CITY COMMISSION MEETING AGENDA

CITY COMMISSION  DAYTON, OHIO  NOVEMBER 10, 2021

8:30 A.M.

I. AGENDA SCHEDULE

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

1. Call Meeting to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Approval of Minutes
6. Communications and Petitions Distribution (if any)
7. Special Awards/Recognition
8. Discussion of City Manager’s Recommendations (See Section II)
9. Citizen Comments on City Manager's Recommendations
10. City Commission Action on City Manager’s Recommendations
11. Public 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 – Housing Data
   10:30 AM - PRC
   https://www.daytonohio.gov/govtv
17. Miscellaneous (See Section VI)

II. CITY MANAGER RECOMMENDATIONS (Item #8 above)

The following recommendations are offered for City Commission approval.

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

   1. Purchase Orders:

   AVIATION
   A1. White Allen Chevrolet, Inc. (one 2022 four-wheel drive cab-pick-up truck) $35,500.00
1. (Cont’d):

<table>
<thead>
<tr>
<th>Category</th>
<th>Vendor Details</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>FIRE</td>
<td><strong>B1. CHWR, Inc. dba CHW Mechanical Services</strong></td>
<td>heating, ventilation and air conditioning (HVAC) preventative maintenance and repairs as needed through 12/31/24</td>
<td>$171,000.00</td>
</tr>
<tr>
<td></td>
<td><strong>B2. Lowes</strong></td>
<td>lumber, hand tools and related items as needed through 12/31/24</td>
<td>75,000.00</td>
</tr>
<tr>
<td></td>
<td><strong>B3. Sonetics Corporation dba Firecom</strong></td>
<td>replacement headsets and accessories for fire apparatus</td>
<td>11,060.80</td>
</tr>
<tr>
<td>INFORMATION TECHNOLOGY</td>
<td><strong>C1. CDW Government, Inc</strong> (Uninterruptible Power Supply (UPS) Batteries)</td>
<td></td>
<td>12,898.05</td>
</tr>
<tr>
<td>PUBLIC WORKS</td>
<td><strong>D1. CNG Services, LLC</strong></td>
<td>(compressed natural gas as needed through 12/31/21)</td>
<td>20,000.00</td>
</tr>
<tr>
<td></td>
<td><strong>D2. Thoma-Kraft Body Show, Inc. dba Thoma-Kraft Automotive Repair, Inc.</strong></td>
<td>(automobile shop repair services as needed through 12/31/21)</td>
<td>20,000.00</td>
</tr>
<tr>
<td></td>
<td><strong>D3. CHWR, Inc. dba CHW Mechanical Services - P0210717</strong></td>
<td>(HVAC preventative maintenance and repairs as needed through 12/31/24)</td>
<td>350,000.00</td>
</tr>
<tr>
<td></td>
<td><strong>D4. CHWR, Inc. dba CHW Mechanical Services - P0210960</strong></td>
<td>(HVAC preventative maintenance and repairs as needed through 12/31/24)</td>
<td>90,000.00</td>
</tr>
<tr>
<td></td>
<td><strong>D5. Kimmatt Corp</strong></td>
<td>installation of commercial glass and related items</td>
<td>50,000.00</td>
</tr>
<tr>
<td></td>
<td><strong>D6. Koorsen Fire and Security</strong></td>
<td>inspection and servicing of fire extinguishers as needed through 12/31/21</td>
<td>5,000.00</td>
</tr>
<tr>
<td></td>
<td><strong>D7. Wayne Overhead Door Sales of Dayton, Inc.</strong></td>
<td>overhead door repair services</td>
<td>20,000.00</td>
</tr>
<tr>
<td>WATER</td>
<td><strong>E1. The Belting Company of Cincinnati dba CBT Company</strong></td>
<td>Rockwell Stratix switch gear and peripherals</td>
<td>160,056.68</td>
</tr>
<tr>
<td></td>
<td><strong>E2. Sullivan Environmental Technologies</strong></td>
<td>(two tampered rotating assemblies for Grundfos pumps)</td>
<td>258,128.00</td>
</tr>
<tr>
<td></td>
<td><strong>E3. Kendall Electric, Inc.</strong></td>
<td>(electrical parts supplies and related items as needed through 12/31/21)</td>
<td>25,000.00</td>
</tr>
</tbody>
</table>

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

Total: **1,303,643.53**
2. Dignity Best Practices – Service Agreement – first amendment to agreement to increase spending authority for the development of the Alternative Police Response Infrastructure – City Manager’s Office

$75,000.00  
(Thru 12/31/22)


$65,000.00  
(Thru 1/31/22)

4. Johnson Controls, Inc. – Service Agreement – for building energy efficiency audits at multiple city facilities – City Manager’s Office

$56,352.00  
(Thru 12/31/22)

5. MedBill Management, LLC – Service Agreement – to perform an independent dependent audit of the dependents on the City’s Anthem Health Insurance Plan.

$29,164.00  
(Thru 5/31/22)

C. Revenue to the City:


$6,850.00  
(Thru 12/31/22)  
(Paid to the City)

7. Jefferson Township – Other – intergovernmental agreement between the City of Dayton and Jefferson Township for trash services - Department of Public Works.

$515,958.00  
(Thru 12/31/22)  
(Paid to the City)

IV. LEGISLATION:

Emergency Ordinance – First Reading & Second Reading

8. No. 31935-21 Authorizing the City Manager to Purchase Fuel Necessary to Maintain Operations for 2022, 2023, and 2024, and Declaring an Emergency.
**Emergency Resolutions – First and Second Reading:**

9. **No. 6620-21**
   Authorizing the City Manager to Apply for, Accept, and Enter into Hazard Mitigation Assistance Funding Agreements Administered by the Ohio Emergency Management Agency on Behalf of the City of Dayton, Ohio for Construction and/or Design of Projects, and Declaring an Emergency.

10. **No. 6621-21**
    Authorizing the Submission of the 2022 Action Plan to the U.S. Department of Housing and Urban Development; Authorizing the Acceptance of Grant Awards Under Three Community Planning and Development Formula Programs from the U.S. Department of Housing and Urban Development on Behalf of the City of Dayton, and Declaring an Emergency.

**Resolution – Second Reading**

11. **No. 6618-21**
    Honorarily Naming South Orchard Avenue Between West Third Street and Home Avenue as “John McClendon, Jr. Way.”

**VI. MISCELLANEOUS:**

- **ORDINANCE NO. 31936-21**
- **RESOLUTION NO. 6622-21**
- **IMPROVEMENT RESOLUTION NO. 3599-21**
- **INFORMAL RESOLUTION NO. 994-21**
City Manager’s Report

Date: November 10, 2021
Expense Type: Purchase Order
Total Amount: $1,303,643.53

From: 2730 – PMB/Procurement

Supplier, Vendor, Company, Individual: See Below

Address: See Below

2021 Purchase Orders

Fund Source(s): See below
Fund Code(s): See below
Fund Amount(s): See below

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

Description

AVIATION

(A1) P0211259 – WHITE ALLEN CHEVROLET, INC., DAYTON, OH

- One (1) 2022 four-wheel drive cab pickup truck.
- This vehicle is required for the daily operations of the Department and will be an addition to the current fleet.
- Nine (9) possible vendors were solicited and four (4) bids were received. This order establishes a price agreement per IFB 21048D with pricing through 3/31/2022.
- White Allen Chevrolet, Inc. qualifies as a Dayton local entity.
- The Department of Aviation recommends acceptance of the lowest and best bid.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>DIA Airport Operations</td>
<td>51000-3221-1412-43</td>
<td>$35,500.00</td>
</tr>
</tbody>
</table>

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 06/2016
### FIRE

#### (B1) P0210028 – CHWR, INC. dba CHW MECHANICAL SERVICES, SPRING VALLEY, OH
- Heating, ventilation and air conditioning (HVAC) preventative maintenance and repairs as needed through 12/31/2021.
- These services are required for repairs throughout Fire facilities.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 21026N with firm pricing through 4/30/2025.
- This amendment increases the previously authorized amount of $30,000.00 by $21,000.00 for a total not to exceed $51,000.00 and therefore requires City Commission approval.
- The Department of Fire requests additional authority of $150,000.00 through 12/31/2024.
- The Department of Fire recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6330-1172-71</td>
<td>$21,000.00</td>
</tr>
<tr>
<td>2022</td>
<td>General Fund</td>
<td>10000-6330-1172-71</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>2023</td>
<td>General Fund</td>
<td>10000-6330-1172-71</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>2024</td>
<td>General Fund</td>
<td>10000-6330-1172-71</td>
<td>$50,000.00</td>
</tr>
</tbody>
</table>

#### (B2) P0210923 – LOWE’S, TROTWOOD, OH
- Lumber, hand tools and related items as needed through 12/31/2021.
- These goods are required to maintain facilities for the Department of Fire.
- Rates are in accordance with the cooperative Omnia Partners Contract #R192006 with pricing through 3/31/2025.
- This amendment increases the previously authorized amount of $5,000.00 by $15,000.00 for a total not to exceed $20,000.00 and therefore requires City Commission approval.
- The Department of Fire requests additional authority of $60,000.00 through 12/31/2024.
- The Department of Fire recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6330-1301-71</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>2022</td>
<td>General Fund</td>
<td>10000-6330-1301-71</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>2023</td>
<td>General Fund</td>
<td>10000-6330-1301-71</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>2024</td>
<td>General Fund</td>
<td>10000-6330-1301-71</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

#### (B3) P0211256 – SONETICS CORPORATION dba FIRECOM, PORTLAND, OR
- Replacement headsets and accessories for fire apparatus.
- These goods are required to provide first responders with radio communication and hearing protection while on route to emergencies.
- Sonetics Corporation dba Firecom is the Original Equipment Manufacturer (OEM) of the headsets; therefore, this purchase was negotiated.
- The Department of Fire recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6340-1163-72</td>
<td>$11,060.80</td>
</tr>
</tbody>
</table>
INFORMATION TECHNOLOGY

(C1) P0211194 – CDW GOVERNMENT, INC., VERNON HILLS, IL
- Uninterruptible Power Supply (UPS) batteries.
- These goods are required to replace existing end-of-life batteries throughout the City.
- Rates are in accordance with the State of Ohio Term Schedule Contract #STS534605 and Index #STS033.
- The Department of Information Technology recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Technology Fund</td>
<td>40018-5560-1413-65</td>
<td>$12,898.05</td>
</tr>
</tbody>
</table>

PUBLIC WORKS – FLEET MANAGEMENT

(D1) P0210397 – CNG SERVICES LLC, DUBLIN, OH
- Compressed natural gas as needed through 12/31/2021.
- This fuel is required to power CNG Waste Collection trucks.
- CNG Services LLC is recommended as the sole authorized supplier to the City’s compressed natural gas station; rates are in accordance with existing agreement(s).
- This amendment increases the previously authorized amount of $85,000.00 by $20,000.00 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>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Fleet Management</td>
<td>61000-6470-1360-99</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

(D2) P0210402 – THOMA-KRAFT BODY SHOP, INC. dba THOMA-KRAFT AUTOMOTIVE REPAIR, INC., DAYTON, OH
- Automobile shop repair services as needed through 12/31/2021.
- These services are required to maintain the City’s fleet.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 20023D with pricing through 12/31/2021.
- Thoma-Kraft Body Shop, Inc. dba Thoma-Kraft Automotive Repair, Inc. qualifies as a Dayton local entity.
- This amendment increases the previously authorized amount of $45,000.00 by $20,000.00 for a total not to exceed $65,000.00 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>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Fleet Management</td>
<td>61000-6470-1167-99</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>
PUBLIC WORKS – PROPERTY MANAGEMENT

(D3) P0210717 – CHWR, INC. dba CHW MECHANICAL SERVICES, SPRING VALLEY, OH
- HVAC preventative maintenance and repairs as needed through 12/31/2021.
- These services are required to maintain units throughout various facilities.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 21026N with firm pricing through 4/30/2025.
- This amendment increases the previously authorized amount of $50,000.00 by $50,000.00 for a total not to exceed $100,000.00 and therefore requires City Commission approval.
- The Department of Public Works requests additional authority of $300,000.00 through 12/31/2024.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6480-1172-54</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>2022</td>
<td>General Fund</td>
<td>10000-6480-1172-54</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>2023</td>
<td>General Fund</td>
<td>10000-6480-1172-54</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>2024</td>
<td>General Fund</td>
<td>10000-6480-1172-54</td>
<td>$100,000.00</td>
</tr>
</tbody>
</table>

(D4) P0210960 – CHWR, INC. dba CHW MECHANICAL SERVICES, SPRING VALLEY, OH
- HVAC preventative maintenance and repairs as needed through 12/31/2021.
- These services are required to maintain units throughout various facilities.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 21026N with firm pricing through 4/30/2025.
- This amendment increases the previously authorized amount of $10,000.00 by $15,000.00 for a total not to exceed $25,000.00 and therefore requires City Commission approval.
- The Department of Public Works requests additional authority of $75,000.00 through 12/31/2024.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Plumbing Shop</td>
<td>66000-6480-1301-54</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>2022</td>
<td>Plumbing Shop</td>
<td>66000-6480-1301-54</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>2023</td>
<td>Plumbing Shop</td>
<td>66000-6480-1301-54</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>2024</td>
<td>Plumbing Shop</td>
<td>66000-6480-1301-54</td>
<td>$25,000.00</td>
</tr>
</tbody>
</table>
PUBLIC WORKS – PROPERTY MANAGEMENT (CONTINUED)

(D5) **P0210343 – KIMMATT CORP, DAYTON, OH**
- Installation of commercial glass and related items.
- These goods and services are for repairs throughout City facilities.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB S17012 with firm pricing extended through 3/31/2022.
- This amendment increases the previously authorized amount of $6,000.00 by $50,000.00 for a total not to exceed $56,000.00 and therefore requires City Commission approval.
- Kimmitt Corp qualifies as a Dayton local entity.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6480-1172-54</td>
<td>$50,000.00</td>
</tr>
</tbody>
</table>

(D6) **P0210232 – KOORSEN FIRE AND SECURITY, VANDALIA, OH**
- Inspection and servicing of fire extinguishers as needed through 12/31/2021.
- These services are required to provide servicing of fire extinguishers throughout various City facilities.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB N19015 with firm pricing through 7/31/2023.
- This amendment increases the previously authorized amount of $25,000.00 by $5,000.00 for a total not to exceed $30,000.00 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>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6480-1172-54</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

(D7) **P0210030 – WAYNE OVERHEAD DOOR SALES OF DAYTON, INC., CENTERVILLE, OH**
- Overhead door repair services.
- These goods and services are required to maintain existing overhead doors throughout City facilities.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB N19007 with firm pricing through 3/31/2023.
- This amendment increases the previously authorized amount of $20,000.00 by $20,000.00 for a total not to exceed $40,000.00 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>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6480-1172-54</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>
WATER – WATER ENGINEERING

(E1) P0211257 – THE BELTING COMPANY OF CINCINNATI dba CBT COMPANY, SPRINGBORO, OH

- Rockwell Stratix switch gear and peripherals.
- These goods are to required to replace discontinued ethernet switches that are beginning to fail at the Miami Ottawa and Water Reclamation campuses.
- The Belting Company of Cincinnati dba CBT Company is the sole regional distributor of Rockwell Stratix brand parts; therefore, this purchase was negotiated.
- 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 Technology</td>
<td>53100-3421-1413-54-TF2102</td>
<td>$64,025.00</td>
</tr>
<tr>
<td>2021</td>
<td>Sanitary Technology</td>
<td>55100-3421-1413-54-TF2102</td>
<td>$64,025.00</td>
</tr>
<tr>
<td>2021</td>
<td>Storm Technology</td>
<td>58100-3421-1413-54-TF2102</td>
<td>$32,006.68</td>
</tr>
</tbody>
</table>

WATER – WATER RECLAMATION

(E2) P0210022 – SULLIVAN ENVIRONMENTAL TECHNOLOGIES, FT. MITCHELL, KY

- Two (2) tampered rotating assemblies for Grundfos pumps.
- These goods are to required to repair existing pumps for the Division of Water Reclamation.
- Sullivan Environmental Technologies is recommended as the sole regional municipal distributor for Grundfos pumps; therefore, this purchase was negotiated.
- This amendment increases the previously authorized amount of $280,000.00 by $258,128.00 for a total not to exceed $538,128.00 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>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$258,128.00</td>
</tr>
</tbody>
</table>
WATER – WATER SUPPLY AND TREATMENT

(E3)  P0210210 – KENDALL ELECTRIC, INC., DAYTON, OH
• Electrical parts supplies and related items as needed through 12/31/2021.
• These goods are required to maintain existing electrical equipment for facilities throughout Water plants.
• Rates are in accordance with the City of Dayton’s existing price agreement IFB 20003N with pricing through 12/31/2023.
• This amendment increases the previously authorized amount of $125,000.00 by $25,000.00 for a total not to exceed $150,000.00 and therefore requires City Commission approval.
• Kendall Electric, Inc. 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>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Water Operating</td>
<td>53000-3430-1301-54</td>
<td>$25,000.00</td>
</tr>
</tbody>
</table>

The aforementioned departments recommend approval of this order.
First Amendment to Professional Services Agreement

The Office of the City Manager requests approval to amend the Professional Services Agreement with Dignity Best Practices for the establishment of an Alternative Police Response Infrastructure that was approved by Commission on July 7, 2021, in the amount of $150,000.00. The First Amendment will add an additional $75,000.00 to the original agreement bringing the total contracted amount to $225,000.00. In addition, the term of the original contract will be extended to December 31, 2022.

Dignity Best Practices has been diligently working to develop the infrastructure needed for the Alternative Police Response Pilot Program through weekly working group meetings that include Police and Regional Dispatch, analyzing 911 call types, community engagement, etc., in order to determine the appropriate processes for an Alternative Police Response Pilot Program. This amendment will allow for the continuation of this work and the support and monitoring of success in the beginning phase of the pilot.

The Amendment shall commence upon execution and will expire December 31, 2022.

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

A Certificate of Funds is attached.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>X</th>
<th>Renewal Contract</th>
<th>_____</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/31/22</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$150,000.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original CT/CF</td>
<td>CT21-3010</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td>$75,000.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

Amount: $75,000.00

Sequence Number

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>10000 - 2100 - 1159 - 51 - XXXX - XXXX</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund</td>
<td>Org Acct Prog Act Loc</td>
</tr>
</tbody>
</table>

Amount:

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>XXXX - XXXX - XXXX - XX - XXXX - XXXX</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Org Acct Prog Act Loc</td>
<td></td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: Dignity Best Practices
Vendor Address: 3828 Georgia Ave NW, Apt 431 Washington DC 20011-5948
Street City State Zip code + 4
Federal ID: 862230185
Commodity Code: 96100
Purpose: Consulting services to build the infrastructure needed for Alternative Dispatch implementation.

Contact Person: Erin Ritter
City Manager: 10/20/2021
Department/Division Date
Originating Department Director's Signature:

SECTION II - to be completed by the Finance Department

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

Finance Director Signature
CF Prepared by

Finance Department
October 18, 2
FIRST AMENDMENT
PROFESSIONAL SERVICES AGREEMENT

This First Amendment is dated __________ day of ________________________, 2021, between
the CITY OF DAYTON, OHIO ("City"), a municipal corporation in and of the State of Ohio,
and DIGNITY BEST PRACTICE ("Consultant"), a private corporation.

WITNESSETH THAT:

WHEREAS, On July 7, 2021, the Commission of the City of Dayton, Ohio, approved a
Professional Services Agreement, CT21-3010, ("Agreement") between the City and Consultant;
and,

WHEREAS, The Consultant has been instrumental in the development of the Alternative
Police Response Pilot Program; and,

WHEREAS, The Consultant has been diligently working to build the Alternative Police
Response Pilot Program through weekly working group meetings that include Police and Regional
Dispatch, analyzing 911 call types, and determining appropriate processes for an Alternative
Police Response Pilot Program; and,

WHEREAS, With the assistance of the consultant, the Alternative Police Response Pilot
Program will begin in 2022; and,

WHEREAS, The City desires to continue to utilize the services of the Consultant to ensure
success of the Alternative Police Response Pilot Program; and,

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

1. Section 2, Scope of Services, is hereby deleted in its entirety and replaced with the
following:

SECTION 2. SCOPE OF SERVICES

The Consultant shall provide the City with all services as more particularly described in the scope
of services attached as Exhibit A ("Services").

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

SECTION 3. PAYMENT

The remuneration for the Services shall be for an amount not to exceed Two Hundred Twenty-
Five Thousand Dollars and Zero Cents ($225,000.00) for the services during the term.

Remuneration shall follow the schedule outlined in Exhibit B. Consultant shall submit invoices
for payment, not more frequently than monthly or in such frequency as the parties may mutually
agree. Such invoices shall detail the Services provided during the invoice period, list the total

PROFESSIONAL SERVICES AGREEMENT
charges for such Services, and total amount of reimbursable expenses incurred during the invoice period, listed by category and type of expense. All invoices shall be accompanied by such supporting documentation and information substantiating the invoiced amount or expenses incurred, as may be requested by the City. Unless disputed, the City shall tender payment within thirty (30) days of receipt of Consultant’s invoice.

3. Section 6, Term, is hereby deleted in its entirety and replaced with the following:

SECTION 6. TERM

This Agreement shall commence upon the full execution of this Agreement and it shall expire on December 31, 2022, unless earlier terminated or extended by mutual written agreement and, if necessary, approved by the Commission of the City of Dayton.

All other provisions shall remain in full force and effect.

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

City Manager

Date

DIGNITY BEST PRACTICES

Title: Executive Director

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney

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

Min./Bk. ___________ Page ___________

Clerk of the Commission
EXHIBIT A

Scope of Services

Consultant will serve as a bridge between the Alternative Dispatch Implementation Plan and the creation of the infrastructure needed for implementation. Consultant will work with varying internal City Departments and relevant external entities in order to create an infrastructure that best fulfills the City’s goal of implementing an alternative police dispatch model.

1. Continue to implement the City’s plan for Alternative Police Response.
   a. Continue working groups created for implementation via coordinating with Police Department, Montgomery County Regional Dispatch, Montgomery County ADAMHS, City of Dayton Mobile Crisis Response Unit, Mediation Center, etc.
   b. Facilitate and negotiate agreed upon goals and expectations between departments and external entities.
   c. Continue to establish procedures and policies necessary for successful implementation of an Alternative Police Response.
   d. Provide information, technical expertise, advice, and service in order to ensure successful collaboration between community partners.
   e. Prepare and make presentations for and to a variety of audiences.
   f. Provide support, analyze data, monitor success during the beginning phase of the Pilot Program.

2. It is expected that all work will be done with an equity lens that recognizes the role systemic racism plays in all aspects of our society, including the Police Department, and how we may take steps to dismantle it.
EXHIBIT B

Remuneration Schedule

1. Pay Rate
   a. Consultant will be paid at a rate of Two Hundred Fifty Dollars and Zero Cents ($250.00) an hour.
   b. Consultant shall not work more than twenty (20) hours a week on the Services, unless previously approved by the City.
   c. City has sole discretion to approve or deny changes in hours worked.

2. Travel
   a. City will reimburse for travel to Dayton, Ohio, for necessary meetings.
   b. City has sole discretion to approve or deny travel.

3. Documentation
   a. Consultant will provide monthly invoices with services provided per hour, with descriptions down to the minute. Invoices will also include accomplishments made since the last submitted invoice.
City Manager’s Report

From: 2100 - City Manager’s Office
Supplier, Vendor, Company, Individual: Dignity Best Practices
Address: 3828 Georgia Ave NW, Apt 431
Washington, DC 20011-5948

Date: July 7, 2021
Expense Type: Service Agreement
Total Amount: $150,000.00 (thru 12/31/2021)

Fund Source(s) | Fund Code(s) | Fund Amount(s)
--- | --- | ---
General Fund | 10000-2100-1159-51 | 150,000.00

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

Description:

Professional Services Agreement – Dignity Best Practices

The Office of the City Manager requests approval to enter into a Professional Services Agreement in an amount not to exceed $150,000.00 with Dignity Best Practices for the establishment of an Alternative Police Response Infrastructure.

Dignity Best Practices will serve as a bridge between the Alternative Dispatch Implementation Plan and the creation of the infrastructure needed for implementation of an Alternative Police Response model. At the end of the Agreement term, it is expected that Dignity Best Practice will have completed all necessary tasks set forth in the “Scope of Services” and the City will be prepared to move forward in implementation of an Alternative Police Response model.

The Agreement shall commence upon execution and will expire December 31, 2021.

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

A Certificate of Funds is attached.

Signatures/Approval

Division

Approved by City Commission

Department

Clerk

City Manager

FORM NO. MS-16

Updated 10/2019
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

- New Contract
- Renewal Contract
- Change Order

Contract Start Date: Upon Execution
Expiration Date: 12/31/21
Original Commission Approval
Initial Encumbrance: $150,000.00
Remaining Commission Approval

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

Amount: $150,000.00
Sequence Number 1
Fund Code 1000 - 2100 - 1159 - 51 - XXXX - XXXX
Fund Org Acct Prog Act Loc

Amount:
Sequence Number
Fund Code - - - XXXX - XXXX
Fund Org Acct Prog Act Loc

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

Attach additional pages for more FOAPALS

Vendor Name: Dignity Best Practices
Vendor Address: 3828 Georgia Ave NW, Apt 431 Washington DC 20011-5948
Street City State Zip code + 4
Federal ID: 862230185
Commodity Code: 96100
Purpose: Consulting services to build the infrastructure needed for Alternative Dispatch implementation.

Contact Person: Erin Ritter
City Manager 6/16/2021
Department/Division Date

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: 6/22/21

CF Prepared by: [Signature] [Date] 6/21/21

Finance Department

October 18, 2011
PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered between the City of Dayton, Ohio ("City"), a municipal corporation in and of the State of Ohio, and Dignity Best Practices ("Consultant"), a private corporation.

WITNESSETH THAT:

WHEREAS, The City is seeking professional services in the establishment of an Alternative Police Response Infrastructure; and,

WHEREAS, Consultant represents that it is a skilled, experienced and competent consulting firm, with the personnel and know-how to perform the professional services set forth hereinafter for the City.

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

SECTION 1. CONSULTANT

Consultant is a uniquely qualified vendor to provide a service related to the establishment of and Alternative Police Response Infrastructure for the City. The consultant has met all requirements of the Request for Qualifications RFQ # 21-003CMO and rated highest based on their responses and experiences. The consultant is dedicated to and specializes in helping cities build alternatives to traditional police response, while recognizing the significant impacts of systemic racism.

SECTION 2. SCOPE OF SERVICES

The Consultant shall undertake and provide the City with all services as more particularly described in the scope of services attached as Exhibit A ("Services").

SECTION 3. PAYMENT

The remuneration for the Services shall be for an amount not to exceed One Hundred Fifty Thousand Dollars and Zero Cents ($150,000.00) for the performance of tasks during the term.

Remuneration shall follow the schedule outlined in Exhibit B. Consultant shall submit invoices for payment, not more frequently than monthly or in such frequency as the parties may mutually agree. Such invoices shall detail the Services provided during the invoice period, list the total charges for such Services, and total amount of reimbursable expenses incurred during the invoice period, listed by category and type of expense. All invoices shall be accompanied by such supporting documentation and information substantiating the invoiced amount or expenses incurred, as may be requested by the City. Unless disputed, the City shall tender payment within thirty (30) days of receipt of Consultant’s invoice.
SECTION 4. LIMITATIONS ON ASSIGNMENT AND SUBCONTRACTING

The City is relying upon the professional skill and experience of Consultant. Therefore, assignment or subcontracting of this Agreement by Consultant is prohibited, without the prior written consent of the City.

SECTION 5. TERMINATION

A. Termination of Agreement for Cause. If, through any cause, Consultant fails to fulfill in a timely and proper manner its obligations under this Agreement, or if Consultant defaults in the performance of any terms or conditions of this Agreement, the City shall have the right to terminate this Agreement by giving written notice to Consultant specifying the effective date of the termination, at least five (5) days before such effective date. In the event of such termination, Consultant will be paid for the Services actually performed and reasonable expenses incurred up to the effective date of termination.

B. Termination of Agreement without Cause. The City may terminate this Agreement at any time and without cause upon giving Consultant twenty (20) days prior written notice. The notice of termination shall be made by mailing written notice to Consultant by certified mail to its usual place of business. If such termination occurs, Consultant will be paid for the Services actually performed and reasonable expenses incurred up to the effective date of termination.

SECTION 6. TERM

This Agreement shall commence upon the full execution of this Agreement and it shall expire on December 31, 2021, unless earlier terminated or extended by mutual written agreement and, if necessary, approved by the Commission of the City of Dayton.

SECTION 7. DISPUTE RESOLUTION

If during the term of this Agreement the parties are unable to resolve a dispute or controversy among themselves, prior to instituting any court action the parties shall first try, in good faith, to settle the dispute by non-binding mediation. All mediation proceedings shall take place in Montgomery County, Ohio.

The City of Dayton, Ohio and its elected officials, officers, agents, and employees will refrain from making any public written or verbal statement of a derogatory nature about the Consultant or its services, until after a mediation proceeding has occurred with both parties present.

SECTION 8. INSURANCE

Consultant shall, at its expense, maintain with an insurance company authorized to do business in the State of Ohio and having at least an “A” rating from A.M. Best, no less than the following insurance:

A. Professional Liability/Errors and Omissions Insurance, with a One Million Dollar and Zero Cents ($1,000,000.00) annual aggregate. This annual aggregate amount requirement for
professional liability / errors and omissions may be met on a combined basis, i.e., by combining such insurance maintained by Consultant with similar insurance maintained by any subcontractor (to the extent that a subcontractor is consented to by the City through the process described above in this Agreement).

B. General Liability Insurance, with a combined single limit of One Million Dollars and Zero Cents ($1,000,000.00) per occurrence and One Million Dollars and Zero Cents ($1,000,000.00) in the aggregate. This policy shall name the City of Dayton, Ohio and its elected officials, officers, agents, and employees as additional insureds.

Consultant shall also maintain Workers’ Compensation Insurance in such amounts as prescribed by law. All policy/policies of insurance to be maintained by Consultant pursuant to this Section, excluding Workers’ Compensation Insurance, shall provide that the insurance may not be reduced, decreased, cancelled or terminated without thirty (30) days prior written notice to the City. Upon execution of this Agreement, Consultant shall furnish the City with a copy of certificates of insurance demonstrating compliance with this Section. Consultant shall also provide, upon the City’s request, complete copies of any insurance policies required hereunder.

SECTION 9. OWNERSHIP OF WORK PRODUCT AND DOCUMENTS

All work product, including, but not limited to, documents, drawings, analysis, reports, charts, and/or graphs, which are prepared by Consultant pursuant to this Agreement shall, upon payment by the City, become the sole and exclusive property of the City, except to the extent that the Consultant retains copies of their work files for a period of not less than five (5) years.

The City acknowledges that the Consultant owns and retains all right, title, and interest in and to any and all proprietary know-how and methodologies the Consultant uses in creating the Work Product or in otherwise providing Services.

SECTION 10. CONFIDENTIALITY

Due to the nature of the Services to be provided by Consultant hereunder, Consultant agrees that all work product, including, but not limited to, all documents, databases, reports, opinions, and information prepared hereunder and/or furnished to Consultant by the City, is confidential, and shall not be divulged, in whole or in part, to any person or entity, other than duly authorized representatives of the City, without prior written approval of the City; but excepting therefrom, instances wherein disclosure is required by law, including by order of a court of competent jurisdiction or disclosure under oath in a judicial proceeding. Consultant shall take all necessary steps to ensure that all its employees, agents, and/or contractors abide by and adhere to this confidentiality requirement.

The City agrees that the Consultant may name the City as a client on its website, unless the City provides to the Consultant a written statement of dissatisfaction with the Consultant’s work and a request that the City not be so named.

At the conclusion of the agreed Services, the Consultant may choose to write a case study at no charge to the Client, in order to share lessons learned from the City’s experiences with other cities. At that time, the Consultant will provide a draft of the case study to the City, and will request
SECTION 11. CONFLICT OF INTEREST

The City recognizes that Consultant does not provide Services exclusively to the City. During the term of this Agreement, Consultant agrees not to accept employment, or to perform for or on behalf of another client for which a conflict of interest between the City and Consultant would be created, without the prior written consent of the City and Consultant. Assisting other communities with grant or loan applications that may be in competition with the City is not considered a conflict of interest, but Consultant will disclose, subject to confidentiality obligations, any such projects to the City prior to accepting the engagement. Similarly, the Consultant’s current or future work assisting other communities with services similar to those being provided to the City will not be considered a conflict of interest.

SECTION 12. INDEMNIFICATION

To the full extent permitted by law, Consultant shall indemnify, defend and hold harmless the City and its elected officials, officers, agents, and employees from and against all claims, demands, losses, and expenses, including but not limited to reasonable attorneys' fees, to the extent arising out of or resulting in whole or in part from any negligent act or omission, and/or from any failure to perform Consultant's duties under this Agreement, attributable to Consultant its employees, agents, and subcontractors, and any other person or entity for whose conduct Consultant may be liable under Ohio law.

Neither the City nor the Consultant will be liable to the other for any incidental, special, consequential, exemplary, punitive, or indirect damages arising out of or otherwise related to this Agreement even if the other party has been apprised of the likelihood of such damages. The Consultant’s total liability with respect to an engagement will not exceed that which the City has paid or will pay the Consultant in fees under the applicable Scope of Services, except that no such limitation will apply with respect to liabilities involving the gross negligence, willful misconduct, or fraud of the Consultant.

The Consultant has been engaged to convene discussions and provide advice, project management, and guidance. The Consultant has not been engaged to, and will not perform, management functions or make management decisions on behalf of the City and has no responsibility for the City's decisions or actions. The City is responsible for making its own evaluations and decisions regarding the Consultant’s recommendations. In addition, the Consultant’s staffing does not include attorneys or independent public accountants, and the Services do not include the provision of legal, auditing, or assurance services.

SECTION 13. RECORDS
Consultant shall use Generally Accepted Accounting Principles ("GAAP") in recording and documenting all costs and expenditures related in whole or part to the performance of this Agreement. Such costs and expenditures shall be supported by time records, invoices, contracts, vouchers, or other accounting documents pertaining in whole or in part to this Agreement and shall be clearly identified and readily accessible to the City. At any time, with two (2) days business notice, during normal business hours and as often as the City may deem necessary, Consultant shall make available to the City and/or its designees all of its records with respect to all matters covered under this Agreement. Consultant will permit the City and/or its designees to audit, examine, and make excerpts or transcripts from such records.

If Consultant performs an independent audit of business financial records, Consultant shall require the company or auditor to comply with all applicable GAAP standards that have been developed by the American Institute of Certified Public Accountants.

SECTION 14. MISCELLANEOUS

A. Non-Discrimination. 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.

B. Remedies. The remedies provided in this Agreement are cumulative. Delay or forbearance in the enforcement of any right under this Agreement shall not be deemed a waiver of, or estoppel against the exercise of such right.

C. Entire Agreement. This Agreement, together with all Exhibits referred to herein, represents the entire and integrated Agreement between the City and Consultant and supersedes all prior negotiations, representations, and Agreements regarding the subject hereof, whether oral or written.

D. Independent Contractor Status. By executing this Agreement for Services, Consultant acknowledges and agrees that it will be 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 subsection. 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 approved subcontractors performing 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. Further, Consultant shall be responsible to withhold and pay, or cause such agents and subcontractors 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.

E. Amendment. This Agreement may be amended by mutual agreement between the City and Consultant. Any such amendment shall be reduced to a writing, which makes specific reference to this Agreement, approved by the City Manager or designee, executed by a duly authorized representative of each party and, if applicable or required, approved by the Commission of the City of Dayton, Ohio.

F. Applicable Law and Venue. This Agreement shall be governed and construed under the laws of the State of Ohio. By execution hereof, Consultant irrevocably submits to the original jurisdiction of the courts located within the County of Montgomery, State of Ohio, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement.

G. Political Contributions. Consultant affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

H. Notices. Any notice required under this Agreement shall be deemed to have been given on the date actually received or forty-eight (48) hours having been deposited in the United States mail, postage prepaid, registered or certified, and addressed to the parties as set forth below, whichever occurs earlier. In the case of mailed notice, the sending party will also attempt to send a copy of such notice by email, or else an email notifying that there is an important notice coming in the mail. Either party may change its address from time to time by written notice given in this manner.

If to the City:

City of Dayton, Ohio
Erin Ritter, Human Services Manager
101 West 3rd Street
Dayton, OH 45402
Erin.Ritter@daytonohio.gov

If to Consultant:

Dignity Best Practices
3828 Georgia Avenue NW #431
Washington, DC, 20011
daniel.kornfield@dignitybestpractices.org

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

CITY OF DAYTON

Shelley Dickstein
City Manager

7-12-21
Date

DIGNITY BEST PRACTICES

Daniel F. Kornfield
Title: Executive Director

6/19/2021

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney

APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO

July 7, 2021
Min. Book 74 Page 1
Regina D. Norgate
Clerk of the Commission

PROFESSIONAL SERVICES AGREEMENT
EXHIBIT A

Scope of Services

Consultant will serve as a bridge between the Alternative Dispatch Implementation Plan and the creation of the infrastructure needed for implementation. Consultant will work with varying internal City Departments and relevant external entities in order to create an infrastructure that best fulfills the City's goal of implementing an alternative police dispatch model.

1. Implement the City's plan for Alternative Police Response.
   a. Create the infrastructure needed for implementation via coordinating with Police Department, Montgomery County Regional Dispatch, Montgomery County ADAMHS, City of Dayton Mobile Crisis Response Unit, Mediation Center, etc.
   b. Facilitate and negotiate agreed upon goals and expectations between departments and external entities.
   c. Establish procedures and policies necessary for successful implementation of an Alternative Police Response.
   d. Provide information, technical expertise, advice, and service in order to ensure successful collaboration between community partners.
   e. Prepare and make presentations for and to a variety of audiences.
   f. Advise and assist in the development of RFP for an Alternative Police Response provider as necessary.

2. It is expected that all work will be done with an equity lens that recognizes the role systemic racism plays in all aspects of our society, including the Police Department, and how we may take steps to dismantle it.
EXHIBIT B

Remuneration Schedule

1. Pay Rate
   a. Consultant will be paid at a rate of Two Hundred Fifty Dollars and Zero Cents ($250.00) an hour.
   b. Consultant shall not work more than twenty (20) hours a week on the Services, unless previously approved by the City.
   c. City has sole discretion to approve or deny changes in hours worked.

2. Travel
   a. City will reimburse for travel to Dayton, Ohio, for necessary meetings.
   b. City has sole discretion to approve or deny travel.

3. Documentation
   a. Consultant will provide detailed monthly invoices that account for all hours worked in order to be compensated.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>Upon Execution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>12/31/21</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 150,000.00</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
</tr>
<tr>
<td>Original CT/CF</td>
<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
</tr>
</tbody>
</table>

NO DRAFT DOCUMENTS PERMITTED

<table>
<thead>
<tr>
<th>Required Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td>x Initial City Manager's Report</td>
</tr>
<tr>
<td>x Initial Certificate of Funds</td>
</tr>
<tr>
<td>x Initial Agreement/Contract</td>
</tr>
</tbody>
</table>

| Amount: | $ 150,000.00 |
| Sequence Number | 1 |
| Fund Code | 10000 - 2100 - 1159 - 51 - XXXX - XXXX |

| Amount: |          |
| Sequence Number |      |
| Fund Code | XXXX - XXXX - XXXX - XX - XXXX - XXXX |

Attach additional pages for more FOAPALs

Vendor Name: Dignity Best Practices
Vendor Address: 3828 Georgia Ave NW, Apt 431 Washington DC 20011-5948
Street City State Zip code + 4
Federal ID: 862230185
Commodity Code: 96100
Purpose: Consulting services to build the infrastructure needed for Alternative Dispatch implementation.

Contact Person: Erin Ritter
City Manager
Originating Department Director's Signature: 

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: 
Date: 1/32/21

CF Prepared by: 
Date: 1/32/21
CF/CT Number: CT21-3010

Finance Department
October 18, 2011
City Manager’s Report

From: 6210 - Police Director
Supplier, Vendor, Company, Individual
Dr. Martha Hurley, President
Hurley Social Science Consulting, LLC
Address: PO Box 190
Alpha, OH 45301

Date: November 10, 2021
Expense Type: Service Agreement
Total Amount: $65,000.00 thru 1/31/22

Fund Source(s) | Fund Code(s) | Fund Amount(s)
--- | --- | ---
Other Federal Grants | 28613-6210-1159-71 | $65,000.00

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

Description

SERVICE AGREEMENT

Approval is requested to enter into an Agreement in the amount of Sixty-Five Thousand Dollars and no Cents ($65,000.00) with Dr. Martha Hurley to provide services in developing Neighborhood Safety Plans (Plans).

Dayton Police Department (DPD), in partnership with Dayton Human Relations Council (HRC), applied and received a grant from the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS). The goal is to develop a pilot program using a public health approach and crime analysis information supplied by DPD, to engage community and other partners in creating comprehensive safety plans to reduce gun violence in up to two neighborhoods. The approach would focus on drawing from evidence to address factors that increase or decrease the risks of violence, particularly in communities that are disproportionately impacted. This would draw from the previous CIRGV, community police relations work, and initial grant from the Ohio Department of Public Safety’s Office of Criminal Justice Services.

The Department of Law has determined this is an independent contractor. The Department of Human Resources has determined the Agreement does not violate any City labor agreements or employment policies.

This Agreement shall be in effect upon execution and will expire on 1/31/2022.

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

The funding source is 2020 COPS Micro Grant

A certificate of funds is attached.

E-SIGNED by Joann Mowasha on 2021-11-05 13:11:27 EDT

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

- New Contract
- Renewal Contract
- Change Order

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>Upon Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>01/31/22</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$ 65,000.00</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 65,000.00</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
</tr>
<tr>
<td>Original CT/CF</td>
<td>$ -</td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td>$ -</td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td>$ -</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Amount:</th>
<th>$ 65,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code:</td>
<td></td>
</tr>
<tr>
<td>28613 - 6210 - 1159 - 71 - XXXX - XXXX</td>
<td>Fund Code XXXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
<tr>
<td>Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
<td>Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
<tr>
<td>Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
<td>Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALS

Vendor Name: Dr. Martha Hurley, President, Hurley Social Science Consulting, LLC
Vendor Address: PO Box 190 Alpha, OH 45301
Federal ID: 87-2364244
Commodity Code: 91899
Purpose: Consultant for the COPS Mini Grant to develop Neighborhood Safety Plans in up to two neighborhoods.

Contact Person: Erica Fields
Human Relations Council
11/5/2021
Department/Division Date
Originating Department Director’s Signature: E-SIGNED by Eric Henderson on 2021-11-05 14:24:04 EDT

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: 11/5/2021
CF Prepared by: date: 10/29/21

Finance Department

October 18, 2011
October 29, 2021

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

FROM: Erica Fields, Executive Director  
Human Relations Council

RE: Service Agreement for Dr. Martha Hurley

Attached is a signed packet for a City Manager calendar item. We have included the signed CM report and CF as well as a copy of the signed contract. The contract is an agreement in the amount of Sixty-Five Thousand Dollars and no Cents with Dr. Martha Hurley to provide services in developing Neighborhood Safety Plans (Plans).

Dayton Police Department, in partnership with Dayton Human Relations Council, applied and received a grant from the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS). The goal is to develop a pilot program using a public health approach and crime analysis information supplied by DPD, to engage community and other partners in creating comprehensive safety plans to reduce gun violence in up to two neighborhoods.

This has been reviewed by the Law Department for correctness. We request that this is added to the November 10 City Manager's Calendar.

Please let me know if I need to provide any additional information.
October 29, 2021

TO: Tonika Williams, Finance  
    Finance Department

FROM: Erica Fields, Executive Director  
      Human Relations Council

RE: Service Agreement for Dr. Martha Hurley

Attached is a signed packet for a City Manager calendar item. We have included the signed CM report and CF as well as a copy of the signed contract. The contract is an agreement in the amount of Sixty-Five Thousand Dollars and no Cents with Dr. Martha Hurley to provide services in developing Neighborhood Safety Plans (Plans). Dayton Police Department, in partnership with Dayton Human Relations Council, applied and received a grant from the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS). The goal is to develop a pilot program using a public health approach and crime analysis information supplied by DPD, to engage community and other partners in creating comprehensive safety plans to reduce gun violence in up to two neighborhoods.

This has been reviewed by the Law Department for correctness. We request that this is added to the November 10 City Manager’s Calendar.

Please let me know if I need to provide any additional information.
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, entered into this __________ day of __________, 2021, is between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City") and HURLEY SOCIAL SCIENCE CONSULTING, LLC ("Contractor").

WITNESSETH THAT:

WHEREAS, the City through the Dayton Police Department ("DPD") received a grant from the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS) to develop a process of integrated crime analysis to reduce violent gun crime, engage community and other partners, and create Neighborhood Safety Plans ("Plans"); and

WHEREAS, the City has delegated to Contractor the responsibility of providing coordination, outreach, oversight, monitoring, and support services for creation of the Plans; and

WHEREAS, Contractor’s expertise in the Circle Approach to foster collaborative decision making and restorative justice philosophy; and

WHEREAS, the services set forth herein will further the City’s efforts to reduce violence and improve police-citizen relations through a community-based participation model; and

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

ARTICLE I. SCOPE OF SERVICES

Contractor shall undertake and provide the City the services as described in Exhibit A ("Scope of Services") and Exhibit B ("Remuneration Schedule and Payment Procedure"), attached hereto and made a part hereof. Services shall be provided in a manner satisfactory to the City.

ARTICLE II. TERM OF CONTRACT

This Agreement shall commence upon the City Manager’s execution, and shall terminate on January 31, 2022, or when all funds hereunder are expended, whichever date occurs first.

ARTICLE III. PAYMENT

The City shall pay an amount not to exceed SIXTY-FIVE THOUSAND DOLLARS AND ZERO CENTS ($65,000.00) to Contractor for the services to be performed pursuant to this Agreement, as detailed in Exhibit B. The City will determine allowable and allocable costs in accordance with the OMB Circular A-87 “Cost Principles for State, Local and Indian Tribal Governments” codified at 2 CFR Part 225 (together with Appendices A-D) and any other applicable federal, state, or local laws or regulations.

ARTICLE IV. INDEPENDENT CONTRACTOR

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

Contractor and his employees, agents or subcontractors, or any other persons retained or hired by them to assist in the performance of the Services under this Agreement, are not City employees. Therefore, such persons shall not be entitled to any of the emoluments of employment with the City of Dayton, and Contractor shall indemnify the City against any and all claims by its employees, agents, or subcontractors for such City employee benefits. Contractor further understands and agrees that neither he, nor any of his employees, agents, or subcontractors are “public employees” for the purpose of membership in the Ohio Public Employees Retirement System (“OPERS”). Contractor will be solely responsible to withhold and pay all applicable local, state, and federal taxes for its employees.

ARTICLE V. ASSIGNMENT

Contractor shall not assign any rights or duties under this Agreement without the prior written consent of the City. Unless otherwise stated in the City’s written consent to an assignment, no assignment will release or discharge Contractor from any obligation under this Agreement.

ARTICLE VI. SUBCONTRACTING

Contractor may not subcontract any of the services agreed to in this Agreement without the express written consent of the City. All sub-contractors are subject to the same terms, conditions and covenants contained in this Agreement. Contractor is responsible for making direct payments to all sub-contractors for any and all services provided by such contractor.

ARTICLE VII. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, or gender identity with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off determination, rates of pay or other forms of compensation, or selection for training, including apprenticeship.

It is expressly agreed and understood by Contractor that Section 35.14, 35.15, and 35.16 of the Revised Code of the General Ordinances of the City of Dayton constitutes a material condition of the 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 VIII. RECORDS TO BE MAINTAINED BY HURLEY SOCIAL SCIENCE CONSULTING, LLC

Contractor shall keep accurate and complete records as required by generally accepted accounting principles of all services provided. All costs and expenditures related to the services and this Agreement shall be supported by properly executed invoices, contracts, vouchers or other accounting documents pertaining in whole or in part to this Agreement and shall be clearly identified, and readily accessible to the City. At any time during normal business hours and as
often as the City may deem necessary, Contractor shall make available to the City and/or its
designee all of its records, with respect to all matters covered under this Agreement, and will
permit the City and/or its designee to audit, examine, and make excerpts or transcripts from
such records. In performing any independent audit, Contractor shall require the auditor to
comply with all applicable City rules and regulations governing such procedures.

The Federal and State Government, including the comptroller General of the United States and
the Attorney General of the State of Ohio, along with the City of Dayton, has the right to
examine or audit relevant financial records for a period not to exceed four (4) years after the
expiration of the terms of this Agreement. The City and Contractor must maintain an established
accounting system that complies with generally accepted accounting principles. Records related
to disputes arising out of this Agreement shall be maintained and made available until such
disputes have been resolved.

As used in this provision, “records” includes books, documents, accounting procedures and
practices, and other data, regardless of type and regardless of whether such items are in written
form, in the form of computer data, or in any other form.

Contractor agrees that they shall take appropriate measures to protect all proprietary, privileged,
confidential, or otherwise Sensitive Security Information (SSI) that may come into their
possession as a result of this Agreement.

**ARTICLE IX. INDEMNIFICATION AND INSURANCE**

A. Contractor shall defend, indemnify and hold harmless the City and its elected officials,
officers, employees, and representatives from and against all claims, losses, damages, or
expenses (including reasonable attorney’s fees) to the extent that such claims, losses,
damages, or expenses are caused by or arise out of the performance or non-performance of
the Agreement, and/or the acts, errors, omissions or wrongful conduct of Contractor or its
employees, agents and representatives.

B. Contractor shall, at its expense, maintain with an insurance company authorized to do
business in the State of Ohio and having at least an “A” rating from A.M. Best, the following
insurance:

1. Automobile liability insurance with the following coverages: bodily injury
liability in an amount not less than One Hundred Thousand Dollars ($100,000) per
person, Three Hundred Thousand Dollars ($300,000) per accident; and property damage
liability in an amount not less than One Hundred Thousand Dollars ($100,000) per
accident.

All policy/policies of insurance to be maintained by Contractor pursuant to this
subsection B shall provide that said insurance may not be cancelled or terminated without
thirty (30) days prior written notice to the City. Upon execution of this Agreement, the
Contractor shall furnish the City with a copy of such certificates of insurance
demonstrating compliance with this Section. Contractor shall also provide, upon the
City’s request, complete copies of any insurance policies required hereunder. The City’s
examination of, or failure to request or demand any evidence of insurance required
hereunder, will not constitute a waiver of any requirement of this Article, and the existence of any insurance will not limit the Contractor’s obligations under this Agreement.

This Article shall survive termination or expiration of this Agreement.

ARTICLE X. TERMINATION

The City or Hurley Social Science Consulting, LLC may terminate this Agreement, upon giving written notice of termination to the other party at least thirty (30) days prior to the effective date of termination, or at any time upon mutual written agreement. The notice shall state the date upon which such action is effective. In the event that this Agreement is terminated, Contractor shall be paid for all work and services provided and all supplies and materials procured up to the date of termination specified within the notice, and the City shall have no other responsibility to Contractor.

ARTICLE XI. GENERAL PROVISIONS

A. Amendment

The City or Contractor may request to amend this Agreement at any time. Upon mutual agreement to amend this Agreement, the amendment shall be reduced to writing, which shall make specific reference to this Agreement, approved by the City’s Chief and Director of Department of Police, signed by a duly authorized representative of the City and Contractor, and, if required or applicable, approved by the Commission of the City of Dayton, Ohio.

B. Waiver

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

C. Notices and Communications

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

To City:
City of Dayton
Human Relations Council (“HRC”)
ATTN: Erica Fields, Executive Director
371 W. 2nd Street, Ste. 100
Dayton, OH 45402
(937) 333-1407 Office
(937) 222-4589 Fax
Erica.fields@daytonohio.gov
To Contractor:
Dr. Martha Hurley, President
Hurley Social Science Consulting, LLC
PO Box 190
Alpha, OH 45301
(843) 566-3029
hurleysocialscience@gmail.com

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

D. Conflict of Interest

This Agreement shall not be interpreted or construed as to preclude, prevent or restrict Contractor from agreeing or otherwise contracting with parties aside from the City; provided, however, that such other contract work in no way impedes Contractor's ability to perform the services required under this Agreement.

Contractor represents that no member of the governing body of the City and no other officer, official agent, or employee of the City has any personal financial interest, direct or indirect, in Contractor's business. Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, that would cause conflict in any manner or degree with the performance of this Agreement. Contractor will immediately report the discovery of any potential conflict of interest to the City.

E. Governing Law & Venue

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

F. Entire Agreement/Integration

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

G. Political Contributions

Contractor affirms and certifies that it complies with Ohio Revised Code 3517.13 limiting political contributions.
H. Interpretation

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

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

THE CITY OF DAYTON, OHIO

City Manager

APPROVED AS TO FORM AND CORRECTNESS:

10/13/2021

X  John Musto for
City Attorney

Signed by: Musto, John

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

, 2021

Min./Bk. Page

Clerk of the Commission
EXHIBIT A
SCOPE OF SERVICES

PROGRAM DESCRIPTION

The Contractor will develop a process of integrated crime analysis to reduce violent gun crime, engage community and other partners and create Neighborhood Safety Plans ("Plans"). The City of Dayton Human Relations Council ("HRC") and its partners will use crime analysis information to develop and implement evidence-based plans in up to two neighborhoods. As such, the Contractor shall provide the following services:

A. Coordination with HRC and DPD to
   1. Schedule meetings with stakeholders, community leaders and neighborhoods with high incidence of gun crime to present and discuss crime analysis and outline proposals and outcomes;
   2. Gather information and assist with development of Plans; and
   3. Assist with approval of Plans.

B. Community Outreach
   1. Meet with community and identify stakeholders at neighborhood association meetings or neighborhood centers via virtual or in-person meetings, as permitted, to outline the project and gather community input;
   2. Canvass selected neighborhoods to inform community of meeting times, venues and expected outcomes;
   3. Distribute surveys to maximize input from the community and key stakeholders;
   4. Facilitate opportunities for engagement within selected neighborhoods to build capacity, sustainability and neighborhood cohesion;
   5. Monitor feedback, concerns and questions and provide timely responses; and
   6. Track and monitor feedback to be reported back to entire team.

C. Staffing

To complement the Dayton Police Department’s gun violence reduction strategy, the City of Dayton Human Relations Council (HRC) proposes to hire One (1) Project Coordinator (Consultant) and Two (2) part-time Outreach Specialists (Consultants) to assist in developing a demonstration project for addressing and reducing violent gun crime.

D. Professional Standards
Contractor shall exercise the same degree of care, skill, and diligence in the performance of services to be provided under this Agreement as is ordinarily possessed and exercised by a professional under similar circumstances.

PROGRAM GOALS

A. Develop NSPs with residents in up to two neighborhoods. It is expected that this demonstration project will result in long-term strategy for the City of Dayton that will lead to a decrease of general crime and incivility in Dayton neighborhoods.

B. Mobilize law enforcement, community stakeholders, neighborhood residents and others around public safety issues by building infrastructure that connects all interested parties.

C. Utilizing established partnerships, work with local social service providers, civic organizations, and faith-based organizations. These partnerships will work with up to two neighborhoods to articulate norms and expectations, develop, and implement a system that ensures permanence and quality assurance. HRC and DPD anticipates that increased community engagement will also enhance relationships between the community and the police department.

PROGRAM STRATEGY

The Project Coordinator (PC) and two part-time Outreach Specialists will assist the HRC in using a problem-oriented community based participatory model and seek input from the affected neighborhoods to develop safer neighborhoods. The PC will supervise the Outreach personnel to research best practices and strategies to develop and implement NSPs that have been proven successful in reducing gun violence in communities. The PC will consult with assigned team members to ensure outcomes are achieved. It is anticipated that the shared engagement process will give community members the opportunity to contribute their expertise to what works best for their community in efforts to reduce violence. This process includes:

Project Coordinator’s (PC) Responsibilities:

1. Through crime analysis, review most neighborhoods impacted by gun violence;
2. Identify up to two neighborhoods for intervention;
3. Gather input from frontline staff with street level knowledge of crimes being discussed;
4. Analyze the information to identify patterns or other issues that may be useful in responding strategically;
5. Meet with residents in affected communities and outline proposal and outcomes.
6. Plan, prepare, and begin meetings; and
7. Gather data, develop Plans with residents’ input, solicit feedback, adjust as necessary, and present Plans for approval.

To this end, the PC and Outreach Specialists will:

- Schedule weekly meetings with city staff (as identified by HRC and DPD) to help ensure project is moving in the right direction to achieve stated outcomes. These meetings will be conducted on-line when in-person meetings are impracticable.
- Following each working group meeting, provide action items and next steps for implementation and beyond.

Engagement coordination and organizing within identified neighborhoods

Goal: Develop timeline plan to engage community members in focus groups to solicit input for the Plans. This engagement will ensure that community members are actively engaged in
their change process. Further, it allows the DPD and community residents to have dialogue and build relationships, which will strengthen community capacity and possibly identify issues specific to affected communities.

**Strategies:**

- PC and Outreach Specialists will meet with community and identified stakeholders to present desired outcomes from each group. This will be achieved through meeting with community residents at neighborhood association meetings or neighborhood centers via virtual or in-person as necessary to outline the process and gather community input. The PC and Outreach Specialists will track and monitor feedback which will be reported back to entire team.
- The PC and Outreach Specialists will facilitate opportunities for ongoing engagement within neighborhoods, which will build capacity, sustainability, and neighborhood cohesion.
- The PC and Outreach Specialists will monitor community feedback, concerns, and questions to provide opportunities for timely responses. This feedback will be compiled and utilized to inform processes and adjust as necessary.
- The PC and Outreach Specialists will meet on a regular basis to create plans for scheduled and ongoing engagement with neighborhoods.

**Improved Relationships between Community and Police**

**Goal:** Increase positive community-police relationships within specified areas determined by DPD crime analysis data. Identify best practices for specific neighborhoods and relay to interested parties.

**Strategies:**

- Foster relationships in community by engaging with residents around Plans. The PC will work with the Outreach Specialists to canvas the identified neighborhoods to inform community members of purpose, meeting times, meeting venues, and expected outcomes. The Outreach Specialists will also distribute surveys to maximize input from community and identified stakeholders. It is anticipated that information gathered will be collated and shared with community and DPD, building trust and dialogue on ways to move forward to achieve positive outcomes. The PC will create action steps based on information obtained from community and stakeholders, and work with HRC and DPD on effective strategies for engagement between all interested parties.

**PROGRAM REPORTING**

Whereas performance reporting is essential for the City’s effective administration of the COPS grant, Contractor shall submit weekly status updates to Joann Mawasha at Joann.Mawasha@davtoniohio.gov. Said Updates shall include at minimum identification of Neighborhoods where work was carried out, description of services performed, date services were provided, total hours expended, and other pertinent information.

Contractor shall submit reports monthly, quarterly, and at year’s end to include, at minimum, identification of Neighborhoods where work was carried out, description of services performed, date services were provided, total hours expended, procurement activity results, and other pertinent information. Performance reporting is essential for the City’s effective administration of COPS grant. If Contractor fails to submit project reports and such breach continues uncurled for more than fourteen (14) days, such failure will be grounds for termination of the balance of
this agreement or other remedies such as accrual of liquidated damages, fines or other penalties. Each will be considered on a case-by-case basis and review of the circumstances for such occurrence by the HRC Executive Director. Penalties so assessed will be deducted from any outstanding invoice in process by the City of Dayton.
**EXHIBIT B**

**REMUNERATION SCHEDULE AND PAYMENT PROCEDURE**

<table>
<thead>
<tr>
<th>Deliverable/benchmark</th>
<th>Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Research communities identified</td>
<td>on or about 10/31/2021 upon receipt of invoice</td>
<td>$12,500</td>
</tr>
<tr>
<td>- Identify community assets, gatekeepers of community, and stakeholders;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Research best practices and strategies;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Study trends/analysis related to police data provided by DPD;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Create community survey;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Distribute survey through outreach personnel and other identified venues; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Collect and analyze data.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Connect data to possible resources and action items</td>
<td>on or about 11/30/2021 upon receipt of invoice</td>
<td>$12,500</td>
</tr>
<tr>
<td>- Report out data findings to HRC, DPD, and other identified partners;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Meet with HRC, DPD, and other identified stakeholders to respond to needs assessment collected from community residents;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Create strategies to address concerns; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Connect communities to various city departments and resources to resolve issues identified in community assessment.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Create Neighborhood Safety Plans (&quot;Plans&quot;)</td>
<td>on or about 12/31/2021 upon receipt of invoice</td>
<td>$12,500</td>
</tr>
<tr>
<td>- Plan, prepare, and begin meetings with community to create Plans</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Collate information obtained from community on Plan;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Meet with community to share drafts of Plans and solicit feedback;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Meet with HRC/DPD and other identified stakeholders to share draft and solicit feedback;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Draft final documents of Plans with recommendations and next steps; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Schedule meeting with community residents, HRC, DPD, and stakeholders to present results and disseminate Plans.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conduct evaluation of project and disseminate results</td>
<td>on or about 1/31/2022 upon receipt of invoice with satisfactory completion</td>
<td>$27,500</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td>$65,000</td>
</tr>
</tbody>
</table>

**PAYMENT PROCEDURES**

A. Invoice payments shall be made within 30 days from the date the invoice is submitted to the Executive Director of the Human Relations Council for processing. In the rare occasion that invoices have not been paid within 30 days,
the contractor will notify the Executive Director or Deputy Director of the Human Relations Council to request additional information.

B. Following execution of this Agreement by the City and the Contractor, the disbursement of the funds will be made on a reimbursement basis to the Contractor for expenditures incurred for the project in accordance with the Schedule in Exhibit B. Contractor shall submit all invoices and supporting records and documentation to the Executive Director of the Human Relations Council. Invoices are due every Monday for the duration of the contract unless otherwise discussed with the Executive Director.

C. Contractor shall comply with the following requirements for the submission of requests for reimbursement and shall contain the following information:

1. City contract number;
2. Invoice number;
3. Period covered;
4. A printed copy of all activities related to COPS project for the invoice period;
5. Total amount requested;
6. Agreement funding balance; and
7. Signature by Contractor.

MILEAGE REIMBURSEMENT

Per City policy, when travel is at least 30 miles each way from the traveler’s regular work location, such use of personal vehicle is reimbursable at the current State mileage rate based on an internet mapping site mileage from the traveler’s regular work location to the destination. Intra-city travel, after reaching the City of destination, is excluded from the per mile reimbursement unless the intra-city travel is for MBAC related business purposes.

HOLIDAY, VACATION AND SICK LEAVE

As an independent contractor, holiday, vacation, and sick leave are not accrued or applicable to this contract.

###
Melissa A. Wilson  
Purchasing Agent

<table>
<thead>
<tr>
<th>VENDOR APPLICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>DATE:</td>
</tr>
<tr>
<td>BUSINESS PHONE NUMBER:</td>
</tr>
<tr>
<td>E-MAIL ADDRESS (For Purchase Orders and Notifications):</td>
</tr>
<tr>
<td>FEDERAL ID # OR SOCIAL SECURITY #:</td>
</tr>
<tr>
<td>MAILING ADDRESS FOR PAYMENTS</td>
</tr>
<tr>
<td>FAX NUMBER:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>APPLICATION'S NAME AND MAILING ADDRESS (for Bid Forms and Purchase Orders)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hurley Social Science Consulting LLC</td>
</tr>
<tr>
<td>Company Name</td>
</tr>
<tr>
<td>Street Address</td>
</tr>
<tr>
<td>City, ST, Zip</td>
</tr>
</tbody>
</table>

| 2. VENDOR COMMODITIES HANDLED: |
| See Commodity Code(s) from list located online at |
| Enter as many codes as needed separated by commas (i.e. 22222, 33333, 44444) |

| 91800 |

| 4. PERSONS AUTHORIZED TO SIGN BIDS, QUOTATIONS, PROPOSALS (Indicate if Agent) |
| CONTRACTOR: Contractor acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System ("OPERS") membership. |
| NAME |
| OFFICIAL CAPACITY |
| TELEPHONE NO. |
| Martha Hurley |
| President |
| 8435663029 |

Your equal opportunity “Affirmative Action Assurance” (AAA) application must be submitted online via www.citybots.com and approved status must be maintained with the City of Dayton’s Human Relations Council (HRC). For information about your AAA status, please contact the HRC at (937) 333-1403.

If you are a currently certified MBE, WBE, and/or SBE with the City of Dayton Human Relations Council, please include a copy of your certification letter with this application. If you are not certified and would like to apply for certification as MBE, WBE, and/or SBE please begin at http://daytonhr.org/business-technical-assistance/certification/procurement-enhancement-program, and then click on the Certification Packet link.

<table>
<thead>
<tr>
<th>PROCUREMENT DIVISION USE</th>
</tr>
</thead>
<tbody>
<tr>
<td>ONLY ADD</td>
</tr>
<tr>
<td>REMOVE</td>
</tr>
<tr>
<td>CHANGE</td>
</tr>
<tr>
<td>DATE:</td>
</tr>
<tr>
<td>PROCUREMENT: ADD COMMODITY CODE HEADER (###):</td>
</tr>
<tr>
<td>INITIALS:</td>
</tr>
</tbody>
</table>

Form PUR-18  
(REV. 03-16-2020)
**W-9**

Request for Taxpayer Identification Number and Certification

Go to www.irs.gov/FormW9 for instructions and the latest information.

1. Name as shown on your income tax return. Name is required on this line; do not leave this line blank.

   Martha Henderson Hurley

2. Business name/disregarded entity name, if different from above

   Hurley Social Science Consulting LLC

3. Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

   - Individual/sole proprietor or single-member LLC
   - C Corporation
   - S Corporation
   - Partnership
   - Trust/estate

   Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

4. Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

   - Exempt payee code (if any)
   - Exemption from FATCA reporting code (if any)

   (Applies to accounts maintained outside the U.S.)

5. Address (number, street, and apt. or suite no.). See instructions.

   669 Towncrest Drive

6. City, state, and ZIP code

   Beavercreek, OH 45434

7. List account number(s) here (optional)

   Requester's name and address (optional)

---

**Part I**

**Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see What Name and Number To Give the Requester for guidelines on whose number to enter.

<table>
<thead>
<tr>
<th>Social security number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

—or-

**Employer Identification number**

872364244

---

**Part II**

**Certification**

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and

2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and

3. I am a U.S. citizen or other U.S. person (defined below); and

4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification Instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

**Sign Here**

<table>
<thead>
<tr>
<th>Signature of U.S. person</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Signature]</td>
</tr>
</tbody>
</table>

**Date**

10/25/21

---

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1098 (home mortgage interest)
- Form 1098-E (student loan interest)
- Form 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.
EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY CONFIRMATION

The Vendor confirms they have an existing equal employment opportunity (EEO) policy that is in compliance with local, state, and federal laws.

The Vendor confirms their EEO policy complies with the City of Dayton’s equal employment opportunity policy below:

The vendor 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. The vendor shall take affirmative action in accordance with the terms outlined in its proposal and the provisions of this contract to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The vendor agrees to post in conspicuous places, available to employees and applicants, notices to be provided by the city setting forth the provisions of the nondiscrimination clauses.

Authorized Signature

The undersigned authorized representative of the company hereby agrees that a program of affirmative action will be maintained to implement its nondiscrimination policy in doing business with the City of Dayton as described in the City of Dayton Revised Code of General Ordinances (RCGO) Sections 35.14, 35.15 and 35.16 and that the information contained herein is true and correct.

Printed Name: Martha Hurley
Title: President
Signature:

Vendor EIN or SSN # from Application
87-2364244
City Manager’s Report

From: 2105 - City Manager’s Office Sustainability
Supplier, Vendor, Company, Individual: Johnson Controls, Inc.
Address: Attn: Luke Kopyar
4742 Payne Avenue
Dayton, Ohio 45414

Fund Source(s)             Fund Code(s)            Fund Amount(s)
Special Revenue Fund       22512-2105-1159-51   $56,352.00

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

Description

BUILDING ENERGY EFFICIENCY AUDITS AT MULTIPLE CITY FACILITIES

The Sustainability Office, in collaboration with Public Works/Property Management, requests approval to enter into a contract between the City of Dayton, Ohio, and Johnson Controls, Inc. (“Johnson Controls”). Johnson Controls will conduct a detailed building energy efficiency audit - American Society of Heating Refrigeration and Air Conditioning Engineers (ASHRAE) Level II for multiple City buildings to evaluate the existing heating, ventilation and air conditioning (HVAC), plumbing, lighting equipment, and control systems, and recommend updates to use them more efficiently. The energy audit will identify which systems are consuming the most energy, aid in prioritizing projects for energy upgrades, and identify strategies that should be utilized to maximize energy savings. This project will be funded by the Special Revenue Fund – ED-Energy Efficiency Fund (DP&L Settlement) to provide the City with recently audited prioritized facility efficiency projects in preparation for the potential federal infrastructure funding.

The term of the agreement shall be for an initial period of 12 months, commencing upon execution and ending on December 31, 2022. In accordance with the payment schedule established in the agreement, the City of Dayton will pay Johnson Controls the amount of fifty-six thousand three hundred fifty-two dollars and zero cents ($56,352.00).

The Office of Sustainability and Property Management requested these services through a Request for Proposal (RFP), which resulted in six (6) submitted proposals from various vendors. The review committee, including members from Sustainability, Civil Engineering, Police, and Facilities Management, scored and ranked the submitted responses. Although Johnson Controls, Inc was not the lowest cost bid, they received the highest scoring based on experience, ability to complete the scope of work, feedback received during reference checks, and experience with local governments on similar projects. A Certificate of Funds for $56,352.00 and a copy of the contract are attached.

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

Mark D. Charles
Division

Mayor
Department

City Manager

FORM NO. MS-16

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 10/2019
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract  Renewal Contract  Change Orders

Contract Start Date  upon execution  Expiration Date  12/31/2022

Original Commission Approval  $ 56,352.00
Initial Encumbrance  $ 56,352.00

Remaining Commission Approval  $ -

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

Amount:  $ 56,352.00

Fund Code
22512  2105  1159  51  XXXX  XXXX
Fund  Org  Acct  Prog  Act  Loc

Amount:  

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

Attach additional pages for more FOAPALs

Vendor Name:  Johnson Controls, Inc.
Vendor Address:  4742 Payne Avenue, Dayton, Ohio 45414

Federal ID:  39-0380010
Commodity Code:  30299
Purpose:  Conduct Building Energy Efficiency Audits at Multiple City Facilities and provide a prioritized list of recommendations for facility efficiency improvements projects to save the City money and reduce its energy consumption, in preparation for potential Federal Infrastructure funding

Contact Person:  Michele Simmons, x3796  City Manager's Office - Sustainability  11/1/2021

Department/Division  Date

Originating Department Director's Signature:  

SECTION II - to be completed by the Finance Department

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

Finance Director Signature  
Date  11/21/2021

CF Prepared by  
Date  11/21/2021

CF/CT Number
AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is entered into on this ___ day of ______ 2021, between the CITY OF DAYTON, OHIO ("City"), a municipal corporation in and of the State of Ohio, and JOHNSON CONTROLS, INC. ("Consultant"), 4742 Payne Avenue, Dayton, Ohio 45414.

WITNESSETH THAT:

WHEREAS, the City wishes to seek professional consulting services to conduct a detailed energy efficiency audit for multiple City buildings and to present a prioritized list of recommendations for facility efficiency improvement projects to save the City money and reduce its energy consumption; and

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

NOW THEREFORE, in consideration of the promises contained in this Agreement for Professional Services ("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 December 31, 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 FIFTY-SIX THOUSAND THREE HUNDRED AND FIFTY-TWO DOLLARS and ZERO CENTS ($56,352.00). 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. Neither party shall be liable to the other party for any indirect, consequential or punitive damages or losses; and Consultant’s liability under this Agreement shall not exceed One Million Dollars ($1,000,000).

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. Consultant shall provide 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 certificates, endorsements, and summaries of information requested related to 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. The city may distribute said documents and reports as appropriate. Contractor shall retain ownership of any underlying intellectual property and copyrights, copyright registrations, copyright applications or associated rights with such documents and reports.

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: Johnson Controls, Inc.
4742 Payne Avenue
Dayton, Ohio 45414

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.
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 AS TO FORM AND CORRECTNESS:

10/29/2021

X John Musto for
City Attorney

Signed by: Musto, John

JOHNSON CONTROLS, INC.

By: ________________________________
       Jeffrey Lee Metcalf
       Area General Manager Performance Infrastruc

Its: ________________________________

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

______________________________, 2021

Min./Bk. ___________ Pg. ___________

______________________________
Clerk of Commission
ATTACHMENT A

SCOPE OF SERVICES

Project: ENERGY EFFICIENCY AUDITS AT MULTIPLE CITY OF DAYTON FACILITIES

Consultant: Johnson Controls, Inc.

Scope of Services

1. **24-Month Utility Bill Analysis for Electricity and Natural Gas Usage and Costs:** Provide a billing analysis by month/year, and identify utility billing irregularities. Provide an overview of energy consumption by end-use, and each building rating as compared to comparable Energy Star rated buildings.
   
   a. **Energy Star Portfolio Manager Report** – Enter the data for the 24 months of utility bill information into the Energy Star Portfolio Manager or similar tool. Complete a comprehensive Energy Utilization Index (kBtu/sq.ft.) for both electricity and natural gas for each facility.
   
   b. **Energy and Facility Benchmarking** – complete a benchmark of each facility to comparable target energy usage for HVAC systems, operating hours, and age.
   
   c. **Data Management** – After entering data into a tool, present City with data that is organized based on the City of Dayton based practices for data management as mutually agreed upon by City of Dayton and Johnson Controls, Inc.

2. **Facility Walkthrough and On-Site Data Collection:** Schedule a meeting with the facility manager or designated building point of contact to discuss the buildings operational characteristics and maintenance issues. This will include such items as operational schedules, known equipment failures, preventative maintenance procedures, building envelope issues, age and conditions of the facility and other relevant considerations. (Facility Condition Assessments for selected facilities, listed in Attachment C, can be made available upon request).
   
   a. **Initial On-Site Meeting and Facility Walkthrough:** A Certified Energy Manager and/or Professional Engineer with experience in this work, will walk each facility’s infrastructure to determine current conditions and associated energy consuming components.
   
   b. **Data and Inventory Collection:**
      
      i. **HVAC Equipment** and Name Plate Data – Document in a table (where available): Motor horsepower (hp), efficiency, rpm, design rating, make, model and serial #’s for chillers, boilers, air handling units, rooftop unit, hot water and chilled water pumps, building generators, etc. Create a recommendation for the useful life expectancy and budgetary costs of replacement for each piece of equipment shall be provided.
      
      ii. **Lighting Systems** – Document a detailed count of each fixture, lamp, ballast type, and current watts per fixture and the foot-candle reading by area.
      
      iii. **Building Envelope** – The building doors, windows, and roof systems shall be analyzed to determine the current age, useful remaining life expectancy, condition, temperature, humidity, and efficiency of each component. Create a recommendation for the useful life
expectancy and budgetary costs of replacement for each piece of equipment shall be provided.

3. **Energy Conservation Opportunities:** Once the above information has been collected and analyzed, a detailed list of energy conservation and facility opportunities will be provided, such as opportunity cost, associated savings (electric, gas, oil, water, and CO2 savings). The following areas of concentration will be analyzed and reported:

   a. **HVAC Improvements** – Measures to increase the efficiency and reliability for the HVAC equipment and systems will be analyzed.
   b. **Steam Systems and Heat Recovery** - Measures to increase the efficiency and reliability for the Steam and Heat Recovery equipment and systems will be analyzed.
   c. **Lighting Upgrades** - Identify facility lighting needs using industry standards and best design practices.
   d. **Building Automation Systems** – Provide analysis the controls and HVAC systems throughout the facilities.
   e. **Building Envelope** – Identify potential window, door, and roof replacement and/or repairs, window glazing potential and potential insulation opportunities.
   f. **Exhaust Systems** – Provide review and analysis of each facility’s air distribution and exhaust systems while increasing the indoor air quality of the areas. Typical projects include demand ventilation programming and controls, dynamic air filtration systems, exhaust fan retrofits and re-sizing and optimization of exhaust system equipment, etc.
   g. **Selected Facilities** – Facilities included in this audit are listed in Attachment C.

4. **Financial Analysis (Budgetary):**

   a. **Project Cost Analysis** – provide a budgetary project cost analysis associated with each potential energy conservation opportunity.
   b. **Project Energy Savings** – provide a budgetary project energy savings (electricity, natural gas, and water/sewer) analysis associated with each potential energy conservation opportunity.
   c. **Project Operations & Maintenance Savings** – Provide the projected operations and maintenance savings associated with each energy conservation measure.
   d. **Financial Pro Forma** – Provide analyses of the projects return on investment, life cycle cost, and annual cash flow.

5. **Grant, Rebate and Tax Reduction Identification:**

   a. Identify and provide the customer with potential grants, rebates, and tax incentive programs for which the energy and facility improvement opportunities would qualify. Include local, state, and federal programs.

6. **Facility Analysis and Energy Audit Report:**

   a. **Written Report** – Provide a comprehensive written report detailing the results of the Facility Energy Audit detailed in Sections 1 - 5.
      i. **A prioritized recommendation list.** List the specific recommendations by location (building, floor, and room), with largest cost savings prioritized first.
ii. **Identify operational considerations.** Include recommendations for modifications to system controls and building automation.

iii. **Capital Improvements.** Identify all Boiler, HVAC, Plumbing, and Lighting upgrades with existing and proposed system details.

iv. **Describe the type of Energy Efficiency/Conservation Measures.** Include no-cost and low-cost measures. List future energy considerations.

v. **Data-** All data collected from the energy audit should be given to the City following the audit. The data given to the City should follow the City’s best practices for data management as mutually agreed upon by City of Dayton and Johnson Controls. Vendors may also explore unique and innovative solutions.

b. **Verbal Presentation** (face to face) – Review the report and answer any questions regarding the report with the City of Dayton and/or representatives.

7. **End Deliverables:**

a. The audit deliverable should consist of an executive summary, a list of recommendations for improvements, and performance metrics.

b. The deliverable list should identify what is currently existing (ie. type and number of specific lighting and year and model of HVAC system) and what is recommended per each building, floor, and room number (where appropriate).

c. The recommendations should include a summary table which outlines, at a minimum, the energy savings, investment costs, simple payback, and return on investment.

d. A priority list (preferably in a table) of what projects the City of Dayton should prioritize first to see the most cost savings over the next 5-10 years, and identify strategies that can be utilized to maximize cost savings and reduce energy consumption over the next 15-20 years.
ATTACHMENT B

COMPENSATION AND SCHEDULE OF VALUES

Project: ENERGY EFFICIENCY AUDITS AT MULTIPLE CITY OF DAYTON FACILITIES

Consultant: Johnson Controls, Inc.

I. COMPENSATION

Johnson Controls, Inc. will perform the services described for a price not to exceed $56,352.00. The City will pay Johnson Controls to perform a detailed building energy efficiency audit – Heating Refrigeration Ventilation and air conditioning (HVAC), plumbing, lighting equipment, and control systems; and provide a detailed report with recommended updates to increase system operating efficiency. The energy audit will identify which systems are consuming the most energy, aid in prioritizing projects for energy upgrades, and identify strategies that should be utilized to maximize energy savings for the facilities outlined in this RFP. This will be payable upon delivery of the completed analysis to the City’s team.

Upon the project’s satisfactory completion and delivery of an executive summary, the list of recommendations for improvements, and performance metrics, which corresponds to each item listed (See Attachment A, Item #7, End Deliverable), the City will approve the payment. Johnson Controls, Inc. will not be allowed to exceed the estimated 24 weeks and current budget of $56,352.00 unless negotiated separately.

Any additional services or expenses will be negotiated separately. Additional services that require additional payment above that stated herein will require prior written approval by both the City of Dayton and Johnson Controls, Inc. through an amendment to this Agreement for Professional Services.

II. PROPOSED STUDY TIMELINE

Timeline below is subject to modification upon agreement of both parties.

<table>
<thead>
<tr>
<th>Preliminary Development Plan and Timeline Overview</th>
<th>Date/Duration</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Milestone</strong></td>
<td><strong>Tasks</strong></td>
<td><strong>Purpose</strong></td>
</tr>
<tr>
<td>RFP Response</td>
<td>Johnson Controls submits Response to RFP</td>
<td>8/18/2021</td>
</tr>
<tr>
<td>Finalist</td>
<td>Board approves finalist</td>
<td>TBD</td>
</tr>
<tr>
<td>Award</td>
<td>Board notifies the successful respondent</td>
<td>TBD</td>
</tr>
<tr>
<td>Contract Negotiation</td>
<td>The City and Johnson Controls come to an agreement on the scope and terms of the contract to move forward</td>
<td>2 weeks</td>
</tr>
<tr>
<td>Contract Signing</td>
<td>Execution of the contract between Johnson Controls and the City</td>
<td>TBD</td>
</tr>
</tbody>
</table>
| Kick-off Workshop                                 | Workshop to introduce the Johnson Controls team to the City and determine the following: 
  - Surveying plans  
  - Scheduling requirements  
  - City’s point of contact | 1 week following contract signing | Objective of this meeting would be to introduce the team and determine the framework for the study |
<table>
<thead>
<tr>
<th>Task Description</th>
<th>Timeframe</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design Meeting (Will be combined with kick-off or separate)</td>
<td>1 week following contract signing</td>
<td>Provide knowledge to the City of the options available for them and to begin to set the framework for the analysis</td>
</tr>
<tr>
<td>Data Collection</td>
<td>2 to 3 weeks</td>
<td>Determine the utility baseline for savings comparison and set plan for surveying</td>
</tr>
<tr>
<td>Facility Assessments</td>
<td>4 to 5 weeks</td>
<td>Determine the condition of the facilities and their support equipment. This will include HVAC systems, lighting, parking, building envelope, electrical systems, etc.</td>
</tr>
<tr>
<td>Update Meetings</td>
<td>Quarterly and timely to be determined based upon analysis progress and needs</td>
<td>Ensure the analysis is on track to meet the goals for the City</td>
</tr>
<tr>
<td>Scope Development</td>
<td>6 to 8 weeks</td>
<td>Determine the recommendations of the study. Update meetings with the City to occur during this time</td>
</tr>
<tr>
<td>Utility Analysis and Savings Development</td>
<td>Included in the scope development timeline above</td>
<td>Identify the potential savings to be used in the financial analysis</td>
</tr>
<tr>
<td>Recommendation Modeling</td>
<td>Included in the scope development timeline above</td>
<td>Provision of the necessary information for scope evaluation and determination of final recommendation</td>
</tr>
<tr>
<td>Construction Timeline</td>
<td>Included in the scope development timeline above</td>
<td>Projection of implementation timing to allow for City planning</td>
</tr>
<tr>
<td>Financial Workshop 1</td>
<td>TEO</td>
<td>Review of the financial impact for the study, recommendation and gain direction from the City for study results</td>
</tr>
<tr>
<td>Financial Workshop 2</td>
<td>2 to 22 weeks following contract signing</td>
<td>Present the analysis results to the City team</td>
</tr>
<tr>
<td>Analysis Results Review</td>
<td>2 to 22 weeks following contract signing</td>
<td>Review the results of the analysis and determine the format to allow for presentation to the City</td>
</tr>
<tr>
<td>Analysis Completion</td>
<td>1 to 2 weeks</td>
<td>Provide a complete analysis for City's team use. We will also be available to assist in presenting this to Council if desired</td>
</tr>
</tbody>
</table>
ATTACHMENT C
BUILDING ENERGY EFFICIENCY AUDIT – ADDRESS LIST

Project: ENERGY EFFICIENCY AUDITS AT MULTIPLE CITY OF DAYTON FACILITIES
Consultant: Johnson Controls, Inc.

<table>
<thead>
<tr>
<th>City of Dayton Building Energy Audit</th>
<th>Building Address</th>
<th>Bldg. SF</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Hall</td>
<td>101 W. Third St.</td>
<td>152,000</td>
</tr>
<tr>
<td>Community Golf Course</td>
<td>2917 Berkely St.</td>
<td></td>
</tr>
<tr>
<td>CPOD (5th District) Police District</td>
<td>248 Salem Avenue</td>
<td>8,200</td>
</tr>
<tr>
<td>EPOD (1st N) Police District</td>
<td>413, 415, 417 E. Helena Street</td>
<td>17,000</td>
</tr>
<tr>
<td>EPOD S. 2nd (S) Police District</td>
<td>2721 Wayne Avenue</td>
<td>7,000</td>
</tr>
<tr>
<td>Fire Headquarters</td>
<td>300 N. Main</td>
<td></td>
</tr>
<tr>
<td>Fleet Management, Building #7</td>
<td>1010 Ottawa Street</td>
<td>50,000</td>
</tr>
<tr>
<td>Greater Dayton Recreation Center</td>
<td>2021 W. Third St.</td>
<td>42,256</td>
</tr>
<tr>
<td>Lohrey Recreation Center</td>
<td>2366 Glenarm Ave.</td>
<td>33,035</td>
</tr>
<tr>
<td>Northwest Recreation Center</td>
<td>1600 Princeton</td>
<td>43,667</td>
</tr>
<tr>
<td>One Stop Center</td>
<td>371 W. Second St.</td>
<td>67,000</td>
</tr>
<tr>
<td>Paul Lawrence Dunbar Maintenance</td>
<td>325 N. Paul L. Dunbar St.</td>
<td>33,984</td>
</tr>
<tr>
<td>Police Academy</td>
<td>3237 Guthrie Road</td>
<td>13,000</td>
</tr>
<tr>
<td>Safety Building</td>
<td>335 W. Third St.</td>
<td>88,000</td>
</tr>
<tr>
<td>Signal Building</td>
<td>15 E. Monument</td>
<td></td>
</tr>
<tr>
<td>Street Maintenance, Building 4</td>
<td>911 E. Monument</td>
<td>47,656</td>
</tr>
<tr>
<td>Waste Collection, Building 14</td>
<td>1101 Monument</td>
<td>9,000</td>
</tr>
<tr>
<td>Wegerzyn Garden / Riverbend Art Center</td>
<td>1301 E. Siebenthaler Rd.</td>
<td></td>
</tr>
</tbody>
</table>
City Manager’s Report

From: 5610 - Human Resources
Supplier, Vendor, Company, Individual
Name: MedBill Management, LLC
Address: 300 Gleed Avenue
East Aurora, NY 14052

Date: November 10, 2021
Expense Type: Service Agreement
Total Amount: $29,164.00 through May 31, 2022

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claims Administration Fund</td>
<td>65000-5610-1159-62</td>
<td>$29,164.00</td>
</tr>
</tbody>
</table>

Includes Revenue to the City: [ ] Yes [ ] No
Affirmative Action Program: [X] Yes [ ] No [ ] N/A

Description

Health Insurance Eligibility Audit

The Department of Human Resources requests permission to enter into a professional services agreement between the City of Dayton ("City") and MedBill Management, LLC ("MedBill"). MedBill will perform an independent audit of City employees’ dependents who are covered under the City’s Anthem Health Insurance Plan. The total projected cost for this agreement is $29,164.00.

The contract will be for the period from execution of the agreement through May 31, 2022.

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

A Certificate of Funds is attached.

This project is funded by the Claims Administration Fund.

Signatures/Approval

Division: [Blank]
Department: [Blank]
City Manager: [Blank]

Approved by City Commission

Clerk

FORM NO. MS-16

Updated 10/2021
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>x</th>
<th>New Contract</th>
<th>_____</th>
<th>Renewal Contract</th>
<th>_____</th>
<th>Change Order</th>
<th>_____</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>05/31/22</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$29,164.00</td>
<td>x</td>
<td>Initial City Manager's Report</td>
<td></td>
<td>x</td>
<td>Initial Certificate of Funds</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$29,164.00</td>
<td>x</td>
<td>Initial Agreement/Contract</td>
<td></td>
<td>x</td>
<td>Copy of City Manager's Report</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$</td>
<td>-</td>
<td>Copy of Original Certificate of Funds</td>
<td></td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Original CT/CF</td>
<td>$</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td>$</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td>$</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Amount: $29,164.00 FOR 2022

Fund Code 65000 - 5610 - 1159 - 62 - XXX - XXXX

Fund 65000 Org 5610 Acct 1159 Prog 62 Act XXX Loc XXXX

Amount: __________

Fund Code XXXXX - XXXX - XXXX - XX - XXX - XXXX

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

Attach additional pages for more FOAPALs

Vendor Name: MedBill Management, LLC

Vendor Address: 300 Gleed Ave. East Aurora NY 14052

Street City State Zipcode + 4

Federal ID: 14-1977904

Commodity Code: 94620

Purpose: Dependent audit of the dependents on the City's Anthem Health Insurance Plan.

Contact Person: Danielle Mattson x4063

Human Resources 10/26/2021

Department/Division Date

Originating Department Director's Signature:

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: [Signature]

Date: [Date]

CF Prepared by: [Signature]

Date: [Date]

CF/CT Number: [Number]

October 18, 201
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT for professional services is made and entered into at Dayton, Ohio, on this ______ day of ___________ 2021, by and between the City of Dayton, Ohio, 101 West Third Street, Dayton Ohio 45402, hereinafter referred to as the "City", and MedBill Management, LLC, 300 Gleed Avenue, East Aurora, NY 14052, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, City is desirous of verifying the eligibility status of dependents enrolled in the City Health Insurance plan; and

WHEREAS, the Contractor is qualified, experienced and willing to perform such dependent eligibility verification services; and

WHEREAS, the City desires to engage Contractor to perform such services, and Contractor agrees to perform such services as described herein in the attached Exhibit A, Scope of Work.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements hereinafter set forth, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE ONE: THE WORK

The Contractor agrees to audit approximately 1,059 employees who are providing coverage to at least one dependent through the City's Health Insurance Plan. The Contractor will complete the process via direct, two-way correspondence with Plan participants combined with electronic and manual data analysis to confirm enrollment facts to identify ineligible Plan participants and gaps in the eligibility information between the City's HR/Payroll system and Anthem's enrollment database. The Contractor will also engage in processes to verify and confirm eligibility of spouses covered under the City's Health Insurance Plan. The services to be performed are more fully described in attached Exhibit A, Scope of Work.

ARTICLE TWO: SCHEDULE OF PAYMENTS

A. Fee. The City agrees to pay, a sum not to exceed Twenty-Nine Thousand One Hundred Sixty-Four Dollars and Zero Cents ($29,164.00) for the services provided pursuant to this Agreement, provided that the number of dependent eligibility verifications performed does not exceed 1,111 employees. If the number of dependent eligibility verifications performed increases by 5% to 1,111
employees, the City agrees to pay $18 per additional employee above 1,111. The City agrees to pay half of the total fee to Contractor at time of the last signature approving this Agreement, with the balance due upon completion and delivery of the Final Report of Findings.

B. Return on Investment Guarantee.

The Contractor will guarantee that the first-year savings from removing ineligible dependents and performing spousal “carve-out” compliance will exceed the project fees by more than three times. Accordingly, if fewer than twenty-two dependents are identified for removal based upon non-compliance with project requirements, Contractor will refund the City the remaining amount necessary to make the project cost-neutral.

C. Response Rate Guarantee.

Contractor guarantees at least a 97% employee response rate, provided they are given sufficient employee contact and status information. If this performance standard is not met, Contractor will refund the City 5% of the project fee.

ARTICLE THREE: TERM

This Agreement shall take effect on the date it is fully executed by both parties and shall terminate on May 31, 2022, or at such time as all obligations and duties hereunder are discharged, whichever date occurs first.

ARTICLE FOUR: CONFLICT OF INTEREST

This Agreement in no way precludes, prevents, or restricts the Contractor from obtaining and working under an additional contractual arrangement(s) with other parties aside from the City, assuming that such other contractual work in no way impedes the Contractor’s ability to perform the services required under this Agreement. The Contractor hereby represents, warrants and agrees that at the time of entering into this Agreement, it has no interest in, nor shall it acquire any interest, direct or indirect, in any agreement which will impede its ability to perform the required services under this Agreement.

ARTICLE FIVE: ASSIGNMENTS
The parties expressly agree that this Agreement shall not be assigned by the Contractor without the prior written approval of the City, which approval may be withheld in the sole discretion of the City.

ARTICLE SIX: GOVERNING LAW

This Agreement and any modifications, amendments, or alterations, shall be governed, construed, and enforced under the laws of the State of Ohio.

ARTICLE SEVEN: INTEGRATION AND MODIFICATION

This instrument embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and, this Agreement shall supersede all previous communications, representations or agreements, either written or oral, between the parties to this Agreement. Also, this Agreement shall not be modified in any manner except by an instrument, in writing, executed by the parties to this Agreement.

ARTICLE EIGHT: SEVERABILITY

If any term or provision of this Agreement or the application thereof to any entity, person or circumstance shall, to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to entities, persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE NINE: TERMINATION

This Agreement may be terminated by either party only upon notice, in writing, to the other party no later than at least thirty (30) days in advance of the effective date of the termination. The City may also terminate this Agreement in the event that the City is of the opinion that the Contractor is carrying out the terms of this Agreement in an unreasonable, unprofessional, or unworkmanlike manner. Said termination for this particular reason shall occur upon the provision of a written notice of termination to the Contractor at least thirty (30) calendar days in advance of the date of the proposed termination, stating in the termination notice the reason for said termination. The City will allow the
Contractor to cure the reason for the termination provided the cure of the reason is accomplished within thirty (30) days of the date of the forwarding of the termination notice. If not cured a reasonable phase-out schedule, and pro-rated fee based upon percentage of the work completed, will be jointly determined. The parties further agree that should the Contractor become unable for any reason to complete the work called for by virtue of this Agreement, that to the extent applicable, such work as the Contractor has completed upon the date of its inability to continue the terms of this Agreement shall become the property of the City, and further the City shall not be liable to tender and/or pay to the Contractor any further compensation after the date of the Contractor's inability to complete the terms hereof, which date shall be the date of termination unless extended by the City. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Contractor; and the City may withhold any compensation to the Contractor for the purpose of set-off until such time as the amount of damages due the City from the Contractor is agreed upon or otherwise determined.

**ARTICLE TEN: COMPLIANCE**

The Contractor agrees to comply with all applicable federal, state, and local laws in the conduct of Work hereunder. The Contractor accepts full responsibility for payment of all unemployment compensation insurance premiums, worker’s compensation premiums, all income tax deductions, pension deductions, prevailing wages, if applicable, and any and all other taxes or payroll deductions required for the Contractor and all employees engaged by the Contractor for the performance of the work authorized by this Agreement.

**ARTICLE ELEVEN: PERFORMANCE AND DISCIPLINE**

Unless otherwise provided in this Agreement or the exhibits attached hereto, the Contractor shall provide and pay for, to the extent applicable, all labor, materials, equipment, and transportation necessary for proper execution and completion of the Work. The Contractor shall enforce strict discipline and good order among the Contractor’s employees and other persons carrying out this Agreement. The Contractor shall not permit employment of persons not skilled in tasks assigned to
them. The Contractor shall perform all Work in a reasonable, professional and workmanlike manner and all Work shall be of at least the quality provided for in this Agreement.

ARTICLE TWELVE: DAMAGE AND LOSS

The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required elsewhere in this Agreement) to property caused in whole or in part by the Contractor, a subcontractor of any tier, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under this Article except damage or loss attributable to acts or omissions of the City or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's other obligations hereunder.

ARTICLE THIRTEEN: BUSINESS ASSOCIATE AGREEMENT

Under the terms of the Health Insurance Portability and Accountability Act (HIPAA), Contractor will function as a Business Associate to the City. A Business Associate Agreement, containing the duties and responsibilities of the parties, is attached hereto as Exhibit B and is incorporated by reference, and is to be executed by the parties.

ARTICLE FOURTEEN: NON-DISCRIMINATION

During the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, ancestry, place of birth, marital status, handicap, age, or political belief. The Contractor will ensure that applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, ancestry, place of birth, marital status, handicap, age, or political belief. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and
selection for training, including apprenticeship. It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton, Ohio constitutes a material condition of this Agreement as fully as if specifically rewritten herein and that failure of Contractor to comply therewith shall constitute a breach entitling City, at its option, to terminate this Agreement.

The Contractor agrees not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this Agreement, or in reference to any contractors or subcontractors of said Contractor.

ARTICLE FIFTEEN: INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall protect, defend, indemnify and hold free and harmless the City, and the elected officials of the City of Dayton, Ohio, and shall protect, defend, indemnify and hold free and harmless any officers, employees, successors, administrators assigns or agents of same from and against any and all claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities and expenses of any kind, including but not limited to attorney fees, arising out of or resulting from any acts or omissions of the Contractor, its officers, employees, consultants, agents, subcontractors of any tier, successors, assigns or administrators, negligent or otherwise, and regardless of whether such claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities or expenses are caused in part by any party indemnified hereunder. The Contractor agrees to be responsible for the payment of all damages, settlements, costs and expenses of any kind, including attorney's fees, incurred by the City while the City defends or pursues any action, cause of action, or claim which arises out the aforementioned acts or omissions. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Article.

In claims against any person or entity indemnified under this Article by an employee of the Contractor, a subcontractor of any tier, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under this Article shall not be limited by a
limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or any such subcontractor of any tier, under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE SIXTEEN: RELATIONSHIP

Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership, association or joint venture with the Contractor in the conduct of the provisions of this Agreement. The Contractor shall at all times have the status of an independent contractor without the right or authority to impose tort, contractual or any other liability on the City.

ARTICLE SEVENTEEN: POLITICAL CONTRIBUTIONS

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

ARTICLE EIGHTEEN: OPERS

Contractor understands and agrees that none of its employees are public employees employed by the City of Dayton entitling them to participate in the Ohio Public Employees Retirement System (OPERS) and also agrees that none of its employees will make a claim for benefits from OPERS as a result of performing under this Agreement.

ARTICLE NINETEEN: INSURANCE

The Contractor agrees to maintain, at its own expense, with an insurance company authorized to do business in the State of Ohio and having at least an “A” rating from A.M. Best, the following insurance:

General Liability Insurance, with a combined single limit of one million dollars ($1,000,000) per occurrence and one million dollars ($1,000,000) in the aggregate. Said policy shall name the City of Dayton, Ohio, its elected officials, officers, agents, and employees as additional insureds.

All policy/policies of insurance to be maintained by Contractor pursuant to this Agreement shall
provide that said insurance may not be cancelled or terminated without thirty (30) days prior written notice to the City. Upon execution of this Agreement, the Contractor shall furnish the City with a copy of such certificates of insurance demonstrating compliance with this Section. Contractor shall also provide, upon the City's request, complete copies of any insurance policies required hereunder. The City's examination of, or failure to request or demand any evidence of insurance required hereunder, will not constitute a waiver of any requirement of this Article, and the existence of any insurance will not limit the Contractor's obligations under this Agreement.

The Contractor shall take out and maintain during the life of this Agreement Workers' Compensation Insurance for its employees and shall furnish a certificate of Workers' Compensation Insurance for its employees before the execution of this Agreement. No contract between the City and the Contractor shall be created hereby or otherwise exist until a fully executed copy thereof has been served upon the City.

ARTICLE TWENTY: NOTICES

Any notices required or authorized to be given shall be deemed to be given when mailed by certified or registered mail, postage prepaid, as follows: if to the City, to the City's address as shown on the face of this Agreement; if to the Contractor, to the Contractor's address as shown on the face of this Agreement.

ARTICLE TWENTY-ONE: HEADINGS

Numbered topical headings, articles, paragraphs, subparagraphs or titles in this Agreement are inserted for the convenience of organization and reference and are not intended to affect the interpretation or construction of the terms thereof.

ARTICLE TWENTY-TWO: AUTHORITY TO BIND PRINCIPAL

Signatures hereon shall act as express representations that the signing agents are authorized to bind their respective principals to all rights, duties, remedies, obligations and responsibilities incurred by way of this Agreement.
IN WITNESS WHEREOF, the parties have hereunto set their hands this ___ day of ______ 2021.

THE CITY OF DAYTON, OHIO

__________________________
City Manager

MedBill Management, LLC

By _______________________

Print: _____________________

Its: _______________________

APPROVED AS TO FORM
AND CORRECTNESS

_______________________
City Attorney

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

________________________, 2021

Min./Bk. _______ Pg. _______

_________________________
Clerk of Commission
EXHIBIT A

SCOPE OF SERVICES

Contractor will schedule a teleconference with City representatives at project onset to discuss the following:

- City’s eligibility rules to ensure an understanding of requirements (ex. non-biological children, legally separated, etc.)
- How best to communicate to covered employees the intent and reason for conducting a Dependent Eligibility Verification project.
- Acceptable documentation to substantiate dependent eligibility such as marriage license and/or certificate, first page or IRS 1040, birth certificates, child support orders, etc.
- Consequences for failure to provide supporting documentation as required.

Contractor will perform project set-up and Enrollment Database Reconciliation to include:

- Obtain files from the City’s HR/Payroll system and/or Anthem of employees enrolled in the Plan, including spouse/dependent records and Cobra data.
- Analyze enrollment databases, identify, and reconcile inconsistencies.
- The Eligibility Verification forms will be pre-populated with enrollment data. Test forms will be produced for approval by City representatives prior to the release to employees.

The Contractor will provide a Call Center to handle in-bound calls from employees and outbound calls to resolve questions and assist employees with compliance.

- The Call Center will answer incoming employee questions on the process, timing, verification form and documentation requested.
- The Contractor will track and verify information received in the project, and track calls received by the Call Center.

The Contractor will prepare initial mailing for employees with covered spouse and/or child(ren).

The Contractor will mail the forms requesting documentation to verify the dependents meet the Plan’s eligibility requirements.

The Contractor will provide each household with instructions to use the postal paid envelope, or electronically upload system or fax or email in order to return required form and documents.

The Contractor will mail one reminder to employees who do not initially return documents.

The Contractor will follow-up with non-respondents as applicable via email, phone, supervisor contact, etc. to encourage timely submission of eligibility-related documentation.

The contractor will receive undelivered mail and deploys various methods including working with City Representatives to resolve the incorrect information and remail.

The Contractor will establish routine project calls and meetings with City Representatives to provide with projects status and review of dependent removal cases.

The Contractor will verify the information and input responses into a database.

The Contractor will prepare ongoing and final reports detailing project results and submit them along with information that was changed and/or corrected to the City.

Contractor commits not to share demographic, or any other information collected for dependent verification purposes with any other vendor. The Contractor must maintain the confidentiality of all personal health information as required by HIPPA at all times.
EXHIBIT B
BUSINESS ASSOCIATE AGREEMENT

Introduction
This Business Associate Agreement ("Agreement") is effective as of the last date signed below ("Effective Date") and is made between City of Dayton ("Covered Entity") and MedBill Management LLC ("Business Associate"). This Agreement is the integration of the Parties' understandings as to the use and disclosure of Protected Health Information in accordance with HIPAA Rules and other related regulations.

Definitions
Catch-all definition:
The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, Use and Privacy Rule.

Specific definitions:
(a) Business Associate. "Business Associate" shall generally have the same meaning as the term “business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean MedBill Management LLC.

(b) Covered Entity. "Covered Entity" shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean City of Dayton.

(c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160, 162 and 164.

Obligations and Activities of Business Associate
Business Associate agrees to:
(a) Not use or disclose Protected Health Information other than as permitted or required by the Agreement or as required by law;

(b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent use or disclosure of Protected Health Information other than as provided for by the Agreement;

(c) Report promptly to Covered Entity any use or disclosure of Protected Health Information not provided for by the Agreement of which it becomes aware, including breaches of unsecured Protected Health Information as required at 45 CFR 164.410, and any security incident of which it becomes aware;

(d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;

(e) Make available Protected Health Information in a Designated Record Set to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.524;

(f) Make any amendment(s) to Protected Health Information in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526;
(g) Maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.528;

(h) To the extent the Business Associate is to carry out one or more of Covered Entity’s obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and

(i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

Permitted Uses and Disclosures by Business Associate
Business Associate may use or disclose Protected Health Information as necessary to perform the functions, activities, or services for, or on behalf of, Covered Entity as set forth in Service Agreement, provided that such use or disclosure does not violate Subpart E of 45 CFR Part 164 if done by Covered Entity, or the Covered Entity’s minimum necessary policies and procedures.

Obligations of Covered Entity to Inform Business Associate of Privacy Practices and Restrictions
Covered Entity shall notify Business Associate of:
(a) Any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect Business Associate’s use or disclosure of Protected Health Information.

(b) Any changes in, or revocation of, the permission by an Individual to use or disclose his or her Protected Health Information, to the extent that such changes may affect Business Associate’s use or disclosure of Protected Health Information.

(c) Any restriction on the use or disclosure of Protected Health Information that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate’s use or disclosure of Protected Health Information.

Term and Termination
(a) Term. The Term of this Agreement shall be effective as of the Effective Date, and shall terminate when the Business Associate and Covered Entity no longer have a service provider relationship, or on the date the Covered Entity terminates for cause as authorized in paragraph (b) of this section, whichever is sooner.

(b) Termination for Cause. Business Associate authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the Agreement and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity.

(c) Obligations of Business Associate upon Termination. Upon termination of this Agreement for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of covered entity, shall:

1. Retain only that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;

2. Return to Covered Entity or, if agreed to by Covered Entity, securely destroy the remaining Protected Health Information that the Business Associate still maintains in any form;

3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this section, for as long as Business Associate retains the Protected Health Information;
4. Not use or disclose the Protected Health Information retained by Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions set out in “Permitted Uses and Disclosures By Business Associate” section above, which applied prior to termination; and

5. Return to Covered Entity or, if agreed to by Covered Entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

(d) **Survival.** The obligations of Business Associate under this Section shall survive the termination of this Agreement.

**Miscellaneous**

(a) **Regulatory References.** A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

(b) **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

(c) **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

(d) **Contact Information.** All notices and requests to Business Associate required under this Agreement shall be made to:

MedBill Management LLC  
300 Gleed Avenue  
East Aurora, NY 14052  
Attn: Michael P. Tehan

City of Dayton

[Redacted]
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT for professional services is made and entered into at Dayton, Ohio, on this __________ day of __________ 2021, by and between the City of Dayton, Ohio, 101 West Third Street, Dayton Ohio 45402, hereinafter referred to as the "City", and MedBill Management, LLC, 300 Gleed Avenue, East Aurora, NY 14052, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, City is desirous of verifying the eligibility status of dependents enrolled in the City Health Insurance plan; and

WHEREAS, the Contractor is qualified, experienced and willing to perform such dependent eligibility verification services; and

WHEREAS, the City desires to engage Contractor to perform such services, and Contractor agrees to perform such services as described herein in the attached Exhibit A, Scope of Work.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements hereinafter set forth, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE ONE: THE WORK

The Contractor agrees to audit approximately 1,059 employees who are providing coverage to at least one dependent through the City’s Health Insurance Plan. The Contractor will complete the process via direct, two-way correspondence with Plan participants combined with electronic and manual data analysis to confirm enrollment facts to identify ineligible Plan participants and gaps in the eligibility information between the City’s HR/Payroll system and Anthem’s enrollment database. The Contractor will also engage in processes to verify and confirm eligibility of spouses covered under the City’s Health Insurance Plan. The services to be performed are more fully described in attached Exhibit A, Scope of Work.

ARTICLE TWO: SCHEDULE OF PAYMENTS

A. Fee. The City agrees to pay, a sum not to exceed Twenty-Nine Thousand One Hundred Sixty-Four Dollars and Zero Cents ($29,164.00) for the services provided pursuant to this Agreement, provided that the number of dependent eligibility verifications performed does not exceed 1,111 employees. If the number of dependent eligibility verifications performed increases by 5% to 1,111
employees, the City agrees to pay $18 per additional employee above 1,111. The City agrees to pay half of the total fee to Contractor at time of the last signature approving this Agreement, with the balance due upon completion and delivery of the Final Report of Findings.

B. **Return on Investment Guarantee.**

The Contractor will guarantee that the first-year savings from removing ineligible dependents and performing spousal “carve-out” compliance will exceed the project fees by more than three times. Accordingly, if fewer than twenty-two dependents are identified for removal based upon non-compliance with project requirements, Contractor will refund the City the remaining amount necessary to make the project cost-neutral.

C. **Response Rate Guarantee.**

Contractor guarantees at least a 97% employee response rate, provided they are given sufficient employee contact and status information. If this performance standard is not met, Contractor will refund the City 5% of the project fee.

**ARTICLE THREE: TERM**

This Agreement shall take effect on the date it is fully executed by both parties and shall terminate on May 31, 2022, or at such time as all obligations and duties hereunder are discharged, whichever date occurs first.

**ARTICLE FOUR: CONFLICT OF INTEREST**

This Agreement in no way precludes, prevents, or restricts the Contractor from obtaining and working under an additional contractual arrangement(s) with other parties aside from the City, assuming that such other contractual work in no way impedes the Contractor's ability to perform the services required under this Agreement. The Contractor hereby represents, warrants and agrees that at the time of entering into this Agreement, it has no interest in, nor shall it acquire any interest, direct or indirect, in any agreement which will impede its ability to perform the required services under this Agreement.

**ARTICLE FIVE: ASSIGNMENTS**
The parties expressly agree that this Agreement shall not be assigned by the Contractor without the prior written approval of the City, which approval may be withheld in the sole discretion of the City.

**ARTICLE SIX: GOVERNING LAW**

This Agreement and any modifications, amendments, or alterations, shall be governed, construed, and enforced under the laws of the State of Ohio.

**ARTICLE SEVEN: INTEGRATION AND MODIFICATION**

This instrument embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and, this Agreement shall supersede all previous communications, representations or agreements, either written or oral, between the parties to this Agreement. Also, this Agreement shall not be modified in any manner except by an instrument, in writing, executed by the parties to this Agreement.

**ARTICLE EIGHT: SEVERABILITY**

If any term or provision of this Agreement or the application thereof to any entity, person or circumstance shall, to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to entities, persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**ARTICLE NINE: TERMINATION**

This Agreement may be terminated by either party only upon notice, in writing, to the other party no later than at least thirty (30) days in advance of the effective date of the termination. The City may also terminate this Agreement in the event that the City is of the opinion that the Contractor is carrying out the terms of this Agreement in an unreasonable, unprofessional, or unworkmanlike manner. Said termination for this particular reason shall occur upon the provision of a written notice of termination to the Contractor at least thirty (30) calendar days in advance of the date of the proposed termination, stating in the termination notice the reason for said termination. The City will allow the
Contractor to cure the reason for the termination provided the cure of the reason is accomplished within thirty (30) days of the date of the forwarding of the termination notice. If not cured a reasonable phase-out schedule, and pro-rated fee based upon percentage of the work completed, will be jointly determined. The parties further agree that should the Contractor become unable for any reason to complete the work called for by virtue of this Agreement, that to the extent applicable, such work as the Contractor has completed upon the date of its inability to continue the terms of this Agreement shall become the property of the City, and further the City shall not be liable to tender and/or pay to the Contractor any further compensation after the date of the Contractor's inability to complete the terms hereof, which date shall be the date of termination unless extended by the City. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Contractor; and the City may withhold any compensation to the Contractor for the purpose of set-off until such time as the amount of damages due the City from the Contractor is agreed upon or otherwise determined.

ARTICLE TEN: COMPLIANCE

The Contractor agrees to comply with all applicable federal, state, and local laws in the conduct of Work hereunder. The Contractor accepts full responsibility for payment of all unemployment compensation insurance premiums, worker's compensation premiums, all income tax deductions, pension deductions, prevailing wages, if applicable, and any and all other taxes or payroll deductions required for the Contractor and all employees engaged by the Contractor for the performance of the work authorized by this Agreement.

ARTICLE ELEVEN: PERFORMANCE AND DISCIPLINE

Unless otherwise provided in this Agreement or the exhibits attached hereto, the Contractor shall provide and pay for, to the extent applicable, all labor, materials, equipment, and transportation necessary for proper execution and completion of the Work. The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out this Agreement. The Contractor shall not permit employment of persons not skilled in tasks assigned to
the. The Contractor shall perform all Work in a reasonable, professional and workmanlike manner and all Work shall be of at least the quality provided for in this Agreement.

ARTICLE TWELVE: DAMAGE AND LOSS

The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required elsewhere in this Agreement) to property caused in whole or in part by the Contractor, a subcontractor of any tier, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under this Article except damage or loss attributable to acts or omissions of the City or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor’s other obligations hereunder.

ARTICLE THIRTEEN: BUSINESS ASSOCIATE AGREEMENT

Under the terms of the Health Insurance Portability and Accountability Act (HIPAA), Contractor will function as a Business Associate to the City. A Business Associate Agreement, containing the duties and responsibilities of the parties, is attached hereto as Exhibit B and is incorporated by reference, and is to be executed by the parties.

ARTICLE FOURTEEN: NON-DISCRIMINATION

During the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, ancestry, place of birth, marital status, handicap, age, or political belief. The Contractor will ensure that applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, ancestry, place of birth, marital status, handicap, age, or political belief. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and
selection for training, including apprenticeship. It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton, Ohio constitutes a material condition of this Agreement as fully as if specifically rewritten herein and that failure of Contractor to comply therewith shall constitute a breach entitling City, at its option, to terminate this Agreement.

The Contractor agrees not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this Agreement, or in reference to any contractors or subcontractors of said Contractor.

**ARTICLE FIFTEEN: INDEMNIFICATION**

To the fullest extent permitted by law, the Contractor shall protect, defend, indemnify and hold free and harmless the City, and the elected officials of the City of Dayton, Ohio, and shall protect, defend, indemnify and hold free and harmless any officers, employees, successors, administrators assigns or agents of same from and against any and all claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities and expenses of any kind, including but not limited to attorney fees, arising out of or resulting from any acts or omissions of the Contractor, its officers, employees, consultants, agents, subcontractors of any tier, successors, assigns or administrators, negligent or otherwise, and regardless of whether such claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities or expenses are caused in part by any party indemnified hereunder. The Contractor agrees to be responsible for the payment of all damages, settlements, costs and expenses of any kind, including attorney’s fees, incurred by the City while the City defends or pursues any action, cause of action, or claim which arises out the aforementioned acts or omissions. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Article.

In claims against any person or entity indemnified under this Article by an employee of the Contractor, a subcontractor of any tier, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under this Article shall not be limited by a
limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or any such subcontractor of any tier, under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE SIXTEEN: RELATIONSHIP

Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership, association or joint venture with the Contractor in the conduct of the provisions of this Agreement. The Contractor shall at all times have the status of an independent contractor without the right or authority to impose tort, contractual or any other liability on the City.

ARTICLE SEVENTEEN: POLITICAL CONTRIBUTIONS

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

ARTICLE EIGHTEEN: OPERS

Contractor understands and agrees that none of its employees are public employees employed by the City of Dayton entitling them to participate in the Ohio Public Employees Retirement System (OPERS) and also agrees that none of its employees will make a claim for benefits from OPERS as a result of performing under this Agreement.

ARTICLE NINETEEN: INSURANCE

The Contractor agrees to maintain, at its own expense, with an insurance company authorized to do business in the State of Ohio and having at least an “A” rating from A.M. Best, the following insurance:

General Liability Insurance, with a combined single limit of one million dollars ($1,000,000) per occurrence and one million dollars ($1,000,000) in the aggregate. Said policy shall name the City of Dayton, Ohio, its elected officials, officers, agents, and employees as additional insureds.

All policy/policies of insurance to be maintained by Contractor pursuant to this Agreement shall
provide that said insurance may not be cancelled or terminated without thirty (30) days prior written notice to the City. Upon execution of this Agreement, the Contractor shall furnish the City with a copy of such certificates of insurance demonstrating compliance with this Section. Contractor shall also provide, upon the City's request, complete copies of any insurance policies required hereunder. The City's examination of, or failure to request or demand any evidence of insurance required hereunder, will not constitute a waiver of any requirement of this Article, and the existence of any insurance will not limit the Contractor's obligations under this Agreement.

The Contractor shall take out and maintain during the life of this Agreement Workers' Compensation Insurance for its employees and shall furnish a certificate of Workers' Compensation Insurance for its employees before the execution of this Agreement. No contract between the City and the Contractor shall be created hereby or otherwise exist until a fully executed copy thereof has been served upon the City.

ARTICLE TWENTY: NOTICES

Any notices required or authorized to be given shall be deemed to be given when mailed by certified or registered mail, postage prepaid, as follows: if to the City, to the City's address as shown on the face of this Agreement; if to the Contractor, to the Contractor's address as shown on the face of this Agreement.

ARTICLE TWENTY-ONE: HEADINGS

Numbered topical headings, articles, paragraphs, subparagraphs or titles in this Agreement are inserted for the convenience of organization and reference and are not intended to affect the interpretation or construction of the terms thereof.

ARTICLE TWENTY-TWO: AUTHORITY TO BIND PRINCIPAL

Signatures hereon shall act as express representations that the signing agents are authorized to bind their respective principals to all rights, duties, remedies, obligations and responsibilities incurred by way of this Agreement.
IN WITNESS WHEREOF, the parties have hereunto set their hands this__day of______ 2021.

THE CITY OF DAYTON, OHIO

________________________
City Manager

MedBill Management, LLC

By _______________________

Print: _______________________

Its: _______________________

APPROVED AS TO FORM
AND CORRECTNESS

________________________
City Attorney

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

_________________________, 2021

Min./Bk._______ Pg._______

________________________
Clerk of Commission
EXHIBIT A

SCOPE OF SERVICES

Contractor will schedule a teleconference with City representatives at project onset to discuss the following:

- City’s eligibility rules to ensure an understanding of requirements (ex. non-biological children, legally separated, etc.)
- How best to communicate to covered employees the intent and reason for conducting a Dependent Eligibility Verification project.
- Acceptable documentation to substantiate dependent eligibility such as marriage license and/or certificate, first page or IRS 1040, birth certificates, child support orders, etc.
- Consequences for failure to provide supporting documentation as required.

Contractor will perform project set-up and Enrollment Database Reconciliation to include:

- Obtain files from the City’s HR/Payroll system and/or Anthem of employees enrolled in the Plan, including spouse/dependent records and Cobra data.
- Analyze enrollment databases, identify, and reconcile inconsistencies.
- The Eligibility Verification forms will be pre-populated with enrollment data. Test forms will be produced for approval by City representatives prior to the release to employees.

The Contractor will provide a Call Center to handle in-bound calls from employees and outbound calls to resolve questions and assist employees with compliance.

- The Call Center will answer incoming employee questions on the process, timing, verification form and documentation requested.
- The Contractor will track and verify information received in the project, and track calls received by the Call Center.

The Contractor will prepare initial mailing for employees with covered spouse and/or child(ren).

The Contractor will mail the forms requesting documentation to verify the dependents meet the Plan’s eligibility requirements.

The Contractor will provide each household with instructions to use the postal paid envelope, or electronically upload system or fax or email in order to return required form and documents.

The Contractor will mail one reminder to employees who do not initially return documents.

The Contractor will follow-up with non-respondents as applicable via email, phone, supervisor contact, etc. to encourage timely submission of eligibility-related documentation.

The contractor will receive undelivered mail and deploys various methods including working with City Representatives to resolve the incorrect information and remail.

The Contractor will establish routine project calls and meetings with City Representatives to provide with projects status and review of dependent removal cases.

The Contractor will verify the information and input responses into a database.

The Contractor will prepare ongoing and final reports detailing project results and submit them along with information that was changed and/or corrected to the City.

Contractor commits not to share demographic, or any other information collected for dependent verification purposes with any other vendor. The Contractor must maintain the confidentiality of all personal health information as required by HIPPA at all times.
EXHIBIT B
BUSINESS ASSOCIATE AGREEMENT

Introduction
This Business Associate Agreement ("Agreement") is effective as of the last date signed below ("Effective Date") and is made between City of Dayton ("Covered Entity") and MedBill Management LLC ("Business Associate"). This Agreement is the integration of the Parties' understandings as to the use and disclosure of Protected Health Information in accordance with HIPAA Rules and other related regulations.

Definitions
Catch-all definition:
The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, Use and Privacy Rule.

Specific definitions:
(a) Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean MedBill Management LLC.

(b) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean City of Dayton.

(c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160, 162 and 164.

Obligations and Activities of Business Associate
Business Associate agrees to:
(a) Not use or disclose Protected Health Information other than as permitted or required by the Agreement or as required by law;

(b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent use or disclosure of Protected Health Information other than as provided for by the Agreement;

(c) Report promptly to Covered Entity any use or disclosure of Protected Health Information not provided for by the Agreement of which it becomes aware, including breaches of unsecured Protected Health Information as required at 45 CFR 164.410, and any security incident of which it becomes aware;

(d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;

(e) Make available Protected Health Information in a Designated Record Set to the Covered Entity as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524;

(f) Make any amendment(s) to Protected Health Information in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526;
(g) Maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.528;

(h) To the extent the Business Associate is to carry out one or more of Covered Entity’s obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and

(i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

Permitted Uses and Disclosures by Business Associate
Business Associate may use or disclose Protected Health Information as necessary to perform the functions, activities, or services for, or on behalf of, Covered Entity as set forth in Service Agreement, provided that such use or disclosure does not violate Subpart E of 45 CFR Part 164 if done by Covered Entity, or the Covered Entity’s minimum necessary policies and procedures.

Obligations of Covered Entity to Inform Business Associate of Privacy Practices and Restrictions
Covered Entity shall notify Business Associate of:
(a) Any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect Business Associate’s use or disclosure of Protected Health Information.

(b) Any changes in, or revocation of, the permission by an Individual to use or disclose his or her Protected Health Information, to the extent that such changes may affect Business Associate’s use or disclosure of Protected Health Information.

(c) Any restriction on the use or disclosure of Protected Health Information that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate’s use or disclosure of Protected Health Information.

Term and Termination
(a) Term. The Term of this Agreement shall be effective as of the Effective Date, and shall terminate when the Business Associate and Covered Entity no longer have a service provider relationship, or on the date the Covered Entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

(b) Termination for Cause. Business Associate authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the Agreement and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity.

(c) Obligations of Business Associate upon Termination. Upon termination of this Agreement for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of covered entity, shall:

1. Retain only that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;

2. Return to Covered Entity or, if agreed to by Covered Entity, securely destroy the remaining Protected Health Information that the Business Associate still maintains in any form;

3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this Section, for as long as Business Associate retains the Protected Health Information;
4. Not use or disclose the Protected Health Information retained by Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions set out in “Permitted Uses and Disclosures By Business Associate” section above, which applied prior to termination; and

5. Return to Covered Entity or, if agreed to by Covered Entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

(d) **Survival.** The obligations of Business Associate under this Section shall survive the termination of this Agreement.

**Miscellaneous**

(a) **Regulatory References.** A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

(b) **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

(c) **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

(d) **Contact Information.** All notices and requests to Business Associate required under this Agreement shall be made to:

<table>
<thead>
<tr>
<th>MedBill Management LLC</th>
<th>City of Dayton</th>
</tr>
</thead>
<tbody>
<tr>
<td>300 Glead Avenue</td>
<td></td>
</tr>
<tr>
<td>East Aurora, NY 14052</td>
<td></td>
</tr>
<tr>
<td>Attn: Michael P. Tehan</td>
<td>Attn:</td>
</tr>
</tbody>
</table>
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT for professional services is made and entered into at Dayton, Ohio, on this day of ___________ 2021, by and between the City of Dayton, Ohio, 101 West Third Street, Dayton Ohio 45402, hereinafter referred to as the “City”, and MedBill Management, LLC, 300 Gleed Avenue, East Aurora, NY 14052, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, City is desirous of verifying the eligibility status of dependents enrolled in the City Health Insurance plan; and

WHEREAS, the Contractor is qualified, experienced and willing to perform such dependent eligibility verification services; and

WHEREAS, the City desires to engage Contractor to perform such services, and Contractor agrees to perform such services as described herein in the attached Exhibit A, Scope of Work.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements hereinafter set forth, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE ONE: THE WORK

The Contractor agrees to audit approximately 1,059 employees who are providing coverage to at least one dependent through the City’s Health Insurance Plan. The Contractor will complete the process via direct, two-way correspondence with Plan participants combined with electronic and manual data analysis to confirm enrollment facts to identify ineligible Plan participants and gaps in the eligibility information between the City’s HR/Payroll system and Anthem’s enrollment database. The Contractor will also engage in processes to verify and confirm eligibility of spouses covered under the City’s Health Insurance Plan. The services to be performed are more fully described in attached Exhibit A, Scope of Work.

ARTICLE TWO: SCHEDULE OF PAYMENTS

A. Fee. The City agrees to pay, a sum not to exceed Twenty-Nine Thousand One Hundred Sixty-Four Dollars and Zero Cents ($29,164.00) for the services provided pursuant to this Agreement, provided that the number of dependent eligibility verifications performed does not exceed 1,111 employees. If the number of dependent eligibility verifications performed increases by 5% to 1,111
employees, the City agrees to pay $18 per additional employee above 1,111. The City agrees to pay half of the total fee to Contractor at time of the last signature approving this Agreement, with the balance due upon completion and delivery of the Final Report of Findings.

B. Return on Investment Guarantee.

The Contractor will guarantee that the first-year savings from removing ineligible dependents and performing spousal “carve-out” compliance will exceed the project fees by more than three times. Accordingly, if fewer than twenty-two dependents are identified for removal based upon non-compliance with project requirements, Contractor will refund the City the remaining amount necessary to make the project cost-neutral.

C. Response Rate Guarantee.

Contractor guarantees at least a 97% employee response rate, provided they are given sufficient employee contact and status information. If this performance standard is not met, Contractor will refund the City 5% of the project fee.

ARTICLE THREE: TERM

This Agreement shall take effect on the date it is fully executed by both parties and shall terminate on May 31, 2022, or at such time as all obligations and duties hereunder are discharged, whichever date occurs first.

ARTICLE FOUR: CONFLICT OF INTEREST

This Agreement in no way precludes, prevents, or restricts the Contractor from obtaining and working under an additional contractual arrangement(s) with other parties aside from the City, assuming that such other contractual work in no way impedes the Contractor’s ability to perform the services required under this Agreement. The Contractor hereby represents, warrants and agrees that at the time of entering into this Agreement, it has no interest in, nor shall it acquire any interest, direct or indirect, in any agreement which will impede its ability to perform the required services under this Agreement.

ARTICLE FIVE: ASSIGNMENTS
The parties expressly agree that this Agreement shall not be assigned by the Contractor without the prior written approval of the City, which approval may be withheld in the sole discretion of the City.

ARTICLE SIX: GOVERNING LAW

This Agreement and any modifications, amendments, or alterations, shall be governed, construed, and enforced under the laws of the State of Ohio.

ARTICLE SEVEN: INTEGRATION AND MODIFICATION

This instrument embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and, this Agreement shall supersede all previous communications, representations or agreements, either written or oral, between the parties to this Agreement. Also, this Agreement shall not be modified in any manner except by an instrument, in writing, executed by the parties to this Agreement.

ARTICLE EIGHT: SEVERABILITY

If any term or provision of this Agreement or the application thereof to any entity, person or circumstance shall, to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to entities, persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE NINE: TERMINATION

This Agreement may be terminated by either party only upon notice, in writing, to the other party no later than at least thirty (30) days in advance of the effective date of the termination. The City may also terminate this Agreement in the event that the City is of the opinion that the Contractor is carrying out the terms of this Agreement in an unreasonable, unprofessional, or unworkmanlike manner. Said termination for this particular reason shall occur upon the provision of a written notice of termination to the Contractor at least thirty (30) calendar days in advance of the date of the proposed termination, stating in the termination notice the reason for said termination. The City will allow the
Contractor to cure the reason for the termination provided the cure of the reason is accomplished within thirty (30) days of the date of the forwarding of the termination notice. If not cured a reasonable phase-out schedule, and pro-rated fee based upon percentage of the work completed, will be jointly determined. The parties further agree that should the Contractor become unable for any reason to complete the work called for by virtue of this Agreement, that to the extent applicable, such work as the Contractor has completed upon the date of its inability to continue the terms of this Agreement shall become the property of the City, and further the City shall not be liable to tender and/or pay to the Contractor any further compensation after the date of the Contractor's inability to complete the terms hereof, which date shall be the date of termination unless extended by the City. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Contractor; and the City may withhold any compensation to the Contractor for the purpose of set-off until such time as the amount of damages due the City from the Contractor is agreed upon or otherwise determined.

ARTICLE TEN: COMPLIANCE

The Contractor agrees to comply with all applicable federal, state, and local laws in the conduct of Work hereunder. The Contractor accepts full responsibility for payment of all unemployment compensation insurance premiums, worker's compensation premiums, all income tax deductions, pension deductions, prevailing wages, if applicable, and any and all other taxes or payroll deductions required for the Contractor and all employees engaged by the Contractor for the performance of the work authorized by this Agreement.

ARTICLE ELEVEN: PERFORMANCE AND DISCIPLINE

Unless otherwise provided in this Agreement or the exhibits attached hereto, the Contractor shall provide and pay for, to the extent applicable, all labor, materials, equipment, and transportation necessary for proper execution and completion of the Work. The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out this Agreement. The Contractor shall not permit employment of persons not skilled in tasks assigned to
them. The Contractor shall perform all Work in a reasonable, professional and workmanlike manner and all Work shall be of at least the quality provided for in this Agreement.

ARTICLE TWELVE: DAMAGE AND LOSS

The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required elsewhere in this Agreement) to property caused in whole or in part by the Contractor, a subcontractor of any tier, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under this Article except damage or loss attributable to acts or omissions of the City or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's other obligations hereunder.

ARTICLE THIRTEEN: BUSINESS ASSOCIATE AGREEMENT

Under the terms of the Health Insurance Portability and Accountability Act (HIPAA), Contractor will function as a Business Associate to the City. A Business Associate Agreement, containing the duties and responsibilities of the parties, is attached hereto as Exhibit B and is incorporated by reference, and is to be executed by the parties.

ARTICLE FOURTEEN: NON-DISCRIMINATION

During the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, ancestry, place of birth, marital status, handicap, age, or political belief. The Contractor will ensure that applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, ancestry, place of birth, marital status, handicap, age, or political belief. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and
selection for training, including apprenticeship. It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton, Ohio constitutes a material condition of this Agreement as fully as if specifically rewritten herein and that failure of Contractor to comply therewith shall constitute a breach entitling City, at its option, to terminate this Agreement.

The Contractor agrees not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this Agreement, or in reference to any contractors or subcontractors of said Contractor.

**ARTICLE FIFTEEN: INDEMNIFICATION**

To the fullest extent permitted by law, the Contractor shall protect, defend, indemnify and hold free and harmless the City, and the elected officials of the City of Dayton, Ohio, and shall protect, defend, indemnify and hold free and harmless any officers, employees, successors, administrators assigns or agents of same from and against any and all claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities and expenses of any kind, including but not limited to attorney fees, arising out of or resulting from any acts or omissions of the Contractor, its officers, employees, consultants, agents, subcontractors of any tier, successors, assigns or administrators, negligent or otherwise, and regardless of whether such claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities or expenses are caused in part by any party indemnified hereunder. The Contractor agrees to be responsible for the payment of all damages, settlements, costs and expenses of any kind, including attorney's fees, incurred by the City while the City defends or pursues any action, cause of action, or claim which arises out the aforementioned acts or omissions. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Article.

In claims against any person or entity indemnified under this Article by an employee of the Contractor, a subcontractor of any tier, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under this Article shall not be limited by a
limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or any such subcontractor of any tier, under workers’ compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE SIXTEEN: RELATIONSHIP

Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership, association or joint venture with the Contractor in the conduct of the provisions of this Agreement. The Contractor shall at all times have the status of an independent contractor without the right or authority to impose tort, contractual or any other liability on the City.

ARTICLE SEVENTEEN: POLITICAL CONTRIBUTIONS

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

ARTICLE EIGHTEEN: OPERS

Contractor understands and agrees that none of its employees are public employees employed by the City of Dayton entitling them to participate in the Ohio Public Employees Retirement System (OPERS) and also agrees that none of its employees will make a claim for benefits from OPERS as a result of performing under this Agreement.

ARTICLE NINETEEN: INSURANCE

The Contractor agrees to maintain, at its own expense, with an insurance company authorized to do business in the State of Ohio and having at least an “A” rating from A.M. Best, the following insurance:

General Liability Insurance, with a combined single limit of one million dollars ($1,000,000) per occurrence and one million dollars ($1,000,000) in the aggregate. Said policy shall name the City of Dayton, Ohio, its elected officials, officers, agents, and employees as additional insureds.

All policy/policies of insurance to be maintained by Contractor pursuant to this Agreement shall
provide that said insurance may not be cancelled or terminated without thirty (30) days prior written notice to the City. Upon execution of this Agreement, the Contractor shall furnish the City with a copy of such certificates of insurance demonstrating compliance with this Section. Contractor shall also provide, upon the City’s request, complete copies of any insurance policies required hereunder. The City’s examination of, or failure to request or demand any evidence of insurance required hereunder, will not constitute a waiver of any requirement of this Article, and the existence of any insurance will not limit the Contractor’s obligations under this Agreement.

The Contractor shall take out and maintain during the life of this Agreement Workers’ Compensation Insurance for its employees and shall furnish a certificate of Workers’ Compensation Insurance for its employees before the execution of this Agreement. No contract between the City and the Contractor shall be created hereby or otherwise exist until a fully executed copy thereof has been served upon the City.

**ARTICLE TWENTY: NOTICES**

Any notices required or authorized to be given shall be deemed to be given when mailed by certified or registered mail, postage prepaid, as follows: if to the City, to the City’s address as shown on the face of this Agreement; if to the Contractor, to the Contractor’s address as shown on the face of this Agreement.

**ARTICLE TWENTY-ONE: HEADINGS**

Numbered topical headings, articles, paragraphs, subparagraphs or titles in this Agreement are inserted for the convenience of organization and reference and are not intended to affect the interpretation or construction of the terms thereof.

**ARTICLE TWENTY-TWO: AUTHORITY TO BIND PRINCIPAL**

Signatures hereon shall act as express representations that the signing agents are authorized to bind their respective principals to all rights, duties, remedies, obligations and responsibilities incurred by way of this Agreement.
IN WITNESS WHEREOF, the parties have hereunto set their hands this__day of _______ 2021.

THE CITY OF DAYTON, OHIO

__________________________
City Manager

MedBill Management, LLC

By _________________________
Print: _______________________
Its: _________________________

APPROVED AS TO FORM
AND CORRECTNESS

__________________________
City Attorney

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

__________________________, 2021

Min./Bk. _______Pg. _______

__________________________
Clerk of Commission
EXHIBIT A

SCOPE OF SERVICES

Contractor will schedule a teleconference with City representatives at project onset to discuss the following:

- City’s eligibility rules to ensure an understanding of requirements (ex. non-biological children, legally separated, etc.)
- How best to communicate to covered employees the intent and reason for conducting a Dependent Eligibility Verification project.
- Acceptable documentation to substantiate dependent eligibility such as marriage license and/or certificate, first page or IRS 1040, birth certificates, child support orders, etc.
- Consequences for failure to provide supporting documentation as required.

Contractor will perform project set-up and Enrollment Database Reconciliation to include:

- Obtain files from the City’s HR/Payroll system and/or Anthem of employees enrolled in the Plan, including spouse/dependent records and Cobra data.
- Analyze enrollment databases, identify, and reconcile inconsistencies.
- The Eligibility Verification forms will be pre-populated with enrollment data. Test forms will be produced for approval by City representatives prior to the release to employees.

The Contractor will provide a Call Center to handle in-bound calls from employees and outbound calls to resolve questions and assist employees with compliance.

- The Call Center will answer incoming employee questions on the process, timing, verification form and documentation requested.
- The Contractor will track and verify information received in the project, and track calls received by the Call Center.

The Contractor will prepare initial mailing for employees with covered spouse and/or child(ren).

The Contractor will mail the forms requesting documentation to verify the dependents meet the Plan’s eligibility requirements.

The Contractor will provide each household with instructions to use the postal paid envelope, or electronically upload system or fax or email in order to return required form and documents.

The Contractor will mail one reminder to employees who do not initially return documents.

The Contractor will follow-up with non-respondents as applicable via email, phone, supervisor contact, etc. to encourage timely submission of eligibility-related documentation.

The contractor will receive undelivered mail and deploys various methods including working with City Representatives to resolve the incorrect information and remail.

The Contractor will establish routine project calls and meetings with City Representatives to provide with projects status and review of dependent removal cases.

The Contractor will verify the information and input responses into a database.

The Contractor will prepare ongoing and final reports detailing project results and submit them along with information that was changed and/or corrected to the City.

Contractor commits not to share demographic, or any other information collected for dependent verification purposes with any other vendor. The Contractor must maintain the confidentiality of all personal health information as required by HIPPA at all times.
EXHIBIT B
BUSINESS ASSOCIATE AGREEMENT

Introduction
This Business Associate Agreement (“Agreement”) is effective as of the last date signed below (“Effective Date”) and is made between City of Dayton (“Covered Entity”) and MedBill Management LLC (“Business Associate”). This Agreement is the integration of the Parties’ understandings as to the use and disclosure of Protected Health Information in accordance with HIPAA Rules and other related regulations.

Definitions
Catch-all definition:
The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, Use and Privacy Rule.

Specific definitions:
(a) Business Associate. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean MedBill Management LLC.

(b) Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean City of Dayton.

(c) HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160, 162 and 164.

Obligations and Activities of Business Associate
Business Associate agrees to:
(a) Not use or disclose Protected Health Information other than as permitted or required by the Agreement or as required by law;

(b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent use or disclosure of Protected Health Information other than as provided for by the Agreement;

(c) Report promptly to Covered Entity any use or disclosure of Protected Health Information not provided for by the Agreement of which it becomes aware, including breaches of unsecured Protected Health Information as required at 45 CFR 164.410, and any security incident of which it becomes aware;

(d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;

(e) Make available Protected Health Information in a Designated Record Set to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.524;

(f) Make any amendment(s) to Protected Health Information in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.526;
(g) Maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.528;

(h) To the extent the Business Associate is to carry out one or more of Covered Entity’s obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and

(i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

Permitted Uses and Disclosures by Business Associate

Business Associate may use or disclose Protected Health Information as necessary to perform the functions, activities, or services for, or on behalf of, Covered Entity as set forth in Service Agreement, provided that such use or disclosure does not violate Subpart E of 45 CFR Part 164 if done by Covered Entity, or the Covered Entity’s minimum necessary policies and procedures.

Obligations of Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

Covered Entity shall notify Business Associate of:

(a) Any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect Business Associate’s use or disclosure of Protected Health Information.

(b) Any changes in, or revocation of, the permission by an individual to use or disclose his or her Protected Health Information, to the extent that such changes may affect Business Associate’s use or disclosure of Protected Health Information.

(c) Any restriction on the use or disclosure of Protected Health Information that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate’s use or disclosure of Protected Health Information.

Term and Termination

(a) **Term.** The Term of this Agreement shall be effective as of the Effective Date, and shall terminate when the Business Associate and Covered Entity no longer have a service provider relationship, or on the date the Covered Entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

(b) **Termination for Cause.** Business Associate authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the Agreement and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity.

(c) **Obligations of Business Associate upon Termination.** Upon termination of this Agreement for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of covered entity, shall:

1. Retain only that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;

2. Return to Covered Entity or, if agreed to by Covered Entity, securely destroy the remaining Protected Health Information that the Business Associate still maintains in any form;

3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this Section, for as long as Business Associate retains the Protected Health Information;
4. Not use or disclose the Protected Health Information retained by Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions set out in “Permitted Uses and Disclosures By Business Associate” section above, which applied prior to termination; and

5. Return to Covered Entity or, if agreed to by Covered Entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

(d) **Survival.** The obligations of Business Associate under this Section shall survive the termination of this Agreement.

**Miscellaneous**

(a) **Regulatory References.** A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

(b) **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

(c) **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

(d) **Contact Information.** All notices and requests to Business Associate required under this Agreement shall be made to:

<table>
<thead>
<tr>
<th>MedBill Management LLC</th>
<th>City of Dayton</th>
</tr>
</thead>
<tbody>
<tr>
<td>300 Gleed Avenue</td>
<td></td>
</tr>
<tr>
<td>East Aurora, NY 14052</td>
<td></td>
</tr>
<tr>
<td>Attn: Michael P. Tehan</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Attn:</th>
</tr>
</thead>
</table>
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT for professional services is made and entered into at Dayton, Ohio, on this ______ day of ______, 2021, by and between the City of Dayton, Ohio, 101 West Third Street, Dayton Ohio 45402, hereinafter referred to as the "City", and MedBill Management, LLC, 300 Gleed Avenue, East Aurora, NY 14052, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, City is desirous of verifying the eligibility status of dependents enrolled in the City Health Insurance plan; and

WHEREAS, the Contractor is qualified, experienced and willing to perform such dependent eligibility verification services; and

WHEREAS, the City desires to engage Contractor to perform such services, and Contractor agrees to perform such services as described herein in the attached Exhibit A, Scope of Work.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements hereinafter set forth, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE ONE: THE WORK

The Contractor agrees to audit approximately 1,059 employees who are providing coverage to at least one dependent through the City’s Health Insurance Plan. The Contractor will complete the process via direct, two-way correspondence with Plan participants combined with electronic and manual data analysis to confirm enrollment facts to identify ineligible Plan participants and gaps in the eligibility information between the City’s HR/Payroll system and Anthem’s enrollment database. The Contractor will also engage in processes to verify and confirm eligibility of spouses covered under the City’s Health Insurance Plan. The services to be performed are more fully described in attached Exhibit A, Scope of Work.

ARTICLE TWO: SCHEDULE OF PAYMENTS

A. Fee. The City agrees to pay, a sum not to exceed Twenty-Nine Thousand One Hundred Sixty-Four Dollars and Zero Cents ($29,164.00) for the services provided pursuant to this Agreement, provided that the number of dependent eligibility verifications performed does not exceed 1,111 employees. If the number of dependent eligibility verifications performed increases by 5% to 1,111
employees, the City agrees to pay $18 per additional employee above 1,111. The City agrees to pay half of the total fee to Contractor at time of the last signature approving this Agreement, with the balance due upon completion and delivery of the Final Report of Findings.

B. **Return on Investment Guarantee.**

The Contractor will guarantee that the first-year savings from removing ineligible dependents and performing spousal “carve-out” compliance will exceed the project fees by more than three times. Accordingly, if fewer than twenty-two dependents are identified for removal based upon non-compliance with project requirements, Contractor will refund the City the remaining amount necessary to make the project cost-neutral.

C. **Response Rate Guarantee.**

Contractor guarantees at least a 97% employee response rate, provided they are given sufficient employee contact and status information. If this performance standard is not met, Contractor will refund the City 5% of the project fee.

**ARTICLE THREE: TERM**

This Agreement shall take effect on the date it is fully executed by both parties and shall terminate on May 31, 2022, or at such time as all obligations and duties hereunder are discharged, whichever date occurs first.

**ARTICLE FOUR: CONFLICT OF INTEREST**

This Agreement in no way precludes, prevents, or restricts the Contractor from obtaining and working under an additional contractual arrangement(s) with other parties aside from the City, assuming that such other contractual work in no way impedes the Contractor's ability to perform the services required under this Agreement. The Contractor hereby represents, warrants and agrees that at the time of entering into this Agreement, it has no interest in, nor shall it acquire any interest, direct or indirect, in any agreement which will impede its ability to perform the required services under this Agreement.

**ARTICLE FIVE: ASSIGNMENTS**
The parties expressly agree that this Agreement shall not be assigned by the Contractor without the prior written approval of the City, which approval may be withheld in the sole discretion of the City.

ARTICLE SIX: GOVERNING LAW

This Agreement and any modifications, amendments, or alterations, shall be governed, construed, and enforced under the laws of the State of Ohio.

ARTICLE SEVEN: INTEGRATION AND MODIFICATION

This instrument embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and, this Agreement shall supersede all previous communications, representations or agreements, either written or oral, between the parties to this Agreement. Also, this Agreement shall not be modified in any manner except by an instrument, in writing, executed by the parties to this Agreement.

ARTICLE EIGHT: SEVERABILITY

If any term or provision of this Agreement or the application thereof to any entity, person or circumstance shall, to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to entities, persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE NINE: TERMINATION

This Agreement may be terminated by either party only upon notice, in writing, to the other party no later than at least thirty (30) days in advance of the effective date of the termination. The City may also terminate this Agreement in the event that the City is of the opinion that the Contractor is carrying out the terms of this Agreement in an unreasonable, unprofessional, or unworkmanlike manner. Said termination for this particular reason shall occur upon the provision of a written notice of termination to the Contractor at least thirty (30) calendar days in advance of the date of the proposed termination, stating in the termination notice the reason for said termination. The City will allow the
Contractor to cure the reason for the termination provided the cure of the reason is accomplished within thirty (30) days of the date of the forwarding of the termination notice. If not cured a reasonable phase-out schedule, and pro-rated fee based upon percentage of the work completed, will be jointly determined. The parties further agree that should the Contractor become unable for any reason to complete the work called for by virtue of this Agreement, that to the extent applicable, such work as the Contractor has completed upon the date of its inability to continue the terms of this Agreement shall become the property of the City, and further the City shall not be liable to tender and/or pay to the Contractor any further compensation after the date of the Contractor's inability to complete the terms hereof, which date shall be the date of termination unless extended by the City.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Contractor; and the City may withhold any compensation to the Contractor for the purpose of set-off until such time as the amount of damages due the City from the Contractor is agreed upon or otherwise determined.

ARTICLE TEN: COMPLIANCE

The Contractor agrees to comply with all applicable federal, state, and local laws in the conduct of Work hereunder. The Contractor accepts full responsibility for payment of all unemployment compensation insurance premiums, worker's compensation premiums, all income tax deductions, pension deductions, prevailing wages, if applicable, and any and all other taxes or payroll deductions required for the Contractor and all employees engaged by the Contractor for the performance of the work authorized by this Agreement.

ARTICLE ELEVEN: PERFORMANCE AND DISCIPLINE

Unless otherwise provided in this Agreement or the exhibits attached hereto, the Contractor shall provide and pay for, to the extent applicable, all labor, materials, equipment, and transportation necessary for proper execution and completion of the Work. The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out this Agreement. The Contractor shall not permit employment of persons not skilled in tasks assigned to
them. The Contractor shall perform all Work in a reasonable, professional and workmanlike manner and all Work shall be of at least the quality provided for in this Agreement.

**ARTICLE TWELVE: DAMAGE AND LOSS**

The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required elsewhere in this Agreement) to property caused in whole or in part by the Contractor, a subcontractor of any tier, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under this Article except damage or loss attributable to acts or omissions of the City or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's other obligations hereunder.

**ARTICLE THIRTEEN: BUSINESS ASSOCIATE AGREEMENT**

Under the terms of the Health Insurance Portability and Accountability Act (HIPAA), Contractor will function as a Business Associate to the City. A Business Associate Agreement, containing the duties and responsibilities of the parties, is attached hereto as Exhibit B and is incorporated by reference, and is to be executed by the parties.

**ARTICLE FOURTEEN: NON-DISCRIMINATION**

During the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, ancestry, place of birth, marital status, handicap, age, or political belief. The Contractor will ensure that applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, ancestry, place of birth, marital status, handicap, age, or political belief. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and
selection for training, including apprenticeship. It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton, Ohio constitutes a material condition of this Agreement as fully as if specifically rewritten herein and that failure of Contractor to comply therewith shall constitute a breach entitling City, at its option, to terminate this Agreement.

The Contractor agrees not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this Agreement, or in reference to any contractors or subcontractors of said Contractor.

**ARTICLE FIFTEEN: INDEMNIFICATION**

To the fullest extent permitted by law, the Contractor shall protect, defend, indemnify and hold free and harmless the City, and the elected officials of the City of Dayton, Ohio, and shall protect, defend, indemnify and hold free and harmless any officers, employees, successors, administrators assigns or agents of same from and against any and all claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities and expenses of any kind, including but not limited to attorney fees, arising out of or resulting from any acts or omissions of the Contractor, its officers, employees, consultants, agents, subcontractors of any tier, successors, assigns or administrators, negligent or otherwise, and regardless of whether such claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities or expenses are caused in part by any party indemnified hereunder. The Contractor agrees to be responsible for the payment of all damages, settlements, costs and expenses of any kind, including attorney's fees, incurred by the City while the City defends or pursues any action, cause of action, or claim which arises out the aforementioned acts or omissions. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Article.

In claims against any person or entity indemnified under this Article by an employee of the Contractor, a subcontractor of any tier, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under this Article shall not be limited by a
limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or any such subcontractor of any tier, under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE SIXTEEN: RELATIONSHIP

Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership, association or joint venture with the Contractor in the conduct of the provisions of this Agreement. The Contractor shall at all times have the status of an independent contractor without the right or authority to impose tort, contractual or any other liability on the City.

ARTICLE SEVENTEEN: POLITICAL CONTRIBUTIONS

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

ARTICLE EIGHTEEN: OPERS

Contractor understands and agrees that none of its employees are public employees employed by the City of Dayton entitling them to participate in the Ohio Public Employees Retirement System (OPERS) and also agrees that none of its employees will make a claim for benefits from OPERS as a result of performing under this Agreement.

ARTICLE NINETEEN: INSURANCE

The Contractor agrees to maintain, at its own expense, with an insurance company authorized to do business in the State of Ohio and having at least an “A” rating from A.M. Best, the following insurance:

General Liability Insurance, with a combined single limit of one million dollars ($1,000,000) per occurrence and one million dollars ($1,000,000) in the aggregate. Said policy shall name the City of Dayton, Ohio, its elected officials, officers, agents, and employees as additional insureds.

All policy/policies of insurance to be maintained by Contractor pursuant to this Agreement shall
provide that said insurance may not be cancelled or terminated without thirty (30) days prior written
notice to the City. Upon execution of this Agreement, the Contractor shall furnish the City with a copy of
such certificates of insurance demonstrating compliance with this Section. Contractor shall also provide,
on the City’s request, complete copies of any insurance policies required hereunder. The City’s
examination of, or failure to request or demand any evidence of insurance required hereunder, will not
constitute a waiver of any requirement of this Article, and the existence of any insurance will not limit the
Contractor’s obligations under this Agreement.

The Contractor shall take out and maintain during the life of this Agreement Workers'
Compensation Insurance for its employees and shall furnish a certificate of Workers' Compensation
Insurance for its employees before the execution of this Agreement. No contract between the City and
the Contractor shall be created hereby or otherwise exist until a fully executed copy thereof has been
served upon the City.

ARTICLE TWENTY: NOTICES

Any notices required or authorized to be given shall be deemed to be given when mailed by
certified or registered mail, postage prepaid, as follows: if to the City, to the City’s address as shown
on the face of this Agreement; if to the Contractor, to the Contractor’s address as shown on the face of
this Agreement.

ARTICLE TWENTY-ONE: HEADINGS

Numbered topical headings, articles, paragraphs, subparagraphs or titles in this Agreement are
inserted for the convenience of organization and reference and are not intended to affect the
interpretation or construction of the terms thereof.

ARTICLE TWENTY-TWO: AUTHORITY TO BIND PRINCIPAL

Signatures hereon shall act as express representations that the signing agents are authorized to bind
their respective principals to all rights, duties, remedies, obligations and responsibilities incurred by
way of this Agreement.
IN WITNESS WHEREOF, the parties have hereunto set their hands this____day of ______ 2021.

THE CITY OF DAYTON, OHIO

City Manager

MedBill Management, LLC

By: __________________________

Print: __________________________

Its: __________________________

APPROVED AS TO FORM
AND CORRECTNESS

City Attorney

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

__________________________, 2021

Min./Bk._______ Pg._______

__________________________

Clerk of Commission
EXHIBIT A

SCOPE OF SERVICES

Contractor will schedule a teleconference with City representatives at project onset to discuss the following:

- City’s eligibility rules to ensure an understanding of requirements (ex. non-biological children, legally separated, etc.)
- How best to communicate to covered employees the intent and reason for conducting a Dependent Eligibility Verification project.
- Acceptable documentation to substantiate dependent eligibility such as marriage license and/or certificate, first page or IRS 1040, birth certificates, child support orders, etc.
- Consequences for failure to provide supporting documentation as required.

Contractor will perform project set-up and Enrollment Database Reconciliation to include:

- Obtain files from the City’s HR/Payroll system and/or Anthem of employees enrolled in the Plan, including spouse/dependent records and Cobra data.
- Analyze enrollment databases, identify, and reconcile inconsistencies.
- The Eligibility Verification forms will be pre-populated with enrollment data. Test forms will be produced for approval by City representatives prior to the release to employees.

The Contractor will provide a Call Center to handle in-bound calls from employees and outbound calls to resolve questions and assist employees with compliance.

- The Call Center will answer incoming employee questions on the process, timing, verification form and documentation requested.
- The Contractor will track and verify information received in the project, and track calls received by the Call Center.

The Contractor will prepare initial mailing for employees with covered spouse and/or child(ren).

The Contractor will mail the forms requesting documentation to verify the dependents meet the Plan’s eligibility requirements.

The Contractor will provide each household with instructions to use the postal paid envelope, or electronically upload system or fax or email in order to return required form and documents.

The Contractor will mail one reminder to employees who do not initially return documents.

The Contractor will follow-up with non-respondents as applicable via email, phone, supervisor contact, etc. to encourage timely submission of eligibility-related documentation.

The contractor will receive undelivered mail and deploys various methods including working with City Representatives to resolve the incorrect information and remail.

The Contractor will establish routine project calls and meetings with City Representatives to provide with projects status and review of dependent removal cases.

The Contractor will verify the information and input responses into a database.

The Contractor will prepare ongoing and final reports detailing project results and submit them along with information that was changed and/or corrected to the City.

Contractor commits not to share demographic, or any other information collected for dependent verification purposes with any other vendor. The Contractor must maintain the confidentiality of all personal health information as required by HIPPA at all times.
EXHIBIT B
BUSINESS ASSOCIATE AGREEMENT

Introduction
This Business Associate Agreement ("Agreement") is effective as of the last date signed below ("Effective Date") and is made between City of Dayton ("Covered Entity") and MedBill Management LLC ("Business Associate"). This Agreement is the integration of the Parties' understandings as to the use and disclosure of Protected Health Information in accordance with HIPAA Rules and other related regulations.

Definitions
Catch-all definition:
The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, Use and Privacy Rule.

Specific definitions:
(a) Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean MedBill Management LLC.

(b) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean City of Dayton.

(c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160, 162 and 164.

Obligations and Activities of Business Associate
Business Associate agrees to:
(a) Not use or disclose Protected Health Information other than as permitted or required by the Agreement or as required by law;

(b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent use or disclosure of Protected Health Information other than as provided for by the Agreement;

(c) Report promptly to Covered Entity any use or disclosure of Protected Health Information not provided for by the Agreement of which it becomes aware, including breaches of unsecured Protected Health Information as required at 45 CFR 164.410, and any security incident of which it becomes aware;

(d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;

(e) Make available Protected Health Information in a Designated Record Set to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.524;

(f) Make any amendment(s) to Protected Health Information in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.526;
(g) Maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.528;

(h) To the extent the Business Associate is to carry out one or more of Covered Entity’s obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and

(i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

**Permitted Uses and Disclosures by Business Associate**

Business Associate may use or disclose Protected Health Information as necessary to perform the functions, activities, or services for, or on behalf of, Covered Entity as set forth in Service Agreement, provided that such use or disclosure does not violate Subpart E of 45 CFR Part 164 if done by Covered Entity, or the Covered Entity’s minimum necessary policies and procedures.

**Obligations of Covered Entity to Inform Business Associate of Privacy Practices and Restrictions**

Covered Entity shall notify Business Associate of:

(a) Any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect Business Associate’s use or disclosure of Protected Health Information.

(b) Any changes in, or revocation of, the permission by an Individual to use or disclose his or her Protected Health Information, to the extent that such changes may affect Business Associate’s use or disclosure of Protected Health Information.

(c) Any restriction on the use or disclosure of Protected Health Information that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate’s use or disclosure of Protected Health Information.

**Term and Termination**

(a) **Term.** The Term of this Agreement shall be effective as of the Effective Date, and shall terminate when the Business Associate and Covered Entity no longer have a service provider relationship, or on the date the Covered Entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

(b) **Termination for Cause.** Business Associate authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the Agreement and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity.

(c) **Obligations of Business Associate upon Termination.** Upon termination of this Agreement for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of covered entity, shall:

1. Retain only that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;

2. Return to Covered Entity or, if agreed to by Covered Entity, securely destroy the remaining Protected Health Information that the Business Associate still maintains in any form;

3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this Section, for as long as Business Associate retains the Protected Health Information;
4. Not use or disclose the Protected Health Information retained by Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions set out in “Permitted Uses and Disclosures By Business Associate” section above, which applied prior to termination; and

5. Return to Covered Entity or, if agreed to by Covered Entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

(d) **Survival.** The obligations of Business Associate under this Section shall survive the termination of this Agreement.

**Miscellaneous**

(a) **Regulatory References.** A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

(b) **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

(c) **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

(d) **Contact Information.** All notices and requests to Business Associate required under this Agreement shall be made to:

- MedBill Management LLC
  - 300 Gleed Avenue
  - East Aurora, NY 14052
  - Attn: Michael P. Tehan

- City of Dayton

Attn: ________________________________
City Manager’s Report

From 6480 - PW/Property Management
Supplier, Vendor, Company, Individual

Name Drake’s Downtown Gym
Address 111 E. Fifth Street
           Dayton, Ohio 45402

Date November 10, 2021
Expense Type Lease Agreement
Total Amount $6,850.00 thru 1/31/2022

Fund Source(s)  Fund Code(s)  Fund Amount(s)
General Fund  10000-6480-22559-54  $6,850.00

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

Description

 Lease Agreement

The Department of Public Works requests permission to enter into a Lease Agreement with Drake’s Downtown Gym in the amount of $6,850.00 for the property located at 111 East Fifth Street.

Drake’s Downtown Gym will pay $1,750.00 upon execution of this Lease Agreement and $1,700.00 per month for the initial term of three (3) months. The Lease Agreement is effective upon execution and will terminate on January 31, 2022. The Lease Agreement may renew on a monthly basis at $1,700.00 per month.

The Lease 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

Division

Department

City Manager

FORM NO. MS-16

Updated 1/2019
CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

Customer Information:  Name  Drake’s Downtown Gym

Address  111 E. Fifth St.

City  Dayton  State  Ohio  Zip+4  45402  -  

Customer #  @00011068  Address Location #  

Federal ID#  

Revenue Information:  Fund  10000  Organization  6480  Revenue  22559  Program  54

Contract Information:  Contract Start Date  Upon Execution  Contract Expiration Date  1/31/2022

Billing Information:  Rate:  $1,700.00  Arrears  Pre-bill  X

Monthly (1st month of billing)  X

Quarterly (1st month of quarter)

Semi-annual (1st month of half)

Annual (1st month of billing)

Other (explain) $1,750.00 at time of execution of lease agreement

Rate Change Date  Rate Change Amount  

Description of Services (wording on invoice): Three month lease agreement in the rental amount of $1,700.00 a month for the property located at 111 E. Fifth St., Dayton, OH 45402. An upfront amount of $1,750 is due upon execution of the agreement.

Departmental Approval  

TO BE COMPLETED BY FINANCE

City Reference Number  2-1068  Auditor  D. Billy  Date  11/1/2021

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)
November 1, 2021

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

FROM: Andrew Marks, Acting Division Manager
     Division of Property Management

SUBJECT: Lease Agreement for City Commission Approval – John Drake dba Drake’s Downtown Gym

Attached is a Lease Agreement with John Drake dba Drake’s Downtown Gym for space in the old Transportation Center located at 111 East Fifth Street. Mr. Drake was relocated to the current space when the Downtown Library began construction and his facility was purchased to accommodate the storage needs of the Main Library. Mr. Drake used the space at the Transportation Center under a special event lease through the Convention Center which ended.

As a part of Finance and Facilities Management’s due diligence in reviewing all city-owned leased property, staff realized that Mr. Drake had continued to operate without an active lease. Although Mr. Drake made some rental, utility, and real estate tax payments over the past years, those payments were inconsistent and insufficient to cover the City’s annual expenses for the space. Any payments Mr. Drake made were directly charged against back utility payments, and as of September 30, 2021, this balance is $14,960.07.

Earlier this year, staff from Finance, Public Works, and Law began working with Mr. Drake on a new lease agreement that would bring him current on terms, rental rates, and utilities. During our discussions with Mr. Drake, he expressed his concerns about the impact of the COVID-19 pandemic on his business, and his ability to continue operations into the future at the current location. Mr. Drake has made his intentions clear that because of the pandemic, and the state of his personal affairs and finances, he does not foresee a long-term future in this location. In addition, the City currently has a right of entry for ALT Architecture Inc. as we seek to develop the entire Transportation Center complex. To accommodate Mr. Drake’s situation and ensure opportunity for future development is possible, Law has developed an acceptable agreement that satisfies all parties. This includes the following terms:

1. A three-month initial term with a month-to-month option thereafter.
2. $1,750 due upon execution to recognize unpaid rent that will be applied to back utilities.
3. $1,700 monthly rent that includes allocations for rent, current utilities, back utilities, and real estate taxes.
4. Inclusion of the back utility balance of $14,960.07 that will be credited based upon monthly payments.

We appreciate the time our staff and Mr. Drake have spent working on a solution that benefits all parties. We request permission to enter into a Lease Agreement with Mr. Drake at the next Commission meeting. A City Manager’s Report, Certificate of Revenue, and a copy of the Agreement are attached for your review and information.

If you have any questions or concerns, please contact me at x4010.

ATM/
Attachment

C: Mr. Parlette  Ms. Lofton  Mr. Stivers  Mr. Stovall  Ms. Brown  Mr. Smith  Ms. Jones
LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made and entered into this _____ day of ____________, 2021 ("Effective Date"), between CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("Lessor") and JOHN DRAKE D/B/A DRAKE'S DOWNTOWN GYM ("Lessee").

WITNESSETH THAT:

WHEREAS, Lessor owns real property located at 111 E. Fifth Street, Dayton, Ohio 45402, more particularly described in the attached and incorporated Exhibit A ("Premises"); and,

WHEREAS, Lessee desires to lease the Premises to operate its gym and/or work out space; and,

WHEREAS, Lessor deems it advantageous to itself, and in the best interest of the public, to lease the Premises to Lessee.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and the mutual benefits to be derived, the parties agree as follows:

ARTICLE I – PREMISES

Lessor does hereby lease to Lessee, subject to the terms and conditions hereinafter stated, Premises as more particularly described in the attached and incorporated Exhibit A. This Lease supersedes any prior temporary lease or agreement between the parties pertaining to the Premises. The Premises are approximately 4,500 square feet containing the following permanent fixtures: one (1) natural gas water heater, one (1) natural gas boiler, two (2) toilets, one (1) urinal, two (2) sinks, two (2) hand dryers, two (2) paper towel dispensers, fourteen (14) light fixtures, and two (2) exhaust fans.

ARTICLE II – TERM

This Lease shall commence on execution of this Lease and shall expire on January 31, 2022 ("Initial Term"). Upon the termination of the Term, the Lessee and Lessor agree to go on a month to month basis for the Lease ("Monthly Term"). Either Party may terminate this Lease during the Monthly Term by providing thirty (30) days written notice to the other before the start of the next Monthly Term.

ARTICLE III – RENTAL PAYMENT

Lessee shall pay Lessor one installment of One Thousand Five Hundred Dollars and Zero Cents ($1,500.00) on the first day of the Initial Term to represent past unpaid rent since occupying the Premises. Lessee shall then pay Lessor three equal installments of One Thousand Dollars and Zero Cents ($1,000.00) on the first day of each calendar month for the Initial Term. Lessee shall pay Lessor One Thousand Dollars and Zero Cents ($1,000.00) on the first day of each calendar month for each month of the Monthly Term.
ARTICLE IV – BACK UTILITY & CURRENT UTILITY PAYMENT

Lessee shall pay Lessor a sum of Two Hundred Fifty Dollars and Zero Cents ($250.00) for back-utility charges starting upon execution of this Lease, and thereafter on the first day of each calendar month, until the back-utility charges are paid in full. For definition, back-utility charges are defined as all outstanding gas, water, electric, storm water, sewers, and any other utilities from Lessor’s first day occupying the Premises until September 30, 2021. This amount is equal to Fourteen Thousand Nine Hundred Sixty Dollars and Seven Cents ($14,960.07).

In addition to the back-utility payments, Lessee shall pay an additional Three Hundred Fifty Dollars and Zero Cents ($350.00) for current monthly and quarterly utility billing beginning on November 1, 2021, and thereafter on the first day of each calendar month during the Initial and Monthly Terms. In the event this Lease is terminated in the middle of a yearly quarter, Lessee shall pay the utility bill for that quarter on a pro-rata basis. In the event this Lease is terminated with balance still owed on utility payments, Lessee shall pay Lessor a lump sum amount of this balance prior to the termination date. The Lessor shall have the right to send any unpaid balance to a collections agency to recoup back or current utility bills.

The Lessor shall apply the Three Hundred Fifty Dollars and Zero Cents ($350.00) currently utility billing portion towards any and all current monthly and quarterly billing. In the event that this amount exceeds the previous months utility invoices, the remaining balance shall be credited to the back-utility charges. In the event that this amount is less than the previous months utility invoices, the Lessee shall remit this difference as extra payment on the first day of the next month.

ARTICLE V – REAL PROPERTY TAXES, ASSESSMENTS, AND IMPOSITIONS

Lessee shall pay Lessor a sum of One Hundred Dollars and Zero Cents ($100.00) on the first day of each calendar month during the Initial and Monthly Terms for all real property taxes, assessments, and impositions that are now or may be levied or imposed the Premises.

ARTICLE VI – USE

The Premises will be used and operated by Lessee as a gym and/or work out space and any and all uses incidental thereto, provided that such use is of such type which is ordinarily and customarily offered by fitness facilities in the industry. Lessee shall have the right to erect signage on the premises, subject to all necessary permits, at Lessee’s expense.

ARTICLE VII – OBLIGATIONS OF LESSEE

Lessee hereby covenants and agrees:

A. To pay the rental payment in accordance with Article III.

B. To pay the back utility and future utility payments in accordance with Article IV.
C. That promptly upon the execution of this Lease, Lessee shall be solely responsible for paying all charges and costs associated with the gas, water, electric, storm water, sewers, and any other utilities on the Premises. Lessee shall be responsible to place the water, storm water, and storm sewers utility bill into their name.

D. That any improvements made to the Premises shall become the property of the Lessor as part of the real estate except that Lessee shall be permitted upon termination of the Lease to remove all equipment, trade fixtures, and other items not normally considered part of the real estate.

E. To perform all necessary, routing, ordinary maintenance, including housecleaning, repairs, redecorating or alterations within the Premises, and to perform all necessary routine and ordinary maintenance around the outside of the Premises.

F. Lessee shall notify Lessor immediately, and receive approval from Lessor to proceed with repairs, should any system fail or require unusual maintenance.

G. That in addition to rent and utilities, Lessee shall, at its own expense, pay all real property taxes, assessments, and impositions that are now or may be levied or imposed the Premises and any real, leasehold, or personal properties or improvements, buildings, structures situated or placed thereon in accordance with Article V.

H. To coordinate with the Lessor on various due diligence matters regarding the inspection of the Premises, including but not limited to entry by third parties approved by the Lessor with at least a twenty-four (24) hour notice.

I. To provide Lessor with certified receipts for any improvements to premises within ten (10) days after the completion thereof in detail acceptable to the Lessor.

ARTICLE VIII – PARKING

Lessee shall have parking privileges for its staff and visitors in the parking area at 5th street and Patterson of the Lessor-owners property located at 111 E. Fifth Street.

ARTICLE IV - NON-DISCRIMINATION

Lessee 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 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 Lease as fully and as if specifically rewritten herein and that failure to comply therewith shall constitute a breach thereof entitling the Lessee to terminate this Lease at its option.
ARTICLE X - INSURANCE

Lessee, at its sole cost and expense, shall procure and maintain, or cause to be maintained, at all times during the term of this Lease, beginning on the Effective Date, unless otherwise specified herein, the following insurance, with insurance companies authorized to do business in the State of Ohio and having at least an "A" rating from A. M. Best, or any successor thereto, and covering all operations under this Lease, whether performed by Lessee or by its contractors:

Commercial Liability Insurance (Primary and Umbrella):

Commercial Liability Insurance with limits of not less than One Million Dollars ($1,000,000) per occurrence combined single limit, for bodily injury and property damage liability. Coverage extensions shall include the following: All Premises and operations, completed operations, explosion, collapse, underground, independent contractors, broad form property damage, separation of insured and contractual liability (with no limitation endorsement). The Lessor shall be named as additional insureds, on a primary, noncontributory basis for any liability arising directly or indirectly from this Lease. Lessor shall be named as a loss payee on said policy or policies of insurance.

Original certificates of insurance evidencing the required coverage to be in force on the Effective Date of this Lease as set forth herein, and all renewal certificates of such insurance shall be provided to Lessor. All such policies shall name the City of Dayton, Ohio, its elected officials, officers, agents, volunteers and employees as additional insureds. Lessee shall furnish complete copies of all policies of insurance. The receipt of any certificate or policy does not constitute agreement by the Lessor that the insurance requirements in the Lease have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of this Lease. The failure of the Lessor to obtain certificates or other insurance evidence from Lessee shall not be deemed to be a waiver by the Lessor. Lessee shall advise all insurers of these Lease provisions regarding insurance. Non-conforming insurance shall not relieve of their obligation to provide insurance as specified herein. Non-fulfillment of the insurance conditions may constitute a violation of this Lease, and the Lessor retains the right to terminate this Lease unless proper evidence of insurance is provided. All policies of insurance shall provide for a minimum of thirty (30) days prior written notice to be given to the Lessor in the event coverage is substantially changed, canceled, or non-renewed.

If Lessee fails to obtain or maintain any of the insurance policies under this Lease or to pay any premium in whole or in part when due, Lessor may (without waiving or releasing any obligation or default by Lessee hereunder) obtain and maintain such insurance policies and or take any action which Lessor deems appropriate. In such instances, reasonable attorney's fees, court costs and expenses shall be reimbursed by the Lessee upon demand by Lessor.

The insurance required hereunder shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law. The Lessor maintains the right to modify, delete, alter or change these requirements.
ARTICLE XI - ASSIGNMENT AND SUBLETTING

Lessee is prohibited from assigning or transferring this Lease without receiving prior written consent from Lessor. This Lease shall survive any sale, assignment, or transfer of the Premises by Lessor, and Lessee shall be bound by this Lease under any new ownership, unless earlier terminated as defined herein.

ARTICLE XII - CANCELLATION BY LESSOR

In addition to all other remedies available to Lessor under this Lease or at law, this Lease shall be subject to cancellation by Lessor should any one or more of the following events occur:

1. If a court shall take jurisdiction of Lessee and its assets pursuant to proceedings brought under the provisions of any federal reorganization act;

2. If a receiver for Lessee's assets is appointed by a court of competent jurisdiction;

3. If Lessee shall be divested of its rights, powers and privileges under this Lease by other operation of law;

4. If Lessee fails to cure any default within thirty (30) days after Lessor notifies Lessee in writing of the default then Lessor shall have the right, at once and without further notice to Lessee, to declare this Lease terminated;

5. If Lessee defaults in the performance of any term or condition of this Lease, but excluding the payment of amounts due and owing hereunder, and Lessee fails to cure such default within thirty (30) days from receipt of written notice to cure such default; or if by reason of the nature of such default the same cannot be remedied within said thirty (30) days, then Lessor shall have the right, at once and without further notice to Lessee, to declare this Lease terminated;

6. Violations by Lessee, its agents or employees, of applicable laws, ordinances, codes, rules and regulations issued by any competent governmental authority, or revocations of permits or licenses required in the performance of this Lease, if the same shall not be corrected or action taken to correct, within thirty (30) days after Lessee's receipt of written notice, which shall state in detail the violation;

7. If Lessee fails to pay to make any payment due under this Lease within the specified timeframe, unless such delay is previously approved by the Lessor; or,

8. Upon ninety (90) day written notice from Lessor to Lessee of its intention to terminate the Lease, with or without cause.

ARTICLE XIII - INVALID PROVISIONS

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

**ARTICLE XIV - WAIVER**

No waiver by either party at any time, of any of the terms, conditions, covenants or agreements of this Lease, or noncompliance therewith, shall be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant or agreement herein contained, nor of the strict and prompt performance thereof by the other. Receipt by Lessor of rent or other payments with knowledge of the breach by Lessee of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by either party of any provisions of this Lease shall be deemed to have been made unless expressed in writing and signed by a duly authorized representative of Lessor or Lessee, as the case may be.

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

**ARTICLE XV – INDEMNIFICATION**

Lessee shall defend, indemnify, save, and hold harmless Lessor and its elected officials, officers, employees, agents, and volunteers, from and against any and all claims and actions, and all expenses incidental to the investigation and defense thereof, based upon or arising out of any accident or damages arising from, or in any way connected with, Lessee's use or occupancy of the Premises or any condition of the Premises and/or Lessee's exercise of any right granted herein (including operation and maintenance of the multi-sports venue/complex), and/or Lessee's performance, breach, or default in the performance of any obligation to be performed pursuant to this Lease, and/or any wrongful, intentional, or negligent act or omission of Lessee, its agents, contractors and employees.

**ARTICLE XVI – GENERAL PROVISIONS**

A. Any notice required under this Lease shall be deemed to have been given on the date actually received or forty-eight (48) hours having been deposited in the United States mail, postage prepaid, registered or certified, and addressed to the parties as set forth below, whichever occurs earlier. Either party may change its address from time to time by written notice given in this manner.

If to Lessee:

City of Dayton, Ohio
Property Management
101 W. Third Street
Dayton, OH 45402
Attention: Chatan Robinson
chatan.robinson@daytonohio.gov

If to Lessor:
Drake’s Downtown Gym
111 E. Fifth St.,
Dayton, OH 45402
(937) 307-3527
jabcityboxing@gmail.com
Attention: John Drake

B. This Lease merges all prior negotiations and understandings and there are no other agreements and understandings, oral or otherwise, between the parties pertaining to the Premises. This Lease and any written agreement hereafter made between the parties hereto shall be binding upon Lessee only when fully executed by an officer or authorized representative of both parties. A signed copy of this Lease shall be mailed or delivered to Lessee after execution thereof by Lessor.

C. Lessee and Lessor represent that each has carefully reviewed the terms and conditions of this Lease and are familiar with such terms and conditions and agrees faithfully to comply with the same to the extent to which said terms and conditions apply to its activities as authorized and required by this Lease.

D. By execution of this Lease, Lessee hereby irrevocably submits to the original jurisdiction of the courts located within the County of Montgomery, State of Ohio, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Lease.

E. By entering into this Lease, Lessor shall in no way be deemed a partner or joint venturer with Lessee, nor shall any term or provision hereof be construed in any way to grant, convey or create any rights or interests to any person or entity not a party to this Lease.

F. The parties may amend or modify this Lease, at any time, provided that no such amendment or modification shall be effective unless it is reduced to a writing, which makes specific reference to this Lease, executed by a duly authorized representative of Lessor and Lessee and, if required or applicable, approved by the Commission of the City of Dayton, Ohio.

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

IN WITNESS WHEREOF, Lessor and Lessee, each by a duly authorized representative, have executed this Lease as of the date first set forth above.
CITY OF DAYTON, OHIO

City Manager

APPROVED AS TO FORM
AND CORRECTNESS:

10/18/2021

X  John Musto for
City Attorney

Signed by Musto, John

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

[Signature]

Min. Bk.: _______ Page: _______

Clerk of the Commission

JOHN DRAKE dba DRAKE'S
DOWNTOWN GYM

By: [Signature]

Rs: [Signature]
Exhibit A
Intergovernmental Agreement between the City of Dayton and Jefferson Township

The City of Dayton, Department of Public Works, Division of Waste Collection and Jefferson Township have agreed to enter into a new five-year Intergovernmental Agreement for trash services. Services will include curbside weekly trash, bi-weekly recyclable, and scheduled bulk waste collections. Upon City Commission approval the Agreement will begin January 1, 2022 and expire December 31, 2026. The City has an option to renew this agreement for two (2) additional one (1) year renewals. The City currently provides trash services to approximately 2,283 Jefferson Township residents, which represents estimated annual revenue at $515,958.00 for 2022. Fixed escalators are established for the term of this agreement.

Jefferson Township customers were billed $221.00 for 2021 trash and recyclable collection services. Jefferson Township customers will be billed $226.00 for 2022 trash and recyclable collection services.

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

The Intergovernmental Agreement, Exhibit A and Certificate of Revenue are attached.

Signatures/Approval

Approved by City Commission

Clerk
Date

Updated 10/2019
CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

**Customer Information:**
Name: Jefferson Township  
Address: 580 Calumet Lane  
City: Dayton  
State: OH  
Zip+4: 45417  
Customer #: 316000581  
Address Location #: L1

**Federal ID#:** 31-6000581

**Revenue Information:**
Fund: 10000  
Orgn: 6441  
Rev: 22521  
Prog: 32  
Actv: 

**Contract Information:**
Contract Start Date: Jan 1, 2022  
Contract Expiration Date: Dec 31, 2026

**Billing Information:**
Rate: Monthly (1st month of billing)
Quarterly (1st month of quarter)
Semi-annual (1st month of half)
Annual (1st month of billing) January 1, 2022

Other (explain)

Rate Change Date:  
Rate Change Amount: 

**Description of Services (wording on invoice):** Waste collection and Recycling Services at the following Rates for 2022: $226.00 for trash for trash & recycling for each residential and non-residential customer annually; for (1) container. Each additional container will be billed at $75.00 annually. Please see that attached Exhibit A for the rate schedule for years 2023-2026.

Departmental Approval: 

TO BE COMPLETED BY FINANCE

**City Reference Number:** 22-0581  
Auditor: D. Billy  
Date: 10-26-2021

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)
INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF DAYTON AND JEFFERSON TOWNSHIP

This Intergovernmental Agreement is entered into this _____ day of
__________, 2021, between the City of Dayton, Ohio (“City”), a municipal
corporation existing under the laws of the State of Ohio, and the Board of Trustees of
Jefferson Township, Montgomery County, Ohio (“Township”).

WHEREAS, the Township, by Resolution 06-34 (“Resolution”), adopted on
December 5, 2006, created the Jefferson Township Waste Disposal District (“District”) to
facilitate the collection and disposal of garbage and refuse within the entire area of the
Township; and,

WHEREAS, the Resolution refers to a contract to be entered into with the City
for collection and disposal services; and,

WHEREAS, the City is willing to provide collection and disposal services to the
Township pursuant to the terms of this Agreement; and,

WHEREAS, pursuant to Section 505.27 of the Ohio Revised Code, the Township
may enter into a written contract with the City for collection and disposal services for the
District.

NOW, THEREFORE, the City and the Township agree as follows:

I. DEFINITIONS

A. “Agreement” means this Intergovernmental Agreement.

B. “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.

C. “Commencement Date” means ____________, 2022, the date the City shall
commence collection of garbage and refuse hereunder.

D. “Container” means the 96-gallon container provided by the City in which
waste is placed for collection.

E. “Contract Representative” means the person identified to the City by the
Township authorized to handle administration of this Agreement on behalf of the
Township and payment thereunder. In the Township’s sole discretion, and immediately
upon notice to the City, the Township may change the identity of the Contract
Representative.

F. “Demolition Matter” means those items removed from a structure under
construction, repair or demolition, such as brick, concrete, stone, glass, wallboard,
framing and finishing lumber, roofing materials, plumbing, plumbing fixtures, wiring and insulation material.

G. “Garbage” means all waste matter, solid, liquid or mixed, which attends, exists, is created or accumulates within the Township 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.

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

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

J. “Non-residential Customer” means each property used for commercial, industrial, or non-profit purposes whose owner elects to have the City collect and dispose of Non-residential Waste from the property.

K. “Non-residential Waste” means garbage and rubbish resulting from commercial, industrial, or non-profit use of property owned by a Non-residential Customer.

L. “Recyclables” means glass, plastic, tin, paper, or other material determined by the City.

M. “Residential Customer” means each occupied residential unit.

N. “Residential Waste” means garbage, rubbish, and bulky waste resulting from the use of residential property.

O. “Rubbish” means all refuse resulting from the customary and ordinary use of a residential property or a multi-unit property, such as tin cans, plastic bottles, paper, dirt and ashes; and also sweepings, dirt, paper, and other small items of trash resulting from the customary and ordinary use of a commercial property; but does not include infectious waste, hazardous waste, bulky waste, yard waste, vegetative matter, used oil, or demolition matter.

P. “Service Area” means the geographic area within the political boundaries of the Township as such boundaries exist at the outset of this Agreement, or as such boundaries may expand due to annexation or incorporation within the Township’s political boundaries of other portions of Montgomery County.

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

II. SCOPE OF SERVICE

A. For the term of this Agreement, the Township grants to the City (1) the exclusive right to collect and dispose of Residential Waste in the Service Area, and (2) the non-exclusive right to collect and dispose of Non-residential Waste pursuant to the agreement of Non-residential Customers in the Service Area. The Township shall provide to the City the names and addresses of all Residential Customers and Non-Residential Customers.

B. Beginning on the Commencement Date, the City will collect and dispose of Residential Waste and Non-Residential Waste from Residential Customers and Non-residential Customers within the Service Area. The services provided by the City shall include the furnishing of all labor, tools, containers, equipment, rolling stock, material, insurance, supervision, office space, and all materials and other items necessary to the performance of such services. All work and services to be performed under this Agreement shall be carried out in a manner, at the time, in the locations, and at the prices specified herein. Services shall be subject to the inspection, without notice, and approval of the Contract Representative. The City shall provide services hereunder in accordance with the highest standards of public entities engaged in providing waste collection services.

C. Collection Requirements

1. Services. The City shall collect all Residential Waste and Non-residential Waste set out for collection in Containers by all Residential Customers and Non-residential Customers in the Service Area. Containers shall be set out for collection at the curb. The City shall provide each Residential Customer and Non-residential Customer with one (1) Container. The City shall replace lids on all Containers after they have been emptied and return the Containers, standing upright, to the point of original pick-up. The City shall immediately notify the Township of any collections which cannot be made on schedule and/or collections not made at specific collections points because of containers that do not conform to the requirements of this Agreement. The transportation and collection of all Residential Waste and Non-Residential Waste through the roads of the Township shall be conducted in a manner as not to create a nuisance. The vehicle conveying the waste must be of such construction and so operated that contents shall not spill upon the public streets. Any litter or other nuisance such as oil spills or other liquids caused by the City, whether through emptying a Container, containerized unit, or otherwise, shall be promptly cleaned by the City. The City must take care not to damage Containers, and in the event of willful or unnecessary damage to such Containers, the City shall be liable for the same. The City shall promptly notify the Township of any claim of damage to Containers, other than reasonable wear and tear.
2. Bulky Items. The City shall provide for a bi-weekly Bulky Waste curbside pickup, upon request. The City may require disassembly of large items, including, but not limited to, swing sets and metal sheds.

D. Hours and Days of Collection

1. Scheduling. All collection of Residential Waste and Non-residential Waste shall be performed during the following days and hours:

   Monday through Friday

   6:30 A.M. to 7 P.M.

   Each Residential Customer and Non-residential Customer shall receive collection service no less frequently than once per week on a pre-specified day or days which will not vary except as required by legal holidays and/or events set forth in Article V(G) herein.

2. Missed Collection. If, due to the fault of the City, a regularly scheduled collection is missed and a complaint is registered by the customer, the City shall provide a special collection, at no charge, within one (1) working day of the day the missed collection was brought to the City’s attention.

3. Scheduling and Route Changes. The City shall provide the Township with maps and schedules of residential collection routes and keep such information current at all times. Should any change in any scheduling or routing be initiated by the City, the City shall notify the Township. The Township must approve, in writing, all collection schedules or schedule changes or deviations. Any deviations, modifications, or alterations of the schedule must be proposed by the City to the Township and are subject to approval by the Township within thirty (30) days from the date such proposal is received by the Township.

E. Equipment

1. For collection of Residential Waste and Non-residential Waste under this Agreement, the City shall use only vehicles which meet the standards of the County Combined Health District and all local, State, and Federal laws and regulations.

2. All collection vehicles shall be maintained in good working order and in clean, sanitary, and safe condition that insures operation pursuant to all applicable health standards. The City shall maintain reasonable and sufficient backup vehicles to permit it to perform hereunder in the event of mechanical breakdown or other availability. The City shall regularly utilize apparatus and appliances for the thorough cleaning of vehicles.
F. Employees

1. The City’s employees are subject solely to the control of the City and are not subject to the control of the Township.

2. In the course of performing this Agreement, the City will prohibit its employees from using improper or abusive language, engaging in unacceptable or improper conduct, being discourteous to customers, or acting in violation of any laws or regulation affecting work hereunder. The City shall instruct its employees concerning these prohibitions.

3. The City shall require that its employees wear uniforms identifying them as such.

G. Annual Community Events

The City of Dayton will coordinate with the Jefferson Township Administration for two annual community cleanup events that will allow Jefferson Twp. residents to dispose of bulk trash items through non-scheduled curbside pickup on designated dates in April and September each year of the Agreement.

III. TERM OF AGREEMENT AND TERMINATION

A. Term. This Agreement shall be effective from January 1, 2022 until December 31, 2026, unless terminated earlier pursuant to this Agreement. The City has an option to renew this agreement for two (2) additional one (1) year renewals. Any option to renew shall be in writing and approved by both parties and by City Commission, if applicable.

B. Termination. Township may terminate this Agreement upon written notice of default to City in the event of City's substantial failure to perform its duties and responsibilities as set forth herein. City 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 the Party which provided the notice of termination.

City may terminate this Agreement in the event of substantial failure by Township upon written notice of default to Township of substantial failure to perform its duties and responsibilities as set forth herein. Township 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 City.

IV. CONTRACT PRICE AND COLLECTION

A. During the Term, the City and the Township agree that each Residential Customer and Non-residential Customer in the District shall pay Two Hundred Twenty-Six Dollars and Zero Cents ($226.00) per year for trash collection and recycling services.
The schedule for payment during the term of the Agreement is attached hereto as Exhibit A. Also, during the Term, a Residential Customer or a Non-residential Customer may obtain additional Containers for an additional fee of Seventy-Five Dollars and Zero Cents ($75.00) per additional Container.

B. Pursuant to Section 505.29 of the Ohio Revised Code, the Township shall, by resolution, establish equitable charges of rents to be paid to the Township for the benefit of collection and disposal of garbage and refuse, such amounts to be paid by every Residential Customer and Non-residential Customer whose premises are served. The City shall act as the Township’s agent for billing Residential Customers and Non-residential Customers for the amounts due and for collecting such amounts. The City shall remit to the Township, within thirty (30) days of the end of the Term, ten percent (10%) of the net revenue received. The amounts due from Residential Customers and Non-residential Customers shall constitute a lien upon the property served and, if not paid when due, shall be collected in the same manner as other Township taxes. The City shall prepare documentation to substantiate the delinquent status of unpaid amounts and assist the Township in taking any and all action necessary to certify the delinquent amounts due to the Montgomery County Auditor pursuant to Section 505.33 of the Ohio Revised Code. The Township shall remit to the City ninety percent (90%) of the payments received for amounts certified to the Montgomery County Auditor within ten (10) days after receipt.

V. GENERAL PROVISIONS

A. Notices. Notices under this Agreement must be delivered by hand, overnight courier, or first-class mail, at the following addresses:

City: Frederick Stovall, Director
Department of Public Works
1736 East Monument Avenue, Building 23
Dayton, Ohio 45402

Township: Administrator
Jefferson Township Municipal Building
580 Calumet Lane
Dayton, Ohio 45417

B. Resolution of Disputes. In the event a dispute arises between the City and the Township with respect to the performance of obligations under this Agreement, the City and the Township, by representatives authorized to settle the dispute to the extent permitted by law, shall meet face-to-face and make a good faith effort to resolve the dispute.

C. Licenses, Permits, and Fees. The City shall obtain and pay for all licenses, permits, certificates, and inspections, and shall pay all other fees required by applicable law or otherwise necessary, to perform the services prescribed hereunder.
D. Assignment and Subcontracting. The City shall not assign, transfer, subcontract, sublet, convey, or otherwise alienate any of its obligations, rights, title or interest in or to the Agreement without the previous written consent of the Township, which the Township may grant or withhold in its absolute discretion.

E. Choice of Law; Venue. This Agreement shall be governed, construed and interpreted in accordance with the laws of the State of Ohio, excluding any such law relating to the choice of law. Should any action, whether real or asserted, at law or in equity, arise out of the terms and conditions of this Agreement, such action shall be filed exclusively in a court of the State of Ohio in Montgomery County, Ohio.

F. Amendment. No amendment of this Agreement may occur without the written consent of the parties hereto. On behalf of the Township, the Contract Representative is the only agent authorized to execute such an amendment.

G. Delays. No Party 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; 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, the non-performing Party shall, within a reasonable time of being prevented from performing, give written notice to the other Parties describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

H. 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.

I. Integrated Agreement. This Agreement contains the entire agreement of the Parties pertaining to the subject matter.

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

CITY OF DAYTON, OHIO

By: __________________________

Date: ________________________

THE BOARD OF TRUSTEES OF
JEFFERSON TOWNSHIP
MONTGOMERY COUNTY,
OHIO

James McGuire

Roy Mann

M. Michael McLaughlin

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

_________________________ 2021

Min./Bk. ________ Pg. ________

Clerk of Commission

APPROVED AS TO FORM
AND CORRECTNESS:

9/16/2021

X  John Musto for
City Attorney

Signed by: Musto, John
## EXHIBIT A

**JEFFERSON TOWNSHIP WASTE COLLECTION FEE SCHEDULE**

### 2022-2028

<table>
<thead>
<tr>
<th>Year</th>
<th>Rate</th>
<th>Second Trash Container Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>2022</td>
<td>$226</td>
<td>$75</td>
</tr>
<tr>
<td>2023</td>
<td>$231</td>
<td>$75</td>
</tr>
<tr>
<td>2024</td>
<td>$236</td>
<td>$75</td>
</tr>
<tr>
<td>2025</td>
<td>$241</td>
<td>$75</td>
</tr>
<tr>
<td>2026</td>
<td>$246</td>
<td>$75</td>
</tr>
<tr>
<td>2027</td>
<td>$252</td>
<td>$80</td>
</tr>
<tr>
<td>2028</td>
<td>$258</td>
<td>$80</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Rate</th>
<th>Billed Customers</th>
<th>Estimate Annual Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2022</td>
<td>$226</td>
<td>2283</td>
<td>$515,958</td>
</tr>
<tr>
<td>2023</td>
<td>$231</td>
<td>2283</td>
<td>$527,373</td>
</tr>
<tr>
<td>2024</td>
<td>$236</td>
<td>2283</td>
<td>$538,788</td>
</tr>
<tr>
<td>2025</td>
<td>$241</td>
<td>2283</td>
<td>$550,203</td>
</tr>
<tr>
<td>2026</td>
<td>$246</td>
<td>2283</td>
<td>$561,618</td>
</tr>
<tr>
<td>2027</td>
<td>$252</td>
<td>2283</td>
<td>$575,316</td>
</tr>
<tr>
<td>2028</td>
<td>$258</td>
<td>2283</td>
<td>$589,014</td>
</tr>
</tbody>
</table>
AN ORDINANCE

Authorizing the City Manager to Purchase Fuel Necessary to Maintain Operations for 2022, 2023 and 2024, and Declaring an Emergency.

WHEREAS, The City of Dayton as financial stewards of public resources desires to reduce its exposure to fuel price fluctuations; and

WHEREAS, The City of Dayton, during the course of normal operations, consumes approximately 554,000 gallons of gasoline, 462,000 gallons of diesel fuel and 160,000 gallon of compressed natural gas (CNG) in a calendar year; and

WHEREAS, The City of Dayton is consistently monitoring potential opportunities to coordinate with other entities to potentially leverage the ability to increase efficiency and further lower the cost of fuel purchases; and

WHEREAS, In order to provide for the usual daily operations of the City of Dayton departments and any other entities that the City of Dayton may agree to cooperate with for the supply of fuel; now, therefore,

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

Section 1. That the City Manager is authorized to execute purchase orders or other agreements necessary for the City of Dayton to purchase gasoline, diesel and compress natural gas (CNG) fuel in quantities adequate to satisfy operational needs of City of Dayton departments and other entities with which the City may form cooperative procurement agreements for fiscal years 2022, 2023 and 2024.

Section 2. For the reason set forth in the preamble hereof, the Commission declares this Ordinance to be an emergency measure which shall take effect immediately upon its passage.

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

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

Mayor of the City of Dayton, Ohio

ATTEST:

Clerk of the Commission

APPROVED AS TO FORM:

City Attorney
MEMORANDUM

October 27, 2021

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

FROM: Melissa A. Wilson, Purchasing Agent
       Procurement, Management & Budget, Division of Procurement

SUBJECT: Fuel Ordinance

The attached language is recommended to replace Ordinance 31690-18 which authorized the City Manager to purchase fuel for 2022. In order to better forecast and utilize the market pricing, the request for this ordinance will cover years 2022, 2023 and 2024. This will allow the City to hedge fuel pricing for both unleaded, diesel and compressed natural gas when the markets are most favorable.

This method of fuel procurement has been effective for the City for many years and allows the City the opportunity to either hedge and/or spot buy to cover the City’s various locational needs and be cognizant of the budgetary constraints as well.

This Ordinance and the associated language was a joint effort between Procurement, Management and Budget and the Department of Law. The Department of Law has signed the Ordinance, indicating their approval.

Should you have any questions, please do not hesitate to inquire.

CC: Ms. Shannon, File
A RESOLUTION

Authorizing the City Manager to Apply for, Accept, and Enter into Hazard Mitigation Assistance Funding Agreements Administered by the Ohio Emergency Management Agency on Behalf of the City of Dayton, Ohio for Construction and/or Design of Projects, and Declaring an Emergency.

WHEREAS, Ohio received a Federal Emergency Management Agency major disaster declaration as the result of the Covid-19 pandemic; and

WHEREAS, As a result of this disaster declaration, Hazard Mitigation Assistance Funding is available statewide; and

WHEREAS, Local communities, eligible non-profits, and state agencies can apply for Hazard Mitigation Assistance Funding projects that reduce natural hazard risk to people and property; and

WHEREAS, An applicant must have participated in the development of a Federal Emergency Management Agency approved local hazard mitigation plan to be eligible to apply for Hazard Mitigation Assistance Funding; and

WHEREAS, The City of Dayton participated in the development of the Federal Emergency Management Agency approved Montgomery County Natural Disaster Mitigation Plan; and

WHEREAS, The Department of Water through its asset management and capital improvement programs has identified projects meeting the grant criteria; and

WHEREAS, The City of Dayton intends to apply for Hazard Mitigation Assistance Funding administered by the Ohio Emergency Management Agency; and

WHEREAS, The State of Ohio requires an authorized representative to submit grant applications, to execute the grant agreements, and to submit requests for grant disbursements, etc.; and

WHEREAS, For the immediate preservation of the public property, health and safety, and the usual operations of City departments, it is necessary that this Resolution take effect immediately; now, therefore,
BE IT RESOLVED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That the City Manager, or her designee, be and is hereby authorized, to apply to the Hazard Mitigation Assistance Funding administered by the Ohio Emergency Management Agency and execute any and all necessary documents to accept funds for such construction and/or design of projects meeting the grant criteria.

Section 2. For the reasons stated in the preamble hereof, the Commission declares this Resolution to be an emergency measure that shall take effect immediately upon its adoption.

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

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

Mayor of the City of Dayton, Ohio

Attest:

Clerk of Commission

Approved as to form:

City Attorney
MEMORANDUM

DATE: October 26, 2021

TO: Shelley Dickstein, City Manager
    City of Dayton

FROM: Michael Powell, Director
       Department of Water

SUBJECT: Hazard Mitigation Assistance Grant Program (HMPG) administered by the Ohio Emergency Management Agency

The Department of Water requests passage of a resolution granting the City Manager or her designee the authority to apply to the Hazard Mitigation Assistance Grant Program administered by the Ohio Emergency Management Agency (EMA) and execute any and all documents for such construction and/or design projects meeting the grant criteria. The resolution has been reviewed and approved by the Department of Law.

Statewide FEMA HMGP funds totaling over $1 billion are available due to the Major Disaster Declaration on March 31, 2020 (Ohio Covid-19 Pandemic, DR-4507-OH). FEMA’s HMGP provides funding for critical mitigation measures to reduce the risk of loss of life and property from future disasters.

Water staff has submitted pre-applications and is working with both the Montgomery County EMA and Ohio EMA on potential applications for multiple generator projects. Staff is collecting power outage information to support cost-benefit analyses for the proposed projects. Proposed projects include permanent generators at the Water Reclamation Facility, sanitary lift stations, flood control stations, and water distribution booster stations.

Revenue to the City will be dependent upon grant award(s). The Department of Water hopes to submit multiple projects to this grant program upon approval by the City Commission.

If you would like additional information, please contact Rosalind Bertolo at Rosalind.Bertolo@DaytonOhio.gov or (937) 333-3755.

Attachment

pc: Aaron Zonin
    Nick Dailey
    Kena Crist
    Rosalind Bertolo
    File
A RESOLUTION

Authorizing the Submission of the 2022 Action Plan to the U.S. Department of Housing and Urban Development; Authorizing the Acceptance of Grant Awards Under Three Community Planning and Development Formula Programs from the U.S. Department of Housing and Urban Development on Behalf of the City of Dayton, and Declaring an Emergency.

WHEREAS, The City desires to increase the quality and quantity of decent housing, provide a suitable living environment, and secure expansion of economic opportunities for Dayton residents, particularly to those of low and moderate incomes; and,

WHEREAS, The U.S. Department of Housing and Urban Development (HUD) has instituted the Consolidated Plan that serves as a framework to establish a comprehensive five-year vision and strategy for housing and community development in the City and specifies how Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME), and Emergency Solutions Grant (ESG) funding will be utilized to implement those strategies; and,

WHEREAS, Participating jurisdictions must annually submit to HUD an Action Plan, prepared in accordance with the requirements of 24 CFR Part 91, describing the activities that the City anticipates undertaking during the next year to achieve the goals of its five-year Consolidated Plan; and,

WHEREAS, The City of Dayton expects that its entitlement amount for fiscal year 2022 for the CDBG program will be approximately FIVE MILLION NINE HUNDRED FORTY-FIVE THOUSAND SEVEN HUNDRED TWENTY-TWO DOLLARS AND ZERO CENTS ($5,945,722.00); and,

WHEREAS, The City of Dayton expects that its entitlement amount for fiscal year 2022 for the HOME program will be approximately ONE MILLION FOUR HUNDRED FOUR THOUSAND SEVEN HUNDRED FORTY-ONE DOLLARS AND ZERO CENTS ($1,404,741.00); and,

WHEREAS, The City of Dayton expects that its entitlement amount for fiscal year 2022 for the ESG program will be approximately FIVE HUNDRED THREE THOUSAND TWO HUNDRED NINETY-SIX DOLLARS AND ZERO CENTS ($503,296.00); and,

WHEREAS, Public meetings have been held to obtain the view of citizens likely to be affected by the proposed community development housing activities and thereby provided such citizens an adequate opportunity to participate in the development of the plans; and,

WHEREAS, The 2022 Action Plan must be submitted to HUD by November 17, 2021, and it is therefore necessary for the immediate preservation of the public peace, property, health and safety that this resolution take effect on the earliest possible date; now, therefore,

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

Section 1. That the City Manager or the designee be, and hereby is, authorized and directed on behalf of the City of Dayton to file a 2022 Action Plan with the U.S. Department of Housing and Urban Development for the purposes of participation in the categorical grant programs sponsored by the Community Planning and Development Division of HUD, the FY 2022 CDBG Program in the amount of approximately FIVE MILLION NINE HUNDRED FORTY-FIVE THOUSAND SEVEN HUNDRED TWENTY-TWO DOLLARS AND ZERO
CENTS ($5,945,722.00), the HOME Program in the amount of at least ONE MILLION FOUR HUNDRED FOUR THOUSAND SEVEN HUNDRED FORTY-ONE DOLLARS AND ZERO CENTS ($1,404,741.00), and the ESG Program in the amount of at least FIVE HUNDRED THREE THOUSAND TWO HUNDRED NINETY-SIX DOLLARS AND ZERO CENTS ($503,296.00).

Section 2. That in the event HUD tenders a grant to fund the Programs specified in Section 1 above, the City Manager or the designee is hereby authorized and directed to accept said grants on behalf of the City of Dayton, and to execute any necessary contracts or other documents in connection with the grants and the Programs.

Section 3. For the reasons stated in the preamble hereof, this Resolution is declared to be an emergency measure and shall take effect immediately upon its adoption.

Adopted by the Commission _____________, 2021
Signed by the Mayor _________________, 2021

MAYOR OF THE CITY OF DAYTON, OHIO

ATTEST:

Clerk of Commission

APPROVED AS TO FORM:

City Attorney
November 1, 2021

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

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

SUBJECT: Emergency Resolution Authorizing Submission of the 2022 Action Plan and Acceptance of 2022 Grant Awards

Attached for your review and placement on the November 10, 2021, City Commission Calendar is an Emergency Resolution authorizing the submission of the 2022 Action Plan and the acceptance of 2022 Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME), and Emergency Solutions Grant (ESG) awards from the U.S. Department of Housing and Urban Development (HUD).

To ensure eligibility for receiving these grant awards, the City of Dayton is required to submit the 2022 Action Plan to HUD by November 17, 2021. We project the City of Dayton will receive $5,945,722.00 in CDBG, $1,404,741.00 in HOME, and $503,296.00 in ESG funding for the 2021 program year. Actual allocations will be announced upon finalization of the 2022 Fiscal Year Federal Budget. The 2022 Action Plan Resource Allocation Summary for CDBG, HOME, and ESG is attached.

Due to the time sensitive nature of the 2022 Action Plan submission, we are requesting an emergency measure with two readings at the November 10, 2021, City Commission Meeting.

If there are questions, please contact Sarah Geist, Community Development Supervisor, at extension 3814.

Thank you.

TMK/sag
Attachments
# 2022 Action Plan Projection
## Community Planning and Development Resource Summary

<table>
<thead>
<tr>
<th></th>
<th>2021 Amendment #1 9/24/2021</th>
<th>2022 Projection 9/24/2021</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Entitlement Grants</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CDBG</td>
<td>$ 7,853,759</td>
<td>$ 7,853,759</td>
</tr>
<tr>
<td>ESG</td>
<td>$ 5,945,722</td>
<td>$ 5,945,722</td>
</tr>
<tr>
<td>HOME</td>
<td>$ 1,404,741</td>
<td>$ 1,404,741</td>
</tr>
<tr>
<td>HOME-ARP</td>
<td>$ 5,091,209</td>
<td>-</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>2. Prior Years' Program Income NOT previously programmed or reported</strong></th>
<th>$ -</th>
<th>$ -</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDBG</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>ESG</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>HOME</td>
<td>$ -</td>
<td>$ -</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>3. Reprogrammed Prior Years' Funds</strong></th>
<th>$ -</th>
<th>$ -</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDBG 2016 and 2017</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>ESG</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>HOME</td>
<td>$ -</td>
<td>$ -</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>4. Estimated Program Income</strong></th>
<th>$ 84,000</th>
<th>$ 84,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDBG - City¹</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>CDBG - Subrecipient²</td>
<td>$ 59,000</td>
<td>$ 59,000</td>
</tr>
<tr>
<td>ESG</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>HOME ³</td>
<td>$ 25,000</td>
<td>$ 25,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>5. Section 108 Loan Guarantee Funds</strong></th>
<th>$ -</th>
<th>$ -</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Funding Source - CDBG</td>
<td>$ 6,004,722</td>
<td>$ 6,004,722</td>
</tr>
<tr>
<td>Total Funding Source - ESG</td>
<td>$ 503,296</td>
<td>$ 503,296</td>
</tr>
<tr>
<td>Total Funding Source - HOME</td>
<td>$ 1,429,741</td>
<td>$ 1,429,741</td>
</tr>
<tr>
<td>Total Funding Source - HOME-ARP</td>
<td>$ 5,091,209</td>
<td>$ -</td>
</tr>
<tr>
<td><strong>Total - All Funding Sources</strong></td>
<td>$ 13,028,938</td>
<td>$ 7,937,759</td>
</tr>
</tbody>
</table>

**Notes**
1. Program income for CDBG is comprised typically of the proceeds from the sale of CDBG purchased property, payments from property owners for demolition charges and miscellaneous refunds/rebates.
2. Anticipated loan repayments from the Small Business Resource Assistance Program (SBRAP) and the Housing Maintenance Opportunities Program.
3. Program income for the HOME program will come from loan repayments from HMOP, recaptured funds from Down Payment Assistance Program, and CDBG Steady w/2021 allocation.

ESG Steady w/2021 allocation.

HOME Steady w/2021 allocation.
## 2022 Action Plan Projection
### CDBG Summary

<table>
<thead>
<tr>
<th>Subtotal Planned CDBG Funds Allocated</th>
<th>2021 Amendment #1</th>
<th>2022 Action Plan Projection</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>9/24/2021</td>
<td>9/24/2021</td>
</tr>
<tr>
<td></td>
<td>$5,706,169</td>
<td>$6,004,722.00</td>
</tr>
<tr>
<td></td>
<td>$5,706,169</td>
<td>$6,004,722.00</td>
</tr>
</tbody>
</table>

### Housing Stabilization and Improvement Program
- Nuisance Abatement Program: $1,345,480
- PCD Project Delivery Costs - Housing: $40,000
- Competitive Projects - Housing: $169,802

### Economic Development Program
- Small Business Resource Assistance Program: $69,000
- PCD Project Delivery Costs - ED: $10,000
- Competitive Projects - Economic Development: $125,000

### Public and Social Service Support Program
- Operation Charlie: $90,000
- PCD Project Delivery Costs - Public & Social Services: $30,000
- Competitive Projects - Public & Social Services: $250,000

### Infrastructure and Neighborhood Conservation Program
- Residential Asphalt Resurfacing: $1,150,000
- Alley Resurfacing: $300,000
- Neighborhood Improvement Projects: $225,000
- Internal Competitive Process: $800,000
- PCD Project Delivery Costs - Infrastructure: $35,000

### Community Planning
- Planning Services: $241,500

### Grant Program Administration and Compliance
- Division of Community Development - Grants Administration: $740,000
- CDBG Grant Admin. Misc.: $17,000
- Indirect Costs: $139,733
- SA Fair Housing Testing: $50,000

### Reprogrammed Funds
- Reprogrammed: $-

---

A Amendment
SA Substantial Amendment
O Operating Program
# 2022 Action Plan Projection

## ESG Summary

<table>
<thead>
<tr>
<th></th>
<th>2021</th>
<th>2022 Action Plan Projection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amendment #1</td>
<td>9/24/2021</td>
<td>9/24/2021</td>
</tr>
<tr>
<td>$503,296</td>
<td>$503,296</td>
<td></td>
</tr>
</tbody>
</table>

**Subtotal Planned ESG Funds Allocated**

| Operating Support for Area Shelters | $301,977.60 | $301,977.60 |
| Prevention, Diversion, and Rapid Re-housing Program | $201,318.40 | $201,318.40 |
### 2022 Action Plan Projection
#### HOME Summary

<table>
<thead>
<tr>
<th>Category</th>
<th>2021 Amendment #1</th>
<th>2022 Action Plan Projection</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>9/24/2021</td>
<td>9/24/2021</td>
</tr>
<tr>
<td>Total HOME-ARP Funds Allocated</td>
<td>$ 5,091,209</td>
<td>$ -</td>
</tr>
<tr>
<td>Total HOME Funds Allocated</td>
<td>$ 1,429,741</td>
<td>$ 1,429,741</td>
</tr>
<tr>
<td></td>
<td>$ 6,520,950</td>
<td>$ 1,429,741</td>
</tr>
<tr>
<td>CITY OF DAYTON SUBTOTAL</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City Administration</td>
<td>$ 140,747</td>
<td>$ 140,747</td>
</tr>
<tr>
<td>CHDO Administration</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>HOME Competitive Process</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HOME Rental Projects</td>
<td>$ 678,283</td>
<td>$ 678,283</td>
</tr>
<tr>
<td>Rental Projects</td>
<td>$ 678,283</td>
<td>$ 678,283</td>
</tr>
<tr>
<td>HOME Homebuyer Programs</td>
<td>$ 400,000</td>
<td>$ 400,000</td>
</tr>
<tr>
<td>Development</td>
<td>$ 200,000</td>
<td>$ 200,000</td>
</tr>
<tr>
<td>Downpayment Assistance</td>
<td>$ 200,000</td>
<td>$ 200,000</td>
</tr>
<tr>
<td>HOME-ARP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administration &amp; Planning</td>
<td>$ 763,681</td>
<td>$ -</td>
</tr>
<tr>
<td>Rental Housing</td>
<td>$ 1,200,000</td>
<td>$ -</td>
</tr>
<tr>
<td>Supportive Services</td>
<td>$ 1,200,000</td>
<td>$ -</td>
</tr>
<tr>
<td>Non-Congregate Shelter</td>
<td>$ 1,000,000</td>
<td>$ -</td>
</tr>
<tr>
<td>Non-profit Operating &amp; Capacity Building</td>
<td>$ 927,527</td>
<td>$ -</td>
</tr>
<tr>
<td>CHDO Set-Aside</td>
<td>$ 210,711</td>
<td>$ 210,711</td>
</tr>
</tbody>
</table>

### KEY
- **A**: Amendment
- **SA**: Substantial Amendment
- **CHDO**: Certified CHDO

### NOTES
- **CHDO Set-Aside**: Required Set-Aside - Not yet designated to CHDO

---

**BACK**
A RESOLUTION

Honorarily Naming South Orchard Avenue Between West Third Street and Home Avenue as “John McClendon, Jr. Way.”

WHEREAS, An application has been made by Renee L. McClendon to honorarily designate South Orchard Avenue Between West Third Street and Home Avenue as “John McClendon, Jr. Way” for a two-year period due to John McClendon, Jr.’s lasting contributions to the community; and

WHEREAS, John McClendon, Jr. is deserving of this honor for his involvement in the “Model Cities Planning Committee,” his role in shaping the Charles R. Drew Health Center, his direction of the “Talent Search Program,” which provided access to higher education, his service as an educator with Dayton Public Schools for 35 years, his founding of the McClendon Institute for Learning, and his service as a role model and mentor in the community; and

WHEREAS, The portion of South Orchard Avenue to be given the honorary designation is adjacent to the existing McClendon Institute for Learning; and

WHEREAS, The City Commission adopted Resolution 5014-99 on July 28, 1999, which established the rules and procedures for the naming of public facilities and rights-of-way, and this proposal is consistent with the policy outlined in said resolution; and

WHEREAS, The City Plan Board, on September 14, 2021 reviewed the proposal, Case PLN2021-00395, and recommended approval of the two-year designation; now, therefore,

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

Section 1. South Orchard Avenue between West Third Street and Home Avenue is honorarily designated as “John McClendon, Jr. Way” for a two-year period commencing thirty days after the passage of this resolution.

Section 2. The official name of South Orchard Avenue is unchanged.

Section 3. The City Manager is directed to implement this resolution in a timely manner.

Adopted by the Commission.........................., 2021

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

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
October 18, 2021

TO: Regina Blackshear, Clerk of Commission

FROM: Tony Kroeger, Secretary  
City Plan Board

SUBJECT: Two-Year Honorary Designation for “John McClendon, Jr. Way” on November 3, 2021 City Commission Calendar

Plan Board Case PLN2021-00395

I am requesting that a resolution be placed on the November 3, 2021 City Commission calendar to establish a two-year honorary designation for South Orchard Avenue between West Third Street and Home Avenue as “John McClendon, Jr. Way.” The official/legal name of South Orchard Avenue will remain. A second reading and vote on the resolution is planned for the November 10, 2021 City Commission meeting. If approved on November 10, 2021, the effective date of the resolution will be December 10, 2021.

Staff and Plan Board have found the designation to be appropriate. The life of John McClendon, Jr. is noted for service to the community, his involvement in the “Model Cities Planning Committee,” his role in shaping the Charles R. Drew Health Center, directing the “Talent Search Program,” which provided access to higher education, his service as an educator with Dayton Public Schools for 35 years, his founding of the McClendon Institute for Learning, and serving as a role model and mentor in the community.

In compliance with the requirements of Resolution 5014-99 which governs honorary street designations, sufficient support was received from property owners abutting the proposed designation. The City of Dayton Engineer, the Public Works Department, and the Police and Fire Departments have no objections to the designation.

By a 5-0 vote, the Plan Board recommends City Commission approval of the two year honorary designation. The Plan Board believes the request complies with the requirements outlined in Resolution 5014-99. No public hearing is required on the request, so a public hearing will not be held.

Enclosed for distribution to the City Commission is the Plan Board minute record, the Plan Board case report, correspondence received, and the resolution. If you have any questions, please contact me at 3673. Thank you.

c: Ms. Dickstein, Mr. Parlette, Ms. Lofton, Mr. Kinskey, Ms. Hollingsworth, Case File
1. PLN2021-00395 – An Honorary Designation request for South Orchard Avenue from West Third Street to Home Avenue to be honorarily designated as “John McClendon, Jr. Way.” South Orchard Ave. is adjacent to the McClendon Institute for Learning.

Applicant: Renee McClendon
Priority Land Use Board: West
Decision: Approved
Planning District: Roosevelt

Staff Comments
Tony Kroeger presented the staff report, which is included below:

Background: Renee McClendon has applied for a two-year honorary street designation for the segment of South Orchard Avenue adjacent to the McClendon Center. The McClendon Center was established by John McClendon, Jr. Biographical information regarding Mr. McClendon is attached to this report. Highlights of the biography include:

- Persevering through injustice to achieve an education that he had previously been dissuaded to achieve
- Using that experience to inspire others, and to teach that education is fundamental to achieving one’s ambitions
- Involvement in the transformative “Model Cities Planning Committee” which initiated valuable programs and institutions that elevated the African American community
- Playing a vital role in shaping what became the Charles R. Drew Health Center along with activating several programs focused on advancing educational attainment in the African American community
- Directing the Talent Search Program, an initiative linked to Central State University. This program provided an opportunity for Dayton community residents to pursue an undergraduate degree. During McClendon’s tenure, dozens of African American community members were able to receive financial aid and academic support.
- Serving as a teacher (for 35 years) in the Dayton Public Schools, while also conducting scholarly research on African American theologian and Morehouse graduate Dr. Howard Thurman.
- Founding of the McClendon Institute for Learning in 1983. This facility has had a significant impact on the community as a vital educational and cultural institution.

Board Authority and Requirements:
According to the requirements of Resolution 5014-99, Amended Rules and Procedures for the Naming of Public Right of Way (and Public Facilities), the Plan Board shall review the request and make recommendation to the City Commission to approve the request or an alternate proposal.
Staff Analysis Regarding Determination and Findings:
Resolution 5014-99 details the process to be followed when bestowing an honorary designation on a public right-of-way. Staff believes the findings and determinations can be made, and recommends that the Plan Board send the proposal on to City Commission with a recommendation for approval.

Public Comments
Darlene West – 2100 West Third Street/Dr. Martin Luther King, Jr. Way spoke in support of the application and noted the importance of the life of John McClendon. She noted that Renee McClendon would also be honored by this honorary designation. She also corrected the slide presentation that inadvertently had a middle initial of “C.” Mr. Scott read from the application materials and complimented the narrative provided.

Board Discussion
Mr. Scott read from the application materials and complimented the narrative provided. The Board felt that the application could be approved, and all applicable criteria could be met.

Board Action
A motion was made by Mr. Payne, seconded by Ms. Pegues and carried to approve Case PLN2021-00395 to give a two-year honorary designation because the proposal meets the requirements outlined in City Commission Resolution 5014-99.

<table>
<thead>
<tr>
<th>Name</th>
<th>Vote</th>
<th>Name</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rosalyn Miller</td>
<td>Absent</td>
<td>Matt Sauer</td>
<td>Yes</td>
</tr>
<tr>
<td>Geraldine Pegues</td>
<td>Yes</td>
<td>Greg Scott</td>
<td>Yes</td>
</tr>
<tr>
<td>Jeff Payne</td>
<td>Yes</td>
<td>Ann Schenking</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Minutes approved by the City Plan Board on October 12, 2021.

Tony Kroeger, Secretary
City Plan Board
### CITY OF DAYTON CITY PLAN BOARD

**STAFF REPORT**

<table>
<thead>
<tr>
<th>Case #</th>
<th>PLN2021-00395</th>
<th>Hearing Date</th>
<th>09/14/21</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address/Location</td>
<td>S. Orchard Avenue</td>
<td>Parcel #</td>
<td>NA</td>
</tr>
</tbody>
</table>

**Subject**

An Honorary Designation request for South Orchard Avenue from West Third Street to Home Avenue to be honorarily designated as "John McClendon, Jr. Way."

**Owner**

<table>
<thead>
<tr>
<th>Name</th>
<th>Right-of-way</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>City, State Zip</td>
</tr>
</tbody>
</table>

**Applicant**

<table>
<thead>
<tr>
<th>Name</th>
<th>Renee McClendon</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>2100 W. Third St.</td>
</tr>
<tr>
<td>City, State Zip</td>
<td>Dayton, Ohio 45417</td>
</tr>
</tbody>
</table>

**Type**

Honorary Street Designation

<table>
<thead>
<tr>
<th>Planning District</th>
<th>Roosevelt</th>
<th>Land Use Area</th>
<th>West</th>
<th>Existing Zoning</th>
<th>NA</th>
<th>Existing Land Use</th>
<th>NA</th>
</tr>
</thead>
</table>

**Historic District**

- NA
- C

Conformance with applicable City Plans and Policies

Resolution 5014-99

**Location Map**

- Image of a map with location marked.

**Department Contact**

- Tony Kroeger
- 937.333.3673
- tony.kroeger@daytonohio.gov

### STAFF RECOMMENDATION

- **✓** Approve
- **☐** Approve with conditions
- **☐** Deny
- **☐** Continue

**Comments**

Meets required evaluation criteria.

**Future Actions:**

Honorary Designations go to City Commission for approval.
September 14, 2021

CITY PLAN BOARD REPORT

Case: PLN2021-00395

An Honorary Designation request for South Orchard Avenue from West Third Street to Home Avenue to be honorarily designated as “John McClendon, Jr. Way.” South Orchard Ave. is adjacent to the McClendon Institute for Learning.

Applicant:
Renee McClendon
2100 West Third Street
Dayton, OH 45417

Priority Land Use Board: West  Neighborhood: Roosevelt

Background: Renee McClendon has applied for a two-year honorary street designation for the segment of South Orchard Avenue adjacent to the McClendon Center. The McClendon Center was established by John McClendon, Jr. Biographical information regarding Mr. McClendon is attached to this report. Highlights of the biography include:

- Persevering through injustice to achieve an education that he had previously been dissuaded to achieve
- Using that experience to inspire others, and to teach that education is fundamental to achieving one’s ambitions
- Involvement in the transformative “Model Cities Planning Committee” which initiated valuable programs and institutions that elevated the African American community
- Playing a vital role in shaping what became the Charles R. Drew Health Center along with activating several programs focused on advancing educational attainment in the African American community
- Directing the Talent Search Program, an initiative linked to Central State University. This program provided an opportunity for Dayton community residents to pursue an undergraduate degree. During McClendon’s tenure, dozens of African American community members were able to receive financial aid and academic support.
- Serving as a teacher (for 35 years) in the Dayton Public Schools, while also conducting scholarly research on African American theologian and Morehouse graduate Dr. Howard Thurman.
- Founding of the McClendon Institute for Learning in 1983. This facility has had a significant impact on the community as a vital educational and cultural institution.

Board Authority and Requirements:
According to the requirements of Resolution 5014-99, Amended Rules and Procedures for the Naming of Public Right of Way (and Public Facilities), the Plan Board shall review the request and make recommendation to the City Commission to approve the request or an alternate proposal.

Staff Analysis Regarding Determination and Findings:
Resolution 5014-99 details the process to be followed when bestowing an honorary designation on a public right-of-way. Staff believes the findings and determinations can be made, and recommends that the Plan Board send the proposal on to City Commission with a recommendation for approval.

**Agencies and Groups Contacted:**
Abutting property owners and neighborhood residents, as well as the City’s Public Works, Police and Fire departments.

**Impacts and Comments:**
There should be no negative impact by implementing the proposal. This is an honorary designation, not an official renaming of this portion of South Orchard Avenue. The honorary designation will be recognized by signs posted above the street signs. The requirement that 51 percent of property owners must support the designation is met through the attached signatures on a petition form, as well as the City of Dayton’s support on the application (the City of Dayton is also a property owner).

The Departments of Public Works, Fire, and Police have stated no objections to the designation.

**Determinations and Findings:**
Staff believes that the application meets the rules and guidelines set forth in Resolution Number 5014-99, and therefore recommends approval.

According to the resolution, honorary designations shall meet the following criteria:

- a. The designation shall be confined to the right-of-way within the vicinity of the home, business, or location associated with the person(s) or event.

  **Yes, Mr. McClendon established the McClendon Institute for Learning at South Orchard Avenue and West Third Street.**

- b. The designation shall not be an Arterial as listed on the Official Thoroughfare Plan.

  **South Orchard Avenue is not an arterial and has been determined by the Department of Public Works to be appropriate for an honorary designation.**

- c. There shall be only one honorary designation per facility or right-of-way.

  **There is no current designation for this portion of South Orchard Avenue.**

- d. An important community event, organization or well-known person(s) is a person or entity who has made a sustained contribution, over a long period of time, above and beyond the call of duty and demonstrated leadership relating to governance, human relations and development, or neighborhood development.

  - A person(s) who has made specific and sustained contributions to an organization located in or in proximity to the facility.

  - An event that recognized statewide or nationwide.
Yes, the biographic materials submitted with the application establish Mr. McClendon's significant educational and cultural contributions to the community, over a long period of time.

c. The important community event, organization, or well-known person(s) shall be directly related to the public facility or the public right-of-way, i.e. lived, worked, went to school, etc. at the location specified. Only one honorary designation shall be permitted for each person(s) or community event. Preference shall be given to intersections and other limited locations.

The presence of the Institute on this segment satisfies this requirement.

Alternatives:
1. Recommend approval of the proposal to give a two-year honorary designation because the proposal meets the requirements outlined in City Commission Resolution 5014-99.

2. Recommend an alternate proposal.

3. Recommend disapproval of the designation because the proposal does not meet the requirements outlined in City Commission Resolution 5014-99.

Future Actions:
Approval by the City Commission.
Honorary Designation of a Public Facility or Right-of-Way
City of Dayton, Ohio

Complete this form in Adobe Reader software, not a Web browser, to ensure the privacy of your information. Place the cursor in a field and type. Print a copy to add the required signature(s) in blue or black ink and return this form with required attachments to: City of Dayton, Department of Planning and Community Development, 101 West Third Street, P.O. Box 22, Dayton, OH. 45401., 937-333-3670.

Please Read Instructions Carefully Before Completing This Application

To: Clerk of the City Commission

Applicant Name (Contact Person): Renee L. McClendon
Address: 2100 West (Third St.) Dr. Martin Luther King Jr. Way

Telephone Numbers: (Day) 937-262-8354 (Evening) 937-272-4662

Honoree Information:
Name: John McClendon Jr.
Address: 2100 West (Third St.) Dr. Martin Luther King Jr. Way

Proposed Facility or Right-of-way for Designation: The designation shall be confined to a facility or right-of-way within the vicinity of home, business or location associated with the person or event.

"South Orchard St." changed to "John McClendon, Jr Way", Between West Third and Home Ave.

From: West Third Street To: Home Avenue

Summary statement citing the reasons for the designation detailing the significant contributions or significance of the designation and the length of time the designation shall be in effect (Not longer than two years). Attach a detailed resume or reasons for designation.

The resume of John McClendon, Jr. is attached.
Honorary Designation Application

Explain why none of the preferred methods listed below can not be used for the proposed honorary
designation. Attach documentation supporting the determination.

A. Donations to programs and projects:
   This method is not applied to the renaming of the street

B. Proclamation:
   This method is not applied to the renaming of the street

C. Naming of neighborhood and community festivals:
   This method is not applied to the renaming of the street

D. Planting trees or other living memorials:
   This method is not applied to the renaming of the street

E. Placement of pieces of art, benches and similar objects in public or private spaces:
   This method is not applied to the renaming of the street

F. Community Service Awards of the Dayton Volunteers Program:
   This method is not applied to the renaming of the street

Endorsement:
(The designation must be endorsed by the City Manager, a member of the City Commission, the City Plan Board
or a Priority Board.)

A member of the City Commission: ________________________________
The City Manager:
The City Plan Board:* ________________________________
Priority Board Endorsement/Comment:* ___________________________
Neighborhood Association Comments:* __________________________
*Submit Minutes or other documentation of official Board Action.

Attachments:
- Map specifying location.
- A petition supporting the designation signed by 51 percent of the abutting property owners.
- Attach detailed resume or reasons for designation.
- Copy of minutes or resolution from the Priority Board and neighborhood association.
- An non-refundable application fee of $500.00 is required with the filing of an application.
John McClendon Jr. was a long time resident of Dayton Ohio. Dayton remained his home from 1955 until his death in 2008. Born on October 1, 1928 in Concord, Georgia, his parents John and Rochelle (Dewberry) McClendon moved to Columbus, Ohio when their son was only a toddler. In search of better opportunities for his family, John McClendon Sr. led the way for his extended family in leaving the harsh reality of de jure segregation and its persistent terrorism. Indeed, one member of the family was lynched and miraculously survived. The arrival in Columbus Ohio for young John Jr. was not however a haven from institutionalized racism. With guidance from his parents and particularly his father, John McClendon Jr. learned a multitude of life skills. The senior McClendon was adept at many areas within the manual arts and taught his son the value of hard work and skillful preparation. Nonetheless, the very bright adolescent John faced racism in his encounters toward gaining a formal education. Through the education he received from his father in the manual arts, John recognized the power of developing blueprints for organizing all forms of constructive work. With a high aptitude for building and constructing, he desired to become a professional in the field of drafting. Enthralled by how quantitative measurement and visual representation emerged as a creative as well as critical thinking process, McClendon's aspiration on becoming a professional in the field of drafting was in direct alignment with his experiences and aptitude. However, he encountered teachers that discouraged his academic aims and professional goals, making it abundantly clear that such aspirations were beyond the realm of African American students. It was at this juncture that this astute and inquisitive student decided to abandon the journey toward completing his formal education.

A number of years later McClendon realized that a formal education was essential not only for personal progress but also remained instrumental in the collective struggle of African American liberation. Now as an adult male with his own family, McClendon returned to pursuing a secondary education. Encouraged by his wife, Garnet (nee Martin) and with two children in the household, McClendon enrolled in night school and later graduated with his high school diploma. This monumental achievement of overcoming multiple barriers in the pursuit of education indelibly marked McClendon as a tenacious student and concomitantly he was rapidly transcending into an emerging educator. McClendon shared with others how it was possible to acquire a high school diploma regardless of one's age, social circumstances, and economic limitations. For McClendon, the capacity for sacrificing becomes the monumental anchor for success in educational endeavors.

Consequently, the anchoring principle that guided McClendon was one of "Struggle to Study and Study to Struggle". His struggle to gain a formal education left an indelible impact not only on his family but also the broader Black community. Thus, the primary elements of his philosophy of education were constructed from McClendon's life experiences, whereby he
directly encountered the challenge of being Black in a hostile white racist society. McClendon came to understand what Dr. Carter G. Woodson outlined as The Miseducation of the Negro. The struggle to study was the first step toward confronting the systemic vestiges of miseducation. The second step was to realize that one must study to correctly struggle for liberation. In his march towards educational advancement, one of the great sacrifices that McClendon made transpired during his progression toward a post-secondary degree. A talented musician that played several instruments, John McClendon Jr. was foremost an outstanding vocalist. McClendon gave concerts throughout Midwest Ohio with a repertoire based upon African American spirituals, work songs, and folk music. When Wilberforce University announced a musical competition for a scholarship to the oldest Black university run by African Americans, Garnet, his wife, entered him into the competition. John won the competition and gained a scholarship to Wilberforce University. However, this required giving up his job as well as leaving his family in Columbus.

The University experience for McClendon expanded his horizons both educationally and personally. It was during this time that he discovered that Dayton Ohio would be a suitable place for his family to reside. While McClendon would eventually take a leave of absence from his educational pursuits at Wilberforce University, the novel horizon affixed to living in Dayton Ohio (with his family) marked a new stage in his life. In 1955, the McClendon family arrived in Dayton and resided in what was called at that time Joy Apartments. Eventually the family moved to 352 Harriet St., a street of three blocks right behind Welcome Stadium. After settling in the new residence, John McClendon Jr. enrolled in Central State University with a major in Political Science and a minor in Music. Despite the responsibilities of a family and even sending his oldest three children to college, McClendon gradually moved through his course requirements. Ironically, he and his oldest son were classmates in a Swahili course at CSU.

It was at this juncture, the late 1960s, that McClendon became involved with the Model Cities Planning Committee. The Planning Committee initiated a host of valuable programs and institutions that significantly elevated the African American community. McClendon played a vital role in shaping what became The Charles R. Drew Health Center along with activating several programs focused on advancing educational attainment in the Black community. The Planning Committee mapped out a unique relationship with the Dayton Board of Education, which constituted having shared power respecting educational policy and programs. In this context, McClendon had the opportunity of meeting and sharing ideas with leading educators concerning the theory and practice Black Education. Among the African American educators he met and worked with include Preston Wilcox and Professor William McClendon. Wilcox was the founder of the National Afro-American Educators Association and Prof. McClendon was a pioneer in establishing Black Studies as well as serving on the editorial board of the academic journal, The Black Scholar, starting a Black newspaper, and promoting Jazz via a community cultural center. John McClendon Jr. met with William McClendon in Atlanta Georgia at one of the National Afro-American Educators Association conferences and they had a very fruitful exchange.
Additionally, another Model Cities program that emerged from this effort was Talent Search. The Talent Search Program was an initiative linked to Central State University. McClendon was selected as the director of Talent Search. This program provided an opportunity for Dayton community residents to pursue an undergraduate degree. During McClendon's tenure dozens of Black community members were able to receive financial aid and academic support toward completing their degrees. McClendon was quite proud of the fact that he was able to support so many others that shared a common experience with him, namely in overcoming great odds toward obtaining a college degree. Today there are many residing in Dayton with college degrees resulting from the steadfast efforts of McClendon.

McClendon's own course of educational attainment includes not only the bachelor's degree he earned from Central State University but also two Masters degrees, one is the Masters in Education and another in Christian Education. It should be noted, McClendon always warned that formal education in and of itself was not an indicator of authentic educational attainment. He often pointed out: "There are those that are certified but not qualified. As well, there are those that are qualified but not certified. The educational task remains to achieve both certification with qualification." McClendon's accomplishments as an educator are varied and pronounced. Over the years, he not only served as a teacher (for 35 years) in the Dayton Public Schools but also conducted scholarly research on the Black theologian and Morehouse graduate Dr. Howard Thurman. He shared this research, in collaboration with his oldest son, at Bates College during the Martin Luther King celebration in 2002. However, McClendon's crowning achievement as an educator was the founding of the McClendon Institute for Learning in 1983.

The founding of McClendon Institute demonstrates the collective and creative talents of John McClendon Jr. Precisely because his vision was not based on what was the immediate appearance. The very edifice he selected required fundamental structural reconstruction and subsequently the utilization of the very manual arts skills honed under the guidance of his father. The building damaged by a fire and inundated with the pungent smell of smoke, McClendon used his own hands to resurrect what would ultimately become a vital educational and cultural institution within the African American community. And its positive influence and impact lasted long after his demise. Furthermore, McClendon's vision mandated locating the building right within the heart of the Black community. John McClendon Jr's eldest daughter, Mama Renée McClendon has through great sacrifice continues to sustain the legacy of her father. An educator, community activist, cultural artist, and mentor to many youth over a broad span of decades, Mama Renée valiantly keeps alive the spirit and power of John McClendon Jr. and his quest, Education for Liberation. It's most fitting and significant that the naming of the adjacent street to McClendon Institute be adorned with the nomenclature that reflects this rich and valuable legacy as John McClendon Jr. Way.
<table>
<thead>
<tr>
<th>TAXPINNO</th>
<th>LOC_NBR</th>
<th>LOC_DIR</th>
<th>LOC_STREE</th>
<th>LOC_SUFFE</th>
<th>OWNER1</th>
<th>OWNER2</th>
<th>NOTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>R72 09009 0020</td>
<td>2027</td>
<td></td>
<td>HOME</td>
<td>AVE</td>
<td>ACCESS PROJECT INC</td>
<td>CITY FOREST OF DAYTON</td>
<td>Signed</td>
</tr>
<tr>
<td>R72 09001 0090</td>
<td>2101</td>
<td></td>
<td>HOWELL</td>
<td>AVE</td>
<td>CITY OF DAYTON</td>
<td>CLAY ELWOOD D</td>
<td>Signed</td>
</tr>
<tr>
<td>R72 09004 0011</td>
<td>14 S</td>
<td></td>
<td>ORCHARD</td>
<td>AVE</td>
<td>DAYTON CITY OF</td>
<td>JONES CASEY</td>
<td>Signed</td>
</tr>
<tr>
<td>R72 09004 0001</td>
<td>2033</td>
<td></td>
<td>HOWELL</td>
<td>AVE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R72 09004 0013</td>
<td>22 S</td>
<td></td>
<td>ORCHARD</td>
<td>AVE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R72 09004 0014</td>
<td>16 S</td>
<td></td>
<td>ORCHARD</td>
<td>AVE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R72 09004 0007</td>
<td>-1 W</td>
<td></td>
<td>THIRD</td>
<td>ST</td>
<td>MARZETTE DORIS J</td>
<td></td>
<td></td>
</tr>
<tr>
<td>R72 09001 0063</td>
<td>2100 W</td>
<td></td>
<td>THIRD</td>
<td>ST</td>
<td>MCCLENDON RENEE L</td>
<td>THE BOARD OF EDUCATION</td>
<td></td>
</tr>
<tr>
<td>R72 09008 0001</td>
<td>-1</td>
<td></td>
<td>HOWELL</td>
<td>AVE</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
By............................................. No.............................................

A RESOLUTION

Honorary Naming South Orchard Avenue Between West Third Street and Home Avenue as “John McClendon, Jr. Way.”

WHEREAS, An application has been made by Renee L. McClendon to honorarily designate South Orchard Avenue Between West Third Street and Home Avenue as “John McClendon, Jr. Way” for a two-year period due to John McClendon, Jr.’s lasting contributions to the community; and

WHEREAS, John McClendon, Jr. is deserving of this honor for his involvement in the “Model Cities Planning Committee,” his role in shaping the Charles R. Drew Health Center, his direction of the “Talent Search Program,” which provided access to higher education, his service as an educator with Dayton Public Schools for 35 years, his founding of the McClendon Institute for Learning, and his service as a role model and mentor in the community; and

WHEREAS, The portion of South Orchard Avenue to be given the honorary designation is adjacent to the existing McClendon Institute for Learning; and

WHEREAS, The City Commission adopted Resolution 5014-99 on July 28, 1999, which established the rules and procedures for the naming of public facilities and rights-of-way, and this proposal is consistent with the policy outlined in said resolution; and

WHEREAS, The City Plan Board, on September 14, 2021 reviewed the proposal, Case PLN2021-00395, and recommended approval of the two-year designation; now, therefore,

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

Section 1. South Orchard Avenue between West Third Street and Home Avenue is honorarily designated as “John McClendon, Jr. Way” for a two-year period commencing thirty days after the passage of this resolution.

Section 2. The official name of South Orchard Avenue is unchanged.

Section 3. The City Manager is directed to implement this resolution in a timely manner.

Adopted by the Commission......................................................, 2021

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

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney