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 – Dayton Survey – 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:

   PROCUREMENT, MANAGEMENT AND BUDGET

   A1. Queen City Mechanicals, Inc. (automatic faucets and flush valves) $26,594.00
1. (Cont’d):

**PUBLIC WORKS**

**B1. Lake Erie Construction Company** (guardrails, attenuators, parts, materials, and supplies including installation and repair services)

$45,000.00

**B2. Matthew Brun Enterprises, Inc., Champion Equipment and Supply** (various types of playground mulch as needed through 12/31/21)

$80,000.00

**RECREATION**

**C1. Jerry Pate Turf & Irrigation, Inc.** (one commercial riding chemical sprayer)

$41,922.75

**WATER**

**D1. Avalon Technologies, Inc** (technical support services)

$18,169.60

**D2. White Allen Chevrolet** (two 2022 four-wheel drive extended cab pick-up trucks)

$74,941.00

**D3. Allied Technical Services dba Allied Pump Rentals** (maintenance and repair services to the Hydrogen Sulfide Control Plan Speece Cone Oxygen Controller as needed through 10/31/22)

$25,000.00

**D4. Chemical Service, Inc.** (odor control chemicals as needed through 10/31/22)

$26,000.00

**D5. ECO Oxygen Technologies LLC** (adding super oxygenated remediation well water to industrial wastewater gravity interceptor as needed through 10/31/22)

$178,736.00

**D6. Pace Analytical Services, Inc.** (total sulfate and dissolved sulfide testing as needed through 10/31/22)

$15,600.00

**D7. Masi Labs** (laboratory water testing services as needed through 12/31/21)

$15,000.00

-Depts. of Procurement, Management and Budget, Public Works, Recreation, and Water.

**Total: 546,963.35**

2. **Go Sustainable Energy, LLC – Service Agreement** - for Ground Mount Solar Feasibility Study – Department of Water

$36,000.00

(Thru 9/1/22)

3. **Hazen & Sawyer – Contract Modification** – as needed professional engineering services for the continued work on the Hydrogen Sulfide Control Plan and other ancillary wastewater work - Department of Water.

$391,600.00

(Thru 10/31/23)
C. Revenue to the City:

4. City of Moraine – Other – second amendment to an Intergovernmental Agreement for waste collection services – Dept. of Public Works.
   $359,136.00/Est. (Thru 12/31/22)

   $22,328.66 (Paid to the City)

IV. LEGISLATION:

Ordinances – First Reading

6. No. 31927-21 Authorizing the City Manager to Accept a Grant Award from the Ohio Department of Transportation for an Amount of Two Hundred Fourteen Thousand Five Hundred Dollars and Zero Cents ($214,500.00) in State Funds.

7. No. 31928-21 Consenting to the Major Rehabilitation of Interstate 75 Pavement by Rebuilding the Asphalt Pavements, Straight Line Mile 14.66 to 17.16 more or less, with a Portion in the City of Dayton, and Agreeing to Cooperate in Matters Incidental Thereto, Including the Execution of Agreement Necessary to Implement this Ordinance.

VI. MISCELLANEOUS:

ORDINANCE NO. 31929-21

RESOLUTION NO. 6615-21

IMPROVEMENT RESOLUTION NO. 3599-21

INFORMAL RESOLUTION NO. 994-21
City Manager’s Report

From: 2730 – PMB/Procurement

Date: October 20, 2021

Expense Type: Purchase Order

Total Amount: $546,963.35

Supplier, Vendor, Company, Individual

Name: See Below

Address: See Below

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

Affirmative Action Program: Yes

Description

PROCUREMENT, MANAGEMENT AND BUDGET – PROCUREMENT

(A1) P0211209 – QUEEN CITY MECHANICALS, INC., CINCINNATI, OH

- Automatic faucets and flush valves.
- These goods are required to install items at Water Supply and Treatment facilities.
- One hundred percent (100%) of funding is from the Coronavirus Aid, Relief and Economic Securities (CARES) Act.
- Rates are in accordance with the City of Dayton’s established price agreement per IFB N20024 with pricing through 12/31/2021
- The Department of Procurement, Management and Budget 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>Coronavirus Local Relief Fund</td>
<td>28133-9980-1382-99-CRF28</td>
<td>$26,594.00</td>
</tr>
</tbody>
</table>

Signatures/Approval

Approved by City Commission

Melissa A. Wilson, CFPD
Division

Diane J. Darrin 10.12.21
Department

C. LaShea Johnson
City Manager

FORM NO. MS-16

Updated 06/2016
PUBLIC WORKS – STREET MAINTENANCE

(B1) P0210935 – LAKE ERIE CONSTRUCTION COMPANY, NORWALK, OH
- Guardrails, attenuators, parts, materials, and supplies including installation and repair services.
- These goods and services are required for highway maintenance of guardrail safety barriers.
- Lake Erie Construction Company is recommended based upon proven past performance with guardrail safety barrier installation and repair services; therefore, this purchase was negotiated.
- This amendment increases the previously authorized amount of $105,000.00 by $45,000.00 for a total not to exceed $150,000.00 and therefore requires City Commission approval.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2021</td>
<td>Street Maintenance</td>
<td>21000-6430-1159-54</td>
<td>$45,000.00</td>
</tr>
</tbody>
</table>

(B2) P0210935 – MATTHEW BRUN ENTERPRISES, INC., CHAMPION EQUIPMENT AND SUPPLY, RIVERSIDE, OH
- Various types of playground mulch as needed through 12/31/2021.
- These goods are required to resurface playgrounds throughout the City to meet safety standards.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB D21012 with pricing through 4/30/2024.
- This amendment increases the previously authorized amount of $25,000.00 by $80,000.00 for a total not to exceed $105,000.00 and therefore requires City Commission approval.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
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<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6490-1301-54</td>
<td>$80,000.00</td>
</tr>
</tbody>
</table>

RECREATION – GOLF

(C1) P0211178 – JERRY PATE TURF & IRRIGATION, INC., HILLIARD, OH
- One (1) commercial riding chemical sprayer.
- This equipment is required to maintain the City golf course and replace Unit #2400 which will be disposed of in the best interest of the City.
- Rates are in accordance with the State of Ohio State Term Contract #800816 and Index #STS515.
- Jerry Pate Turf & Irrigation, Inc. is recommended as sole regional distributor for the Original Equipment Manufacturer (OEM); therefore, this purchase was negotiated.
- The Department of Recreation 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>Community Golf &amp; Recreation Fund</td>
<td>13000-6550-1412-56</td>
<td>$41,922.75</td>
</tr>
</tbody>
</table>
WATER – WATER ENGINEERING

(D1) P0211199 – AVALON TECHNOLOGIES, INC., BLOOMFIELD HILLS, MI

- Technical support services.
- These services are required to provide technical support for the Department of Water’s Dell servers which are part of the department’s Supervisory Control and Data Acquisition (SCADA) network.
- Rates are in accordance with the State of Ohio Term Schedule Contract #534109 and Index #STS033.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2021</td>
<td>Water Operating</td>
<td>53000-3421-1164-54</td>
<td>$18,169.60</td>
</tr>
</tbody>
</table>

(D2) P0211201 – WHITE ALLEN CHEVROLET, DAYTON, OH

- Two (2) 2022 four-wheel drive extended cab pickup trucks.
- These vehicles are required for the daily operations of the Divisions and will replace Units #97 and #840 which will be disposed of in the best interest of the City.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 21043D with pricing good through 3/31/2022.
- White Allen Chevrolet qualifies as a Dayton local entity.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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</thead>
<tbody>
<tr>
<td>2021</td>
<td>Sanitary Sewer Operating</td>
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<tr>
<td>2021</td>
<td>Storm Water Operating</td>
<td>58000-3420-1412-54</td>
<td>$36,725.00</td>
</tr>
</tbody>
</table>

WATER – WATER RECLAMATION

(D3) P0211203 – ALLIED TECHNICAL SERVICES dba ALLIED PUMP RENTALS, CINCINNATI, OH

- Maintenance and repair services to the Hydrogen Sulfide Control Plan Speece Cone Oxygen Controller as needed through 10/31/2022.
- These goods and services are required as part of the Hydrogen Sulfide Control Plan.
- Allied Technical Services dba Allied Pump Rentals is recommended by the Hydrogen Sulfide Control Plan Group for continuity of services and proven past performance; therefore, this purchase was negotiated.
- A cost sharing of the Hydrogen Sulfide Control Plan with Cargill and Tate & Lyle is currently being negotiated with Cargill and Tate & Lyle and will be incorporated into the 4th Amendment Agreement once all parties come to an agreement.
- This purchase order is an extension to P0200954 and is in concurrence with the 4th Amendment Agreement to the Hydrogen Sulfide Control Plan and Study Agreement which, when approved, will be extended through October 31, 2022.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1202-54-SF1415</td>
<td>$25,000.00</td>
</tr>
</tbody>
</table>
WATER – WATER RECLAMATION (CONTINUED)

(D4) P0211205 – CHEMICAL SERVICES, INC., HARRISON TOWNSHIP, OH

- Odor control chemicals as needed through 10/31/2022.
- These goods are required as part of the Hydrogen Sulfide Control Plan.
- Chemical Services, Inc. is recommended by the Hydrogen Sulfide Control Plan Group for continuity of services and proven past performance; therefore, this purchase was negotiated.
- A cost sharing of the Hydrogen Sulfide Control Plan with Cargill and Tate & Lyle is currently being negotiated with Cargill and Tate & Lyle and will be incorporated into the 4th Amendment Agreement once all parties come to an agreement.
- This purchase order is an extension to P0201015 and is in concurrence with the 4th Amendment Agreement to the Hydrogen Sulfide Control Plan and Study Agreement which, when approved, will be extended through October 31, 2022.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
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<tbody>
<tr>
<td>2021</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1202-54-SF1415</td>
<td>$26,000.00</td>
</tr>
</tbody>
</table>

(D5) P0211204 – ECO OXYGEN TECHNOLOGIES LLC, INDIANAPOLIS, IN

- Adding super oxygenated remediation well water to industrial wastewater gravity interceptor as needed through 10/31/2022.
- These goods and services are required as part of the Hydrogen Sulfide Control Plan.
- Eco Oxygen Technologies LLC is recommended by the Hydrogen Sulfide Control Plan Group for continuity of services and proven past performance; therefore, this purchase was negotiated.
- A cost sharing of the Hydrogen Sulfide Control Plan with Cargill and Tate & Lyle is currently being negotiated with Cargill and Tate & Lyle and will be incorporated into the 4th Amendment Agreement once all parties come to an agreement.
- This purchase order is an extension to P1800982, P1900077, P1901030, and P0201166 and is in concurrence with the 4th Amendment Agreement to the Hydrogen Sulfide Control Plan and Study Agreement which, when approved, will be extended through October 31, 2022.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1202-54-SF1415</td>
<td>$178,736.00</td>
</tr>
</tbody>
</table>
WATER – WATER RECLAMATION (CONTINUED)

(D6) P0211206 – PACE ANALYTICAL SERVICES, INC., ENGLEWOOD, OH

- Total sulfate and dissolved sulfide testing as needed through 10/31/2022.
- These services are required as part of the Hydrogen Sulfide Control Plan.
- Pace Analytical Services, Inc. is recommended by the Hydrogen Sulfide Control Plan Group for continuity of services and proven past performance; therefore, this purchase was negotiated.
- A cost sharing of the Hydrogen Sulfide Control Plan with Cargill and Tate & Lyle is currently being negotiated with Cargill and Tate & Lyle and will be incorporated into the 4th Amendment Agreement once all parties come to an agreement.
- This purchase order is an extension to P1800988, P1900078, P1901031, and P0201162 and is in concurrence with the 4th Amendment Agreement to the Hydrogen Sulfide Control Plan and Study Agreement which, when approved, will be extended through October 31, 2022.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1202-54-SF1415</td>
<td>$15,600.00</td>
</tr>
</tbody>
</table>

WATER – WATER SUPPLY AND TREATMENT

(D7) P0210025 – MASI LABS, DUBLIN, OH

- Laboratory water testing services as needed through 12/31/2021.
- These services are required for analytical testing of perfluorinated compounds (PFCs) for the monitoring wells located within the Huffman Dam Complex.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 20004S with pricing through 12/31/2023.
- This amendment increases the previously authorized amount of $100,000.00 by $15,000.00 for a total not to exceed $115,000.00 and therefore requires City Commission approval.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Water Operating</td>
<td>53000-3430-1159-54</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>

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

From 3420- Water/Water Engineering
Supplier, Vendor, Company, Individual
Name Go Sustainable Energy, LLC
Address 5701 N. High St
         Suite 112
         Worthington, OH 43085

Date October 20, 2021
Expense Type Service Agreement
Total Amount $36,000.00 (thru 9/1/2022)

Fund Source(s)       Fund Code(s)       Fund Amount(s)
2021 Water Operating Fund 53000-3420-1159-54 $18,000.00
2021 Sanitary Operating Fund 55000-3420-1159-54 $18,000.00

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

Description

PROFESSIONAL SERVICES AGREEMENT
GROUND MOUNT SOLAR FEASIBILITY STUDY

The Department of Water, in partnership with the Office of Sustainability, requests permission to enter into a Professional Services Agreement with Go Sustainable Energy, LLC in the amount of $36,000.00. This Agreement is for a technical and economic feasibility study regarding the installation of solar photovoltaic (PV) at the City’s Kittyhawk Golf Course, which sits adjacent to the Miami Water Treatment Plant, and Madden Hills Golf Course, which sits adjacent to the Water Reclamation Facility. This project will aid the City in understanding the potential benefit utilizing solar energy to offset electricity costs at these water facilities.

Eight proposals were received for the above project on July 16th, 2021. After evaluating the proposals, Go Sustainable Energy, LLC was chosen in response to the City’s Request for Proposal (RFP No. 21-022CMO). Go Sustainable Energy, LLC had the best combination of experience, approach, expertise, and resources to meet the Department of Water’s and the Office of Sustainability’s objectives.

The Agreement is being funded using 2021 Water and Sanitary Operating Funds.

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

A Certificate of Funds in the amount of $36,000.00, proposal tabulation, and a copy of the Agreement are attached.

Signatures/Approval

Approved by City Commission

Division
Aaron S. Zonin

Department
City Manager

FORM NO. MS-16

Clerk

Date Updated 8/2016
 SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td>Required Documentation</td>
</tr>
<tr>
<td>Expiration Date</td>
<td>9/1/2022</td>
<td>Initial City Manager's Report</td>
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<tr>
<td>Original Commission Approval</td>
<td>$36,000.00</td>
<td>Initial Certificate of Funds</td>
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<tr>
<td>Initial Encumbrance</td>
<td>$36,000.00</td>
<td>Initial Agreement/Contract</td>
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<tr>
<td>Remaining Commission Approval</td>
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<td>Copy of City Manager's Report</td>
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<tr>
<td>Original CT/CF</td>
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<td>Copy of Original Certificate of Funds</td>
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<tr>
<td>Increase Encumbrance</td>
<td>$ -</td>
<td></td>
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<tr>
<td>Decrease Encumbrance</td>
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<tr>
<td>Remaining Commission Approval</td>
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<table>
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<tr>
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<tr>
<td>Amount:</td>
<td></td>
<td>Fund Code</td>
</tr>
<tr>
<td>Vendor Name:</td>
<td>Go Sustainable Energy, LLC</td>
<td></td>
</tr>
<tr>
<td>Vendor Address:</td>
<td>5701 N. High Street, Suite 112 Worthington OH 43085</td>
<td></td>
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<tr>
<td>Federal ID:</td>
<td>20-5410716</td>
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<tr>
<td>Commodity Code:</td>
<td>91846</td>
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</tr>
<tr>
<td>Purpose:</td>
<td>This Professional Services Agreement is to perform a Ground Mount Solar Feasibility Study at Water Supply and Treatment and the Water Reclamation Facility.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contact Person:</th>
<th>Lisa Burton-Yates</th>
<th>Water/Financial Services Date: 10/12/2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originating Department Director's Signature:</td>
<td>Aaron S. Zolin</td>
<td>Digitally signed by Aaron S. Zolin Date: 2021.10.12 12:08:16 -04'W</td>
</tr>
</tbody>
</table>

 SECTION II - to be completed by the Finance Department

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

Finance Director Signature: [Signature] Date: 10/12/2021

CF Prepared by: [Signature] Date: [Date]
### Solar Feasibility Assessment Scoring

<table>
<thead>
<tr>
<th>Go Sustainable</th>
<th>12</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Johnson Controls</td>
<td>21</td>
<td>2</td>
</tr>
<tr>
<td>AGE</td>
<td>28</td>
<td>3</td>
</tr>
<tr>
<td>MS</td>
<td>31</td>
<td>4</td>
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<tr>
<td>BV</td>
<td>35</td>
<td>5</td>
</tr>
<tr>
<td>Enerlogics</td>
<td>35</td>
<td>6</td>
</tr>
<tr>
<td>Talva</td>
<td>38</td>
<td>7</td>
</tr>
<tr>
<td>EDP</td>
<td>40</td>
<td>8</td>
</tr>
</tbody>
</table>

Notes: Scoring was completed by a panel of 7 people. Each person ranked their choices after scoring them with the attached rubric below. After ranking, each company was assigned points based on their rank. For example, first place got 1 point, second place got 2 points etc. All vendor applications were then totaled together and given a final ranking as seen to the right.

### Evaluation Criteria

<table>
<thead>
<tr>
<th>Evaluation Criteria</th>
<th>Score</th>
<th>Points Possible</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experience and Qualifications of Contractor and Personnel Assigned to This Project</td>
<td></td>
<td>25</td>
<td></td>
</tr>
<tr>
<td>Clear Understanding of Project, Approach, and Ability to Address Scope of Services</td>
<td></td>
<td>25</td>
<td></td>
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<tr>
<td>Project Workplan and Timeline</td>
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<td>20</td>
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<tr>
<td>Experience Working with State and Local Governments</td>
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<td>15</td>
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<tr>
<td>Pricing</td>
<td></td>
<td>10</td>
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</tr>
<tr>
<td>Local Dayton Business</td>
<td></td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Ability to Follow RFP Application Directions <em>10 pages for proposal response</em></td>
<td>Yes or No</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

| Total Points | 0 | 100 |

### Additional Comments
AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is entered into on this ___ day of __________ 2021, between the City of Dayton, Ohio, ("City") and Go Sustainable Energy LLC ("Consultant"), 5701 N. High St, Suite 112, Worthington, OH 43085.

WITNESSETH:

WHEREAS, the City wishes to seek professional consulting services to conduct a technical and economic feasibility study regarding the installation of solar photovoltaic (PV) at the City’s Kittyhawk and Madden Hills Golf Courses locations, both of which sit adjacent to water treatment facilities; and

WHEREAS, Consultant is qualified and available to provide the Services to the City on the terms and conditions stated in this Agreement.

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

ARTICLE 1. TERM
The agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on September 1st, 2022, whichever is earlier. The parties reserve the right to extend the term of this Agreement to a later date by mutual written agreement, as described in Article 18.

ARTICLE 2. SERVICES TO BE PERFORMED BY CONTRACTOR
Consultant shall provide all professional services necessary to complete the services that are described in Attachment A, Scope of Services ("Services"), which is incorporated herein by reference. Any additional services will be discussed prior to initiation and will require a written agreement with pricing to move forward.

ARTICLE 3. COMPENSATION
The total remuneration in this Agreement shall not exceed THIRTY-SIX THOUSAND DOLLARS and ZERO CENTS ($36,000.00). All services will be paid according to Attachment B, which is incorporated herein by reference. The invoice shall state the invoice period, total amount requested, and Services provided during the invoice period. The City will, unless disputed, remit payment of all undisputed amounts of invoices within thirty (30) days from receipt thereof.

ARTICLE 4. CITY'S RESPONSIBILITIES
The City will furnish Consultant, at no cost or expense, all reports, records, 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. The Contractor shall have no liability for defects in the Services attributable to Contractor’s reliance upon or use of data or other information furnished by the City or third parties retained by the City.

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

ARTICLE 6. LIABILITY AND INDEMNIFICATION

Contractor shall 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 Contractor’s negligent or willful acts, errors, or omissions.

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.

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 Contractors 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 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

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

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 a failure by Contractor to perform in accordance with the terms of this Agreement. Contractor shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The City may terminate or suspend performance of this Agreement for the City’s convenience upon ten (10) days prior written notice to Contractor. In the event of termination by the City hereunder, the City will pay Contractor for Services actually provided and properly performed up to the date of termination.

ARTICLE 10. SUBCONTRACTING AND ASSIGNMENTS

None of the Services shall be subcontracted without the prior written consent of the City. The Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons indirectly employed by the Contractor, as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor shall insert in each subcontract appropriate provisions requiring compliance with the labor standards provisions of this Agreement.

The Contractor shall not assign any interest in this Agreement and shall transfer any interest in the same without the prior written approval of the City. Unless otherwise stated in written consent to an assignment, no assignment will release or discharge the Contractor from any obligation under this Agreement.

ARTICLE 11. 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.

ARTICLE 12. EQUIPMENT AND SUPPLIES

The Contractor, at its expense, shall provide all equipment, tools, and supplies necessary to perform the Services.

ARTICLE 13. COMMUNICATIONS AND NOTICES

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: Go Sustainable Energy
5701 N. High St
Suite 112
Worthington, OH 43085

City: City of Dayton
320 W. Monument Avenue
Dayton, Ohio 45402
Attention: Mark Charles
Sustainability Manager

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of Contractor and the City.
ARTICLE 14. 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.

ARTICLE 15. GOVERNING LAW AND VENUE

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

ARTICLE 16. 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.

ARTICLE 17. 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.

ARTICLE 18. AMENDMENT

The City and the Contractor may mutually agree to amend this Agreement at any time. 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 the City and the Contractor 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.

ARTICLE 19. POLITICAL CONTRIBUTIONS
Contractor affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

ARTICLE 20. 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.

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

CITY OF DAYTON, OHIO

__________________________________________
City Manager

Date: ________________________________

APPROVED:

Mark D. Charles
Director, Sustainability Office

APPROVED AS TO FORM
AND CORRECTNESS:

9/14/2021

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

Go Sustainable Energy LLC

By: __________________________

Its: _____________________

7
ATTACHMENT A

TO

AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

City: City of Dayton OH

Project: GROUND MOUNT SOLAR FEASIBILITY STUDY AT THE CITY OF DAYTON
MIAMI TREATMENT PLANT AND WATER RECLAMATION PLANT

Consultant: Go Sustainable Energy LLC:

Scope of Services

- Identify the size of the system to offset the electrical consumption at the Miami Plant and Water Reclamation Plant. Contractors should also explore utilizing battery storage and sizing needed for battery storage.

- Identify system sizing boundary conditions and physical constraints for the two sites.

- Conduct a utility billing analysis including electrical demand, baseline electricity consumption, avoided cost of electrical energy and demand, and other important aspects to consider for our energy modeling. This will also include evaluating the City’s energy supply contracts.

- Conduct a renewable energy production analysis which includes building a model of multiple energy systems to understand what the expected annual, monthly, and hourly production will be based on typical weather patterns in Ohio. This also includes optimal tracking systems (fixed tilt vs. single axis) and other construction considerations (e.g., anchoring, weight, etc.).

- The City seeks to save money through this project. The consultant will explore different price structures of a renewable energy development contract so that the City pays less than the electricity costs that will be spent over the lifetime of the solar project. This includes exploring a 10, 15, 20, or 25-year power-purchase agreement. This also includes evaluating net metering benefits. Lastly, Consultant will evaluate the potential REC benefits that could be directed towards the community aggregation program.

- Estimate transmission-related economic benefits if applicable.

- Consultant should review procurement contracts set in place by the City and work with our energy consultants to explore feasibility of this project.

- The contractor should explore the drawbacks to solar, so the City understands the risks of installing solar power. This potential policy limitations, impact on energy pricing for the future, and environmental limitations.

- Evaluate settlement agreements between the City of Dayton and AES Ohio (formerly DP&L) to see if any settlement agreements benefit this project.
- The contractor will advise the City about the expected operation and maintenance costs of this solar field system for 20 years. In addition, the contractor will also advise on expectations for contingency planning if a natural disaster were to impact the area. Lastly, the contractor should briefly summarize what dismantling and/or restoring property could look like at the end of the PPA, especially on Miami Water Supply and Treatment Facility’s wellfield (Kittyhawk). The contractor will then aid in preparing the RFP to address these concerns if feasible.

- The Miami Water Supply and Treatment Facility is supplied with water from the Great Miami Buried Valley Aquifer below the former Kittyhawk golf course. The contractor shall assist the City in understanding how entities with sensitive groundwater areas prepare for installations with potential impacts to the groundwater. Examples from industry or other project examples will be discussed in preparation for eventual RFP language to guide PPA vendors towards their responsibility to protect the groundwater in areas such as, but not limited to materials used on the project, contaminants that may be present, local / state / federal codes, and other requirements of the City’s water department.

- Lastly, if this project concludes that the solar arrays are not currently economically feasible, contractors will explain the circumstances that would make the project feasible in the future.
ATTACHMENT B

TO

AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

COMPENSATION and SCHEDULE OF VALUES

City: City of Dayton OH

Project: GROUND MOUNT SOLAR FEASIBILITY STUDY AT THE CITY OF DAYTON MIAMI TREATMENT PLANT AND WATER RECLAMATION PLANT

Consultant: Go Sustainable Energy LLC:

COMPENSATION

Go Sustainable Energy will perform the proposed services described for a price not to exceed $36,000.00. The City will be billed based on quarterly completions of the total project. After each quarter of the project is completed, Go Sustainable will have a meeting to update the City. Upon satisfactory progress, the City will approve the payment through an itemized invoice. There will be a total of 4 payments, with the last payment being paid after the final deliverable is completed. Go Sustainable will not be allowed to exceed 225 hours or the current budget of $36,000.00 unless negotiated separately.

Any other additional services or expenses will be negotiated separately. Any additional services for that require additional payment above the stated payment will need to be approved in writing beforehand by both the City of Dayton and Go Sustainable and added to the contract.

SCHEDULE OF VALUES

<table>
<thead>
<tr>
<th>Estimated Budget Breakdown</th>
<th>Estimated Hours</th>
<th>Task</th>
<th>Goal</th>
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<tr>
<td>$2,400</td>
<td>15</td>
<td>Organizational</td>
<td>Meet w/CEO Sustainability Office, WTP Staff, WTP Staff: other pertinent stakeholders to identify city's goals, constraints, etc.</td>
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<tr>
<td>$1,400</td>
<td>15</td>
<td>Site Study</td>
<td>Identify site constraints (e.g. topography, shading, interconnections, neighbors, sensitive groundwater areas), determine/measure ideal solar locations, &amp; best solar array</td>
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<tr>
<td>$6,000</td>
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<td>Electrical Study</td>
<td>Develop annual hourly electricity load profile for each site &amp; solar array, produce net-load profile for each site &amp; commercial and other exports meter</td>
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<td>$4,000</td>
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<td>Contract Study</td>
<td>Review energy supplier contract: distribution utility, B&amp;I, &amp; transmission service work (if applicable)</td>
</tr>
<tr>
<td>$4,000</td>
<td>25</td>
<td>Regulatory Study</td>
<td>Review setback rules, A&amp;I export inter-tie, real-morning runs, Source Water Protection Program, recent DPH/USEPA buzzsaw settlements, &amp; other relevant policies, regulations, etc.</td>
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<tr>
<td>$6,000</td>
<td>25</td>
<td>Economic Study</td>
<td>Calculate payback from distribution utility, energy supplier, environmental attributes, various farm structure/landscape, buybacks, O&amp;M costs, decommissioning costs, etc.</td>
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<tr>
<td>$1,800</td>
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<td>Battery Study</td>
<td>Site battery, review cost-justified based on battery, &amp; determine battery钴cycle end-of-life</td>
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<tr>
<td>$5,600</td>
<td>35</td>
<td>Previsit, Project, Postvisit</td>
<td>Produce special report detailing each state's farm suitability, economic, constraints, etc. Communicate site findings to the city &amp; all desired stakeholders. Outline next steps for WTP expansion, vendor evaluation/selection, &amp; PPA negotiations. If sale determined feasible, or for overcoming barriers/challenges (if sale not determined feasible at this time)</td>
</tr>
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</table>

$38,000 225 TOTAL
City Manager’s Report

From 3460 - Water/Water Reclamation
Supplier, Vendor, Company, Individual
Name Hazen & Sawyer
Address 7870 E. Kemper Road, Suite 300
Cincinnati, Ohio 45249

Date October 20, 2021
Expense Type Contract Modification
Total Amount $391,600.00 (thru 10/31/2023)

Fund Source(s) Fund Code(s) Fund Amount(s)
2021 Sanitary Capital Funds 55003-3460-1159-54-SF1107 $391,600.00

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

Description
AS-NEEDED PROFESSIONAL ENGINEERING SERVICES
SECOND AMENDMENT

The Department of Water requests permission to enter into a Second Amendment with Hazen and Sawyer in the amount of $391,600.00 for the continued work on the Hydrogen Sulfide Control Plan and other ancillary wastewater work. The Managed Sulfate Group consisting of the City of Dayton, Cargill and Tate & Lyle continue working on achieving optimization of their new Pretreatment Facility. Additional data is necessary for recommendations for permanent improvements. Each entity with the Managed Sulfate Group utilizes their own engineering consultant for data evaluation. Hazen & Sawyer has been assisting the City with the evaluation and development of the calculation methodology for the Extra Strength Surcharges, and for assistance in reviewing and evaluating odor control measures being performed at the Water Reclamation Facility.

The original Agreement was approved on November 13, 2019 in the amount of $118,000.00. The First Amendment was approved on October 28, 2020 and increased the contract amount to $271,000.00. The Second Amendment will increase the contract amount to $662,600.00 and extend the term to October 31, 2023.

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

A Certificate of Funds in the amount of $391,600.00 and a copy of the Second Amendment are attached.

Signatures/Approval

Approved by City Commission

Division
Aaron S. Zonin
Date: 2021.10.20 15:29:18

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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<td>Expiration Date</td>
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<td>Initial Encumbrance</td>
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<td>Remaining Commission Approval</td>
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<tr>
<td>Initial City Manager’s Report</td>
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<tr>
<td>Initial Certificate of Funds</td>
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<tr>
<td>Initial Agreement/Contract</td>
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<tr>
<td>Copy of City Manager’s Report</td>
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<td>Copy of Original Certificate of Funds</td>
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<th>Act</th>
<th>Loc</th>
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</thead>
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Attach additional pages for more FOAPALs

Vendor Name: Hazen & Sawyer

Vendor Address: 7870 East Kemper Road, Suite 300 Cincinnati OH 45249

Street City State Zipcode + 4

Federal ID: 13-2904652

Commodity Code: 96895

Purpose: Second Amendment to the Agreement for As Needed Services to provide consultation and recommendation for the Hydrogen Sulfide Control Plan at Water Reclamation. Extends the Expiration Date to 10/31/2023.

Contact Person: Lisa Burton-Yates

Water/Water Engineering Department/Division 10/8/2021 Date

Originating Department Director’s Signature: Aaron S. Zonin

Date: 2021.10.08 10:21:32-0400

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: 10/12/2021

CF Prepared by

Date: 10/11/21

CF/CFCT Number

October 18, 2011
SECOND AMENDMENT OF THE
AGREEMENT FOR ENGINEERING SERVICES

This Second Amendment is dated _______ day of ____________, 2021, between the City of Dayton, Ohio ("City") and Hazen & Sawyer, 7870 E. Kemper Rd. Ste. 300, Cincinnati, Ohio, 45249 (hereinafter referred to as the "Consultant").

WHEREAS, On November 13, 2019, the Commission of the City of Dayton, Ohio, approved an Agreement for Engineering Services, CT19-2372, ("Agreement") between the City and Consultant; and,

WHEREAS, On October 28, 2020, the Commission of the City of Dayton, Ohio, approved a First Amendment for Engineering Services, CT19-2372, ("First Amendment") between the City and Consultant; and,

WHEREAS, the City has been working with Cargill and Tate & Lyle and their consultants since January of 2018 on the Hydrogen Sulfide Control Plan in an effort to address deteriorating City infrastructure and for the protection of City workers and welfare of the public; and

WHEREAS, the consultant has been instrumental in negotiating terms of the Hydrogen Sulfide Control Plan; evaluating data obtained during the trials and providing guidance to City staff in its deliberation in determining "effective" trial results; and

WHEREAS, the Consultant has the historical knowledge of both industrial facilities and their discharges and has the expertise in guiding the City with a solid conclusion and recommendation on the Hydrogen Sulfide Control Plan which will continue beyond 2021; and

WHEREAS, the City desires to continue utilizing the Consultant on an as-needed consulting services and Consultant is willing to perform such services for additional compensation.

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

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

ARTICLE 1 – TERM
The Agreement shall commence upon execution by the City, and it shall expire upon expenditure of all funds provided herein or on October 31, 2023, 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, subsection J.

2. Article 2, Services To Be Performed By Consultant, is hereby deleted in its entirety and replaced with the following:

ARTICLE 2 – SERVICES TO BE PERFORMED BY CONSULTANT
Consultant shall provide all professional services necessary to complete the Services described in Attachment A2, Scope of Services, which is attached hereto and incorporated herein.
3. Article 3, Compensation, is hereby deleted in its entirety and replaced with the following:

**ARTICLE 3 – COMPENSATION**

City shall pay Consultant an amended total amount not to exceed SIX HUNDRED SIXTY-TWO THOUSAND SIX HUNDRED DOLLARS AND ZERO CENTS ($662,600.00), as set forth in Attachment B2, Compensation, which is attached hereto and incorporated herein.

All other provisions shall remain in full force and effect.

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

**CITY OF DAYTON, OHIO**

.................................................................

City Manager

**HAZEN & SAWYER**

W. James

By: Gellner, PE

Title: Vice President

**APPROVED AS TO FORM AND CORRECTNESS:**

9/10/2021

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 A2
SCOPE OF SERVICES

AGREEMENT FOR ENGINEERING SERVICES

City: City of Dayton, Ohio
Services: Consulting Services for the Hydrogen Sulfide Control Plan and other
Miscellaneous Engineering Services

Consultant: Hazen & Sawyer

Services will consist of tasks related to professional support in five key areas. Tasks will be
performed when directed by City and are anticipated to include the following:

Task 1 – Hydrogen Sulfide Control Plan
1. Serve as the City’s Consultant in the Managed Sulfate Group meetings and
   representations to other consultants
2. Attendance at all Managed Sulfate Group Meetings with Cargill and Tate & Lyle and
   their consultants
3. Utilize a statistician in the evaluation of all data obtained during trials, compiling such
   data into graphs and reports
4. Evaluating all reports/positions made by Cargill and Tate & Lyle’s consultants and
   provide guidance to City staff.
5. Make recommendations for trials in the Hydrogen Sulfide Control Plan

Task 2 – Completion of the Extra Strength Surcharge Calculation Methodology
1. Review latest COS (Cost of Service) by City rate consultant.
2. Update extra strength surcharge justification as required.
3. Support implementation of extra strength surcharge as required.

Task 3 – Evaluation of Odor Control Measures at the Water Reclamation Facility
1. Evaluate data collected by City staff and its vendor Evoqua on the proper dosages and
   courses of action in the feeding of Hydrogen Peroxide.
2. Attend meetings with Evoqua and City as required in developing and adjusting cost
   effective dosage applications.

Task 4 – Hydrogen Sulfide Control Plan Interim Report
1. Prepare Interim report to document activities, evaluations, and data collection throughout
   assistance period.
2. Compile data and transfer to City network for archiving

Task 5 – Final Clarifier Modifications Assistance
1. Task Complete

Task 6 – Development of Desktop “Machine Learning” Model
1. Development of machine algorithms to enable dependent variable (H₂S) outcomes based on various independent variables in the Power BI data base.
2. Enable independent variables cataloged in Power BI data base to provide a self-training algorithm where the dependent variable (H₂S) is predicted through machine use of trial and error until highest level of accuracy can be achieved through the existing data base.
3. Independent variables will be weighted or scored as a function of the impact to the dependent variable.
ATTACHMENT B2
COMPENSATION

AGREEMENT FOR ENGINEERING SERVICES

City: City of Dayton, Ohio
Services: Consulting Services for the Hydrogen Sulfide Control Plan and other Miscellaneous Engineering Services

Consultant: Hazen and Sawyer

<table>
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<th>Task</th>
<th>Description</th>
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<th>Amendment No. 2 Budget (2 years)</th>
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<td>$212,000</td>
<td>$378,000</td>
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TOTAL | $118,000 | $153,000 | $391,600 | $662,600

H&S Rate Multiplier 3.2
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: | $153,000.00 (Seq. 1) |
| Fund Code | 55003 - 3460 - 1159 - 54 - SF1107 - |
| Fund | Org | Acct | Prog | Act | Loc |

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

Attach additional pages for more FOAPALs

Vendor Name: Hazen & Sawyer

Vendor Address: 7870 East Kemper Road, Suite 300 Cincinnati OH 45249

Federal ID: 13-2904652

Commodity Code: 96895

Purpose: First Amendment to the Agreement for As Needed Services to provide consultation and recommendation for the Hydrogen Sulfide Control Plan at Water Reclamation

Contact Person: Lisa Burton-Yates

Water/Water Engineering 9/25/2020

Section II - to be completed by the Finance Department

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

Finance Director Signature

CF Prepared by

October 18, 2011
City Manager’s Report

From: 3460 - Water/Water Reclamation
Supplier, Vendor, Company, Individual: Hazen & Sawyer
Address: 7870 E. Kemper Road, Suite 300
Cincinnati, OH 45249

Date: October 7, 2020
Expense Type: Contract Modification
Total Amount: $153,000.00 (thru 10/31/2021)

Fund Source(s) | Fund Code(s) | Fund Amount(s)
--- | --- | ---
2020 Sanitary Capital Funds | 55003-3460-1159-54-SF1107 | $153,000.00

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

Description:

AS-NEEDED PROFESSIONAL ENGINEERING SERVICES
FIRST AMENDMENT

The Department of Water requests permission to enter into a First Amendment with Hazen and Sawyer in the amount of $153,000.00. This Amendment will cover additional services for the Hydrogen Sulfide Control Plan and other ancillary wastewater work. The Managed Sulfate Group consisting of the City of Dayton, Cargill, and Tate & Lyle have requested to extend the Hydrogen Sulfide Control Plan through October 31, 2021 due to Tate & Lyle not achieving optimization of their new Pretreatment Facility. Additional data is necessary for recommendations for permanent improvements. Each entity with the Managed Sulfate group utilizes their own engineering consultant for data evaluation.

The original Agreement was approved on November 13, 2019 in the amount of $118,000.00. Amendment No. 1 will increase the contract amount to $271,000.00.

The First Amendment is being funded using the 2020 Sanitary Capital Funds.

The First Amendment extends the term and it will now expire upon expenditure of all funds provided herein or on October 31, 2021.

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

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

Signatures/Approval

[Signatures and Approvals]

Approved by City Commission

[Signature]

Clerk

[Signature]

Date: October 7, 2020

Updated 10/2019
Digital Version Updated 04/2020
October 19, 2020

TO: City Commission Office
    City Manager’s Office
    Department of Finance

FROM: Michael Powell, Director
       Department of Water

SUBJECT: Request for Signature – First Amendment to the Agreement for As Needed Professional Engineering Services – CT19-2372 – Hazen & Sawyer

Attached please find four (4) copies of the First Amendment referenced above with applicable consultant signatures. Authorization for execution of this Contract was granted by the City Commission on October 7, 2020 by City Manager’s Report #3. This Contract is ready for City of Dayton signatures.

Please return to Lisa Burton-Yates (x3729) in the Division of Water Engineering.

Enclosures (4)
Original Agreement
FIRST AMENDMENT OF THE
AGREEMENT FOR ENGINEERING SERVICES

This First Amendment is dated 28th day of October, 2020, between the City of Dayton, Ohio ("City") and Hazen & Sawyer, 7870 E. Kemper Rd. Ste. 300, Cincinnati, Ohio, 45249 (hereinafter referred to as the "Consultant").

WHEREAS, On November 13, 2019, the Commission of the City of Dayton, Ohio, approved an Agreement for Engineering Services, CT19-2372, ("Agreement") between the City and Consultant; and,

WHEREAS, the City has been working with Cargill and Tate & Lyle and their consultants since January of 2018 on the Hydrogen Sulfide Control Plan in an effort to address deteriorating City infrastructure and for the protection of City workers and welfare of the public; and

WHEREAS, the consultant has been instrumental in negotiating terms of the Hydrogen Sulfide Control Plan; evaluating data obtained during the trials and providing guidance to City staff in its deliberation in determining “effective” trial results; and

WHEREAS, it is the request of the Managed Sulfate Group to extend the Hydrogen Sulfide Control Plan through October 31, 2021 thereby necessitating the continued use of Consultant for an additional amount of time and additional services; and

WHEREAS, the Consultant has the historical knowledge of both industrial facilities and their discharges and has the expertise in guiding the City with a solid conclusion and recommendation on the Hydrogen Sulfide Control Plan; and

WHEREAS, the City desires additional as needed consultant services in addition to the Hydrogen Sulfide Control Plan and the Consultant is willing to perform such services for additional compensation.

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

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

ARTICLE 1 – TERM

The Agreement shall commence upon execution by the city and it shall expire upon expenditure of all funds provided herein or on October 31, 2021, 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, subsection J.

2. Article 2, Services To Be Performed By Consultant, is hereby deleted in its entirety and replaced with the following:

ARTICLE 2 – SERVICES TO BE PERFORMED BY CONSULTANT
Consultant shall provide all professional services necessary to complete the Services described in Attachments A1 which is attached hereto and incorporated herein.

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

ARTICLE 3 – COMPENSATION

City shall pay Consultant a total amount not to exceed TWO HUNDRED SEVENTY-ONE THOUSAND DOLLARS AND ZERO CENTS ($271,000.00), as set forth in Attachments B1 which is attached hereto and incorporated herein.

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

CITY OF DAYTON, OHIO

[Signature]
City Manager

HAZEN & SAWYER

[Signature]
By:

Title: VICE PRESIDENT

APPROVED AS TO FORM AND CORRECTNESS:

9/2/2020

X Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

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

October 7, 2020

Min./Bk. 1-16 Pg. 0291

Rashida Laundren
Clerk of the Commission
ATTACHMENT A1
SCOPE OF SERVICES

AGREEMENT FOR PROFESSIONAL SERVICES

City: City of Dayton, Ohio
Services: Consulting Services for the Hydrogen Sulfide Control Plan and other Miscellaneous Engineering Services
Consultant: Hazen & Sawyer

Services will consist of tasks related to professional support in three key areas. Tasks will be performed when directed by City and are anticipated to include the following:

Task 1 – Hydrogen Sulfide Control Plan
1. Serve as the City’s Consultant in the Managed Sulfate Group meetings and representations to other consultants
2. Attendance at all Managed Sulfate Group Meetings with Cargill and Tate & Lyle and their consultants
3. Utilize a statistician in the evaluation of all data obtained during trials; compiling such data into graphs and reports
4. Evaluating all reports/positions made by Cargill and Tate & Lyle’s consultants and provide guidance to City staff.
5. Make recommendations for trials in the Hydrogen Sulfide Control Plan

Task 2 – Completion of the Extra Strength Surcharge Calculation Methodology
1. Review latest COS (Cost of Service) by City rate consultant.
2. Update extra strength surcharge justification as required.
3. Support implementation of extra strength surcharge as required.

Task 3 – Evaluation of Odor Control Measures at the Water Reclamation Facility
1. Evaluate data collected by City staff and its vendor Evoqua on the proper dosages and courses of action in the feeding of Hydrogen Peroxide.
2. Attend meetings with Evoqua and City as required in developing and adjusting cost effective dosage applications.

Task 4 – Hydrogen Sulfide Control Plan Final Report
1. Prepare final report to document activities, evaluations, and data collection throughout assistance period.
2. Compile data and transfer to City network for archiving

Task 5 – Final Clarifier Modifications Assistance
1. Serve as lead for coordination with Evoqua and Ford Hall and contractor on modifications to final clarifiers to address skimmer arm / brush failures.
2. Perform independent inspection of clarifier mechanisms as part of evaluation.
3. Review suggested modifications proposed by Evoqua and Ford Hall to address failure mechanisms.
ATTACHMENT B1
SCOPE OF SERVICES

AGREEMENT FOR PROFESSIONAL SERVICES

City: City of Dayton, Ohio
Services: Consulting Services for the Hydrogen Sulfide Control Plan and other Miscellaneous Engineering Services

Consultant: Hazen and Sawyer

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<td>Contingency @ 10%</td>
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TOTAL  $118,000 $153,000 $271,000

H&S Rate Multiplier 3.2
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

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<th>Contract Start Date</th>
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Original CT/CF
Increase Encumbrance
Decrease Encumbrance
Remaining Commission Approval

Amount: $ 118,000.00

Fund Code 55003 - 3460 - 1159 - 54 - SF1107 -
Fund Org Acct Prog Act Loc

Amount: 

Fund Code
Fund Org Acct Prog Act Loc

Amount: 

Fund Code
Fund Org Acct Prog Act Loc

Attach additional pages for more FOAPALs

Vendor Name: Hazen & Sawyer

Vendor Address: 7870 East Kemper Road, Suite 300 Cincinnati OH 45249

Street City State Zipcode + 4

Federal ID: 13-2904652

Commodity Code: 96885

Purpose: As Needed Services to provide consultation and recommendation for the Hydrogen Sulfide Control Plan at Water Reclamation

Contact Person: Lisa Burton-Yates

Water/Water Engineering Department/Division 11/1/2019 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's Signature: 

Date: 11/5/19

Finance Prepared by: James Williams

Date: 11/4/19

CF/CT Number: C719-2372

Finance Department

October 18, 2011
December 6, 2019

TO: City Commission Office
City Manager’s Office
Department of Finance

FROM: Michael Powell, Director
Department of Water

SUBJECT: Request for Signature – As Needed Professional Engineering Services –
CT19-2372 – Hazen & Sawyer

Attached please find four (4) copies of the Contract referenced above with applicable consultant
signatures. Authorization for execution of this Contract was granted by the City Commission on
November 13, 2019 by City Manager’s Report #4. This Contract is ready for City of Dayton
signatures.

Please return to Lisa Burton-Yates (x3729) in the Division of Water Engineering.

Enclosures (4)
City Manager’s Report

From 3460 - Water/Water Reclamation
Supplier, Vendor, Company, Individual
Hazen & Sawyer
Address 7870 E. Kemper Road, Suite 300
Cincinnati, Ohio 45249

Date November 13, 2019
Expense Type Service Agreement
Total Amount $118,000.00 (thru 10/31/20)

Fund Source(s) Fund Code(s) Fund Amount(s)
2019 Sanitary Capital Funds 55003-3460-1159-54-SF1107 $118,000.00

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

Description

AS-NEEDED PROFESSIONAL ENGINEERING SERVICES

The Department of Water requests permission to enter into a Professional Services Agreement with Hazen and Sawyer in the amount of $118,000.00 to provide consultation services, leading to a solid conclusion and recommendation on the Hydrogen Sulfide Control Plan and utilizing them as an As-Needed Consultant.

Hazen and Sawyer was selected due to their impressive and extensive experience with Industrial Pre-treatment and direct discharges including engineering design, troubleshooting, startup and optimization for industrial users. They also have extensive experience with regulatory, high strength surcharge negotiations and rate justifications for municipal clients.

The Agreement is being funded using 2019 Sanitary Capital Funds.

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on October 31, 2020.

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

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

Signatures/Approval

Approved by City Commission

Division

Department

City Manager

FORM NO. MS-16

Updated 8/2016
AGREEMENT FOR ENGINEERING SERVICES

This Agreement is dated 13th day of December, 2019, between the City of Dayton, Ohio ("City") and Hazen & Sawyer, 7870 E. Kemper Rd. Ste. 300, Cincinnati, Ohio, 45249 (hereinafter referred to as the "Consultant").

WHEREAS, the City has been working with Cargill and Tate & Lyle and their consultants since January of 2018 on the Hydrogen Sulfide Control Plan in an effort to address deteriorating City infrastructure and for the protection of City workers and welfare of the public; and

WHEREAS, the consultant has been instrumental in negotiating terms of the Hydrogen Sulfide Control Plan; evaluating data obtained during the trials and providing guidance to City staff in its deliberation in determining “effective” trial results; and

WHEREAS, due to Tate & Lyle installing “pretreatment facilities” it was prudent for City Commission to approve the 2nd Extension Agreement Amendment on July 19, 2019 that extends the Hydrogen Sulfide Control Plan through October 31, 2020; and

WHEREAS, the Consultant has the historical knowledge of both industrial facilities and their discharges and has the expertise in guiding the City with a solid conclusion and recommendation on the Hydrogen Sulfide Control Plan; and

WHEREAS, the City desires to continue utilizing the Consultant on an as-needed consulting services and Consultant is willing to perform such services for additional compensation.

NOW THEREFORE, the parties hereby agree to the Agreement 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 October 31, 2020, whichever date is earlier. The City, however, reserves the right to extend the term of this Agreement to a later date by mutual written agreement, as described in Article 11, subsection J.

ARTICLE 2 – SERVICES TO BE PERFORMED BY CONSULTANT
Consultant shall provide all professional services necessary to complete the Services described in Attachments A which is attached hereto and incorporated herein.

ARTICLE 3 – COMPENSATION
City shall pay Consultant a total amount not to exceed One Hundred Eighteen Thousand and No Cents ($118,000.00), as set forth in Attachments B which is attached hereto and incorporated herein.

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

ARTICLE 6. LIABILITY AND INDEMNIFICATION
Consultant shall indemnify and hold harmless the City, its officials, officers, and employees, in both individual and official capacities, from and against losses, damages, and expenses, arising out of or resulting from this Agreement or negligent acts, errors or omissions or work performed under this Agreement. In the event of any such injury, including death, or loss or damage therefore, the Consultant shall give prompt notice thereof to the City. This provision is intended to be, and shall be construed as consistent with, and not in conflict with, Section 2305.31 ORC to the fullest extent permitted.

This Article 6 shall survive termination of this Agreement.

ARTICLE 7. INSURANCE
During the term of this Agreement, Consultant shall maintain, at its sole cost and expense, 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 required to be maintained by Consultant 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 Consultant'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, Consultant shall make copies of applicable insurance policies available for review by the City. Consultant, however, shall retain its right to restrict disclosure of Consultant's proprietary information contained in such policies in accordance with Article 8.

Consultant 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" "proprietary" 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.

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 AND VENUE
This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws. Any litigation or other legal matter regarding this Agreement 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:

Consultant: Hazen & Sawyer
7870 E. Kemper Rd. Ste. 300
Cincinnati, Ohio, 45249
Attention: Jamie Gellner, Vice President

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

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

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

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

E. WAIVER

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

F. SEVERABILITY

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

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

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

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

H. ASSIGNMENT

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

I. THIRD PARTY RIGHTS

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

J. AMENDMENT

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

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

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

CITY OF DAYTON, OHIO

[Signature]

City Manager

HAZEN & SAWYER

[Signature]

By:

Title: VICE PRESIDENT

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]

City Attorney

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

November 13, 2019

[Signature]

Min./Bk. I-14 Pg. 0019

Rashida Lawender
Clerk of the Commission
ATTACHMENT A
SCOPE OF SERVICES

AGREEMENT FOR PROFESSIONAL SERVICES

City: City of Dayton, Ohio
Services: Consulting Services for the Hydrogen Sulfide Control Plan and other Miscellaneous Engineering Services
Consultant: Hazen & Sawyer

Services will consist of tasks related to professional support in three key areas. Tasks will be performed when directed by City and are anticipated to include the following:

Task 1 – Hydrogen Sulfide Control Plan
1. Serve as the City’s Consultant in the Managed Sulfate Group meetings and representations to other consultants
2. Attendance at all Managed Sulfate Group Meetings with Cargill and Tate & Lyle and their consultants
3. Utilize a statistician in the evaluation of all data obtained during trials; compiling such data into graphs and reports
4. Evaluating all reports/positions made by Cargill and Tate & Lyle’s consultants and provide guidance to City staff.
5. Make recommendations for trials in the Hydrogen Sulfide Control Plan

Task 2 – Completion of the Extra Strength Surcharge Calculation Methodology
1. Review latest COS (Cost of Service) by City rate consultant.
2. Update extra strength surcharge justification as required.
3. Support implementation of extra strength surcharge as required.

Task 3 – Evaluation of Odor Control Measures at the Water Reclamation Facility
1. Evaluate data collected by City staff and its vendor Evoqua on the proper dosages and courses of action in the feeding of Hydrogen Peroxide.
2. Attend meetings with Evoqua and City as required in developing and adjusting cost effective dosage applications.
ATTACHMENT B
SCOPE OF SERVICES

AGREEMENT FOR PROFESSIONAL SERVICES

City: City of Dayton, Ohio
Services: Consulting Services for the Hydrogen Sulfide Control Plan and other Miscellaneous Engineering Services

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City Manager’s Report

From 6443 - PW/ WC City of Moraine
Supplier, Vendor, Company, Individual
Name City of Moraine
Address 4200 Dryden Road
          Moraine, Ohio 45439

Date October 20, 2021
Expense Type Other, (See Description Below)
Total Amount $359,136.00 (est. revenue)

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

Description

Second Amendment and Extension to the Intergovernmental Agreement for Waste Collection Services

The City of Dayton, Department of Public Works and the City of Moraine entered into an Intergovernmental Agreement beginning January 1, 2019, for waste collection services. This Amendment will extend the agreement for an additional one-year period through December 31, 2022. The billable household count for 2019 and 2020 was 1,921 and 1,997 in 2021. Since January 2019, one hundred forty-three (143) new households have been added to waste collection routes, increasing the household count to 2,064. The monthly billable rate for the City of Moraine will change from $14.22 per household to $14.50, January 1, 2022, as stated in the agreement. As a result of the increased number of households, the total monthly bill will increase from $28,397.34 to 29,928.00 (2,064 households x $14.50). The additional households will increase the planned annual 2022 revenue by $18,367.92.

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

The Second Amendment, Exhibit C and a Certificate of Revenue are attached.

Signatures/Approval

Approved by City Commission

Clerk
Date

Updated 8/2016
CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

Customer Information: Name City of Moraine
Address 4200 Dryden Road
City Moraine State OH Zip+4 45439 -
Customer # 316008613 Address Location #
Federal ID# 316008613

Revenue Information: Fund 10000 Orgn 6443 Rev 22536 Prog 32 Actv
1/1/2022 12/31/2022

Contract Information: Contract Start Date Contract Expiration Date

Billing Information: Rate: $29,928.00 Arrears X Pre-bill
Monthly (1st month of billing) X
Quarterly (1st month of quarter)
Semi-annual (1st month of half)
Annual (1st month of billing)
Other (explain)
Rate Change Date 1/1/2022 Rate Change Amount 14.50

Description of Services (wording on invoice): For waste collection services for 2,064 Households.
Expiration Date: 12/31/2022

Departmental Approval

TO BE COMPLETED BY FINANCE

City Reference Number 32-81013 Auditor Katrina Jones Date 10/10/2021

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

Director of Finance

(Rev 4/30/2008)
SECOND AMENDMENT AND EXTENSION TO
THE INTERGOVERNMENTAL AGREEMENT
FOR WASTE COLLECTION SERVICES

THIS SECOND AMENDMENT, dated this _____ day of ________________, 2021, is between the City of Dayton, Ohio ("Dayton") and the City of Moraine, Ohio, ("Moraine").

WHEREAS, Moraine engaged Dayton in an Intergovernmental Agreement for waste collection services for approximately 1,921 residential units within Moraine; and

WHEREAS, On November 26, 2018, the Intergovernmental Agreement, ("Agreement") between Dayton and Moraine was approved; and

WHEREAS, The number of residential units has increased from 1,921 to 2,064; and

WHEREAS, Pursuant to Article II and Article XIV of the Agreement, Dayton and Moraine desire to extend the term of the Agreement for an additional one year period through December 31, 2022, and

WHEREAS, Moraine desires waste collection services for the additional residential units and Dayton is willing to perform such services for additional compensation pursuant to Article IV, herein.

NOW, THEREFORE, Dayton and Moraine hereby agree to a Second Amendment of this Agreement as follows:

Dayton and Moraine hereby renew the Agreement for an additional one (1) one-year period through December 31, 2022.

Article I. Section B of Article I, Definitions, is hereby deleted in its entirety and replaced with the following:

ARTICLE I – DEFINITIONS

B. “Container” means the receptacle in which waste is placed for collection. All garbage, residential waste, rubbish, vegetative matter, and yard waste for collection shall be placed in a Container. Residential units subject to this Agreement shall provide their own container(s).

Article III. Paragraph 1 of Article III, Collection Services, is hereby deleted in its entirety and replaced with the following:

ARTICLE III – COLLECTION SERVICES

Dayton shall provide weekly garbage and recyclable collection for approximately 2,064 residential units within the City of Moraine which includes individuals receiving curbside service. Dayton shall provide each residential unit with one (1) blue ninety-six (96) gallon or thirty-two (32) gallon recycle container.
Except as amended hereby, all other provisions of the Agreement shall remain in full force and effect and shall remain unchanged.

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

**CITY OF MORaine**

By [Signature]

Date 9-7-2021

**CITY OF DAYTON**

By [Signature]

Date

**APPROVED AS TO FORM AND CORRECTNESS:**

8/19/2021

X John Musto for

City Attorney

Signed by: Musto, John

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

[Signature]

Min./Bk.___________ Pg.___________

Clerk of Commission

**MORAINE CHIEF FINANCIAL OFFICER'S CERTIFICATION**

I, Don Buczek, Finance Director of the City of Moraine, Ohio, hereby certify that the amount required to meet this obligations has been lawfully appropriated for such purpose and is in treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances.

Don Buczek
Finance Director
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A RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A SECOND AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT FOR WASTE COLLECTION SERVICES WITH THE CITY OF DAYTON, OHIO

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MORAIME, STATE OF OHIO:

SECTION 1: That the Second Amendment to the Intergovernmental Agreement for Waste Collection Services with the City of Dayton, Ohio appended hereto as Exhibit A is hereby approved and the City Manager is authorized to execute said First Amendment on behalf of the City of Moraine said funding to be provided from the General Fund.

SECTION 2: That the Clerk is hereby directed to forward a certified copy of this Resolution to the City Manager and Finance Director.

SECTION 3: That this Resolution shall take effect from and after the date of its passage.

APPROVED:

MAYOR ELAINE ALLISON

ATTEST:

CLERK OF COUNCIL

APPROVED AS TO FORM:

LAW DIRECTOR
CERTIFICATE OF THE CLERK

I, Amy Brown, Clerk of Council for the City of Moraine, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. 7764-21 passed by the Moraine City Council on the 26th day of August 2021.

IN TESTIMONY WHEREOF, witness my hand and official seal this 26th day of August 2021.

Amy Brown, Clerk of Council
City Manager's Report

From 6443 – Public Works
Supplier, Vendor, Company, Individual

Name City of Moraine
Address 4200 Dryden Road
Moraine, OH 45439

Date November 7, 2018
Expense Type Service Agreement
Total Amount $964,034.64 (thru 12-31-21)

Fund Source(s) Fund Code(s) Fund Amount(s)
Revenue to the City 10000-6443-22536-32 $964,034.34

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

Description

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF DAYTON AND CITY OF MORAINE, OHIO

The City of Dayton, Department of Public Works and City of Moraine have agreed to enter into an Intergovernmental Agreement for 3-years beginning January 1, 2019 through December 31, 2021 for trash services. At the option of Moraine, this Agreement may be renewed two (2) additional one-year periods with the approval of the City Council of Moraine and Dayton City Commission. City of Dayton shall provide weekly trash and recyclable collection services for approximately 1,921 residential units within the City of Moraine. City of Dayton will provide each residential unit with one (1) blue ninety-six (96) gallon or thirty-two (32) gallon recycle container. Residential units subject to this agreement shall provide their own trash containers or, under separate and direct agreement with the City of Dayton lease a (96) gallon green trash container from the City at a rate of $24 annually ($2 per month). The City shall provide upon request bi-weekly scheduled curbside bulky waste pickup. During the initial term and any renewal term, City of Dayton and City of Moraine agree that Moraine shall pay the City monthly the monthly amount due. The unit rates shall be multiplied by the number of customers actually having refuse collection services by the City. For year one (2019) of the Agreement, Moraine shall pay a monthly rate of $13.66 per residential unit for trash collection services. Base customer count for 2019 will be 1,921 residential units establishing twelve monthly payments at $26,240.86 ($314,890.32 annual).

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The agreement has been reviewed by the Department of Law as to form and correctness.
A Certificate of Revenue is attached.

Signatures/Approval

Division

Department

City Manager

Approved by City Commission

CLERk

Date

FORM NO. MS-16

Updated 8/2016
CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

Customer Information: Name City of Moraine
Address 4200 Dryden Road
City Moraine State OH Zip+4 45439
Customer # Address Location #
Federal ID# 316008613

Revenue Information: Fund 10000 Orgn 6443 Rev 22536 Prog 32 Actv
  *1/1/19 *12/31/19
Contract Information: Contract Start Date 1/1/20 Contract Expiration Date 12/31/20
  *26,240.86
Billing Information: Rate: 26,778.74 Arrears X Pre-bill
Monthly (1st month of billing) X
Quarterly (1st month of quarter)
Semi-annual (1st month of half)
Annual (1st month of billing)
Other (explain)
Rate Change Date Rate Change Amount *$13.66/ $13.94

Description of Services (wording on invoice): For waste collection services. See chart on CMR.

*Contract third year date: 1/1/2021 and Expiration Date: 12/31/2021
*Rate: $27,316.62
*Change rate: $14.22

Departmental Approval

TO BE COMPLETED BY FINANCE

City Reference Number 20-8103-2 Auditor 1/29/18

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

Director of Finance

(Rev 4/30/2008)
INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into this 26th day of November, 2018, by and between the City of Dayton, Ohio ("Dayton") and the City of Moraine, Ohio ("Moraine").

WITNESSETH:

WHEREAS, Moraine desires to receive weekly garbage and recyclable collection for approximately 1,921 residential units within the City of Moraine; and,

WHEREAS, Dayton is willing to provide waste collection services to Moraine pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and in accordance with Section 715.02 of the Ohio Revised Code, Dayton and Moraine (collectively, the "Parties") agree as follows:

ARTICLE I. DEFINITIONS

A. “Bulky Waste” means appliances, furniture, mattresses, box springs, toys, carpet, and draperies and like materials normally found in a residential unit. Bulky Waste does not include demolition matter, infectious waste or hazardous waste.

B. “Container” means the receptacle in which waste is placed for collection. All garbage, residential waste, rubbish, vegetative matter, and yard waste for collection shall be placed in a Container. Residential units subject to this Agreement shall provide their owner container(s) or, under separate and direct agreement with Dayton, lease a container.

C. “Garbage” means all waste matter, solid, liquid or mixed, which attends, exists, is created or accumulates within Moraine from the preparation, cleaning, cooking, use, storage or sale of or dealing in meats, fish, fowl, fruits, vegetables, cereals, grain or other animal, vegetable or mineral matter designed or intended as foodstuff for human consumption, but does not include Infectious Waste or Hazardous Waste.

D. “Hazardous Waste” means the same as defined in Section 3734.01 of the Ohio Revised Code.

E. “Infectious Waste” means the same as defined in Section 3734.01 of the Ohio Revised Code.

F. “Recyclables” means glass, plastic, tin, paper, or other material determined by Dayton.

G. “Residential Customer” means each occupied single and duplex residential unit.
H. “Yard Waste” means trimmings from bushes, shrubs, and trees not exceeding two (2) inches in diameter or four (4) feet in length, and which are securely packaged or bundled together, and which does not include vegetative matter.

I. “Vegetative Matter” means fallen leaves, grass cuttings, garden waste, mulch, and similar vegetative matter.

ARTICLE II. TERM

This Agreement shall be effective from January 1, 2019 and terminate December 31, 2021, unless terminated earlier pursuant to this Agreement. Any extension shall be by amendment to this Agreement pursuant to Article XIV herein. At the sole option of Moraine, this Agreement may be renewed for two (2) additional one-year periods with the approval of the City Council of Moraine. However, no such renewal of this Agreement shall be recognized or effective unless it is reduced to a writing, which makes specific reference to this Agreement, and executed by a duly authorized representative of City.

ARTICLE III. COLLECTION SERVICES

Dayton shall provide weekly garbage and recyclable collection for approximately 1,921 residential units within the City of Moraine which includes individuals receiving curbside service. Dayton shall provide each residential unit with one (1) blue ninety-six (96) gallon or thirty-two (32) gallon recycle container.

Collection services shall be performed between the hours of 6:30 a.m. and 5:00 p.m. every Friday except for holidays. When a holiday falls on a regular trash day, Dayton will reschedule trash collection to Saturday. Dayton will notify Moraine in a timely manner if collection services will be delayed due to inclement weather or other issues. Vegetative matter shall be bagged or placed in Container and set out at the curb for collection. Yard waste shall be bundled and set out at the curb for collection. Dayton will not pick up Infectious Waste, Hazardous Waste, auto parts, auto fluids, items generated from sources outside Moraine, and items containing ozone depleting substances.

Dayton shall provide for a bi-weekly Bulky Waste curbside pickup, upon request. Dayton may require disassembly of large items, including, but not limited to, swing sets and metal sheds. Dayton will also provide trash and recycle containers for ten (10) Moraine community events, which may include, but are not limited to the following:

Easter Egg Hunt at Everetts Park; Global Youth Service Day;
July 5K Run/Walk; Independence Day Celebration;
Slash Moraine at Payne Recreation Center; Community Halloween Party at Wax Park;
Tree Lighting at Municipal Building; Pancakes with Prancer

Special carryout service shall be provided for elderly or handicapped residents with documentation from a physician. These special carryout services may include going up to a resident’s front porch to get the trash. Special carryout services will vary depending on the
resident’s situation.

The City of Moraine facilities provided with weekly collection services are listed in Exhibit A which is attached and incorporated hereto.

ARTICLE IV. PAYMENT

During the initial term and any renewal term, Dayton and Moraine agree that Moraine shall pay Dayton monthly the total monthly amount due. The unit rates shall be multiplied by the number of customers actually having refuse collection service by Dayton during the month in calculating the amount that Moraine shall pay to Dayton. For year one of the Agreement, Moraine shall pay a rate of Thirteen Dollars and Sixty-Six Cents ($13.66) per resident for the Services described in Article 3 hereof. For year two of the Agreement, Moraine shall pay a rate of Thirteen Dollars and Ninety-Four Cents ($13.94). For year three, Moraine shall pay the rate of Fourteen Dollars and Twenty-Two Cents ($14.22). For year four, if the Agreement has been picked up for a year four option, Moraine shall pay the rate of Fourteen Dollars and Fifty Cents ($14.50). If the Agreement has been picked up for a year five option, the rate shall be Fourteen Dollars and Seventy-Nine Cents ($14.79).

Dayton shall invoice Moraine for payment of the actual Services rendered in accordance with this Agreement. All invoices shall state the invoice period, total amount requested and Services provided during the invoice period. Moraine will, unless disputed, remit payment of all undisputed amounts of invoices within thirty (30) days from receipt thereof.

ARTICLE V. TERMINATION FOR CAUSE

Moraine may terminate this Agreement upon written notice of default to Dayton in the event of Dayton's substantial failure to perform its duties and responsibilities as set forth herein. Dayton shall have thirty (30) calendar days from the date of the notice of default in which to cure any breach or to submit a plan to cure acceptable to Moraine.

Dayton may terminate this Agreement in the event of substantial failure by Moraine upon written notice of default to Moraine of substantial failure to perform its duties and responsibilities as set forth herein. Moraine shall have thirty (30) calendar days from the date of notice of default in which to cure any breach or to submit a plan to cure acceptable to Dayton.

ARTICLE VI. ADDITIONAL UNITS

The Parties agree that this Agreement may be amended pursuant to Article XIV to include additional residential units.

ARTICLE VII. DELAYS

Dayton shall not be considered in default of this Agreement for delays in performance caused by circumstances beyond its reasonable control. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; flood; earthquake;
fire; epidemic; war, riot, or other civil disturbance; strike, lockout, work slowdown, or other labor disturbance; sabotage; judicial restraint; and inability to procure any permit, license, or authorization from any local, state, or federal agency for any required supplies, materials, accesses, or services.

In the event any of the circumstances in the preceding paragraph occur, Dayton shall, within a reasonable time of being prevented from performing, give written notice to Moraine describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

ARTICLE VIII. 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.

ARTICLE IX. COMMUNICATIONS

Any written communication or notice required or permitted by this Agreement shall be made in writing, to the appropriate address below:

Dayton: City of Dayton, Department of Public Works
        101 W Third St.
        Dayton, Ohio 45401
        Attention: Mr. Fred Stovall
        Director, Department of Public Works

Moraine: City of Moraine
        4200 Dryden Rd
        Moraine, OH 45439
        Attention: Mr. Bryan RH Chodkowski
        City Manager

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

ARTICLE X. WAIVER

A waiver by any of the Parties 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.

ARTICLE XI. 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.

ARTICLE XII. ASSIGNMENT

None of the Parties shall assign any rights or duties under this Agreement without the prior written consent of the other Parties. 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 Dayton from employing independent contractors to assist in the performance of its duties and responsibilities hereunder.

ARTICLE XIII. 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 Parties.

ARTICLE XIV. 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 and which is executed by a duly authorized representative of each of the Parties and, if applicable or required, approved by the legislative authority of any of the Parties.

ARTICLE XV. INTEGRATION

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

ARTICLE XVI. POLITICAL CONTRIBUTIONS

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and date first set forth above.

CITY OF MORAINES
By: ____________________________
Date: 11/19/18

CITY OF DAYTON
By: ____________________________
Date: 11/26/18

APPROVED AS TO FORM
AND CORRECTNESS
[Signature]
City Attorney

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

November 7, 2018

Min/Bk. T-15 Pg. 6401
[Signature]
Clerk of Commission

MORAINE CHIEF FINANCIAL OFFICER’S CERTIFICATION

I, Richard Sexton, Finance Director of the City of Moraine, Ohio, hereby certify that the amount required to meet this obligation has been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances.

[Signature]
Richard G. Sexton
Finance Director
Exhibit A

City of Moraine facilities provided with weekly collection services with no additional fee:

Moraine Municipal Building
4200 Dryden Road

Gerhardt Civic Center
3050 Kreitzer Road

Wax Park
3800 Main Street

Fire Station 28
2738 Viking Lane

Fire Station 29
4747 South Dixie Drive

Fire Station 30
3333 Pinnacle Park Drive

Street Division
4720 Vance Road

All locations listed in this exhibit will be provided a three (3) yard dumpster and ninety-six (96) gallon recycling container.
A RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A SECOND AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT FOR WASTE COLLECTION SERVICES WITH THE CITY OF DAYTON, OHIO

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MORaine, STATE OF OHIO:

SECTION 1: That the Second Amendment to the Intergovernmental Agreement for Waste Collection Services with the City of Dayton, Ohio appended hereto as Exhibit A is hereby approved and the City Manager is authorized to execute said First Amendment on behalf of the City of Moraine said funding to be provided from the General Fund.

SECTION 2: That the Clerk is hereby directed to forward a certified copy of this Resolution to the City Manager and Finance Director.

SECTION 3: That this Resolution shall take effect from and after the date of its passage.

APPROVED:

MAYOR ELAINE ALLISON

ATTEST:

CLERK OF COUNCIL

APPROVED AS TO FORM:

LAW DIRECTOR
<table>
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<tr>
<th>Resolution No. 7764-21</th>
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**CERTIFICATE OF THE CLERK**

I, Amy Brown, Clerk of Council for the City of Moraine, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. 7764-21 passed by the Moraine City Council on the 26th day of August 2021.

IN TESTIMONY WHEREOF, witness my hand and official seal this 26th day of August 2021.

Amy Brown, Clerk of Council
City Manager's Report

From 6443 - Public Works

Supplier, Vendor, Company, Individual

Name City of Moraine
Address 4200 Dryden Road
Moraine, OH 45439

Date November 7, 2018
Expense Type Service Agreement
Total Amount $964,034.64 (thru 12-31-21)

Fund Source(s) Fund Code(s) Fund Amount(s)
Revenue to the City 10000-6443-22536-32 $964,034.34

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

Description

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF DAYTON AND CITY OF MORAINE, OHIO

The City of Dayton, Department of Public Works and City of Moraine have agreed to enter into an Intergovernmental Agreement for 3-years beginning January 1, 2019 through December 31, 2021 for trash services. At the option of Moraine, this Agreement may be renewed two (2) additional one-year periods with the approval of the City Council of Moraine and Dayton City Commission. City of Dayton shall provide weekly trash and recyclable collection services for approximately 1,921 residential units within the City of Moraine. City of Dayton will provide each residential unit with one (1) blue ninety-six (96) gallon or thirty-two (32) gallon recycle container. Residential units subject to this agreement shall provide their own trash containers or, under separate and direct agreement with the City of Dayton lease a (96) gallon green trash container from the City at a rate of $24 annually ($2 per month). The City shall provide upon request bi-weekly scheduled curbside bulky waste pickup. During the initial term and any renewal term, City of Dayton and City of Moraine agree that Moraine shall pay the City monthly the monthly amount due. The unit rates shall be multiplied by the number of customers actually having refuse collection services by the City. For year one (2019) of the Agreement, Moraine shall pay a monthly rate of $13.66 per residential unit for trash collection services. Base customer count for 2019 will be 1,921 residential units establishing twelve monthly payments at $26,240.86 ($314,890.32 annual).

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The agreement has been reviewed by the Department of Law as to form and correctness. A Certificate of Revenue is attached.

Signatures/Approval

Approved by City Commission
Rachel Harris, Clerk
November 7, 2018
Date

Division

Department

City Manager

FORM NO. MS-16

Updated 8/2016
CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

Customer Information:  Name  City of Moraine

Address  4200 Dryden Road

City  Moraine  State  OH  Zip+4  45439 - 

Customer #  ________________  Address Location #  ________________

Federal ID#  316008613

Revenue Information:  Fund  10000  Orgn  6443  Rev  22536  Prog  32  Actv  

*1/1/19  *12/31/19

Contract Information:  Contract Start Date  1/1/20  Contract Expiration Date  12/31/20

Billing Information:  Rate:  26,778.74  Arrears  X  Pre-bill

Monthly (1st month of billing)  X

Quarterly (1st month of quarter)

Semi-annual (1st month of half)

Annual (1st month of billing)

Other (explain)

Rate Change Date  ________________  Rate Change Amount  *$13.66/ $13.94

Description of Services (wording on invoice):  For waste collection services.  See chart on CMR.

*Contract third year date:  1/1/2021 and Expiration Date:  12/31/2021

*Rate:  $27,316.62

*Change rate:  $14.22

Departmental Approval  ________________  10.25.18

TO BE COMPLETED BY FINANCE

City Reference Number  20-8013-2  Auditor  Date  1/29/18

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

Director of Finance  ________________

(Rev 4/30/2008)
INTERGOVERNMENTAL AGREEMENT

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G. “Residential Customer” means each occupied single and duplex residential unit.
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**ARTICLE II. TERM**

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The City of Moraine facilities provided with weekly collection services are listed in Exhibit A which is attached and incorporated hereto.

ARTICLE IV. PAYMENT

During the initial term and any renewal term, Dayton and Moraine agree that Moraine shall pay Dayton monthly the total monthly amount due. The unit rates shall be multiplied by the number of customers actually having refuse collection service by Dayton during the month in calculating the amount that Moraine shall pay to Dayton. For year one of the Agreement, Moraine shall pay a rate of Thirteen Dollars and Sixty-Six Cents ($13.66) per resident for the Services described in Article 3 hereof. For year two of the Agreement, Moraine shall pay a rate of Thirteen Dollars and Ninety-Four Cents ($13.94). For year three, Moraine shall pay the rate of Fourteen Dollars and Twenty-Two Cents ($14.22). For year four, if the Agreement has been picked up for a year four option, Moraine shall pay the rate of Fourteen Dollars and Fifty Cents ($14.50). If the Agreement has been picked up for a year five option, the rate shall be Fourteen Dollars and Seventy-Nine Cents ($14.79).

Dayton shall invoice Moraine for payment of the actual Services rendered in accordance with this Agreement. All invoices shall state the invoice period, total amount requested and Services provided during the invoice period. Moraine will, unless disputed, remit payment of all undisputed amounts of invoices within thirty (30) days from receipt thereof.

ARTICLE V. TERMINATION FOR CAUSE

Moraine may terminate this Agreement upon written notice of default to Dayton in the event of Dayton's substantial failure to perform its duties and responsibilities as set forth herein. Dayton shall have thirty (30) calendar days from the date of the notice of default in which to cure any breach or to submit a plan to cure acceptable to Moraine.

Dayton may terminate this Agreement in the event of substantial failure by Moraine upon written notice of default to Moraine of substantial failure to perform its duties and responsibilities as set forth herein. Moraine shall have thirty (30) calendar days from the date of notice of default in which to cure any breach or to submit a plan to cure acceptable to Dayton.

ARTICLE VI. ADDITIONAL UNITS

The Parties agree that this Agreement may be amended pursuant to Article XIV to include additional residential units.

ARTICLE VII. DELAYS

Dayton shall not be considered in default of this Agreement for delays in performance caused by circumstances beyond its reasonable control. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; flood; earthquake;
fire; epidemic; war, riot, or other civil disturbance; strike, lockout, work slowdown, or other labor disturbance; sabotage; judicial restraint; and inability to procure any permit, license, or authorization from any local, state, or federal agency for any required supplies, materials, accesses, or services.

In the event any of the circumstances in the preceding paragraph occur, Dayton shall, within a reasonable time of being prevented from performing, give written notice to Moraine describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

ARTICLE VIII. 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.

ARTICLE IX. COMMUNICATIONS

Any written communication or notice required or permitted by this Agreement shall be made in writing, to the appropriate address below:

Dayton:  
City of Dayton, Department of Public Works  
101 W Third St.  
Dayton, Ohio 45401  
Attention: Mr. Fred Stovall  
Director, Department of Public Works

Moraine:  
City of Moraine  
4200 Dryden Rd  
Moraine, OH 45439  
Attention: M r. Bryan RH Chodkowski  
City Manager

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

ARTICLE X. WAIVER

A waiver by any of the Parties 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.

ARTICLE XI. 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.

ARTICLE XII. ASSIGNMENT

None of the Parties shall assign any rights or duties under this Agreement without the prior written consent of the other Parties. 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 Dayton from employing independent contractors to assist in the performance of its duties and responsibilities hereunder.

ARTICLE XIII. 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 Parties.

ARTICLE XIV. 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 and which is executed by a duly authorized representative of each of the Parties and, if applicable or required, approved by the legislative authority of any of the Parties.

ARTICLE XV. INTEGRATION

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

ARTICLE XVI. POLITICAL CONTRIBUTIONS

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and date first set forth above.

CITY OF MORaine

By:  
Date: 11/9/18

CITY OF DAYTON

By:  
Date: 11/26/18

APPROVED AS TO FORM
AND CORRECTNESS

City Attorney

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

November 7, 2018

Min./Bk. J-15 Pg. 0401

Clerk of Commission

MORAINE CHIEF FINANCIAL OFFICER’S CERTIFICATION

I, Richard Sexton, Finance Director of the City of Moraine, Ohio, hereby certify that the amount required to meet this obligation has been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances.

Richard G. Sexton
Finance Director
Exhibit A

City of Moraine facilities provided with weekly collection services with no additional fee:

Moraine Municipal Building
4200 Dryden Road

Gerhardt Civic Center
3050 Kreitzer Road

Wax Park
3800 Main Street

Fire Station 28
2738 Viking Lane

Fire Station 29
4747 South Dixie Drive

Fire Station 30
3333 Pinnacle Park Drive

Street Division
4720 Vance Road

All locations listed in this exhibit will be provided a three (3) yard dumpster and ninety-six (96) gallon recycling container.
INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into this 26th day of November, 2018, by and between the City of Dayton, Ohio ("Dayton") and the City of Moraine, Ohio ("Moraine").

WITNESSETH:

WHEREAS, Moraine desires to receive weekly garbage and recyclable collection for approximately 1,921 residential units within the City of Moraine; and,

WHEREAS, Dayton is willing to provide waste collection services to Moraine pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and in accordance with Section 715.02 of the Ohio Revised Code, Dayton and Moraine (collectively, the "Parties") agree as follows:

ARTICLE I. DEFINITIONS

A. "Bulky Waste" means appliances, furniture, mattresses, box springs, toys, carpet, and draperies and like materials normally found in a residential unit. Bulky Waste does not include demolition matter, infectious waste or hazardous waste.

B. "Container" means the receptacle in which waste is placed for collection. All garbage, residential waste, rubbish, vegetative matter, and yard waste for collection shall be placed in a Container. Residential units subject to this Agreement shall provide their owner container(s) or, under separate and direct agreement with Dayton, lease a container.

C. "Garbage" means all waste matter, solid, liquid or mixed, which attends, exists, is created or accumulates within Moraine from the preparation, cleaning, cooking, use, storage or sale of or dealing in meats, fish, fowl, fruits, vegetables, cereals, grain or other animal, vegetable or mineral matter designed or intended as foodstuff for human consumption, but does not include Infectious Waste or Hazardous Waste.

D. "Hazardous Waste" means the same as defined in Section 3734.01 of the Ohio Revised Code.

E. "Infectious Waste" means the same as defined in Section 3734.01 of the Ohio Revised Code.

F. "Recyclables" means glass, plastic, tin, paper, or other material determined by Dayton.

G. "Residential Customer" means each occupied single and duplex residential unit.
H. “Yard Waste” means trimmings from bushes, shrubs, and trees not exceeding two (2) inches in diameter or four (4) feet in length, and which are securely packaged or bundled together, and which does not include vegetative matter.

I. “Vegetative Matter” means fallen leaves, grass cuttings, garden waste, mulch, and similar vegetative matter.

ARTICLE II. TERM

This Agreement shall be effective from January 1, 2019 and terminate December 31, 2021, unless terminated earlier pursuant to this Agreement. Any extension shall be by amendment to this Agreement pursuant to Article XIV herein. At the sole option of Moraine, this Agreement may be renewed for two (2) additional one-year periods with the approval of the City Council of Moraine. However, no such renewal of this Agreement shall be recognized or effective unless it is reduced to a writing, which makes specific reference to this Agreement, and executed by a duly authorized representative of City.

ARTICLE III. COLLECTION SERVICES

Dayton shall provide weekly garbage and recyclable collection for approximately 1,921 residential units within the City of Moraine which includes individuals receiving curbside service. Dayton shall provide each residential unit with one (1) blue ninety-six (96) gallon or thirty-two (32) gallon recycle container.

Collection services shall be performed between the hours of 6:30 a.m. and 5:00 p.m. every Friday except for holidays. When a holiday falls on a regular trash day, Dayton will reschedule trash collection to Saturday. Dayton will notify Moraine in a timely manner if collection services will be delayed due to inclement weather or other issues. Vegetative matter shall be bagged or placed in Container and set out at the curb for collection. Yard waste shall be bundled and set out at the curb for collection. Dayton will not pick up Infectious Waste, Hazardous Waste, auto parts, auto fluids, items generated from sources outside Moraine, and items containing ozone depleting substances.

Dayton shall provide for a bi-weekly Bulky Waste curbside pickup, upon request. Dayton may require disassembly of large items, including, but not limited to, swing sets and metal sheds. Dayton will also provide trash and recycle containers for ten (10) Moraine community events, which may include, but are not limited to the following:

Easter Egg Hunt at Everetts Park; Global Youth Service Day;
July 5K Run/Walk; Independence Day Celebration;
Slash Moraine at Payne Recreation Center; Community Halloween Party at Wax Park;
Tree Lighting at Municipal Building; Pancakes with Prancer

Special carryout service shall be provided for elderly or handicapped residents with documentation from a physician. These special carryout services may include going up to a resident’s front porch to get the trash. Special carryout services will vary depending on the
resident's situation.

The City of Moraine facilities provided with weekly collection services are listed in Exhibit A which is attached and incorporated hereto.

ARTICLE IV. PAYMENT

During the initial term and any renewal term, Dayton and Moraine agree that Moraine shall pay Dayton monthly the total monthly amount due. The unit rates shall be multiplied by the number of customers actually having refuse collection service by Dayton during the month in calculating the amount that Moraine shall pay to Dayton. For year one of the Agreement, Moraine shall pay a rate of Thirteen Dollars and Sixty-Six Cents ($13.66) per resident for the Services described in Article 3 hereof. For year two of the Agreement, Moraine shall pay a rate of Thirteen Dollars and Ninety-Four Cents ($13.94). For year three, Moraine shall pay the rate of Fourteen Dollars and Twenty-Two Cents ($14.22). For year four, if the Agreement has been picked up for a year four option, Moraine shall pay the rate of Fourteen Dollars and Fifty Cents ($14.50). If the Agreement has been picked up for a year five option, the rate shall be Fourteen Dollars and Seventy-Nine Cents ($14.79).

Dayton shall invoice Moraine for payment of the actual Services rendered in accordance with this Agreement. All invoices shall state the invoice period, total amount requested and Services provided during the invoice period. Moraine will, unless disputed, remit payment of all undisputed amounts of invoices within thirty (30) days from receipt thereof.

ARTICLE V. TERMINATION FOR CAUSE

Moraine may terminate this Agreement upon written notice of default to Dayton in the event of Dayton's substantial failure to perform its duties and responsibilities as set forth herein. Dayton shall have thirty (30) calendar days from the date of the notice of default in which to cure any breach or to submit a plan to cure acceptable to Moraine.

Dayton may terminate this Agreement in the event of substantial failure by Moraine upon written notice of default to Moraine of substantial failure to perform its duties and responsibilities as set forth herein. Moraine shall have thirty (30) calendar days from the date of notice of default in which to cure any breach or to submit a plan to cure acceptable to Dayton.

ARTICLE VI. ADDITIONAL UNITS

The Parties agree that this Agreement may be amended pursuant to Article XIV to include additional residential units.

ARTICLE VII. DELAYS

Dayton shall not be considered in default of this Agreement for delays in performance caused by circumstances beyond its reasonable control. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; flood; earthquake;
fire; epidemic; war, riot, or other civil disturbance; strike, lockout, work slowdown, or other labor disturbance; sabotage; judicial restraint; and inability to procure any permit, license, or authorization from any local, state, or federal agency for any required supplies, materials, accesses, or services.

In the event any of the circumstances in the preceding paragraph occur, Dayton shall, within a reasonable time of being prevented from performing, give written notice to Moraine describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

**ARTICLE VIII. 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.

**ARTICLE IX. COMMUNICATIONS**

Any written communication or notice required or permitted by this Agreement shall be made in writing, to the appropriate address below:

Dayton: City of Dayton, Department of Public Works 101 W Third St. Dayton, Ohio 45401 Attention: Mr. Fred Stovall Director, Department of Public Works

Moraine: City of Moraine 4200 Dryden Rd Moraine, OH 45439 Attention: M r. Bryan RH Chodkowski City Manager

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

**ARTICLE X. WAIVER**

A waiver by any of the Parties 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.

**ARTICLE XI. 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.

ARTICLE XII. ASSIGNMENT

None of the Parties shall assign any rights or duties under this Agreement without the prior written consent of the other Parties. 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 Dayton from employing independent contractors to assist in the performance of its duties and responsibilities hereunder.

ARTICLE XIII. 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 Parties.

ARTICLE XIV. 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 and which is executed by a duly authorized representative of each of the Parties and, if applicable or required, approved by the legislative authority of any of the Parties.

ARTICLE XV. INTEGRATION

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

ARTICLE XVI. POLITICAL CONTRIBUTIONS

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and date first set forth above.

CITY OF MORAINE
By:  
Date: 11/8/18

CITY OF DAYTON
By:  
Date: 11/26/18

APPROVED AS TO FORM AND CORRECTNESS

City Attorney

APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO

November 7, 2018

Min. Bk. I-15 Pg. C401

Clerk of Commission

MORAINE CHIEF FINANCIAL OFFICER’S CERTIFICATION

I, Richard Sexton, Finance Director of the City of Moraine, Ohio, hereby certify that the amount required to meet this obligation has been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances.

Richard G. Sexton
Finance Director
Exhibit A

City of Moraine facilities provided with weekly collection services with no additional fee:

Moraine Municipal Building
4200 Dryden Road

Gerhardt Civic Center
3050 Kreitzer Road

Wax Park
3800 Main Street

Fire Station 28
2738 Viking Lane

Fire Station 29
4747 South Dixie Drive

Fire Station 30
3333 Pinnacle Park Drive

Street Division
4720 Vance Road

All locations listed in this exhibit will be provided a three (3) yard dumpster and ninety-six (96) gallon recycling container.
City Manager's Report

From 6443 - PW/ WC City of Moraine
Name City of Moraine
Address 4200 Dryden Road
         Moraine, Ohio 45439

Date December 30, 2020
Expense Type Other, (See Description Below)
Total Amount $340,788.08 (est. revenue)

Fund Source(s)                                    Fund Code(s)                                    Fund Amount(s)
Revenue to the City                               10000-6443-22526-32                            $340,788.08

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

Description
First Amendment to Intergovernmental Agreement between the City of Dayton and City of Moraine for Waste Collection Services

The City of Dayton, Department of Public Works and the City of Moraine entered into an Intergovernmental Agreement beginning January 1, 2019, for waste collection services. The billable household count for 2019 and 2020 was 1,921. Since January 2019, seventy-six (76) new households have been added to waste collection routes, increasing the household count to 1,997. The monthly billable rate for the City of Moraine will change from $13.94 per household to $14.22, January 1, 2021, as stated in the agreement. As a result of the increased number of households, the total monthly bill will increase from $26,778.74 to $28,397.34 (1,897 households x $14.22). The additional households will increase the planned annual 2021 revenue by $12,968.64.

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

The First Amendment, Exhibit B and a Certificate of Revenue are attached.

Signatures/Approval

Approved by City Commission

Clerk

Date December 30, 2020

Updated 8/2016
CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

Customer Information: Name  City of Moraine

Address  4200 Dryden Road

City  Moraine  State  OH  Zip+4  45439  -  

Customer #  Address Location #  

Federal ID#  316008613

Revenue Information: Fund  10000  Orgn  6443  Rev  22536  Prog  32  Actv  

Contract Information: Contract Start Date  1/1/2021  Contract Expiration Date  12/31/2021

Billing Information: Rate:  $28,397.34  Arrears  X  Pre-bill  

Monthly (1st month of billing)  X  

Quarterly (1st month of quarter)  

Semi-annual (1st month of half)  

Annual (1st month of billing)  

Other (explain)  

Rate Change Date  

Rate Change Amount  14.22

Description of Services (wording on invoice):  For waste collection services.

Expiration Date:  12/31/2021


Departmental Approval


TO BE COMPLETED BY FINANCE

City Reference Number  2014-81513  Auditor  12/15/2010  Date

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

Director of Finance  12/14/2020

(Rev 4/30/2008)
FIRST AMENDMENT TO
THE INTERGOVERNMENTAL AGREEMENT
FOR WASTE COLLECTION SERVICES

THIS FIRST AMENDMENT, dated this 29th day of January, 2020, is between the City of Dayton, Ohio ("Dayton") and the City of Moraine, Ohio ("Moraine").

WHEREAS, Moraine engaged Dayton in an Intergovernmental Agreement for waste collection services for approximately 1,921 residential units within Moraine; and,

WHEREAS, On November 26, 2018, the Intergovernmental Agreement, ("Agreement") between Dayton and Moraine was approved; and,

WHEREAS, The number of residential units has increased from 1,921 to 2,999; and,

WHEREAS, Moraine desires waste collection services for the additional residential units and Dayton is willing to perform such services for additional compensation pursuant to Article IV of the Agreement, as set forth herein.

NOW, THEREFORE, Dayton and Moraine hereby agree to a First Amendment of this Agreement as follows:

Article III. Paragraph 1 of Article III, Collection Services, is hereby deleted in its entirety and replaced with the following:

ARTICLE III – COLLECTION SERVICES

Dayton shall provide weekly garbage and recyclable collection for approximately 2,999 residential units within the City of Moraine which includes individuals receiving curbside service. Dayton shall provide each residential unit with one (1) blue ninety-six (96) gallon or thirty-two (32) gallon recycle container.

Except as amended hereby, all other provisions of the Agreement shall remain in full force and effect and shall remain unchanged.

[REMAINDER OF PAGE LEFT INTENTIONALLY LEFT BLANK]
IN WITNESS WHEREOF, the parties have each caused this First Amendment to be executed by a duly authorized representative on the date set forth above.

CITY OF MORaine

By

Date 12-9-2020

CITY OF DAYTON

By O. Joshua Lohren

Date 1/26/2021

APPROVED AS TO FORM AND CORRECTNESS:

10/28/2020

X John Musto for
City Attorney

Signed by: Musto, John

APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO

December 30, 2020

Min./Bk. I-14 Pg.

Clerk of Commission

MORaine CHIEF FINANCIAL OFFICER’S CERTIFICATION

I, Don Buczek, Finance Director of the City of Moraine, Ohio, hereby certify that the amount required to meet this obligations has been lawfully appropriated for such purpose and is in treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances.

Don Buczek
Finance Director
Dayton will provide waste collection services, to the following additional 78 residential units, at the rate specified in Article IV:

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A RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO ENTER INTO FIRST AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT FOR WASTE COLLECTION SERVICES WITH THE CITY OF DAYTON, OHIO

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MORaine, STATE OF OHIO:

SECTION 1: That the First Amendment to the Intergovernmental Agreement for Waste Collection Services with the City of Dayton, Ohio appended hereto as Exhibit A is hereby approved and the City Manager is authorized to execute said First Amendment on behalf of the City of Moraine said funding to be provided from the Waste Collection Operating Fund.

SECTION 2: That the Clerk is hereby directed to forward a certified copy of this Resolution to the City Manager and Finance Director.

SECTION 3: That this Resolution shall take effect from and after the date of its passage.

APPROVED:

[Signature]
MAYOR ELAINE ALLISON

ATTEST:

[Signature]
CLERK OF COUNCIL

APPROVED AS TO FORM:

[Signature]
LAW DIRECTOR

CERTIFICATE OF THE CLERK

I, Amy Brown, Clerk of Council for the City of Moraine, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. 7714-20 passed by the Moraine City Council on the 10th day of December 2020.

IN TESTIMONY WHEREOF, witness my hand and official seal this 10th day of December 2020.

[Signature]
Amy Brown, Clerk of Council
City Manager’s Report

From: 6210 - Police Director  
Supplier, Vendor, Company, Individual:  
Name: Oregon District Business Association  
Address: PO Box 2041  
Dayton, Ohio 45401

Date: October 20, 2021  
Expense Type: Service Agreement  
Total Amount: $22,328.66

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Includes Revenue to the City: Yes  
Affirmative Action Program: N/A

Description:

Oregon District Business Association  
Officer Overtime Contract for Halloween Party 2021

City Commission approval is requested for an Agreement with the Oregon District Business Association for off duty police officer services.

The Oregon District Business Association is requesting off-duty police personnel to provide security and traffic control for the Oregon District Halloween Party in the Oregon District, a location that is within the municipal corporation limits of the city of Dayton, Ohio, beginning Saturday, October 30, 2021 through Sunday, October 31, 2021.

This Agreement is expected to exceed $10,000.00 thus requiring Commission approval.

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

The Certificate of Revenue is attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

Customer Information: Name Oregon District Business Association
Address PO Box 2041
City Dayton State Ohio Zip+4 45401 - 
Customer # 311774011 Address Location # P1
Federal ID# 31-1774011

Revenue Information: Fund 10000 Organization 6210 Revenue 22611 Program 71

Contract Information: Contract Start Date 10/30/2021 Contract Expiration Date 10/31/2021

Billing Information: Rate: Off. $66.68 - X Sgt. $77.33 - X Lt. $89.68 - X PEA's $42.04 - X Shift Diff. $1.28 - X Veh. $13.00

Monthly (1st month of billing) 
Quarterly (1st month of quarter) 
Semi-annual (1st month of half) 
Annual (1st month of billing) 
Other (explain) To be invoiced – Estimated Revenue $22,328.66

Rate Change Date TBD Rate Change Amount TBD

Description of Services (wording on invoice): The Oregon District Business Association has requested off-duty police personnel to provide security and traffic control for the Oregon District Halloween Party in the Oregon District, a location that is within the municipal corporation limits of the city of Dayton, Ohio, beginning Saturday, October 30, 2021 through Sunday, October 31, 2021. Departmental Approval

E-SIGNED by Eric Henderson on 2021-10-08 19:57:52 GMT

TO BE COMPLETED BY FINANCE

Revenue Contract Number 5 - 4/011 Auditor DBilley Date 10 - 8 - 2021

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

Director of Finance 10/11/2021
October 8, 2021

TO:       Shelley Dickstein
          City Manager
          Finance Department

FROM:    Matt M. Carper
          Interim Director and Chief of Police

SUBJECT:  Request for Signature

Please sign the attached Lease Agreement between the City of Dayton and the Oregon District Business Association, PO Box 2041, Dayton, Ohio 45401. The Oregon District Business Association is requesting to lease a portion of the City of Dayton property during the Oregon District Halloween Party in the Oregon District, a location that is within the municipal corporation limits of the city of Dayton, Ohio, beginning Saturday, October 30, 2021 through Sunday, October 31, 2021.

Attachment:  1 original contract and 1 certificate of revenue form

__________________________ Signed copies released/hand carried/mailed by Finance.

MMC/ras
AGREEMENT

THIS AGREEMENT is made this ______ day of _______ 2021, between the City of Dayton, Ohio ("City") and Oregon District Business Association, PO Box 2041, Dayton, Ohio 45401, ("Contractor").

WITNESSETH THAT:

WHEREAS, the City, upon request by a private person, firm, corporation, or institution, may detail off-duty police officers to perform police-related functions pursuant to the authority of Section 35.27 of the Revised Code of General Ordinances of the City of Dayton; and

WHEREAS, because public safety requires the use of off-duty police personnel to perform police-related functions, Contractor requests the services of off-duty police officers, police supervisors, and/or parking enforcement aides (hereinafter collectively referred to as "police personnel"); and

WHEREAS, the City can provide off-duty police personnel and Contractor agrees to remit payment to the City for the total cost of providing such police personnel.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and benefits to be derived hereby, the City and Contractor hereby agree as follows:

Section 1. Subject to Sections 2 and 3, the City agrees to make available certain police personnel to perform the police-related functions which are further explained in Exhibit A attached hereto and incorporated herein, beginning Saturday, October 30, 2021.

Contractor understands and agrees that no further use of police personnel provided hereunder will be made without the express written authorization of the City’s Chief of Police or authorized representative.

Section 2. Unless waived by the City, Contractor shall notify the City at least fourteen (14) days in advance of the date(s) for which the police services are requested. The notice shall be given to the City’s Chief of Police or his/her authorized representative, and shall specify the number and rank of police personnel requested and the hours and specific location(s) where the police services are needed.

The City’s Chief of Police or authorized representative shall have final authority for determining the availability of off-duty police personnel and the number and rank of such police personnel needed to provide an adequate level of security, traffic control and/or crowd control for the specified date(s) and location(s).

Section 3. All police personnel assigned pursuant to this Agreement shall remain subject to the authority of the City’s Chief of Police, and shall act and respond in accordance with established City police procedures, rules and regulations. The duties and responsibilities of the police personnel assigned pursuant to this Agreement, including chain of command duties
and responsibilities, shall be determined in accordance with the City’s established police procedures, rules and regulations.

Off-duty police personnel assigned pursuant to this Agreement may be reassigned, without notice to Contractor, to other locations and/or to perform other police services, functions or duties as required by the City’s established police procedures, rules and regulations or by exigent circumstances requiring a police response.

Section 4. Contractor shall pay the City for the services of the police personnel assigned pursuant to this Agreement as outlined in Exhibit A.

Section 5. Contractor understands and agrees that all police personnel assigned pursuant to this Agreement shall be billed for a minimum of two (2) hours of services, even though the hour(s) of service requested by Contractor and performed by the police personnel is less than two (2) hours.

Section 6. In the event that Contractor cancels the requested police services less than twenty-four (24) hours prior to the specific date(s) for the rendering of such police services, Contractor shall be billed and shall remit payment for two (2) hours of services for each off-duty police personnel assigned to report on that date to perform the requested police services.

Section 7. Contractor shall defend, indemnify and save harmless the City and its officers, employees, and representatives from and against all expenses (including attorney’s fees), damages, claims, suits or liabilities of every kind, including, but not limited to: false arrest, detention, malicious prosecution; libel, slander, or defamation of character; violation of an individual’s right of privacy; assault and battery; discrimination; violation of civil rights; improper service of process; and any other liability arising out of or in any way related to the provision and performance of the police services to be provided hereunder.

Section 8. In addition to all other remedies available to the City, this Agreement shall be subject to termination by the City should any one or more of the following events occur or for the following reasons: (i) Without cause, with fifteen (15) days prior written notice, sent Certified U.S. Mail to Contractor at the address set forth above or such other address as may be specified by Contractor; or (ii) if Contractor shall default in or fail to make payment(s) for the police services at the times and in the amounts as required of it under this Agreement, and said default is not cured by amounts due and owing within fifteen (15) days after the City notifies Contractor of such default.

Section 9. 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 law. Any 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.

Section 10. This Agreement shall be for the period of Saturday, October 30, 2021 through Sunday, October 31, 2021.
IN WITNESS WHEREOF, the City and Contractor, each by a duly authorized representative, have executed this Agreement as of the day and date set forth above.

CITY OF DAYTON, OHIO

City Manager

APPROVED BY

E-SIGNED by Eric Henderson on 2021-10-08 15:55:00 GMT

Director and Chief of Police

OREGON DISTRICT BUSINESS ASSOCIATION

Natalie Skilliter

APPROVED AS TO FORM AND CORRECTNESS:

10/1/2021

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
Exhibit A

1. Scope of Services/Event Information

   A. Provide security and traffic control for the Oregon District Halloween Party in the Oregon District, a location that is within the municipal corporation limits of the city of Dayton, Ohio, beginning Saturday, October 30, 2021 through Sunday, October 31, 2021.

2. Payment/Cost/Method of Payment

   A. PAYMENT

   Contractor shall pay $66.68 per hour for each police officer; $77.33 per hour for each police sergeant; and $89.68 per hour for each police lieutenant; $1.28 per hour additional for night differential; $13.00 per vehicle per hour and $42.04 per hour for each Parking Enforcement Aide, when applicable.

   Work hours requested and invoiced will include travel time, up to a maximum of thirty (30) minutes per officer, per shift, from the designated Dayton Police Department District to and from the requested coverage location.

   Said hourly rates listed above reflect an amount equal to 1-1/2 times the current regular hourly rate of pay as established by the current labor agreement between the City and the Fraternal Order of Police, John C. Post Lodge #44 for each rank of police personnel, plus fringe benefits. Contractor agrees to pay any increase in the foregoing hourly rates of pay of police personnel required by said labor agreement or necessitated by negotiation of a new labor agreement or any regulation, order or law related to police personnel compensation binding upon the City. "Fringe benefits," as used herein includes pension, Workers' Compensation and other similar employer costs, as determined by the City's Finance Department.

   The City will bill Contractor for payment of the actual services provided. Contractor shall tender payment upon receipt of the bill.

   B. ESTIMATED COST: $22,328.66 (8 Lt Hrs. @ $89.68 per hour; 29.5 Sgt Hrs. @ $77.33 per hour, 248.5 Officer Hrs. @ $66.68 per hour, 56 PEA Hrs. @ $42.04 per hour and 317 Night Diff. Hrs. @ $1.28 per hour)

   C. METHOD OF PAYMENT: To be Invoiced.

3. Contractor's Authorized Representative/Contact:

   NAME: Natalie Skilliter
   ADDRESS: PO Box 2041
              Dayton, Ohio 45401
   Cell: (845) 943-7946

4. Officers Assigned to Event, Rank: 1 Lieutenant; 3 Sergeants; 36 Officers; 4 PEA's
AN ORDINANCE

Authorizing the City Manager to Accept a Grant Award from the Ohio Department of Transportation for an Amount of Two Hundred Fourteen Thousand Five Hundred Dollars and Zero Cents ($214,500.00) in State Funds.

WHEREAS, The State of Ohio Department of Transportation ("ODOT") has identified the need for additional Link Bike Share Bicycles in the City of Dayton, identified by ODOT as Link – Dayton Bikeshare; and

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

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

Section 1. That the City Manager is authorized, on behalf of the City of Dayton, to execute all documents and agreements necessary to accept a grant from the Ohio Department of Transportation in an amount of Two Hundred Fourteen Thousand Five Hundred Dollars and Zero Cents ($214,500.00).

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

A. The City will assume and bear all costs of the Project, less the amount of Federal-Aid set aside by the Director of Transportation for financing the Project from funds allocated by the Federal Highway Administration, U.S. Department of Transportation.

B. In addition, the City also agrees to assume and bear One Hundred Percent (100%) of the cost of any construction items requested by the City for the Project which are not necessary for the Project, as determined by the State and Federal Highway Administration.

Section 3. That the City agrees that all right-of-way required for the Project will be acquired and/or made available in accordance with current State and Federal regulations. The City also understands that right-of-way costs include eligible utility costs. The City agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.
**Section 4.** That upon completion of the Project, and unless otherwise agreed, the City shall: (1) provide adequate maintenance of the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C. Section 116; (2) provide ample financial provisions, as necessary, for such maintenance of the Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

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

Passed by the Commission................................. 2021

Signed by the Mayor........................................... 2021

__________________________
Mayor of the City of Dayton, Ohio

Attest:

__________________________
Clerk of the Commission

Approved as to form:

__________________________
City Attorney
October 12, 2021

To: Shelley Dickstein  
    City Manager

FROM: Joseph Weinel, Chief Engineer  
      Division of Civil Engineering

SUBJECT: Link Bikeshare Grant

Attached is the Ordinance consenting to accept a Grant Award from the Ohio Department of Transportation to purchase Link Bike Share bicycles on behalf of Bike Miami Valley. The grant amount is for $286,000.00. Please present the Ordinance to the City Commission at its October 20th and 27th meetings. The Department of Law has reviewed and approved this document as to form.

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

Attachments

Copy: Mr. Stovall
AN ORDINANCE

Consenting to the Major Rehabilitation of the Interstate 75 Pavement by Rebuilding the Asphalt Pavements, Straight Line Mile 14.66 to 17.16 more or less, with a Portion in the City of Dayton, and Agreeing to Cooperate in Matters Incidental Thereto, Including the Execution of Agreement Necessary to Implement this Ordinance.

WHEREAS, The State of Ohio Department of Transportation ("ODOT") has identified the need for the Major rehabilitation of the Interstate 75 pavement by rebuilding the asphalt pavements, straight line mile 14.66 to 17.16 more or less, with a portion in the City of Dayton, identified by ODOT MOT IR 75 14.74; and

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

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

Section 1. That the City Commission hereby give consent to the Director of Transportation to perform Major rehabilitation of the Interstate 75 pavement by rebuilding the asphalt pavements, straight line mile 14.66 to 17.16 more or less, with a portion in the City of Dayton, said project being in the public interest and identified by ODOT ad MOT IR 75 14.74 ("Project").

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

A. The City will assume and bear all costs of the Project, less the amount of Federal-Aid set aside by the Director of Transportation for financing the Project from funds allocated by the Federal Highway Administration, U.S. Department of Transportation.

B. In addition, the City also agrees to assume and bear One Hundred Percent (100%) of the cost of any construction items requested by the City for the Project which are not necessary for the Project, as determined by the State and Federal Highway Administration.

Section 3. That the City agrees that all right-of-way required for the Project will be acquired and/or made available in accordance with current State and Federal regulations. The City also understands that right-of-way costs include eligible utility costs. The City agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.
Section 4. That upon completion of the Project, and unless otherwise agreed, the City shall: (1) provide adequate maintenance of the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C. Section 116; (2) provide ample financial provisions, as necessary, for such maintenance of the Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

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

Passed by the Commission.............................................. 2021

Signed by the Mayor......................................................... 2021

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
October 12, 2021

To: Shelley Dickstein  
   City Manager

FROM: Joseph Weinel, Chief Engineer  
      Division of Civil Engineering

SUBJECT: Major Rehabilitation of Interstate 75  
         MOT IR 75 14.74  
         Preliminary Legislation

Attached is Legislation between the City of Dayton and the Ohio Department of Transportation for a project to perform Major rehabilitation of the Interstate 75 pavement by rebuilding the asphalt pavements, straight line mile 14.66 to 17.16 more or less, with a portion in the City of Dayton. The project will be 100% funded by ODOT funds and will be performed through ODOT’s District 7 Office. Work is expected to begin in the spring of 2024.

Please present the attached Ordinance to the City Commission at its October 20, 2021 meeting. The Department of Law has reviewed and approved this document as to form.

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

Attachments

Copy: Mr. Stovall