I. AGENDA SCHEDULE

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

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

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

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

1. Purchase Orders:

   AVIATION
   A1. Azteca Systems Holdings LLC dba Azteca Systems LLC (Cityworks
   AMS software maintenance and support renewal $15,000.00
1. (Cont’d):

**AVIATION**

A2. **Ohio CAT** (parts, supplies and repair services as needed through 12/31/21)  
   20,000.00

A3. **Parr Public Safety Equipment** (vehicle up-fitting parts and services for two 2021 model Dodge Durango Pursuit Sport Utility vehicles)  
   11,259.52

A4. **Tim Lally Chevrolet, Inc.** (one 2021/2022 full-size SUV) 38,074.00

A5. **White Allen Chevrolet** (one 2022 four-wheel drive extended cab pick-up truck) 34,375.00

**FIRE**

B1. **Cellco Partnership dba Verizon Wireless** (cellular broadband card services as needed through 12/31/21) 21,500.00

**INFORMATION TECHNOLOGY**

C1. **OneSpan North America, Inc.** (electronic signature software subscription renewal) 10,600.00

**PROCUREMENT, MANAGEMENT AND BUDGET**

D1. **QYK Brands LLC** (COVID safety supplies as needed through 12/31/21) 14,395.40

D2. **Worksmart Office Furnishings LLC** (COVID safety supplies as needed through 12/31/21) 11,754.11

**PUBLIC WORKS**

E1. **Crown Personnel Service, Inc.** (temporary staffing services as needed through 12/31/21) 20,000.00

E2. **Cargill, Inc.** (rock salt as needed through 12/31/21) 50,000.00

**WATER**

F1. **Sunco Power Systems, Inc.** (four Eurus blowers as needed through 2/28/22) 102,497.00

-Depts. of Aviation, Fire, Information Technology, Procurement, Management and Budget, Public Works and Water.

**Total:** 349,455.02
2. Montgomery County Land Reutilization Corporation – Contract Modification – change order for Montgomery County Land Reutilization Corporation Neighborhood Initiative Program Community Agreement – Department of Planning, Neighborhoods and Development. $150,000.00 (Thru 12/31/24)

3. Moonlight Security Inc. – Service Agreement – to provide security guard services for all Water Supply and Treatment locations, Ottawa Yards Security Booth, all Water Supply and Treatment facilities, Well Fields, Water Administration and closed Kittyhawk Golf Course – Department of Water. $428,199.55 (Thru 12/31/22)

4. Sinclair Community College – Service Agreement – for services to support the City Prosecutor’s Victim Witness Coordination Unit – Department of Law. $117,315.00 (Thru 9/30/22)

5. Xylem Vue, Inc. – Service Agreement – smart water metering (10% SBE Goal/3.8% SBE Achieved) – Department of Water. $2,600,000.00 (Thru 12/31/26)

B. Construction Contracts:

6. Sunesis Construction Co. – Award of Contract – for Dayton Parallel Sanitary Interceptor Phases C & D (10% SBE, 5% MBE, & 5% WBE Goal/10.2% SBE, 5.04% MBE, & 5.05% WBE Achieved) – Department of Water. $19,621,919.90 (Thru 12/31/25)

IV. LEGISLATION:

Emergency Ordinances – First and Second Reading

7. No. 31918-21 Authorizing the Sale of Certain Real Estate located at 1116 W. Stewart Street to ENS Truck Repair, Inc. for Economic Development Purposes, and Declaring an Emergency.
8. **No. 31919-21** Amending the City’s Appropriations for the Year 2021, and Declaring an Emergency.

**Emergency Resolutions – First and Second Reading**

9. **No. 6608-21** Authorizing the Acceptance of a Grant Award for a Fair Housing Assistance Program from the United States Department of Housing and Urban Development in the Amount of Sixty Thousand Three Hundred Dollars and Zero Cents ($60,300.00) on Behalf of the City of Dayton, and Declaring an Emergency.

10. **No. 6609-21** Authorizing the Necessary Tax Levies, Requesting the Advance Payment by Montgomery County, Ohio to the City of Dayton, of Tax Monies Collected for 2022, Certifying the Same to the County Auditor, and Declaring an Emergency.

**VI. MISCELLANEOUS:**

**ORDINANCE NO.** 31920-21

**RESOLUTION NO.** 6610-21

**IMPROVEMENT RESOLUTION NO.** 3599-21

**INFORMAL RESOLUTION NO.** 993-21
City Manager’s Report

From
2730 – PMB/Procurement
Supplier, Vendor, Company, Individual
Name
See Below
Address
See Below

Date
September 29, 2021
Expense Type
Purchase Order
Total Amount
$349,455.02

2021 Purchase Orders

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

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

Description

AVIATION

(A1)  P0211155 – AZTECA SYSTEMS HOLDINGS LLC dba AZTECA SYSTEMS LLC, SANDY, UT
- Cityworks AMS software maintenance and support renewal.
- These services are required to electronically log the Federal Aviation Administration’s Part 139 safety inspections, regulatory compliance, operational insights, and work order management.
- Azteca Systems Holdings LLC dba Azteca Systems LLC is recommended based upon proven past performance to ensure consistent quality, compatibility and operational continuity; therefore, this purchase was negotiated.
- The Department of Aviation recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tbody>
<tr>
<td>2021</td>
<td>DIA Airport Operations</td>
<td>51000-3220-1166-43</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>

Signatures/Approval

Approved by City Commission

Melissa A. Wilson, CFA
Division
9.20.21
City Manager

Clerk
Date

Updated 06/2016
AVIATION (CONTINUED)

(A2) P0211146 – OHIO CAT, TROY, OH
- Parts, supplies and repair services as needed through 12/31/2021.
- These goods and services are required to maintain generators at the Department facilities.
- Ohio CAT is recommended as the Original Equipment Manufacturer (OEM); therefore, this purchase was negotiated.
- The Department of Aviation recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
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<td>2021</td>
<td>DIA Airport Operations</td>
<td>51000-3220-1172-43</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

(A3) P0211149 – PARR PUBLIC SAFETY EQUIPMENT, GALLOWAY, OH
- Vehicle up-fitting parts and services for two (2) 2021 model Dodge Durango Pursuit Sport Utility Vehicles (SUVs).
- These goods and services are required to place the vehicles into service for the Department of Aviation’s daily operations.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 18034JL with pricing through 4/30/2022 and State of Ohio Contract pricing #MMA7607 and Index #MMA845.
- The Department of Aviation recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2021</td>
<td>DIA Airport Operations</td>
<td>51000-3224-1412-43</td>
<td>$11,259.52</td>
</tr>
</tbody>
</table>

(A4) P0211144 – TIM LALLY CHEVROLET, INC., WARRENSVILLE HEIGHTS, OH
- One (1) 2021/2022 full-size SUV.
- This vehicle is required for the daily operations of the Department and will be an addition to the current fleet.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 21027D with pricing through 1/31/2022.
- The Department of Aviation recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Aviation Equipment Purchases</td>
<td>51070-3210-1412-43</td>
<td>$38,074.00</td>
</tr>
</tbody>
</table>
AVIATION (CONTINUED)

(A5) P0211148 – WHITE ALLEN CHEVROLET, DAYTON, OH

- One (1) 2022 four-wheel drive extended cab pickup truck.
- This vehicle is required for the daily operations of the Department and will be an addition to the current fleet.
- Nine (9) possible vendors were solicited and three (3) bids were received. This order establishes a price agreement per IFB 21043D with pricing through 3/31/2022.
- White Allen Chevrolet qualifies as a Dayton local entity.
- The Department of Aviation recommends acceptance of the lowest and best bid.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2021</td>
<td>DIA Airport Operations</td>
<td>51000-3221-1412-43</td>
<td>$34,375.00</td>
</tr>
</tbody>
</table>

FIRE

(B1) P0210436 – CELLCO PRTNSHP dba VERIZON WIRELESS, CINCINNATI, OH

- Cellular broadband card services as needed through 12/31/2021.
- These services are required to maintain data communications for emergency and first responders.
- Rates are in accordance with the General Services Administration, Federal Supply Service (GSA-FSS) Contract #GS-35F-0119P.
- This amendment increases the previously authorized amount of $40,000.00 by $21,500.00 for a total not to exceed $61,500.00 and therefore requires City Commission approval.
- The Department of Fire recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2021</td>
<td>General Fund</td>
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<td>$21,500.00</td>
</tr>
</tbody>
</table>

INFORMATION TECHNOLOGY

(C1) P0211152 – ONESPAN NORTH AMERICA, INC., CHICAGO, IL

- Electronic signature software subscription renewal.
- These goods and services are required to reduce both person-to-person and paper handling contact and to improve workflow and approval for City staff working remotely as a result of the COVID-19 pandemic recommended operating guidelines.
- OneSpan North America, Inc. is recommended based upon proven past performance to ensure consistent quality, compatibility, and operational continuity; therefore, this purchase was negotiated.
- The Department of Information Technology recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-5560-1166-65</td>
<td>$10,600.00</td>
</tr>
</tbody>
</table>
**PROCUREMENT, MANAGEMENT AND BUDGET - PROCUREMENT**

(D1) **P0211113 – QYK BRANDS LLC, GARDEN, CA**

- COVID safety supplies as needed through 12/31/2021.
- These goods are required to enhance cleaning and sanitation measures as a result of the COVID-19 pandemic.
- One hundred percent (100%) of funding is from the Coronavirus Aid, Relief and Economic Security (CARES) Act.
- Seventy-Nine (79) possible vendors were solicited and forty-seven (47) responses were received. This order establishes a price agreement per IFB BR21016 with pricing through 7/31/2024.
- This amendment increases the previously authorized amount of $7,197.70 by $14,395.40 for a total not to exceed $21,593.10 and therefore requires City Commission approval.
- The Department of Procurement, Management and Budget recommends acceptance of the lowest and best response. Multiple awards are recommended to ensure ongoing competition and supply availability.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Coronavirus Local Relief Fund</td>
<td>28133-9980-1382-99-CRF28</td>
<td>$14,395.40</td>
</tr>
</tbody>
</table>

(D2) **P0211114 – WORKSMART OFFICE FURNISHINGS LLC, FINDLAY, OH**

- COVID safety supplies as needed through 12/31/2021.
- These goods are required to enhance cleaning and sanitation measures as a result of the COVID-19 pandemic.
- One hundred percent (100%) of funding is from the Coronavirus Aid, Relief and Economic Security (CARES) Act.
- Seventy-Nine (79) possible vendors were solicited and forty-seven (47) responses were received. This order establishes a price agreement per IFB BR21016 with pricing through 7/31/2024.
- This amendment increases the previously authorized amount of $5,877.05 by $11,754.11 for a total not to exceed $17,631.16 and therefore requires City Commission approval.
- The Department of Procurement, Management and Budget recommends acceptance of the lowest and best response. Multiple awards are recommended to ensure ongoing competition and supply availability.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tbody>
<tr>
<td>2021</td>
<td>Coronavirus Local Relief Fund</td>
<td>28133-9980-1382-99-CRF28</td>
<td>$11,754.11</td>
</tr>
</tbody>
</table>
PUBLIC WORKS – PROPERTY MANAGEMENT

(E1) P0210521 – CROWN PERSONNEL SERVICE, INC., DAYTON, OH

- Temporary staffing services as needed through 12/31/2021.
- These services are required to augment staff to maintain daily operations.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 18066JL with pricing through 12/31/2023.
- Crown Personnel Service, Inc. qualifies as a Dayton local entity.
- This amendment increases the previously authorized amount of $35,000.00 by $20,000.00 for a total not to exceed $55,000.00 and therefore requires City Commission approval.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
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<th>Fiscal Year</th>
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<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6480-1159-54</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

PUBLIC WORKS – STREET MAINTENANCE

(E2) P0210661 – CARGILL, INC., NORTH OLMSTED, OH

- Rock salt as needed through 12/31/2021.
- These goods are required to deice City streets and expressways during inclement weather.
- Rates are in accordance with the price agreement established by the Southwest Ohio Purchasers for Government (SWOP4G) Purchasing Cooperative Bid #20-009SWOG4G with pricing through 7/31/2022.
- This amendment increases the previously authorized amount of $252,200.00 by $50,000.00 for a total not to exceed $302,200.00 and therefore requires City Commission approval.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
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<th>Fiscal Year</th>
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<th>Fund Code(s)</th>
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<tr>
<td>2021</td>
<td>Highway Maintenance</td>
<td>21100-6430-1301-54</td>
<td>$50,000.00</td>
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WATER – WATER SUPPLY AND TREATMENT

(F1) P0210761 – SUNCO POWDER SYSTEMS, INC., LANCASTER, PA

- Four (4) Eurus blowers.
- These goods are required in the Lime Reclamation Facility for carbon dioxide dosing.
- Four (4) possible vendors were solicited and four (4) responses were received. This order establishes firm pricing through 2/28/2022.
- The Department of Water requests additional authority of $43,998.00 through 2/28/2022.
- The Department of Water recommends acceptance of the lowest and best bid.

<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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<td>2021</td>
<td>Water Operating</td>
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<td>$58,499.00</td>
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<tr>
<td>2022</td>
<td>Water Operating</td>
<td>53000-3430-1411-54</td>
<td>$43,998.00</td>
</tr>
</tbody>
</table>

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

From 2320 - Planning, Neighborhoods & Dev. / Housing & Inspections

Name Montgomery County Land Reutilization Corporation

Address 130 West Second St. Suite 1432 Dayton, Ohio 45402

Expense Type Contract Modification
Total Amount $150,000.00 (thru 12/31/2024)

Fund Source(s) Fund Code(s) Fund Amount(s)
General Fund 16022-2320-1174-32 $150,000.00

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

Description
Change Order for Montgomery County Land Reutilization Corporation Neighborhood Initiative Program Community Agreement

The Department of Planning, Neighborhoods and Development requests approval for a Change Order with the Montgomery County Land Reutilization Corporation (MCLRC) in the amount of $150,000.00, which will allow the City to continue providing payment of residual holding costs of all project properties until the transfer of fee simple title. All transfers should occur before December 31, 2024.

MCLRC assists communities with blight reduction, stabilization of property values, and prevention of future foreclosures in defined target areas. The program offers equitable distribution of limited funding to all communities of Montgomery County who can demonstrate need and have a strategic plan.

This Change Order shall commence upon execution and it shall terminate December 31, 2024.

The Department of Law has provided a Legal Opinion regarding the status of the original Agreement and the appropriateness of this Change Order.

This project is funded by the General Fund — Special Demolition Projects Fund.

A Certificate of Funds, a Legal Opinion from the Department of Law, and a Memo to the City Manager are attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 10/2019
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th></th>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/31/24</td>
<td></td>
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<tr>
<td>Commission Approval</td>
<td>$ 1,568,855.20</td>
<td>Initial City Manager's Report</td>
<td></td>
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<tr>
<td>Initial Encumbrance</td>
<td>$ 866,118.26</td>
<td>Initial Certificate of Funds</td>
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<tr>
<td>Remaining Commission Approval</td>
<td>$ 702,736.94</td>
<td>Initial Agreement/Contract</td>
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<tr>
<td>Original CT/CF</td>
<td>CT19-1432</td>
<td>X</td>
<td>Copy of City Manager's Report</td>
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<tr>
<td>Increase Encumbrance</td>
<td>$ 150,000.00</td>
<td>X</td>
<td>Copy of Original Certificate of Funds</td>
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<td>Decrease Encumbrance</td>
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<tr>
<td>Remaining Commission Approval</td>
<td>$ 552,736.94</td>
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<tr>
<th>Seq #1</th>
<th>Fund Code 16022 - 2320 - 1174 - 32 -</th>
<th>Amount: $ 150,000.00</th>
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<td>Fund Code XXXXX - XXXXX - XXXX - XX - XXXX - XXXX</td>
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</tr>
<tr>
<td></td>
<td>Fund Org Acct Prog Act Loc</td>
<td></td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: Montgomery County Land Reutilization Corporation
Vendor Address: 130 West Second St. Ste. 1425, Dayton, Ohio 45402
                  Street City State Zipcode + 4
Federal ID: 45-3258410
Commodity Code: 96832
Purpose: To increase funding to cover expenses through the end of 2024 for residual holding costs of properties held by the Montgomery County Land Reutilization Corporation until transfer of deeds occurs.
Contact Person: Ariane Cook
Planning, Neighborhoods & Development/Housing & Inspections
Department/Division 9/16/2021 Date
Originating Department Director's Signature:

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: ____________________________ Date: 9/20/2021

CF Prepared by: ____________________________ Date: 9/17/2021

October 18, 2011
September 16, 2021

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

FROM: Todd M. Kinskey, Director
   Department of Planning, Neighborhoods & Development

SUBJECT: CT19-1432 — Montgomery County Land Reutilization Corporation (MCLRC) Neighborhood Initiative Program (NIP) Community Agreement

The attached change order requests an authorization to spend in the amount of $150,000.00 for the Montgomery County Land Reutilization Corporation (MCLRC) Neighborhood Initiative Program (NIP) Community Agreement. MCLRC assists communities with blight reduction, stabilization of property values, and prevention of future foreclosures in defined target areas. The program offers equitable distribution of limited funding to all communities of Montgomery County who can demonstrate need and have a strategic plan. This change order will allow the City to continue to provide payment of residual holding costs of all project properties located in the City of Dayton until the transfer of fee simple title. These transfers should occur before December 31, 2024.

This change order will allow the authorization to spend from FOAP 16022-2320-1174-32 through December 31, 2024.

Please contact Ariane Cook at extension 3910 with any questions or concerns.
September 16, 2021

TO: Todd M. Kinskey, Director  
   Department of Planning, Neighborhoods & Development

FROM: Barbara J. Doseck, Director  
   Department of Law

SUBJECT: LEGAL OPINION — Neighborhood Initiative Program (NIP)

The Department of Law submits their legal opinion regarding the validity of the City’s contract with Montgomery County Land Reutilization Corporation (MCLRC/ “Landbank”) pertaining to the Neighborhood Initiative Program (NIP).

We have reviewed the language of the original contract and amendments to the contract. While the work associated with the contract was scheduled to end on December 31, 2020, the terms of the contract did not expire on December 31, 2020. Pursuant to the express language of the contract, the terms of the agreement do not expire until the transfer of fee simple title to all project properties either (a) as directed by the City or (b) if, by the third anniversary of the date that the Landbank takes title to such properties, and the properties have not been transferred, then at the time the properties are transferred to the City.

Accordingly, if the subject properties have not been transferred to the City and, the contract is still valid. It will expire when all the properties are transferred to the City or at the latest, three years after the Landbank receives the properties, at which time the Landbank must transfer the properties to the City. The City remains obligated under the contract beyond December 31, 2020 for applicable holding costs (as set forth in detail in the contract) for all properties which have not been transferred to the City. However, the terms are clear that the “work” associated with the demolition efforts was to be completed by December 31, 2020.

If you have any questions about this matter, please feel free to call Leonard Bazelak at extension 4105.  
This opinion is filed in Planning Req for Opinion #294.
TO: City Manager

FROM: Planning & Community Development

(CHECK ONE)

\(\Box\) Purchase Order  \(\Box\) Lease Agreement
\(\Box\) Price Agreement  \(\Box\) Estimate of Cost
\(\Box\) Award of Contract  \(\Box\) Payment of Voucher
\(\Box\) Other  First Amendment – Community Agreement

Justification and description of purchase, contract or payment:

First Amendment-Neighborhood Initiative Program

The Department of Planning and Community Development is requesting authorization for a First Amendment to the Montgomery County Land Reutilization Corporation Neighborhood Initiative Program (NIP):Community Agreement. The purpose of the Amendment is twofold. This Amendment reflects an additional $850,000 in funds awarded to the Landbank bringing the total to $5.8 million and the Amendment provides up to $200,000.00 for the City to reimburse the Landbank for costs that exceed program limits as imposed by the State of Ohio, currently $25,000.00 per structure.

The original agreement was passed by City Commission on April 30, 2014 by Calendar item #6.

This Amendment has been approved and signed by the Law Department as to form and correctness.

A Certificate of Funds in the amount of $100,000.00 is attached.

Approved Affirmative Action Program on File  \(\Box\) Yes  \(\Box\) No  \(\Box\) NA

Approved by City Commission

Authorized Signature

Department

City/Manager

Date
SECTION I - to be completed by User Department

New Contract

Renewal Contract

Contract Start Date

Expiration Date

Original Commission Approval

Remaining Commission Approval

Execution by the City

Original CT/CF

Increase Encumbrance

Decrease Encumbrance

Remaining Commission Approval

Amount: $100,000.00

Fund Code: 4244 - 2326 - 1169 - 32

Fund Org Acct Prog Act Loc

Amount: $200,000.00

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

Fund Org Acct Prog Act Loc

Amount: $100,000.00

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

Fund Org Acct Prog Act Loc

Required Documentation

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

Vendor Name: Montgomery County Land Reutilization Corporation

Vendor Address: 130 W. Second Street Dayton OH 45402

Federal ID: 463289410

Commodity Code: 3832

Purpose: To provide additional funds awarded to the Landbank and deadline extensions set by the State of Ohio. This
also provides up to $200,000 to the City to reimburse the Landbank for costs that exceed program limits as
imposed by the State of Ohio.

Contact Person: Aaron K. Sorelli Planning & Community Development

Date: 5/5/2016

Originating Department Director's Signature:

SECTION II - to be completed by the Finance Department

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

Finance Director Signature:

Date: 5/9/16

CF-1432

MAY 1 8 201

CALENDAR

October 18, 2011
City Manager's Report

From: 2320 - Planning & Code/Housing Inspection
Supplier, Vendor, Company, Individual
Name: Montgomery County Land Reutilization Corporation
Address: 130 W. Second St., Ste. Suite 1425
Dayton, Ohio 45402

Date: August 22, 2018
Expense Type: Contract Modification
Total Amount: $368,655.20

Fund Source(s) | Fund Code(s) | Fund Amount(s)
----------------|--------------|----------------
Nuisance Abatement | 15022-2320-1174-32 | $368,655.20

Includes Revenues to the City: Y Yes N No
Affirmative Action Program: Y Yes N No
NA: Y No N NA

Description:
Montgomery County Land Reutilization Corporation
Planning and Community Development/Housing Inspection is requesting authorization to pay the Montgomery County Land Reutilization Corporation (MCLRC) up to $368,655.20 for future expenses.

The MCLRC oversees the Neighborhood Initiative Program (NIP). The Department of Planning and Community Development entered into an agreement with the MCLRC to pay for demolition expenses that exceeded amounts approved by the Ohio Housing Finance Agency (OHFA) or were outside the scope of approved expenses. The City Commission approved this agreement on April 30, 2014 with an initial encumbrance of $200,000.00. Since that time, as MCLRC received additional funding for NIP demolitions, these expenses exceed the original encumbrance. An additional encumbrance of $368,655.20 is necessary to cover anticipated future expenses.

2018 - $118,655.20 to cover expenses through 2018.
2019 - $250,000.00 to cover expenses through 2019.

This agreement will terminate December 18, 2019. It has been reviewed by the Law Department, and a Certificate of Funds for $118,655.20 is attached.

[Signatures]

[Approval]

Approved by City Commission
[Signature]
[Date: AUGUST 22, 2018]

Updated 8/2018
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
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NO DRAFT DOCUMENTS PERMITTED

X | Change Order

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<tr>
<td>Initial City Manager's Report</td>
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<td>Initial Certificate of Funds</td>
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<tr>
<td>Initial Agreement/Contract/Invoice</td>
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<tr>
<td>Copy of City Manager's Report</td>
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| Amount: | $118,835.20 |
| Fund Code: | 18022 - 2320 - 1174 - 32 - |
| Org | Acct | Prog | Act | Loc |

| Amount: | |
| Fund Code: | XXXXX - XXXX - XXXX - X - XXXX - XXXX |
| Org | Acct | Prog | Act | Loc |

Attach additional pages for more FUNDALs

Vendor Name: Montgomery County Land Reutilization Corporation
Vendor Address: 130 West Second St, Ste 1432, Dayton, OH 45402
City: Dayton
State: OH
Zip code + 4: 45402

Federal ID: 453595410

Purpose: To provide funding to cover expenses through the end of 2016 for reimbursement to the Land Bank for costs that exceed program limits as imposed by the State of Ohio. A new CF will be established in 2019 for the remaining $2,250,000.

Contact Person: Arlene Cook

Plenary & CD Housing Inspection

Date: 8/10/2016

SECTION II - to be completed by the Finance Department

I hereby certify that the amount of money required to meet this payment(s) called for in the above said 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 of any and all encumbrances.

Finance Director Signature: [Signature]
Date: 11/4/2018

CF Prepared by: [Name]
Date: 8/14/18

CPC? Number: CT18-1432

Finance Department
October 18, 2011
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
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<td></td>
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Attach additional pages for more FOAPALs

Vendor Name: Montgomery County Land Reutilization Corporation
Vendor Address: 130 West Second St. Ste. 1432, Dayton, OH 45402
Street: City State Zipcode = 4
Federal ID: 45-3256419
Commodity Code: 98532
Purpose: To provide funding to cover expenses through the end of 2019 for reimbursements to the Land Bank for costs
first exceed program limits as imposed by the State of Ohio.

Contact Person: Arslan Cook
PCD/OUA/LIA: Inspection
Department/Division
Date: 3/18/2019

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 above-mentioned request have been lawfully appropriated for such purpose and is in the Treasury, or in the process of collection, to the credit of the fund from which it is to be drawn free and clear from any previous encumbrance.

Finance Director Signature: [Signature]
Date: 3/25/19

CF Prepared By: [Signature]
Date: 3/20/19

CF/CT Number: CT19-1432

October 18, 2011
Second Amendment to Montgomery County Land Reutilization Corporation Neighborhood Initiative Program Community Agreement

The Department of Planning and Community Development requests approval to amend an Agreement with Montgomery County Land Reutilization Corporation (MCLRC) in the amount of $1,000,000.00. The Amendment will allocate funding of $500,000.00 for 2019 and $500,000.00 for 2020. These funds will be used to reimburse MCLRC up to $25,000.00 per property for all costs of demolition related to the approximately eighty (80) project properties not funded by Neighborhood Initiative Program (NIP).

The Department of Planning and Community Development entered into an Agreement with MCLRC to pay for demolition expenses that exceeded amounts approved by the Ohio Housing Finance Agency (OHFA). The City Commission approved the original Agreement on April 30, 2014 with an initial encumbrance of $200,000.00. The City Commission approved an additional $368,855.20 in August of 2018 to cover expenses which exceeded that initial encumbrance, for a total of $568,855.20. OHFA funding will be exhausted prior to the demolition of all properties acquired by MLCRC under the original Agreement. An additional encumbrance of $1,000,000.00 is necessary to cover demolition of these properties.

This Second Amendment shall commence upon execution and shall terminate on December 31, 2020. This Second Amendment has been reviewed by the Law Department as to form and correctness. A Certificate of Funds for $500,000.00 and a copy of the Second Amendment are attached.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
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<tr>
<th>New Contract</th>
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Amount: $500,000.00

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<tr>
<td>Act Loc</td>
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Attach additional pages for more FOAPALs

Vendor Name: Montgomery County Land Reutilization Corporation

Vendor Address: 130 West Second Street Suite 1432 Dayton, Ohio 45402

Federal ID: 4632686410

Commodity Code: 98832

Purpose: To provide funding to cover expenses through 2019 for demolition costs for properties acquired under MCLRC Agreement. A new CF will be established in 2020 for the remaining $500,000.00.

Contact Person: Ariane Cook

Planning & CO/ Housing Inspection

Department/Division

Date: 8/8/2019

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's Signature:

Date: 8-3-11

CF Prepared by: (Signature)

Date: 10-18-11
City Manager’s Report

From 3430 - Water/Water Supply & Trmt
Supplier, Vendor, Company, Individual
Moonlight Security Inc.
Address 4977 Northcutt Place
Dayton, OH 45414

Date September 29, 2021
Expense Type Service Agreement
Total Amount $428,199.55 (thru 12/31/2022)

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<td>$328,381.68</td>
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Includes Revenue to the City ☑ No  Affirmative Action Program ☑ Yes  N/A

Description

PROFESSIONAL SERVICES AGREEMENT FOR SECURITY SERVICES

The Department of Water requests permission to enter into a Professional Services Agreement with Moonlight Security Inc. in the amount of $428,199.55 to provide security guard services for all Water Supply and Treatment locations, as well as the Ottawa Yards Security Booth. Roving security guard services will also be provided at all Water Supply and Treatment facilities, Well Fields, Water Administration and the closed Kittyhawk Golf Course to ensure all gates are locked and fencing intact.

The Department of Water recommends the approval of a contract with Moonlight Security Inc. for security guard services as they were chosen through a Request for Proposal process for other departments. Moonlight Security Inc. scored the highest for the general security needs.

This project is being funded using 2021 and 2022 Water Operating Funds.

This Agreement shall commence upon execution by the City, and it shall expire upon expenditure of all funds provided herein or on December 31, 2022. This Agreement has the option to renew the contract for three additional 12-month periods.

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

A Certificate of Funds in the amount of $99,817.87 for 2021, and a copy of the Agreement are attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th></th>
<th>New Contract</th>
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<td>Contract Start Date</td>
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<td>Original Commission Approval</td>
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<td>$99,817.87</td>
<td>$328,381.68</td>
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</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$328,381.68</td>
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</tbody>
</table>

Required Documentation

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

| Amount: | $99,817.87 | (Seq. 1) |
| Fund Code | 53000 - 3430 - 1157 - 54 - | |
| Fund | Org | Acct | Prog | Act | Loc |
| Amount: | | | | | |
| Fund Code | | | | | |
| Fund | Org | Acct | Prog | Act | Loc |

Attach additional pages for more FOAPALS

Vendor Name: Moonlight Security Inc.
Vendor Address: 4977 Northcutt Place Dayton OH 45414
Federal ID: 31-1450776
Commodity Code: 96480
Purpose: Award of Professional Services Agreement Security Guard Services at Water Supply and Treatment.

Contact Person: Lisa Burton-Yates
Water/Water Financial Services
Department/Division

Originating Department Director's Signature: Michael Powell

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

CF Prepared by

Finance Department

October 18, 2011
SERVICE AGREEMENT FOR PROFESSIONAL SECURITY GUARD SERVICES

THIS AGREEMENT ("Agreement") is made this _____ of ________________, 2021, between the City of Dayton, Ohio ("City"), and Moonlight Security, Inc., 4977 Northcutt Place, Dayton, Ohio 45414 ("Contractor").

WITNESSETH THAT:

WHEREAS, The City desires to contract with Contractor for unarmed and armed security guard services as further described herein; and,

WHEREAS, The City requires the services of security guards during its operations and events; and,

WHEREAS, Contractor represents that it possesses the necessary special skills, knowledge and technical competence to provide such services as further described herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and benefit to be derived by the parties from the execution of this Agreement, the City, and Contractor hereby agree as follows:

ARTICLE 1. TERM
The Agreement shall commence upon execution by the City and shall terminate upon expenditure of all funds provided herein or on December 31, 2022, whichever date is earlier. The Contractor and the City shall enter into this contract, with the options to renew the contract for three (3) additional 12-month periods, contingent upon satisfaction with the work, availability of funds and mutual agreement of both parties.

ARTICLE 2. SERVICES TO BE PERFORMED
Contractor shall provide all professional services necessary to complete the Services that are described in Attachment A, Scope of Services, which is attached hereto and incorporated herein by reference, pursuant to City of Dayton Request for Proposal No. 18009CSFM (hereinafter referred to as the "RFP", a copy of which is attached as Exhibit B).

ARTICLE 3. COMPENSATION
The total remuneration of this Agreement shall not exceed FOUR HUNDRED TWENTY-EIGHT THOUSAND ONE HUNDRED NINETY-NINE DOLLARS AND FIFTY-FIVE CENTS ($428,199.55) for all services to be provided by Contractor pursuant to this Agreement as outlined in Attachment B, attached hereto and incorporated herein. Contractor shall submit an invoice to City by the tenth (10th) calendar day of the month following the month in which services were rendered. After approval by the Department of Water, Division of Water Supply and Treatment, the City will tender payment of each invoice within thirty (30) days from receipt thereof, unless the City, in good faith, disputes the validity of the invoice. In 2022, and if Agreement is renewed for any of the additional 12 month terms, the percent increase per year following the initial term shall not exceed one percent (1%).

ARTICLE 4. CITY’S RESPONSIBILITIES
The City will furnish Consultant, at no cost or expense, all reports, records, and data that might be necessary or useful to complete the Services required under this Agreement.
ARTICLE 5. STANDARD OF CARE
Contractor shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily possessed and exercised by a professional under similar circumstances at the time the services are performed. Contractor shall have no liability for defects in the Services attributable to Contractor’s reliance upon or use of data or other information furnished by the City or third parties by the City.

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

ARTICLE 6. LIABILITY AND INDEMNIFICATION
Contractor shall indemnify and defend the City and its elected officials, officers, employees and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatever kind and nature, to the extent proximately resulting from the tortious misconduct of or breach of this Agreement by the Contractor and its agents, employees, contractors, sub-contractors and representatives in undertaking and performing the Services.

Notwithstanding anything herein to the contrary, neither party hereto will be liable to the other for any loss of production, loss of use of property, loss of revenue or profit, equipment downtime, business interruption, loss of goodwill, loss of anticipated savings, cost of procurement of substitute goods or services, or for any consequential, indirect, incidental, or special loss or damage suffered by the other party or any third party, or for any punitive damages, even if advised of the possibility thereof and notwithstanding the failure of essential purpose of any remedy. Contractor’s cumulative liability hereunder, whether in contract, tort, or otherwise, will in no event exceed an amount equal to 3X the aggregate consideration paid by the City to Contractor for the portion of the services that gave rise to the liability.

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

ARTICLE 7. INSURANCE
During the term of this Agreement, Contractor shall maintain, at its sole cost and expense, no less than the following insurance issued by an insurance company authorized to conduct business in the State of Ohio and having an “A” rating or better by A.M. Best:

1. General liability insurance, having a combined single limit of $1,000,000 for each occurrence and $1,000,000 in the aggregate.
2. Automobile liability insurance, having a combined single limit of $1,000,000 for each person and $1,000,000 for each accident.
3. Employers’ liability insurance, having a limit of $500,000 for each occurrence.
4. Professional liability insurance, having a limit of $1,000,000 annual aggregate.
5. Contractor shall obtain a Performance bond, at Contractor’s expense, in an amount not less than $1,000,000, or such other amount as approved by the City, as a condition to award of a contract. Said bond is to be delivered to the City prior to the beginning date of contract.
6. Contractor shall maintain errors and omissions insurance in the amount of $1,000,000.00.

Current certificates of insurance for all policies and concurrent policies required to be maintained by Contractor pursuant to this Article shall be furnished to the City. All such insurance policies, excluding Professional Liability Insurance, shall name the City and its elected officials, officers, agents, employees, and volunteers as additional insureds, but only to the extent of Contractor’s legal liability and to the extent
of the policy limits stated herein. All policies of insurance required hereunder shall contain a provision requiring a minimum of thirty (30) days advance written notice to the City in the event of cancellation or diminution of coverage. In the event of a claim, Contractor shall make copies of applicable insurance policies available for review by the City. Contractor, however, shall retain its right to restrict disclosure of Contractor’s proprietary information contained in such policies in accordance with Article 8.

Contractor also shall maintain Workers’ Compensation Insurance in such amounts as required by law for all employees, and shall furnish to the City evidence of same.

ARTICLE 8. CONFIDENTIALITY
Either party may provide the other party with information that it considers confidential or proprietary. Proprietary information is information that, if made public, would put the disclosing party at a disadvantage in the market place or trade of which the party is a part. Confidential information is information that, under the laws of the State of Ohio, is classified as being “private.” Such information shall be marked “confidential” and/or “proprietary” by the party providing it.

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

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

ARTICLE 9. OWNERSHIP OF DOCUMENTS & INTELLECTUAL PROPERTY
Except as otherwise provided in this Agreement, documents and reports prepared by Consultant as part of the Services shall become the sole and exclusive property of the City upon payment. However, Consultant shall have the unrestricted right to their use.

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

ARTICLE 10. TERMINATION
This Agreement may be terminated by the City upon written notice in the event of substantial failure by Consultant to perform in accordance with the terms of this Agreement. Consultant shall have fifteen (15) calendar days from the date of the termination notice to submit a plan to the City.

The City may terminate or suspend performance of this Agreement for the City’s convenience upon thirty (30) days prior written notice to Consultant. In the event of termination by the City hereunder, the City will pay Consultant for Services actually provided up to the date of termination.
The Contractor shall not assign any interest in this Contractor without prior written approval of the City. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the Contractor from any obligation under this Contract.

ARTICLE 11. STANDARD TERMS

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

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

B. GOVERNING LAW
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.

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

Contractor:    Moonlight Security, Inc.
               4977 Northcutt Place
               Dayton, Ohio 45414

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

Copy:       City of Dayton, Department of Water
               Division of Water Supply & Treatment
               3210 Chuck Wagner Lane
               Dayton, Ohio 45414
               Attn: Mr. Steve Grimm, Security Supervisor

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

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

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

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

F. SEVERABILITY
The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void, unenforceable, invalid or illegal provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision, which is of the essence of this Agreement, be determined void.

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

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

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

H. ASSIGNMENT
Consultant shall not assign any rights or duties under this Agreement without the prior written consent of the City. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent Consultant from employing independent consultants, associates, and subcontractors to assist in the performance of the Services.
I. THIRD PARTY RIGHTS
Except as expressly provided in this Agreement, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Consultant.

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

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

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

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

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

CITY OF DAYTON, OHIO

________________________________________
City Manager

MOONLIGHT SECURITY, INC.

By:  

Title:  

APPROVED AS TO FORM AND CORRECTNESS:

8/24/2021

X  John Musto for

City Attorney

Signed by: Musto, John

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

________________________________________, 2021

Min. Bk. _____ Pg. _____

________________________________________
Clerk of the Commission
ATTACHMENT A
TO
PROFESSIONAL SERVICES AGREEMENT

City: City of Dayton, Ohio
Project: Security Services
Contractor: Moonlight Security, Inc.

SCOPE OF SERVICES

Contractor shall perform the following services for the City of Dayton listed below:

1. Contractor shall provide all labor, equipment, tools, materials and supplies to perform services under this agreement.

2. Contractor shall have an established, comprehensive personnel training program that all security guards and other assigned staff will undergo in order to ensure that all security guards are competent to perform all duties required under this Agreement.

3. Contractor shall have established comprehensive standards of appearance for maintaining both professional standards of conduct and neat appearance for its employees.

4. The City reserves the right, at its sole discretion, to refuse the services of any particular guard. In such cases, Contractor shall immediately remove said guard from City services and provide a replacement guard at no additional cost.

5. Security guard services will be performed at certain Department of Water, Division of Water Supply and Treatment facilities and events.

6. Security Guards and Supervisors shall possess valid credentials evidencing Security Guard license by the State of Ohio, Department of Commerce.

7. Contractor and Contractor’s personnel shall comply with all applicable local, state and federal laws in the performance of duties, including but not limited to laws regarding personnel registration and training.

8. As security demands dictate, additional Contractor employees may be required by City on short notice and for various lengths of time. Contractor shall have available for immediate assignment supplemental personnel sufficient to cover all regularly assigned duties and other occasional services.

9. Contractor shall be fully responsible for the direct supervision of its employees. Contractor shall also provide an overall Project Manager to manage this Agreement. Contractor’s Project Manager must have the responsibility and authority to fully represent the Contractor on all matters pertaining to this Agreement. Contractor’s Project Manager’s responsibilities shall include, but are not limited to:
a. Serve as the contact person for the City in the administration of this Agreement.
b. Administer personnel duties, such as hiring, assignments, firings, schedules, timekeeping and payroll, quality standards and employee evaluations.
c. Review all security operations under this Agreement and make any recommendations for improvements to the City’s designated employee in person or in writing.

10. Contractor’s staff shall conduct themselves in a professional manner at all times while working on the site by staying visible and focused on all activities.

11. Contractor shall perform the following services for the facilities and events listed below:

**WATER SUPPLY & TREATMENT FACILITIES**

a) Contractor shall provide security guard services for all Water Supply and Treatment locations seven (7) days a week, generally from 3 PM to 6 AM, 52 weeks per year.
b) Contractor will also provide security guard services at the Ottawa Yards Security Booth at 1493 E. Monument Ave, Dayton, OH 45402 from 7 AM – 3 PM Monday thru Friday and excluding holidays covered under the City of Dayton’s holiday schedule for all full-time employees.
c) Current times provided are subject to change.
d) Contractor shall provide a minimum of two (2) guards for patrol to maintain the safety of the assigned guards. Ottawa Security Booth requires (1) posted guard, reference times listed above.
e) Security guards that are providing roving patrols will be required to do rounds around all Water Supply and Treatment facilities, well fields, Water Administration and the closed Kittyhawk Golf Course, specifically in areas where there are recurrent incidents (theft, etc.). Roving patrols will provide a visible presence at these locations to aid in the deterrence of trespassing, vandalism, or theft. See appendix 1.
f) Roving patrols will ensure gates are locked and fencing has not been cut as to allow access. Patrols will also be expected to look around the exterior of buildings to ensure that doors and windows are closed. Reporting of incidents will be in accordance with the standing operating procedures (SOP) of the contractor.
g) Ensure that no unauthorized person(s) accesses the buildings and the secured areas. The Security Guard posted at the Ottawa Yards Security Booth will be responsible for allowing vendors and visitors onto the Ottawa yards and will have an SOP from the City of Dayton’s Water Department available to assist them at their position. See appendix 2.
h) Observe, investigate and report suspicious and hazardous conditions to designated City personnel and/or local authorities IAW contractor’s SOP.
i) The City reserves the right, at its sole discretion, to refuse the services of any particular guard. In such cases, Contractor shall immediately remove said guard from City services.
ATTACHMENT B
TO
AGREEMENT FOR PROFESSIONAL SECURITY SERVICES
SCOPE OF SERVICES

City: City of Dayton, Ohio
Project: Security Services
Contractor: Moonlight Security, Inc.

COMPENSATION

The City shall pay Contractor for the services provided under this Agreement an amount not to exceed $17.62 per hour for unarmed security services, as set forth in the Scope of Services and provide a replacement guard at no additional cost. In 2022, and if Agreement is renewed for any of the additional 12 month terms, the percent increase per year following the initial term shall not exceed one percent (1%).

For 2021 – based on 16 weeks or 15 weeks (with the 5 paid holidays remaining that occur during the week) at $17.62 per hour.

1) One Employee at the guard shack at Ottawa from 0700-1500 every normally scheduled work day excluding weekend and holidays. 40 hrs. x $17.62 per hour = $704.80 per wk. x 15 weeks (remaining minus 5 paid holidays) = $10,572.00
2) Two Employees as a roving patrol from 1500 to 2300, 7 days a week and including holidays. 56 hrs. x $17.62 per hour = $986.72 x 16 weeks = $15,787.52 x 2 employees = $31,575.04
3) Two Employees as a roving patrol from 2300 to 0700, 7 days a week and including holidays. 56 hrs. X $17.62 per hour = $986.72 x 16 weeks = $15,787.52 x 2 employees = $31,575.04
4) Two Employees as a roving patrol on Saturday and Sunday from 0700 to 1500. 16 hours x $17.62 per hour = $281.92 x 16 weeks = $4,510.72 x 2 employees= $9,021.44.
5) Vehicle charge = $500.00 per week x 16 weeks = $8,000.00
Total charges for 2021 = $90,743.52

Add 10% Contingency fee of $9,074.35

Total for 2021 = $99,817.87

In year 2022 – Assumes a 1% increase making the rate $17.80 per hour and the vehicle charge $505 per week.

1) One Employee at the guard shack at Ottawa from 0700-1500. It will be a 52 week year with an 8 hour schedule and 40 hours per week, Monday-Friday, excluding the 12 City holidays allowed by the City = 1984 hours total. 1984 x $17.80 = $35,315.20
2) Two Employees as a roving patrol from 1500-2300, 7 days a week and including holidays. 52 weeks/ 365 days for a total of 56 hours paid per week. 56 hours x $17.80 per hour = $996.80 per week x 52 weeks = $51,833.60 x 2 employees = $103,667.20.
3) Two Employees as a roving patrol from 2300-0700, 7 days a week and including holidays, 52 weeks/ 365 days for a total of 56 hours paid per week. 56 hours x $17.80 per hour = $996.80 per week x 52 weeks = $51,833.60 x 2 employees = $103,667.20.
4) Two employees as a roving patrol on Saturday and Sunday from 0700-1500 working 52 weekends at 16 hours paid per weekend = 16 hours per weekend x $17.80 = $284.80 per weekend x 52 weekends = $14,809.60 x 2 employees = $29,619.20

5) Vehicle charge = $505.00 per week x 52 = $26,260.00.

**Total charges for 2022 = $298,528.80**

Add 10% Contingency fee of $29,852.88

**Total for 2022 = $328,381.68**

For a contract total of $428,199.55 for 2021/2022.
City of Dayton, Ohio
Department of Central Services
Division of Purchasing

Security Guard Services and Solutions

REQUEST FOR PROPOSAL (RFP) No. 18009CSFM

February 2018
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SECTION 1 – PROPOSAL INSTRUCTIONS

1.01 Communications Regarding this Project. Please direct all communications regarding the RFP Process to:

City of Dayton, Division of Purchasing, Room 514
Jason Schortgen
101 West Third Street
Dayton, Ohio 45402
Telephone: (937) 333-4034
Fax: (937) 234-1600
E-Mail: Jason.Schortgen@daytonohio.gov

All communications/questions concerning this RFP must be submitted in writing referencing the specific paragraph and page number. The deadline for questions is listed in Section 1.02 (RFP Schedule). Written responses will be prepared by the City and posted on the city’s website by the date listed in Section 1.02. Changes to this RFP will be made only by formal written correspondence issued by the City.

A copy of this proposal and any additional documentation may be found at the City of Dayton’s website at:

http://daytonohio.gov/bids.aspx

1.02 RFP Schedule. The following is the anticipated schedule for the RFP Process:

<table>
<thead>
<tr>
<th>Issue RFP:</th>
<th>2/1/2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-Proposal Meeting:</td>
<td></td>
</tr>
<tr>
<td>Meeting will be at City Hall, 5th Floor, Room 514 at 1:00 PM local (Dayton OH) time on February 9, 2018</td>
<td></td>
</tr>
<tr>
<td>Site Visit:</td>
<td></td>
</tr>
<tr>
<td>Site visit will start at City Hall and go to various locations included in this RFP following the Pre-Proposal Meeting.</td>
<td></td>
</tr>
<tr>
<td>Last Day to Submit Questions:</td>
<td>5:00 PM local (Dayton OH) time on 2/13/2018</td>
</tr>
<tr>
<td>Written Responses to Questions:</td>
<td>2/15/2018 by close of business</td>
</tr>
<tr>
<td>Due Date for Proposals:</td>
<td>2:00 PM local (Dayton OH) time on 2/23/2018</td>
</tr>
</tbody>
</table>

1.03 Pre-Proposal Meeting. The City shall conduct a MANDATORY pre-proposal meeting. The date and location of the meeting is listed in Section 1.02 (RFP Schedule). The intent of the pre-proposal meeting is to:

- Review the Request for Proposal
- Answer questions

This may be the only opportunity for the Contractors to meet with the City. Each proposer should limit representation at this meeting to no more than three (3) persons. Contractors shall notify the City as directed in Section 1.02 (RFP Schedule) if they will be attending the pre-proposal meeting and how many persons will attend. Attendance at this meeting is mandatory for all who intend to submit a proposal.

1.04 Site Visit. The City shall conduct a MANDATORY Site Visit. The date and location of the site visit is listed in Section 1.02 (RFP Schedule). The intent of the site visit is to:

- Review the Project Locations
- Answer questions
This shall be the only opportunity for the Contractors to visit the project location. Each proposer should limit representation at the site visit to no more than three (3) persons. Each proposer has to attend all sites to have a proposal considered.

1.05 Submitting a Proposal. Each Contractor seeking consideration for performance of services related to the project must submit a Proposal. Proposers are to submit one (1) original copy signed by an officer authorized to bind the company, five (5) copies of their written proposal and one (1) electronic version on a USB flash drive. All proposals shall be sealed, properly addressed with the name of the Contractor and sent to:

RFP No.18009CSFM - Security Guard Services and Solutions
City of Dayton, Division of Purchasing, Room 514
Jason Schortgen
City Hall
101 West Third Street
Dayton, Ohio 45402

Sealed proposals must be received at the above address, in Room 514 by the date/time indicated in Section 1.02 (RFP Schedule). Proposals received after the scheduled date/time will not be considered. All supporting materials and documentation must be included with the proposal. The responsibility of timely delivery lies solely with the proposer. Faxed and e-mailed proposals are not acceptable.

The City reserves the right to reject any and all proposals, to waive any irregularities in a proposal, or to accept the proposal(s) which in the judgment of proper officials, is in the best interest of the City. The City reserves the right to accept a part or parts of a proposal unless otherwise restricted in the RFP or issue subsequent Requests for Proposal. The City reserves the right to approve or reject any sub-Contractors proposed for work under this proposal or waive any minor irregularities.

The City reserves the right to select the successful proposer on the basis of proposals received, without seeking further information for clarification from proposers. Upon review of proposals, the City may designate the most qualified proposals as finalists. These finalists may be invited to make oral presentations and participate in a question and answer session with the City. The City shall have the right to visit selected user sites, should this be deemed necessary.

All federal, state, and local laws regarding competitive bidding, anti-competitive practices, and conflict of interest shall be applicable to this RFP.

The City does not guarantee that any contract will be awarded as a result of this RFP. In the event that a contract award is made but the contract is not executed, the City does not guarantee that the contract will be re-awarded.

1.06 Required Proposal Contents. All brochures and supplemental documentation shall be included with the original and all of the copies. If not, the proposal may be considered as non-responsive. Contractors are required to submit the following information in their proposal:

- **Letter of Transmittal:** The proposer shall provide a transmittal letter with authorizing signature for the proposal. The letter must briefly summarize the vendor’s ability and willingness to perform the services required by the RFP. The letter must be on the form provided in Exhibit A.

- **Company Profile and Background.** Provide the following information:
  - **Location** - The street address of the proposer’s company headquarters.
o Local Office of Proposer - Provide the location of the proposer’s office nearest to Dayton, Ohio. Include the local office, a contact name, address, telephone, and fax numbers.

o Company’s Primary Business - State the proposer’s primary business, the number of years in the proposer’s industry, and the number of employees assigned to these related activities.

o State the legal make-up of your company: sole proprietorship, partnership, corporation, etc.

o Please list any Lawsuits that you are currently engaged in. Please provide any and all suits either with the City of Dayton or any other Municipalities (include, but not limited to Federal, State, Local or other Municipalities and Governmental agencies).

- Key Personnel Information. Provide the name, title, mailing address, telephone number and e-mail address of the persons who will function as the City’s primary contact and back-up contact person. Provide brief resumes/qualifications of personnel who will be primarily involved in this project. Include any certifications earned, special training taken, and memberships in professional groups. Complete Form found in Exhibit A.

- Proposal Response as per Section 2.

- Statement of Exceptions to RFP requirements: Provide a detailed description of any exceptions taken to the requirements of this RFP, including the City Standard Terms and Conditions in Section 3. Exceptions shall be referenced to the applicable RFP section/sub-section numbers. Any other departures from the city’s RFP are to be identified and failure to do so shall make the proposal non-responsive. City’s standard Terms for Payment are Net 30 days from the date of invoice once the project is complete, unless otherwise negotiated. If you cannot comply with this, please state any changes in the Statement of Exceptions to the RFP Requirements.

- References: Provide a list of references on form provided as Exhibit B. The City is particularly interested in contacting your governmental clients in the state of Ohio.

- Detailed Employee Training Plan

1.07 ITEMS THAT DISQUALIFY A VENDOR IMMEDIATELY.

- Incomplete or non-responsive proposal
- Failure of proposer to attend or send a representative to the pre-proposal meeting
- Failure to attend or send a representative to each of the site visits
- Inability to obtain Affirmative Action Assurance approval prior to award of the contract. See Section 3.06 for information on how to contact the Human Relations Council.

1.08 Criteria. The selection committee will evaluate each proposal submitted based on the following criteria. After receipt and review of the written proposal, the City may elect to have the proposal presented in person, or clarifications submitted in writing.

Proposers shall not assume that any information shared with the City prior to this RFP will be considered in the Evaluation process of this RFP. Evaluation team may or may not have prior knowledge of any discussions and processes. Evaluation will be completed on the information submitted in proposal only.
### Evaluation Criteria for Goods and Services

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Percentage Possible</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Price</td>
<td>35%</td>
</tr>
<tr>
<td>2</td>
<td>Operations Plan</td>
<td>25%</td>
</tr>
<tr>
<td>3</td>
<td>Previous Experience</td>
<td>20%</td>
</tr>
<tr>
<td>4</td>
<td>Training Plan</td>
<td>10%</td>
</tr>
<tr>
<td>5</td>
<td>Dayton Local Business</td>
<td>5%</td>
</tr>
<tr>
<td>6</td>
<td>PEP Certified Vendor</td>
<td>5%</td>
</tr>
<tr>
<td></td>
<td><strong>Total Points</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

### SECTION 2 – SCOPE OF PROJECT

#### 2.01 Purpose and Need / Project Description.

The City of Dayton is seeking proposals from highly experienced and professional security firms to perform weapon and/or non-weapon carrying security guard services. These services are necessary to provide daily customer oriented security services for the City of Dayton. The City is currently in the process of reviewing and updating its policies and procedures surrounding its security practices. This RFP is helping to develop those practices moving forward. The awarded vendor shall be aware of this future contracts fluidity.

To establish pricing for weapon and/or non-weapon carrying Security Guard Services and Solutions for an initial period of two years with three additional one year options to renew at the sole discretion of the City.

The following information in the Scope of Project is how the City is currently utilizing its Security Guard Services. **However, the City is requesting that each vendor provide a detailed plan on how to maximize security efforts while minimizing costs.**

In addition, a detailed employee training plan shall be include in your proposal. This includes for each employee to be licensed by the State of Ohio, Department of Commerce, as a “Security Guard”, is also required with submittal.

#### 2.02 Background Information.

The City of Dayton values its reputation of providing a high standard, service-oriented staff that demonstrates a positive customer can-do attitude in a polite and courteous manner. The following security services shall be provided but are not to be considered all-inclusive, but merely examples of the type of service is required.
2.03 Scope of Work / Project Requirements.

All prospective proposers shall provide at a minimum the following: (Please indicate by marking yes (x) if you are in compliance or by marking no (x) if you are not in compliance)

Proposer Name: ____________________________________________

Yes____ No____ Security officers shall be professionally uniformed at all times.

Yes____ No____ Successful proposer shall maintain the necessary insurance, worker’s compensation, liability insurances, etc.

Yes____ No____ Provide consistent personnel coverage which demonstrates excellent work ethic and attendance record of assigned security officers.

Yes____ No____ Personnel provided will maintain professional demeanor during provision of services and shall have the ability to interact with a wide variety of persons, including law enforcement, City Departmental staff and citizens.

Yes____ No____ Be licensed by the State of Ohio, Department of Commerce, as “Security Guard” (Security Guard Service)

Yes____ No____ Personnel provided shall have a minimum of 20 hours firearms training (if the City is utilizing armed security guards).

Yes____ No____ Personnel provided shall have passed extensive background checks provided by the proposer, which shall meet the current City’s standards and be available for review by City of Dayton, Department of Police. All background checks shall be done at no cost to the City and shall be the full responsibility of the employing vendor.

Yes____ No____ If an employee is working the Dayton International Airport then a background check by the airport badging and fingerprint office according to Transportation Security Administration regulation will be made to determine their eligibility to perform the work at the airport. See Section 2.03 for requirements in current contract.

Yes____ No____ Personnel provided shall have the ability to share information verbally with appropriate personnel, generate and write reports if required.

Yes____ No____ Contractor has operated for at least 5 years under current name and engaged in work of nature being proposal. If the name of the company has changed, please indicate previous company names.

GENERAL CONDITIONS FOR ALL LOCATIONS

A. Subcontracting

1. No services covered by the Contract shall be subcontracted without prior written consent of the City of Dayton.
2. The Contractor shall be as fully responsible to the City of Dayton, Ohio for the acts and omissions of subcontractors, if such is approved, and of persons directly or indirectly employed of them, as for acts and omissions of persons directly employed by the Contractor.

SPECIAL CONDITIONS

A. Licensing

1. Contractor shall be licensed to perform security service by the State of Ohio.

2. Contractor and contractor’s personnel shall comply with all applicable local, state and federal laws in the performance of duties, including but not limited to laws regarding personnel registration and training.

B. Collection of Payment for Services

Contractor shall submit a monthly invoice showing the number of staff, hours worked, event name and dates to the Division of Facilities Management, except for services related to The Dayton International Airport.

Division of Facilities Management
101 W. Third Street, Rm 514
Dayton, OH 45402

All event security services at the Dayton Convention Center should be listed by event format of invoice to be approved by the Division Manager at the Dayton Convention Center.

Department of Aviation invoices shall be submitted to the following:

City of Dayton, Department of Aviation
Attn: Accounts Payable
3600 Terminal Dr – Suite 300
Vandalia OH 45377

GENERAL EXPECTATIONS FOR SECURITY COMPANY AND GUARDS

All personnel shall:

1. Have a minimum of a high school diploma or GED certificate; be a minimum of 18 years of age, insured and bondable.

2. Be licensed by the State of Ohio to perform security guard services.

3. Each security worker must be able to produce a current “Security Guard” license or copy of submitted application upon demand. Said license must be issued through the Security Service provider.

4. Be able to exchange and understand written and verbal communications and prepare proper reports.

Hold Harmless: Contractor shall indemnify and hold harmless the City of Dayton, Ohio, against any and all claims for injury or damage to persons or property in any way connected with or arising out of contractor’s performance of security service functions and defend at contractor’s own expense any suit brought against the City of Dayton, for such injury or damage.

Successful Proposer Stipulations: The successful proposer must comply with Equal Employment Opportunity provisions of Section 147, 147-1, and 147-3 of the Revised Code of General Ordinances.
Attention of proposers is called to the requirements as to the conditions of employment to be observed and no less than the Federal minimum wage rates to be paid. If any of the requirements are not fulfilled by the successful proposer, this will be sufficient grounds to declare the contract null and void.

**Proposing:** The City of Dayton reserves the right to reject any and all bids, waive any irregularities in proposals, and seek new proposals. If requested, proposer must be able to show proof that he is capable of meeting all terms of these specifications.

**General Requirements:** All personnel employed must be physically capable of performing all assigned tasks including standing for extended periods of time. Work schedule and hours per week will be at the discretion of the City of Dayton. It is imperative the City of Dayton has the ability, at all times, to contact the security guard on duty. The successful proposer must provide either pager(s) and/or cellular telephone(s) to their employees. This equipment must be in good working order and turned on during the security worker’s entire work shift.

The contractor shall use security personnel having knowledge and proficiency in public relations. Tact, politeness and alertness are prime requirements for this work. Information such as where specific individuals work, the various departments accessible in City Hall, how to access the restrooms and information that may be requested by the general public is to be readily available and thoughtfully provided by security personnel. At times it may be necessary to attend a function where tension is present and personnel must be comfortably able to address a variety of situations. Personnel supplied are to be sufficiently rested as that sleeping is not acceptable on the job. Personnel must be capable of walking and climbing stairs extensively and have sufficient physical stamina to perform these duties. In addition, personnel performing security services must meet the following criteria:

The contractor shall provide security personnel with special emphasis on fire, theft, and vandalism prevention. Personnel shall be responsible for monitoring security monitors and/or security systems. Security personnel must be able to exchange and understand written and verbal communications with Facilities Management, Police and Fire personnel, Airport personnel and prepare proper reports concerning vandalism, theft, trespassing complaints, etc.

Security personnel shall be proactive in preventive measures. Security personnel shall possess a working knowledge of security practices, methods of crowd control, fire, safety regulations, and advanced first aid. Security workers must also possess knowledge of Federal, State and City regulations, laws, etc. as they pertain to the conduct of persons and employees using public structures and related premises. Security personnel must be able to respond calmly, quickly (which includes the ability to go up and downs stairs as needed), in a positive manner appropriate to all situations including emergencies.

The City of Dayton retains the right to refuse any personnel supplied by the contractor if that person does not meet the requirements established by these specifications, or, in the opinion of the City of Dayton, the person is incapable of performing the assigned tasks. The City of Dayton may, for just cause, request replacement of a particular security worker on duty.

**SCOPE OF WORK: City Hall**

The following conditions are part of the current contract agreement. This specification covers security guard services requirements for the City Hall, 101 West Third Street, Dayton, OH 45402.

The contractor shall provide security guard services for City Hall five days per week, generally from 7:00 AM through 5:30 PM, 52 weeks per year, including weekends and/or additional hours if needed. The Dayton City Commission holds evening meetings starting at 6:00 PM on the first, third and fifth Wednesdays of the month. These are considered in the standard operating hours and thus not overtime
pay. Current times provided are subject to change. It is estimated that the regular number of hours shall be approximately 84 per week at City Hall. The maximum number of hours per calendar year is estimated at 4,368 hours, more or less, for this site.

**SCOPE OF WORK: One Stop Center**

The following conditions are part of the current contract agreement. This specification covers the security requirements for the One Stop Center, 371 West Second Street, Dayton, Ohio, 45402.

The contractor shall generally provide security service for the One Stop Center six days per week, 52 weeks per year. Current schedules provided are subject to change. Generally the work will be from 7:00 AM through 5:30 PM weekdays and 8:00 AM through 1:00 PM weekends. The maximum number of hours per calendar year is estimated at 3,393 hours, more or less, for this site.

**SCOPE OF WORK: Transportation Center**

The following conditions are part of the current contract agreement.

**Security Guard Scope of work for Transportation Center:**
The Transportation Center Garage 101 E. Fifth St.
The garage starts at Fourth Street crosses Fifth Street and ends at Stone Street.
It has 1400 parking spaces, 3 entrances and five exits.
2 entrances on Fifth Street
1 entrance on Stone Street
1 exit on Jefferson Street
1 exit on St. Clair Street
3 exits on Fourth Street

**ROUNDS:** We expect a minimum of 4 full rounds per 8 hour shift. This includes the street level perimeter, all decks, and stairwells. The skywalk from the garage which crosses over Jefferson Street. (Note: Security’s responsibility stops at the North door at the end of the skywalk at Fifth Street).
When security is not making rounds they are to be monitoring the cameras in the office.
Security will be expected to answer calls to assist parkers who are having difficulties entering or exiting the facility. They will have the ability to raise the gates with the phone.
Security is expected to report any equipment malfunction to the parking company immediately. They are to report any lights that have gone out to maintenance.
There is 1 security officer expected to be on duty 24/7 at this facility.

**Premier Health Care Guard at the Transportation Center**
This officer will be on duty to provide security for the Premier Health Care employees that park in the garage. This will be Monday thru Friday from 7am to 7pm.
The officer is to be posted on the second floor of the garage where Premier employees park. They are to patrol the second level as well as the stairwell which exits into the street level lobby.
Morning rush 7am to 9:30 am
Evening rush 3:30pm to 6:30pm
During these rushes the regular guard (The 24/7 Guard) will take their post on the street just outside the lobby where the shuttles stage to pick up the Premier employees.
The Premier Health Care guard will remain on the second floor at this time.
SCOPE OF WORK: **Division of Convention Center**

The following conditions are part of the current contract agreement. This specification covers non-weapon carrying security guard services requirements for the Dayton Convention Center 22 East Fifth Street, Dayton, Ohio 45402.

The contractor shall provide security guard services for the Dayton Convention Center seven days per week from 5:30 AM through 12:00 AM, 52 weeks per year, and/or additional hours if needed. Current times provided are subject to change. The maximum number of hours per calendar year is estimated at 6,753 hours, more or less, for daily site supervision and additional security will be required for Dayton Convention Center events as requested.

Dayton Convention Center Basic Security Duties:
- Direct and control pedestrian and vehicle traffic, for event move-ins and move-outs, including proper overhead door monitoring. This includes monitoring the rear loading dock/parking lot behind the building, parking of Jefferson Street, parking in the front drop off area of the Dayton Convention Center and during move-ins and move-outs for events.
- Monitor all citizens entering and exiting the Dayton Convention Center visually and through the use of the security surveillance system.
- Ensure that no unauthorized person/s accesses the building and the secured areas.
- Inspect as required, book bags, shoulder bags, brief cases, purses, and wheel chairs or any other items as instructed or required when citizens enter the building for events.
- Roving foot patrols of the subject event area as required during set-up, event function and tear down.
- Screen and direct guests and visitors during ingress and egress of the event.
- Check and confirm badge and identification of all persons entering and leaving the event as required.
- Monitor room/event activity by roaming patrol
- Take appropriate action, in conjunction with Dayton Police Department, Dayton Convention Center staff to remove unauthorized persons.
- Observe, investigate and report suspicious and hazardous conditions to Dayton Convention Center management and up to and including Dayton Police Department.
- Provide security for dances and concerts, including, if necessary, security wands and metal detector services as required.
- Provide information to staff, tenants, guests, and visitors professionally and accurately.
- Other related services as required.
- Monitoring vehicle access gate.

SCOPE OF WORK: **Division of Recreation**

The following conditions are part of the current contract agreement. RYS operates three major recreation facilities and coordinates special events for the City of Dayton. Events include, but are not limited to, fitness, athletic, senior and special community wide programs. The recreation facilities are: **Lohrey Community Center**, 2366 Glenarm Ave., Dayton, OH 45420; **Northwest Community Center**, 1600 Princeton Dr., Dayton, OH 45406; **Greater Dayton Recreation Center**, 2021 W. Third St., Dayton, OH 45417. Special Event locations will be designated by the City at time of need.
Recreation Basic Security Duties:

- Work schedule and hours per week will be Monday-Friday from 5-9pm at the Greater Dayton Recreation Center year round, Fridays from 5-9pm at Northwest Recreation Center from January-March, and any other times and events that we may need a security guard.
- Contractor shall provide to RYS reports, if requested, on events activities and/or incidents.
- Contractor personnel will cooperate fully with in-house staff and take directions from authorized RYS personnel.
- The operations supervisor shall take general instructions and directions from the RYS Operations Manager, his/her designee or the Manager on Duty. The RYS Operations Manager will monitor the activities of the Contractor on an event by event basis to ensure the interests of RYS are served in accordance with contract terms and conditions.
- Contractor shall require all personnel to sign in and sign out at the RYS security command post, when entering and leaving the center.
- Contractor shall keep detailed records of all hours worked and provide copies to the RYS.
- RYS may require Contractor personnel to attend specific RYS training program.
- Personnel shall be capable of walking extensively and have sufficient physical stamina to perform these duties.
- All security guards must be visible at all times with bright colored clothing. Example: a reflective vest.
- At the start of a shift, security guards must check in with the front desk when monitoring a recreation facility.
- Other related services as required.

SCOPE OF WORK: Dayton International Airport

The following conditions are part of the current contract agreement.

Individuals shall provide daily customer service oriented security service to the Dayton International Airport by staffing one access location with the option of a second access location at a later date.

Daily Security Duties May Include:
Vehicle Access Gate (Outside) Seven Days a Week/24 Hours a Day

1. Conduct verifications of vehicles, operators and passengers to insure proper identification and access authority.
2. Inspect all vehicles entering the secured area.
3. Conduct thorough inspections of vendors making deliveries to the airport.
4. Manually operate access gate when needed.
5. Report any suspicious activity to Airport Police.

Individuals must pass a Security TSA Background check.

Provide additional security support as needed within 24 hour notification.

Access to Airport Property:

This Agreement is subject to the airport security requirements of 49 United States Code, Chapter 449, as amended, the provisions of which govern airport security and are incorporated by reference, including without limitation the rules and regulations in 49 CFR 1542 and all other applicable rules and regulations promulgated under them. All employees providing services at the City’s airports must be badged by the
airport. (See Airport Security Badges section below.) Consultant, Subcontractors and the respective employees of each are subject to such employment investigations, including criminal history record checks that the Under Secretary of the Transportation Security Administration ("TSA"), and the City may deem necessary. Consultant, Subcontractors, their respective employees, invitees and all other persons under the control of Consultant must comply strictly and faithfully with any and all rules, regulations and directions which the Commissioner, the FAA, or the TSA may issue from time to time may issue during the life of this Agreement with regard to security, safety, maintenance and operation of the Airport and must promptly report any information regarding suspected violations in accordance with those rules and regulations. The airport can refuse to issue or revoke a security access badge pursuant to applicable laws, rules, regulations, policies and procedures.

Airport Security Badges- Consultant must obtain from the airport badging office Airport Security Badges for any person working at the airport on Consultant’s behalf. No person will be allowed beyond security checkpoints without a valid Airport Security Badge or a badged escort. The fee to obtain an Airport Security Badge is $100 per person. Each such person must submit signed and properly completed application forms to receive an Airport Security Badge. Additional forms and tests may be required to obtain Airport Driver’s Licenses and Vehicle Permits. The application forms will solicit such information as the Airport Police Chief/Security Coordinator may require in his discretion, including but not limited to name, address, date of birth (and for vehicles, driver’s license and appropriate stickers). Consultant is responsible for requesting and completing the form for each person who will be working at the Airport on Consultant’s behalf and all vehicles to be used on the job site. Upon signed approval of the application by the Airport Police Chief/Security Coordinator or his designee, the employee will be required to attend a presentation regarding airport security and have his or her photo taken for the badge. The Airport Police Chief/Security Coordinator may grant or deny the application in his sole discretion. In order for a person to have an Airport Security Badge, a criminal history record check ("CHRC") conducted by the Department of Aviation will also be required.

The CHRC will typically include a fingerprint analysis by the Federal Bureau of Investigation and such other procedures as may be required by the TSA. Airport Security Badges, Vehicle Permits and Driver’s Licenses will only be issued based upon properly completed application forms. Employees or vehicles without proper credentials may be removed from the secured area. In addition to other rules and regulations, the following rules related to Airport Security Badges, Vehicle Permits and Driver’s Licenses must be adhered to:

- All individuals must wear and visibly display their Airport Security Badges on their outer apparel, above the waist, at all times while at the Airport.
- All individuals operating a vehicle on the Aircraft Operations Area ("AOA") must be familiar and comply with motor driving regulations and procedures of the State of Ohio, City of Dayton and the Department of Aviation. The operator must be in possession of a valid, state-issued Motor Vehicle Operator’s Driver’s License. Each individual operating a vehicle on the AOA without an escort must also be in possession of a valid Aviation-issued Airport Driver’s Permit.
- All operating equipment must have an Airport Vehicle Access Permit affixed to the vehicle at all times while operating on the Airport.
- Individuals must remain within their assigned areas and haul routes unless otherwise instructed by the Department of Aviation.
- The orientation class can last up to two hours.
Consultant’s personnel who function as supervisors, and those that escort Consultant’s equipment/operators to their designated work sites, may be required to obtain an added multi-area access designation on their personnel Airport Security Badge which must also be displayed while on the AOA.

The following are minimum requirements for all armed security guards.

In the event that the City of Dayton decides to utilize armed security guards at some or all locations, the following requirements shall be followed.

- Successful proposer shall be in compliance with, and shall maintain compliance with, Ohio Revised Code 4749.03 License Requirement. Evidence of compliance should be included with the proposal and available upon any future requests.

- Successful proposer and security staff shall be in compliance with, and shall maintain compliance with, Ohio Revised Code 4749.06 Registration of Employees. Evidence of compliance should be included with proposal; and available upon any future requests.

- Armed security guards shall be professionally uniformed at all times.

- Successful proposer shall maintain the necessary insurance, Workers’ Compensation, liability insurances, etc. Evidence of compliance should be included with the proposal and available upon any future requests.

- Provide consistent personnel coverage which demonstrates excellent work ethic and attendance record of assigned security guards.

- Successful proposer and armed security staff provided shall be in compliance with, and shall maintain compliance with, Ohio Revised Code 4749.10 Carrying a firearm, to include the required 20 hours of firearms training. Evidence of compliance shall be furnished upon request.

- Maintain professional demeanor during provision of services. Personnel provided shall have the ability to interact with a wide variety of persons, including law enforcement, arrested prisoners, hospital personnel, and citizens on probation, etc.

- Personnel provided shall have passed extensive background checks provided by the proposer and available for review by City of Dayton, Department of Police.

- Personnel provided shall have no prior felony, drug, theft, or misdemeanor of violence convictions or under indictment for same.

- Armed personnel shall not be in violation of Ohio Revised Code 2923.13 Having Weapons under Disability.

- Personnel provided shall have the ability to share information verbally with appropriate personnel, generate and write reports if required.
2.04 Pricing Structure

Please see exhibit B.

The City reserves the right to choose which service to use at each location and can change the type of service requested at any time, or for special events based on need.

Requirements for security guard services differ between the different locations. Please refer to section 2.03 for expectations at each location.
SECTION 3 – REQUIREMENTS AND CONDITIONS FOR ALL PROPOSERS

3.01 Tax Exemption. All items purchased under this contract will be exempt from the State of Ohio Sales Tax as provided for in Section 5739-02(b)(1) of the Revised Code of Ohio, and will be exempt from the State of Ohio Use Tax, Section 5741.02(C)(2). Blanket Certification of Exemption Forms will be furnished to the Proposer by the Division of Purchasing.

3.02 Proposer Affidavit. If the successful proposer should be a corporation not incorporated under the laws of the State of Ohio, a certificate from the Secretary of State showing the rights of the successful proposer to do business in the State of Ohio shall be furnished. Each proposer is required to submit with their bid, an Affidavit stating that neither the proposer nor agents thereof, nor any other party of the proposer has paid or agreed to pay directly or indirectly, any person, firm or corporation, any money or valuable consideration for assistance in procuring or attempting to procure the contract herein referred to, and further agreeing that no such money or reward will hereafter be paid.

3.03 Procurement Enhancement Program. It is the policy of the City to promote full and equal business opportunity to all persons doing business with the City. The City must ensure that businesses seeking to participate in contracting and procurement activities with the City are not prevented from doing so on the basis of the race or gender of their owners. The City is committed to ensuring that it is not engaged in passive participation in any form of discrimination. (R.C.G.O. Section 35.32) It is the City of Dayton’s position to encourage the greatest participation possible on all projects connected with any aspect of the City’s auspices through the Procurement Enhancement Program (PEP). All contractors are encouraged to review the list of Minority, Women and Small Businesses at www.daytonohio.gov/departments/hrc for certified subcontractors.

3.04 Proposer’s Financial Obligation to the City. No bid may be accepted or contract awarded to any person, firm or corporation that is in arrears or in default to the City, or that is a defaulter of surety or otherwise upon any obligation to the City, or has failed to perform faithfully any previous contract with the City.

3.05 Proposer’s Incurred Costs. Each proposer shall be responsible for all costs incurred in preparing a response to this RFP. All materials and documents submitted by the proposer in response to this RFP shall become the property of the City, and shall not be returned. Respondents selected for further negotiations, as well as the proposer ultimately selected to enter into a contractual agreement with the City, shall be responsible for all costs incurred by it during negotiations.

3.06 Affirmative Action Assurance (AAA). The selected Contractor must file an Affirmative Action Assurance form (“AAA Form”) with the City’s Human Relations Council (HRC) and obtain approval from HRC to do business with the City. You may contact the HRC for the Rules and Regulations, and the AAA Form required of vendors of the City, at:

Human Relations Council
371 West Second Street, Suite 100
Dayton, Ohio 45402
(937) 333-1413 (Office)
(937) 222-4589 (Fax)

Failure to maintain a current AAA Form on file with the HRC may result in termination of the contract and/or denial of future contract awards from the City. The AAA Form must be filed annually.

3.07 Standard Agreement Terms for Professional Services – These are standard terms are subject to change by the City prior to the award of the contract.
ARTICLE 1. TERM

The Agreement shall commence upon execution by the City and shall terminate upon expenditure of all funds provided herein or on Month Day, 20xx, whichever date is earlier.

ARTICLE 2. SERVICES TO BE PERFORMED BY CONTRACTOR

Contractor shall provide all services necessary to complete the Services that are described in an Attachment, Scope of Services, which is incorporated herein by reference.

ARTICLE 3. COMPENSATION

The total remuneration in this Agreement shall not exceed XXXX THOUSAND DOLLARS ($XXX,000.00). Contractor shall submit invoices, not more frequently than monthly, for payment of the Services actually provided. Such invoices shall state the invoice period, total amount requested and Services provided during the invoice period. The City will, unless disputed, remit payment of all undisputed amounts of invoices within thirty (30) days from receipt thereof.

ARTICLE 4. CITY’S RESPONSIBILITIES

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

ARTICLE 5. STANDARD OF CARE

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

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

ARTICLE 6. INDEMNIFICATION

Contractor shall indemnify and defend the 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 Contractor and its agents, employees, contractors, sub-contractors and representatives in undertaking and performing the Services.

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

ARTICLE 7. INSURANCE

During the term of this Agreement, Contractor shall maintain, at its sole cost and expense, no less than the following insurance issued by an insurance company authorized to conduct business in the State of Ohio and having an “A” rating or better by A.M. Best:

1. General Liability Insurance, having a combined single limit of $1,000,000 for each occurrence and $1,000,000 in the aggregate.
2. Automobile Liability Insurance, having a combined single limit of $1,000,000 for each person and $1,000,000 for each accident.
3. Employers' Liability Insurance, having a limit of $500,000 for each occurrence.
4. Professional Liability Insurance, having a limit of $1,000,000 annual aggregate.
(5) Contractor shall maintain errors and omissions insurance in the amount of $1,000,000.00.

Current certificates of insurance for all policies and concurrent policies required to be maintained by Contractor pursuant to this Article shall be furnished to the City. All such insurance policies, excluding Professional Liability Insurance, shall name the City, its elected officials, officers, agents, employees, and volunteers as additional insureds, but only to the extent of the extent of the policy limits stated herein. All policies of insurance required hereunder shall contain a provision requiring a minimum of thirty (30) days advance written notice to the City in the event of cancellation or diminution of coverage

Contractor also shall maintain Workers’ Compensation Insurance in such amounts as required by law for all employees, and shall furnish to the City evidence of same.

ARTICLE 8. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

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

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

ARTICLE 9. TERMINATION

This Agreement may be terminated by the City upon written notice in the event of substantial failure by Contractor to perform in accordance with the terms of this Agreement. A “substantial failure” to comply with a contract term means that there has been a major, or significant, breach of that term. Contractor shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party. In addition, this Agreement may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Contractor’s assets is appointed by a court of competent jurisdiction.
2. Contractor is divested of its rights, powers, and privileges under this Agreement by operation of law.
3. Contractor’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Contractor to remedy such failure within thirty (30) days from the date of written notice from City.
4. Contractor’s violation of any applicable federal, state, or local laws, ordinances rules and/or regulations applicable to the Project and construction thereof or Services required by this Agreement.

In the event of termination, the City shall not be obligated to pay for any Services performed or materials procured subsequent to the effective date of termination, and, upon such payment, Contractor shall provide to the City copies of all data, drawings, specifications, report estimates, summaries, and such other information and materials, whether completed or in process. Any such termination shall not relieve the vendor of any liability to the City for damages sustained by virtue of any breach by the vendor. The City will be under no further monetary obligation or commitment to the vendor. The City may terminate this contract at any time upon 30 days written notice to the vendor.

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

ARTICLE 10. STANDARD TERMS

A. DELAY IN PERFORMANCE

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

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

B. GOVERNING LAW AND VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws. Any 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.

C. COMMUNICATIONS

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

Company Name: ____________________________
Address: ___________________________________
City, State Zip Code: __________________________
Attention: __________________________________
Title: ___________________________________ 

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

D. EQUAL EMPLOYMENT OPPORTUNITY

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

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

E. WAIVER

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

F. SEVERABILITY

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

G. INDEPENDENT CONTRACTOR

By executing this Agreement for professional services, Contractor acknowledges and agrees that it will be providing services to the City as an “independent contractor”. As an independent contractor for the City, Contractor shall be prohibited from representing or allowing others to construe the parties' relationship in a manner inconsistent with this Article. Contractor shall have no authority to assume or create any obligation on behalf of, or in the name of the City, without the express prior written approval of a duly authorized representative of the City.
Contractor, its employees and any persons retained or hired by Contractor to perform the duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Further, Contractor shall be responsible to withhold and pay, or cause such agents, contractors and sub-contractors to withhold and pay, all applicable local, state and federal taxes. Contractor acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System (“OPERS”) membership.

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

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

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

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

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

M. PCI COMPLIANCE
Bidder/proposer (“Offeror”) represents and warrants that, for the entirety of any agreement resulting from this solicitation that involves processing credit and/or debit card revenue transactions on behalf of the City of Dayton that the solution is clearly defined to warrant the following:

1. Any and all computer software, hardware, firmware, payment card processing policies, procedures and related services proposed to be utilized to process City of Dayton revenue transactions shall be:
   a. Completed by a qualified professional payment card processing firm acceptable and approved by the City of Dayton; and,

2. Offeror shall provide and agrees to maintain the PCI compliance reporting Attestation of Compliance (“AOC”)Form(s) in its/their latest version(s), or within the year of record as requested and/or in an annual transmittal to the City of Dayton. (https://www.pcisecuritystandards.org/documents/PCI-DSS-v3_2-AOC-Merchant.docx?agreement=true&time=1493826893793 or https://www.pcisecuritystandards.org/documents/PCI-DSS-v3_2-AOC-Offeror.docx?agreement=true&time=1493826893793)

Select one of the following and initial on the adjacent line:

[ ] Not Applicable (“N/A”)
[ ] Offeror reviewed, understands and hereby acknowledges and affirms that its offer to the City of Dayton satisfies these requirements and shall continue to satisfy these requirements for the duration of any resulting agreement; current and relevant AOC’s are attached to demonstrate satisfaction of these requirements at time of offer to the City of Dayton
Percent increase per year following the initial firm pricing period will not exceed _____ %.

**DAYTON INTERNATIONAL AIRPORT (PER SCOPE OF WORK)** Location: 3600 Terminal Drive, Vandalia Ohio 45377

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<thead>
<tr>
<th>Armed Security Guard: Minimum Hours _________ (if applicable)</th>
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<tr>
<td>Hourly Rate $__________ / per hour</td>
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<tr>
<td>Holiday Rate (If Applicable) $__________ / per hour</td>
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<th>Supervisor / Management: Minimum Hours _________ (if applicable)</th>
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* Holiday Rates are only applicable on City observed Holidays – See list provided *

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Proposing Company: _________________________________
All other Dayton City locations mentioned in this RFP.

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<td>/ per hour</td>
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<tr>
<td>Hourly Rate</td>
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<tr>
<td>Overtime Rate (If applicable)</td>
<td>$___________</td>
<td>/ per hour</td>
</tr>
<tr>
<td>Holiday Rate (If Applicable)</td>
<td>$___________</td>
<td>/ per hour</td>
</tr>
</tbody>
</table>

* Overtime Rates only come in to affect when less than 12 hours notice is given by the City for additional coverage needs outside of the normal operating hours.

* Holiday Rates are only applicable on City observed Holidays – See list provided *

<table>
<thead>
<tr>
<th>Unarmed Security Guard</th>
<th>Minimum Hours</th>
<th>(if applicable)</th>
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<tbody>
<tr>
<td></td>
<td>$___________</td>
<td>/ per hour</td>
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<td>Hourly Rate</td>
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<tr>
<td>Overtime Rate (If applicable)</td>
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<td>/ per hour</td>
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<tr>
<td>Holiday Rate (If Applicable)</td>
<td>$___________</td>
<td>/ per hour</td>
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<tr>
<th>Supervisor / Management</th>
<th>Minimum Hours</th>
<th>(if applicable)</th>
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<tr>
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<td>$___________</td>
<td>/ per hour</td>
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<tr>
<td>Hourly Rate</td>
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<tr>
<td>Overtime Rate (If applicable)</td>
<td>$___________</td>
<td>/ per hour</td>
</tr>
<tr>
<td>Holiday Rate (If Applicable)</td>
<td>$___________</td>
<td>/ per hour</td>
</tr>
</tbody>
</table>

Proposing Company: ________________________________
EXHIBIT B – LETTER OF TRANSMITTAL

The undersigned hereby certifies that items furnished as a result of this proposal will be in full accordance with the City of Dayton specification applying thereto unless exception are stated above.

The Proposer’s name and address exactly as it would appear in a contract:

Entity Name: ____________________________________________

Street Address: ____________________________________________

City, State, Zip: ____________________________________________

Proposer’s Phone Number: __________________________________

Proposer’s Fax Number: ____________________________________

Proposer’s E-mail Address: __________________________________

Form of Ownership       ☐ Sole Proprietorship     ☐ Franchise     ☐ Partnership     ☐ Corporation
                      ☐ Joint Venture       ☐ LLC               ☐ Other (Specify): ______________________

If a corporation, state of incorporation: ______________________

Federal Identification Number (or SSN if sole proprietorship): ________________________________

Please include your IRS Form W9 with your proposal.

I certify the proposing entity complies with City of Dayton Ordinance #30829-09 and the City’s Revised Code of General Ordinances Section 35.70 through 35.74 regarding Living Wages.   ☐ Yes       ☐ No

SIGNATURE: ____________________________________________

PRINTED NAME AND TITLE: ________________________________

By signing this page, you state that you are an authorized representative, and have reviewed and are presenting this proposal on behalf of your business entity. Please continue completing this exhibit on the next page.
EXHIBIT B – LETTER OF TRANSMITTAL (continued)

COMPANY PROFILE AND BACKGROUND

Name of Proposing Company: ________________________________

Company’s Primary Business - State the proposer’s primary business, the number of years in the industry, and the number of employees assigned to these related activities:

<table>
<thead>
<tr>
<th>Primary Business</th>
<th># of Years</th>
<th># of Employees Assigned</th>
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</thead>
<tbody>
<tr>
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</table>

If a corporation, state of incorporation: ________________________________

Current Pending Lawsuits: Please provide any and all suits either with the City of Dayton or any other Municipalities and Government Agencies; including, but not limited to Federal, State, Local or other Municipalities and Governmental Agencies:

<p>| |</p>
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</table>

Local Office of Proposer: Office nearest to Dayton, Ohio: ________________________________

Federal Identification Number (or SSN if sole proprietorship):

Key Personnel:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Contact Information: Mailing address, telephone number, fax number and email address</th>
<th>Designated as Primary Contact for the City of Dayton? YES / NO</th>
</tr>
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<tbody>
<tr>
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</tbody>
</table>
EXHIBIT C – REFERENCES FOR PROPOSING COMPANY

Name of Proposing Company: ________________________________

List company names, addresses, and telephone numbers for at least three references presently or previously served by your Company for RFP No. 18009CSFM. Do not use the City of Dayton as a reference.

Company Name: ________________________________
Address: _______________________________________
Contact Person: ________________________________
Telephone Number: ___________________________ Fax Number: ___________________________
Email Address: ___________________________________
Project Name: __________________________________
Project Schedule: ________________________________
Completed on time: YES [ ] NO [ ] If NO, provide a supplemental document explaining details.

Company Name: ________________________________
Address: _______________________________________
Contact Person: ________________________________
Telephone Number: ___________________________ Fax Number: ___________________________
Email Address: ___________________________________
Project Name: __________________________________
Project Schedule: ________________________________
Completed on time: YES [ ] NO [ ] If NO, provide a supplemental document explaining details.

Company Name: ________________________________
Address: _______________________________________
Contact Person: ________________________________
Telephone Number: ___________________________ Fax Number: ___________________________
Email Address: ___________________________________
Project Name: __________________________________
Project Schedule: ________________________________
Completed on time: YES [ ] NO [ ] If NO, provide a supplemental document explaining details.
EXHIBIT D – PRODUCT MANUFACTURE LABOR STANDARDS: VENDOR COMPLIANCE FORM

By informal resolution 301-97, the City of Dayton is prohibited from purchasing, leasing, renting or taking on consignment goods for use or for resale by the City which were produced under sweatshop conditions.

The City of Dayton requests the following information concerning the products you intend to provide to the City as a result of this bid. This information will allow us to determine your products’ compliance with the standards outlined in informal resolutions 301-97.

We require that you make a good faith effort to ascertain the following about the factories which manufacture the products you intend to supply to the City and that you make information available to us for our verification of your claims.

Child Labor. The factory or producer does not employ anybody younger than the legal age as established by the jurisdiction in which such factory or producer is located for children to work or participate in the production.

Forced Labor. The factory or producer does not use forced labor of any kind-prison labor, indentured labor or bonded labor. However, goods produced by prisoners and/or patients as part of a formal rehabilitation or treatment program shall not be considered “forced labor” under the terms of this section.

Wages and Benefits. The factory or producer pays and/or provides at least the minimum wages and/or benefits as required by law in the jurisdiction in which the factory or producer is located.

Hours of Work. Employees are not required to work more hours than the maximum allowed by law for the jurisdiction in which the factory or producer is located.

Worker Rights. The factory or producer makes available to its employees such rights and procedures as required by law for the jurisdiction in which the factory or producer is located.

Health and Safety. The factory or producer provides at least the minimum safe and healthy working environment as required by law for the jurisdiction in which the factory or producer is located.

Notice to Employees. The factory or producer provides any and all applicable notices to its workers as required by law for the jurisdiction in which the factory or producer is located.

This compliance form must be submitted with your bid. If at any time your products are found to be out of compliance with these standards, or if you refuse to provide information to the City for our verification of compliance, the City reserves the right to terminate contracts for those products.

"I certify the bidding entity complies with City of Dayton Ordinance #30829-09 and the City's Revised Code of General Ordinances Section 35.70 through 35.74 regarding Living Wages." [ ] YES [ ] NO

City of Dayton Ref. No.: 
Bidding Company: 
Address:

Signature/Title: 
Federal I.D.#:
Phone No.: 

27
Business Income Tax Questionnaire

The following information is required to determine your City of Dayton, Ohio income tax liability, if any, and to set up your account if required.

Type of Tax Filing: (check all that apply)

1. ☐ Employee Withholding FEIN # __________________________
2. ☐ Corporate Earnings FEIN # __________________________
3. ☐ Individual Ownership Earnings SSN # __________________________
4. ☐ Partnership Earnings FEIN # __________________________

Company Name_________________________________________ Phone # __________________________
Mailing Address_________________________________________ City_________ St.____ Zip_________
Local Business Address___________________________________ City_________ St.____ Zip_________

Check the jurisdictions that we administer that you operate in:
☐ Dayton City Limits ☐ Dayton Wright Brothers Airport ☐ Dayton International Airport ☐ NONE

Date Business Started in Our Taxing Jurisdiction _________________
Your Accounting Period? Calendar Year_________ or Fiscal Year ending on _________________

Withholding Information *Quarterly Withholding cannot exceed $600.00

☐ Do you have employees? Yes ☐ or No ☐ Date First Employee Started Working in Our Jurisdiction _________________

☐ Do you submit withholdings QUARTERLY* or MONTHLY? _________________

☐ Is this a courtesy withholding for your employees who are residents of the above cities only? Yes ☐ or No ☐

Do you rent or sublease property or space in the Dayton jurisdiction to another business or individual? Yes ☐ No ☐
If so list Names, Addresses, and Tax ID below. If Yes, do they have employees working at that location? Yes ☐ No ☐

Do you use Subcontractors? Yes ☐ No ☐ If so list Names, Addresses, and FEIN or Social Security Numbers below.

If you have filed returns with our office before, show Name and Tax ID #s used, and for what tax years you filed.

____________________________________

Full name of Owner of Company __________________________

If this is a change of ownership, please provide the date of change, the name, address, and phone number of former owner __________________________

If you are not liable to pay taxes in our jurisdiction, please explain why.

____________________________________

Signature __________________________ Title __________________________ Date __________________________

Thank you for your cooperation in this request. For more tax information is available at www.daytonohio.gov

Please return by MAIL or by FAX to: City of Dayton, Division of Revenue & Taxation, 101 West 3rd Street, P.O. Box 2806, Dayton, Ohio 45401 (937) 333-3500 ~ Fax (937) 333-4280

CS-25c
February 13, 2018

TO: Proposers on RFP No. 18009CSFM – Security Guard Services and Solutions

FROM: City of Dayton, Ohio
Division of Purchasing

SUBJECT: Addendum #1 to above RFP

This addendum is to announce and serve as official notice that there are changes to the City of Dayton’s Request for Proposal (RFP) No. 18009CSFM – Security Guard Services and Solutions.

SPECIFICATION CHANGES:

Specification clarification has been added to the above RFP on page nine (9) under the General Requirements paragraph. The original sentences read as follows: “The successful proposer must provide either pager(s) and/or cellular telephone(s) to their employees. This equipment must be in good working order and turned on during the security worker’s entire work shift.”

Those sentences are now being replaced with the following: “The successful proposer must be able to contact their employees at all times during the security worker’s entire work shift.”

Specification clarification has been added to the above RFP on page ten (10) under SCOPE OF WORK: City Hall. The original sentences read as follows: “It is estimated that the regular number of hours shall be approximately 84 per week at City Hall. The maximum number of hours be calendar year is estimated at 4,368 hours, more or less, for this site.”

Those sentences are now being replaced with the following: “It is estimated that the regular number of hours shall be approximately 53 per week at City Hall. The maximum number of hours be calendar year is estimated at 2,756 hours, more or less, for this site.”

The following is the updated RFP Schedule that was listed in section 1.02.

<table>
<thead>
<tr>
<th>Issue RFP:</th>
<th>2/1/2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-Proposal Meeting:</td>
<td>Meeting will be at City Hall, 5th Floor, Room 514 at 1:00 PM local (Dayton OH) time on February 9, 2018</td>
</tr>
<tr>
<td>Site Visit:</td>
<td>Site visit will start at City Hall and go to various locations included in this RFP following the Pre-Proposal Meeting.</td>
</tr>
<tr>
<td>Last Day to Submit Questions:</td>
<td>3:00 PM local (Dayton OH) time on 2/15/2018</td>
</tr>
<tr>
<td>Written Responses to Questions:</td>
<td>2/20/2018 by close of business</td>
</tr>
<tr>
<td>Due Date for Proposals:</td>
<td>2:00 PM local (Dayton OH) time on 2/28/2018</td>
</tr>
</tbody>
</table>

To ensure the integrity of the bidding process, a signed copy of this addendum notice should be included with any proposal offered to the City of Dayton as a result of RFP No. 18009CSFM.

(Print Name) [Date]

(Signature) [Company Name]

Sincerely,

Jason Schortgen
Buyer
City Manager’s Report

From 5210 - Law/Criminal
Supplier, Vendor, Company, Individual
Name Sinclair Community College
Address 444 West Third Street
Dayton OH  45402

Date September 29, 2021
Expense Type Service Agreement
Total Amount $117,315.00 (thru 9-30-2022)

Fund Source(s) | Fund Code(s) | Fund Amount(s) |
--- | --- | --- |
Special Revenue Fund | 28273-5210-1159-74 | $117,315.00 |

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

Description

SERVICE AGREEMENT

Authorization is requested to enter into a contract with Sinclair Community College to provide one (1) full time Coordinator/Victim Advocate, one (1) part-time Victim Advocate and at least one (1) student intern and/or volunteer to perform services to support the City Prosecutor’s Victim Witness Coordination Unit.

Advocates in the Victim Services Unit assist victims of crime throughout the stages of the criminal justice system by: providing an understanding of the criminal justice process; court accompaniment to hearings; assistance in speaking or communicating with prosecutors; crime victim compensation information; personal advocacy; emotional support; safety planning; referrals to social service agencies and informing victims of rights under the Ohio Victims’ Rights Law and Marsy’s Law.

Sinclair Community College has provided these services since the beginning of the program in 1997. This contract will continue these vital services through September 30, 2022.

Funds for this program are provided through a grant from the Ohio Attorney General’s Office and Court costs assessed from Dayton Municipal Court. No general funds are used.

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

The funding source is special revenue funds – Prosecutor’s Victim Witness.

A Certificate of Funds is attached

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 1/2019
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

New Contract X Renewal Contract _____ Change Order:

Contract Start Date 10/01/21
Expiration Date 09/30/22
Original Commission Approval $117,315.00
Initial Encumbrance $117,315.00
Remaining Commission Approval

Original CT/CF CT20-1905
Increase Encumbrance $ -
Decrease Encumbrance $ -
Remaining Commission Approval

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

Amount: $117,315.00

Fund Code 28273 - 5210 - 1159 - 74 -
Fund Org Acct Prog Act Loc

Amount: 

Fund Code XXXXX - XXXX - XXXX - XX - XXXX - XXXX
Fund Org Acct Prog Act Loc

Amount: 

Fund Code XXXXX - XXXX - XXXX - XX - XXXX - XXXX
Fund Org Acct Prog Act Loc

Attach additional pages for more FOAPALs

Vendor Name: Sinclair Community College
Vendor Address: 444 West Third Street Dayton 45402
Street City State Zipcode + 4
Federal ID: 31-0723444
Commodity Code: 91893
Purpose: Contract to provide victim assistance services in the City of Dayton Prosecutor's Office.

This is a continuation of services that have been provided by Sinclair Community College since 1997. Commission
approval is required.

Contact Person: Lynette Burns Law - Civil 9/10/2021
Department/Division Date

Originating Department Director's Signature:

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: 9/20/2021
Date

CF Prepared by: 9/17/2021
Date

CF/CT Number CT21-1905

October 18, 2011
AGREEMENT FOR
VICTIM/WITNESS COORDINATION UNIT

THIS AGREEMENT FOR VICTIM/WITNESS COORDINATION UNIT SERVICES ("Agreement") is entered into this 1st day of October, 2021 between the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio (hereinafter called "City") and Sinclair College, a political subdivision, established pursuant to Ohio Revised Code 3354 to serve as a Community College (hereinafter called "Sinclair").

WITNESSETH THAT:

WHEREAS, pursuant to a Victims of Crime Act ("VOCA") grant award by the State of Ohio Attorney General’s Office, the City’s Department of Law, Criminal Division, (hereinafter referred to as the “City Prosecutor’s Office”) maintains a Victim/Witness Coordination Unit, the purposes of which include supporting, preparing, and assisting victims and witnesses during criminal proceedings;

WHEREAS, the City desires to engage victim/witness coordination advocates to assist with the Victim/Witness Coordination Unit; and

WHEREAS, Sinclair represented to the City that it can provide qualified advocates and student interns and/or volunteers to perform certain services for the Victim/Witness Coordination Unit.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows.

ARTICLE 1. TERM AND TERMINATION

This Agreement shall commence on October 1, 2021, and shall expire on September 30, 2022, unless extended by mutual written agreement or earlier terminated as provided herein.

Either party shall have the right, upon thirty (30) days prior written notice to the other party, to terminate this Agreement. In the event of such termination, Sinclair shall be entitled to receive all sums due for the services performed under this Agreement up to the effective date of termination.

ARTICLE 2. SCOPE OF SERVICES

Sinclair shall provide one (1) full-time coordinator/victim advocate, one (1) part-time victim advocate ("advocates") and at least one (1) student intern and/or volunteer to perform the services specified hereinafter for the City’s Victim/Witness Coordination Unit. The advocates will provide the following services for the City Prosecutor’s Office and, in particular, for its Victim/Witness Coordination Unit:
1. Assist victims throughout the stages of the criminal justice process and inform victims of rights under the Ohio Victim Rights Law and Marsy’s Law, give information on Victims of Crime Compensation, and Victim Information and Notification Everyday (VINE).
2. Provide court accompaniment for court hearings, keep victims informed of all court proceedings, and assist in trial preparation for victim/witnesses.
3. Conduct a needs assessment with victims to make appropriate referrals for support and assistance to outside community resources.
4. Provide emotional support and crisis intervention.
5. Create a safety plan with victims unique to their circumstances
6. Provide community education and training.
7. Other tasks as assigned by the City Prosecutor’s Office, which is consistent with the City’s VOCA application and resulting grant award from the Ohio Attorney General’s Office.

The advocates and student intern and/or volunteer will attend, without pay, up to twelve (12) hours of orientation prior to providing any of the services required hereunder. All services to be provided by the advocates and student intern and/or volunteer shall be performed under the supervision of the Chief Prosecutor in the City Prosecutor’s Office.

ARTICLE 3.  COST

Total remuneration in this Agreement shall not exceed the sum of One Hundred Seventeen Thousand Three Hundred Fifteen Dollars and Zero Cents ($117,315.00) for all services provided under this Agreement, as reflected in the itemized line-item Budget attached and incorporated herein as Exhibit A.

Cost of travel and attendance at conferences, workshops, institutes and/or symposia for advocates and student interns and/or volunteers providing the services required hereunder shall be reimbursed out of the funds provided hereunder in accordance with the line-item amount specified in Exhibit A. Equipment purchases are not permitted under this Agreement.

Sinclair shall submit a monthly invoice to the City for payment. Such invoices shall state the total amount requested and shall contain such supporting documentation and information as the City may request. The City will inspect the invoice for accuracy before payment. Unless disputed, the City will tender payment of all invoices within thirty (30) days from receipt of the invoice. Promptly upon expiration or termination of this Agreement, Sinclair shall complete and forward all final invoices to the City for payment.

ARTICLE 4.  PROJECT DIRECTOR

Sinclair shall designate a project director who shall supervise Sinclair’s advocates designated to perform the services hereunder. The advocates shall supervise the student interns and/or volunteers in conjunction with the Chief Prosecutor. The Project Director shall also be responsible for preparing and providing the City with written project reports, at such times requested by the City and having such form and content as the City may require.
It is agreed that Jenna Beck shall serve as the Project Director. If during the term of this Agreement Jenna Beck cannot perform the functions of the Project Director, Sinclair shall promptly notify the City Prosecutor's Office, in writing, and identify an interim Project Director, having similar qualifications and experience, until a suitable and mutually agreed replacement is identified.

ARTICLE 5. AGREEMENT TYPE

This is a “Cost Reimbursement Agreement,” which means that payment to Sinclair shall not exceed the maximum amount of remuneration set forth in Article 3.

ARTICLE 6. NOTIFICATION OF DEBARMENT/SUSPENSION STATUS

Sinclair shall provide immediate notice to the City in the event Sinclair is suspended, debarred, or declared ineligible to receive grant (or other public) funding by any state or federal department or agency, or upon receipt of a notice of proposed debarment during the term of this Agreement.

ARTICLE 7. LIABILITY

Each party agrees to be responsible for any personal injury or property damage caused by the negligent acts or negligent omissions by or through itself or its agents, employees, and contracted servants and each party further agrees to defend itself and themselves and pay any judgments and costs arising out of such negligent acts or negligent omissions, and nothing in this Agreement shall impute or transfer any such responsibility from one to the other.

ARTICLE 8. RECORDS

Sinclair shall maintain a financial management system to record all costs and expenditures associated with this Agreement. All records related to expenditures related to this Agreement shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other official documentation to insure accurate, current, and complete disclosure of financial transactions under this Agreement. Records related to the activities and services provided hereunder shall contain such content and detail so that the records can be evaluated for effectiveness and to satisfy all reporting requirements for the VOCA grant. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the Agreement shall be clearly identified and readily accessible to the City and Ohio Attorney General’s Office, and their respective designees.

Sinclair shall retain all records pertinent to expenditures incurred under this Agreement and related financial records for a period of three (3) years after the termination or expiration of this Agreement, whichever is later. Notwithstanding, 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, then Sinclair 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 9. GENERAL PROVISIONS

A. Amendment or Modification

The City or Sinclair may request an amendment or modification to this Agreement. However, such amendment or modification shall not be effective unless it is reduced to writing, which shall make specific reference to this Agreement, and executed by a duly authorized representative of the City and Sinclair and, if required or applicable, approved by the Commission of the City of Dayton, Ohio.

B. Entire Agreement/Integration

This Agreement represents the entire and integrated Agreement between the City and Sinclair. 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. Waiver

A waiver by either party 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 waiving party's rights with respect to any other or further breach.

D. Non-Discrimination

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

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

E. Meetings and Evaluation

Sinclair and its Project Director, advocates and student interns and/or volunteers shall meet with the City, the City Prosecutor's Office, or their designees, at such times designated by the City to review and discuss performance of this agreement and/or the services. Sinclair agrees to cooperate with the City in all respects concerning the review and monitoring of performance under this Agreement.
F. Notice/Communications

Any written notice 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(s) or notice(s) shall be addressed to:

To City: City of Dayton, Ohio  
            335 West Third Street, Room 390  
            Dayton, OH 45402  
            Attn: Stephanie L. Cook, Chief Prosecutor  
            City of Dayton Prosecutor's Office

To Sinclair: Sinclair College  
             444 West Third Street  
             Dayton, OH 45402-1460  
             Attn: Steve Bright, Director  
             Office of Grants Development

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

G. Assignment

This Agreement is not assignable, and shall not be assigned by Sinclair, without the prior written consent of the City. Further, Sinclair agrees to obtain the City's written approval before subcontracting this Agreement or any substantial portion thereof.

H. Independent Contractor

The parties hereby agree that at all times, the advocates, student interns and/or volunteers and any other persons retained or provided by Sinclair to perform the services required hereunder shall be independent contractors. Sinclair agrees that all persons retained or hired to perform the duties, responsibilities, and services required under this Agreement are not City employees and not entitled to, nor will make any claim to, any of the emoluments of City employment, including insurance, workers' compensation, and/or retirement benefits. Further, Sinclair shall be responsible to withhold and pay, or cause the persons retained to provide the services required hereunder to withhold and pay, all applicable local, state, and federal taxes. If requested by the City, Sinclair agrees to furnish the City with evidence of workers compensation coverage of its employees, who provide any services under this Agreement.

I. Confidentiality

Sinclair and its employees, contractors and/or agents, including the victim/witness advocates and student interns and/or volunteers, shall maintain the confidentiality and integrity of all records,
all interviews/discussions with victims and/or witnesses and other matters of the City Prosecutor's Office and shall not disclose the contents of same to unauthorized persons.

J. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws.

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

WITNESSED BY:

[Signature]

SINCLAIR COLLEGE

By:

Its: President and CEO

CITY OF DAYTON, OHIO

________________________________________

City Manager

APPROVED AS TO FORM AND CORRECTNESS

[Signature]

City Attorney

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

________________________________________, 2021

Min. / Bk. _________ Pg. ________
<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Salaries and Wages</strong></td>
<td></td>
</tr>
<tr>
<td>Victim Advocates</td>
<td>$88,788</td>
</tr>
<tr>
<td>Project Director (up to 5 credit hours of reassigned time X $952 per credit hour)</td>
<td>$5,080</td>
</tr>
<tr>
<td><strong>Total Salaries and Wages</strong></td>
<td>$93,868</td>
</tr>
<tr>
<td><strong>Fringes</strong></td>
<td></td>
</tr>
<tr>
<td>Advocates</td>
<td>$20,662</td>
</tr>
<tr>
<td>Project Director</td>
<td>$785</td>
</tr>
<tr>
<td><strong>Total Fringes</strong></td>
<td>$21,447</td>
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<tr>
<td><strong>Other</strong></td>
<td></td>
</tr>
<tr>
<td>Travel/Training</td>
<td>$2,000</td>
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<tr>
<td><strong>Proposed Budget</strong></td>
<td>$117,315</td>
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</table>
City Manager’s Report

From 3420- Water/Water Engineering Supplier, Vendor, Company, Individual
Name Xylem Vue, Inc.
Address 121 South Niles Avenue, Suite 22 South Bend, Indiana 46617

Date September 29, 2021
Expense Type Service Agreement
Total Amount $2,600,000.00 (thru 12/31/2026)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<td>2021 Water Capital</td>
<td>53004-3430-1424-54-WF2105</td>
<td>$1,600,000.00</td>
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<tr>
<td>Funds</td>
<td>53005-3445-1424-54-WF2105</td>
<td>$1,000,000.00</td>
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Includes Revenue to the City □ Yes ☑ No
Affirmative Action Program ☑ Yes □ No □ N/A

Description

SMART WATER METERING PROFESSIONAL SERVICES AGREEMENT
(10% SBE GOAL/ 3.8% SBE ACHIEVED)

The Department of Water requests permission to enter into a Professional Services Agreement with Xylem Vue, Inc. in the amount of $2,600,000.00 for the Smart Water Metering project. The professional services associated with providing a Decision Support/Logic System for the Water Distribution System to provide real-time information for operational support and capital planning. Services include evaluation of water distribution system sensors, purchase and installation of sensors, establishing data reporting, and replacement of existing production meters. The selected Consultant shall provide all equipment, material, labor, transportation, power, and management for the proposed services.

Four proposals were received for the above project on February 6, 2021. After evaluating the proposals, Xylem Vue, Inc. was chosen in response to the City’s Request for Proposal (RFP No. 20-025WTWE). Xylem Vue, Inc. had the best combination of experience, approach, expertise, and resources to meet the Department of Water’s objectives.

The Agreement is being funded using 2021 Water Capital Funds.

The Agreement shall commence upon execution by the City, and it shall expire upon expenditure of all funds provided herein or on December 31, 2026.

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

A Certificate of Funds in the amount of $2,600,000.00, proposal tabulation, HRC Letter, and a copy of the Agreement are attached.

Signatures/Approval

Approved by City Commission

Division

Department

City Manager

FORM NO. MS-16

Clerk

Date

Updated 8/2016
**CERTIFICATE OF FUNDS**

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
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<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td>Required Documentation</td>
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<tr>
<td>Expiration Date</td>
<td>12/31/2026</td>
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<tr>
<td>Original Commission Approval</td>
<td>$2,600,000.00</td>
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<tr>
<td>Initial Encumbrance</td>
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<td>X</td>
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<tr>
<td>Remaining Commission Approval</td>
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<tr>
<td>Original CT/CF</td>
<td>Increase Encumbrance</td>
<td>Copy of City Manager's Report</td>
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<tr>
<td>Decrease Encumbrance</td>
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<td>Copy of Original Certificate of Funds</td>
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<td>Remaining Commission Approval</td>
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<tr>
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<td>Fund</td>
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<td>Fund</td>
<td>Org</td>
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</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: Xylem Vue, Inc.

Vendor Address: 121 South Niles Avenue, Suite 22, South Bend, Indiana 46617

Federal ID: 85-1368169

Commodity Code: 30200

Purpose: The professional services associated with providing a Decision Support/Logic System for the Water Distribution System to provide real-time information for operational support and capital planning

Contact Person: Lisa Burton-Yates

Water/Water Financial Services Date: 9/17/2021

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: Aaron S. Zonin Date: 9/21/2021

CF Prepared by: William Date: 9/21/2021

CF/CT Number: CT21-3362

PROCESSED BY: SEP 21 2021 S.A. 09/21/2021

VEHH

Finance Department

October 18, 2011
<table>
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<tr>
<th>Evaluation Criteria</th>
<th>Weight</th>
<th>Feyen Zylstra</th>
<th>ME Simpson</th>
<th>EmNet/Xylem</th>
<th>Johnson Controls</th>
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<tbody>
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Total Score

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<thead>
<tr>
<th>Feyen Zylstra</th>
<th>ME Simpson</th>
<th>EmNet/Xylem</th>
<th>Johnson Controls</th>
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<tbody>
<tr>
<td>0.00</td>
<td>66.43</td>
<td>80.14</td>
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</table>

Non-Responsive

Non-Responsive
Date: March 10, 2021

TO: Michael Powell, Director
Department of Water

FROM: Erica Fields, Executive Director
Human Relations Council

RE: HRC Response to Smart Water Metering Recommendation Award

The Human Relations Councils (HRC) supports the Department of Water’s recommendation to award the above mentioned project to the best bidder.

EmNet (Name changed to Xylem Vue Inc.) showed a willingness to work with small businesses by committing to 3.8% of the contract to a PEP small business and 38.8% to an non-PEP small business. EmNet has been awarded five contracts since 2013. Smart Water Metering is the first project that had a 10% SBE participation goal.

Despite EmNet short fall of the goal, HRC supports the Department of Water’s recommendation to move forward with the contractor. Over the past three years, the Department of Water has demonstrated their good faith effort to increasing PEP participation throughout their department spend. The Department of Public Works has achieved all participation spend goals set by HRC from 2017 - 2021. In 2017, the Department PEP spend goal was 8.97% and the Department of Water achieved 54% PEP participation. In 2018, the Department PEP spend goal was 9.9% and the Department of Water achieved 16.33% PEP participation. In 2019, the Department PEP goal was 28.39% and the Department of Water achieved 47.45% PEP participation. Finally, in 2020, the Department of Water achieved 23% PEP participation.

When a Department presents supporting information, the HRC will evaluate the totality of circumstances, including past performance of the requesting Department and the recommended contractor. Although this response memo does not change the HRC’s initial participation evaluation process, both the Department of Water and EmNet have demonstrated their continuing commitment to diversifying the City of Dayton’s spend with PEP certified firms.

For the achievements listed above, we support the Department of Water’s recommendation.

EF/cag
March 10, 2021

TO: Erica Fields, Executive Director
    Human Relations Council

FROM: Michael Powell, Director
    Department of Water

SUBJECT: Smart Water Metering Recommendation of Award

The Department of Water, Division of Engineering, is recommending the award of the Smart Water Metering contract to EmNet. This vendor submitted the best proposal in response to the request for proposals. The vendor included a 3.8% participation from a local, PEP certified SBE company, and a 38.8% participation from an out of state SBE firm that was not eligible to be certified.

It is the Department’s determination that the goals set for this project were unattainable due to the highly specialized nature of the work requested in comparison to the availability of qualified PEP certified companies. Both of the submitting vendors determined there was an inability to locate certified companies that would have the technical capability to meet the project goals. EmNet was able to identify a certified company for a smaller portion of the project, but no certified firm had the capability to participate at the 10% goal identified for the project. In addition, a third firm did submit a proposal but was deemed non-responsive for failing to propose on Task A. The third firm was also unable to meet the 10% PEP goal.

Re-bidding this project would hinder the Department’s ability to meet the project goals in a timely manner. Understandably, it is always our desire to exceed the goals provided; however, we believe that we have made every good faith effort to achieve the provided goals.

It should be noted that EmNet has undergone a name change and will be identified in the contract as Xylem Vue Inc.

If you have any questions or need further clarification please contact Ben Swain at x2054

MP/bss
Date: March 8, 2021

TO: Ben Swain, Senior Engineer II, Department of Water

FROM: Chrisondra Goodwine, Interim Business & Technical Assistance Administrator Human Relations Council

RE: Smart Water Metering Project - 10% SBE

Xylem Vue Inc. was the selected bidder by the RPF review team on the City of Dayton’s Smart Water Metering Project. The project had a 10% SBE attached to it. The selected bidder, Xylem Vue Inc., submitted a bid utilizing one (1) PEP-certified contractor to achieve 3.8% of the participation goal. Xylem Vue Inc. did not submit a waiver request. The contractor did submit a second non-certified SBE in its RFP package. However, the participation of 38.8% from the second non-certified firm could not be counted toward participation since the firm was not certified in the PEP program at the due date for proposals.

The proposal from Feyen Zylstra was deemed non-responsive by the department, and the proposal from ME Simpson did not fulfill the participation goal and waiver request.

The HRC cannot recommend any of the bidders.
AGREEMENT FOR ENGINEERING SERVICES

THIS AGREEMENT ("Agreement") is made this ___ day of ________________, 2021, between the City of Dayton, Ohio, ("City"), and Xylem Vue, Inc., with an office at 121 South Niles Avenue, Suite 22, South Bend, Indiana 46617 (hereinafter referred to as the "Engineer").

WITNESSETH THAT:

WHEREAS, The City desires professional engineering and support services for meters and sensors in the water distribution system; and,

WHEREAS, Engineer is willing to perform such professional services and represents that its staff is fully qualified to perform such services; and,

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

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and benefit to be derived by the parties from the execution of this Agreement, the City and the Engineer agree as follows:

ARTICLE 1. TERM

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on December 31, 2026, whichever date is earlier. The City, however, reserves the right to extend the term of this Agreement to a later date by mutual written agreement, as described in Article 11.

ARTICLE 2. SERVICES TO BE PERFORMED BY ENGINEER

Engineer shall provide all professional services necessary to complete the Services that are described in Attachment A, Scope of Services, which is incorporated herein by reference.

Goods Warranty. Contractor warrants that the goods sold to the City hereunder by Contractor (with the exception of computer servers, software, membranes, seals, elastomer materials, coatings and other "wear parts" or consumables all of which are not warranted except as otherwise provided in the quotation or sales form) will be (i) built in accordance with the specifications referred to in the quotation or sales form, if such specifications are expressly made a part of the Agreement, and (ii) free from defects in material and workmanship for a period of one (1) year from the date of installation or eighteen (18) months from the date of shipment (which date of shipment will not be greater than thirty (30) days after receipt of notice that the goods are ready to ship), whichever occurs first, unless a longer period is provided by law or is specified in the product documentation (the "Goods Warranty"). Except as otherwise provided by law, Contractor will, at its option and at no cost to the City, either repair or replace any goods which fails to conform with the Goods Warranty. The City’s failure to comply with Contractor’s repair or replacement advice will constitute a waiver of the City’s rights and render all warranties void. Any parts repaired or replaced by Contractor under the Goods Warranty are warranted only for the remaining balance of the warranty period. The Goods Warranty is conditioned on the City giving written notice to Contractor of any defects in material or workmanship of warranted goods within thirty (30) days of the date when any defects are first manifest. Contractor will have no Goods Warranty obligations to The City with respect to any goods or parts of the goods that: (a) have been repaired by third parties other than Contractor or without Contractor’s written approval; (b) have been subject to misuse, misapplication, neglect, alteration,
accident, or physical damage; (c) have been used in a manner contrary to Contractor’s instructions for installation, operation and maintenance; (d) have been damaged from corrosion, or chemical attack; (e) have been damaged due to abnormal conditions, vibration, failure to properly prime, or operation without flow; (f) have been damaged due to a defective power supply or improper electrical protection; (g) have been damaged resulting from the use of accessory equipment not sold by Contractor or not approved by Contractor in connection with goods supplied by Contractor hereunder.

ARTICLE 3. COMPENSATION

The total remuneration in this Agreement shall not exceed TWO MILLION SIX HUNDRED THOUSAND DOLLARS AND ZERO CENTS ($2,600,000.00) and shall be paid according to Attachment B, Compensation, which is incorporated herein by reference. Engineer shall submit invoices, not more frequently than monthly, for payment of the Services actually provided. Such invoices shall state the invoice period, total amount requested and Services provided during the invoice period. The City will, unless disputed, remit payment of all undisputed amounts of invoices within thirty (30) days from receipt thereof.

ARTICLE 4. CITY’S RESPONSIBILITIES

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

The City shall: (a) cooperate with Contractor in all matters relating to the Services and provide such access to City’s premises, and such office accommodation and other facilities as may reasonably be requested by Contractor, for the purposes of performing the Services; (b) deliver to Contractor all relevant environmental, health and safety information before conducting the Services and at all relevant times thereafter, including mitigating hazards to the maximum extent practicable and/or warning of any such hazards along with requirements for appropriate personal protective equipment, as required to establish and maintain safe working conditions; (c) respond promptly to any Contractor request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Contractor to perform Services in accordance with the requirements of this Agreement; (d) provide such materials or information as Contractor may request to carry out the Services in a timely manner and ensure that such materials or information are complete and accurate in all material respects; and (e) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start. If Contractor’s performance of its obligations under this Agreement is prevented or delayed by any act or omission of the City or its agents, subcontractors, consultants or employees, Contractor shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by the City, in each case, to the extent arising directly or indirectly from such prevention or delay.

ARTICLE 5. STANDARD OF CARE

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

If, during the one year period following completion of the Services, it is shown there is an error in the Services caused by Engineer's failure to meet such standards and the City has notified Engineer in writing of any such error within that period, Engineer shall perform, at no additional cost to the City, such Services within the original Project as may be necessary to remedy such error.
ARTICLE 6. LIABILITY AND INDEMNIFICATION

Engineer shall defend, indemnify, and hold harmless the City and its elected officials, officers, agents and employees, from and against all claims, losses, damages, and expenses for bodily injury, death, or third party property damage to the extent such claims, losses, damages, or expenses are caused by Engineer’s negligent or willful acts, errors, or omissions.

Contractor’s aggregate liability in any and all causes of action arising under, out of or in relation to this Agreement shall not exceed TWO MILLION SIX HUNDRED THOUSAND DOLLARS AND ZERO CENTS ($2,600,000.00). This is so whether the claims are in tort, including, without limitation, negligence or strict liability, in contract, under statute or otherwise. This Article 6 shall survive early termination or expiration of this Agreement.

ARTICLE 7. INSURANCE

During the term of this Agreement, Engineer shall maintain, at its sole cost and expense, no less than the following insurance issued by an insurance company authorized to conduct business in the State of Ohio and having an “A” rating or better by A.M. Best:

1. General liability insurance, having a combined single limit of $1,000,000 for each occurrence and $1,000,000 in the aggregate.
2. Automobile liability insurance, having a combined single limit of $1,000,000 for each person and $1,000,000 for each accident.
3. Employers’ liability insurance, having a limit of $500,000 for each occurrence.
4. Professional liability insurance, having a limit of $1,000,000 annual aggregate.

Current certificates of insurance for all policies and concurrent policies required to be maintained by Engineer pursuant to this Article shall be furnished to the City. All such insurance policies, excluding Professional Liability Insurance, shall name the City and its elected officials, officers, agents, employees, and volunteers as additional insureds, but only to the extent of Engineer’s legal liability and to the extent of the policy limits stated herein. All policies of insurance required hereunder shall contain a provision requiring a minimum of thirty (30) days advance written notice to the City in the event of cancellation or diminution of coverage. In the event of a claim, Engineer shall make copies of applicable insurance policies available for review by the City. Engineer, however, shall retain its right to restrict disclosure of Engineer’s proprietary information contained in such policies in accordance with Article 8.

Engineer also shall maintain Workers’ Compensation Insurance in such amounts as required by law for all employees, and shall furnish to the City evidence of same.

ARTICLE 8. CONFIDENTIALITY

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

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

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

Privacy and Client Data. The City acknowledges that Contractor may collect and process personal data for the purposes of performing the Services. Contractor’s data privacy policy is available at https://www.xylem.com/enus/support/privacy/. The City acknowledges that it has read and understood Contractor’s privacy policy and agrees to the use of personal data outlined herein. The City is the exclusive owner of Client Data and is responsible for all information provided by or on behalf of the City to Contractor for the purposes of Contractor providing the Services. The City agrees and authorizes Contractor to indefinitely store any data collected from Contractor’s goods (“Client Data”) on Contractor’s hardware, software, networking, storage, and related technology. The City grants Contractor and Contractor’s affiliates a worldwide, royalty-free, non-exclusive, irrevocable right and license to access, store and use such Client Data to: (a) provide services; (b) analyze and improve services; (c) analyze and improve any of Contractor’s or its affiliate’s goods or software; and (d) for any other internal use, provided any such internal use is limited to using the Client Data in an aggregated and anonymized manner that cannot be reconstituted as Client’s Client Data. Contractor hereby agrees that Contractor will not sell or commercialize Client Data for use by third parties.

**ARTICLE 9- OWNERSHIP OF DOCUMENTS & INTELLECTUAL PROPERTY**

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

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

**ARTICLE 10. TERMINATION**

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

The City may terminate or suspend performance of this Agreement for the City’s convenience upon thirty (30) days prior written notice to Engineer. In the event of the termination prior to completion of any service, Subcontractor is entitled to that portion of the Fees attributable to Services actually performed and Deliverables actually delivered, as well as its actual, documented, reasonable expenses incurred, prior to the effective date of termination in accordance with the applicable statement of work that could not be cancelled or terminated as required above. Notwithstanding the foregoing, Contractor will not be entitled to any lost profits as a result of a termination under this Section 10 of the Agreement.
ARTICLE 11. STANDARDS TERMS

A. DELAY IN PERFORMANCE

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

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

The Parties acknowledge and agree that the global COVID-19 pandemic (“COVID-19”) is ongoing, dynamic, unpredictable, and as such may impact the ability of the Contractor and/or the City to meet its obligations under this Agreement. The Parties agree that, for so long as there is a direct impact of COVID-19 on a Party’s performance, impacted performance efforts by the affected Party will be on a reasonable efforts basis only and the affected Party shall not be responsible for failure to meet its obligations, to the extent that it is actually precluded from doing so as a result of COVID-19; provided, however, that the affected Party shall use reasonable efforts to mitigate any impacts. The Parties shall work, in good faith, to mitigate any impacts and to make any reasonable adjustments that may be required as a result of COVID-19.

B. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws. Any 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.

C. COMMUNICATIONS

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

Engineer: Xylem Vue Inc.
121 South Niles Avenue, Suite 22
South Bend, Indiana 46617
Attention: Tim Ruggaber, Vice-President Engineering

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

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of Engineer and the City.
D. EQUAL EMPLOYMENT OPPORTUNITY

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

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

E. WAIVER

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

F. SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void, unenforceable, invalid or illegal provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision, which is of the essence of this Agreement, be determined void.

G. INDEPENDENT CONTRACTOR

By executing this Agreement for professional services, Engineer acknowledges and agrees that it will be providing services to the City as an “independent contractor”. As an independent contractor for the City, Engineer shall be prohibited from representing or allowing others to construe the parties’ relationship in a manner inconsistent with this Article. Engineer 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.

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

H. ASSIGNMENT

Engineer shall not assign any rights or duties under this Agreement without the prior written consent of the City. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent Engineer from employing independent consultants, associates, and subcontractors to assist in the performance of the Services.
I. THIRD PARTY RIGHTS
Except as expressly provided in this Agreement, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Engineer.

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

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

K. POLITICAL CONTRIBUTIONS
Engineer affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

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

M. INTERPRETATION
The parties agree that they have actively negotiated and drafted the provisions of this Agreement. Notwithstanding any rule to the contrary, no provision of this Agreement shall be interpreted or construed against any party because such party or its legal counsel was the drafter of the provision.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]
IN WITNESS WHEREOF, the City and Engineer, each by a duly authorized representative, have executed this Agreement on the date first written above.

CITY OF DAYTON, OHIO

________________________________________
City Manager

Date:______________________________

XYLEM VUE INC.

By:  Timothy P. Ruggaber

Its:  Vice President, Engineering

APPROVED AS TO FORM
AND CORRECTNESS:

8/30/2021

X  John Musto for
City Attorney

Signed by: Musto, John

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

_____________________, 2021

Min./Bk. ______________ Pg. __________

___________________________
Clerk of Commission
ATTACHMENT A
TO
AGREEMENT FOR ENGINEERING SERVICES

City: City of Dayton, Ohio
Project: Smart Water Metering
Engineer: Xylem Vue Inc.

SCOPE OF SERVICES

Task A – Project Administration

The Engineer shall manage the overall project and coordinate with the City project manager to ensure tasks are completed according the authorized scope and budget ensuring achievement of the aforementioned goals.

Task A Deliverables

- Overall project oversight and management.
- Monthly invoices and status report.
- Monthly project video conference with the City of Dayton Department of Water (Dayton Water).

Task B – Technology Evaluation & System Design

Task B.1 – Design Thinking Workshop
Arcadis shall lead a smart water visioning and implementation workshop to capture Dayton Water’s vision and establish a guiding framework for the project and the next five years for the smart water program. This will include setting key criteria for the water model update and a later systems integration to tie together the separate systems that will provide a live, operational smart water model. It will not establish particular details such as software, protocols, or a final outcome.

The workshop shall include a diverse cross section of Dayton Water staff, as well as subject matter experts in the field. The participants will summarize current best practices, long term needs of the sensor network, and vision from across the utility representatives. Personas will be developed for Dayton Water staff such as engineer, operator, finance manager, director. Data needs and sensor requirements will be identified. Needs, expectations, requirements and impacts of each persona will be prepared. The goal is to develop a consensus on the long-term needs of the Dayton Water, how this project impacts(addresses individual Dayton Water employee needs, and key insights and pain points that should be addressed. A prioritized list to be completed as part of this project will be developed. Ideas are presented to the overall group and buy-in obtained across the organization representatives. The Arcadis team will record and document ideas and developments throughout the entirety of the workshop for use by the Dayton Water and by Xylem Vue Inc. through execution of the project.

Task B.2 – Sensor Technology Scan and Evaluation
Leveraging the outcomes of the above workshop, and addressing the needs defined in the Project scope, Arcadis will prepare a technology scan and evaluation to recommend the appropriate sensors for a smart water system. A scoring matrix, with criteria and weighting will be presented and coordinated with Dayton Water and Xylem Vue prior to performing the evaluation. The evaluation criteria will be established by the team and may include the following:

- Sensor availability and performance
- Data management/security and integration capabilities
• Communication methodology and effectiveness across the City’s water distribution service area
• Power and installation requirements
• Maintenance requirements
• Data analytics maturity
• Data QA/QC capabilities and performance
• Uptime and cloud-hosting performance
• Measurement frequency and flexibility
• Capital, operations, and maintenance cost.
• Potential integration with Sensus FlexNet network.

Following initial identification of potential platforms/solutions, Arcadis will prepare a Request for Information to obtain performance and cost information to meet the scope of the overall project as defined in the workshop. The results of the evaluation will be presented in the scoring matrix to Dayton Water and Xylem Vue for their procurement.

Task B.3 – Sensor System Design: Identify Locations and System Recommendations
Xylem Vue and Arcadis will bring together both outcomes of the design thinking workshop and the sensor technology scan recommendations to support the sensor system design. The Engineer will use Dayton Water’s water distribution system hydraulic model in concert with expectations/needs of Dayton Water to recommend the location and type of sensors to be strategically installed throughout Dayton Water’s system. Recommendations will be summarized in a brief project report for the project team.

Task B Deliverables
• Visioning and Implementation Workshop
• Vision and framework document
• Identification of key criteria for the current project
• Sensor technology scan recommendations
• Location and system recommendations

Task C – Meter Evaluation, Testing, and Calibration or Replacement
Outcomes from Task B shall be used in guiding recommendations for Task C where applicable.

Task C.1 – Existing Meter Evaluation
The Engineer will visit existing meter locations and collect site specific data to evaluate the suitability of the meter location and the meter technology. Data will be collected and organized into a site evaluation report. This report will present the current conditions of the meter installation and provide comments regarding the realistic expectations of the meter performance at that particular location. Meter accuracy testing will not be conducted under this task. A comprehensive evaluation of the existing booster station meters is not included as it is understood that the existing meters will be replaced.

Recommendations will be provided to improve the performance of the meter site paying particular attention to reliability and accuracy of the meter as well as the Dayton Water’s goals for implementing the Smart Water Metering Program.

Scope Items Included in this Phase:
• Conduct field evaluation activities.
• Provide a report indicating the existing condition of each meter location. Report will generally consist of a field data report with general meter information, including:
  o Meter type
  o Manufacturer
o Size
o Serial number
o Meter station location
o Meter station layout
o The suitability of the meter technology and the layout of the station will be evaluated and comments regarding the positive and negative effects on meter station accuracy will be provided.

Task C.2 – Meter Testing and Calibration
The Engineer shall develop a meter-appropriate testing protocol, in order to accurately assess the in-situ performance of the flow meter. The Engineer will work with the meter manufacturer’s technical specialists to develop an appropriate meter testing protocol that will achieve the intended result of verifying the meter’s accuracy. These protocols will be different for each meter type. The Engineer will identify the available options for review and consideration by Dayton Water. Once developed, the Engineer will lead a workshop to detail the proposed testing method with all stakeholders to generate buy-in and acceptance of the proposed methodologies. This workshop will evaluate whether meter testing is cost effective or if some meters should simply be replaced with a new meter. This may be deemed advantageous for a couple of reasons:
  - It is simply less costly to replace the meter than to test and calibrate it
  - The meter would come from the factory with a calibration certificate from a traceable source
  - The existing meter is likely obsolete and not compatible with the smart water meter goals of Dayton Water and it is more advantageous to procure a meter with more advanced technology

The workshop in Task C will be limited to the production flow meters. Where replacement of meters is recommended, replacement options will be discussed at the workshop. Arcadis will also attend the workshop and lend their expertise to the meter selection discussion. Following the workshop, the Engineer will compile recommendations, which will also be shared with Arcadis for their review and input. Dayton Water shall have final approval of the meter selection which will include recommendations by Arcadis.

Where the workshop participants have determined that a particular meter should be tested, the testing will be conducted, and a concise report will be generated. This report will contain the site-specific meter evaluation from Phase 1, present the data collected during the testing phase, and state the relative accuracy of the meter. Accuracy testing and calibration for a total of nine (9) locations is included in the cost as shown in Attachment B.

Scope Items included in this phase:
- Plan and Facilitate a meter technology evaluation and testing methodology workshop.
- Provide an in-depth educational workshop of available relevant meter technologies.
- Present the results of the field meter evaluation conducted in Phase 1.
- Discuss the options and recommendations for each meter location
- Guide the decision-making process that will result in conducting further accuracy testing or simply replace the meter at each location
- Execute the meter testing and calibration procedure for the meters that have been selected to remain in place
- Provide a report of the meter calibration results including comparison to SCADA records, information prepared in Phase 1, and documentation of recommendations for future meter testing

Task C.3 – Meter Replacement
Meters that have been identified in Phase 2 to be replaced will follow the following procedure:
- Appropriate meter technology will be identified and presented to the appropriate stakeholders for buy-in and acceptance.
• Once the meter technology is approved the Engineer will develop a procurement and installation quotation which will also be presented and reviewed by all stakeholders. Once approval is granted, the Engineer will procure the meter and commence the installation of the meter.
• Installation shall be in accordance with all federal, state, and local requirements, as well as industry standards.

The dollar amount provided in Attachment B represents a budget intended to cover the replacement of two (2) 10”, four (4) 12”, and four (4) 16”, one (1) 30”, and one (1) 48” mag meters, as well as five (5) DP transmitters. If costs exceed this amount, then funds may be reallocated from another task or approval of additional funds will be required of Dayton Water, with approval for reallocation or addition of funds provided in writing.

**Task C.4 – Meter Monitoring**
The Engineer will repeat the testing process selected in Task C.2 and expand to include any new meters that were installed in Task C.3. Each meter will be tested, and the Task C.2 report will be updated to form a continuous record of meter maintenance activities. It is anticipated that these additional tests will be performed in years 2 and 4.

The Engineer shall evaluate the opportunity to utilize the sensor network, and any associated system, to identify when a production meter may drift outside the identified accuracy requirement and requires testing and recalibration.

Deliverables in this phase will be a report containing:
• Updated Task C.2 Meter Evaluation Reports to include the latest testing results.

**Task D – Sensor Design and Installation**

**Task D.1 – Sensor Site Assessment and Design**
Following the completion of Task B, the team will have developed a conceptual plan for a network of sensors to monitor the Dayton Water’s distribution system in real-time. The recommendations from Task B will include proposed locations and the types of sensors to be installed. In Task D, the team will conduct more detailed planning for the sensor installations. This will include an assessment of site constraints at the recommended locations as well as development of plans and submittal of permits as needed.

The Engineer will conduct site assessments for each of the proposed sensor locations. During these site visits, the Engineer will evaluate the suitability of the proposed location and identify any potential installation challenges or site-specific considerations such as barriers to access or traffic control needs. The Engineer shall seek to utilize existing access to the system where it aligns with the project goals. Data collected will include photos of the site looking North, South, East, and West. The assessor will rate the site based on the potential to install a meter at the location. Documentation of the site assessments will be provided to Dayton Water and reviewed in a virtual meeting. It assumed that all data can be collected from grade and that confined space entry will not be required.

The engineer will provide plans suitable for obtaining a water permit from the City of Dayton for up to ten (10) sites. The cost provided in Attachment B assumes detailed design of ten (10) sensor installations, using standard details and not including any field survey, geotechnical, electrical, instrumentation and control or structural design. The plans will be based on City of Dayton meter pit details D-16, D-17, D-20 and/or D-21. For the basis of estimate, it is assumed the vaults will be constructed from precast concrete with a minimum bottom of 12 inches of ¾ inch washed gravel for support and drainage. It is assumed that as-built drawings of the existing water mains are available for each location. The Engineer will utilize GIS for layout but will perform the design in AutoCAD. The cost provided in Attachment B
assumes that no cost estimates, bidding documents, or additional permitting are required.

Additional Assumptions:

- If needed, the City will perform vacuum excavation to locate the water line.
- The vaults will be located off of the pavement within the right of way.
- No easement acquisition is required.
- Utilities will not need to be relocated.
- Locations are not subject to flooding.
- Road cut permits will not be needed.
- OEPAP plan review not required.
- City of Dayton permit required. Fees to be paid by Dayton Water. The Engineer will submit plans and documentation as required. Fees to be paid by Dayton Water.
- Detailed site survey not required.
- Water lines will be taken out of service for construction.

The outcome of these design activities will be a single set of plans for the purposes of obtaining permit approval.

**Task D.2 – Sensor Installation**

The Engineer shall procure sensors of the types and models selected by the City during the technology evaluation, and perform installation based upon the manufacturer’s requirements. Pricing shall be presented and approved by Dayton Water prior to procurement. Construction work shall be performed in accordance with the City of Dayton Construction and Material Specifications (latest edition).

The budget for Sensor Installation included in Attachment B was developed assuming forty-five (45) transient pressure monitors, five (5) insertion flow meters, and ten (10) acoustic monitors. The budget also includes a $50,000 allowance for construction activities (including bidding and construction administration activities, if required). This allowance is provided for budgetary purposes only and does not represent any specific scope of work. The scope of work will be developed following the completion of Task B.

Deliverables for Task D:

- Construction plans for installation of sensors requiring a permit
- Installed sensors

**Task E – Data collection, QA/QC, and Analytics**

**Task E.1 – Data Integration**

The Engineer shall evaluate the selected sensors and the available platforms for reporting the data and provide a recommendation to Dayton Water. The recommendation shall be in alignment with all tasks and goals in the contract. The Engineer should also consider other available data that may be included in the platform selected. Dayton Water will approve the final selection for the reporting platform.

The reporting platform for the purpose of the project may or may not be the platform that Dayton Water intends to utilize for the long-term use for the smart water network. The primary goal for the contract is a platform that can effectively make data from the project sensors available to Dayton Water staff. Reporting shall be through a graphical interface, and also provide notifications via email and text messaging to identified staff when a sensor detects conditions outside of identified parameters.

The production meters in Task C shall be connected to Dayton Water’s SCADA system. They shall not be connected via any other mode of communication. The Engineer shall work with Dayton Water’s SCADA engineer for integration. Reporting data from the production meters may be delivered to the
reporting platform via the iHistorian database.

The sensors in Task D shall not be connected to SCADA. The evaluation in Task D will identify the mode of communication, but the sensors must have the capability of connecting to the Sensus FlexNet communications network in the event that Dayton Water implements the network.

Costs for data integration shall be established as equipment and systems are selected. Estimated costs provided in Attachment B assume the use of Xylem Vue standard equipment. The costs may also be subject to change depending on the types of sensors and types of reporting features selected.

**Task F – Subscription and System Maintenance**

**Task F.1 – Battery Replacement**

The Engineer shall perform battery replacement at the interval required by the particular sensor selected. If batteries require replacement at a shorter interval than typical, efforts should be made to understand the reason, and seek to mitigate the shorter battery life.

Anticipated battery replacement frequency and associated costs shall be established as equipment and systems are selected. Estimated costs provided in Attachment B assume a replacement interval of two (2) months and that the replacements can be completed by one (1) technician taking an average of thirty (30) minutes per site.

**Task F.2 - Equipment Maintenance**

The Engineer shall perform maintenance or replacement of sensors as needed. The analytics should be configured to help identify when a sensor is not operating correctly. When a sensor has failed, efforts should be made to identify the cause of the failure and any actions that can be taken to mitigate future failures. The Engineer shall track, and make use of, any manufacturer warranties.

Equipment maintenance shall have two tiers for response:
- Standard Response – Maintenance will be performed on a scheduled basis to reduce costs.
- Emergency Response – Any sensor identified as critical shall have maintenance performed and returned to operation within one (1) week.

Anticipated frequency of preventative maintenance activities and associated costs shall be established as equipment and systems are selected. Estimated costs provided in Attachment B assume standard response maintenance of sixty (60) sites annually and emergency response maintenance of sixty (60) sites annually.

**Task F.3 - Software Subscription**

The Engineer shall pay any software subscription, support, and maintenance costs as a part of the contract. Costs will be established as equipment and systems are selected.

Estimated costs provided in Attachment B assume the use of Xylem Vue standard equipment and do not include 3rd party subscription fees. The costs may also be subject to change depending on the types of sensors and types of reporting features selected.

**Task F.4 Continuous Improvement**

This Engineer shall facilitate an annual review of smart water visioning and implementation workshop outcomes to confirm that the project remains true to the long-term vision of the City.
ATTACHMENT B
TO
AGREEMENT FOR ENGINEERING SERVICES

City: City of Dayton, Ohio
Project: Smart Water Metering
Engineer: Xylem Vue Inc.

COMPENSATION

1. The total "Not-To-Exceed" fee for performance of the Scope of Services, as outlined in Attachment A to this Agreement, is $2,600,000.00. This amount includes all direct and indirect labor charges, material cost, overheads, and profits plus all other fees and charges including expenses, plus a supplemental services allowance in the amount of $139,149.00. Such direct expenses include:
   a. Travel, subsistence, and incidental costs.
   b. Use of motor vehicles on a monthly rental basis for assigned vehicles and on a mileage basis or rental cost basis for vehicles used for short periods.
   c. Telegraph costs, long distance telephone costs, and Project “onsite” telephone costs.
   d. Reproduction of reports.
   e. Postage and shipping charges for Project-related materials.
   f. Computer time charges, including program use charges.
   g. Rental charges for use of equipment, including equipment owned by the Engineer.

Where adjustment to the total amount of a line item is required, funds may be reallocated from another task or approval of additional funds will be required of Dayton Water, with approval for reallocation or addition of funds provided in writing.

The “Not-To-Exceed” fee of $2,600,000 broken down as follows:

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Billing Notes:
1. Invoiced monthly, starting upon kickoff of project, for duration of Tasks B, C, D, and E
2. Invoiced upon completion of Design Thinking Workshop
3. Invoiced upon submittal of Sensor Technology Evaluation and Scoring Matrix
4. Invoiced upon submittal of Sensor System Design Brief Project Report
5. Invoiced upon submittal of the Existing Meter Evaluation Report
6. Invoiced monthly based on time & material
7. Invoiced upon completion of integration
8. Software Subscription and License fees to be invoiced monthly upon completion of software installation and user training
9. Invoiced upon completion of annual review workshop
10. See Hourly Rate Fee Schedule. Hourly rates will be subject to an annual escalation starting in Year 3.

Xylem Vue shall markup all subcontractor invoices 5%, including equipment.

All equipment excluding Xylem Vue equipment shall be purchased by HESCO, who is a manufacturer’s reseller for a variety of equipment manufacturers. Xylem will coordinate with HESCO as needed to seek a fair market value for equipment purchases. If requested, fair market value evaluation may include requesting informal quotes when multiple vendors may provide the required equipment or comparing quotations to the Request for Information data collected by Arcadis. Equipment quotes will be shared with the City of Dayton for review. The City shall have 5 business days to review the quotations for acceptance.

The City reserves the right to add supplemental services covered under section 3 and any charges applicable to the supplemental services allowance must be approved in writing by the City and Engineer. The total “billing limits” shall not exceed $2,600,000.00 without further written authorization from the City.

**Hourly Rate Fee Schedule:**

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<tr>
<th>Xylem Vue Classification</th>
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<td>Data Integration Analyst</td>
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<td>Sr. Software Engineer</td>
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**HESCO Classification**

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**Clear Consulting Classification**

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<td>Project Engineer</td>
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**Arcadis Classification**

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<td>Project Manager / Intelligent Water Lead</td>
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<td>Technical Advisor / Subject Matter Expert</td>
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<td>Subject Matter Expert</td>
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<td>Design Thinking Workshop Lead Facilitator</td>
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<td>Subject Matter Expert / Modeling</td>
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<td>Subject Matter Expert / Sensor Design</td>
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<td>Support / Management Consultant</td>
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2. The following are expenses that are not included in the lump sum fee set forth in Section 1:
   a. Charges of special consultants requested or authorized by the City.
   b. Special insurance coverage required by the City, including the cost of naming the City as an additional insured.
   c. Local taxes or fees applicable to the consulting work or payment therefore.
   d. Cost of acquiring any other materials or services specifically for and applicable to only this Project.

3. Supplemental Services. A lump sum amount shall be determined for each supplemental service. Each item of supplemental services shall be specifically authorized by the City, and a maximum billing limit shall be established before the work is started. The amount billed for each item of supplemental services shall not exceed the amount established for it without further written authorization by City. Additional amounts for supplemental services may be authorized by City, if necessary, as the work progresses.

4. The City shall remit payment to Engineer within thirty (30) days from receipt of a monthly invoice detailing the Services rendered and the percent complete of the scope of services described in Attachment A. All invoices for non-lump sum, reimbursable type payments shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other accounting documents pertaining in who or in part to the performance of the Services and shall be clearly identified and readily accessible to City. However, Engineer does not have to furnish such supporting documentation with its invoice, unless requested by the City.
5. Engineer shall keep its records related to the matters covered by this Agreement in compliance and
certainty with generally accepted accounting practices. At any time during normal business hours
and as often as the City may deem necessary, Engineer shall make available to the City all of its
records with respect to all matters covered herein, and will permit the City, at its expense, to audit,
examine, and make excepts or transcripts from such records and to have audits made of all contracts,
invoices, materials, payrolls, records of personnel, conditions or employment and other data
pertaining in whole or part to matters covered within this Agreement. In performing any independent
audit, Engineer shall require the auditor to reasonably comply with all applicable City rules and
regulations governing such procedures.
DAYTON PARALLEL SANITARY INTERCEPTOR PHASES C & D
(10% SBE, 5% MBE, & 5% WBE GOAL/10.2% SBE, 5.04% MBE, & 5.05% WBE ACHIEVED)

The Department of Water requests permission to enter into a Contract with Sunesis Construction Co. in the amount of $19,621,919.90 for the Dayton Parallel Sanitary Interceptor Phases C & D project. This amount includes the base bid of $8,453,083.80, Alternate No. 1 – Contingency Allowance (10% of Base Bid) for $845,308.38, Alternate No. 2 – Parallel Interceptor Phase D for $9,385,025.20, and Alternate No. 3 – Contingency Allowance (10% of Alternate No. 2) for $938,502.52. This project consists of the construction of a water main relocation and construction of an interceptor sewer parallel to the existing interceptor sewer along the West side of the Great Miami River from Longworth Siphon (near Albany Street) to Deeds Point Junction Chamber (near Riverside Drive). Approximately 11,350 linear feet of 6-foot high by 8-foot-wide box culvert with “V” channel and 1,420 linear feet of 36-inch PCCP watermain will be installed via open cut.

Two bids were received for this project on August 26, 2021. After evaluating the bids, Sunesis Construction Co.‘s bid was determined to be the lowest. The estimated cost for the project (including Alternate No. 1 – Contingency Allowance, Alternate No. 2 – Parallel Interceptor Phase D, and Alternate No. 3 – Contingency Allowance for Alternate No. 2) was $38,540,000.00. The time of completion is August 31, 2024. The expiration date identified on the Certificate of Funds is December 31, 2025.

This project is being funded using Series 2020 Sewer Construction Fund (Debt) and 2021 Sanitary Capital Funds. This project supports the Asset Management Sewer Capital Reinvestment Program by replacing existing sanitary sewers identified in the Sanitary Master Plan.

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.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>X</th>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Orders</th>
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<tr>
<td></td>
<td>Contract Start Date Upon Execution</td>
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<td></td>
<td>Expiration Date 12/31/2025</td>
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<td>Original Commission Approval $19,621,919.90</td>
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<td>Initial Encumbrance $19,621,919.90</td>
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<tr>
<td></td>
<td>Remaining Commission Approval $-</td>
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<td></td>
<td>Original CT/CF Increase Encumbrance $-</td>
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<td></td>
<td>Decrease Encumbrance $-</td>
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<tr>
<td></td>
<td>Remaining Commission Approval $-</td>
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</tbody>
</table>

Required Documentation

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

<table>
<thead>
<tr>
<th>Amount: $16,981,500.00 (Seq. 1)</th>
<th>Amount: $2,640,419.90 (Seq. 2)</th>
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<tbody>
<tr>
<td>Fund Code 55810 - 3445 - 1424 - 54 - SF2111</td>
<td>Fund Code 55002 - 3445 - 1424 - 54 - SF2111</td>
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<td>Fund Org Acct Prog Act Loc</td>
</tr>
<tr>
<td>Amount:</td>
<td>Amount:</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALS

Vendor Name: Sunesis Construction Co.
Vendor Address: 2610 Crescentville Rd. West Chester Ohio 45069
Street City State Zipcode + 4
Federal ID: 31-1323837
Commodity Code: 96896
Purpose: Award of Contract for Dayton Parallel Sanitary Interceptor Phases C & D

Contact Person: Lisa Burton-Yates
Water/Water Financial Services Department/Division 9/17/2021 Date
Originating Department Director's Signature: 

SECTION II - to be completed by the Finance Department

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

Finance Director Signature  

CF Prepared by 

PROCESSED BY 

Finch Department
October 18, 2011
Dayton Parallel Sanitary Interceptor Phases C & D (#7934265)
Owner: City of Dayton Ohio
Solicitor: Dayton OH, City of
08/26/2021 12:00 PM EDT

<table>
<thead>
<tr>
<th>Section Title</th>
<th>Sunesis Construction Extension</th>
<th>Cc John R Jurgensen Extension</th>
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</thead>
<tbody>
<tr>
<td>Base Bid - Parallel Interceptor</td>
<td>$8,403,083.80</td>
<td>$13,900,414.51</td>
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<tr>
<td>Alternate No. 1</td>
<td>$840,308.38</td>
<td>$13,900,041.51</td>
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<tr>
<td>Alternate No. 2</td>
<td>$9,385,025.20</td>
<td>$16,443,280.87</td>
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<td>Alternate No. 3</td>
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<td>Fixed Price Item</td>
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<td>$50,000.00</td>
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<tr>
<td>Base Bid Total:</td>
<td>$8,453,083.80</td>
<td>$13,950,414.51</td>
</tr>
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</table>
August 31, 2021

TO: Nick Dailey, Chief Engineer - Design
   Department of Water, Division of Water Engineering

FROM: Donerik Black, Senior Contracts Compliance Officer,
       Human Relations Council (HRC)

SUBJECT: Dayton Parallel Sanitary Interceptor Phases C&D
         (10% SBE, 5% MBE, 5% SBE Participation Goal)

The apparent low bidder, Sunesis Construction Co., Inc., submitted a bid utilizing three (3) PEP-certified contractor to meet the project’s participation goal. The HRC’s contract compliance analysis has verified that Sunesis Construction Co., Inc., 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>Sunesis Construction Co., Inc.</td>
<td>$8,453,083.80</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>CERTIFIED BUSINESS PARTICIPATION</th>
<th>COMMITTED DOLLAR AMT</th>
<th>% TOWARD GOAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>W.C. Jones Asphalt Paving Co.</td>
<td>$212,775</td>
<td>1.08% MBE</td>
</tr>
<tr>
<td>Countryside Gardens, Inc.</td>
<td>$100,908</td>
<td>.51% SBE</td>
</tr>
<tr>
<td>L.J. DeWeese Co., Inc.</td>
<td>$2,881,025.00</td>
<td>10.20% SBE</td>
</tr>
<tr>
<td>Net Quest Services, Inc.</td>
<td>$270,000</td>
<td>1.38% MBE</td>
</tr>
<tr>
<td>Tall View Palladium</td>
<td>$588,712.77</td>
<td>2.07% MBE</td>
</tr>
<tr>
<td>EWOL Trucking</td>
<td>$100,000</td>
<td>.51% MBE</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TOTAL COMMITTED PARTICIPATION</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>10.2% SBE</td>
<td>5.04% MBE</td>
</tr>
<tr>
<td>5.05% WBE</td>
<td></td>
</tr>
</tbody>
</table>
The attached participation forms should be included with the contract agreement. Contract compliance will include 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) 333-1439.

DB
CITY OF DAYTON, OHIO
DEPARTMENT OF PUBLIC WORKS

Bid

Dayton Parallel Sanitary
Interceptor Phases C & D

Bidder
Suensis Construction Co
2610 Crescentville Rd.
West Chester, OH 45069
(513) 326-6000
<table>
<thead>
<tr>
<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>207</td>
<td>Temporary Erosion and Sediment Control</td>
<td>L.F.</td>
<td>13,300</td>
<td>$4.00</td>
<td>$53,200.00</td>
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<tr>
<td>403</td>
<td>Asphalt Concrete (Bike Path Replacement)</td>
<td>TONS</td>
<td>90</td>
<td>$325.00</td>
<td>$29,250.00</td>
</tr>
<tr>
<td>601</td>
<td>Slope and Channel Protection (Rip-Rap)</td>
<td>C.Y.</td>
<td>30</td>
<td>$177.00</td>
<td>$5,310.00</td>
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<tr>
<td>601</td>
<td>Slope and Channel Protection (Concrete Storm Sewer Apron Replacement)</td>
<td>C.Y.</td>
<td>81</td>
<td>$1,317.00</td>
<td>$106,677.00</td>
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<td>614</td>
<td>Maintaining Traffic</td>
<td>L.S.</td>
<td>1</td>
<td>$133,368.00</td>
<td>$133,368.00</td>
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<tr>
<td>615</td>
<td>Low Strength Mortar Backfill</td>
<td>C.Y.</td>
<td>30</td>
<td>$181.00</td>
<td>$5,430.00</td>
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<tr>
<td>624</td>
<td>Mobilization</td>
<td>L.S.</td>
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<td>$360,573.05</td>
<td>$360,573.05</td>
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<td>659</td>
<td>Seeding and Mulching (with MCD Grass Mix)</td>
<td>S.Y.</td>
<td>22,000</td>
<td>$3.00</td>
<td>$66,000.00</td>
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<tr>
<td>810</td>
<td>&quot;36&quot;&quot; Watermain Excavation and Backfill for City Owned Piping Systems &quot;</td>
<td>L.S.</td>
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<td>$471,854.00</td>
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<td>$1.00</td>
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<tr>
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<td>8'x5' Box Sewer (Shallow Cover) Excavation and Backfill for City Owned Piping Systems</td>
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<td>810</td>
<td>11'x4' Box Sewer (Standard Cover) Excavation and Backfill for City Owned Piping Systems</td>
<td>L.S.</td>
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<td>$1.00</td>
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<td>810</td>
<td>11'x4' Box Sewer (Shallow Cover) Excavation and Backfill for City Owned Piping Systems</td>
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<tr>
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<td>$3,402.00</td>
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<td>&quot;24&quot;&quot; - Ductile Iron Water Pipe &quot;</td>
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<td>&quot;Water Main Tap (36&quot;&quot; PCCP) (Line Stop Insertion including 24&quot;&quot; Tap)&quot;</td>
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<td>847</td>
<td>Cutting and Plugging (or Capping) Water Main</td>
<td>EA.</td>
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<td>$20,099.00</td>
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<tr>
<td>S8</td>
<td>Reinforce Gasketed Concrete Boxes -8'x5' Box Sewer (Standard Cover)</td>
<td>L.F.</td>
<td>3,169</td>
<td>$763.00</td>
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<td>$654.00</td>
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<tr>
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<td>Reinforce Gasketed Concrete Boxes -11'x4' Box Sewer (Standard Cover)</td>
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<td>$1,028.00</td>
<td>$641,472.00</td>
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<td>Reinforce Gasketed Concrete Boxes -11'x4' Box Sewer (Shallow Cover)</td>
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<td>Proof of Design Testing</td>
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<td>Quantity</td>
<td>Unit Price</td>
<td>Extension</td>
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<td>Cast-In-Place Concrete (Wolf Creek Junction Chamber)</td>
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<td>120</td>
<td>$325.00</td>
<td>$39,000.00</td>
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<tr>
<td>601</td>
<td>Slope and Channel Protection (Rip-Rap)</td>
<td>C.Y.</td>
<td>30</td>
<td>$177.00</td>
<td>$5,310.00</td>
</tr>
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<td>601</td>
<td>Slope and Channel Protection (Concrete Storm Sewer Apron Replacement)</td>
<td>C.Y.</td>
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<td>Mobilization</td>
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<td>659</td>
<td>Seeding and Mulching (with MCD Grass Mix)</td>
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<td>12,000</td>
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<td>$36,000.00</td>
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<td>6'x4' Box Sewer (Standard Cover) Excavation and Backfill for City Owned Piping Systems</td>
<td>L.S.</td>
<td>1</td>
<td>$1.00</td>
<td>$1.00</td>
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<tr>
<td>810</td>
<td>6'x4' Box Sewer (Shallow Cover) Excavation and Backfill for City Owned Piping Systems</td>
<td>L.S.</td>
<td>1</td>
<td>$1.00</td>
<td>$1.00</td>
</tr>
<tr>
<td>810</td>
<td>8'x5' Box Sewer (Standard Cover) Excavation and Backfill for City Owned Piping Systems</td>
<td>L.S.</td>
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<td>$62,139.00</td>
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<tr>
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<td>8'x5' Box Sewer (Shallow Cover) Excavation and Backfill for City Owned Piping Systems</td>
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<td>$1.00</td>
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<td>810</td>
<td>10'x4' Box Sewer (Standard Cover) Excavation and Backfill for City Owned Piping Systems</td>
<td>L.S.</td>
<td>1</td>
<td>$1.00</td>
<td>$1.00</td>
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<tr>
<td>810</td>
<td>10'x4' Box Sewer (Shallow Cover) Excavation and Backfill for City Owned Piping Systems</td>
<td>L.S.</td>
<td>1</td>
<td>$1.00</td>
<td>$1.00</td>
</tr>
<tr>
<td>Item Code</td>
<td>Item Description</td>
<td>UoM</td>
<td>Quantity</td>
<td>Unit Price</td>
<td>Extension</td>
</tr>
<tr>
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<td>---------------------------------------------------------------------------------</td>
<td>-----</td>
<td>----------</td>
<td>--------------</td>
<td>-------------</td>
</tr>
<tr>
<td>810</td>
<td>11’x4’ Box Sewer (Shallow Cover with Thick Bottom) Excavation and Backfill for City Owned Piping Systems</td>
<td>L.S.</td>
<td>1</td>
<td>$35,109.00</td>
<td>$35,109.00</td>
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<tr>
<td>830</td>
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<td>EA.</td>
<td>2</td>
<td>$6,490.00</td>
<td>$12,980.00</td>
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<tr>
<td>830</td>
<td>Manhole (Frame and Cover cast into Proposed Interceptor)</td>
<td>EA.</td>
<td>17</td>
<td>$3,402.00</td>
<td>$57,834.00</td>
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<tr>
<td>S8</td>
<td>Reinforce Gasketed Concrete Boxes -6’x4’ Box Sewer (Standard Cover)</td>
<td>L.F.</td>
<td>662</td>
<td>$506.00</td>
<td>$334,972.00</td>
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<td>S8</td>
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<td>L.F.</td>
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<td>$540.00</td>
<td>$64,800.00</td>
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<td>S8</td>
<td>Reinforce Gasketed Concrete Boxes -8’x5’ Box Sewer (Standard Cover)</td>
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<td>$731.00</td>
<td>$2,225,895.00</td>
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<tr>
<td>S8</td>
<td>Reinforce Gasketed Concrete Boxes -8’x5’ Box Sewer (Shallow Cover)</td>
<td>L.F.</td>
<td>295</td>
<td>$1,363.00</td>
<td>$402,085.00</td>
</tr>
<tr>
<td>S8</td>
<td>Reinforce Gasketed Concrete Boxes -11’x4’ Box Sewer (Standard Cover)</td>
<td>L.F.</td>
<td>206</td>
<td>$920.00</td>
<td>$189,520.00</td>
</tr>
<tr>
<td>S8</td>
<td>Reinforce Gasketed Concrete Boxes -11’x4’ Box Sewer (Shallow Cover)</td>
<td>L.F.</td>
<td>503</td>
<td>$1,602.00</td>
<td>$805,806.00</td>
</tr>
<tr>
<td>S8</td>
<td>Reinforce Gasketed Concrete Boxes -11’x4’ Box Sewer (Shallow Cover with Thick Bottom)</td>
<td>L.F.</td>
<td>1,700</td>
<td>$1,073.00</td>
<td>$1,824,100.00</td>
</tr>
<tr>
<td>S8</td>
<td>Proof of Design Testing</td>
<td>L.S.</td>
<td>1</td>
<td>$12,265.00</td>
<td>$12,265.00</td>
</tr>
<tr>
<td>S9</td>
<td>Cast-In-Place Concrete (Wolf Creek Crossing Structure)</td>
<td>L.S.</td>
<td>1</td>
<td>$47,935.00</td>
<td>$47,935.00</td>
</tr>
<tr>
<td>S9</td>
<td>Cast-In-Place Concrete (Storm Sewer Crossing Structure)</td>
<td>L.S.</td>
<td>1</td>
<td>$139,210.00</td>
<td>$139,210.00</td>
</tr>
<tr>
<td>S9</td>
<td>Cast-In-Place Concrete Deeds Point Junction Chamber (including vent vault)</td>
<td>L.S.</td>
<td>1</td>
<td>$645,601.00</td>
<td>$645,601.00</td>
</tr>
<tr>
<td>S9</td>
<td>Cast-In-Place Concrete - 8x5 - 11x4 Long Transition</td>
<td>EA.</td>
<td>2</td>
<td>$62,755.00</td>
<td>$125,510.00</td>
</tr>
<tr>
<td>S9</td>
<td>Cast-In-Place Concrete - 8x5 - 11x4 Short Transition</td>
<td>EA.</td>
<td>1</td>
<td>$38,719.00</td>
<td>$38,719.00</td>
</tr>
<tr>
<td>S9</td>
<td>Cast-In-Place Concrete - 8x5 - 6x4 Long Transition</td>
<td>EA.</td>
<td>1</td>
<td>$62,534.00</td>
<td>$62,534.00</td>
</tr>
<tr>
<td>S9</td>
<td>“Cast-In-Place Concrete - (new 6’” slab)”</td>
<td>C.Y.</td>
<td>278</td>
<td>$1,145.00</td>
<td>$318,310.00</td>
</tr>
<tr>
<td>S12</td>
<td>Sheetings and Shoring (Sheet Piles Permanent)</td>
<td>SF</td>
<td>30,000</td>
<td>$29.50</td>
<td>$885,000.00</td>
</tr>
<tr>
<td>S13</td>
<td>Articulated Concrete Block Revetment System</td>
<td>S.Y.</td>
<td>3,335</td>
<td>$167.00</td>
<td>$556,945.00</td>
</tr>
</tbody>
</table>

**Alternate No. 3**

$938,502.52

**SPL**

Contingency Allowance (10% of Alternate No. 2)

L.S. 1 $938,502.52

**Base Bid Total:**

$8,453,083.80
DISCLOSURE OF LITIGATION AND/OR INVESTIGATION

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.

Disclosure of Investigation or Criminal Proceedings:

Within the past three (3) years have you or any person, group partnership, company, or corporation affiliated with you:

(1) Been the subject of any criminal investigation, whether open or closed, or an indictment for any business-related conduct constituting a crime under local, state or federal law?

RESPONSE: YES □  NO □

(2) Been the subject of:

(i) An indictment, grant of immunity, judgment or conviction (including entering into a plea bargain) for conduct constituting a crime; or

(ii) Any criminal investigation, felony indictment or conviction concerning the formation of any business association with, an allegedly false or fraudulent Minority Business Enterprise, Women-Owned Business Enterprise, or a Disadvantaged Business Enterprise

RESPONSE: YES □  NO □

If your response is “YES” please separately identify each investigation and/or indictment. Identify the names of the investigating agency, the court caption and case number of any indictment, the nature of the investigation/indictment, the parties involved, the current status, and if completed the final outcome.
Within the past three (3) years has any individual previously identified or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the company been:

(1) Sanctioned relative to any business or professional permit and/or license?
RESPONSE: YES ☐ NO ❌

(2) Suspended, debarred, or disqualified from any government contracting process?
RESPONSE: YES ☐ NO ❌

(3) The subject of a criminal investigation, whether open or closed, or an indictment for any business related constituting a crime under local, state, or federal law?
RESPONSE: YES ☐ NO ❌

(4) Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a judgment for:

(i) Any business-related activity, including but not limited to fraud, coercion, extortion, bribe or bribe receiving, giving or accepting unlawful gratuities, immigration or tax fraud, racketeering, mail fraud, wire fraud, price-fixing or collusive bidding; or
(ii) Any crime, whether or not business-related, the underlying conduct of which related to truthfulness, including but not limited to filing of false documents or false sworn statements, perjury or larceny.

RESPONSE: YES ☐ NO ❌

If your response is “YES” please separately identify each investigation and/or indictment. Identify the names of the investigating agency, the court caption and case number of any indictment, the nature of the investigation/indictment, the parties involved, the current status, and if completed the final outcome.
Bidder is
An Individual
Firm Name

Business Address

Partnership
Firm Name

Members of Firm and
Their Business Address

Corporation
Name

State of Incorporation

Name and Title of
Officers with Authority
to Sign Contract

Home Office Address

Local Address

Telephone (513) 326-6000 Fax (513) 326-6001

E-mail estimating@sunesiscc.com

Federal I.D.# 31-1323837

Dated this 26th day of August , 2021

Bidder: Sunesis Construction Co

(Person, Firm, or Corporation)

By: Jason Shaw

Title: Vice President
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 (print name – an Officer of the company)

[Company Name] meets the following Contractor requirements relating 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: ___________________________

[Title]

Date: ___________________________

[Date]
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.

- health insurance
- 401k
- vision
- dental

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.

- Ohio Valley Construction Education Foundation

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

- Country Side
- LJ Deweese
- Belgray
- Tall View
- WC Jones
- W&J Quest
D. Please provide a list of all minority business enterprises contacted for the purpose of obtaining quotes to perform work for this project.

L A B O R

O P E R A T I O N

C A R P A N T E R

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.

N / A
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 _________ ss:

_________________________ being duly sworn, deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of S. _________ Construction Co (“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 Butler )

Jason Shaw, being first duly sworn deposes and states that:

(1) He/she is Vice President of
    (owner, partner, officer, representative, or agent)
    Sunesis Construction Co that
    (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 citizens.

(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.

SIGNED Jason Shaw
Vice President
TITLE
BID BOND

Amount $ Ten Percent (10%) of the Total Bid Amount

We, the undersigned, are held and firmly bound unto the City of Dayton, Ohio in the sum of Ten Percent (10%) of the Total Bid Amount 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, Sunesis Construction Co.

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 26th day of August, 2021.

Sunesis Construction Co.

Bidder

Great American Insurance Company

Nancy Nemec, Attorney In-Fact

Surety

AssuredPartners

Name of Insurance Agency

5905 E. Galbraith Road, Suite 5000
Cincinnati, OH 45236

Address of Insurance Agency

Telephone (513) 475-3376 FAX (513) 475-3376
GREAT AMERICAN INSURANCE COMPANY®
Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than TEN

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, individually or more if one is named, to act and represent it, for it and its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof, provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Limit of Power</th>
</tr>
</thead>
<tbody>
<tr>
<td>MARK NELSON</td>
<td>LIZ OHL</td>
<td>ALL OF</td>
</tr>
<tr>
<td>TIFFANY GOCIICH</td>
<td>JULIE SIEMER</td>
<td></td>
</tr>
<tr>
<td>RANDAL T. NOAH</td>
<td>G. DALE DERR</td>
<td>ALL OF</td>
</tr>
<tr>
<td>STELLA ADAMS</td>
<td>NANCY NEMEC</td>
<td></td>
</tr>
<tr>
<td>KATIE ROSE</td>
<td>TAMMY L. MASTERSON</td>
<td></td>
</tr>
</tbody>
</table>

This Power of Attorney revokes all previous powers issued in behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 13TH day of APRIL, 2021.

Attest

GREAT AMERICAN INSURANCE COMPANY

STATE OF OHIO, COUNTY OF HAMILTON - ss:

On this 13TH day of APRIL, 2021, before me personally appeared MARK VICARIO, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereunto by like authority.

SUSAN A. KOHORST
Notary Public
State of Ohio
My Comm. Expires
May 18, 2025

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008:

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorney-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof, to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this 26th day of August, 2021.

Assistant Secretary
# GREAT AMERICAN INSURANCE COMPANY

## STATEMENT OF ASSETS, LIABILITIES AND CAPITAL & SURPLUS

**As of December 31, 2020**

### ADMITTED ASSETS

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonds</td>
<td>$ 4,386,347,507</td>
</tr>
<tr>
<td>Stocks</td>
<td>1,201,668,403</td>
</tr>
<tr>
<td>Mortgage loans on real estate</td>
<td>486,472,395</td>
</tr>
<tr>
<td>Real estate (net of encumbrances)</td>
<td>37,864,932</td>
</tr>
<tr>
<td>Cash and short-term investments</td>
<td>1,048,500,643</td>
</tr>
<tr>
<td>Other invested assets</td>
<td>925,908,838</td>
</tr>
<tr>
<td>Receivable for securities</td>
<td>5,090,812</td>
</tr>
<tr>
<td>Investment income due and accrued</td>
<td>30,502,262</td>
</tr>
<tr>
<td>Agent's and premium balances</td>
<td>728,745,957</td>
</tr>
<tr>
<td>Reinsurance recoverable on loss payments</td>
<td>126,954,023</td>
</tr>
<tr>
<td>Net deferred tax asset</td>
<td>149,591,756</td>
</tr>
<tr>
<td>Receivable from affiliates</td>
<td>12,340,599</td>
</tr>
<tr>
<td>Receivable from Federal Crop Insurance Corporation</td>
<td>368,733,366</td>
</tr>
<tr>
<td>Company owned life insurance</td>
<td>191,104,977</td>
</tr>
<tr>
<td>Funds held as collateral</td>
<td>6,359,261</td>
</tr>
<tr>
<td>Funded deductibles</td>
<td>20,363,380</td>
</tr>
<tr>
<td>Other identified assets</td>
<td>45,245,180</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$ 8,622,296,456</strong></td>
</tr>
</tbody>
</table>

### LIABILITIES, CAPITAL AND SURPLUS

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unpaid losses and loss expenses</td>
<td>$ 4,495,981,334</td>
</tr>
<tr>
<td>Reserve for underwriting expenses</td>
<td>314,467,440</td>
</tr>
<tr>
<td>Federal income taxes</td>
<td>2,108,834</td>
</tr>
<tr>
<td>Reserve for unearned premiums</td>
<td>1,585,390,092</td>
</tr>
<tr>
<td>Ceded reinsurance premiums payable</td>
<td>178,445,021</td>
</tr>
<tr>
<td>Funds held under reinsurance treaties</td>
<td>571,592,153</td>
</tr>
<tr>
<td>Retroactive reinsurance ceded</td>
<td>(107,061,905)</td>
</tr>
<tr>
<td>Other liabilities</td>
<td>329,080,821</td>
</tr>
<tr>
<td><strong>Total liabilities</strong></td>
<td><strong>$ 7,266,386,800</strong></td>
</tr>
</tbody>
</table>

Securities have been valued on the basis prescribed by the National Association of Insurance Commissioners.

---

## STATE OF OHIO

### COUNTY OF HAMILTON

Robert J. Schwartz, Vice President and Controller, and Stephen Beraha, Assistant Vice President and Assistant Secretary, being duly sworn, each for himself deposes and says that they are the above described officers of the Great American Insurance Company of Cincinnati, Ohio, that said Company is a corporation duly organized, existing and engaged in business as a Surety by virtue of the laws of the State of Ohio 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 Public Law 97-258 enacted September 13, 1982 (86 Stat. 1047 as amended: 31 U.S.C. 9304-9306); that to the best of their knowledge and belief the above statement is a full, true and correct Statement of the Assets, Liabilities and Capital & Surplus of the said Company as of December 31, 2020.

Subscribed and sworn to before me this 2nd day of March, 2021.

Holly M. Clayton  
Public Notary  
Notary Public, State of Ohio  
My Commission Expires April 28, 2025

---

Annuity Group and Specialty Property & Casualty Insurance Group

GAM.com
Certificate of Compliance

1. Judith French, 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

GREAT AMERICAN 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
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
Noncancellable A & H
Nonrenew-Stated Reasons (A&H)
Ocean Marine
Other
Other Accident only
Other Liability
Private Passenger Auto - Liability
Private Passenger Auto - No Fault
Private Passenger Auto - Physical Damage
Surety
Workers Compensation

GREAT AMERICAN INSURANCE COMPANY certified in its annual statement to this Department as of December 31, 2020 that it has admitted assets in the amount of $9,822,296,458, liabilities in the amount of $7,266,385,950, and surplus of at least $2,555,910,508.

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

Judith French, Director

Accredited by the National Association of Insurance Commissioners (NAIC)
During the performance of this contract:

Sunesis Construction Co 2610 Crescentville Rd
CONTRACTOR ADDRESS West Chester, OH 45069
(513) 326-1600/(513) 326-1601
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:

<table>
<thead>
<tr>
<th>Goals of Minority Worker Utilization Expressed in Percentage Terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 1/1/2000 to Present</td>
</tr>
<tr>
<td>Goals of Female Worker Utilization Expressed in Percentage Terms</td>
</tr>
<tr>
<td>From 4/1/80 to Present</td>
</tr>
</tbody>
</table>
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.]
c) 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 1.

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

Sunesis Construction Co  (Contractor) certifies that:

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

   LABOR
   OPERATOR
   CARPENTER

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
AN ORDINANCE

Authorizing the Sale of Certain Real Estate located at 1116 W. Stewart Street to ENS Truck Repair, Inc. for Economic Development Purposes, and Declaring an Emergency.

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

WHEREAS, ENS Truck Repair, Inc. desires to purchase the city-owned real estate at 1116 W. Stewart Street, as described in the attached Exhibit A (“Property”), in order to expand the parking lot for their adjacent business, which will enable the business to create new employment opportunities in West Dayton; and,

WHEREAS, The disposition of the Property has been recommended by the Director of the Department of Planning, Neighborhoods, & Development, the officer of the City of Dayton having the supervision and management of such land; and,

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

WHEREAS, It is necessary that this Ordinance take effect immediately upon its adoption in order to complete the transfer in a timely manner and for the immediate preservation of the public peace, property, health and safety; now, therefore,

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

Section 1. That the offer to purchase certain real estate located at 1116 W. Stewart Street, as described in the attached Exhibit A, for a business expansion project by ENS Truck Repair, Inc. is hereby accepted by the City Commission in accordance with Section 36.44 of the Revised Code of General Ordinances of the City of Dayton, Ohio

Section 2. That the City Manager, or her designee, is hereby authorized to proceed with the sale of the Property to ENS Truck Repair, Inc., and to execute any and all documents necessary to facilitate the transfer, including but not limited to the proposed Real Estate Option Purchase Agreement attached as Exhibit B, or a document substantially similar thereto.

Section 3. That the Property shall be sold for the purposes set forth in the various preambles of this Ordinance and for the consideration to be deposited into the following account:
REAL ESTATE DEVELOPMENT ACCOUNT
16304-2600-29601-41
TWENTY-FIVE THOUSAND DOLLARS
($25,000.00)

Section 4. That for the reasons stated in the preamble hereof, this Ordinance is declared
to be an emergency measure and shall take effect immediately upon passage.

PASSED BY THE COMMISSION ....................... , 2021

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

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
Tract I
Situate in the City of Dayton, and more particularly described as follows:

Situate in the City of Dayton, County of Montgomery, State of Ohio and being part of Lot 29237 of the revised and consecutive numbers of lots on the Plat of the City of Dayton, Ohio (Lot No. 29237 being platted as Lot No. 9, Puterbaugh Plat as recorded in Plat Book 9, Page 84 of the Plat Records of said County), the part of said Lot No. 29237 hereby conveyed being described as follows (the angles called in the description being interior angles of the property described): Beginning at an iron pin at the intersection of the south property line of West Stewart Street (formerly Bollander Avenue) with the easterly right of way line of the City Transit Co.; thence east, on the south property line of Stewart Street, 155.16 feet to the northwest corner of the United Aircraft Products, Inc.; in the centerline of a 16-foot private alley; thence south, through an interior angle of 90 degrees 30 minutes a distance of 317.00 feet to a spike in said alley, a corner to said United Aircraft Products, Inc.; thence east, through an interior angle of 269 degrees 30 minutes for a distance of 8.5 feet to a spike, a corner to the United Aircraft Products, Inc.; thence south, through an interior angle of 90 degrees 30 minutes, for a distance of 279.67 feet to a corner of the United Aircraft Products, Inc., said corner being 0.90 foot north of an existing fence post; thence west, through an interior angle of 90 degrees 18 minutes 07 seconds, a distance of 570.05 feet to the east property line of Broadway, a 40 foot street, an iron pin being set on the above line at 565.05 feet; thence north, on the east property line of Broadway, through an interior angle of 89 degrees 48 minutes 53 seconds, for a distance of 16.00 feet; thence east, through an interior angle of 90 degrees 11 minutes 07 seconds, through an iron pin at 5.00 feet, for a total distance of 205.00 feet; thence north, through an interior angle of 269 degrees 54 minutes, 27 seconds, for a distance of 272.70 feet to an iron pin; thence west, through an interior angle of 269 degrees 28 minutes 47 seconds, for a distance of 38.75 feet to an iron pin in the east line of said City Transit right of way line; thence northeast, on said N/W line, through an interior angle of 53 degrees 28 minutes 09 seconds, for a distance of 793.10 feet to the point of beginning;
taking an interior angle with the south line of Stewart Street of 127 degrees 20 minutes 10 seconds. The above described property contains 4.49 acres.

Parcel Numbers: R72 10410 0009, 14, and 15
Prior Deed: 1978-00605E006
Tract 2

Sitate in the City of Dayton and more particularly described as follows:

Being part of Lot 29237 of the revised and consecutive numbers of lots on the plat of the City of Dayton, (Lot 29237 being platted as Lot 9, Futterbaugh Plat, as recorded in Plate Book 9, Page 81 of the plat records of said Montgomery County) the part of said Lot 29237 hereby conveyed being more particularly described as follows:

Beginning at a point in the centerline of South Broadway sixteen (16.0) feet north of the southwest corner of said lot;

thence northwardly along the west line of said lot, being along the centerline of South Broadway, for a distance of thirty-six and two tenths (36.2) feet to a corner;

thence northeastwardly along a straight line, the included angle being 142° 09', being along the southeast line of the thirty-five (35.0) foot strip of said lot acquired by The Peoples Railway Company for right-of-way purposes, for a distance of three hundred two and one-tenth (302.1) feet to a point "P" in the centerline of a twenty-four (24.0) foot right-of-way, said point "P" being three hundred ninety-three and four tenths (393.4) feet southwest from an iron pin set for the intersection of the southeast line of said The Peoples Railway Company's right-of-way and a line parallel to and twenty-five (25.0) feet south of the centerline of Bolander Avenue, said point "P" being also two hundred sixty-one and four tenths (261.4) feet northeast from a stake set for the intersection of the southeast line of said Peoples Railway Company's right-of-way and a line parallel to and twenty-five (25.0) feet east of the centerline of Broadway;

thence eastwardly along the centerline of a twenty-four (24.0) foot right-of-way, the included angle being 126° 37', for a distance of thirty-eight and seventy-five hundredths (38.75) feet to a corner at Point "E";

thence southwardly along a line, the included angle being 91° 34', for a distance of two hundred seventy-two and sixty-six hundredths (272.66) feet to a point sixteen (16.0) feet (measured at right angles) north of the south line of said Lot;

thence westwardly on a line parallel to and sixteen (16.0) feet (measured at right angles) north of the south line of said lot, for a distance of two hundred twenty-five (225.0) feet to the west line of said lot, being in the centerline of Broadway, the place of beginning.

Parcel Number: R72 10410 0018
Prior Deed: 1977-00517B004

* Said parcels being approximately 5.3 acres in total. The legal description is subject to approval by Montgomery County for transfer purposes. The Company may provide an updated legal description, if required for transfer and prepared by a licensed surveyor, as long as there are no substantive changes to the size of the Property described herein.
Exhibit B

Real Estate Option Agreement
September 21, 2021

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

FROM: Todd Kinskey, Director  
Department of Planning, Neighborhoods, and Development

SUBJECT: Ordinance Authorizing Sale of Land at 1116 W. Stewart Street

The Department of Planning, Neighborhoods, and Development – Division of Development is submitting the attached Ordinance for the September 29, 2021 City Commission meeting agenda. The proposed Ordinance authorizes a Purchase Option and subsequent sale of City-owned real estate located at 1116 W. Stewart Street (“Property”) in the Edgemont neighborhood.

The Property is approximately 5 acres and is adjacent to a 30,000 square foot industrial building on an additional 1.7 acres (see attached map). The sale of the Property will support a small business expansion in West Dayton, as further described below.

In 2014, Eldar “Eric” Ilyasov purchased the building at 1116 W. Stewart Street for his business, ENS Truck Repair, Inc. The building does not have sufficient parking space for him to grow the business. Due to his anticipated growth, he is offering to purchase the adjacent City-owned land for $25,000 and is committing to bringing the site into full compliance with state and local codes.

The sale of the property is conditioned upon achieving a Certificate of Occupancy (CUO). The company has begun the process of applying for zoning approval and preparing plans for eventual construction. This Agreement and associated Purchase Option is necessary to give the company confidence to proceed with the proposed investment. The price was negotiated.

The project investment is estimated to be $400,000.00 which will result in retaining his one (1) full-time job and hiring his part-time contractors to create five (5) new full-time permanent positions. It will also result in a significant visual improvement to a busy intersection.

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

If you have any questions, please contact Keith Klein of our staff at extension 3812.

VM/kek
AN ORDINANCE

Amending the City’s Appropriations for the Year 2021, and Declaring an Emergency.

WHEREAS, On June 23, 2021, this Commission passed an appropriation ordinance for the year 2021, being Ordinance Number 31896-21, which provided for the appropriation of $757,692,500 to the various funds of the City of Dayton; and

WHEREAS, The City Manager and Department Directors arranged a work program for 2021 for which there are now modifications in several funds that require amendment to the 2021 appropriations made in Ordinance Number 31896-21; and

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

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

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

Section 1. That appropriations for the year 2021 made by this Commission pursuant to Ordinance No. 31896-21 of monies available to the City, or in the process of collection by the City, and not otherwise encumbered, are amended as shown within the following funds:

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<th>GOVERNMENTAL FUND TYPE</th>
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<th>2021 Appropriations (Third Revised)</th>
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<td>2021 Appropriations (Third Revised)</td>
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<td>Other Special Revenue - 22111-515</td>
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<td>Various Departments</td>
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### PROPRIETARY FUND TYPE

(6) Enterprise Funds

#### Aviation Operating Fund - 51000 - 51004

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<th>Code</th>
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<td>Total Aviation Operating Fund</td>
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#### Aviation Capital Fund - 51006 - 52999

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<td>Various Capital Projects</td>
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#### Water Operating Fund - 53000, 53997 and 53998

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<td>Department of Water - 3400 and 9970</td>
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<td>Expenses</td>
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#### Water Capital Fund - 53001 - 53996

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#### Sanitary Sewer Operating Fund - 55000

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</thead>
<tbody>
<tr>
<td>3400</td>
<td>Department of Water - 3400 and 9970</td>
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<tr>
<td></td>
<td>Expenses</td>
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<td></td>
<td></td>
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#### Sanitary Sewer Capital Fund - 55001 - 55999

<table>
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<th>Description</th>
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<tbody>
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#### Storm Water Operating Fund - 58000

<table>
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</thead>
<tbody>
<tr>
<td>3400</td>
<td>Department of Water - 3400 and 9970</td>
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<tr>
<td></td>
<td>Expenses</td>
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<tr>
<td>6400</td>
<td>Department of Public Works</td>
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<td>Expenses</td>
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<td>Storm Water Capital Fund - 58001 - 58999</td>
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<td>Golf Operating Fund - 590000</td>
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<td>Department of Recreation</td>
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<tr>
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<td>Expenses</td>
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<td>Total</td>
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<td>6,000</td>
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<tr>
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<td>Total Golf Operating Fund</td>
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<td>Golf Capital - 59001</td>
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<td>Fleet Management Fund - 61000</td>
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<td>Department of Public Works</td>
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<td>Department of Central Services</td>
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<td>Department of Human Resources</td>
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<td>Workers' Compensation Fund - 65000</td>
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<td>Total Plumbing Shop</td>
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</table>
Section 2. That a new fund shall be created entitled Local Fiscal Recovery Fund ("LFRF"). The purpose of this fund is to track the proceeds and expenditures related to the American Rescue Plan in accordance with Ohio Auditor of State Bulletin 2021-004.

Section 3. That the City Manager is authorized to advance up to One Million Dollars and Zero Cents ($1,000,000.00) from the General Fund to HUD Non-Operating Programs due to timing of grant agreements.

Section 4. That the City Manager is authorized to transfer funds in the amounts set forth in Section 1 and as described below:

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<th>GOVERNMENTAL FUND TYPE</th>
<th>2021 Appropriations (Second Revised)</th>
<th>2021 Appropriations (Third Revised)</th>
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<td>Fire Fleet Management - 67000</td>
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### (1) General Fund - 10

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<td>10000-1300</td>
<td>Civil Service 40000-1300</td>
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<td>10000-2300</td>
<td>Planning, Neighborhoods &amp; Development 16999-2300</td>
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<td>10000-6200</td>
<td>Police 16000-2300</td>
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<td>10000-6300</td>
<td>Fire 28999-6300</td>
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<td>10000-9980</td>
<td>Non-Departmental 16999-2300</td>
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<td>16999-5600</td>
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<td>To</td>
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<td>Issue 9 General Fund 10001</td>
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<tr>
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<td>Subtotal Transfers Out 10001</td>
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<tr>
<td>75000-5300</td>
<td>Income Tax Fund</td>
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<td>(4) Capital Projects</td>
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<td>From</td>
<td>To</td>
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<td>----------------------------------------</td>
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</tr>
<tr>
<td>55000-9970 Sanitary Sewer Operating</td>
<td>55001-55999-3400</td>
</tr>
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<td>Sanitary Sewer Capital</td>
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<tr>
<td>58000-9970 Storm Water Operating</td>
<td>58001-58999-3400</td>
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<tr>
<td>Fund</td>
<td>Storm Water Capital</td>
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<td><strong>Total Enterprise Fund Transfers Out</strong></td>
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</tr>
<tr>
<td><strong>TOTAL ALL FUNDS</strong></td>
<td></td>
</tr>
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</table>

**Section 5.** That all books of accounts, warrants, orders, vouchers or other official reference to any appropriation shall indicate the appropriated funds involved or to be drawn upon by the code number as set forth in the detailed budget.

**Section 6.** That Ordinance Number 31896-21, passed by this Commission on June 23, 2021 is repealed.

**Section 7.** 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........................., 2021

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

Mayor of the City of Dayton, Ohio

ATTEST:

Clerk of the Commission

APPROVED AS TO FORM:

City Attorney
September 24, 2021

TO: Shelley Dickstein, City Manager

FROM: Diane T. Shannon, Director
Dept. of Procurement, Management and Budget

SUBJECT: 2021 Third Revised Appropriation Ordinance

Please find attached the ordinance adopting the third revised appropriation for 2021. The revised appropriation includes a net increase of $8.4 million across all funds. The adjustments to the appropriation are funded from increased revenues, the use of cash balances, and budget reallocations.

Despite a significant surge in recent COVID-19 cases resulting from the delta variant, income tax collections have experienced their largest increase in decades driven largely by the corporate profits component of the tax. The increased revenue, coupled with the receipt of American Rescue Plan Act grant proceeds, provided the means to successfully negotiate a three-year collective bargaining agreement with the Fraternal Order of Police. In accordance with the agreement, the third revised appropriation includes a 2% wage increase totaling $2.2 million for the participating employee groups including those with a “me too” contract clause (FOP, DPSU, Building Trades, Professional/Technical/Supervisory, and Management). The increase is retroactive to January 1, 2021.

The following summarizes the significant changes contained in the third revised appropriation (with greater detail on the attached listing of all adjustments).

1. A net increase of $6.2 million in the General Fund reflects a series of adjustments including:

   - A $9,500 budget increase to Public Affairs for sign language interpreters at City Commission meetings.

   - The Office of Sustainability increases by $27,500 to cover the addition of a new Sustainability Specialist position.

   - Clerk of Courts increases by $15,000 to cover a higher level of credit card merchant service fees resulting from the City’s Photo Enforcement Program and criminal fine payments.
Human Resources increases by $20,000 for police chief recruitment expenses.

A $584,600 increase in Police to restore Cost Savings Days (CSDs) and $714,000 for a $2,000 lump sum payment for sworn employees. These terms are included in the collective bargaining agreement.

The Fire budget increases by $52,000 to fully fund the purchase of two generators.

Issue 9 Transfers Out increases by $3.4 million to restore residential resurfacing. In the 2021 original appropriation, the resurfacing program was debt-financed.

Community Golf & Recreation Fund increases $309,500 to cover professional services and transfers out for capital projects.

The Development Fund has a net decrease of $1.1 million, reflecting a budget transfer correction of $1.4 million for a duplicative Arcade principal payment, offset by $300,000 for future anticipated development projects.

A $750,000 budget increase to Income Tax to restore the Development Fund transfer to its 2020 funding level.

An increase of $1.4 million for the 2% wage increase for all participating employee groups in the General Fund.

2. The Street Maintenance Fund increases by $100,000 to cover wages and overtime expenses.

3. CDBG Operating increases by $51,800 to reflect the recent Action Plan.

4. Local Fiscal Recovery decreases by $4.6 million, reflecting the 2021 actual award amount. We will receive the second tranche of funding next year.

5. General Capital has an increase of $4.3 million, including $3.4 million for the restoration of Issue 9 residential resurfacing as well as budget to fund gate entry improvements at the Municipal and Oregon garages, along with golf course bunker improvements.

6. Aviation Operating increases by $122,000 for the 2021 wage increase of 2%.

7. Water Operating has an increase of $602,000 for unplanned professional services contracts and training expenses, along with $342,300 for the 2021 wage increase of 2%.

8. Sanitary Sewer Operating increases by $86,500 to cover training expenses and $176,300 for the 2% wage increase.

9. Storm Water Operating increases by $28,900 to cover training expenses and $59,600 for the 2% wage increase.
10. Fleet Management has an increase of $600,000 for the purchase of fuel and $36,300 for the 2% wage increase.

11. Healthcare Self Insurance increases by $100,400 to cover indirect cost reimbursements that were not originally budgeted and $3,800 for the 2% wage increase.

12. A $30,000 increase in Fire Fleet Management for window replacement and $10,100 for the 2% wage increase.

13. The remaining Internal Service Funds, Document Management, Workers Compensation, and Plumbing Shop increase by $1,300, $8,200, and $7,900, respectively, as a result of the 2% wage increase.

Please let me know if you have any questions or require additional information.

DTS/sb

Attachment

cc: Mr. Parlette, Ms. Lofton, M&B Staff
<table>
<thead>
<tr>
<th>Fund</th>
<th>Department</th>
<th>Description</th>
<th>Purpose</th>
<th>Approved Amount</th>
<th>Recommended</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>10000 Public Affairs</td>
<td>C&amp;M Budget Increase</td>
<td>City Commission Meetings</td>
<td>Interpreter Services</td>
<td>9,500</td>
<td>Yes</td>
<td>Sign language interpreter costs for the City Commission meetings</td>
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<tr>
<td>10000 Office of Sustainability</td>
<td>Personnel Budget Increase</td>
<td>Sustainability Specialist Position</td>
<td>New Sustainability Position</td>
<td>27,500</td>
<td>Yes</td>
<td>New Sustainability Position</td>
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<tr>
<td>10000 Clerk of Courts</td>
<td>C&amp;M Budget Increase</td>
<td>Credit Card Processing Costs</td>
<td>Cover merchant service cost associated with criminal fine payments and Photo Enforcement citation payments</td>
<td>15,000</td>
<td>Yes</td>
<td>Cover merchant service cost associated with criminal fine payments and Photo Enforcement citation payments</td>
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<tr>
<td>10000 Police</td>
<td>Personnel Budget Increase</td>
<td>Restore Cost Savings Days</td>
<td>Restore CSOs per Collective Bargaining Agreement</td>
<td>584,600</td>
<td>Yes</td>
<td>Restore CSOs per Collective Bargaining Agreement</td>
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<tr>
<td>10000 Police</td>
<td>Personnel Budget Increase</td>
<td>$2,000 Lump Sum Payment</td>
<td>Collective Bargaining Agreement</td>
<td>714,000</td>
<td>Yes</td>
<td>Collective Bargaining Agreement</td>
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<tr>
<td>10000 Human Resources</td>
<td>C&amp;M Budget Increase</td>
<td>Police Chief Recruitment</td>
<td>Costs associated with on-site assessment</td>
<td>20,000</td>
<td>Yes</td>
<td>Costs associated with on-site assessment</td>
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<tr>
<td>10001 Public Works</td>
<td>Increase Transfers Out</td>
<td>Restore Residential Resurfacing</td>
<td>Restore resurfacing in addition to the $3.4 million that was debt-financed as a 2021 budget solution</td>
<td>3,384,500</td>
<td>Yes</td>
<td>Restore resurfacing in addition to the $3.4 million that was debt-financed as a 2021 budget solution</td>
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<tr>
<td>75000 Planning, Neighborhoods &amp; Dev.</td>
<td>Increase Transfers Out</td>
<td>Restore Development Fund</td>
<td>Restore the $750,000 cut to Development Fund</td>
<td>750,000</td>
<td>Yes</td>
<td>Restore the $750,000 cut to Development Fund</td>
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<tr>
<td>13000 Golf</td>
<td>C&amp;M Budget Increase</td>
<td>Purchase Generators</td>
<td>Quote came back higher for 2 generators (Station 2 &amp; 13) than the original requested amount</td>
<td>52,000</td>
<td>Yes</td>
<td>Quote came back higher for 2 generators (Station 2 &amp; 13) than the original requested amount</td>
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<tr>
<td>13000 Fire</td>
<td>C&amp;M Budget Increase</td>
<td>Cash Match for 2021 AFG Grant</td>
<td>2% wage increase for participating employee groups</td>
<td>11,000</td>
<td>Yes</td>
<td>2% wage increase for participating employee groups</td>
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<tr>
<td>13000 Fire</td>
<td>Personnel Budget Increase</td>
<td>Cash Match for 2021 AFG Grant</td>
<td>2% wage increase for participating employee groups</td>
<td>11,000</td>
<td>Yes</td>
<td>2% wage increase for participating employee groups</td>
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<tr>
<td>13000 All</td>
<td>Personnel Budget Increase</td>
<td>2% Wage Increase</td>
<td>Total General Fund Departments</td>
<td>7,002,100</td>
<td>Yes</td>
<td>Additional budget for bunker construction and maintenance building architect projects</td>
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<tr>
<td>13000 Golf</td>
<td>Increase Transfers Out</td>
<td>Transfer funds to Golf Capital</td>
<td>Restore Personnel for golf professional services budget increase. Includes 2% wage increase.</td>
<td>209,500</td>
<td>Yes</td>
<td>Restore Personnel for golf professional services budget increase. Includes 2% wage increase.</td>
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<tr>
<td>16300 Planning, Neighborhoods &amp; Dev.</td>
<td>C&amp;M Budget Increase</td>
<td>Future projects</td>
<td>Budget for anticipated future economic development projects</td>
<td>300,000</td>
<td>Yes</td>
<td>Budget for anticipated future economic development projects</td>
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<td>16000 Police</td>
<td>Personnel Budget Increase</td>
<td>Restore Cost Savings Days</td>
<td>Restore CSOs per Collective Bargaining Agreement</td>
<td>5,000</td>
<td>Yes</td>
<td>Restore CSOs per Collective Bargaining Agreement</td>
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<tr>
<td>16006 Police</td>
<td>Personnel Budget Increase</td>
<td>$2,000 Lump Sum Payment</td>
<td>Collective Bargaining Agreement</td>
<td>6,000</td>
<td>Yes</td>
<td>Collective Bargaining Agreement</td>
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<td>16204 Police</td>
<td>Personnel Budget Increase</td>
<td>Restore Cost Savings Days</td>
<td>Restore CSOs per Collective Bargaining Agreement</td>
<td>3,400</td>
<td>Yes</td>
<td>Restore CSOs per Collective Bargaining Agreement</td>
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<td>16204 Police</td>
<td>Personnel Budget Increase</td>
<td>$2,000 Lump Sum Payment</td>
<td>Collective Bargaining Agreement</td>
<td>4,000</td>
<td>Yes</td>
<td>Collective Bargaining Agreement</td>
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<td>16300 Planning, Neighborhoods &amp; Dev.</td>
<td>Reverse Transfers Out</td>
<td>Correct Transfer Out</td>
<td>Reverse transfer out budget to 63000 for the Arcade principal payment; rather, the payment will be posted to the balance sheet in December</td>
<td>(1,391,500)</td>
<td>Yes</td>
<td>Reverse transfer out budget to 63000 for the Arcade principal payment; rather, the payment will be posted to the balance sheet in December</td>
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<tr>
<td>21000 Public Works</td>
<td>Personnel Budget Increase</td>
<td>Delaware Overtime and Wages</td>
<td>Gift card program</td>
<td>100,000</td>
<td>Yes</td>
<td>Gift card program</td>
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<tr>
<td>22114 Municipal Court</td>
<td>C&amp;M Budget Increase</td>
<td>Purchase Misc. Items</td>
<td>Gift card program</td>
<td>5,200</td>
<td>Yes</td>
<td>Gift card program</td>
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<td>26105 Planning, Neighborhoods &amp; Dev.</td>
<td>C&amp;M Budget Increase</td>
<td>To match CDBG Action Plan</td>
<td>Residential resurfacing, roadway and golf improvements</td>
<td>51,800</td>
<td>Yes</td>
<td>Residential resurfacing, roadway and golf improvements</td>
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<tr>
<td>29001 Local Fiscal Recovery Fund</td>
<td>C&amp;M Budget Reduction</td>
<td>Reduce C&amp;M Budget to Match the Actual Grant Award (First Tranche)</td>
<td>Reduce budget to match the actual award amount</td>
<td>(4,564,400)</td>
<td>Yes</td>
<td>Reduce budget to match the actual award amount</td>
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<td>40001 Various</td>
<td>C&amp;M Budget Increase</td>
<td>Total Special Projects Fund</td>
<td>Total Special Revenue</td>
<td>(4,407,400)</td>
<td>Yes</td>
<td>Total Special Revenue</td>
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<td>40001 Various</td>
<td>C&amp;M Budget Increase</td>
<td>Total General Capital Fund</td>
<td>Residential resurfacing, roadway and golf improvements</td>
<td>4,334,800</td>
<td>Yes</td>
<td>Residential resurfacing, roadway and golf improvements</td>
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<td>51000 Aviation</td>
<td>Personnel Budget Decrease</td>
<td>Increase Transfers Out</td>
<td>Total General Capital</td>
<td>(246,000)</td>
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<td>Total General Capital</td>
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<td>Fund</td>
<td>Department</td>
<td>Description</td>
<td>Purpose</td>
<td>Approved Amount</td>
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<tr>
<td>51000 Aviation</td>
<td>Increase Transfers Out</td>
<td>Land sale property tax</td>
<td>10,000</td>
<td>Yes</td>
<td>Reimbursable capital fund for land options and property tax expenses deducted from receipts of land sale</td>
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<td>51000 Aviation</td>
<td>Increase Transfers Out</td>
<td>Debt Service Payment</td>
<td>2% Wage Increase</td>
<td>236,000</td>
<td>Yes</td>
<td>Transfer to capital for 2014 debt allocation; A&amp;D bond issuance between operating and PFC funds</td>
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<td>2% Wage Increase</td>
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<td>Total Aviation Operating</td>
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<td>$122,000</td>
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<td>53000 Water</td>
<td>C&amp;M Budget Increase</td>
<td>Professional Services and Training</td>
<td>602,000</td>
<td>Yes</td>
<td>Increase $300,000 in 3420, and $150,000 in 3410 for professional services; increase $5,300 in 3410 and $146,700 in 9970 for training not planned in 2021.</td>
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<td>53000 Water</td>
<td>Personnel Budget Increase</td>
<td>2% Wage Increase</td>
<td>342,300</td>
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<td>2% wage increase for participating employee groups</td>
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<td>55000 Sewer</td>
<td>C&amp;M Budget Increase</td>
<td>Training</td>
<td>86,500</td>
<td>Yes</td>
<td>Unplanned crane training</td>
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<td>55001 Sewer</td>
<td>Personnel Budget Increase</td>
<td>2% Wage Increase</td>
<td>176,300</td>
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<td>58000 Storm Water</td>
<td>C&amp;M Budget Increase</td>
<td>Training</td>
<td>28,900</td>
<td>Yes</td>
<td>Unplanned crane training</td>
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<td>58000 Storm Water</td>
<td>Personnel Budget Increase</td>
<td>2% Wage Increase</td>
<td>59,600</td>
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<td>Total Storm Water Operating</td>
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<td>61000 PW - Fleet Management</td>
<td>C&amp;M Budget Increase</td>
<td>Fuel Purchase</td>
<td>600,000</td>
<td>Yes</td>
<td>Increase budget due to rising cost of gasoline and diesel fuel</td>
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<td>61000 PW - Fleet Management</td>
<td>Personnel Budget Increase</td>
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<td>62100 Document Management</td>
<td>Personnel Budget Increase</td>
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<td>63000 Health Insurance</td>
<td>C&amp;M Budget Increase</td>
<td>Indirect Cost Reimbursements</td>
<td>100,400</td>
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<td>Not included in the original appropriation</td>
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<td>63000 Health Insurance</td>
<td>Personnel Budget Increase</td>
<td>2% Wage Increase</td>
<td>3,800</td>
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<tr>
<td>65000 Workers Compensation</td>
<td>Personnel Budget Increase</td>
<td>2% Wage Increase</td>
<td>8,200</td>
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<td>2% wage increase for participating employee groups</td>
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<tr>
<td>66000 Plumbing Shop</td>
<td>Personnel Budget Increase</td>
<td>2% Wage Increase</td>
<td>7,900</td>
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<td>2% wage increase for participating employee groups</td>
<td></td>
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<tr>
<td>67000 Fire Fleet Management</td>
<td>C&amp;M Budget Increase</td>
<td>Fire Garage Window Replacement</td>
<td>30,000</td>
<td>Yes</td>
<td>2% wage increase for participating employee groups</td>
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<td>67000 Fire Fleet Management</td>
<td>Personnel Budget Increase</td>
<td>2% Wage Increase</td>
<td>10,100</td>
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<td>2% wage increase for participating employee groups</td>
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<td>Total Fire Fleet Management</td>
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<td>$40,100</td>
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<tr>
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<td>Grand Total All Funds</td>
<td></td>
<td>$8,381,500</td>
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</table>
A RESOLUTION

Authorizing the Acceptance of a Grant Award for a
Fair Housing Assistance Program from the United States
Department of Housing and Urban Development in the
Amount of Sixty Thousand Three Hundred Dollars and Zero Cents
($60,300.00) on Behalf of the City of Dayton, and
Declaring an Emergency.

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

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

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

WHEREAS, HUD has offered the Human Relations Council a Fair Housing
Assistance Program grant award in the amount of Sixty Thousand Three Hundred Dollars
and Zero Cents ($60,300.00) to continue processing complaints of housing discrimination; and

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

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

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

Section 1. That the City Manager or her designee is authorized and directed to
execute a Grant Agreement and any other documents necessary to accept a Fair Housing
Assistance Program grant award from HUD, in the maximum amount of Sixty Thousand
Three Hundred Dollars and Zero Cents ($63,300.00), in support of the continued efforts by
the Human Relations Council to process housing discrimination complaints.
Section 2. That for the reasons stated in the preamble hereof, the Commission declares this resolution to be an emergency measure which shall take effect immediately upon its adoption.

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

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

ATTEST:

MAYOR OF THE CITY OF DAYTON, OHIO

Clerk of the Commission

APPROVED AS TO FORM:

City Attorney
September 16, 2021

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

FROM: Erica Fields, Executive Director
      Human Relations Council

SUBJECT: FHAP Cooperative Agreement – FY 2021-2021

Please find attached a resolution, approved as to form by the Law Department, authorizing the acceptance of a fair housing grant from the U.S. Department of Housing and Urban Development (HUD). The amount of the grant is $60,300.

The Human Relations Council has substantial equivalency with HUD; as such, funds are received based on complaints processed the previous year and required training. This grant does not necessitate annual application. We request this item be placed on the Commission calendar for September 29, 2021.

If you have any questions, please call me at x1400. Thank you.

EF/jjw
**Assistance Award/Amendment**

1. Assistance Instrument
   - X Cooperative Agreement
   - 1. Grant

3. Instrument Number: FF205K215019

4. Amendment Number: 1

5. Effective Date of this Action: Tax ID 31-6000175

6. Control Number

7. Name and Address of Recipient
   - Dayton Human Relations Commission
   - 371 W. 2nd Street – Suite 100
   - Dayton, Ohio 45402

8. HUD Administering Office
   - Region V FHEO
   - 77 West Jackson Blvd, Rm. 2101
   - Chicago, Illinois 60604

9. HUD Government Technical Representative
   - Lon Meltesen
   - (312) 913-8400

10. Recipient Project Manager

11. Assistance Arrangement
   - X Fixed Price

12. Payment Method
   - X Automated Clearinghouse

13. HUD Payment Office
   - Fort Worth Field Accounting
   - PO Box 2905, Ft. Worth, Texas 76113-2905

14. Assistance Amount
   - Previous HUD Amount: $6,500.00
   - HUD Amount this action: $60,300.00

15. HUD Accounting and Appropriation Data
   - 8621/220144
   - FHEO-05-21-1

16. Description
   - This instrument authorizes the following funds to be obligated to the Agency:

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>Description</th>
<th>Amount Obligated in this Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>TIO</td>
<td>Case Processing (Carryover Funds)</td>
<td>$0.00</td>
</tr>
<tr>
<td>TIO</td>
<td>Case Processing (Current Funds)</td>
<td>$34,600.00</td>
</tr>
<tr>
<td>TIO</td>
<td>Post-Cause Supplement (Carryover)</td>
<td>$0.00</td>
</tr>
<tr>
<td>ADD</td>
<td>Administrative Costs</td>
<td>$12,500.00</td>
</tr>
<tr>
<td>TRI</td>
<td>Training</td>
<td>$13,200.00</td>
</tr>
<tr>
<td>PA4</td>
<td>Partnership</td>
<td></td>
</tr>
<tr>
<td>SEE</td>
<td>Special Enforcement Effort</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$60,300.00</strong></td>
</tr>
</tbody>
</table>

The Cooperative Agreement/Amendment is comprised of the following documents:
1. Cover Page – HUD-1044
2. 2021 Contributions Agreement
3. Appendix A: FY21 Statement of Work
4. Attachment A: FY21 Criteria for Processing
5. Attachment B: FY21 Standards for Timeliness
6. Attachment C: Payment Amounts for FHAP Case Processing
7. Attachment D: eLOCCS Security Procedures

The performance period for this Agreement is July 1, 2021 to June 30, 2022. Funds in the FHAP program expire five (5) years from the end of the performance period. The recipient must comply with all rules and regulations in accordance with the Fair Housing Assistance Program regulations (24 CFR § 115), the Memorandum of Understanding between the Recipient and HUD (including all subsequent addenda), and the FY2021 FHAP Guidance.
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>17.</td>
<td>X  Recipient is required to sign and return three (3) copies of this document to the HUD Administering Office</td>
</tr>
<tr>
<td>18.</td>
<td>Recipient is not required to sign this document.</td>
</tr>
<tr>
<td>19.</td>
<td>Recipient (By Name)</td>
</tr>
</tbody>
</table>

**Lon Meltesen, Region V Director**

<table>
<thead>
<tr>
<th>Signature &amp; Title</th>
<th>Date (mm/dd/yyyy)</th>
<th>Signature &amp; Title</th>
<th>Date (mm/dd/yyyy)</th>
</tr>
</thead>
</table>

form HUD-1044 (8/90)

ref. Handbook 2210.17
April 8, 2021

FY2021 Fair Housing Assistance Program (FHAP) Funding Guidance

This document and its attachments provide the FY2021 Funding Guidance for both Capacity Building and Contributions FHAP agencies. The Guidance contains important details regarding HUD’s methodology for determining FHAP agency payments and use of FY2021 funds. This Guidance addresses: 1) training and other matters applicable to all FHAP agencies, 2) funding for Capacity Building Agencies, and 3) funding for Contributions agencies.

***NOTE: All FHAP funds discussed in this FY2021 FHAP Guidance, and the methodologies for distributing such funds, are subject to the FHAP congressional appropriation, national FHAP complaint processing volume, addition of new participating jurisdictions, and any other factors that necessarily impact the manner in which HUD disburse FHAP funds.

I. General Requirements and Information for All FHAP Agencies

A. FY2021 Complaint Processing and Performance Periods

Generally, FHAP agencies receive funding based on activities conducted within the preceding twelve-month period (the Performance Period). For purposes of calculating payments for case processing, FHEO uses a Complaint Processing Period which closes a quarter earlier than the Performance Period to allow for the completion of case reviews, payments calculations, and cooperative agreement preparation. The FY2021 Complaint Processing and Performance Periods are as follows:

- FY 2021 Complaint Processing Period: July 1, 2020 – June 30, 2021
  *Only cases submitted to HUD on or before July 31, 2021, will be processed for payment under this FY2021 Guidance.

- FY2021 Performance Period: October 1, 2020 – September 30, 2021
  ***It is imperative that FHAP agencies review, sign, and return their HUD-1044s early enough that Region Directors may execute them on or before September 24, 2021. Failure to do so may lead to lengthy delays in obtaining payment for FHAP activities conducted in FY2021.

B. Training Funds

Consistent with 24 C.F.R. 115.306, all (i.e., interim certified and certified) FHAP agencies are eligible to receive training funds to cover costs for HUD-approved or HUD-sponsored training, including travel for such training. Under the regulation, all staff of the agency responsible for the administration and enforcement of the fair housing law must participate in HUD-approved or HUD-sponsored training each year.

For FY2021, FHAP agencies will receive $4,400 in Training funds per FTE dedicated to fair housing work; however, no agency will receive more than $50,000. It is important to note that the $4,400 is per FTE; not per individual or per training attended. Thus, the $4,400 may provide funds for more than one training or more than one individual (e.g., where two individuals’ fair housing workload make up one FTE). The FTEs reported by each agency will be rounded up to the nearest whole number in calculating an agency’s award, and are subject to verification by the agency’s respective FHEO Region Director/GTR.

HUD will reimburse FHAP agencies for tuition expenses, in addition to travel and per diem expenses as in previous years. HUD generally estimates FHAP agencies spending approximately $2,000 on travel and per diem expenses for a staff person to attend one week of training; however, travel and per diem costs will vary. If a FHAP agency identifies a need, HUD may obligate funds in advance. FHEO will monitor to ensure that FHAP agencies are sending appropriate staff to relevant and position-appropriate training.

HUD has re-launched the National Fair Housing Training Academy. Unlike the prior iteration of NFHTA, FHAP agencies do not pay tuition for attending NFHTA courses. However, travel costs related to attending NFHTA courses, and all trainings related to an agency’s participation in FHAP – including transportation, lodging, and per diem – should be paid with FHAP Training funds.

***A note about Training funds:*** The FHAP Division strongly encourages the vigorous pursuit of continuing education. Consistent with the memorandum of July 28, 2015 (“Use of FHAP Training Funds”), FHAP agencies should seek out other formalized training opportunities for their staff that will enhance their ability to conduct thorough and professional complaint processing. Aside from HUD-sponsored training, such additional opportunities may be offered by, for example, academic institutions, advocacy organizations, professional for-profit training entities, bar associations, or conferences or trainings organized by other FHAP agencies.

While the discussion above identifies the formula funding amount reserved for each FHAP agency based on FTEs dedicated to fair housing work, the FHAP Division may have additional funds that can be used for training. Where appropriate educational opportunities are identified that require additional training funds, a request for such funds should be made to the FHAP agency’s HUD GTR.

C. Recordkeeping on Race and Ethnicity

Changes were made to the 2000 Census to reflect the growing racial and ethnic diversity of the U.S. population. As a result, Office of Management and Budget (OMB) revised its standards related to federal data on racial and ethnic categories. In collecting racial and ethnic data, FHAP agencies should use the five racial categories and two ethnic categories outlined below.

Five Racial Categories

1. **American Indian or Alaska Native.** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

2. **Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Island, Thailand, and Vietnam.

3. **Black or African American.** A person having origins in any of the black racial groups of Africa.
4. **Native Hawaiian or other Pacific Islander.** A person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.

5. **White.** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

**Two Ethnic Categories**

1. **Hispanic or Latino.** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

2. **Not Hispanic or Latino.** A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

**D. Management Goals**

In addition to existing FHAP performance standards and requirements enumerated at 24 C.F.R. part 115, FHEO will monitor the following two management measures in assessing the performance of FHAP agencies. Monitoring these measures, in addition to reviewing closed cases submitted for payment, provides a comprehensive perspective of a FHAP agency’s overall case processing, as these measures take into account the management of the agency’s open case inventory. FHEO may consider a FHAP agency’s success under these two measures in prioritizing the distribution of Partnership Funds and Special Enforcement Effort (SEE) funds, if funds are available, or in other ways, to provide incentive for high performance in FHAP agency operations. FHAP agencies may consult with their GTR/GTM to receive intermittent reports to monitor agency progress:

- FHAP agencies will close or charge 50% of fair housing complaints filed during the case processing period within 100 days.

- FHAP agencies will close or charge 95% of aged fair housing complaints carried over from the prior case processing period.

**II. FHAP Capacity Building Agencies – Interim Certified**

Capacity Building (CB) agencies administer a state or local law that has been certified on an interim basis as substantially equivalent to the federal law, on its face. CB agencies enter into an Interim Agreement for a three-year period. During this period, the agency develops and demonstrates its capacity to administer the jurisdiction’s substantially equivalent law in accordance with the requirements of the program. CB agencies are provided funds in a fixed annual amount through Cooperative Agreements that are executed each year of interim certification. CB funds must be used to support activities to increase awareness of the law within the jurisdiction, and to administer and enforce the law. In accordance with 24 C.F.R. §115.302, HUD sets this fixed amount, but may provide additional funds during the first year if necessary due to the number of complaints processed. HUD also has the discretion to provide contributions funding to a CB agency. At the conclusion of the three-year period, if the CB agency’s performance is satisfactory and its law remains substantially equivalent HUD may transition the agency from interim certified to fully certified (i.e., from a Capacity Building agency to a Contributions agency). This is accomplished by the execution of a Memorandum of Understanding between HUD and the agency.
For FY2021, HUD, consistent with prior practice, HUD sets the fixed annual amount for CB agencies at $120,000. Based on a mix of factors in a given jurisdiction, including but not limited to such factors as population, labor costs, and other economic and administrative cost factors, HUD may choose to increase or decrease the fixed annual amount. As with all FHAP agencies, CB agencies must ensure staff are trained in accordance with program requirements. Training funds are available to CB agencies in addition to the fixed annual amount of CB funds.

III. FHAP Contributions Agencies - Certified

FHAP Contributions agencies are provided funds under annually executed Cooperative Agreements. In addition to Training funds (see Section I(B)), Contributions agencies are eligible to receive administrative funds and complaint processing funds to support the enforcement of a state or local law that HUD has certified as substantially equivalent, on its face and in operation, to the Fair Housing Act. Subject to budgetary constraints and at HUD’s discretion, Special Enforcement Effort (SEE) and Partnership funds may also be available to Contributions Agencies. The following section of this guidance sets forth the FHAP funds disbursement and related requirements that HUD will implement for Contributions agencies in FY2021.

A. Complaint Processing (CP) Funds

i. Payment Amounts

In FY2019, based on factors enumerated in the FY2019 FHAP Guidance, HUD implemented a modest increase in the complaint processing payment schedule. HUD will continue to use that payment schedule, without adjustments, for FY2021. The full payment for accepted cause and no cause complaint investigations for FY2021 will remain at $3,000. Payment for full and effective conciliation agreements, i.e., conciliation agreements that contain relief for the complainant(s) and effective public interest relief, will remain at $3,200. The extra payment for full and effective conciliation agreements recognizes the value of obtaining outcomes that are satisfactory to all parties and address relief in the public interest, often in the form of affirmative, targeted marketing or changes to policies or practices that will have a remedial effect beyond the immediate complainant(s). It is also intended to compensate the agency for required monitoring to ensure implementation of and adherence to conciliation terms.

In an effort to decrease the overall number of administrative closures and more effectively utilize case processing funds, all such closures, as well as “withdrawals with resolution,” will continue to be paid at $1,500. The over-reliance of some categories of administrative closures is troubling. An excess of closures for lack of jurisdiction, for example, may be indicative of incomplete interviews or errors at intake. Large numbers of closures due to failure to identify or locate a party may indicate that the agency’s efforts at identification or location of parties are insufficient or that lengthy gaps in case processing are resulting in lost contact with parties.

Case closures due to withdrawal with resolution are particularly troubling. Such closures 1) do not typically assure the provision of adequate relief under the law, including relief in the public interest, 2) are not subject to monitoring to ensure adherence to terms, and 3) are not enforceable by the jurisdiction in the event of a breach. The Department recognizes that complaint withdrawals with resolution do not demand agency resources in the same manner as a successful conciliation agreement, and therefore will not pay these closures commensurate with fully investigated or conciliated cases. The Department emphasizes that withdrawals with resolution are not a desirable outcome. FHAP agencies should not attempt to encourage or persuade a complainant to withdraw a complaint and should not rely on a complainant’s withdrawal with resolution as an alternative to the pursuit of a conciliation agreement or an administrative or judicial remedy.
HUD will continue to administer the FHAP program in a fiscally sound manner. HUD will monitor the actual effect of the payment rates and, if necessary, may make subsequent adjustments to complaint processing payments or any other FHAP funding methodologies.

At the same time that HUD continues to provide increased monetary resources to FHAP agencies, FHAPs must be aware that Region Directors may exercise their discretion to require FHAP agencies to take on increasing responsibilities with respect to complaint intake. See, Section V of the Memorandum of Understanding between HUD and each FHAP agency (“In order to protect housing rights and facilitate the filing of complaints, HUD and the Agency each authorize the other to receive complaints for it.”).

The distribution of complaint processing funds is addressed at 24 C.F.R. 115.304(b). For the case processing period concluding June 30, 2021, FHEO will pay Contributions Agencies for processed complaints that are both 1) cognizable under the Fair Housing Act, and 2) acceptable for payment under the Criteria for Processing and Standards for Timeliness included as part of this Guidance. Under the payment methodology, complaint processing funds are determined by case closure disposition in accordance with the Case Processing Payment Schedule on page 6.

For FY2021, the FHAP Division will continue to provide a post-cause enforcement supplemental payment as follows: $5,000 for conducting a post-cause administrative hearing and $8,000 for the filing of a post-cause civil action. Conciliation agreements reached after a cause finding will not qualify as an enforcement action for purposes of this supplemental payment but will be paid as any other case closed with a conciliation agreement.

Many FHAP agencies rely on a separate entity within the jurisdiction’s governmental structure for judicial enforcement. In recognition of the fact that challenging fiscal environments can create tension between FHAP agencies and their legal enforcement agencies, in terms of the costs associated with judicial enforcement, the post-cause supplemental payment is intended to facilitate more effective enforcement partnerships within jurisdiction governments. We continue to strongly encourage FHAP agencies to develop interagency agreements for coordination, cause case development and the sharing of enforcement-related costs — all of which contribute to the goal of increased quality enforcement actions to combat unlawful discrimination.

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

Agencies will receive this increased supplemental payment when the agency has engaged in post-cause enforcement actions and has documented its actions in HEMS. This documentation must occur in order for the GTR/GTM to authorize payment. This one-time payment will be allowed in cases where the qualifying enforcement action takes place during the 2021 Case Processing Period (defined above), even if the cause determination / charge was issued during an earlier Case Processing Period.
NOTE: For purposes of budget estimation for the following year it is critical that FHAP agencies communicate accurate information with respect to post-cause enforcement actions to their assigned GTMs/GTRs (and into HEMS) throughout the Performance Period, i.e., # of administrative hearings conducted and # of civil actions filed.

FY2021 Case Processing Payment Schedule

<table>
<thead>
<tr>
<th>Case Disposition</th>
<th>FY21 Payment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full Investigation Cause/No Cause</td>
<td>$3,000</td>
</tr>
<tr>
<td>Effective Conciliation*</td>
<td>$3,200</td>
</tr>
<tr>
<td>Administrative Closures</td>
<td>$1,500</td>
</tr>
<tr>
<td>Withdrawal with Resolution</td>
<td>$1,500</td>
</tr>
</tbody>
</table>
| Post-Cause Enforcement Payment         | $5,000 (Admin. Hearing)  
                                         | $8,000 (Civil Action) |

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

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

FHAP agencies should be aware that a pattern of requiring only fair housing training is not meaningful public interest relief. In deciding whether the higher payment is warranted, HUD monitors will consider in every case whether other reasonable, appropriate forms of public interest should have been considered. Additionally, public interest relief cannot be meaningful or effective unless reporting and recordkeeping provisions are included to ensure that all required actions are completed.

A conciliation that fails to provide both substantive individual relief and meaningful / effective public interest relief will be paid at the Full Investigation amount of $3,000.
ii. No Quality or Timeliness Deductions from Payment Amounts

FHAP cases accepted for payment will be paid at their full rate, *i.e.*, no deductions will be made from the full payment. This practice provides a more reliable, predictable payment schedule to facilitate FHAP agencies’ budget planning and promotes greater consistency in case assessments and case payment rates across regional offices and GTR/GTM staff. It also is intended to provide substantive coordination with FHAP agencies focused on improved quality complaint processing outcomes through routine performance monitoring and feedback, rather than relying on the former practice of case-by-case payment deductions as a method of quality control.

***Note:*** While cases accepted for payment will be paid at the full rate, FHAP agencies are reminded that HUD GTRs and Region Directors are vested with discretion and authority to refuse to accept cases for payment where quality and timeliness standards are not met, including the criteria for adequacy of conciliations/settlements set forth in Section V of the *Criteria for Processing*.

FHAP agency management and staff are reminded that the *Criteria for Processing* and the *Standards for Timeliness* (Attachments A and B to this Guidance) remain a valuable FHAP performance monitoring tool and an important part of this FY2021 Guidance. GTMs and GTRs will continue to use the criteria and standards to assess the quality of a FHAP agency’s complaint processing in connection with both decisions whether to accept cases for payment and Performance Assessment Reports. Performance Assessment Reports, in concert with ongoing monitoring and complaint review and contemporaneous feedback to FHAP agencies, are the proper vehicle for identifying performance concerns and for specifying required corrective actions. Agencies that fail to adequately provide for quality and timeliness in complaint processing may be subjected to performance improvement actions or suspensions without regard to case payment rates.

Finally, FHEO and FHAP agencies must take precautions to ensure that complaint filings and associated case payments are not redundant and duplicative. FHAP agencies should note that FHEO will pay for complaints filed and processed in accordance with intake protocols outlined in the FY2021 Criteria for Processing and FHEO’s Title VIII Investigations Handbook. Case payments will be made only for unique complaints involving separate and distinct discriminatory actions. Where allegations may be made against two or more respondents, a separate complaint should be filed against each individual respondent only if that respondent’s actions constitute a separate violation of the Act. Furthermore, if complainants are married and both are aggrieved persons, a single, joint complaint should be filed. If there are children under age 18 who reside in the household who may have been injured by the alleged discriminatory housing practice(s), they should be listed as “Other Aggrieved Persons” on that same complaint.

**B. Administrative Cost (AC) Funds**

As in prior years, AC funds are tied to the quantity of a Contributions agency’s caseload. For FY2021, HUD will continue to provide an increased amount of AC funds to FHAP agencies operating in high-cost areas. The enhancement will be provided by applying a locality adjustment developed by HUD’s Office of Policy Development and Research to the FHAP agency’s base award.

The locality adjustment recognizes and is intended to ameliorate the fact that some FHAP agencies operate in areas with higher labor costs and other economic and administrative cost factors. For FY2021, we will continue to apply only those locality adjustments that result in an increase in AC funding. The FHAP Division will monitor the effects of this change and refinements may be made in subsequent years.

For FY2021, FHAP agencies that acceptably process 100 or more complaints during the Complaint
Processing Period will receive 20% of the agency’s total FHAP obligation for FY2020, with a locality adjustment where applicable. For purposes of this calculation, “total FHAP obligation” will not include any Partnership funds or SEE funds the agency may have received in FY2020. The calculation will also not include any CARES Act funds the agency may have received in FY2020.

Agencies that process fewer than 100 complaints during the Complaint Processing Period will receive AC funds as follows:

<table>
<thead>
<tr>
<th># of Complaints Acceptably Processed in Complaint Processing Period</th>
<th>FY21 AC Funds (subject to locality adjustment)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-12</td>
<td>$7,000</td>
</tr>
<tr>
<td>13-30</td>
<td>$12,500</td>
</tr>
<tr>
<td>31-60</td>
<td>$30,000</td>
</tr>
<tr>
<td>61-99</td>
<td>$55,000</td>
</tr>
</tbody>
</table>

AC funds may be used for data and information systems, salaries, and other administrative expenses associated with the administration and enforcement of a substantially equivalent fair housing law. Agencies must submit a written plan detailing how they intend to use AC funds to the GTR/GTM for approval. The plan should include use of the AC funds for updating and maintaining hardware and software, as appropriate.

C. Special Enforcement Effort (SEE) Funds

For FY2021, the Department has a total of $100,000 available for Special Enforcement Efforts funding in two categories, as set forth below. Note that the categories are separate and distinct, with different application procedures. Depending on the utilization of these funds under these two categories, HUD may authorize additional enforcement-related uses. The total combined amount the Department will provide in SEE funds is $100,000.

SEE funding will come from the existing authority at 24 C.F.R. § 115.305. FHAP agencies seeking SEE funds under either category must meet the regulatory requirements of 24 C.F.R. § 115.305(a) and (b).

i. Enforcement Fund

In order to provide meaningful support for post-cause enforcement – and thereby increase the number of post-cause enforcement actions taken by FHAP agencies – the FHAP Division is continuing the Enforcement Fund first established in FY2016. Decisions on requests for funds from FHAP agencies will be made in headquarters on a case-by-case basis, with the actual fund commitment taking place in the field as with all other FHAP funds.

Detailed guidance on the distribution and use of SEE funds for this category will be provided separately.
ii. Extraordinary Costs Assistance

*Distinct from the Enforcement Fund,* FHAP agencies will be allowed to submit requests for SEE funds for costs related to investigations and enforcement that are outside the “ordinary” costs of investigation and enforcement. These costs may arise in either the investigation or enforcement phase of complaint processing. Examples include, but are not limited to, costs related to interpreters, testing, and expert witnesses (*e.g.*, design and construction experts, expert testimony related to damages, *etc.*).

Unlike the application process for the Enforcement Fund ((III)(C)(i) above), a FHAP agency will request Extraordinary Costs Assistance funds in writing directly from their respective GTR/Region Director. Once the GTR/Region Director has determined that costs are documented and a request is eligible, the Region Director will request a funds assignment from the FHAP Director.

D. Partnership Funds

For FY2021, the Department has a total of $800,000 available for Partnership funds. The purpose of Partnership funds is for a FHAP agency to utilize the services of individuals and/or public, private, for-profit, or not-for-profit organizations that have expertise needed to effectively carry out the provisions of the agency’s fair housing law.

At the time of the issuance of this FY21 FHAP Guidance, HUD plans to make these funds available to FHAP agencies to conduct education and outreach related to housing discrimination because of sexual orientation and gender identity under the Fair Housing Act and substantially equivalent laws. Detailed guidance on the availability, authorized use(s), and distribution of FY2021 Partnership funds will be provided separately.

IV. Questions and Technical Support

Any questions with respect to the 2021 FHAP Guidance Package should be directed to the appropriate FHEO Region Director and GTR/GTM official. Regional staff will consult with the FHEO FHAP Division in HUD Headquarters as necessary to provide technical assistance concerning this Guidance.

Attachment A: 2021 Criteria for Processing
Attachment B: 2021 Standards for Timeliness
Attachment C: FY2021 Payment Schedule
Attachment D: LOCCS Security Procedures (FHAP)
2021 CONTRIBUTIONS AGREEMENT

SCHEDULE OF ARTICLES

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

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

9. **USE OF COOPERATIVE AGREEMENT FUNDS AND NO COMINGLING**

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

10. **MAINTENANCE OF EFFORT**

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

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

11. **HUD’S SUBSTANTIAL INVOLVEMENT**

A. HUD intends to have substantial involvement in the review and approval of all aspects of the work to be carried out as a result of an award under this Agreement.

B. Anticipated substantial involvement may include, but is not necessarily limited to, the following:

1. Review and guidance during and upon completion of cases cognizable under the Fair Housing Act;

2. Requests for additional information on cases to provide clarification or for completeness of a case investigation or file;
3. Development and presentation of national and regional office fair housing investigation and conciliation training;

4. Participation in the development and presentation of in-house investigation and conciliation training;

5. Participation and approval of education and outreach programs or materials;

6. Provision of appropriate directives and guidance for case processing;

7. Assistance in the investigation, conciliation, and/or enforcement of fair housing cases cognizable under the Fair Housing Act;

8. Requests for updates on the final status of cause determinations; and

9. Review and analysis of agency's fair housing law for determinations of continued substantial equivalence to the Fair Housing Act.

12. ASSURANCES

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

A. Provide a drug-free workplace;

B. Comply with the provision of the Hatch Act (5 U.S.C. §§ 1501 – 1508 and 7324 – 7328), which limits the political activities of employees whose principal employment activities are funded in whole or part with federal funds;

C. Establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain;

D. Comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728 – 4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, subpart F);

E. Comply with all federal nondiscrimination laws including, but not necessarily limited to: (a) Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin by recipients of federal financial assistance; (b) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex by recipients of federal financial assistance; (c) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability by recipients of federal financial assistance; and (d) the Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age by recipients of federal financial assistance;
F. Comply with all applicable requirements of federal laws, executive orders, regulations, and policies governing this program; and

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

13. USE OF CONSULTANTS

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

14. PUBLICATIONS AND NEWS RELEASES

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

   (1) Any document containing information for public consumption;

   (2) The act of, or any act that may result in, disclosing information to the public; or

   (3) Any products resulting from the education and outreach efforts of the Recipient that are planned to be made available to the public through dedication, assignment by the Government, or other such means as HUD shall determine.

B. Government Ownership of Official Products of Work

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

C. Publication of Official Products of Work

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

D. Acknowledgement and Disclaimer

All Official Products of Work, or any part thereof, and any Independent Products and Special Products arising out of this instrument, when published by Recipient or other participants in the work, shall contain the following acknowledgment and disclaimer:
“The work that provided the basis for this publication was supported by funding under a Cooperative Agreement with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Government.”

E. Notice of News Release and Public Announcements

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

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

15. REPRODUCTION OF REPORTS

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

16. FLOW DOWN PROVISIONS

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

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

18. MAINTENANCE OF RECORDS

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

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

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

19. CUSTOMER SERVICE STANDARDS

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

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

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

21. TRAINING

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

22. INITIAL CONTACT DATE

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

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

A) Maintain records of each complainant’s initial contact with the Recipient, including records of all telephone, e-mail, letters, and in-person contacts;

B) Place the original record of a complainant’s initial contact, or a copy of that record, in the case file under the complainant’s evidence section of the file, consistent with the requirements of Chapter 10 of the Title VIII Manual; and

C) Ensure that the Initial Contact Date field in HEMS reflects the earliest date of contact referenced in the case file.

For cases initially filed with FHEO, the Recipient:

A) Must ensure that the Initial Contact Date filed in HEMS reflects the earliest date of contact referenced in the case file referred to the Recipient by FHEO;

B) Must not change the date that FHEO entered in the Initial Contact Date field in HEMS even if records contained in the case file received from FHEO reflect a later date of contact by the complainant. If FHEO has entered an initial date of contact
in HEMS that is earlier than any contact date referenced in the case file, the Recipient must contact the FHEO regional office to obtain any records of contact that may have been omitted from the case file.

23. **CHANGES LIMITING EFFECTIVENESS OF RECIPIENT’S LAW**

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

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

24. **FHAP AND THE FIRST AMENDMENT**

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

25. **TESTING**

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

A) Testing must be done in accordance with a HUD-approved testing methodology;

B) Testers must not have prior felony convictions or convictions of any crimes involving fraud or perjury;

C) Testers must receive training or be experienced in testing procedures and techniques;

D) Testers and the organizations conducting tests, and the employees and agents of these organizations, may not: 1) have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury; 2) be a relative or acquaintance of any party in a case; 3) have had any employment or other affiliation, within five years, with the person or organization; or 4) or be a competitor of the person or organization to be tested in the listing, rental, sale or financing of real estate.
26. **RELEASE OF INFORMATION WHILE COMPLAINT IS OPEN**

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

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

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

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

1. The Recipient agrees to process housing discrimination complaints cognizable under the Fair Housing Act in accordance with the Agreement for the Interim Referral of Complaints and Other Utilization of Services (Interim Agreement) or Memorandum of Understanding (MOU) between the Recipient and HUD, the Schedule of Articles, the Criteria for Processing, and 24 C.F.R. part 115.

2. The Recipient agrees to cooperate with HUD in the processing of housing discrimination complaints cognizable under the Fair Housing Act in accordance with the Interim Agreement, MOU, the Schedule of Articles, the Criteria for Processing, and 24 C.F.R. part 115.

3. The Recipient agrees to augment its fair housing enforcement efforts by engaging in outreach and education, and engaging and participating in training and technical assistance pursuant to the Interim Agreement and MOU.

4. The Recipient agrees to follow HUD’s guidance in processing complaints cognizable under the Fair Housing Act unless and until the Department rescinds such requirement in writing to the Recipient.

5. The Recipient agrees to identify to HUD all staff assigned to carry out fair housing activities by name, position, salary, relevant experience, and percentage of time spent carrying out fair housing responsibilities.

6. The Recipient may be required to participate in customer satisfaction evaluation activities under this agreement. The Recipient agrees to furnish to HUD all information collected from its customers in the form specified by HUD.

7. If the Recipient has aged cases, upon request from HUD, the Recipient must provide updates to HUD on its handling of aged cases and submit a plan to the GTR/GTM for closing such cases.
ATTACHMENT A

FY2021 Criteria for Processing

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

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

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

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

A. Quality Requirements:

1. All complaints must be timely filed in accordance with the substantially equivalent state or local fair housing law.

2. All complaints must be in writing, signed by the complainant, and contain the following information:
   a. The name and address of complainant;
   b. The name and address of each respondent;
   c. If a specific property is involved, the property’s address and physical description, such as apartment, condominium, house or vacant lot; and
   d. A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice.

3. Where the agency determines that there is insufficient information in the complaint to commence an investigation, the agency must notify the complainant in writing by no later than the 5th day after receipt of the complaint and inform the complainant what information he or she must provide in order to commence an investigation and identify a reasonable timeframe for submitting such information. The agency must notify the complainant that unless he or she provides the required information within the specified timeframe, the agency may dismiss the complaint.

4. The FHAP agency must permit complaints to be filed with the assistance of an authorized representative or organization of the complainant.

5. The FHAP agency must permit complaints to be reasonably and fairly amended at any time. Such amendments may include, but are not limited to: a) amendments to cure technical defects or omissions; b) clarification, amplifications, or amendments of allegations in a complaint; or c) joinder of additional or substitute respondents. The FHAP agency should consider amended complaints as having been filed on the date the original complaint was filed.

6. If a FHAP agency requires complaints to be notarized, HUD will not reimburse the agency for a complaint not filed because the complainant did not get the complaint notarized. To preserve the rights of aggrieved persons, a FHAP agency must refer such complaints to HUD for investigation under the federal Fair Housing Act as soon as practicable and, where necessary, consent to their reactivation.

Amendment,” HUD will not reimburse FHAP agencies for complaints that implicate the First Amendment of the U.S. Constitution. The FHAP agency must alert HUD to complaints that it receives that may implicate the First Amendment so that HUD may analyze the complaint and determine if reimbursement is appropriate.

8. Pursuant to a Memorandum of Understanding between HUD and the Internal Revenue Service, the FHAP agency must identify in HEMS whether the property named in a complaint receives Low Income Housing Tax Credits. This is required for every complaint.

9. The FHAP agency must refer complaints to HUD when the agency receives allegations involving a practice that is not prohibited by the substantially equivalent State or local law, but which is prohibited by the federal Fair Housing Act.

10. If a housing discrimination complaint is filed against a recipient of federal financial assistance and therefore implicates civil rights laws that FHEO enforces other than the federal Fair Housing Act (multi-jurisdictional), the FHAP agency shall notify FHEO so that FHEO may process that portion of the complaint. Other civil rights laws enforced by FHEO include:

   a. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d) (prohibiting discrimination on the basis of race, color, or national origin in programs or activities receiving federal financial assistance);

   b. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (prohibiting discrimination based on disability in programs or activities receiving federal financial assistance);

   c. Section 109 of the Housing and Community Development Act of 1974, 42 U.S.C. § 5309 (prohibiting discrimination on the basis of race, color, national origin, religion, or sex in any program or activity funded in whole or in part by the community development block grant programs);

   d. Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. (prohibiting discrimination based on disability in programs, services, and activities made available by public entities);

   e. Architectural Barriers Act, 42 U.S.C. § 4151 et seq. (providing that buildings, including publicly owned residences, designed constructed, leased, or altered with certain federal funds must be accessible to persons with disabilities); and

B. **Required Documents:** A signed, dated copy of the complaint, any requests for amendment(s) to the complaint, and evidence of compliance with the timeframes and requirements identified above.

C. **Complaint Filing with Multiple Complainants or Respondents:** FHAP agencies will be reimbursed only for complaints that involve separate, distinct discriminatory actions that require a separate investigation. Where allegations may be made against two or more respondents, separate complaints should be filed against each respondent only when each respondent’s conduct stands alone as a separate violation of the Act. Furthermore, if complainants are married and both are aggrieved persons, a single, joint complaint should be filed. If there are children under age 18 who reside in the household who may have been injured by the alleged discriminatory housing practice(s), they should be listed as “Other Aggrieved Persons” on that same complaint. FHAP agencies should not typically file separate complaints for spouses or children under 18 residing in the household.

II. **NOTIFICATION**

A. **Quality Requirements:** The FHAP agency must notify HUD within five days of receiving complaints that are cognizable under the federal Fair Housing Act. In addition, the FHAP agency must serve notice of the complaint to each complainant and respondent in accordance with the timeframes identified in the substantially equivalent law and the following requirements.

1. The notification letter to the complainant must consist of an acknowledgement of receipt of the complaint for filing, the designation of a complaint number, information related to the agency’s processing procedures including the name and telephone number of a FHAP agency contact, and the complainant’s rights and obligations under the substantially equivalent law, including time limits and choice of forums.

2. The notification letter to each of the respondents must consist of a description of the alleged housing discrimination practice upon which the complaint is based, include a copy of the complaint, and identify the name and telephone number of a FHAP agency contact. The notice to each respondent must advise respondent of his or her procedural rights and obligations, including the right to file an answer within the timeframe identified in the substantially equivalent law.

3. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of the investigation, may be joined as an additional or substitute respondent by service of a written notice. The notice must explain the basis for the agency’s belief that the joined person is properly joined as a respondent and include information identified in paragraph 2 above.

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

III. CRITERIA FOR CAUSE AND NO CAUSE DETERMINATION

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

A. Quality Requirements:

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

1. Before the end of the 30\textsuperscript{th} day after the complaint is filed, the FHAP agency must initiate a comprehensive investigation of issues raised in the complaint. Respondent's defenses, relevant policies and practices, as well as all other relevant data, must be identified and analyzed and the complainant, respondent, and all relevant witnesses must be interviewed. Contradictions between complainant’s allegations and respondent’s response must be investigated and when applicable, comparative data must be obtained. Information must be independently corroborated. Simply obtaining respondents’ statements rebutting complainant’s allegations is insufficient to resolve disputed issues of fact.

2. HUD recommends that FHAP agencies develop investigative plans for every complaint processed that is cognizable under the Fair Housing Act. For guidance on developing an investigative plan, FHAP agencies should refer to Chapter 7 of HUD Handbook 8024.01 REV-2 (Title VIII Complaint Intake, Investigation, and Conciliation Handbook).

3. In planning the investigation, the investigator and his or her supervisor must determine, on a complaint-by-complaint basis, whether on-site inspections and/or interviews are required. For most complaints, on-site inspections and/or interviews are the most thorough way to conduct an investigation. Some cases, e.g., where the complaint does not involve factual disputes or where evidence clearly demonstrates the allegations do not have merit, may not require an onsite visit.

4. During the period beginning with the filing of a complaint and ending with the FHAP agency's determination or charge of discrimination, the agency, to the extent feasible, must attempt to conciliate the complaint (see more detail on criteria for conciliation in Section IV of this document).
5. If the agency does not complete the investigative activities with respect to a complaint within 100 days from the date of receipt, it must notify the parties in writing of the reason(s) for the delay. Such notification letters must be sent within 110 days of the filing of the complaint.

6. At the end of each investigation, the agency shall prepare a Final Investigative Report (FIR). A FIR shall be dated and signed by at least one supervisor. The FIR shall contain:
   a. The names and dates of contacts with the parties and witnesses, except that the report will not disclose the names of witnesses who request anonymity;
   b. A summary of correspondence and other contacts with the complainant and the respondent;
   c. A summary description identifying other pertinent records examined;
   d. A summary of statements by witnesses, if applicable; and/or
   e. Interrogatories and answers provided, if applicable.

7. Each Determination shall be signed and dated by an authorized FHAP official.

8. The FHAP agency shall send the closure package to HUD within 30 days of closure. (See B below).

9. The FHAP agency will cooperate with HUD by providing information at regular intervals or upon request related to individual complaint investigations. Upon request, the FHAP agency shall provide status reports for each complaint that is over 100 days old.

B. Required Documents: The case file shall include all evidence indicating that a comprehensive investigation was commenced and completed in accordance with the above requirements including, but not limited to: a copy of a signed, dated complaint; a copy of a FHAP agency determination, dated and signed by an authorized FHAP official; proof that a FHAP agency sent its determination letter to all parties; a FIR that meets the above listed requirements; an investigative plan (when such plan exists); a copy of the 100-day letters and evidence that they were sent; and all other information pertinent to the investigation, including but not limited to interview notes, documentation of conciliation attempts and, when necessary, independent evidence corroborating respondent’s defense(s).
IV. CRITERIA FOR POST-CAUSE COMPLAINTS HEARD IN AN ADMINISTRATIVE HEARING, CIVIL ACTION, OR THROUGH JUDICIAL REVIEW

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

A. Quality Requirements: After a cause determination and a charge of discrimination, or its equivalent, has been issued, and assuming the conciliation was attempted and failed, the complaint must be referred to appropriate counsel to prosecute the charge on behalf of the complainant, at government expense, before an administrative hearing body or civil court.

B. Documents Required: HUD will accept such a complaint for reimbursement if the agency provides documentation of such a referral in, for example, correspondence, logs, or pleadings. Additionally, the FHAP agency shall provide any final administrative hearing decision, consent decree, or settlement agreement entered to HUD within 30 days of such action. If the agency does not provide this information, HUD may request, and the agency will be required to return, up to 50% of the reimbursement previously paid to the agency for the complaint.

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

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

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

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

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

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

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

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

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

   • Sexual harassment claims;
• A complainant’s physical or mental condition, or medical diagnoses; or

• The fact that a complainant is a resident in a domestic violence shelter or other protected residence which complainant believes may, if disclosed, be a safety risk.

9. Provisions that allow the FHAP agency to effectively monitor compliance with the agreement.

10. A statement that violations of other civil rights laws have been alleged (if applicable).

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

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

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

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

A. Quality Requirements. The withdrawal request must be written; it must be signed and dated by complainant or complainant’s authorized representative; identify the respondent(s) to whom the withdrawal applies; contain the HUD and FHAP agency complaint numbers; state the reason(s) complainant seeks to withdraw the complaint; contain a statement that the withdrawal was not obtained by coercion or threat of retaliation from any person, including but not limited to the respondent; and identify the terms of the resolution.

B. Required Documents: The FHAP agency must provide FHEO with: a signed and dated complaint; a chronology of the FHAP agency actions prior to the withdrawal request; a copy of the signed and dated withdrawal request; documentation showing that the agency notified the complainant and respondent that the investigation would be terminated as a result of the withdrawal, and that the complainant could re-file the complaint if the terms of the resolution are not satisfied and the re-filing is received within the time limit for filing a complaint under the substantially equivalent law; and a copy of the closure letter.

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

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

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

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

1. Quality Requirements: The withdrawal request must: be written; signed and dated by complainant or complainant’s authorized representative; identify the respondent(s) to whom the withdrawal applies; contain the HUD and FHAP agency complaint numbers; state the reason(s) complainant seeks to withdraw the complaint; contain a statement that complainant is aware that the withdrawal terminates the FHAP agency’s investigation; contain a statement that the withdrawal was not obtained by coercion or threat of retaliation from any person, including but not limited to the respondent.

2. Required Documents: The FHAP agency must provide FHEO: a signed and dated complaint; a chronology of FHAP agency actions prior to receipt of the withdrawal request; a copy of the signed and dated withdrawal request that meets the Quality Requirements set out above; and a copy of the closure letter provided to all parties indicating closure due to withdrawal by complainant without resolution.

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

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

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

1. Quality Requirements: If correspondence sent by the agency is returned with an indication that the complainant moved and left no forwarding address, the agency must take the following progressive steps to locate the complainant before administratively closing the complaint:

a. Place at least four telephone calls to complainant’s residence, cellphone number, and place of employment, two during normal business hours to work number and two during non-business hours to a residential/cell number. If an email address is available, the agency must attempt to email the complainant at least two times.
b. Attempt to contact persons identified by complainant at intake to inquire as to complainant’s whereabouts.

c. Check other sources in an effort to obtain complainant’s current contact information (e.g., telephone directory, internet searches, postal service, 411 information, utility company, or witnesses previously identified by complainant).

d. Send a letter to the complainant’s last known address by certified mail, advising complainant of the agency’s intent to close the case unless complainant contacts the agency within ten days. If the tenth day elapses without a response, the case may be closed administratively by means of a written notice sent to all parties, including complainant at complainant’s last known address.

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

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

C. **Inability to Locate Respondent**

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

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

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

   a. The FHAP agency must attempt to obtain additional information from available sources that could result in identifying or locating the respondent, including internet searches, cellphone numbers, cross
reference directories, or property tax records that may identify the owner or prior residents of the property in question and provide enough information to identify or locate the respondent, serve the complainant, and begin the formal investigation.

b. If a source appears to know the identity or location of a respondent that the FHAP agency seeks, but that source refuses to provide the information voluntarily, the FHAP agency must subpoena the information.

c. As appropriate, the FHAP agency should attempt an on-site visit, which may help locate and identify the respondent.

d. If the above efforts to locate or identify the respondent are unsuccessful, a letter must be sent to the complainant giving him or her 10 days to provide information needed to locate or identify respondents.

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

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

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

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

Quality Requirements:

a. The FHAP agency must inform the complainant and their representative of their duty to cooperate with the investigation and the risk of the agency administratively closing the complaint if they fail to cooperate.

b. The FHAP agency must make repeated attempts to contact complainant and their representatives by telephone and mail requesting the needed information. If these efforts are fruitless, the FHAP agency must send a letter to the complainant by certified mail return receipt giving complainant at least ten days from receipt of letter to provide the needed information to the agency.
c. If the complainant’s cooperation cannot be obtained using the above procedures, and the letter is not returned by the post office (i.e., marked addressee unknown, moved, left no forwarding address, etc.), the complaint should then be closed for failure to cooperate.

d. If the complaint is closed for failure of complainant to cooperate with the investigation, a closure letter must be sent to the complainant.

1. **Required Documents:** The following documents must be provided to FHEO: a signed and dated complaint; evidence that the above progressive steps were taken to obtain complainant’s cooperation, including the signed letter identified in 1(b) above giving notice to the complainant or the complainant’s representative; and a copy of closure letter to the parties indicating closure because of failure of complainant to cooperate with the investigation.

E. **Lack of Jurisdiction**

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

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

2. **Required Documentation:** The FHAP agency must provide the following documentation to FHEO: reason(s) for closing the complaint for lack of jurisdiction that demonstrates why HUD does not have jurisdiction, and that the lack of jurisdiction could not have been determined at intake; copies of closure letter sent to the parties that indicate reason for lack of jurisdiction closure, identify FHAP and HUD complaint numbers, and are signed by authorized FHAP agency official.

F. **Trial has Begun.** A complaint must not be closed merely because an aggrieved party has filed a civil action with respect to the same alleged discriminatory housing practice(s).

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

1. **Quality Requirements:** No additional criteria.
2. **Required Documents:** To receive reimbursement for an administrative closure due to the commencement of a judicial trial the FHAP agency must produce: a document from the clerk of the court in the jurisdiction that hears the complaint or other sufficient documentation demonstrating that a trial has begun.
ATTACHMENT B

FY2021 Standards for Timeliness

Closures of Investigated Complaints

100 days or less:

- Non-systemic complaints, not novel or complex, that are settled or conciliated (including withdrawals with resolution).
- Non-systemic complaints, not novel or complex, where a cause or no cause decision has been made.

300 days or less:

- Systemic complaints that are novel or complex, that are settled or conciliated (including withdrawals with resolution).

350 days or less

- Systemic complaints that are novel or complex, where a cause or no cause decision has been made.

Administrative Closures

Inability to locate: 100 days or less
Lack of jurisdiction: 30 days or less
Failure to cooperate: 60 days or less
Withdrawal without resolution: 75 days or less
Closed because trial commenced: N/A
Complaints that are reactivated: N/A
ATTACHMENT C

FY2021 Payment Amounts for FHAP Complaint Processing

Effective Conciliation*: $3,200

Cause or no cause: $3,000

Post-cause enforcement action supplemental payments:

- Administrative Hearing held: $5,000
- Civil Action filed: $8,000

Administrative Closures: $1,500

Withdrawals with Resolution: $1,500

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

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

A pattern of requiring only fair housing training is not meaningful public interest relief. In deciding whether the higher payment is warranted, HUD monitors will consider in every case whether other reasonable, appropriate forms of public interest should have been considered. Additionally, public interest relief cannot be meaningful or effective unless reporting and recordkeeping provisions are included to ensure that all required actions are completed. A conciliation that fails to provide substantive individual relief and public interest relief will be reimbursed at the Full Investigation amount of $3,000.
ATTACHMENT D

LOCCS Security Procedures (FHAP)

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

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

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

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

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

**Rules of Behavior for HUD Systems**

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

The system user identification (USERID) and password issued to users are the FHAP agency’s means to access these resources. They are to be used solely in connection with the performance of the responsibilities as set forth in the job description, contract or agreement(s) with the Department. Use by anyone other than authorized users is expressly prohibited. You agree to be responsible for the confidentiality of the assigned information and accountable for all activity.
with your user identification (USERID). Further, you agree that you will not provide this confidential USERID/password to another user nor will you sign on to HUD systems so that another person may access or operate the workstation in your absence or on your behalf. **Actions of this type constitute a breach of system security and will result in immediate termination of your assigned USERID/password from the system.**

**In addition, authorized users agree to:**

(a) Log-off the system when leaving the system/workstation area;

(b) Refrain from leaving written passwords in the workstation area;

(c) Avoid creating a personal password that can be easily associated with you;

(d) Avoid posting printouts of sensitive output data on bulletin boards;

(e) Avoid leaving system output reports unattended or unsecured;

(f) Control input documents by returning them to files or forwarding them to the appropriate contact person in your office;

(g) Avoid violation of the Privacy Act which requires confidentiality of personal data contained in government and contractor data files;

(h) Immediately contact the HUD Inspector General's Office, as appropriate, regarding any suspected violation or breach of system security;

(i) Cooperate in providing personal background information to be used in conducting security background checks to the extent required by Federal regulations;

(j) Respond to any inquiries and requests for information you may receive from either the HUD Headquarters or management officials regarding system security practices.

(k) Protect all electronic/optical media and hardcopy documentation containing sensitive information and properly dispose of it by shredding hardcopy documentation, or by contacting the HITS Help Desk to dispose of electronic/optical media.

(l) Avoid saving sensitive HUD information on the local drive of a laptop, personally owned computer, or other mobile or portable technology (removable/external hard drives, "flash drives", etc.).

(m) If sensitive data must be stored on any type of HUD-approved mobile/portable technology (laptops, removable hard drives, "flash drives", etc.), ensure that it is protected via encryption.

(n) Individuals who telework or remotely access HUD information should do so only through approved remote access solutions (such as hudmobile.hud.gov), and should safeguard all sensitive information accessed in this manner.
September 21, 2021

TO: Shelley Dickstein, City Manager

FROM: Diane T. Shannon, Director
Department of Procurement, Management & Budget

SUBJECT: Resolution Accepting Property Tax Rates for 2022

The resolution accepting property tax rates for 2022 from the Montgomery County Budget Commission is being submitted for consideration by the City Commission for the September 29, 2021 calendar.

By Charter, the City of Dayton may only levy 10 mills of property tax without additional voter approval. The Montgomery County Budget Commission requires that the City pass an annual resolution allocating the use of these 10 mills. (The County Budget Commission is comprised of the County Auditor, County Treasurer, and County Prosecutor.)

As a result of declining property values, we began adjusting the millage distribution in 2012: 4.8 mills to the General Fund and 5.2 mills to the Bond Retirement Fund to increase our ability to issue debt. In 2013, we adjusted the distribution by an additional 0.2 mills to offset lost debt capacity: 4.6 mills to the General Fund and 5.4 mills to the Bond Retirement Fund. In 2014, we recommended a further adjustment to move 0.1 mills: 4.5 mills to the General Fund and 5.5 mills to Bond Retirement. The distribution has remained the same since 2014.

In July of 2014, the Dayton City Commission accepted an application to annex +/-5.917 acres now referred to as taxing district E211 to facilitate the expansion of a current business located in the City. In 2016, the City annexed +/-157.234 acres, +/-6.888 acres and +/-9.719 acres, collectively now referred to as taxing district A01-2 to enhance the Dayton International Airport. The Butler Township Board of Trustees (by Resolution No. 16-67, adopted on November 14, 2016) relinquished 0.2 mills in taxing district A01-2. It was agreed that it was in the best interest of the City to maintain its inside millage at 0.4 mills in all districts except E211 and A01-2, where the inside millage was reduced 0.2 mills. Dayton’s outside or charter millage remained the same in all taxing districts:

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<thead>
<tr>
<th>Taxing District A01-2</th>
<th>Inside 10 Mill Limit</th>
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<td>General Fund</td>
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Resolution Accepting Property Tax Rates for 2022  
September 21, 2021  
Page Two

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For 2022, we are recommending no change from the previous year’s distribution of the property tax millage. This allocation is consistent with the guidelines set forth in our City Charter that call for the payment of general debt obligations from property tax revenues. According to our City Charter, our property tax proceeds must be used to ensure all debt obligations are met. Secondly, the General Fund property tax millage is capped at 5.00 mills or 50% of the total.

Regarding authorizing the County Auditor to make property tax advances to the City, we have included language (see Section 3) to our annual tax rates resolution to authorize periodic advances.

**Recommendation**

We recommend that the proposed distribution for 2022 be adopted. This will ensure current and future debt obligations are met. The Montgomery County Auditor’s Office has requested that the resolution be approved prior to November 1. Accordingly, we are asking for emergency legislation, with one reading at two separate meetings. Should you have any questions, please let me know.

DTS/sb

Attachment

Cc: Mr. Parlette  
Ms. Lofton  
Mr. Hall  
Ms. Doseck  
Ms. Bryant/Budget File
A RESOLUTION

Authorizing the Necessary Tax Levies, Requesting the
Advance Payment by Montgomery County, Ohio to the
City of Dayton, Ohio of Tax Monies Collected for 2022,
Certifying the Same to the County Auditor, and Declaring
an Emergency.

WHEREAS, The Ohio Revised Code requires municipalities to accept and
authorize the necessary tax levies; and

WHEREAS, As set forth in the Ohio Revised Code §321.34, the Ohio General
Assembly has authorized counties within the State of Ohio to provide municipalities in
the State of Ohio a percentage of their tax dollars in advance of the normal distribution
date if the municipality requests such advance by resolution; and

WHEREAS, the City of Dayton, Ohio, a municipality in the State of Ohio,
desires to receive an advance payment of tax dollars available from Montgomery
County, Ohio; and

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

WHEREAS, In 2014 the City accepted an application to annex property and
annexed +/-5.917 acres now referred to as taxing district E211 to facilitate the
expansion of a current business located in the City; and

WHEREAS, In 2016 the City annexed +/-157.234 acres, +/-6.888 acres and
+/-9.719 acres, collectively now referred to as taxing district A01-2 to enhance the
Dayton International Airport; and

WHEREAS, The Butler Township Board of Trustees, by Resolution No. 16-
67, adopted on November 14, 2016, relinquished 0.2 mills in taxing district A01-2;
and

WHEREAS, Because the inside millage in new taxing district exceeded the 10
mill constitutional limit the City reduced its inside millage from 0.4 mills to 0.2 mills;
and

WHEREAS, It is necessary for the immediate preservation of the public
peace, property, health, and safety that this resolution become effective at the earliest
possible date so that it may be filed as required with the Montgomery County
Auditor’s Office; now, therefore,
BE IT RESOLVED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That there is hereby levied on the tax duplicate of the City of Dayton the rate of each tax necessary to be levied within and without the ten mill limitation as follows:

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Section 2. That the City of Dayton does not consent to the reassignment of the inside millage, and that the City of Dayton does not waive the right to levy its unused inside millage rates in the future.

Section 3. The City of Dayton, Ohio requests the Montgomery County, Ohio Auditor to advance to the City of Dayton, Ohio the maximum percentage of tax dollars available, at the earliest time allowed by law, for 2022, prior to the normal distribution in calendar year 2022.

Section 4. That the Commission directs the Clerk of Commission to certify a copy of this resolution to the Montgomery County Auditor.
Section 5. For the reasons stated in the preamble hereof, the Commission declares this resolution to be an emergency measure that shall take effect immediately upon its adoption.

Adopted by the Commission.............................................., 2021

Signed by the Mayor........................................................., 2021

__________________________________________
Mayor of the City of Dayton, Ohio

Attest:

__________________________________________
Clerk of the Commission

Approved as to form:

______________________
City Attorney