solicit this interest at least ten (10) business days before the Bid Opening / Proposal Due Date in order to allow the PEP-Certified Firm sufficient time to respond to the solicitation. Electronic communication will not be deemed as sufficient Good Faith Efforts, if it is the sole method of communication used.

2. **Divided contract work items into economically feasible units to facilitate PEP participation,** even when the Bidder/Proposer might otherwise prefer to perform these work items with its own forces.

3. **Negotiated in good faith with PEP-Certified Firms,** and considered the firms’ prices and capabilities as well as the contract goals. Rejected PEP-Certified Firms as being unqualified only for reasons based on a diligent investigation of their capabilities. The Bidder/Proposer’s standing within its industry; membership in specific groups, organizations; or associations; and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes to reject or not solicit bids from particular PEP-Certified Firms.

4. **Provided interested PEP-Certified Firms with plans and specifications at no cost,** or directed them to the Greater Dayton Minority Business Assistance Center (Dayton MBAC) for information about the project’s plans, specifications, and requirements at least ten (10) business days prior to the Bid Opening / Proposal Due Date in order to assist them in responding to a solicitation.

5. **Sought the Dayton MBAC’s assistance or used the services of community organizations; contractors’ groups; local, state or federal business assistance offices; or similar organizations to find PEP-Certified Firms.** Contacting the HRC for a list of certified companies will not be deemed as sufficient Good Faith Efforts.

NOTE: In determining whether a Bidder/Proposer has made Good Faith Efforts, the HRC may take into account the performance of other Bidders/Proposers in meeting the goal(s). For example, when the apparent low bidder fails to meet a participation goal but others meet it, the HRC may reasonably raise the question of whether, with additional reasonable efforts, the apparent low bidder could have met the goal.

(Signature of Bidder/Offeror’s Authorized Agent)

Robert K. Knapke
(Printed Name of Bidder/Offeror’s Authorized Agent)

Peterson Construction Company
(Name of Bidder/Proposer’s Firm)

Vice President
(Title of Bidder/Offeror’s Authorized Agent)

08/06/2020
(Date)
CITY OF DAYTON, OHIO
DEPARTMENT OF PUBLIC WORKS

Bid

Centrate Force Main
(10% SBE Participation Goal)

Bidder
Peterson Construction Company
18817 ST 501 North
Wapakoneta, OH 45895
<table>
<thead>
<tr>
<th>Line Item</th>
<th>Item Code</th>
<th>Item Description</th>
<th>UoM</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Extension</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Bid</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$138,390.00</td>
</tr>
<tr>
<td>1</td>
<td>202</td>
<td>8’ Pipe Removed</td>
<td>L.F.</td>
<td>275</td>
<td>$6.00</td>
<td>$1,650.00</td>
</tr>
<tr>
<td>2</td>
<td>202</td>
<td>Pavement Removed</td>
<td>S.Y.</td>
<td>70</td>
<td>$15.00</td>
<td>$1,050.00</td>
</tr>
<tr>
<td>3</td>
<td>202</td>
<td>Sidewalk Removed</td>
<td>S.F.</td>
<td>312</td>
<td>$2.00</td>
<td>$624.00</td>
</tr>
<tr>
<td>4</td>
<td>202</td>
<td>Curb removed</td>
<td>L.F.</td>
<td>42</td>
<td>$15.00</td>
<td>$630.00</td>
</tr>
<tr>
<td>5</td>
<td>207</td>
<td>Temporary Sediment and Erosion Control</td>
<td>L.S.</td>
<td>1</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>6</td>
<td>304</td>
<td>Aggregate Base</td>
<td>C.Y.</td>
<td>16</td>
<td>$100.00</td>
<td>$1,600.00</td>
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<tr>
<td>7</td>
<td>441</td>
<td>Asphalt Pavement</td>
<td>C.Y.</td>
<td>7</td>
<td>$500.00</td>
<td>$3,500.00</td>
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<tr>
<td>8</td>
<td>608</td>
<td>Concrete sidewalk</td>
<td>S.F.</td>
<td>312</td>
<td>$8.00</td>
<td>$2,496.00</td>
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<tr>
<td>9</td>
<td>609</td>
<td>Mountable Curb</td>
<td>L.F.</td>
<td>42</td>
<td>$40.00</td>
<td>$1,680.00</td>
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<td>10</td>
<td>623</td>
<td>Construction Layout Stakes</td>
<td>L.S.</td>
<td>1</td>
<td>$200.00</td>
<td>$200.00</td>
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<tr>
<td>11</td>
<td>624</td>
<td>Mobilization</td>
<td>L.S.</td>
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<td>$29,000.00</td>
<td>$29,000.00</td>
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<tr>
<td>12</td>
<td>653</td>
<td>Topsoil Furnished and Placed, 4”</td>
<td>C.Y.</td>
<td>62</td>
<td>$20.00</td>
<td>$1,240.00</td>
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<tr>
<td>13</td>
<td>659</td>
<td>Seeding and Mulching</td>
<td>S.Y.</td>
<td>560</td>
<td>$2.00</td>
<td>$1,120.00</td>
</tr>
<tr>
<td>14</td>
<td>810</td>
<td>Excavation and backfill, New 8” HDPE Force Main with Native Material</td>
<td>L.F.</td>
<td>520</td>
<td>$70.00</td>
<td>$36,400.00</td>
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<tr>
<td>15</td>
<td>810</td>
<td>Excavation and backfill, Exist 8” HDPE Force Main with Native Material</td>
<td>L.F.</td>
<td>470</td>
<td>$60.00</td>
<td>$28,200.00</td>
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<tr>
<td>16</td>
<td>840</td>
<td>8” Buried Plug Valve and appurtenances</td>
<td>EA.</td>
<td>2</td>
<td>$2,000.00</td>
<td>$4,000.00</td>
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<tr>
<td>17</td>
<td>SP-1</td>
<td>Valve Vault including valves</td>
<td>EA.</td>
<td>1</td>
<td>$20,000.00</td>
<td>$20,000.00</td>
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<tr>
<td>18</td>
<td>SP-2</td>
<td>Connection to Low Lift Pump Station wet well.</td>
<td>L.S.</td>
<td>1</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
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<tr>
<td></td>
<td></td>
<td>Alternate No. 1 Contingency Allowance</td>
<td></td>
<td></td>
<td></td>
<td>$13,839.00</td>
</tr>
<tr>
<td>19</td>
<td>A-1</td>
<td>Contingency Allowance (10% of Base Bid)</td>
<td>L.S.</td>
<td>1</td>
<td>$13,839.00</td>
<td>$13,839.00</td>
</tr>
</tbody>
</table>
DISCLOSURE OF LITIGATION

Disclosure of Litigation: Have you or any person, group, partnership, company, or corporation affiliated with you been engaged in the past three (3) years in litigation, mediation or any form of contractual dispute resolution with any state government or any political subdivision thereof including, without limitation, the State of Ohio, the City of Dayton, Ohio, or Montgomery County, Ohio? For the purpose of your response, “affiliated” means directly or indirectly controlling, controlled by, or under common control, with “control” meaning legally or operationally in a position to exercise restraint or direction over the other.

RESPONSE: YES ☐ NO ✓

If your response is “YES” please separately identify each lawsuit, mediation or dispute resolution process in which you or your affiliate have been engaged during the past three (3) years. Identify the nature of the dispute, the parties involved, and the current status of the dispute. Attach or include any information you believe pertinent to a full understanding of the disputed matters.
Bidder is
An Individual
Firm Name

Business Address

Telephone

Partnership
Firm Name

Members of Firm and
Their Business Address

Telephone

Corporation
Name

State of Incorporation
Ohio

Name and Title of
Officers with Authority
to Sign Contract

Donald J. Bergfeld, President  Douglas J. Crusey, Vice President

Robert K. Knapke, Vice President

18817 SR 501 North

Wapakoneta, OH 45895

Telephone (419) 941-2233  Fax (419) 941-2244

E-mail rknapke@petersonconstructionco.com

Federal I.D.# 34-1342365

Dated this 6 day of August, 2020

Bidder: (Person, Firm, or Corporation)

By: Robert K. Knapke

Title: Vice President
BID BOND

Amount $2,000.00

We, the undersigned, are held and firmly bound unto the City of Dayton, Ohio in the sum
of Two Thousand Dollars, for the payment of which well and truly to be made, we hereby, jointly and
severally, bind ourselves, our heirs, executors, and administrators, firmly by these presents.
The condition of this obligation is such that, if the Bid attached hereto is accepted and the Contract award to the bidder,

Peterson Construction Company

named therein, and the said bidder shall within ten (10) days after being notified that said contract has been awarded to
the bidder, enter into a Contract in the form acceptable to the Director and give bond in a form to be furnished by the
Director, then this obligation shall be null and void; otherwise it shall remain in full force and effect.
Signed at Dayton, Ohio, this 6th day of August, 2020.

Peterson Construction Company

[Signature]

Bidder
Robert K. Knapke, Vice President
Ohio Farmers Insurance Company

[Signature]

Stephanie M. White, Surety
Attorney-In-Fact
Overmyer Hall Associates

Name of Insurance Agency

1600 W. Lane Avenue, Suite 200, Columbus, OH 43221
Address of Insurance Agency

Telephone 614-453-4400 FAX 614-326-0132

Project: Centrate Force Main
of COLUMBUS and of OH its true and lawful Attorney(s) in fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship.

LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS

and to bind any of the Companies, thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, having ratified and confirmed all that the said Attorney(s) in fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY.

WHEREAS, the President and Secretary of each Company have authorized the execution of such bonds as aforesaid and the said Attorney(s) in fact shall be and hereby is hereby invested with full power and authority to sign, execute and deliver any and all bonds or other instruments or contracts of suretyship.

The Attorney in fact may be given full power and authority for and in the name of and on behalf of the Company to execute, acknowledge, deliver and otherwise deal with and in any and all bonds, recognizances, contracts, agreements, intra-company and inter-company obligations and any and all matters and documents pertaining to terminating the Company's liability hereunder, and any such instruments or contracts executed by any such Attorney in fact shall be as binding upon the Company and its用了 and its successors and assigns under the Corporate Secretary.

By further Resolution that the signature of any such designated person and the seal of the Company herebefore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seals shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached. (Such affixed at a meeting held on February 6, 2020.

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their National Surety Leader and Senior Executive and their corporate seals to be hereunto affixed on this 20th day of JANUARY, 2020.

By: Gary W. Stumper, National Surety Leader and Senior Executive

State of Ohio
County of Medina 55

On this 20th day of JANUARY, 2020, before me personally came Gary W. Stumper, to me known, who being by me duly sworn, did depose and say that he resides in Hartford, CT; that he is National Surety Leader and Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, that he knows the seals of said Companies, that he is authorized to sign and affix the seal of said Companies, that the said powers of attorney and other instruments or contracts of suretyship are true and correct, and that he signed the same for and on behalf of the Company.

By: David A. Kotnik, Attorney at Law.

My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

State of Ohio
County of Medina 55

I, Frank A. Carrino, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by said Companies with the seal hereunto affixed, and further certify the resolutions of the Board of Directors, or duly authorized agent, in the Power of Attorney are in full force and effect.

in Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this 6th day of August, 2020.

Frank A. Carrino, Secretary

BPOAC2 (combined) (06-02)
# Financial Statement

**Ohio Farmers Insurance Co.**  
Westfield Center, Ohio 44251-5001

**OHIO FARMERS INSURANCE COMPANY**  
**BALANCE SHEET**

12/31/19  
(in thousands)

<table>
<thead>
<tr>
<th>Assets</th>
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<tr>
<th>Surplus</th>
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<tr>
<td>Surplus to policyholders</td>
<td>2,511,177</td>
</tr>
<tr>
<td><strong>Total surplus</strong></td>
<td><strong>2,511,177</strong></td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>Total liabilities and surplus</th>
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</tr>
</thead>
<tbody>
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<td><strong>Total liabilities and surplus</strong></td>
<td><strong>3,270,849</strong></td>
</tr>
</tbody>
</table>

State of Ohio

$s$:  
County of Medina

The undersigned, being duly sworn, says: That he is National Surety Leader - Surety Operations of Ohio Farmers Insurance Company, Westfield Center, Ohio; that said Company is a corporation duly organized, existing and engaged in business as a Surety Company by virtue of the Laws of the State of Ohio and authorized to do business in the State of OH; and has duly complied with all the requirements of the laws of said State applicable to said Company and is duly qualified to act as Surety under such laws; that said Company has also complied with and is duly qualified to act as Surety under the Act of Congress approved July 1947, 6 U.S.C. sec. 6-13; and that to the best of his knowledge and belief the above statement is a full, true, and correct statement of the financial condition of the said Company on the 31st day of December, 2019.

Attest:  
Frank A. Carrino  
Group Legal Leader, Secretary

Sworn to before me this 12th day of February A.D. 2020.

My Commission Does Not Expire  
Sec. 147.03 Ohio Revised Code

David A. Kotnik  
Attorney at Law  
Notary Public - State of Ohio

Gary W. Stumper  
National Surety Leader  
Senior Executive

BD5402 B
Certificate of Compliance

Ohio Department of Insurance
Mike DeWine - Governor
Jillian Froment - Director

Issued 06.02.2020
Effective 07.01.2020
Expires 06.30.2021

I, Jillian Froment, hereby certify that I am the Director of Insurance in the State of Ohio and have supervision of insurance business in said State and as such I hereby certify that

OHIO FARMERS INSURANCE COMPANY

of Ohio is duly organized under the laws of this State and is authorized to transact the business of insurance under the following section(s) of the Ohio Revised Code:

Section 3929.01 (A)
Accident & Health
Aircraft
Allied Lines
Boiler & Machinery
Burglary & Theft
Collectively Renewable A & H
Commercial Auto - Liability
Commercial Auto - No Fault
Commercial Auto - Physical Damage
Credit Accident & Health
Earthquake
Fidelity
Financial Guaranty
Fire
Glass
Group Accident & Health
Guaranteed Renewable A & H

Inland Marine
Medical Malpractice
Multiple Peril - Commercial
Multiple Peril - Farmowners
Multiple Peril - Homeowners
Noncancelable A & H
Nonrenewed Stated Reasons (A&H)
Ocean Marine
Other Accident only
Other Liability
Private Passenger Auto - Liability
Private Passenger Auto - No Fault
Private Passenger Auto - Physical Damage
Surety
Workers' Compensation

OHIO FARMERS INSURANCE COMPANY certified in its annual statement to this Department as of December 31, 2019 that it has admitted assets in the amount of $3,270,649,085, liabilities in the amount of $759,472,413, and surplus of at least $2,511,176,672.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused my seal to be affixed at Columbus, Ohio, this day and date.

Jillian Froment, Director

IN57230(Rev.8/2003) Accredited by the National Association of Insurance Commissioners (NAIC)
BID BOND

Amount $2,000.00

We, the undersigned, are held and firmly bound unto the City of Dayton, Ohio in the sum of Two Thousand Dollars, for the payment of which well and truly to be made, we hereby, jointly and severally, bind ourselves, our heirs, executors, and administrators, firmly by these presents.

The condition of this obligation is such that, if the Bid attached hereto is accepted and the Contract award to the bidder named therein, and the said bidder shall within ten (10) days after being notified that said contract has been awarded to the bidder, enter into a Contract in the form acceptable to the Director and give bond in a form to be furnished by the Director, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Signed at Dayton, Ohio, this 6th day of August, 2020.

Peterson Construction Company

[Signature]

Bidder

Robert K. Neagle, Vice President

Ohio Farmers Insurance Company

[Signature]

Stephanie M. White, Attorney-In-Fact

Overmyer Hall Associates

Name of Insurance Agency

1600 W. Lane Avenue, Suite 200, Columbus, OH 43221

Address of Insurance Agency

Telephone 614-453-4400 FAX 614-326-0132

Project: Centrate Force Main
CERTIFIED COPY

Know All Men by These Presents That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, hereafter referred to individually as "a Company", or collectively as "Companies", duly organized and existing under the laws of the State of Ohio, and having its principal office at Westfield Center, Medina County, Ohio, do by these presents, make, constitute and appoint

GREGORY R. OVERMYER, AMY M. PURDUE, JACK KEHL, STEPHANIE M. WHITE, DAVID CATANASE, JOINTLY OR SEVERALLY

of COLUMBUS and State of OH its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead to execute, acknowledge and deliver any and all bonds, recognizances, undertakings, or other instruments or contracts of Suretyship-

LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS

and to bind any of the Companies, thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary hereby ratifying and confirming all that the said Attorney(s) in fact may do on behalf of the Companies, subject to the following provisos:-

The Attorney(s) in Fact may be given full power and authority for and in the name of and on behalf of the Company to execute, acknowledge and deliver any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or absolute undertakings and any and all notices and documents concerning or terminating the Company's liability thereunder, and any such instruments to be executed by any such Attorney(s) in Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary.

The further recitals that the signature of any such designated person and the seal of the Company hereof or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking in which the same is attached (such attached at a meeting held on January 8, 2000)

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their National Surety Leader and Senior Executive and their corporate seals to be hereunto affixed this 02nd day of JANUARY A.D. 2020

By

Gary W. Stumper, National Surety Leader and Senior Executive

State of Ohio
County of Medina

On this 02nd day of JANUARY, A.D. 2020, before me personally came Gary W. Stumper to me known, who, being by me duly sworn, did depose and say that he is (or they are) in Hartford, CT, that he is a National Surety Leader and senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY and that he executed the above instrument that he knows the seals of the said Companies, that the seal affixed to said instrument are such corporate seals that they were affixed by order of the Board of Directors of said Companies, and that he signed his name thereto by like order.

Notary seal

Frank A. Carrino, Secretary

State of Ohio
County of Medina

David A. Kottke, Attorney at Law, Notary Public

My Commission Expired (Sec. 147.03 Ohio Revised Code)

I, Frank A. Carrino, Secretary of WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by said Companies which was in full force and effect, and furthermore, the recitals of the Board of Directors set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this 6th day of August A.D. 2020.

Frank A. Carrino, Secretary

BPOAC2 (combined)(06-02)
## Financial Statement

**Ohio Farmers Insurance Co.**  
Westfield Center, Ohio 44251-5001

### OHIO FARMERS INSURANCE COMPANY

#### BALANCE SHEET

12/31/19  
(In thousands)

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<td><strong>Total liabilities</strong></td>
<td><strong>759,472</strong></td>
</tr>
</tbody>
</table>

| Surplus | 2,511,177 |
| Surplus to policyholders |  |
| **Total surplus** | **2,511,177** |
| **Total liabilities and surplus** | **3,270,649** |

State of Ohio  
Co Cty of Medina

The undersigned, being duly sworn, says: That he is National Surety Leader - Surety Operations of Ohio Farmers Insurance Company, Westfield Center, Ohio; that said Company is a corporation duly organized, existing and engaged in business as a Surety Company by virtue of the Laws of the State of Ohio and authorized to do business in the State of OH and has duly complied with all the requirements of the laws of said State applicable to said Company and is duly qualified to act as Surety under such laws; that said Company has also complied with and is duly qualified to act as Surety under the Act of Congress approved July 1947, 6 U.S.C. sec. 6-13; and that to the best of his knowledge and belief the above statement is a full, true, and correct statement of the financial condition of the said Company on the 31st day of December, 2019.

Attest:

Frank A. Carrino  
Group Legal Leader, Secretary

Sworn to before me this 12th day of February A.D. 2020.

My Commission Does Not Expire  
Sec. 147.03 Ohio Revised Code

Gary W. Shumpur  
National Surety Leader  
Senior Executive  

David A. Kotnik  
Attorney at Law  
Notary Public - State of Ohio
Ohio Department of Insurance

Mike DeWine - Governor
Jillian Froment - Director

Certificate of Compliance

Issued 06/02/2020
Effective 07/01/2020
Expires 06/30/2021

I, Jillian Froment, hereby certify that I am the Director of Insurance in the State of Ohio and have supervision of insurance business in said State and as such I hereby certify that

OHIO FARMERS INSURANCE COMPANY

of Ohio is duly organized under the laws of this State and is authorized to transact the business of insurance under the following section(s) of the Ohio Revised Code:

Section 3929.01 (A)
Accident & Health
Aircraft
Allied Lines
Boiler & Machinery
Burglary & Theft
Collectively Renewable A & I
Commercial Auto - Liability
Commercial Auto - No Fault
Commercial Auto - Physical Damage
Credit Accident & Health
Earthquake
Fidelity
Financial Guaranty
Fire
Glass
Group Accident & Health
Guaranteed Renewable A & I
Inland Marine
Medical Malpractice
Multiple Peril - Commercial
Multiple Peril - Farmowners
Multiple Peril - Homeowners
Noncancelable A & I
Nonrenew - Stated Reasons (A&I)
Ocean Marine
Other Accident only
Other Liability
Private Passenger Auto - Liability
Private Passenger Auto - No Fault
Private Passenger Auto - Physical Damage
Surety
Workers Compensation

OHIO FARMERS INSURANCE COMPANY certified in its annual statement to this Department as of December 31, 2019 that it has admitted assets in the amount of $3,270,649,085, liabilities in the amount of $759,472,413, and surplus of at least $2,511,176,672.

IN WITNESS WHEREOF, I have hereunto subscribed my name, and caused my seal to be affixed at Columbus, Ohio this day and date.

Jillian Froment, Director

Accredited by the National Association of Insurance Commissioners (NAIC)
CITY OF DAYTON, OHIO  
Department of Public Works  

Responsible Contractor Bidding Requirements  
(Form 1 of 3)  

In accordance with Ordinance No. 31487-16 of the City of Dayton, Ohio Revised Code of General Ordinances, 

I, _______________________________ hereby certify that  
(phone name – an Officer of the company)  

Peterson Construction Company ____________________________ meets the following Contractor requirements relating  
(company)  
to this City of Dayton construction project  

Check All That Apply:  

☑ Comply with all City of Dayton income tax obligations and requirements  

☑ Maintain worker’s compensation insurance for all employees as required by the State of Ohio  

☑ Comply with State or Federal prevailing wage rate laws, as applicable and required by the funding of this project  

☑ Comply with the State of Ohio Bureau of Worker’s Compensation Drug Free Workplace Policy  

☑ Maintain an unemployment compensation insurance policy registered with the State of Ohio Department of Job and Family Services  

☑ Made a good faith effort to contract with one or more qualified minority business enterprises to perform work required by this project, in accordance with bid documents, ordinances, and applicable Federal and State law  

By: _______________________________  
(signature)  

Title: Vice President  

Date: August 6, 2020  

CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 2 of 3)

A. Please provide a complete listing of the fringe benefits provided to employees, including but not limited to health insurance and retirement benefits.

See Carpenters' local 104 Contract

See Laborers Local 1410 Contract

B. Please identify any “bona fide apprentice training program” in which this company participates in accordance with the Ohio Bureau of Apprenticeship Training and the U. S. Department of Labor.

Per the Carpenters' Local 104 Apprentice Program

Per the Laborers' Local 1410 Apprentice Program

C. Please provide a list of subcontractors whose quotes or information are included or used in the bid submitted for this project.

Mad River Construction
D. Please provide a list of all minority business enterprises contacted for the purpose of obtaining quotes to perform work for this project.

- DSS Sweeping Service, Inc
- Phillips Companies
- Booher Blacktop
- Ebony Construction
- WC Jones Asphalt Paving Co.
- D Dickinson Construction
- Davies Landscape & Lawncare, Inc
- T.R. Gear Landscaping
- Robinson Trucking
- Magic Painting, Inc (Jones Painting Services)

E. Provide a complete listing of any determinations of the bidder’s violations of federal, state, or local laws, including a list of all citations, orders, or recommendations issued to or against the bidder within the previous 3 years.

None
CERTIFICATION
OF COMPLIANCE WITH OHIO REVISED CODE SECTION 3517.13
FOR CONTRACTS IN EXCESS OF FIVE HUNDRED DOLLARS ($500.00)

STATE OF OHIO,
COUNTY OF Auglaize, ss:

Robert K. Knapke being duly sworn, deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of Peterson Construction Company ("the Contracting Party").

2. The Contracting Party is a/an (select one):

☐ Individual, partnership, or other unincorporated business association (including without limitation, a professional association organized under Ohio Revised Code Chapter 1785), estate, or trust.

☒ Corporation organized and existing under the laws of the State of Ohio.

☐ Labor organization.

3. I hereby affirm that the Contracting Party and each of the individuals specified in R.C. 3517.93(I)(3) (with respect to non-corporate entities and labor organizations) or R.C. 3517.93(J)(3) (with respect to corporations) are in full compliance with the political contributions limitations set forth in R.C. 3517.93(I) and (J), as applicable. I understand that a false representation on this certification constitutes a felony of the fifth degree pursuant to R.C. 3517.93(AA) and 3517.992(R)(3). Any contract that contains a falsified certification shall be rescinded.

By: __________________________

Title: Vice President
CITY OF DAYTON
CONTRACTOR NON-COLLUSION AFFIDAVIT

STATE OF Ohio )
COUNTY OF Auglaize )

Robert K. Knapke, being first duly sworn deposes and
states that:

(1) He/she is __________ of

(Vice President)
(Owner, partner, officer, representative, or agent)

Peterson Construction Company

(business or organization name)

(2) He/She is fully informed respecting the preparation and contents of the attached Bid
and all pertinent circumstances respecting such Bid.

(3) Such offering is genuine and is not a collusive or sham offering

(4) Neither the said Bidder nor any of its officers, partners, owners, agents,
representatives, employees or parties in interest, including this affiant, has in any way
colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm
or person to submit a sham Bid in connection with the Contract for which the attached Bid
has been submitted or to refrain from offering in connection with such contract, or has in
any manner, directly or indirectly, sought by agreement or collusion or communication or
conference with any other Bidder, or to secure through collusion, conspiracy, connivance
or unlawful agreement any advantage against the City of Dayton, its employees, or

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted
by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder
or any of its agents, representatives, owners, employees, or parties in interest including
the affiant.

[Signature]

Vice President
TITLE

SIGNED
AFFIRMATIVE ACTION PROGRAM
EQUAL EMPLOYMENT OPPORTUNITY

PROJECT: Centrate Force Main

NAME

Dayton, OH

LOCATION

During the performance of this contract:

Peterson Construction Company

18817 SR 501 N, Wapakoneta, OH 45895

419-941-2233/419-941-2244

CONTRACTOR

ADDRESS

TELEPHONE / FAX

being the general contractor, assumes the responsibility and obligation to institute an Affirmative Action Program which complies with revised City Ordinances 24059 and 26090 and Executive Order 11246 on any city, federal or federally-assisted construction project, to insure Equal Employment Opportunity regardless of race, color, religion, sex, national origin, ancestry, place of birth, age, or marital status.

The successful contractor using one or more trades of construction employees must comply with Part I of these Affirmative Actions Program conditions to each such trade.

Part I: Requirements. To be eligible for award of a contract under this Invitation to Bid, contractors must certify as prescribed in Paragraph 1a, of the certification specified in Part II hereof that it adopts the minimum goals and timetables of minority and female worker utilization, and specific Affirmative Action steps set forth in Sections 1 and 2 of this Part I.

1.) Goals & Timetables. The goals of minority and female worker utilization required of the contractor are applicable to each trade which will be used on any project in Greene, Miami, Montgomery, and Preble Counties, OH (hereinafter the Economic Area).

The required goals and timetables are as follows:

Goals of Minority Worker Utilization Expressed in Percentage Terms

From 1/1/2000 to Present 11.5%

Goals of Female Worker Utilization Expressed in Percentage Terms

From 4/1/80 to Present 6.9%
The percentage goals of minority and female worker utilization are expressed in terms of working hours of training and employment as a proportion of the total working hours to be worked by the contractor's entire work force in that trade on all projects (both federal and non-federal) in the Economic Area during the performance of this contract. The working hours for minority and female work and training must be uniform throughout the length of this contract, on all projects and for each of the trades. Further, the transfer of minority and/or female or trainee from employer-to-employer or from project-to-project for the sole purpose of meeting the contractor's goals shall be a violation of this Affirmative Action Program.

In reaching the goals for minority and female utilization, every effort shall be made to find and employ qualified journey-persons. Provided, however, and pursuant to the requirements of the Department of Labor Regulations, 29 CFR 5a.3, twenty-five percent (25%) of apprentices or trainees shall be employed on all projects and shall be in their first year of training, where feasible.

In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and/or trainees at the completion of the training subject to the availability of employment opportunities. Apprentices and trainees must be trained pursuant to programs which have been approved by The U.S. Department of Labor and/or The State of Ohio.

A contractor shall be deemed to be in compliance with the terms and requirements of this Part I by the employment and training of minorities and females in the appropriate percentage of the contractor's aggregate work force in the Economic Area for each trade for which it is committed to the goals under Part I.

However, no contractor shall be found to be in noncompliance solely on account of the contractor's failure to meet the goals and timetables, but such contractor shall be given the opportunity to demonstrate that all of the specific Affirmative Action steps specified in Part I have been instituted and has made every "good faith" effort to make these steps work towards the attainment of the goals and timetables.

2.) **Specific Affirmative Action Steps.** A contractor subject to Part I, must engage in Affirmative Action directed at increasing minority and female utilization, which is at least as extensive and as specific as the following steps:

a) The contractor shall notify community organizations that the contractor has employment opportunities available and shall maintain records of the organizations' responses.

b) The contractor shall maintain a file of the names and addresses of each minority and female referred and what action was taken with respect to each referred worker. If the worker was not employed, the reason therefor. If the worker was not sent to the union hiring hall for referral, the contractor's file shall document this and the reasons therefore.

c) The contractor shall promptly notify the Dayton Human Relations Council (HRC) when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority and/or female, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

d) The contractor should participate in training programs in the area; especially those approved by the U.S. Department of Labor and/or the State of Ohio.
e) The contractor shall disseminate the EEO Policy within the organization by including it in any policy manual, by publicizing it in company newspapers, annual reports, etc.; by conducting staff, employee and union representatives' meetings to explain and discuss the policy; by posting of the policy; and by specific review of the policy with minority and female employees.

f) The contractor shall ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to all projects (both federal and non-federal) in the Economic Area during the performance of its contract or subcontract.

g) The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority and female organizations, schools, minority and female recruitment training organizations with the Dayton Economic Area.

h) The contractor shall make specific efforts to encourage present minority and female employees to recruit other minorities and females.

i) The contractor shall validate all tests and other selection requirements.

j) The contractor should develop on-the-job training opportunities; participate and assist in any association or employer-group training programs relevant to the contractor's employees needs consistent with its obligations under Part I.

k) The contractor shall evaluate all minority and female personnel for promotional opportunities and encourage employees to seek such opportunities.

l) The contractor shall ensure that seniority practices, job classifications, etc., do not have a discriminatory effect.

m) The contractor shall make certain that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

n) The contractor will monitor all personnel activities to ensure that its EEO Policy is being carried out.

o) The successful contractor shall solicit bids for work to be performed on this project under a subcontract from minority and female contractors and other business associations.

3.) Nothing herein is intended to relieve any contractor during the term of this project from compliance with any other local bid requirements. Further, it shall be the responsibility of each contractor to comply with all terms, conditions, and provisions of the Affirmative Action Programs.
Part II: Contractor's Certification. A contractor will not be eligible for award of a contract under this Invitation to Bid, unless such contractor has submitted as a part of the bid the following certification, which will be deemed a part of the resulting contract:

CONTRACTOR'S CERTIFICATION

Peterson Construction Company (Contractor) certifies that:

1. The following listed construction trades will be used in performance of this project.

   Carpenters

   Laborers

   ...

   ...

   ...

   a) as to those trades set forth in the preceding paragraph one hereof, it adopts the minimum minority and female utilization goals and the specific Affirmative Action steps contained in this Affirmative Action Program. Compliance is measured in each trade of the contractor's aggregate work force for all construction work (both federal and non-federal) in the four Counties (Greene, Miami, Montgomery and Preble) subject to this Affirmative Action Program; and

   b) the successful contractor will obtain from each subcontractor and submit to the contracting or administering agency prior to the award of any subcontract under this contract, the subcontractor certification required by the Affirmative Action Program.

SIGN:  

(Signature of Authorized Representative of Bidder)

FAILURE TO SIGN AND SUBMIT THIS DOCUMENT WITH YOUR BID WILL RESULT IN YOUR BID NOT BEING READ
PEP-CERTIFIED

(SELECT ONE) PARTICIPATION FORM

Instructions for Bidders / Proposers: Submit one executed copy of this form for each Procurement Enhancement Plan (PEP)-Certified Firm whose participation you plan to count toward the project/contract's participation goal(s). This form must be included with your Bid. To split a PEP-Certified Firm’s participation among more than one goal, submit a separate form for each goal (i.e., SBE, MBE, WBE, or DLSE).

SECTION 1: BIDDER / PROPOSER INFORMATION

Name of Bidder / Proposer's Firm: Peterson Construction Company

Address: 18817 SR 501 North

City: Wapakoneta State: OH ZIP: 45895

Telephone: (419) 941-2233 Email: rknape@petersonconstructionco.com

Primes Base Bid $152,229.00

Name of Project: Centrate Force Main

SECTION 2: PEP-CERTIFIED BUSINESS & PARTICIPATION INFORMATION

Name of PEP-Certified Firm: Mad River Construction

PEP-Certified Firm's Tax ID#: 20-8201848

Scope of Work to Be Performed by Certified Firm: General Construction, Pipe & Valves

<table>
<thead>
<tr>
<th>Total Dollar Amount Towards Goal</th>
<th>Percentage Towards Goal</th>
<th>Amount to Be Paid to This PEP Firm for the Work Described</th>
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<tr>
<td>Labor</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
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</tbody>
</table>

SECTION 3: AFFIRMATIONS

The above-named Bidder / Proposer affirms, under penalty of perjury, that it has negotiated in good faith with the above-named PEP-Certified Firm and will utilize the above-named PEP-Certified Firm for the type(s) of work and for the dollar amount(s) described above.

(Signature of Bidder/Proposer's Authorized Agent)

Robert K. Knapke
(Printed Name of Bidder/Proposer's Authorized Agent)

Vice President 08/06/20
(Title of Bidder/Proposer's Authorized Agent)

IF THE BIDDER/OFFEROR IS NOT AWARDED A CONTRACT, OR IF THE HRC DOES NOT APPROVE OF THE TERMS AS STATED ABOVE, THEN ANY AND ALL REPRESENTATIONS ON THIS PARTICIPATION FORM SHALL BE NULL AND VOID.
PEP PARTICIPATION COMMITMENT AND/OR WAIVER REQUEST FORM

Instructions for Bidders/Proposers: Submit one (1) executed copy of this form with your Bid/Proposal.

- If Option 1 is selected, you must also submit one (1) executed PEP-Certified SBE/MBE/WBE/DLSB Participation Form for each PEP-Certified Firm whose participation you plan to count toward the project/contract’s participation goal(s).
- If Option 2 (WAIVER REQUEST) is selected, you must also submit documentation of your Good Faith Efforts to the City of Dayton Human Relations Council (HRC) within two (2) business days of the Bid Opening / Proposal Due Date. Bidders/Proposers will receive no further reminders about this deadline.

The undersigned affirms that the Bidder/Proposer has satisfied the requirements of the Bid/RFP Specification in the following manner: (Check the box for Option 1 and/or Option 2, complete the appropriate spaces, and sign below.)

☐ Option 1. The Bidder/Proposer has secured enough commitment(s) from one or more PEP-Certified Firms to meet or exceed the project’s PEP participation goal(s). The Bidder/Proposer is committed to a minimum of:

<table>
<thead>
<tr>
<th>10% SBE</th>
<th>% MBE</th>
<th>% WBE</th>
<th>% DLSB</th>
</tr>
</thead>
</table>

participation on this contract, as detailed on the executed PEP-Certified SBE/MBE/WBE/DLSB Participation Form(s) submitted with this Bid/Proposal.

☐ Option 2 (WAIVER REQUEST). The Bidder/Proposer is unable to meet the project’s PEP participation goal(s) and requests that the following goal(s) be waived: (Check all that apply.)

☐ SBE  ☐ MBE  ☐ WBE  ☐ DLSB

The Bidder/Proposer’s documentation of Good Faith Efforts to meet the participation goal(s) checked above must be submitted to the HRC within two (2) business days of the Bid Opening / Proposal Due Date. The Bidder/Proposer will receive no further reminders about this deadline.

A waiver will be granted based on a Bidder/Proposer’s documented Good Faith Efforts, and only when the HRC determines that the Bidder/Proposer has completed all of the following activities:

1. Solicited the interest of all PEP-Certified Firms having the capability to perform the work of the contract. The Bidder/Proposer must solicit this interest at least ten (10) business days before the Bid Opening / Proposal Due Date in order to allow the PEP-Certified Firm sufficient time to respond to the solicitation. Electronic communication will not be deemed as sufficient Good Faith Efforts, if it is the sole method of communication used.
2. Divided contract work items into economically feasible units to facilitate PEP participation, even when the Bidder/Proposer might otherwise prefer to perform these work items with its own forces.
3. Negotiated in good faith with PEP-Certified Firms, and considered the firms’ prices and capabilities as well as the contract goals. Rejected PEP-Certified Firms as being unqualified only for reasons based on a diligent investigation of their capabilities. The Bidder/Proposer’s standing within its industry; membership in specific groups, organizations, or associations; and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes to reject or not solicit bids from particular PEP-Certified Firms.
4. Provided interested PEP-Certified Firms with plans and specifications at no cost, or directed them to the Greater Dayton Minority Business Assistance Center (Dayton MBAC) for information about the project’s plans, specifications, and requirements at least ten (10) business days prior to the Bid Opening / Proposal Due Date in order to assist them in responding to a solicitation.
5. Sought the Dayton MBAC’s assistance or used the services of community organizations; contractors’ groups; local, state or federal business assistance offices; or similar organizations to find PEP-Certified Firms. Contacting the HRC for a list of certified companies will not be deemed as sufficient Good Faith Efforts.

NOTE: In determining whether a Bidder/Proposer has made Good Faith Efforts, the HRC may take into account the performance of other Bidders/Proposers in meeting the goal(s). For example, when the apparent low bidder fails to meet a participation goal but others meet it, the HRC may reasonably raise the question of whether, with additional reasonable efforts, the apparent low bidder could have met the goal.

Signature of Bidder/Offeree’s Authorized Agent: ____________________________

Name of Bidder/Proposer’s Firm: Peterson Construction Company

Printed Name of Bidder/Offeree’s Authorized Agent: Robert K. Knapke

Vice President: 08/06/2020

Title of Bidder/Offeree’s Authorized Agent: ____________________________

(Date)
The Department of Economic Development is requesting approval of a First Amendment to a Loan Agreement executed with Dayton Montgomery County Port Authority in 2018. The Agreement was for design and construction costs associated with Levitt Pavilion Dayton. This First Amendment to a Loan Agreement will be effective upon execution and will expire on December 31, 2031.

The Amendment adds the Friends of Levitt as a party to the agreement, restructures the terms of the Agreement, forgives a portion of the debt and establishes a 10-year amortization schedule for payments to the City. These include principal in the amount of $406,982.00 and interest in the amount of $8,092.00 for a total of $415,078.00. The first payment to the City in the amount of $267,047.00 is due upon execution of the Amendment. The remaining payments are due annually in years 2021 through 2031.

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

A Certificate of Revenue is attached.
CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

Customer Information: Name  Dayton Montgomery County Port Authority
Address  8 N. Main Street
City  Dayton State  Ohio Zip+4  45405 -
Customer #  311718326 Address Location #
Federal ID#  31-1718326

Revenue Information: Fund  16300 Orgn  2600 Rev  29601 Prog  41

Contract Information: Contract Start Date  Upon execution Contract Expiration Date  12-31-2031

Billing Information: Rate:  Arrears  Pre-bill
Monthly (1st month of billing)
Quarterly (1st month of quarter)
Semi-annual (1st month of half)
Annual (1st month of billing)  March 1, due by March 31
Other (explain)
Rate Change Date  N/A Rate Change Amount  N/A

Description of Services (wording on invoice): Exhibit A of Agreement includes the Payment Schedule

Departmental Approval  [Signature]

TO BE COMPLETED BY FINANCE

City Reference Number  7-83260 Auditor  Intern Date  8/30/2020

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

Director of Finance  [Signature]

(Rev 4/30/2008)
August 27, 2020

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

    LaShea Lofton, Director
    Finance Department

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

SUBJECT: Request for Certificate of Revenue – Montgomery County Port Authority

Attached please find a City Manager’s Report and Certificate of Revenue for a First Amendment to the Loan Agreement with the Montgomery County Port Authority. The City entered into the Agreement in 2018 as part of the design and construction of the Levitt Pavilion.

The Amendment will provide revenue to the City immediately upon execution. As such, the Department of Economic Development finds it appropriate to enter into the Amendment at this time.

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

FPW/cjl
AMENDMENT TO LOAN AGREEMENT

THIS AMENDMENT TO LOAN AGREEMENT ("Amendment") is made and entered into between Dayton-Montgomery County Port Authority, a port authority and a body both corporate and politic, organized pursuant to the Ohio Revised Code ("Port Authority"), Friends of Levitt Dayton ("Friends of Levitt"), and the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio, ("City").

WITNESSETH THAT:

WHEREAS, the City, Friends of Levitt, The Mimi and Mortimer Levitt Foundation, and the Port Authority (the "Parties") worked together to design, construct, and operate the Levitt Pavilion in the City of Dayton;

WHEREAS, the City contracted for and paid certain costs associated with the design and site preparation of the Levitt Pavilion, and the Port Authority and the City came to an agreement by which the Port Authority would reimburse such expenditures;

WHEREAS, the City and the Port Authority memorialized that agreement in a Loan Agreement, dated December 12, 2018, ("Agreement");

WHEREAS, the City and Port Authority have agreed to restructure the terms of the loan under the Agreement including the City’s willingness to forgive One Hundred Thirty Thousand Sixteen Dollars ($130,016) of the current outstanding balance;

WHEREAS, the Friends of Levitt shall be responsible for facilitating the reimbursement repayments and it has agreed to join this Amendment to effectuate that payment;

WHEREAS, the Parties desire to modify the Original Agreement as necessary to provide for reimbursement of the City; and,

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the City, Friends of Levitt, and the Port Authority agree to amend the Agreement as follows:

Section 1. The City and the Port Authority approve and the Friends of Levitt agree to join as a party to the Agreement and this Amendment. The Agreement, as amended herein, delineates the responsibilities and obligations imposed on the City, Port Authority, and Friends of Levitt.

Section 2. The Port Authority is hereby waiving its right to collect payment from the City in the amount of Fifty-Three Thousand Thirteen Dollars and Ninety-Eight Cents ($53,013.98) from an outstanding invoice owed due to legal fees and construction costs of the Levitt Pavilion. The invoiced amount has been applied as a credit to the repayment amount.

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

ARTICLE 1. REPAYMENT.

The Friends of Levitt shall pay an amount of Four Hundred Six Thousand Nine Hundred Eighty-Six Dollars ($406,986) ("Reimbursement") to the Port Authority. The City is under no obligation
to provide or loan the Port Authority or Friends of Levitt any additional funding under this Agreement.

The payments shall be made annually during the first quarter of each calendar year. The Reimbursement payments shall be made in accordance with the Payment Schedule attached as Exhibit A. The Port Authority shall promptly notify the City when it receives a payment from the Friends of Levitt. The Port Authority shall forward each payment made to it by the Friends of Levitt to the City as soon as is practical after it is received.

The City and the Friends of Levitt agree that the Port Authority owes nothing to the City under this Agreement, except any funds paid to it by the Friends of Levitt. The City and the Friends of Levitt further agree that the Port Authority shall be under no obligation to pursue the Friends of Levitt for lack of payment.

The parties agree that there shall be no penalty assessed if the Friends of Levitt pre-pay any of the amounts due under this Agreement.

The Port Authority and Friends of Levitt each affirm and certify that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

Section 4. Article 3A., Term, is hereby deleted in its entirety and replaced with the following:

ARTICLE 3. TERM AND TERMINATION

A. Term. This Agreement shall commence upon execution by City and it shall expire on December 31, 2031, or the date which the Loan is repaid in full, whichever shall occur last in time, unless extended to a later date by amendment or earlier terminated.

Section 5. Article 9, General Provisions, is hereby deleted in its entirety and replaced with the following:

ARTICLE 9. GENERAL PROVISIONS.

A. Conflict of Interest. The Port Authority and Friends of Levitt each covenant that it has no interest and shall not acquire any interest, direct or indirect, that would cause conflict in any manner or degree with the performance of this Agreement or completion of the Project.

B. Entire Understanding. This Agreement represents the entire and integrated agreement between the parties. This Agreement is intended only to provide for reimbursement and does not affect any of the other terms of the original 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 the City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect the City’s rights with respect to any other or further breach.

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 Reimbursement or any activities to be completed by the Port Authority or Friends of Levitt.

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:  
Ford P. Weber  
Department of Economic Development  
City of Dayton  
P.O. Box 22, 101 West Third Street  
Dayton, OH 45401

For Port Authority:  
Joseph M. Geraghty  
Executive Director  
8 North Main Street  
Dayton, OH 45402  
Email: joe@daytonport.com

For Friend of Levitt  
Lisa Wagner  
Executive Director  
134 S. Main Street  
Dayton, OH 45402  
Email: lisa@levittdayton.org

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.

Section 6. Except as amended herein, all other provisions of the Agreement, as now amended, remain in full force and effect and remain unchanged.

[Signature Pages to Follow]
IN WITNESS WHEREOF, the City, the Port Authority, and Friend of Levitt each by a duly authorized representative, have executed this Amendment as of the date set forth below.

CITY OF DAYTON, OHIO

City Manager

Date

DAYTON-MONTGOMERY COUNTY PORT AUTHORITY

By: [Signature]

Its: [Signature]

FRIENDS OF LEVITT DAYTON

By: Lisa Wagner

Its: Executive Director

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

_________________________, 2020

Min. / Bk. _____  Pg. _____

Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:

7/31/2020

[Signature]

Amelia N. Blankenship

City Attorney
Signed by: Blankenship, Amelia
### Exhibit A
Payment Schedule

<table>
<thead>
<tr>
<th>Loan Components</th>
<th>Amount</th>
<th>Notes:</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Design Costs</td>
<td>460,000</td>
<td>City-incurred Design Costs</td>
</tr>
</tbody>
</table>
| Other Related Costs     | 65,152  | Engineering, preparation of site, plans and bid postage  
|                         |         | Paid by City to the Port on 2.21.19 for permit and project management fees |
| Drawn on original Loan  | 11,850  |                                       |
| Total Costs Outstanding | $ 537,002 |                                      |
| Amount Forgiven by the City | $ 130,016 | Amount due to the City               |
| Amount to be Amortized  | $ 406,986 |                                      |
| Interest Rate           | 2.00%   |                                       |

#### 10-Year Amortization

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<tr>
<th>Payment Schedule</th>
<th>Beg Balance</th>
<th>Payment Amt.</th>
<th>Principal</th>
<th>Interest</th>
<th>Outstanding Balance Due</th>
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$ (415,078) $ (406,986) $ (8,092)
Loan Agreement

The Department of Economic Development is requesting approval of a Loan Agreement with Dayton Montgomery County Port Authority for design and construction costs associated with Levitt Pavilion Dayton. This includes all additional work as required in the Levitt Pavilion site design, the Levitt Tri-Party Agreement, and as directed and approved by the City. Funds associated with this Loan will be used to pay for costs incurred from September 1, 2016 through the term of the Loan Agreement. The loan will be repaid to the City as funds become available by December 31, 2020.

The Loan Agreement will be effective upon execution and will expire on December 31, 2020.

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

A Certificate of Funds is attached.
**CERTIFICATE OF FUNDS CT18-2098**

**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>
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<td>upon execution</td>
<td>Required Documentation</td>
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<tr>
<td>Expiration Date</td>
<td>12/31/20</td>
<td>x Initial City Manager's Report</td>
</tr>
<tr>
<td>Original Commission Approval</td>
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<td>x Initial Certificate of Funds</td>
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<td>Initial Encumbrance</td>
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<td>x Initial Agreement/Contract</td>
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<td>$ -</td>
<td>Copy of City Manager's Report</td>
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<td>Original CT/CF</td>
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<td>Copy of Original Certificate of Funds</td>
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<td>Increase Encumbrance</td>
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<td>Decrease Encumbrance</td>
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<td>Remaining Commission Approval</td>
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<td>Fund Org Acct Prog Act Loc</td>
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**Attach additional pages for more FOAPALS**

- **Vendor Name:** Dayton Montgomery County Port Authority
- **Vendor Address:** 8 North Main Street, Dayton, Ohio, 45402
- **Federal ID:** 31-1718326
- **Commodity Code:** 93297
- **Purpose:** Cover cost associated with capital improvements for Levitt Pavilion.

<table>
<thead>
<tr>
<th>Contact Person:</th>
<th>Jill Bramini</th>
<th>Economic Development</th>
<th>Date: 9/25/2018</th>
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<tbody>
<tr>
<td>Originating Department Director's Signature:</td>
<td></td>
<td></td>
<td>Ford P. Weber</td>
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</table>

**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:**

<table>
<thead>
<tr>
<th>CF Prepared by</th>
<th>Aaron T. Stonenberg</th>
<th>Date: 9-26-18</th>
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<tr>
<td>Date: 9-26-2018</td>
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Finance Department

October 18, 2011
LOAN AGREEMENT

This Loan AGREEMENT ("Agreement") is made and entered into between the Dayton-Montgomery County Port Authority, a port authority and a body both corporate and politic, organized pursuant to the Ohio Revised Code (the "Port Authority") and the City of Dayton, a municipal corporation in and of the State of Ohio, ("City").

WITNESSETH THAT:

WHEREAS, The City, Friends of Levitt Dayton, The Mimi and Mortimer Levitt Foundation and the Port Authority have undertaken the design and construction of the Levitt Pavilion; and,

WHEREAS, The City and Port Authority agree that short term funding to cover the costs associated with capital improvements is necessary to finalize the Levitt Pavilion; and,

WHEREAS, The City believes that providing financial support to cover the costs associated with the capital improvements under the terms and conditions set forth herein is in the best interest of the City.

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

ARTICLE 1. FUNDING.
A. Amount: City will provide Port Authority a Loan of Six Hundred Seventy-Four Thousand Eight Hundred Twenty-One Dollars and Zero Cents ($674,821.00) for design and construction costs associated with Levitt Pavilion.

B. Disbursement: Port Authority will invoice City for design and construction costs associated with Levitt Pavilion Dayton. Invoices may be submitted upon execution of the agreement. All invoices shall state the invoice period, state the total amount requested, detail the work and/or services performed, and contain such records, information, and/or documentation to substantiate the invoice amount. Unless disputed, City will disburse payment within thirty (30) days from receipt of the invoice.

C. Repayment: The Port Authority shall make repayment to the City as funds become available.

D. Interest Rate: Zero Percent (0%).

ARTICLE 2. SPECIFIC CONDITIONS.
A. The Loan shall be used to pay for Levitt Pavilion Dayton design and construction costs incurred from September 1, 2016 throughout the term of this Loan Agreement including all additional work as required in the Levitt Pavilion Dayton site design, the Levitt Tri-Party Agreement, and as directed and approved by the City.
B. Port Authority 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. Port Authority 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 to the extent permitted by law, shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

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

D. Port Authority 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.

ARTICLE 3. TERM AND TERMINATION.

A. Term. This Agreement shall commence upon execution by City and it shall expire on December 31, 2020, or the date which the Loan is repaid in full, whichever shall occur last in time, unless extended to a later date by amendment or earlier terminated.

B. Termination. This Agreement may be immediately terminated in the event of or under any of the following circumstances:
   1. A receiver for Port Authority assets is appointed by a court of competent jurisdiction.
   2. Port Authority is divested of its rights, powers, and privileges under this Agreement by operation of law.
   3. Port Authority failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Port Authority to remedy such failure within thirty (30) days from the date of written notice from City.
   4. Port Authority 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 the City hereunder and upon giving thirty (30) days prior written notice, Port Authority desires to terminate this Agreement.

In the event of termination and if City provided any funds to Port Authority hereunder, Port Authority shall repay to City within three (3) business days from the effective date of termination all funds which Port Authority has not yet expended and, upon such repayment, Port Authority shall be released from its obligations hereunder. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.
ARTICLE 4. INDEMNIFICATION.
To the extent permitted by law, the Port Authority 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 Port Authority, and its agents, employees, contractors, sub-contractors, and representatives in undertaking and completing the Project, and/or Port Authority failure to comply with federal, state, and local laws, including (as applicable) those relating to the payment of prevailing wages.

ARTICLE 5. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.
Port Authority 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 6. POLITICAL CONTRIBUTIONS.
Port Authority affirms and certifies that it complies with Ohio Revised Code 3517.13 limiting political contributions.

ARTICLE 7. RECORDS AND RETENTION.
Port Authority 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 Port Authority 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, Port Authority 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. Port Authority 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 Port Authority and made available for review by the 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, Port Authority 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 8. TAX REPRESENTATION.

Port Authority 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 Port Authority is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code or, if such delinquent taxes are owed, Port Authority currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, or Port Authority filed a petition in bankruptcy under 11 U.S. C. Section 101. Et seq., or such a petition has been filed against Port Authority. For 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 9. GENERAL PROVISIONS.

A. Conflict of Interest. Port Authority covenants that it has no interest and shall not acquire any interest, direct or indirect, that would cause conflict in any manner or degree with the performance of this Agreement or completion of Project.

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 Port Authority.

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 U.S. certified mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

To the City:  
Office of Economic Development  
City of Dayton  
P.O. Box 22, 101 W. Third Street  
Dayton, OH 45401

To the Port Authority:  
Dayton-Montgomery County Port Authority  
Attn: Jerome J. Brunswick  
Executive Director  
8 North Main Street  
Dayton, Ohio 45402  
Email: jerry@daytonport.com

With a copy to:  
Bradley W. Evers  
Dinsmore & Shohl LLP  
One South Main Street  
Suite 1300  
Dayton, Ohio 45402  
Telephone: (937) 449-2829  
Fax: (937) 449-2821  
E-mail: bevers@dinsmore.com

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.

[Remainder of this Page Intentionally Left Blank.]
IN WITNESS WHEREOF, City and Port Authority, each by a duly authorized representative, have executed this Agreement as of the date set forth below.

DAYTON-MONTGOMERY COUNTY PORT AUTHORITY

By: 
Jerome J. Brunswick, President and Executive Director

CITY OF DAYTON, OHIO

City Manager

Date 12-12-18

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney

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

October 3, 2018
Min. / Bk. I-15 Pg. 1874

Clerk of Commission
By ......................................................... No .........................................................

A RESOLUTION

Authorizing the Purchase of Equipment and the Subsequent Reimbursement for the costs incurred by the Federal Bureau of Investigation Agency to the City of Dayton and Declaring an Emergency.

WHEREAS, The United States Department of Justice, Federal Bureau of Investigation (FBI), operates the Safe Streets Taskforce; and

WHEREAS, The City of Dayton Police Department participates on the Safe Streets Task Force; and

WHEREAS, FBI Safe Streets Taskforce has agreed to reimburse the Dayton Police Department for the purchase of equipment to be utilized by the Taskforce Officers, subject to the City’s purchase of such equipment; and

WHEREAS, To provide for the timely acceptance and transfer of the funds and for the immediate preservation of the public peace, property, health and safety, it is necessary 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 the City Manager is authorized to accept the reimbursement funds of $20,652.92 on behalf of the City of Dayton and is directed to execute any and all documents and agreements on behalf of the City of Dayton which are necessary to purchase the equipment for use by the Taskforce.

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

ADOPTED BY THE COMMISSION .................. 2020

SIGNED BY THE MAYOR ...................... 2020

MAYOR OF THE CITY OF DAYTON, OHIO

ATTEST:

____________________
Clerk of Commission

APPROVED AS TO FORM:

____________________
City Attorney
August 19, 2020

TO: Shelley Dickstein  
City Manager’s Office

FROM: Richard S. Biel  
Chief of Police

SUBJECT: Emergency Resolution to accept reimbursement

Attached is an emergency resolution to accept revenue reimbursement for specific radios to be utilized by Dayton Police Department Southern Ohio Safe Street Task Force Officers (SOSSTF). This resolution will reimburse the City up to $20,652.92 for four (4) APX 6000 Motorola radios compatible with current field operations.

Please place this before Commission at the next available meeting, September 2, 2020. If questions arise please contact our Fiscal Office or Major Brian Johns with any questions.

Attachment: 2 original emergency resolutions, SOSSTF letter

RSB/mb

cc: Major Saunders
In Reply, Please Refer to
File No.

2012 Ronald Reagan Dr.
Cincinnati, Ohio 45236
513-421-4310
June 22, 2020

Chief Richard Biehl
Dayton Police Department
335 W. Third Street
Dayton, Ohio 45402

RE: Purchase and reimbursement of Motorola APX 6000 radios

Chief Biehl:

This letter serves to inform the Dayton Police Department that the Cincinnati Division of the FBI has allocated $20,652.92 for reimbursement to the Dayton Police Department for the purchase of Motorola APX 6000 radios that will be used by Task Force Officers assigned to the FBI Dayton Safe Streets Task Force. The radios will be Dayton Police Department property and will be utilized by the Dayton Safe Streets Task Force.

The $20,652.92 needs to be spent by the end of the fiscal year which is September 30, 2020. Cincinnati Division will need an invoice and receipt in order to process the reimbursement. If you have any questions please don’t hesitate to reach out to me.

Sincerely,

David A. Knight
Supervisory Special Agent
FBI Dayton
BY: ..........................  NO ..........................

A RESOLUTION

Declaring the Intention of the Commission to Vacate Cooper Street from Meigs Street to the East Property Line of City Lot #2913.

WHEREAS, The vacation of Cooper Street from Meigs Street to the east property line of City Lot #2913 as described herein will enable the abutting property owners to safeguard this property; and,

WHEREAS, The City Plan Board has recommended the vacation; now, therefore,

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

Section 1. That the intention of the Commission is hereby declared to vacate Cooper Street from Meigs Street to the east property line of City Lot #2913 being more particularly bounded and described in as follows:

Being all of the 49.5 foot the Cooper Street from the 50 foot Meigs Street to the east property line of City Lot #2913.

Section 2. The vacation shall be subject to the following conditions:

A. The abutting property owners shall follow City of Dayton code requirements if they are to use the vacated right-of-way to provide extra parking for their facilities.

Adopted by the Commission .........................., 2020

Signed by the Mayor .........................., 2020

Mayor, City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
August 17, 2020

TO: Shelley Dickstein
    City Manager

FROM: Joseph Weinel, Chief Engineer
      Division of Civil Engineering

SUBJECT: The Vacation of Cooper Street from Meigs Street to the East Property Line of City Lot #2913

Attached is the Resolution of Intent, the check of petition to vacate the subject alley, a letter from the City Plan Board recommending the vacation, and the original petition. Please present the resolution to the City Commission for their action.

Petition No. 21486 requesting the vacation was received from Lindhorst & Dreidame on August 14, 2020. The vacation will enable the abutting property owner to safeguard this property.

If you have any additional questions, please contact me at 4218.

JRW

Attachments

cc: Mr. Parlette
    Ms. Lofton
    Department of Planning
    Department of Law
    Clerk of Commission
    Secretary / Board of Revision of Assessments
Cooper Street from Meigs Street to the East Property Line of City
Lot #2913

Checked 8/17/20 by Joseph Weinel

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July 16, 2020

Mr. Donald Austin
2333 Schebly Road
Spring Valley, OH 45370

Re: PLN2020-00238 – Public Way Vacation: Cooper Street from Meigs Street to the East Property Line of City Lot #2913

Decision: Established Conditions

Meeting Date: July 14, 2020

The City Plan Board found the proposed vacation (attached) met the criteria cited in R.C.G.O. Section 150.445(B) and therefore established the following condition:

1. Establish a 14-feet access easement centered on Cooper Street so that all properties within the vacated area can access the rear area.

In order to complete the vacation of this right-of-way, you must pursue the vacation request through the petition process, or process the request through Common Pleas Court. Either method of pursuing the vacation requested can take a minimum of three to four months to complete.

Please contact Abigail Free at 937-333-3635 or abigail.free@daytonohio.gov if you have any questions.

Sincerely,

[Signature]
Ann Schenking, Secretary
City Plan Board

c: Decision Memorandum Distribution List
OFFICE OF CLERK OF COMMISSION

Date August 14, 2020

To the City Manager:

At a meeting of the City Commission held on August 12, 2020, the following matter was referred to you for appropriate disposal or for specific action as indicated:

Petition No. 21486 - street vacation - Cooper Street from Meigs Street to East Property Line of City Lot #2913.

Lindhorst & Dreidame
312 Walnut Street, Suite 3100
Cincinnati, OH 45202-4048

Documents attached:

Petition No. 21486

PLEASE RETURN TO THIS OFFICE

OFFICE OF THE CITY MANAGER

To ____________________________ Date ____________________________

Please note above which is re-referred for action as indicated below:

1. To comply.
2. To investigate and report with recommendation.
3. To dispose, no report necessary.
4. ____________________________

RETURN ALL DOCUMENTS
(4 Copies—City Manager’s File, 1; Department Head, 1; Division Head, 1; City Clerk, 1)
July 16, 2020

Mr. Donald Austin
2333 Schebly Road
Spring Valley, OH  45370

Re: PLN2020-00238 – Public Way Vacation: Cooper Street from Meigs Street to the East Property Line of City Lot #2913

Meeting Date: July 14, 2020  Decision: Established Conditions

The City Plan Board found the proposed vacation (attached) met the criteria cited in R.C.G.O. Section 150.445(B) and therefore established the following condition:

1. Establish a 14-feet access easement centered on Cooper Street so that all properties within the vacated area can access the rear area.

In order to complete the vacation of this right-of-way, you must pursue the vacation request through the petition process, or process the request through Common Pleas Court. Either method of pursuing the vacation requested can take a minimum of three to four months to complete.

Please contact Abigail Free at 937-333-3635 or abigail.free@daytonohio.gov if you have any questions.

Sincerely,

Ann Schenking, Secretary
City Plan Board

c: Decision Memorandum Distribution List
VACATION: COOPER STREET FROM MEIGS STREET TO EAST PROPERTY LINE OF CITY LOT #2913
June 20, 2020

VIA OVERNIGHT DELIVERY
Commission of the City of Dayton
101 West Third Street
Dayton, OH 45402

RE: Petition for Vacation – Cooper Street

Dear Sir/Madam:

Our office represents Roth Investments, LLC, who owns property adjacent to an alleyway along Cooper Street. Accompanying this correspondence, please find a petition for vacation of Cooper Street from Meigs Street to the East Property Line of City Lot #2913. The petition has been signed by all of the necessary adjacent property owners. Also enclosed is a check in the amount of $150.00 made payable to the City of Dayton in satisfaction of the associated fees. If you have any questions, please call me directly at (513) 265-7982.

Sincerely,

LINDHORST & DREIDAME CO., LPA

/s/ Christopher H. Hurlburt
Christopher H. Hurlburt

CHH:amd
Enclosures
Petition for Vacation

To the Commission of the City of Dayton:

We, the undersigned, owners of property abutting on

Cooper Street

do hereby petition the Commission of the City of Dayton to vacate

Cooper Street ................................................................. from

Meigs Street ................................................................. to

East Property Line of City Lot #2913

and

each petitioner for himself, his heirs and assigns hereby waives any and all claims for damages, costs and expenses which he may have at any time against the City of Dayton, Ohio, or any of its officers or employees on account of, caused by, growing out of, or incident to the vacation aforesaid made pursuant to this petition; and each signer hereof does hereby consent to and accept such vacation, after having carefully read and fully understood the language, purport and conditions hereof.

1. NAME OF OWNER: Roth Investments, LLC
   TITLE: Margaret Ann Sullivan, Managing Member
   SIGNATURE: [Signature]
   MAIL ADDRESS: 752 Cedar Point Drive
   LOT NUMBER: 3735 thru 3740 pts Parcel 7
   Cincinnati, Ohio 45230
   8-8-27 to 32, 34 thru 39

2. NAME OF OWNER: Kids Realty Inc.
   TITLE: [Title]
   SIGNATURE: [Signature]
   MAIL ADDRESS: 1099 Ventura Drive
   LOT NUMBER: 2912, 2913, 2914, 2915
   Wilmington, OH 45177
   8-8-10 thru 12

3. NAME OF OWNER: Westward Success, LLC
   TITLE: [Title]
   SIGNATURE: [Signature]
   MAIL ADDRESS: P.O. Box 41490
   LOT NUMBER: 2916, 2917, 2918
   Dayton, Ohio 45441
   8-8-8 thru 17

4. NAME OF OWNER: [Signature]
   SIGNATURE: [Signature]
   MAIL ADDRESS: [Address]
   LOT NUMBER: [Number]
PAY IN ORDER

Department/Division: City Commission Office
Pay in No.: 01-12

Total Pay In Amount: 150.00
Date: August 14, 2020

From/Purpose: Street Vacation
Amount(s): 150.00

Petition – Street Vacation – Cooper Street from Meigs Street to East Property Line of City Lot #2913
Lindhorst & Dreidame
312 Walnut Street, Suite 3100
Cincinnati, OH 45202-4048

Account Distribution(s)  Amount(s)
10000-1200-29324-52  150.00

Preparer’s Signature:

FOR FINANCE USE ONLY:
Original signature
Must be on PINK copy
Per: Accounting & Treasury Manager

WHITE: Finance Dept. Copy
Yellow: Department Receipt
PINK: City Treasury Copy
GOLD: Preparer’s Record
PAY
TO THE
ORDER OF

City of Dayton

ONE HUNDRED AND FIFTY AND 00/100 DOLLARS

City of Dayton

DATE
06/20/2020

$ **150.00

DOLLARS

MEMO

"051146" 604 2000 550: 90196510"
July 31, 2020

TO: Members of the City Commission

FROM: Greg Scott, President
City Plan Board

SUBJECT: Transmittal of Report for City Plan Board Case PLN2020-00142
Rezone 12.531 +/- acres at Old Troy Pike and Needmore Road from SR-2 Suburban Single-Family Residential to SMF Suburban Multi-Family for a Proposed Future Multi-Family Development.

Applicant: Mr. Greg Smith
Oberer Companies
3445 Newmark Drive
Dayton, OH 45432

Description: Rezone 12.531 +/- acres located on Needmore Road near Old Troy Pike from SR-2 Suburban Single-Family Residential to SMF Suburban Multi-Family for a proposed future multi-family development. The Parcel Identification Numbers that comprise this case are: R722 17304 0011 and R722 17304 0017.

Board Action: Date: July 14, 2020 Decision: Recommended Approval

Attachments: 1. Plan Board Minute Record
2. Plan Board Case Report
3. Correspondence Received
4. Copy of Ordinance

If you have any questions, please contact Tony Kroeger at 3673.

GS/ams

c: Ms. Dickstein, Mr. Parlette, Ms. Lofton, Mr. Kinskey, Mr. Kroeger, Ms. Lumpkin
MEMORANDUM

July 27, 2020

TO: Rashella Lavender, Clerk of Commission
   Office of the City Commission

FROM: Ann Schenking, Secretary
       City Plan Board

SUBJECT: Advertise Public Hearing for City Plan Board Case PLN2020-00142
Rezone 12.531 +/- acres at Old Troy Pike and Needmore Road from SR-2
Suburban Single-Family Residential to SMF Suburban Multi-Family for a
Proposed Future Multi-Family Development.

Applicant: Mr. Greg Smith
           Oberer Companies
           3445 Newmark Drive
           Dayton, OH  45432

Description: Rezone 12.531 +/- acres located on Needmore Road near Old Troy Pike from SR-2
Suburban Single-Family Residential to SMF Suburban Multi-Family for a
proposed future multi-family development. The Parcel Identification Numbers
that comprise this case are: R722 17304 0011 and R722 17304 0017.

Board Action: Date: July 14, 2020  Decision: Recommended Approval

Request: The Clerk is authorized by the R.C.G.O. to set the public hearing and provide the
appropriate notice. It is requested that the Public Hearing is scheduled for
Wednesday, September 2, 2020 at 6:00 P.M.

Advertising: Advertise Public Hearing on Friday, July 31, 2020
Advertise in a newspaper of general circulation and mail a notice to mailing list
when the notice is published.

Attachments: Legal Notice
             Mailing List

If you have any questions, please contact me at ext. 3699. Thank you.

c: Case File, w/ attachment
Legal Notice

Notice is hereby given that the Dayton City Commission will hold a Public Hearing on Wednesday, September 2, 2020 at 6:00 P.M., or as soon thereafter as the hearing can begin. The hearing will be held in the City Commission Chambers on the Second Floor of City Hall, 101 West Third Street, Dayton, Ohio. However, if certain Covid-19 restrictions remain in place on September 2, the hearing will be held remotely by electronic means. The City of Dayton will make a determination regarding whether the hearing will be held remotely no later than September 1, 2020 and the decision will be posted on the City of Dayton website at [www.daytonohio.gov](http://www.daytonohio.gov). If you wish to attend, listen to, or speak at the hearing, please contact Jennifer Lumpkin in the Department of Planning and Community Development at 937-333-2005 or jennifer.lumpkin@daytonohio.gov by 3:00 P.M. on September 1, 2020 for information on how to do so.

The subject of the hearing is the following:

Official Zoning Map Amendment

Rezone 12.531 +/- acres located on Needmore Road near Old Troy Pike from SR-2 Suburban Single-Family Residential to SMF Suburban Multi-Family for a proposed future multi-family development. The Parcel Identification Numbers that comprise this case are: R722 17304 0011 and R722 17304 0017.

The proposed Official Zoning Map Amendment is available for public inspection in the Office of the City Commission and with the Secretary to the City Plan Board. Please direct inquiries on this subject to Jennifer Lumpkin, contact information above.

By order of the City Commission of the City of Dayton, Ohio.

RASHELLA LAVENDER, CLERK
OFFICE OF THE CITY COMMISSION

Applicant: Mr. Greg Smith
Oberer Companies
3445 Newmark Drive
Dayton, OH 45432

Priority Land Use Board: Northeast Planning District: Kittyhawk
Decision: Recommended Approval

Staff Comments
Jen Lumpkin presented the case. She said staff believed the determinations and findings could be made and recommended approval.

The proposed zoning map amendment for 12.531 acres at Old Troy Pike and Needmore Road would change the zoning from Suburban Single-Family Residential (SR-2) to Suburban Multi-Family (SMF) for a future multi-family development.

When purchased, the subject site was zoned Light Industrial and was changed to Suburban Single-Family Residential by the City in 2006. The owner has determined that the topography along with limited vehicular access along Needmore Road prevents the site from being suitable for anything other than a small, multi-family building.

While there is not yet a development plan for this site, the owner has provided a preliminary site plan and elevations that show how a 3-story, 66-unit multi-family building may be built on the property while keeping existing mature trees and providing for adequate parking and drainage. Discussions between the owner and the Dayton Fire Department have determined that the preliminary plan would be adequate for safety. Should the zoning map amendment be approved and development move forward, the owner would need to work with the City Engineer to allow for left turns from the property onto Needmore Road where Annual Average Daily Traffic (AADT) is in excess of 20,000.

Staff recommends approval of the zoning map amendment. The City would like to see residential development in this area, and the applicant has provided a clear vision for how this can be sustainably accomplished with a change to the current zoning. Nearby residents and the Northeast Priority Land Use Board are also in support of this change.

Public Comments
The Northeast Land Use Board submitted correspondence in support of the proposal. Neighbor Janet Whitaker, 4569 Old Troy Pike, Dayton, OH, called staff to voice support of the amendment.

The applicant, Greg Smith, Oberer Companies, 3445 Newmark Drive, Dayton, OH, spoke in support of the project and answered questions from the Plan Board. He said Oberer has owned the property for 30 years and single-family development does not lend itself to the site’s topography and lengthy Needmore Road frontage.
Board Discussion
None.

Board Action
A motion was made by Mr. Bradley, seconded by Mr. Payne and carried to recommend City Commission approval of Case PLN2020-00142 based on the Plan Board’s ability to make the determinations specified in R.C.G.O. Section 150.125.7 as outlined in the staff report.

<table>
<thead>
<tr>
<th>Name</th>
<th>Attendance</th>
<th>Name</th>
<th>Attendance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Richard Wright</td>
<td>Present; did not vote</td>
<td>Mr. Paul Bradley</td>
<td>Yes</td>
</tr>
<tr>
<td>Ms. Geraldine Pegues</td>
<td>Yes</td>
<td>Mr. Matt Sauer</td>
<td>Yes</td>
</tr>
<tr>
<td>Mr. Jeff Payne</td>
<td>Yes</td>
<td>Mr. Greg Scott</td>
<td>Yes</td>
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</tbody>
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Minutes approved by the City Plan Board on August 11, 2020.

Tony Kroeger, Secretary
City Plan Board
July 14, 2020

CITY PLAN BOARD REPORT
CASE: PLN2020-00142

A zoning map amendment request to rezone 12.531 +/- acres at Old Troy Pike and Needmore Road from SR-2 Suburban Single-Family Residential to SMF Suburban Multi-Family for a future multi-family development. The property has Parcel Identification Numbers of R72217304 0011 and R72217304 0017.

BACKGROUND

Applicant:
Oberer Holdings, Ltd
3445 Newmark Dr.
Miamisburg, Ohio 45342

Property Owner:
Oberer Holdings, Ltd
3445 Newmark Dr.
Miamisburg, Ohio 45342

Land Use Board: Northeast    Neighborhood: Kittyhawk

Board Authority:
R.C.G.O. §150.125.1 – §150.125.11 City Plan Board actions for amendments to the Official Zoning Map

Applicable Plans and Policies:
CitiPlan 20/20 (1999)
CitiPlan 20/20 Revised Land Use Principles (2007)

Agencies and Groups Contacted:
Property Owners within 250 feet
Northeast Priority Land Use Board

CURRENT CONDITIONS

Existing Land Use:  The site is currently vacant land.

Existing Zoning: Suburban Single-Family Residential (SR-2)

Surrounding Land Use and Zoning:

Situated as it is on the border with the City of Riverside, the subject site is surrounded by a variety of uses and zoning districts.
Case # PLN2020-00142; Needmore Rd.    July 14, 2020

To the east across Old Troy Pike and to the north across Needmore Road, the property is primarily bounded by the City of Riverside. The east side of Old Troy Pike is zoned General Business, as is the northwest corner of Old Troy Pike at Needmore Road. The north side of Needmore Road west of the General Business District is zoned Light Industrial and is mostly wooded. Between the subject site and Old Troy Pike, there are two Riverside parcels zoned Single-Family Residential. Between the subject site and the southwest corner of Old Troy Pike and Needmore Road, there are five Dayton parcels zoned Suburban Multi-Family (SMF) and two Dayton parcels zoned Suburban General Commercial (SGC).

To the west and south, the property is bound by the City of Dayton. The zoning is Suburban Single-Family Residential (SR-1). The area to the west is wooded. The property to the south has two vacant commercial structures and is in the process of obtaining a Use Variance from the Board of Zoning Appeals in order to operate as an Event Center.

STAFF ANALYSIS

Background:

The proposed zoning map amendment for 12.531 acres at Old Troy Pike and Needmore Road would change the zoning from Suburban Single-Family Residential (SR-2) to Suburban Multi-Family (SMF) for a future multi-family development.

When purchased, the subject site was zoned Light Industrial and was changed to Suburban Single-Family Residential by the City in 2006. The owner has determined that the topography along with limited vehicular access along Needmore Road prevents the site from being suitable for anything other than a small, multi-family building.

While there is not yet a development plan for this site, the owner has provided a preliminary site plan and elevations that show how a 3-story, 66-unit multi-family building may be built on the property while keeping existing mature trees and providing for adequate parking and drainage. Discussions between the owner and the Dayton Fire Department have determined that the preliminary plan would be adequate for safety. Should the zoning map amendment be approved and development move forward, the owner would need to work with the City Engineer to allow for left turns from the property onto Needmore Road where Annual Average Daily Traffic (AADT) is in excess of 20,000.

Recommendation:

Staff recommends approval of the zoning map amendment. The City would like to see residential development in this area, and the applicant has provided a clear vision for how this can be sustainably accomplished with a change to the current zoning. Nearby residents and the Northeast Priority Land Use Board are also in support of this change.

REVIEW OF FINDINGS

R.C.G.O. §150.125.7 Amendments to Change Zoning Districts or Zoning Classification of Properties
1. The change in classification would be consistent with the Comprehensive Plan of the City or other plans and policies.

The change is consistent with the City’s Comprehensive Plan. It facilitates the development of undeveloped land while also following our land use principles that include the development of multi-family housing.

2. The change in classification would be consistent with the intent and purpose of this Zoning Code.

This change would be consistent with the intent and purpose of the zoning code. The zoning code requires that Suburban Multi-Family Residential Districts “promote, preserve and protect neighborhoods intended primarily for multi-family dwellings that are suburban in character” and, as set forth in the City’s Comprehensive Plan, “will be in scale with existing development patterns.” Staff believes a multi-family development will be harmonious with the surrounding uses.

3. The proposed amendment is made necessary because of changed or changing conditions in the area affected, and if so, the nature of such changed or changing conditions.

After decades of sitting vacant, the proposed amendment would provide the necessary changes to allow for viable development options.

4. The uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity.

A multi-family development would be compatible with the single- and multi-family residential uses in the vicinity.

5. The uses that would be permitted on the property if it were reclassified would have an adverse environmental or health impact on the immediate surrounding area in terms of acceptable air, noise, light, or water quality standards.

The development will not cause an issue for the health or environment of the area.

6. Adequate utility, sewer, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified.

A multi-family development would attach to existing services and utilities along Needmore Road.

7. The amount of vacant land with the same zoning classification as proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances, if any, make a substantial part of such vacant land unavailable for development.

The unique topography of this site makes other land with the same zoning incomparable.
8. The proposed amendment would correct an error in the application of this Zoning Code as applied to the subject property.

There is no zoning code error related to this case.

**ALTERNATIVES**

1. Recommend approval of the Zoning Map Amendment application to rezone the property at Needmore Road and Old Troy Pike from Suburban Single-Family Residential (SR-2) to Suburban Multi-Family (SMF) based on R.C.G.O. §150.125.7(1-8).

2. Recommend denial of the Zoning Map Amendment application to rezone the property at Needmore Road and Old Troy Pike from Suburban Single-Family Residential (SR-2) to Suburban Multi-Family (SMF) based on R.C.G.O. §150.125.7(1-8).

**FUTURE ACTIONS**

If the Plan Board recommends approval for the proposed zoning map amendments, the request will be forwarded on to the City Commission for public hearing.

**Staff Report Prepared by:**
Jen Lumpkin

**ATTACHMENTS**
Maps
Photos
Application materials
Needmore Road

Looking east

Looking southwest

Looking north

Looking northeast
May 8, 2020

City of Dayton Plan Board
101 West Third Street
Dayton, OH 45402

Re: Needmore Road Property

Dear Board Members,

Please find enclosed a request for a Zoning Map Classification change for a 12.531 acre parcel owned by Oberer Holdings, Ltd, located on Needmore Road in Northern Dayton, Ohio. The applicant and owner have owned this parcel for over 30 years. The topography, limited access and location along Needmore Road make development of the parcel under the current Suburban Single Family Residential SR-2 zoning infeasible.

Oberer is requesting a rezoning to Suburban Multi Family (SMF). While a specific development plan has not been developed for this property, the applicant has provided a site plan of a typical multi-family building with elevations in order to demonstrate how a multi-family building may fit on the property under compliance with the SMF requirements.

Oberer Holdings, LTD appreciates the City of Dayton’s consideration of this Rezoning request and is happy to provide additional information as needed.

Sincerely,

[signature]

Gregory A. Smith
Developer
ZONING MAP AMENDMENT APPLICATION
CITY OF DAYTON, OHIO

A. Name of Applicant
   Oberer Holdings, Ltd

   Mailing Address
   3445 Newmark Drive
   City Miamisburg
   State OH
   Zip Code 45342

   Daytime Phone Number (937) 531-5530
   Fax Number (937) 278-6334
   Email Address gsmith@oberer.com

   Name of Property Owner (If Different from Applicant) Same

   Mailing Address
   City
   State
   Zip Code

   Daytime Phone Number (  )
   Fax Number (  )

B. Description of Property to be Rezoned

   Address of Property Old Troy Pike and Needmore Road

   City of Dayton Lot Number(s) 80585-80593

   Parcel I.D. Number(s) R72207204 0011 & R72217304 0017

   Size of Parcel(s) to be Rezoned in Acres: 12.531 Acres

   Existing Zoning for Property SR-2

   Proposed Zoning for Property SMF

   Existing Use of Property Vacant Land

   Proposed Use of Property Multi Family Development

   Reason Zoning Change is Needed
   Property is not feasible or suitable for single family development

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Interest of Applicant Property Owner / Developer

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C. **Required Attachments**

- Vicinity Map (see instructions for format)
- List of Property Owners (see instructions for format)
- Site Plan (see instructions for format)
- Mailing Labels (see instructions for format)

D. **Authorization to Visit the Property**

Site visits to the property by City representatives are essential to process this application. By signing below, the owner/applicant authorizes City representatives to visit and photograph the property described in this application.

E. **Property Owner’s Signature (If Different from Applicant)**

[Signature]

Signature of Property Owner

[Date]

Date

[Printed Signature]

Printed Signature of Property Owner

F. **Certification and Applicant’s Signature**

I hereby certify that the information contained in this application and all attachments is true and correct.

[Signature]

Signature of Applicant

[Date]

Date

[Printed Signature]

Printed Signature of Applicant
Land Use Case Citizen Participation Staff Response

Type of Case: Area Variance  Use Variance  Conditional Use  Appeal  Vacation  Record Plan
Major Site Design Review  Map Amendment  Planned Development  Reap  Other

Case number: PLN000142-2020  Needmore Rd. Properties
Case description: Request for map amendment to rezone 12,531 +/- acres at Old Troy Pike and Needmore Road from SR-2 Suburban Single Family Residential to SME Suburban Multi-Family for future multi-family development.

Priority Board: Northeast
Date of LUC Meeting: 07/07//2020

Total number of people present for discussion: 11
Number of NELUC members present: 5
Vote of NELUC:
5 in favor of granting the map amendment
0 not in favor.

Prepared by: Roselyn Miller
Date prepared: 07/08/2020

I. Please list below highlights/issues/discussion points surrounding this case:
Greg Smith and Robert McCullum of Oberer Companies presented the case.
• Oberer has owned the land for quite some time.
• Due to hilly terrain, the site is not conducive for single family home development.
• A concept plan was presented showing the layout and entrance points for a potential project.
  i. Entrance to a development would only be from Needmore Rd.
  ii. A proposed walking path would exit on to Old Troy Path
  iii. There would be no vehicle entrance from Old Troy Pike
• Resident Bob Morgan, 4525 Old Troy Pike expressed concerns regarding the walking path and potential drainage problem.
  i. Oberer indicated any development plans would includes a retention pond and address drainage base on code.
• Resident Amanda Gibson, 4557 Old Troy Pike asked if any developers are looking at the property
  i. Oberer does not have any interested parties at this time
  ii. Marketing the property would depend on the map amendment allowing for multi-family development

II. Recommendation:
The Northeast Land Use Committee recommends by a vote of 5 to 0 to allow the proposed map amendment,

III. Rationalization:
The NELUC felt that due to the proposed map amendment would allow the long vacant property to be developed. Since this is just a map amendment, any actual development would have to be presented to the Plan Board.
AN ORDINANCE

Amending the Official Zoning Map to Rezone Property
Located on Needmore Road Near Old Troy Pike from
SR-2 Suburban Single-Family Residential to SMF Suburban
Multi-Family, and Declaring an Emergency.

WHEREAS, Oberer Holdings, Inc. has made application to rezone property it owns on
Needmore Road near Old Troy Pike from SR-2 Suburban Single-Family Residential to SMF
Suburban Multi-Family to aid in redevelopment of the property; and

WHEREAS, The City Plan Board at its July 14, 2020 meeting recommended approval of the
re zoning, Case PLN2020-00142; and

WHEREAS, For the immediate preservation of the public peace, property, health or safety, it
is necessary that this Ordinance take effect at the earliest possible date; now, therefore,

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

Section 1. In accordance with the recommendation of the City Plan Board, as made in
Case PLN2020-00142, 12.531 +/- acres located on Needmore Road near Old Troy Pike as shown
in Exhibit A, attached hereto and incorporated herein, is rezoned from SR-2 Suburban Single-
Family Residential to SMF Suburban Multi-Family. The Parcel Identification Numbers that
comprise this case are: R722 17304 0011 and R722 17304 0017. The City’s official zoning map
shall be redrawn to reflect the foregoing changes.

Section 2. For the reasons stated in the preamble hereof, this Ordinance is declared to be an
emergency measure and shall take effect immediately upon its passage.

Passed by the Commission .............................................., 2020

Signed by the Mayor .................................................., 2020

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
DAVIDSON WILLIAM B
2720 ARMSTRONG LN
DAYTON, OH 45414

HOLMES JIM J
302 CHINKAPIN CT
CLAYTON, OH 45315

FISHER CHRISTINA R
4525 OLD TROY PKWY
DAYTON, OH 45404

BROWN DAVID A
7790 WINDHAM RD
TIPP CITY, OH 45371

KEATON DELMER AND TAMMY K
4522 OLD TROY PIKE
DAYTON, OH 45404

CLARK BOBBY G AND RUBY F
4514 OLD TROY PKWY
DAYTON, OH 45404

BRIDENBAUGH JEREMY L
2500 WESTFIELD DR
ELGIN, IL 60123

TROY INVESTMENTS CORP
6689 E MAIN ST
REYNOLDSBURG, OH 43068

COMBS JAMES A
3957 NEEDMORE RD
DAYTON, OH 45424

VLCEK KEVIN M AND SUSAN D
3865 NEEDMORE RD
DAYTON, OH 45424

FIRST MAGYAR REFORMED CHURCH
& GAFOVOV KEMRAN
4457 OLD TROY PIKE
DAYTON, OH 45414

FIRST ENGLISH LUTHERAN CHURCH
107 W MECHANIC ST
WAPAKONETA, OH 45895

GIBSON AMANDA S
4557 OLD TROY PIKE
DAYTON, OH 45424

WHITAKER JOE H AND JANET A
4569 OLD TROY PIKE
DAYTON, OH 45404

TRI-CITIES NC REG WASTEWATER AUTH
3777 OLD NEEDMORE RD
DAYTON, OH 45424

FIVES RIVERS METROPARKS
409 E MONUMENT ST FL 3
DAYTON, OH 45402

Tony Kroeger, Plan Board Sec.
City of Dayton
101 W Third Street
Dayton, OH 45402

Rashella Lavender, Clerk of Comm.
City of Dayton
101 W Third Street
Dayton, OH 45402

GREG SMITH, OBERER HOLDINGS, LTD
3445 NEWMARK DR
MIAMISBURG, OH 45342

LIBERTY BRAVO LLC
5942 TYLERVILLE RD
WEST CHESTER, OH 45069

PLN2020-00142