CITY COMMISSION MEETING AGENDA

CITY COMMISSION                  DAYTON, OHIO                  NOVEMBER 18, 2020
                                           6:00 P.M.

I. AGENDA SCHEDULE

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

1. Call Meeting to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Approval of Minutes
6. Communications and Petitions Distribution (if any)
7. Special Awards/Recognition
8. Discussion of City Manager’s Recommendations (See Section II)
9. Citizen Comments on City Manager’s Recommendations
10. City Commission Action on City Manager’s Recommendations
11. Public Hearing: 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: N/A
17. Miscellaneous (See Section VI)

II. CITY MANAGER RECOMMENDATIONS (Item #8 above)

The following recommendations are offered for City Commission approval.

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

1. Purchase Orders:

   **FIRE**
   A1. Dell Marketing LP (computers and monitors) $16,813.16
1. (Cont’d):

PUBLIC AFFAIRS

B1. MCCI LLC (public information records management software) $15,210.00

PUBLIC WORKS

C1. Verizon Connect NWF, Inc. (Global Positioning System with real-time communications through 06-30-21) 39,156.00

WATER

D1. Cronin CDJR LLC (two four-wheel drive pickup trucks with various optional equipment through 03-31-21) – PO201268 66,289.00
D2. Cronin CDJR LLC (one four-wheel drive pickup truck with accessories through 03-31-21) – PO201269 32,177.00
D3. Cronin CDJR LLC (one four-wheel drive pickup truck with accessories through 03-31-21) – PO201270 33,117.00
D4. IXOM Watercare, Inc. (service program and annual maintenance through 12-31-23) 50,078.00
D5. Process Pump & Seal, Inc. (SEEPEX brand pump) 59,997.00
D6. Fastenal Company (medical first aid supplies as needed through 12-31-20) 12,000.00
-Depts. of Fire, Public Affairs, Public Works, and Water. Total: $324,837.16

B. Construction Contracts:

2. Bladecutters, Inc. – Award of Contract – for the Nuisance Abatement Program Residential Demolition II – 2020 (15% SBE Participation Goal/15% SBE Participation Achieved) – Dept. of Planning & Community Development/Housing Inspection. $219,200.00 (Thru 12/31/21)

C. Revenue to the City:

3. The Downtown Dayton Partnership – Service Agreement – to provide security and traffic control for the 2020 Annual Children’s Parade, Annual Tree Lighting Ceremony, the Grand Illumination, on November 28, 2020 – Dept. of Police. $15,432.42 (Est. Rev.)
E. Other – Contributions, Etc.:


   Total: $1,500,000.00
   (Thru 12/30/20)


   Total: $3,000,000.00
   (Thru 12/30/20)

6. **Little Gem Coffee Company LLC dba Wholly Grounds – Other** – for Dayton CARES Act Small Business Capital Grant Agreement – Dept. of Planning & Community Development/Land Use Admin. $10,714.00
   (Thru 12/30/20)

IV. LEGISLATION:

   Emergency Ordinances – First and Second Reading:

7. **No. 31852-20** Providing Temporary Appropriations for the Ordinary Operating and Capital Expenses of the City of Dayton Pending Passage of the Year 2021 Annual Appropriation Ordinance, and Declaring an Emergency.
8. **No. 31853-20** An Ordinance Declaring the Improvement of Certain Real Property Located in the City of Dayton, Ohio to be a Public Purpose, Designating Specific Public Infrastructure Improvements that, once Made, Will Benefit the Parcels for Which Improvement is Declared to be a Public Purpose; Creating the Willow Hills Incentive District within the City; Declaring the Improvements to Real Property within the Incentive District to be a Public Purpose, Exempting Seventy-Five Percent of the Value of such Incentive District Improvements from Real Property Taxation for a Period of Ten Years; Requiring the Owners of Parcels for which Improvements are Declared to be a Public Purpose to Make Annual Service Payments in lieu of Taxes During the Period of Exemption; Describing the Public Infrastructure Improvements Made or to be Made to Directly Benefit the Parcels for which Improvements are Declared to be a Public Purpose; Establishing a Municipal Public Improvement Tax Increment Equivalent Fund for the Deposit of such Service Payments; Authorizing the Execution of a Tax Increment Financing Agreement; and Approving Related Matters, and Declaring an Emergency.

**Emergency Resolutions – First and Second Reading:**


10. **No. 6550-20** Declaring that Public Safety Personnel are Substantially Dedicated to Mitigating or Responding to the COVID-19 Public Health Emergency, and Declaring an Emergency.

**VI. MISCELLANEOUS:**

**ORDINANCE NO. 31854-20**  
**RESOLUTION NO. 6551-20**  
**IMPROVEMENT RESOLUTION NO. 3599-20**  
**INFORMAL RESOLUTION NO. 981-20**
City Manager’s Report

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

Date November 18, 2020
Expense Type Purchase Order
Total Amount $324,837.16

2020 Purchase Orders

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

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

Description

FIRE

(A1) P0201274 – DELL MARKETING LP, ROUND ROCK, TX
- Computers and monitors.
- These goods are required as part of the Station Alerting replacement project.
- The City has standardized on Dell computing equipment; 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>2020</td>
<td>Computer Hardware</td>
<td>49074-6340-1413-71</td>
<td>$16,813.16</td>
</tr>
</tbody>
</table>

Signatures/Approval

Approved by City Commission

Clerk
Date

Updated 06/2016
PUBLIC AFFAIRS

(B1) **P0201273 – MCCII LLC, TALLAHASSEE, FL**

- Public Information records management software.
- These goods are required to modernize and automate the City’s public information request process.
- Rates are in accordance with the National Cooperative Purchasing Alliance (NCPA) Contract #11-26.
- The Office of Public Affairs recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>Other Professional Services</td>
<td>10000-2101-1159-61</td>
<td>$15,210.00</td>
</tr>
</tbody>
</table>

PUBLIC WORKS – FLEET MANAGEMENT

(C1) **P0201272 – VERIZON CONNECT NWF, INC., ATLANTA, GA**

- Global Positioning System (GPS) with real-time communications.
- These goods and services are required for data and location services for City vehicles.
- Rates are in accordance with the Sourcewell Contract #022217-NWF with pricing through 6/30/2021.
- 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>2020</td>
<td>Other Professional Services</td>
<td>10000-6440-1159-32</td>
<td>$7,176.00</td>
</tr>
<tr>
<td>2020</td>
<td>Other Professional Services</td>
<td>21000-6430-1159-54</td>
<td>$13,572.00</td>
</tr>
<tr>
<td>2020</td>
<td>Computer Maintenance</td>
<td>53000-3445-1164-54</td>
<td>$4,992.00</td>
</tr>
<tr>
<td>2020</td>
<td>Computer Maintenance</td>
<td>55000-3445-1164-54</td>
<td>$5,616.00</td>
</tr>
<tr>
<td>2020</td>
<td>Computer Maintenance</td>
<td>58000-3445-1164-54</td>
<td>$936.00</td>
</tr>
<tr>
<td>2020</td>
<td>Fleet Charges/Direct Bill</td>
<td>10000-2320-1162-32</td>
<td>$3,120.00</td>
</tr>
<tr>
<td>2020</td>
<td>Fleet Charges/Direct Bill</td>
<td>21000-6450-1162-54</td>
<td>$468.00</td>
</tr>
<tr>
<td>2020</td>
<td>Fleet Charges/Direct Bill</td>
<td>53000-3430-1162-54</td>
<td>$468.00</td>
</tr>
<tr>
<td>2020</td>
<td>Fire Fleet Charges</td>
<td>10000-6330-1160-71</td>
<td>$312.00</td>
</tr>
<tr>
<td>2020</td>
<td>Other Equipment Maintenance</td>
<td>61000-6470-1167-99</td>
<td>$156.00</td>
</tr>
<tr>
<td>2020</td>
<td>Maintenance Agreements</td>
<td>53000-5350-1166-64</td>
<td>$2,340.00</td>
</tr>
</tbody>
</table>
WATER – WATER SUPPLY AND TREATMENT

(D1) P0201268 – CRONIN CDJR LLC, LEBANON, OH

- Two (2) 2021 four-wheel drive pickup trucks with various optional equipment.
- These vehicles are required to support the daily operations of the Division and will replace Units #2174 and #2954 which will be disposed of in the best interest of the City.
- Fourteen (14) possible vendors were solicited and five (5) bids were received. This order establishes a price agreement per IFB 20041D with pricing through 3/31/2021.
- The Department of Water recommends acceptance of the low 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>2020</td>
<td>Motorized Equipment</td>
<td>53000-3430-1412-54</td>
<td>$66,289.00</td>
</tr>
</tbody>
</table>

(D2) P0201269 – CRONIN CDJR LLC, LEBANON, OH

- One (1) 2021 four-wheel drive pickup truck with accessories.
- This vehicle is required to support the daily operations of the Division and will replace Unit #2913 which will be disposed of in the best interest of the City.
- Fourteen (14) possible vendors were solicited and five (5) bids were received. This order establishes a price agreement per IFB 20041D with pricing through 3/31/2021.
- The Department of Water recommends acceptance of the low 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>2020</td>
<td>Motorized Equipment</td>
<td>53000-3430-1412-54</td>
<td>$32,177.00</td>
</tr>
</tbody>
</table>

(D3) P0201270 – CRONIN CDJR LLC, LEBANON, OH

- One (1) 2021 four-wheel drive pickup truck with accessories.
- This vehicle is required to support the daily operations of the Division and will replace Unit #2915 which will be disposed of in the best interest of the City.
- Fourteen (14) possible vendors were solicited and five (5) bids were received. This order establishes a price agreement per IFB 20041D with pricing through 3/31/2021.
- The Department of Water recommends acceptance of the low 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>2020</td>
<td>Motorized Equipment</td>
<td>53000-3430-1412-54</td>
<td>$33,117.00</td>
</tr>
</tbody>
</table>
WATER – WATER SUPPLY AND TREATMENT (CONTINUED)

(D4) P0201232 – IXOM WATERCARE, INC., DICKINSON, ND
- Service program and annual maintenance.
- These goods and services are required to maintain solar powered mixers on our water storage tanks.
- IXOM Watercare, Inc. is recommended as the Original Equipment Manufacturer (OEM); therefore, this purchase was negotiated.
- The Department of Water requests additional authority of $39,000.00 through 12/31/2023.
- 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>2020</td>
<td>Maintenance Agreements</td>
<td>53000-3430-1166-54</td>
<td>$11,078.00</td>
</tr>
<tr>
<td>2021</td>
<td>Maintenance Agreements</td>
<td>53000-3430-1166-54</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>2022</td>
<td>Maintenance Agreements</td>
<td>53000-3430-1166-54</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>2023</td>
<td>Maintenance Agreements</td>
<td>53000-3430-1166-54</td>
<td>$13,000.00</td>
</tr>
</tbody>
</table>

(D5) P0201233 – PROCESS PUMP & SEAL, INC., CINCINNATI, OH
- SEEPEX brand pump.
- This good is required to convey thickened processed residuals into the kiln to complete the finished lime reclamation process.
- Process Pump & Seal, Inc. is recommended as the sole regional municipal distributor for SEEPEX, Inc. products; 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>2020</td>
<td>Furniture, Fixtures &amp; Equip</td>
<td>53000-3430-1411-54</td>
<td>$59,997.00</td>
</tr>
<tr>
<td></td>
<td>Assets</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

WATER – WATER UTILITY FIELD OPERATIONS

(D6) P0200544 – FASTENAL COMPANY, DAYTON, OH
- Medical first aid supplies, as needed through 12/31/2020.
- These goods are required to stock inventories for the Department of Water operations.
- Rates are in accordance with the National IPA Contract #R142101.
- Fastenal Company qualifies as a Dayton local entity.
- This amendment increases the previously authorized amount of $20,000.00 by $12,000.00 for a total not to exceed $32,000.00 and therefore requires City Commission approval.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>Inventory</td>
<td>53998-3445-1350-54</td>
<td>$12,000.00</td>
</tr>
</tbody>
</table>

The aforementioned departments recommend approval of these orders.
NUISANCE ABATEMENT PROGRAM
RESIDENTIAL DEMOLITION II – 2020
(15% SBE PARTICIPATION GOAL/15% SBE PARTICIPATION ACHIEVED)

The Contractor will supply all materials, tools, and personnel for the demolition and disposal of approximately ten (10) residential structures and all associated building material and incidentals thereto. All properties listed below are fire damaged or emergency demolition piles with debris to be disposed of as asbestos-containing material. The contract work includes all demolition activities, excavation, back-fill, site grading, landscaping, and seeding. The properties to be removed are: 369 Adelite Ave., 4513 Eichelberger Ave., 714 North St., 1338 W. Second St., 113 Sherman St., 1951 Wesleyan Rd., 1218 W. Fifth St., 35 S. Mathison St., 31-33 Grimes St., and 41-43 S. Horton St.

Three (3) bids were received for this project. It is recommended that the contract be awarded to the lowest bidder, Bladecutters, Inc., in the amount of $219,200.00, the base bid. The estimated cost for the project was $281,000.00. The time bid for completion is 100 working days.

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

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 10/2019
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X NEW CONTRACT

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>Upon Execution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>December 31, 2021</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$219,200.00</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$219,200.00</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>

Amount: $219,200.00

Fund Code: 16022 2320 1174 32 - -

Vendor Name: Bladecutters, Inc. 937.274.3861

Vendor Address: 5440 N. Dixie Drive Dayton OH 45414

Federal ID: 31-1265427

Commodity Code: 96832

Purpose: Nuisance Abatement Program Residential Demolition II - 2020
(15% SBE Participation Goal)

Contact Person: Ariane Cook PCD/Hsng Conserv 333-3910
Department/Division Phone Number

Originating Department Director's Signature: 11/2/2020 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: 11/9/2020 Date

CF Prepared by: 11/1/2020 Date

October 18, 2011
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>X</th>
<th>NEW CONTRACT</th>
<th>RENEWAL CONTRACT</th>
<th>CHANGE ORDER</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td>Required Documentation</td>
</tr>
<tr>
<td></td>
<td>Expiration Date</td>
<td>December 31, 2021</td>
<td>X Initial City Manager's Report</td>
</tr>
<tr>
<td></td>
<td>Original Commission Approval</td>
<td>$219,200.00</td>
<td>X Initial Certificate of Funds</td>
</tr>
<tr>
<td></td>
<td>Initial Encumbrance</td>
<td>$219,200.00</td>
<td>X Initial Agreement/Contract</td>
</tr>
<tr>
<td></td>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Original CT/CF</td>
<td>$</td>
<td>Copy of City Manager's Report</td>
</tr>
<tr>
<td></td>
<td>Increase Encumbrance</td>
<td>$</td>
<td>Copy of Original Certificate of Funds</td>
</tr>
<tr>
<td></td>
<td>Decrease Encumbrance</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Remaining Commission Approval</td>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount: $219,200.00</th>
<th>Amount:</th>
<th>Fund Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund</td>
<td>Org</td>
<td>Acct</td>
</tr>
<tr>
<td>16022</td>
<td>2320</td>
<td>1174</td>
</tr>
</tbody>
</table>

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

Vendor Name: Bladecutters, Inc. 937.274.3861
Vendor Address: 5440 N. Dixie Drive Dayton OH 45414
Federal ID: 31-1265427
Commodity Code: 96832
Purpose: Nuisance Abatement Program Residential Demolition II - 2020
(15% SBE Participation Goal)

Contact Person: Ariane Cook
PCD/Hsg Consrv 333-3910
Department/Division Phone Number

Originating Department Director's Signature: [Signature]
Date: 11/2/2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature
Date
CF Prepared by
Date
CF/ICT Number

Finance Department
October 18, 2011
October 30, 2020

TO:        Don Long, Interim Division Manager
Division of Housing Inspection
Department of Planning & Community Development

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

SUBJECT:   Nuisance Abatement Program, Residential Demolition II – 2020

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

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

<table>
<thead>
<tr>
<th>PRIME CONTRACTOR</th>
<th>AMOUNT OF BASE BID + ALTERNATE 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bladecutter’s Inc.</td>
<td>$219,200.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CERTIFIED BUSINESS PARTICIPATION</th>
<th>COMMITTED DOLLAR AMT</th>
<th>% TOWARD GOAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>EWOL Trucking</td>
<td>$32,880.00</td>
<td>15% SBE</td>
</tr>
</tbody>
</table>

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

CAG
### SECTION 1: PROPOSAL INFORMATION

Name of Bidder / Proposer’s Firm: **Bladecutters Inc.**
Address: 3440 N. Dixie Dr.
City: Dayton
State: OH
ZIP: 45414
Telephone: 937-274-3861
Email: ULScott@Bladecutters.com
Primas Base Bid $ 219,200-
Name of Project: Residential Diana II - 2020

### SECTION 2: PEP-CERTIFIED BUSINESS & PARTICIPATION INFORMATION

Name of PEP-Certified Firm: **E&WL Trucking**
PEP-Certified Firm’s Tax ID:
Scope of Work to Be Performed by Certified Firm: Trucking

<table>
<thead>
<tr>
<th>Total Dollar Amount Towards Goal</th>
<th>Percentage Towards Goal</th>
<th>Amount to Be Paid to This PEP Firm for the Work Described:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Bid</td>
<td>$ 219,200</td>
<td>$ 33,880</td>
</tr>
<tr>
<td>Materials</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Labor</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### SECTION 3: AFFIRMATIONS

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

(Signature of Bidder / Proposer & Authorized Agent)

(Title of Bidder / Proposer & Authorized Agent)

(Presidential / Authorized Agent)

10-20-20

If the Bidder / Proposer is not awarded a contract, or if the HIC does not approve of the terms as stated above, then any and all representations on this participation form shall be null and void.
PEP PARTICIPATION COMMITMENT AND/OR WAIVER REQUEST FORM

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

1. If you are submitting one (1) executed PEP-Certified SBE/MBE/WBE/DBE Participation Form(s) for each PEP-Certified Firm whose participation you plan to count toward the government contractor's participation goal(s), you must also submit one (1) executed PEP-Certified SBE/MBE/WBE/DBE Participation Form(s) for each PEP-Certified Firm whose participation you plan to count toward the government contractor's participation goal(s).

2. If Option 2 (WAIVER REQUEST) is selected, you must also submit documentation of your Good Faith Efforts to the City of Dayton Human Relations Council (HRC) within twenty (20) business days of the Bid Opening / Proposal Due Date. Bidders/Proposers will receive no further reminders about this deadline.

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

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

<table>
<thead>
<tr>
<th>% SBE</th>
<th>% MBE</th>
<th>% WBE</th>
<th>% DBE</th>
</tr>
</thead>
</table>

[Check the appropriate box(s) if applicable.]

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

- [ ] SBE
- [ ] MBE
- [ ] WBE
- [ ] DBE

The Bidders/Proposers documentation of Good Faith Efforts to meet the participation goal(s) checked above must be submitted to the HRC with this Bid/Proposal. The Bidders/Proposers will receive no further reminders about this deadline.

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

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

2. Divided contract work into economically feasible units to facilitate PEP participation, even if the Bidders/Proposers is unable to meet the participation goal(s) established above.

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

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

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

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

(Signature of Bidders/Proposers Authorized Agent)

(Signature of Bidders/Proposers Authorized Agent)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)

(ComboBox)
Dayton, Ohio

Department of Public Works

Bid Tabulation For: Nuisance Abatement Program

Residential Demolition II – 2020

(15% SBE Participation Goal)

<table>
<thead>
<tr>
<th>Bid Opening Date:</th>
<th>Cost Estimate:</th>
<th>Estimated Time Of Completion:</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 22, 2020</td>
<td>$281,000.00</td>
<td>100 Working Days</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Bidders</th>
<th>Actual Amount Of Base Bid</th>
<th>Adjustment For Work Days</th>
<th>Adjustment For Comparison Purposes Only</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Bladecutters, Inc.</em></td>
<td>$219,200.00</td>
<td>-0-</td>
<td>$219,200.00</td>
</tr>
<tr>
<td>Badger Construction Co.</td>
<td>$231,000.00</td>
<td>-0-</td>
<td>$231,000.00</td>
</tr>
<tr>
<td>Andis LLC</td>
<td>$245,999.00</td>
<td>-0-</td>
<td>$245,999.00</td>
</tr>
</tbody>
</table>

*Awarded*

Revised 9/14/98
CITY OF DAYTON, OHIO
DEPARTMENT OF PUBLIC WORKS

Bid

Nuisance Abatement Program
Residential Demo II - 2020
15% SBE Participation Goal


Bidder
Bladecutters
5440 N Dixie Dr
Dayton, Ohio 45414
<table>
<thead>
<tr>
<th>Item Code</th>
<th>Item Description</th>
<th>UoM</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Extension</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>369 Adelite Ave. R72 09104 0018 Lot 20960</td>
<td>Lump</td>
<td>1</td>
<td>$22,200.00</td>
<td>$22,200.00</td>
</tr>
<tr>
<td>2</td>
<td>4513 Eichelberger Ave. R72 15905 0028 Lot 69663</td>
<td>Lump</td>
<td>1</td>
<td>$19,100.00</td>
<td>$19,100.00</td>
</tr>
<tr>
<td>3</td>
<td>714 North St. R72 06606 0036 Lot 7573PT</td>
<td>Lump</td>
<td>1</td>
<td>$23,100.00</td>
<td>$23,100.00</td>
</tr>
<tr>
<td>4</td>
<td>1338 W. Second St. R72 08901 0033 Lot 7172</td>
<td>Lump</td>
<td>1</td>
<td>$25,200.00</td>
<td>$25,200.00</td>
</tr>
<tr>
<td>5</td>
<td>113 Sherman St. R72 02301 0050 Lot 10272</td>
<td>Lump</td>
<td>1</td>
<td>$19,100.00</td>
<td>$19,100.00</td>
</tr>
<tr>
<td>6</td>
<td>1951 Wesleyan Rd. R72 16214 0003 Lot 71494</td>
<td>Lump</td>
<td>1</td>
<td>$21,500.00</td>
<td>$21,500.00</td>
</tr>
<tr>
<td>7</td>
<td>1218 W. Fifth St. R72 08709 0061 Lot 6501, 02PT</td>
<td>Lump</td>
<td>1</td>
<td>$22,200.00</td>
<td>$22,200.00</td>
</tr>
<tr>
<td>8</td>
<td>35 S. Mathison St. R72 09004 0025 Lot 16817</td>
<td>Lump</td>
<td>1</td>
<td>$21,300.00</td>
<td>$21,300.00</td>
</tr>
<tr>
<td>9</td>
<td>31-33 Grimes St. R72 08403 0026 Lot 23831</td>
<td>Lump</td>
<td>1</td>
<td>$19,100.00</td>
<td>$19,100.00</td>
</tr>
<tr>
<td>10</td>
<td>41-43 S. Horton St. R72 04510 0056 Lot 11216</td>
<td>Lump</td>
<td>1</td>
<td>$26,400.00</td>
<td>$26,400.00</td>
</tr>
</tbody>
</table>

**Base Bid Total:** $219,200.00
DISCLOSURE OF LITIGATION

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

RESPONSE: YES ☐ NO ☒

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

Business Address ____________________________  

Telephone ____________________________

Partnership  
Firm Name ____________________________

Members of Firm and  
Their Business Address ____________________________

Corporation  
Name ____________________________

State of Incorporation Ohio  

Name and Title of  
Officers with Authority  
to Sign Contract John L. Scott - President

Home Office Address 5440 N Dixie Dr, Dayton 45414  

Local Address ____________________________  

Telephone 937-274-3810  
Fax 937-274-9380  
E-mail JLScott@bladecutters.com

Federal I.D. # 31-1205487  

Dated this 13 day of October, 2020  

Bidder: Bladecutters Inc.  
(Person, Firm, or Corporation)

By: ____________________________  

Title: President  

Bid Guaranty and Contract Bond
(Section 153.571 and 3926 121 Ohio Revised Code)

WESTFIELD
GROUP
Westfield Center, Ohio 44251-5001

"KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned, Bladecutters, Inc.
5440 N. Dixie Drive, Dayton, Ohio 45414
as principal and Westfield Insurance Co. as surety, are hereby held and firmly bound unto City of Dayton
as obligee in the penal sum of the dollar amount of the bid submitted by the principal to the obligee on October 22, 2020 to undertake the project known as NUSSANCE ABATEMENT PROGRAM RESIDENTIAL DEMOLITION II - 2020. The penal sum referred to herein shall be the dollar amount of the principal's bid to the obligee, incorporating any additive or deductive alternates bids made by the principal on the date referred to above to the obligee, which are accepted by the obligee. In no case shall the penal sum exceed the amount of ___________ dollars. (If the foregoing blank is not filled in, the penal sum will be the full amount of the principal's bid, including alternates. Alternatively, if the blank is filled in, the amount stated must be less than the full amount of the bid including alternates, in dollars and cents. A percentage is not acceptable.) For the payment of the penal sum well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above named principal has submitted a bid for NUSSANCE ABATEMENT PROGRAM RESIDENTIAL DEMOLITION II - 2020

Now, therefore, if the obligee accepts the bid of the principal and the principal fails to enter into a proper contract in accordance with the bid, plans, details, specifications, and bills of material; and in the event the principal pays to the obligee the difference not to exceed ten per cent of the penalty herein between the amount specified in the bid and such larger amount for which the obligee may in good faith contract with the next lowest bidder to perform the work covered by the bid; or in the event the obligee does not award the contract to the next lowest bidder and reimburses the project for bidding, the principal pays to the obligee the difference not to exceed ten per cent of the penalty hereof between the amount specified in the bid, the costs, in connection with the reevaluation, of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders, whichever is less, then this obligation shall be null and void, otherwise to remain in full force and effect; if the obligee accepts the bid of the principal and the principal within ten days after the awarding of the contract enters into a proper contract in accordance with the bid, plans, details, specifications, and bills of material, which said contract is made a part of this bond the same as though set forth herein;

Now also, if the said Bladecutters, Inc.

shall well and faithfully do and perform the things agreed by Bladecutters, Inc.

to be done and performed according to the terms of said contract; and shall pay all lawful claims of subcontractors, materials suppliers, and laborers, for labor performed and materials furnished in the carrying forward, performing, or completing of said contract; we agreeing and consenting that this undertaking shall be for the benefit of any materials suppliers or laborers having a just claim, as well as for the obligee herein; then this obligation shall be void: otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

The said surety hereby stipulates and agrees that no modifications, omission, or additions, in or to the terms of the said contract or in or to the plans or specifications therefor shall in any wise affect the obligations of said surety on its bond."

Signed this 14th day October 2020

PRINCIPAL: Bladecutters, Inc.

BY: ____________________________

SURETY COMPANY ADDRESS:

SURETY ADDRESS:

AGENCY NAME: Westfield Group Insurance Agency

STREET: 100 N. Miami St.

CITY, STATE, ZIP: West Milton, Ohio 45373

BD 5965 WF (11-01)

SIGNED BY: ____________________________

BY: ____________________________

SURETY: Westfield Insurance Co.

BY: ____________________________

Attorney-in-Fact
This Power of Attorney Supersedes any Previous Power Bearing the Same Power # and Issued Prior to 01/02/02, for any Person or Persons Named Below.

Power of Attorney

Certified Copy

Know All Men By These Presents That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, Corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio; and having its principal office in Westfield Center, Medina County, Ohio, by these presents, make known and declare to you, that we have appointed you, our Power of Attorney, under the laws of the State of Ohio, to act in our names, place and stead, to execute, acknowledge and deliver any and all bonds, undertakings, and recognizances provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed SEVEN MILLION DOLLARS AND NO CENTS ($7,000,000.00).

LIMITATION. This Power of Attorney Cannot be Used to Execute Note Guarantee, Mortgage Deficiency, Mortgage Guarantee, or Bank Depository Bonds.

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

We do hereby appoint you, our Power of Attorney, to do and cause to be done in our names and on behalf of the Companies, to execute, acknowledge and deliver any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents containing or terminating the Company's liability thereunder, and any such instrument or documents executed by such Attorney(s)-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary.

By a more specific Power of Attorney, the Companies authorize the President and/or the Corporate Secretary, or such other person as the Companies may appoint, to execute, acknowledge and deliver any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents containing or terminating the Company's liability thereunder, and any such instrument or documents executed by such Attorney(s)-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary.

In Witness Whereof: WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their National Surety Leader and Senior Executive and their corporate seals to be hereeto affixed this 16th day of January, 2026.

[Seal]

Westfield Insurance Co.
Westfield National Insurance Co.
Ohio Farmers Insurance Co.
Westfield Center, Ohio

[Signature]

By Gary W. Stumpen, National Surety Leader and Senior Executive

[Seal]

State of Ohio
County of Medina

On this 16th day of January, 2026, before me personally came Gary W. Stumpen, to me known, who, being by me duly sworn, did depose and say that he resides in Hartford, CT; that he is National Surety Leader and Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY; that he is a duly authorized officer of the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals, that they were so affixed by order of the Boards of Directors of said Companies, and that he signed his name thereto by the order.

[Seal]

State of Ohio
County of Medina

David A. Kohnke, Attorney at Law, Notary Public
My Commission Does Not Expire (Sec. 141/2 Ohio Revised Code)

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

In Witness Whereof: I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio this 16th day of January, 2026.

[Seal]

Frank A. Carrino, Secretary

October 2016

[Seal]

BPOAC1 (combined) (06-02)
BID BOND

Amount $ __________________________

Ve, the undersigned, are held and firmly bound unto the City of Dayton, Ohio in the sum

$ __________________________ Dollars, for the payment of which well and truly to be made, we hereby, jointly an

overally, bind ourselves, our heirs, executors, and administrators, firmly by these presents.

he condition of this obligation is such that, if the Bid attached hereto is accepted and the Contract award to the bidder,

__________________________________________

amed therein, and the said bidder shall within ten (10) days after being notified that said contract has been awarded to

he bidder, enter into a Contract in the form acceptable to the Director and give bond in a form to be furnished by the

director, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

igned at Dayton, Ohio, this _____ day of ___________________ , 20______ .

__________________________________________

Bidder

__________________________________________

Surety

__________________________________________

Name of Insurance Agency

__________________________________________

Address of Insurance Agency

Telephone______________ FAX______________
CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 1 of 3)

In accordance with Ordinance No. 31487-16 of the City of Dayton, Ohio Revised Code of General
Ordinances,
I, John Scott
(print name – an Officer of the company)
Bladecutters Inc.
(company)
meet the following Contractor requirements relating
to this City of Dayton construction project

Check All That Apply:

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

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

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

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

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

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

By: [Signature]

Title: President

Date: 10-13-2020
A. Please provide a complete listing of the fringe benefits provided to employees, including but not limited to health insurance and retirement benefits.

Health Insurance
401k


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


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


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

EWOL - Trucking

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

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
CERTIFICATION
OF COMPLIANCE WITH OHIO REVISED CODE SECTION 3517.13
FOR CONTRACTS IN EXCESS OF FIVE HUNDRED DOLLARS ($500.00)

STATE OF OHIO
COUNTY OF Montgomery ss:

John Scott

being duly sworn, deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of
   Blade Cutters Inc ("the Contracting Party").

2. The Contracting Party is a/an (select one):
   
   [ ] Individual, partnership, or other unincorporated business association (including without
   limitation, a professional association organized under Ohio Revised Code Chapter
   1785), estate, or trust.

   [ ] Corporation organized and existing under the laws of the State of Ohio.

   [ ] Labor organization.

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

By: [Signature]
Title: [President]
CITY OF DAYTON
CONTRACTOR NON-COLLUSION AFFIDAVIT

STATE OF Ohio } SS:
COUNTY OF Montgomery }

John L. Scott states that:

(1) He/she is President
(owner, partner, officer, representative, or agent)
Blade Cutters Inc.
(business or organization name)

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

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

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

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

SIGNED

President

TITLE
During the performance of this contract:

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

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

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

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

The required goals and timetables are as follows:

<table>
<thead>
<tr>
<th>Period</th>
<th>Goals of Minority Worker Utilization Expressed in Percentage Terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 1/1/2000 to Present</td>
<td>11.5%</td>
</tr>
<tr>
<td>From 4/1/80 to Present</td>
<td>6.9%</td>
</tr>
</tbody>
</table>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONTRACTOR'S CERTIFICATION

[Signature]

(Contractor) certifies that:

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

   Trucking
   Dumping

   [Signature]

   (Signature of Authorized Representative of bidder)

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

   [Signature]

   (Signature of Authorized Representative of bidder)
**SECTION 1: BIDDER / PROPOSER INFORMATION**

Name of Bidder / Proposer's Firm: **Bladecutters Inc.**
Address: 5440 N. Dixie Dr.
City: Dayton, State: Ohio, ZIP: 45414
Telephone: 937-274-3861, Email: ULScott@bladecutters.com
Primes Base Bid $ 219,800.00
Name of Project: Residential Demo II - 2020

---

**SECTION 2: PEP-CERTIFIED BUSINESS & PARTICIPATION INFORMATION**

Name of PEP-Certified Firm: **EWOOL Trucking**
PEP-Certified Firm’s Tax ID#: 
Scope of Work to Be Performed by Certified Firm: **Trucking**

<table>
<thead>
<tr>
<th>Total Dollar Amount Towards Goal</th>
<th>Percentage Towards Goal</th>
<th>Amount to Be Paid to This PEP Firm for the Work Described:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Bid $ 219,800.00</td>
<td>100%</td>
<td>$ 32,880.00</td>
</tr>
<tr>
<td>Materials $</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Labor $</td>
<td></td>
<td>$</td>
</tr>
</tbody>
</table>

---

**SECTION 3: AFFIRMATIONS**

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

(Signature of Bidder/Proponent's Authorized Agent)

(UPPER CASE)

(Printed Name of Bidder/Proposers Authorized Agent)

President 10-20-20

(Title of Bidder/Proposers Authorized Agent) (Date)

---

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

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

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

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

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

<table>
<thead>
<tr>
<th>% SBE</th>
<th>% MBE</th>
<th>% WBE</th>
<th>% DLSB</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

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

- SBE
- MBE
- WBE
- DLSB

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

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

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

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

[Signature of Bidder/Proposer's Authorized Agent]

[Signature of Bidder/Proposer's Authorized Agent]

John L. Scott

President

(Partent Name of Bidder/Proposer's Authorized Agent)

(Date)

(Printed Name of Bidder/Proposer's Authorized Agent)

(Date)
"NAP Residential Demo II - CF" History

Document created by Miranda Brooks (miranda.brooks@daytonohio.gov)
2020-11-02 - 4:56:23 PM GMT - IP address: 198.30.33.2

Document emailed to Todd M. Kinskey (todd.kinskey@daytonohio.gov) for signature
2020-11-02 - 4:57:14 PM GMT

Email viewed by Todd M. Kinskey (todd.kinskey@daytonohio.gov)
2020-11-02 - 6:27:16 PM GMT - IP address: 74.83.54.61

Document e-signed by Todd M. Kinskey (todd.kinskey@daytonohio.gov)
Signature Date: 2020-11-02 - 6:29:55 PM GMT - Time Source: server - IP address: 74.83.54.61

Agreement completed.
2020-11-02 - 6:29:55 PM GMT
"NAP Residential Demo II - 2020 CMR" History

Document created by Miranda Brooks (miranda.brooks@daytonohio.gov)
2020-11-02 - 4:55:24 PM GMT - IP address: 198.30.33.2

Document emailed to Todd M. Kinskey (todd.kinskey@daytonohio.gov) for signature
2020-11-02 - 4:55:35 PM GMT

Email viewed by Todd M. Kinskey (todd.kinskey@daytonohio.gov)
2020-11-02 - 6:29:23 PM GMT - IP address: 74.83.54.61

Document e-signed by Todd M. Kinskey (todd.kinskey@daytonohio.gov)
Signature Date: 2020-11-02 - 6:32:12 PM GMT - Time Source: server - IP address: 74.83.54.61

Agreement completed.
2020-11-02 - 6:32:12 PM GMT
City Commission approval is requested for a Service Agreement with the Downtown Dayton Partnership. The Downtown Dayton Partnership has requested off-duty police personnel to provide security and traffic control for the 2020 Annual Children’s Parade and the Annual Tree Lighting Ceremony, the Grand Illumination, in various locations located within the municipal corporation limits of the City of Dayton, Ohio on Saturday, November 28, 2020.

The Agreement is for 14 Sergeant Hours @ $77.36 per hour, 212 Officers Hours @ $66.70 per hour and 162 Night Differential Hours @ $1.29 per hour. The total estimated revenue is $15,432.42.

The Agreement is over $10,000.00 thus requiring Commission approval.

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

The Certificate of Revenue is attached.
CERTIFICATE OF REVENUE

TO BE COMPLETED BY THE DEPARTMENT

**Customer Information:**
- Name: Downtown Dayton Partnership
- Address: 10 W. Second Street Suite 611
- City: Dayton
- State: Ohio
- Zip+4: 45402
- Customer #: 341722175
- Address Location #: P-1
- Federal ID#: 34-1722175

**Revenue Information:**
- Fund: 10000
- Organization: 6210
- Revenue: 22611
- Program: 71

**Contract Information:**
- Contract Start Date: 11/28/2020
- Contract Expiration Date: 11/28/2020

**Billing Information:**
- Rate: Officer rate $66.70 - X
  - Sgt rate $77.36 - X
  - Lt. Rate $89.71
  - Night Diff rate $1.29 - X

Monthly (1st month of billing)
Quarterly (1st month of quarter)
Semi-annual (1st month of half)
Annual (1st month of billing)
Other (explain) To Be Invoiced (Estimated Revenue $15,432.42)

Rate Change Date: n/a
Rate Change Amount: n/a

Description of Services (wording on invoice): To provide security and traffic control for the 2020 Annual Children's Parade and the Annual Tree Lighting Ceremony, the Grand Illumination, in various locations located within the municipal corporation limits of the City of Dayton, Ohio on Saturday, November 28, 2020.

Departmental Approval: 

TO BE COMPLETED BY FINANCE

Revenue Contract Number: 5-2175
Auditor: B. Bell
Date: 11/9/2020

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

Director of Finance: 

DocuSigned by: 11/10/2020

[Signature]

40D25B13082A482...
AGREEMENT

THIS AGREEMENT is made this ______ day of ____________ 2020, between the City of Dayton, Ohio ("City") and the Downtown Dayton Partnership, 10 W. Second St., Suite 611, Dayton, Ohio 45402 ("Contractor").

WITNESSETH THAT:

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

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

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

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

Section 1. Subject to Sections 2 and 3, the City agrees to make available certain police personnel to perform the police-related functions which are further explained in Exhibit A attached hereto and incorporated herein, beginning Saturday, November 28, 2020.

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

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

The City’s Chief of Police or authorized representative shall have final authority for determining the availability of off-duty police personnel and the number and rank of such police personnel needed to provide an adequate level of security, traffic control and/or crowd control for the specified date(s) and location(s).
Section 3. All police personnel assigned pursuant to this Agreement shall remain subject to the authority of the City’s Chief of Police, and shall act and respond in accordance with established City police procedures, rules and regulations. The duties and responsibilities of the police personnel assigned pursuant to this Agreement, including chain of command duties and responsibilities, shall be determined in accordance with the City’s established police procedures, rules and regulations.

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

Section 4. Contractor shall pay the City for the services of the police personnel assigned pursuant to this Agreement as outlined in Exhibit A. Work hours requested and invoiced will include travel time, up to a maximum of thirty (30) minutes per officer, per shift, from the designated Dayton Police Department District to and from the requested coverage location. Full payment will be due within thirty (30) calendar days of the date of the invoice. Contractor shall owe the City two percent interest on the unpaid balance for every month past due. The City shall be entitled to all of its costs from the Contractor, including but not limited to attorney’s fees, incurred to collect sums that are past due.

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

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

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

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

Section 9. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of law. Any litigation or other legal matter regarding this Agreement or performance by either party must be brought in a court of competent jurisdiction in Montgomery County, Ohio.

Section 10. This Agreement shall be for the date of Saturday, November 28, 2020.

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

CITY OF DAYTON, OHIO

City Manager

DOWNTOWN DAYTON PARTNERSHIP

Sandra K. Gudorf
President

E-Mail: pack@downtowndayton.org
Cell:(937) 224-1518 ext.227
Office: (513) 267-9391
Federal I.D. Number: 34-1722175

APPROVED BY:

Director and Chief of Police

APPROVED AS TO FORM AND CORRECTNESS:

10/28/2020

John Musto for
City Attorney

Signed by: Musto, John

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

, 2020

Min. / Bk. Pg.

Clerk of the Commission
Exhibit A

1. Scope of Services/Event Information

   A. To provide security and traffic control for the 2020 Annual Children’s Parade and the Annual Tree Lighting Ceremony, the Grand Illumination, in various locations located within the municipal corporation limits of the City of Dayton, Ohio on Saturday, November 28, 2020.

2. Payment/Cost/Method of Payment

   A. PAYMENT

   Contractor shall pay $66.70 per hour for each police officer; $77.36 per hour for each police sergeant; and $89.71 per hour for each police lieutenant; $1.29 per hour additional for night differential and $13.00 per vehicle per hour, when applicable.

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

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

   B. ESTIMATED COST: $15,432.42 (14 Sgt. Hours @ $77.36 per hr., 212 Officer Hours @ $66.70 per hr., and 162 Night Differential Hours @ $1.29 per hr.)

   C. METHOD OF PAYMENT: To be invoiced.

3. Contractor's Authorized Representative/Contact

   NAME: Jami Pack
   ADDRESS: 10 W. Second Street, Suite 611
             Dayton, Ohio 45402
   OFFICE: (937) 224-1518 ext. 227

4. Officers Assigned to Event, Rank: 2 Sergeants; 29 Officers
From 9980-Procurement, Management & Budget
Supplier, Vendor, Company, Individual
Name Community Organization Relief Fund
Address Various

Date November 18, 2020
Expense Type Other
Total Amount $1,500,000.00 (thru 12/30/2020)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Coronavirus Relief Fund</td>
<td>28133-9980-1385-99-CRF48</td>
<td>$1,500,000.00</td>
</tr>
</tbody>
</table>

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

Description

Coronavirus Aid, Relief and Economic Security (CARES) Act
Community Organization Relief Fund (CORF)

The Department of Procurement, Management & Budget requests permission to enter into grant agreements with 22 community organizations, identified through Notice of Funding Opportunity (NOFO) 20-18PMB, issued in October 2020. The total amount for the Community Organization Relief Fund (CORF) is not to exceed $1,500,000.00. All 22 organizations that submitted applications will receive grant awards, made possible with funding from the CARES Act.

The 22 organizations receiving awards through the CORF are: Artemis Center for Alternatives to Domestic Violence, Big Brothers Big Sisters of the Greater Miami Valley, Bike Miami Valley, Catholic Social Services of the Miami Valley, Clothes that Work, Crossover Community Development, Dayton Public Access Television, Dayton Public Radio, Daybreak, Equitas Health, Greater Dayton Union Cooperative Initiative, The Grandview Foundation, House of Bread, Humane Society of Greater Dayton, Miami Valley Community Action Partnership, OneFifteen Recovery, Rebuilding Together Dayton, Ronald McDonald House of Dayton, Set the Banquet Table, WestCare Ohio, YMCA and the YWCA.

The CARES Act established the $150 billion Coronavirus Relief Fund (CRF) nationwide. Through legislative action, the State of Ohio has released $17.4 million in CARES Act funds to the City of Dayton.

The Department of Law has reviewed and approved the attached grant agreements as to form and correctness.

22 Certificates of Funds are attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 10/2019

Form No. MS-16
The following are the amounts for the $1.5 million on the City Manager's list:

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$80,947.15</td>
<td>YMCA</td>
</tr>
<tr>
<td>2</td>
<td>$50,000.00</td>
<td>Catholic Social Services of the Miami Valley</td>
</tr>
<tr>
<td>3</td>
<td>$52,000.00</td>
<td>Ronald McDonald House Charities Dayton</td>
</tr>
<tr>
<td>4</td>
<td>$80,919.89</td>
<td>Rebuilding Together Dayton, Inc.</td>
</tr>
<tr>
<td>5</td>
<td>$77,514.66</td>
<td>OneFifteen Recovery</td>
</tr>
<tr>
<td>6</td>
<td>$30,400.00</td>
<td>Big Brothers Big Sisters of the Greater Miami Valley</td>
</tr>
<tr>
<td>7</td>
<td>$61,784.90</td>
<td>Greater Dayton Union Cooperative Initiative</td>
</tr>
<tr>
<td>8</td>
<td>$88,041.14</td>
<td>Set the Banquet Table dba Miami Valley Meals</td>
</tr>
<tr>
<td>9</td>
<td>$50,000.00</td>
<td>Dayton Public Access Television, Inc.</td>
</tr>
<tr>
<td>10</td>
<td>$60,800.00</td>
<td>Dayton Public Radio, Inc dba Discover Classical</td>
</tr>
<tr>
<td>11</td>
<td>$30,000.00</td>
<td>Bike Miami Valley</td>
</tr>
<tr>
<td>12</td>
<td>$107,203.40</td>
<td>Daybreak, Inc.</td>
</tr>
<tr>
<td>13</td>
<td>$29,000.00</td>
<td>House of Bread</td>
</tr>
<tr>
<td>14</td>
<td>$107,203.40</td>
<td>Equitas Health</td>
</tr>
<tr>
<td>15</td>
<td>$79,230.90</td>
<td>Humane Society of Greater Dayton</td>
</tr>
<tr>
<td>16</td>
<td>$50,000.00</td>
<td>Miami Valley CAP</td>
</tr>
<tr>
<td>17</td>
<td>$102,677.00</td>
<td>Artemis Center for Alternatives to Domestic Violence</td>
</tr>
<tr>
<td>18</td>
<td>$50,014.00</td>
<td>The Grandview Foundation</td>
</tr>
<tr>
<td>19</td>
<td>$56,636.15</td>
<td>Clothes That Work</td>
</tr>
<tr>
<td>20</td>
<td>$74,054.90</td>
<td>Crossover Community Development</td>
</tr>
<tr>
<td>21</td>
<td>$77,801.61</td>
<td>WestCare Ohio</td>
</tr>
<tr>
<td>22</td>
<td>$103,770.90</td>
<td>YWCA</td>
</tr>
</tbody>
</table>

$1,500,000.00
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th></th>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>11/18/20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$ 102,677.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 102,677.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original CT/CF</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td>$</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td>$</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$</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

<table>
<thead>
<tr>
<th>Amount:</th>
<th>$ 102,677.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code:</td>
<td>28133 - 9980 - 1385 - 99 - CRF48 - XXXX</td>
</tr>
<tr>
<td>Fund:</td>
<td>Fund Org Acct Prog Act Loc</td>
</tr>
</tbody>
</table>

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

Attach additional pages for more FOAPALs

Vendor Name: Artemis Center for Alternatives to Domestic Violence
Vendor Address: 310 W Monument Ave Dayton Ohio 45402
Federal ID: 31-112 0194
Commodity Code: 95299
Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.

22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.
The Artemis Center is a domestic violence organization providing support and safety to survivors of intimate partner violence.
The Artemis Center provides supportive services, sheltering, domestic violence hotline, support, education and therapy.

Contact Person: Hilary Ross Browning
Department/Division: Procurement, Management & Budget
Date: 5-Nov-20

Originating Department Director's Signature: [Signature]
Date: Nov 10, 2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: [Signature]
Date: 11/10/2020

CF Prepared by: [Signature]
Date: 11/10/2020

Finance Department

October 18, 2011
CARiES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARiES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and ARTEMIS CENTER FOR ALTERNATIVES TO DOMESTIC VIOLENCE ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of One Hundred Two Thousand Six Hundred Seventy-Seven Dollars and Zero Cents ($102,677.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.
The Artemis Center is a domestic violence organization providing support and safety to survivors of intimate partner violence and their children since 1985. Artemis provides supportive services beyond shelter which include Montgomery County's Domestic Violence Hotline, support and education groups, child and adult therapy, criminal and civil court accompaniment. It does individualized safety plans, reducing the effects of trauma through trauma informed care and empowerment. The Artemis Center offers referrals and collaborates with numerous community partners to reduce domestic violence in our community.

ARTICLE 2. PAYMENT.
City will provide Recipient a City Grant in an amount not to exceed One Hundred Two Thousand Six Hundred Seventy-Seven Dollars and Zero Cents ($102,677.00) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.
The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.
This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.
Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees,
contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

H. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.
I. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Jane Keiffer  
310 W. Monument Ave,  
Dayton, Ohio 45402

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

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

ARTEMIS CENTER FOR ALTERNATIVES TO DOMESTIC VIOLENCE

By: [Signature]

Print name: [Name]

Its: [Title]

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:

☑ Recoverable Signature

X [Name]

City Attorney
Signed by: Blankenship, Amelia

APPROVED AS TO FORM AND CORRECTNESS

[Signature]

CITY ATTORNEY
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

Renewal Contract

Contract Start Date 11/18/20
Expiration Date 12/30/20
Original Commission Approval $30,400.00
Initial Encumbrance $30,400.00
Remaining Commission Approval $-

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

NO DRAFT DOCUMENTS PERMITTED

Required Documentation

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

Copy of City Manager's Report
Copy of Original Certificate of Funds

Amount: $30,400.00

Fund Code 28133 - 9980 - 1385 - 99 - CRF48 - XXXX
Fund Org Acct Prog Act Loc

Fund Code XXXX - XXXX - XXXX - XX - 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: Big Brothers Big Sisters of the Greater Miami Valley
Vendor Address: 22 S Jefferson Street Dayton Ohio 45402-2003

Street City State Zipcode + 4

Federal ID: 31-064 1306
Commodity Code: 95299
Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.

22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.

Since 1960, BBBBS has provided youth mentoring services for under-resourced youth in the Miami Valley ages 6-18.
BBBBS mission is to create and support one-to-one mentoring relationships and wrap around services for youth and families.

Contact Person: Hilary Ross Browning
Procurement, Management & Budget 5-Nov-20
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 11/10/2020

CF Prepared by

Date 11/10/2020

CF/CT Number C720-2725

Finance Department October 18, 2011
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT (“Agreement”) is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio (“City”), and BIG BROTHERS BIG SISTERS OF THE GREATER MIAMI VALLEY (“Recipient”).

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant (“City Grant”) in the amount of Thirty Thousand Four Hundred Dollars and Zero Cents ($30,400.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Since 1960, Recipient has provided youth mentoring services for under-resourced youth ages 6 - 18 years old in Montgomery, Miami, Preble and Greene counties. 75% of those served reside in Montgomery County. Its mission is to create and support one-to-one mentoring relationships that ignite the power and promise of youth. Every youth served is provided a professional case manager who creates the match, monitors it for safety and achievement of youth outcome development goals as identified in their plan. Recipient provides wrap around services for the youth's parent or guardian, as well as guidance for the mentor.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Thirty Thousand Four Hundred Dollars and Zero Cents ($30,400.00) (“Grant Amount”) within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.
ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

H. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.
I. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City: 
Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: 
Anne Pfeiffer  
22 S. Jefferson St.,  
Dayton, Ohio 45402

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

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

BIG BROTHERS BIG SISTERS OF THE GREATER MIAMI VALLEY

By: ____________________________
Print name: Anne Pfeffer
Its: CEO

CITY OF DAYTON, OHIO

______________________________
City Manager

______________________________
Date

APPROVED AS TO FORM AND CORRECTNESS:

☑ Recoverable Signature

X Amelia N. Blankenship for

City Attorney
Signed by Blankenship, Amelia

APPROVED AS TO FORM AND CORRECTNESS

______________________________
CITY ATTORNEY
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
- Property taxes
- Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
- Severance pay
- Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>11/18/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
</tr>
<tr>
<td>Amount:</td>
<td>$ 30,000.00</td>
</tr>
<tr>
<td>Fund Code: 28133 - 9980 - 1385 - 99 - CRF48 - XXXX</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

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: C. J. Johnson 11/11/20

CF Prepared by: Amanda Williams 11/10/2020 CF/CT Number: CT20-2785
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and BIKE MIAMI VALLEY, OHIO ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of Thirty Thousand Dollars and Zero Cents ($30,000.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Bike Miami Valley is a nonprofit dedicated to advocating, promoting and creating opportunities for cycling in our region. The organization incorporated in 1979 and wrote the region's first bikeway plan, which is now what celebrated as the Nation's Largest Paved Trail Network. Today, the organization's core program is Link: Dayton Bike Share which serves more than 3,500 unique users annually.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Thirty Thousand Dollars and Zero Cents ($30,000.00) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.
ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.
This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.
Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees,
contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

F. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.
G. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Laura Estandia  
10 N. Ludlow Street,  
Suite 727,  
Dayton, Ohio 45402

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

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

BIKE MIAMI VALLEY, OHIO

By: Laura A. Estandia

Print name: Laura A. Estandia

Its: Executive Director

CITY OF DAYTON, OHIO

City Manager

Date

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

__________________________, 2020

Min. / Bk. _______ Pg. _______

Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]

Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

APPROVED AS TO FORM AND CORRECTNESS

[Signature]

CITY ATTORNEY
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

• Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
• Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
• Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  o PPE and sanitation supplies, and related COVID-19 expenses
  o Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  o Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
• Operating costs and supplier payments related to COVID-19 activity or expenses
• Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
• Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
• New or expanded technology applications and Wi-Fi services required due to COVID-19
• Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
• Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
• Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

• Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
• Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
• Damages covered by insurance
• Reimbursement to donors for donated items or services
• Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
• Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

Renewal Contract

Change Order

Contract Start Date 11/18/20
Expiration Date 12/30/20

Required Documentation

Original Commission Approval $ 50,000.00

Initial Encumbrance $ 50,000.00

Remaining Commission Approval

Initial City Manager's Report

Initial Certificate of Funds

Initial Agreement/Contract

Copy of City Manager's Report

Copy of Original Certificate of Funds

Original CT/CF

Increase Encumbrance $ -

Decrease Encumbrance $ -

Remaining Commission Approval $ -

Amount: $ 50,000.00

Fund Code 26133 - 9980 - 1385 - 99 - CRF48 - 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: Catholic Social Services of the Miami Valley

Vendor Address: 1046 Brown Street Dayton Ohio 45409 2810

Federal ID: 31-053 6645

Commodity Code: 95299

Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.

22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.

Catholic Social Services of the Miami Valley (CSSMV) provides professional and volunteer social services to the community.

CSSMV provides services to alleviate poverty, supportive services for parents and seniors, counseling and refugee resettlement.

Contact Person: Hilary Ross Browning
Procurement, Management & Budget 5-Nov-20

Department/Division Date

Originating Department Director's Signature: Date Q. Abraham 11-6-2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature 11/11/2020

CF Prepared by

Date

CF/CT Number
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and CATHOLIC SOCIAL SERVICES OF THE MIAMI VALLEY ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of Fifty Thousand Dollars and Zero Cents ($50,000.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Since 1921, Catholic Social Services of the Miami Valley has provided professional and volunteer-based social services in our community. Its mission is to strengthen individuals and families in need through actions of faith, service and charity. Current services include poverty alleviation, pregnancy and parenting support, senior services, professional counseling, supervised visitation, refugee resettlement, long-term tornado recovery, and mobility management. Services are provided to residents of Montgomery, Greene, Preble, Darke, Auglaize, Mercer, Miami, Shelby, Logan and Champaign counties. In 2019, over 22,000 persons were assisted. As a non-profit organization, CSS is affiliated with numerous federal, state and local governmental offices, private funders and corporations, the Archdiocese of Cincinnati, and is accredited by the Council on Accreditation.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Fifty Thousand Dollars and Zero Cents ($50,000.00) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds
the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

**ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.**

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

**ARTICLE 4. TIMELINE.**

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

**ARTICLE 5. RECIPIENT REPRESENTATIONS.**

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

**ARTICLE 6. SPECIFIC CONDITIONS.**

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of
the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the
actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

**ARTICLE 12. TAX REPRESENTATION.**

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

**ARTICLE 13. GENERAL PROVISIONS.**

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

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

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

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

E. **Waiver.** A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect City’s rights with respect to any other or further breach.
F. **Relationship.** This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.

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

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Mike Lehner  
1046 Brown Street,  
Dayton, Ohio 45409-2810

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

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

CATHOLIC SOCIAL SERVICES OF THE MIAMI VALLEY

By: [Signature]
Print name: Laura J. Roesch
Its: CEO

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]
Recoverable Signature

[Signature]
Amelia N. Blankenship for
City Attorney
Signed by: Blankenship, Amelia

APPROVED AS TO FORM AND CORRECTNESS

[Signature]
CITY ATTORNEY
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization's budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff commuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

Renewal Contract

Change Order

Contract Start Date 11/18/20
Expiration Date 12/30/20
Original Commission Approval $56,636.15
Initial Encumbrance $56,636.15
Remaining Commission Approval

Original CT/CF

Increase Encumbrance $-
Decrease Encumbrance $-
Remaining Commission Approval $-

Required Documentation

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

Amount: $56,636.15

Fund Code 28133 - 9980 - 1385 - 99 - CRF48 - 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: Clothes That Work
Vendor Address: 1133 S Edwin C Moses Blvd #392 Dayton Ohio 45408-2094

Street City State Zipcode + 4

Federal ID: 31-157 5093
Commodity Code: 95299
Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.

22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.

Established in 1996, Clothes That Work provides professional clothing, image counseling and training for job seekers.

To date, Clothes That Work has served 27,000 men and women in the Dayton area.

Contact Person: Hilary Ross Browning
Procurement, Management & Budget 5-Nov-20
Department/Division Date

Originating Department Director's Signature: Nov 10, 2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature
11/10/2020 Date

CF Prepared by
11/10/2020 Date CF/CT Number

Finance Department

October 16, 2011
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X  New Contract  Renewal Contract  Change Order

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>11/18/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$ 50,000.00</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 50,000.00</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Original CT/CF</th>
<th>Increase Encumbrance</th>
<th>$ -</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decrease Encumbrance</td>
<td>$ -</td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</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

<table>
<thead>
<tr>
<th>Amount:</th>
<th>$ 50,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code</td>
<td>28133 - 9980 - 1385 - 99 - CRF4B - XXXX</td>
</tr>
</tbody>
</table>

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

Attach additional pages for more FOAPALs

Vendor Name: Dayton Public Access Television, Inc.
Vendor Address: 280 Leo Street Dayton Ohio 45404

Federal ID: 31-099 0080
Commodity Code: 95299
Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October. 22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.

Dayton Public Access Television (DATV) is a public access television and media center dedicated to protecting, defending and exercising the First Amendment rights of the citizens of Greater Dayton. DATV has provided 42 years of continuous programming.

Contact Person: Hilary Ross Browning
Procurement, Management & Budget 5-Nov-20
Department/Division Date

Originating Department Director's Signature: Nov 10, 2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: 11/10/2020

Finance Department

Date: 11/10/2020
CF/CT Number: CT20-2732

October 18, 2011
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and DAYTON PUBLIC ACCESS TELEVISION, INC. ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of Fifty Thousand Dollars and Zero Cents ($50,000.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Dayton Public Access Television, Inc. is a Public Access Television and Media Center dedicated to protecting, defending, and exercising the First Amendment rights of the citizens in the Greater Dayton Community as articulated by the Bill of Rights of the United States Constitution. Specifically, Dayton Public Access Television, Inc. is grounded in the First Amendment guarantee that, "Congress shall make no law . . . abridging the freedom of speech." The rationale for public access television, as mandated by the Federal Communications Act of 1934 and reinforced in the 1984 Cable Act, is that the airwaves belong to the people, that in a democratic society it is useful to multiply public participation in political discussion, and that mainstream television severely limits the range of news and opinion. Public access television, then, opens television to the public; makes possible community participation, and is in the public interest. Dayton Public Access Television, Inc. was founded in 1978 and has provided 42 years of continuous service to the Greater Dayton area by training it's citizens to use video and audio equipment in the field and in the studio, to edit their videos and develop their narratives for broadcast to the community at large.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Fifty Thousand Dollars and Zero Cents ($50,000.00) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.
Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

**ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.**

The City and Recipient agree that the items identified as “Eligible Expenditures” in **Exhibit A**, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in **Exhibit A** are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

**ARTICLE 4. TIMELINE.**

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

**ARTICLE 5. RECIPIENT REPRESENTATIONS.**

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.
ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.
ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees
for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

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

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

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Rosemary Bradley  
280 Leo St.  
Dayton, Ohio 45404

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

DAYTON PUBLIC ACCESS TELEVISION, INC.

By: Rosemary Bradly

Print name: Rosemary Bradly

Its: Executive Director

CITY OF DAYTON, OHIO

__________________________________________
City Manager

__________________________________________
Date

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

__________________________________________
Min. / Bk. _______ Pg. _______

__________________________________________
Clerk of the Commission

APPROVED AS TO FORM
AND CORRECTNESS:

11/6/2020

X  Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
# CERTIFICATE OF FUNDS

## SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>X</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>11/18/20</th>
<th>Expiration Date</th>
<th>12/30/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Commission Approval</td>
<td>$60,800.00</td>
<td>Initial Encumbrance</td>
<td>$60,800.00</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
<td></td>
<td>$ -</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Original CT/CF</th>
<th>Increase Encumbrance</th>
<th>$ -</th>
<th>Decrease Encumbrance</th>
<th>$ -</th>
</tr>
</thead>
<tbody>
<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
- **Fund Code**: 28133
- **Fund**: 9980
- **Org**: 1385
- **Prog**: 99
- **Act**: CRF48
- **Loc**: XXXX

- **Amount**: $60,800.00

### Additional FOAPALS

**Vendor Name:** Dayton Public Radio, Inc dba Discover Classical

**Vendor Address:**
126 North Main Street Suite 110
Dayton, Ohio 45402

**Federal ID:** 31-100 7460

**Commodity Code:** 95299

**Purpose:** The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.

**22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.**

Dayton Public Radio (88.1 and 89.9 FM) is a classical radio station in Dayton, with music presented by local hosts and artists.

**WDPR is commercial and news free, and has been on air for 35 years. Their mission is to provide equal cultural opportunity to all.**

**Contact Person:** Hillary Ross Browning

**Procurement, Management & Budget Department/Division Date:**
Procurement, Management & Budget 5-Nov-20

**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:** 11/10/2020

**CF Prepared by:**

**Date:** 11/10/2020

**CF/CT Number:**

---

Finance Department
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and DAYTON PUBLIC RADIO, INC ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of Sixty Thousand Eight Hundred Dollars and Zero Cents ($60,800.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Dayton Public Radio (88.1 & 89.9 FM) is a classical radio station in Dayton - with classical music presented by local hosts, arts and cultural information, and outreach to local musicians. It is a commercial free, news free radio station with no affiliation to public TV or a college/university. The licensee of WDPR (Dayton) and WDPG (Greenville), Dayton Public Radio has been on the air for 35 years and is more than just a publicly-funded radio station; it is a performance stage, recital hall, musical educator and portal to the community’s artistic life, providing equal cultural opportunity to all.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Sixty Thousand Eight Hundred Dollars and Zero Cents ($60,800.00) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.
ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

H. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.
I. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City:  
Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient:  
Shaun Yu/Stephanie Yen  
126 N Main St,  
Dayton, Ohio 45402

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

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

DAYTON PUBLIC RADIO, INC

By: [Signature]

Print name: Shaun Yu

Its: President & CEO

CITY OF DAYTON, OHIO

City Manager

Date

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

[Signature]

Min. / Bk. _____ Pg. _____

Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:

[Signature] Amelia N. Blankenship

City Attorney

Signed by: Blankenship, Amelia
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:
- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:
- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
Get Started: Complete the fields above and click Go. To search by name, press TAB from an ID field, enter your search criteria, and then press ENTER.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th></th>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>11/18/20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$ 107,203.40</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 107,203.40</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original CT/CF</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td>$ -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td>$ -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</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

<table>
<thead>
<tr>
<th>Amount:</th>
<th>$ 107,203.40</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code</td>
<td>28133 - 9980 - 1385 - 99 - CRF48 - XXXX</td>
</tr>
<tr>
<td></td>
<td>Fund Org Acct Prog Act Loc</td>
</tr>
</tbody>
</table>

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

**Attach additional pages for more FOAPALs**

**Vendor Name:** Daybreak, Inc.
**Vendor Address:** 605 S Patterson Blvd  Dayton  Ohio  45402
**Federal ID:** 31-086 4474
**Commodity Code:** 95299
**Purpose:** The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.

22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.

Daybreak operates an emergency shelter for runaway and homeless youth, and operates Dayton's only 24-hour crisis hotline.

Daybreak offers outreach, prevention, transitional housing, life-skills education and follow up services for homeless youth.

<table>
<thead>
<tr>
<th>Contact Person:</th>
<th>Hilary Ross Browning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procurement, Management &amp; Budget Department/Division</td>
<td>5-Nov-20</td>
</tr>
<tr>
<td>Date</td>
<td>Nov 10, 2020</td>
</tr>
</tbody>
</table>

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

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

**Finance Director Signature**

**Date:** 11/10/2020

**CF Prepared by**

**Date:** 11/10/2020

**CF/CT Number:** CTA-2724

**Finance Department**

October 18, 2011
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT (“Agreement”) is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio (“City”), and DAYBREAK, INC (“Recipient”).

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant (“City Grant”) in the amount of One Hundred Seven Thousand Two Hundred Three Dollars and Forty Cents ($107,203.40); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Daybreak was established in 1975 in Dayton, Ohio as an emergency shelter for runaway and homeless youth. Today, Daybreak operates the Miami Valley’s only 24-hour crisis hotline and emergency youth shelter (8 beds for youth 10-17 and 16 beds for youth 18-21) and has grown to include outreach, prevention, transitional housing, life-skills education, and other follow-up services for runaway, throwaway, and homeless youth. It also provides permanent rapid rehousing, permanent supportive housing, mental health services, and a drop in center for street youth.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed One Hundred Seven Thousand Two Hundred Three Dollars and Forty Cents ($107,203.40) (“Grant Amount”) within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.
ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

H. **Relationship.** This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.
I. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

   For City:    Monica Jones  
               City of Dayton  
               101 W. Third Street  
               Dayton, OH 45401  

   For Recipient:  Linda Kramer  
                   605 S. Patterson Blvd,  
                   Dayton, Ohio 45402  

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

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

DAYBREAK, INC

By: [Signature]

Print name: Linda L. Kramer

Its: LEO

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]

Amelia N. Blankenship for

City Attorney

Signed by: Blankenship, Amelia

APPROVED AS TO FORM AND CORRECTNESS

[Signature]

CITY ATTORNEY
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
- Property taxes
- Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
- Severance pay
- Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

Renewal Contract

Change Order

Contract Start Date 11/18/20
Expiration Date 12/30/20
Original Commission Approval $ 107,203.40
Initial Encumbrance $ 107,203.40
Remaining Commission Approval $ 

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

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

Amount: $ 107,203.40
Fund Code 28133 - 9980 - 1385 - 99 - CRF48 - XXXX
Fund Org Acct Prog Act Loc

Amount: 
Fund Code XXXX - XXXX - XXXX - XX - 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: Equitas Health
Vendor Address: 4400 North High Street Suite 300 Columbus Ohio 43214
Street City State Zipcode + 4

Federal ID: 31-112 6780
Commodity Code: 95299
Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.

22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.

Equitas Health is a regional nonprofit, federally designated Community Health Center, and one of the largest LGBTQ+ healthcare organizations in the United States. Equitas has two service sites in Dayton providing cutting-edge healthcare services.

Contact Person: Hillary Ross Browning
Procurement, Management & Budget 5-Nov-20
Department/Division Date

Originating Department Director's Signature: Diana J. Bowes 11/6/2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature 11/11/2020

CF Prepared by 11/11/2020 CF/CT Number 5120-27223
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and EQUITAS HEALTH ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of One Hundred Seven Thousand Two Hundred Three Dollars and Forty Cents ($107,203.40); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Established in 1984, Equitas Health is a regional nonprofit community healthcare provider. Resulting from the merger of multiple operations in Dayton, Columbus, and the rest of Ohio, Equitas Health is a federally-designated Community Health Center. It is one of the largest LGBTQ+ and HIV/AIDS serving healthcare organizations in the United States. With 19 offices in 13 cities, including two service sites in Dayton, the organization serves people through patient-centered, integrated, and cutting-edge healthcare services. This includes primary and specialized medical care, pharmacy, dentistry, behavioral health, HIV and STI treatment and prevention, PrEP and nPEP, Ryan White case management, housing, patient navigation, advocacy, and other community health initiatives.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed One Hundred Seven Thousand Two Hundred Three Dollars and Forty Cents ($107,203.40) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.
ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly
expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses,

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

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

Article 10. Political Contributions.

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

Article 11. Records and Retention.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the
actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

E. **Waiver.** A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect City’s rights with respect to any other or further breach.
F. **Relationship.** This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.

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

For City:  
Monica Jones  
City of Dayton  
101 W, Third Street  
Dayton, OH 45401

For Recipient:  
Anna Wuerth  
440 North High Street,  
Suite 300,  
Columbus, Ohio 43214

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

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

EQUITAS HEALTH

By: [Signature]
Print name: Anna Wuerth
Its: Sr. Director of Grants Implementation and Integration

CITY OF DAYTON, OHIO

______________________________
City Manager

______________________________
Date

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]
City Attorney

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

______________________________, 2020
Min. / Bk. _______ Pg. _______

______________________________
Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously un budgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>11/18/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$61,784.90</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$61,784.90</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$</td>
</tr>
<tr>
<td>Original CF/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

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: $61,784.90</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code 26133 - 9980 - 1385 - 99 - CRF48 - XXXX</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALS

Vendor Name: Greater Dayton Union Cooperative Initiative
Vendor Address: 840 Germantown Street Dayton Ohio 45402
Federal ID: 81-347 0466
Commodity Code: 95299
Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.

22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.

Established in 2016, Greater Dayton Union Cooperative initiative educates the community about the use of cooperatives.

Amongst its programs, the Gem City Market, located on Salem Ave., will provide fresh food and groceries to Northwest Dayton.

Contact Person: Hilary Ross Browning
Procurement, Management & Budget 5-Nov-20
Department/Division

Originating Department Director's Signature: [Signature]
Date: Nov 10, 2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: [Signature]
Date: 11/10/2020

CF/ICT Number: [Signature]
Date: 11/10/2020

Finance Department

October 18, 2011
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and GREATER DAYTON UNION COOPERATIVE INITIATIVE ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of Sixty-One Thousand Seven Hundred Eighty-Four Dollars and Ninety Cents ($61,784.90); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Established in 2016, the Greater Dayton Union Cooperative Initiative is a nonprofit organization dedicated to educating the community about the use of cooperatives as a business model to fill community needs, and to encourage cooperative business development. Greater Dayton Union Cooperative Initiative holds workshops and events, and has supported numerous cooperative start-up projects, including the Gem City Market grocery cooperative, which will serve a low income community with access to fresh groceries in a former food desert.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Sixty-One Thousand Seven Hundred Eighty-Four Dollars and Ninety Cents ($61,784.90) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.
The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.
Recipient shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off, termination, rates of pay or other forms of compensation, or selection for training, including apprenticeship.

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.
Recipient affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

ARTICLE 11. RECORDS AND RETENTION.
Recipient shall use Generally Accepted Accounting Principles ("GAAP") or the Income Tax Accounting Method in recording and documenting all costs and expenditures related in whole or part to the City Grant. All costs and expenditures for which Recipient will be granted hereunder shall be supported by properly executed invoices, contracts, vouchers, or other accounting documents and other evidence (collectively, "Records"). All Records shall be clearly identified and readily accessible. At any time during normal business hours and as often as City may reasonably request, Recipient shall make available to City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees, all of its Records related to this Agreement. Recipient shall permit City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies and any of their designees to audit, examine, and make excerpts or transcripts from such Records and to have audits made of all contracts, invoices, materials, payrolls, personnel records, conditions of employment and other data pertaining in whole or in part to matters covered by this Agreement.

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

H. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.
I. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Lela Klein  
840 Germantown St.,  
Dayton, Ohio 45402

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

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

GREATER DAYTON UNION COOPERATIVE INITIATIVE

By: 

Print name: 

Its: 

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney

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

, 2020

Min. / Bk. Pg.

Clerk of the Commission
ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>11/18/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$50,014.00</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$50,014.00</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$-</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>Initial City Manager's Report</td>
</tr>
<tr>
<td>Initial Certificate of Funds</td>
</tr>
<tr>
<td>Initial Agreement/Contract</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount: $50,014.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code 28133 - 9980 - 1385 - 99 - CRF48</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: The Grandview Foundation
Vendor Address: 405 Grand Avenue Dayton Ohio 45405 Street City State Zipcode + 4
Federal ID: 31-1649591
Commodity Code: 95299
Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.
22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation. The Grandview Foundation was established in 1999 to perpetuate Grandview’s long term commitment to osteopathic medical education and to serving the surrounding community for years to come.
Contact Person: Hilary Ross Browning
Procurement, Management & Budget 5-Nov-20 Department/Division Date
Originating Department Director’s Signature: Diane Z. Derrnan 11-6-2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature
11/10/2020 Date

CF Prepared by
11/01/2020 Date CF/CT Number

Finance Department
October 18, 2011
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and THE GRANDVIEW FOUNDATION ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of Fifty Thousand Fourteen Dollars and Zero Cents ($50,014.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.
The Grandview Foundation was established in 1999 when Grandview Hospital merged with Kettering Medical Center to form the Kettering Health Network. The Foundation was established to perpetuate Grandview's long term commitment to osteopathic medical education and to serving the community for years to come.

ARTICLE 2. PAYMENT.
City will provide Recipient a City Grant in an amount not to exceed Fifty Thousand Fourteen dollars and Zero Cents ($50,014.00) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.
The City and Recipient agree that the items identified as "Eligible Expenditures" in Exhibit A, attached hereto and incorporated herein, shall be considered "Eligible Expenses" that Recipient
may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any
verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).
ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.
Recipient certifies that, as of the date of execution, it does not owe any delinquent taxes to the City of Dayton and/or does not owe delinquent taxes for which Recipient is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code or, if such delinquent taxes are owed, Recipient currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, or Recipient filed a petition in bankruptcy under 11 U.S.C. Section 101. et seq., or such a petition has been filed against Recipient. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

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

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

For City: Monica Jones
City of Dayton
101 W. Third Street
Dayton, OH 45401

For Recipient: Kelly Fackel
405 W. Grand Ave,
Dayton, Ohio 45405

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

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

THE GRANDVIEW FOUNDATION
By: [Signature]
Print name: Kelly Fackel
Its: VP Development

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:

11/6/2020

X John Musto for
City Attorney

Signed by: Musto, John

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

__________________________, 2020

Min. / Bk. _______ Pg. _______

Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:
- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:
- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
# Certificate of Funds

## Section I - To be completed by User Department

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>11/18/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$ 29,000.00</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 29,000.00</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

## Amount

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>$ 29,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>28133 - 9980 - 1385 - 99 - CRF48 -</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ -</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>XXXX - XXXX - XXXX - XXXX - XXXX - XXXX</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ -</td>
</tr>
</tbody>
</table>

## Additional Information

**Vendor Name:** House of Bread

**Vendor Address:** 9 Oth Avenue, Dayton, Ohio 45402

**Federal ID:** 31-107 6425

**Commodity Code:** 95299

**Purpose:** The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October. 22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation. House of Bread has been preventing hunger since 1983 through serving nutritious lunchtime meals every day of the year.

**Contact Person:** Hilary Ross Browning

**Procurement, Management & Budget:** 5-Nov-20

**Department/Division:**

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

**Date:** Nov 10, 2020

## Section II - To be completed by the Finance Department

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

**Finance Director Signature:** [Signature]

**Date:** 11/10/2020

**CF Prepared by:** [Signature]

**Date:** [Signature]

**CF/CT Number:** [Signature]

---

October 18, 2011
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT (“Agreement”) is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio (“City”), and HOUSE OF BREAD (“Recipient”).

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant (“City Grant”) in the amount of Twenty-Nine Thousand Dollars and Zero Cents ($29,000.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

House of Bread has been preventing hunger since 1983 through serving nutritious lunchtime meal every day of the year to anyone in need in the Dayton area community. Their mission is to prevent hunger and serve as a bridge to beneficial community resources. Staff and volunteers work together, primarily using donated food, to prepare the meal each day.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Twenty-Nine Thousand Dollars and Zero Cents ($29,000.00) (“Grant Amount”) within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient
may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in **Exhibit A** are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

**ARTICLE 4. TIMELINE.**

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

**ARTICLE 5. RECIPIENT REPRESENTATIONS.**

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

**ARTICLE 6. SPECIFIC CONDITIONS.**

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any
verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).
ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.
Recipient certifies that, as of the date of execution, it does not owe any delinquent taxes to the City of Dayton and/or does not owe delinquent taxes for which Recipient is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code or, if such delinquent taxes are owed, Recipient currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, or Recipient filed a petition in bankruptcy under 11 U.S.C. Section 101. et seq., or such a petition has been filed against Recipient. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

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

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

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Melodie Bennett  
9 Orth Ave,  
Dayton, Ohio 45402

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

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

HOUSE OF BREAD

By: __________________________

Print name: __________________________

Its: __________________________

CITY OF DAYTON, OHIO

____________________________
City Manager

____________________________
Date

APPROVED AS TO FORM AND CORRECTNESS:

✔ Recoverable Signature

X John Musto for

City Attorney

Signed by: Musto, John

APPROVED AS TO FORM AND CORRECTNESS

____________________________
CITY ATTORNEY

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

____________________________
Min. / Bk. _______ Pg. _______

____________________________
Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
Get Started: Complete the fields above and click Go. To search by name, press TAB from an ID field, enter your search criteria, and then press ENTER.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>11/18/20</td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$79,230.90</td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$79,230.90</td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original CT/CF</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amount:</td>
<td>$79,230.90</td>
<td></td>
</tr>
<tr>
<td>Fund Code: 28133 - 9980 - 1385 - 99 - CRF48 -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund</td>
<td>Org</td>
<td>Acct</td>
</tr>
</tbody>
</table>

| Amount: | | |
| Fund Code: XXXX - XXXX - XXXX - XX - 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: Humane Society of Greater Dayton
Vendor Address: 1651 Nicholas Road Dayton Ohio 45417
Federal ID: 31-053 7073
Commodity Code: 95299
Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October. 22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.
The Humane Society of Greater Dayton operates animal adoption services, cruelty and neglect investigations, spay and neuter, humane education, feral cat initiatives and pet therapy. HSGD is the Miami Valley's largest no kill animal welfare agency.
Contact Person: Hilary Ross Browning
Procurement, Management & Budget 5-Nov-20
Department/Division Date
Originating Department Director's Signature: Patricia Holloway Nov 10, 2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: C. Saltzgiver 11/10/2020
Date
CF/Prepared by

Finance Department 11/10/2020
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and HUMANE SOCIETY OF GREATER DAYTON ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of Seventy-Nine Thousand Two Hundred Thirty Dollars and Ninety Cents ($79,230.90); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.
The Humane Society of Greater Dayton operates animal adoption services, cruelty and neglect investigations, spay and neuter assistance, humane education, barn and feral cat initiatives and pet therapy. They want to enhance the pet-human relationship. The Humane Society of Greater Dayton is the only animal welfare organization in Montgomery County with a full-time humane agent with the authority to investigate, secure search warrants, and prosecute individuals to the fullest extent of the law for abusing animals. The Humane Society of Greater Dayton is Miami Valley’s largest no-kill animal welfare agency, and is the only agency to serve all types of animals, not just dogs and cats.

ARTICLE 2. PAYMENT.
City will provide Recipient a City Grant in an amount not to exceed Seventy-Nine Thousand Two Hundred Thirty Dollars and Ninety Cents ($79,230.90) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.
ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.
This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.
Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees,
contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

F. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.
G. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Brian Weltge  
1661 Nicholas Rd,  
Dayton, Ohio 45417

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

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

THE HUMANE SOCIETY OF GREATER DAYTON

By: [Signature]
Print name: Brian Welo
Its: CEO

CITY OF DAYTON, OHIO

__________________________________________
City Manager

__________________________________________
Date

APPROVED AS TO FORM AND CORRECTNESS:
[ ] Recoverable Signature

X John Musto for
City Attorney

Signed by: Musto, John

APPROVED AS TO FORM AND CORRECTNESS

[Signature] City Attorney
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:
- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic;
  including
  o PPE and sanitation supplies, and related COVID-19 expenses
  o Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  o Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:
- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>11/18/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$ 50,000.00</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 50,000.00</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Original CT/CF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increase Encumbrance</td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
</tr>
</tbody>
</table>

NO DRAFT DOCUMENTS PERMITTED

<table>
<thead>
<tr>
<th>Change Order</th>
</tr>
</thead>
</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>$ 50,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code:</td>
<td>28133 - 9980 - 1385 - 99 - CRF48</td>
</tr>
<tr>
<td>Fund Org Acct Prog Act Loc</td>
<td></td>
</tr>
</tbody>
</table>

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

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

Attach additional pages for more FOAPALs

Vendor Name: Miami Valley Community Action Partnership
Vendor Address: 719 S Main Street Dayton Ohio 45402-2709
Federal ID: 31-070 9198
Commodity Code: 95299
Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.

22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.

Miami Valley Community Action Partnership works in partnership with local communities to eliminate the causes of poverty and to promote independence and self-sufficiency through anti-poverty programs and expanding access to equal economic opportunities.

Contact Person: Hilary Ross Brown
Procurement, Management & Budget 5-Nov-20
Department/Division Date

Originating Department Director's Signature: Dwayne J. Shahan 11/6/2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: 11/10/2020

CF/FF Prepared by: 11/10/2020

Finance Department October 18, 2011
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT (“Agreement”) is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio (“City”), and MIAMI VALLEY COMMUNITY ACTION PARTNERSHIP (“Recipient”).

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant (“City Grant”) in the amount of Fifty Thousand Dollars and Zero Cents ($50,000.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Miami Valley Community Action Partnership was established as a private, non-profit organization in December 1964 with the passage of the Economic Opportunity Act, as envisioned by President Johnson’s “Great Society”. Miami Valley Community Action Partnership’s mission is to work in partnership with local communities to eliminate the causes of poverty and to promote independence and self-sufficiency by operating a range of anti-poverty programs, finding local solutions to poverty, and expanding access to equal economic opportunity.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Fifty Thousand Dollars and Zero Cents ($50,000.00) (“Grant Amount”) within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.
The City and Recipient agree that the items identified as “Eligible Expenditures” in **Exhibit A**, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in **Exhibit A** are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

**ARTICLE 4. TIMELINE.**

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

**ARTICLE 5. RECIPIENT REPRESENTATIONS.**

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

**ARTICLE 6. SPECIFIC CONDITIONS.**

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

H. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.
I. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Chelsie Wilkinson  
719 S. Main St.,  
Dayton, Ohio 45402

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

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

MIAMI VALLEY COMMUNITY ACTION PARTNERSHIP

By: Lisa Stempler
Print name: Lisa Stempler
Its: President & CEO

CITY OF DAYTON, OHIO

---------------------------------
City Manager

---------------------------------
Date

APPROVED AS TO FORM AND CORRECTNESS:

☑ Recoverable Signature

X John Musto for
City Attorney
Signed by: Musto, John

APPROVED AS TO FORM AND CORRECTNESS

John Musto
CITY ATTORNEY
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>11/18/20</td>
<td>Required Documentation</td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
<td>Initial City Manager's Report</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$77,514.66</td>
<td>Initial Certificate of Funds</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$77,514.66</td>
<td>Initial Agreement/Contract</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$</td>
<td>Copy of City Manager's Report</td>
</tr>
<tr>
<td>Original CT/CF</td>
<td></td>
<td>Copy of Original Certificate of Funds</td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>

| Amount: | $77,514.66 |
| Fund Code | 28133 - 9980 - 1385 - 99 - CRF48 |
| 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: OneFifteen Recovery
Vendor Address: 6636 Longshore St. Suite 200 Dublin Ohio 43017
Federal ID: 83-350 4845
Commodity Code: 95299
Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October. 22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.
OneFifteen Recovery's mission is to heal people experiencing substance use disorders through learning, science and partnership.
OneFifteen is a not-for-profit ecosystem to provide clinical care, rehabilitation and wrap around services to people in recovery.
Contact Person: Hilary Ross Browning
Procurement, Management & Budget 5-Nov-20
Department/Division Date
Originating Department Director's Signature: Nov 10, 2020

SECTION II - to be completed by the Finance Department

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

Acting Finance Director

Finance Department

11/10/2020
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and ONEFIFTEEN RECOVERY ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of Seventy-Seven Thousand Five Hundred Fourteen Dollars and Sixty-Six Cents ($77,514.66); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

OneFifteen Recovery's mission is to heal people experiencing substance use disorders through learning, science, and partnership. OneFifteen is a not-for-profit ecosystem to provide clinical care and rehabilitation, and wraparound services such as vocational training to people in recovery. The organization partners with Premier and Kettering in order to provide substance use disorder and behavioral health services to the Dayton community.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Seventy-Seven Thousand Five Hundred Fourteen Dollars and Sixty-Six Cents ($77,514.66) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.
ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

H. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.
I. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City:  Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Nicholas Mills  
6636 Longshore St.,  
Suite 200,  
Dublin, Ohio 43017

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

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

ONEFIFTEEN RECOVERY

By: ____________________________

Print name: Martha Taylor

Its: ____________________________

CITY OF DAYTON, OHIO

________________________________________

City Manager

________________________________________

Date

APPROVED AS TO FORM
AND CORRECTNESS:

________________________________________

City Attorney

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

________________________________________

Min. / Bk. _____ Pg. _____

________________________________________

Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract  Renewal Contract  Change Order

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>Expiration Date</th>
<th>Original Commission Approval</th>
<th>Initial Encumbrance</th>
<th>Remaining Commission Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>11/18/20</td>
<td>12/30/20</td>
<td>$80,919.89</td>
<td>$80,919.89</td>
<td>-</td>
</tr>
</tbody>
</table>

Required Documentation

<table>
<thead>
<tr>
<th>Initial City Manager's Report</th>
<th>Initial Certificate of Funds</th>
<th>Initial Agreement/Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Copу of City Manager's Report</td>
<td>Copy of Original Certificate of Funds</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount: $80,919.89</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code 28133 - 9980 - 1385 - 99 - CRF48 -</td>
</tr>
</tbody>
</table>

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

Fund Code XXXX - XXXX - XXXX - XXXX - XXXX - XXXX

Attach additional pages for more FOAPALs

Vendor Name: Rebuilding Together Dayton, Inc.
Vendor Address: 30 South Main Street Suite B Dayton Ohio 45402
Federal ID: 31-145 7626
Commodity Code: 95299
Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.
22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.
Rebuilding Together Dayton’s (RTD) mission is to transform the lives of low-income homeowners by improving the safety and health of their homes and revitalizing their communities. RTD focuses on low-income seniors, ensuring they can age in place safely.
Contact Person: Hilary Ross Browning
Procurement, Management & Budget 5-Nov-20
Department/Division

Originating Department Director's Signature: [Signature]
11-6-2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature 11/10/2020

CF Prepared by 11/10/2020

CF/CT Number 11/10/2020

October 18, 2011
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and REBUILDING TOGETHER DAYTON INC. ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of Eighty Thousand Nine Hundred Nineteen Dollars and Eighty-Nine Cents ($80,919.89); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Rebuilding Together Dayton's mission over the past 25 years has been to transform the lives of low-income homeowners by improving the safety and health of their homes and revitalizing their communities. With their vision being to provide a safe and healthy home for every person. To ensure low-income seniors may age in place safely, Rebuilding Together Dayton has several programs which leverage neighborhood buy-in and volunteer participation. Rebuilding Together Dayton 's programs include the year-round skilled trades repair/modification program NeighborCare, and the volunteer driven SeasonalSafe@Home. Through these programs, low-income seniors in Montgomery County receive vital home repairs and modifications such as step in showers, grab bar installations, water heaters, furnaces, exterior maintenance, and plumbing repairs.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Eighty Thousand Nine Hundred Nineteen Dollars and Eighty-Nine Cents ($80,919.89) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds
the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of
the foregoing, including payment of any penalty imposed and/or repayment of improperly
expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected
officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release
specific tax records to the Department of Planning & Community Development, for any
verification as it applies to this Agreement. Such records will be kept confidential, shall only
be used for the purposes stated herein, and returned to the City of Dayton Division of
Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.
This Agreement shall terminate December 30, 2020 unless extended to a later date by
amendment and may be immediately terminated in the event of or under any of the following
circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder,
Recipient shall repay to City within fifteen (15) business days from the effective date of such
termination, all funds provided hereunder and, upon such repayment, Recipient shall be released
from its obligations hereunder, except those related to auditing. This obligation to remit
repayment of funding shall survive termination of this Agreement until such funds are actually
received by City. If no funds were provided, the parties shall be immediately relieved of their
obligations hereunder.

ARTICLE 8. INDEMNIFICATION.
Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers,
employees, and agents from and against all claims, losses, damages, and expenses (including
reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the
actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

G. Waiver. A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect City’s rights with respect to any other or further breach.
H. **Relationship.** This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.

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

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Amy Radachi  
30 S. Main St.,  
Dayton, Ohio 45402

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

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

REBUILDING TOGETHER DAYTON INC.

By: [Signature]

Print name: Amy Radachi

Its: President/CEO

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]

City Attorney

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

[Signature]

Min. / Bk. _____ Pg. _____

Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:
- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:
- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
- Property taxes
- Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
- Severance pay
- Legal settlements
**CERTIFICATE OF FUNDS**

**SECTION I - to be completed by User Department**

<table>
<thead>
<tr>
<th></th>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>11/18/20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>52,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>52,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original CT/CF</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Amount:</th>
<th>$ 52,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code: 28133 - 9980 - 1385 - 99 - CRF48 -</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code: XXXX - XXXX - XXXX - XX - XXXX - XXXX - XXXX - XXXX</td>
<td></td>
</tr>
</tbody>
</table>

**Vendor Name:** Ronald McDonald House Charities Dayton

**Vendor Address:** 555 Valley Street Dayton Ohio 45404 Street City State Zipcode + 4

**Federal ID:** 31-096 4793

**Commodity Code:** 95299

**Purpose:** The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.

22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.

Ronald McDonald House Dayton's (RMHC) mission is to provide community, comfort and hope to families of seriously ill children.

In addition to the Ronald McDonald House, they offer family rooms inside Dayton Children’s Hospital and Miami Valley Hospital.

**Contact Person:** Hilary Ross Browning

**Procurement, Management & Budget**

5-Nov-20

**Department/Division**

**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:**

11/10/2020

**Date:**

**CF Prepared by:**

11/10/2020

**CF/CT Number:**
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and RONALD MCDONALD HOUSE CHARITIES DAYTON ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of Fifty-Two Thousand Dollars and Zero Cents ($52,000.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.
Recipient’s mission is to provide community, comfort, and hope to families of seriously ill children. Through our two core programs – The Ronald McDonald House and Ronald McDonald Family Rooms inside of Dayton Children’s Hospital and inside Emmett’s Place at Miami Valley Hospital – Recipient’s programming meets the ever-growing need to improve health outcomes for children with serious medical conditions by: Bridging access to top medical care for seriously ill children who must travel to the region for their care; Providing families with emotional and physical comfort and support 24 hours a day, seven days a week; Enhancing the child and family’s hospital experience; and Improving the family’s ability to cope with the challenges associated with having a hospitalized child.

ARTICLE 2. PAYMENT.
City will provide Recipient a City Grant in an amount not to exceed Fifty-Two Thousand Dollars and Zero Cents ($52,000.00) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.
ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly
expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.
This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.
Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses,
damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the
actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

**ARTICLE 12. TAX REPRESENTATION.**

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

**ARTICLE 13. GENERAL PROVISIONS.**

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

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

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

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

G. **Waiver.** A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect City’s rights with respect to any other or further breach.
H. **Relationship.** This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.

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

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Alexandra Randolph  
555 Valley St.,  
Dayton, Ohio 45404

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

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

RONALD MCDONALD HOUSE CHARITIES DAYTON

By: Alex Randolph
Print name: Alex Randolph
Its: 11/6/2020

CITY OF DAYTON, OHIO

City Manager
Date

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

_____________________, 2020
Min. / Bk. _____ Pg. _____

Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:

X John Musto for
City Attorney
Signed by: Musto, John

APPROVED AS TO FORM AND CORRECTNESS

______________________
CITY ATTORNEY
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>X</th>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>11/18/20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$ 88,041.14</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 88,041.14</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original CT/CF</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NO DRAFT DOCUMENTS PERMITTED

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

Amount: $ 88,041.14

Fund Code 28133 - 9980 - 1385 - 99 - CRF48 -

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

Attach additional pages for more FOAPALs

Vendor Name: Set the Banquet Table
Vendor Address: 428 S Edwin C Moses Blvd, Dayton, Ohio 45402
Federal ID: 47-523 3212
Commodity Code: 95299
Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.

22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.
Set the Banquet Table (SBT) has been serving the needs of the hungry in Dayton since 2015. SBT chefs transform recovered food from the Foodbank into meals, making meals available to client organizations to distribute to the hungry in their communities.

Contact Person: Hillary Ross Browning
Procurement, Management & Budget 5-Nov-20
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
11/11/2020

CF Prepared by
11/10/2020

Finance Department
October 18, 2011
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT (“Agreement”) is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio (“City”), and SET THE BANQUET TABLE (“Recipient”).

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant (“City Grant”) in the amount of Eighty-Eight Thousand Forty-One Dollars and Fourteen Cents ($88,041.14); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Since 2015, Set the Banquet Table has been serving the needs of the hungry in the Dayton area. With a motto of "serving those who serve the hungry. From recovered Foodbank food, the chefs prepare hearty meals, free of charge, that are then distributed through client organizations. These organizations know their communities and are able to be most effective when reaching their folks.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Eighty-Eight Thousand Forty-One Dollars and Fourteen Cents ($88,041.14) (“Grant Amount”) within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.
ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.
This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.
Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees,
contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

H. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.
I. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City: Monica Jones
City of Dayton
101 W. Third Street
Dayton, OH 45401

For Recipient: Amanda DeLotelle
428 S. Edwin C Moses Blvd
Dayton, Ohio 45402

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

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]
ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:
- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:
- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
- Property taxes
IN WITNESS WHEREOF, City and Recipient, each by a duly authorized representative, have executed this Agreement as of the date set forth below.

SET THE BANQUET TABLE

By: Amanda DeLotelle
Print name: Executive Director
Its: Executive Director

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:
11/6/2020

X John Musto for
City Attorney

Signed by: Musto, John

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

Min. / Bk. _______ Pg. _______

Clerk of the Commission
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>X</th>
<th>New Contract</th>
<th>X</th>
<th>Renewal Contract</th>
<th>X</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>11/18/20</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$ 77,801.61</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 77,801.61</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>
</tr>
<tr>
<td>Original CT/CF Increase Encumbrance</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>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</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: | $ 77,801.61 |
| Fund Code | 28133 - 9980 - 1385 - 99 - CRF48 - |

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

**Attach additional pages for more FOAPALs**

**Vendor Name:** WestCare Ohio, Inc.

**Vendor Address:** 15 Dover Street, Dayton, Ohio 45410

**Federal ID:** 31-150 8554

**Commodity Code:** 95299

**Purpose:** The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October. 22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.

**East End Community Services** was established in 1997 with the mission to listen and work with the people of inner East Dayton.

**WestCare/East End** develops and executes comprehensive community development initiatives for children, adults, and families.

**Contact Person:** Hilary Ross Browning

**Procurement, Management & Budget, Department/Division:** 5-Nov-20

**Originating Department Director's Signature:** [Signature] Nov 10, 2020

SECTION II - to be completed by the Finance Department

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

**Finance Director Signature:** [Signature] 11/10/2020

**Date:**

**CF Prepared by:** [Signature] 11/10/2020

**CF/CT Number:** [Number] 11/10/2020

Finance Department
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT (“Agreement”) is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio (“City”), and WESTCARE OHIO INC. (“Recipient”).

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant (“City Grant”) in the amount of Seventy-Seven Thousand Eight Hundred One Dollar and Sixty-One Cents ($77,801.61); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

WestCare Ohio Inc., dba East End Community Services was established in 1997 with the mission “to listen to and work with the people of inner East Dayton to build a prosperous, healthy and caring community that nurtures children toward success.” WestCare Ohio Inc. develops and executes comprehensive community development initiatives with children, adults and families, and the community as a whole, that helps remove barriers to academic achievement, physical health, social and emotional wellness, financial self-sufficiency, and builds community cohesion. They offer a Youth Development program for middle and high school students that focuses on helping youth meet academic requirements for graduation while helping them build positive social skills and emotional maturity. We also support about 100 senior citizens annually with services that help them live independently.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Seventy-Seven Thousand Eight Hundred One Dollar and Sixty-One Cents ($77,801.61) (“Grant Amount”) within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds
the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of
the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

**ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.**

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

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

**ARTICLE 10. POLITICAL CONTRIBUTIONS.**

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

**ARTICLE 11. RECORDS AND RETENTION.**

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the
actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

E. **Waiver.** A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect City’s rights with respect to any other or further breach.
F. **Relationship.** This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.

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

   For City:             Monica Jones  
                         City of Dayton  
                         101 W. Third Street  
                         Dayton, OH 45401

   For Recipient:        Jan Lepore-Jentleson  
                         15 Dover Street,  
                         Dayton, Ohio 45410

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

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

WESTCARE OHIO INC.,
AN OHIO 501(C)(3) NOT-FOR-PROFIT CORPORATION

By: ____________________________
Print name: CRAIG W. HURST
Its: ____________________________

Executed pursuant to authority under Resolution WCOH_2020-02

CITY OF DAYTON, OHIO

______________________________
City Manager

______________________________
Date

APPROVED AS TO FORM
AND CORRECTNESS:

______________________________
City Attorney

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

______________________________
Min. / Bk. _______ Pg. _______

______________________________
Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>11/18/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$80,947.15</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$80,947.15</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$</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

| Amount: | $80,947.15 |
| Fund Code: | 26133 - 9980 - 1385 - 99 - CRF48 - |

| Amount: | |
| Fund Code: | XXXXX - XXXX - XXXX - XX - XXXX - XXXX - |

**Attach additional pages for more FOAPALS**

Vendor Name: Young Men's Christian Association of Greater Dayton

Vendor Address: 118 W 1st Street Suite 300 Dayton Ohio 45402-1111

Federal ID: 31-0537517

Commodity Code: 95299

Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.

22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.

Founded in 1882, YMCA of Greater Dayton provides activities and programs for children and teens, programs to promote healthy living, and programs to promote social responsibility.

Contact Person: Hilary Ross Browning

Procurement, Management & Budget 5-Nov-20

Department/Division

Originating Department Director's Signature: Diane L. Pasian 11-6-2020

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> 11/10/2020

Date

CF Prepared by: <signature> 11/10/2020

Date

CF/CT Number: C720-2720

October 18, 2011
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER DAYTON ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of Eighty Thousand Nine Hundred Forty-Seven Dollars and Fifteen Cents ($80,947.15); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Founded in 1882, the YMCA of Greater Dayton provides activities and programs for 1) Youth Development - children and teens, 2) Healthy Living – health and wellness for all ages, and 3) Social Responsibility - giving back and providing support for the poor, distressed or underprivileged. Programs include: Health and Wellness for all ages, Youth Sports, Move 2 Lose weight loss for adults, Diabetes Prevention, Aquatics, Summer Camp, Child Care, Early Learning/Academic Enrichment, Teen Programming, and Outdoor Education. Their mission provides an inclusive environment driven to enrich the quality of family, spiritual, social, mental and physical wellbeing for all.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Eighty Thousand Nine Hundred Forty-Seven Dollars and Fifteen Cents ($80,947.15) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.
ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

H. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.
I. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Dale Brunner  
118 W. First Street,  
Dayton, Ohio 45402

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

YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER DAYTON

By: [Signature]

Print name: [Name]

Its: [Position]

CITY OF DAYTON, OHIO

________________________________________
City Manager

________________________________________
Date

APPROVED AS TO FORM AND CORRECTNESS:

☑ Recoverable Signature

X [Signature]

City Attorney

Signed by: Musto, John

APPROVED AS TO FORM AND CORRECTNESS

[Signature]

CITY ATTORNEY

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

__________________________, 2020

Min. / Bk. _______ Pg. ______

__________________________
Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
- Property taxes
- Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
- Severance pay
- Legal settlements
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X  New Contract  Renewal Contract  Change Order

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>11/18/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
</tr>
<tr>
<td>Original Commission Approval</td>
<td>$ 103,770.90</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 103,770.90</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
</tr>
<tr>
<td>Original CT/CF 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

Amount: $ 103,770.90

Fund Code 28133 - 9980 - 1385 - 99 - CRF48 -

Attach additional pages for more FOAPALs

Vendor Name: YWCA Dayton
Vendor Address: 141 West Third Street, Dayton, Ohio 45402
Federal ID: 31-053 7168
Commodity Code: 96296
Purpose: The City issued a Notice of Funding Opportunity to eligible Community Not-for-Profit organizations in October.

22 organizations applied for the Community Organization Relief Fund (CORF), made possible by Federal CARES allocation.

The YWCA is dedicated to eliminating racism, empowering women and promoting peace, justice, freedom and dignity for all.

The YWCA provides victims of violence with immediate shelter and services, and offers housing programs and programming for youth.

Contact Person: Hilary Ross Browning

Procurement, Management & Budget
Department/Division 5-Nov-20

Originating Department Director's Signature: ____________________________ Date: Nov 10, 2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: ____________________________ Date: 11/10/2020

CF Prepared by: ____________________________ Date: 11/10/2020

Finance Department

October 18, 2011
CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT

THIS CARES COMMUNITY ORGANIZATIONS RELIEF FUND GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and YWCA DAYTON ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local not-for-profit community organizations that have been directly impacted by COVID-19 by making grants available for expenses due to the cancellation or postponement of public programming; and,

WHEREAS, The City instituted a program that would allow not-for-profit community organizations to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Community Organization Relief Fund Grant ("City Grant") in the amount of One Hundred Three Thousand Seven Hundred Seventy Dollars and Ninety Cents ($103,770.90); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.
Founded in 1870, YWCA Dayton is dedicated to eliminating racism, empowering women, and promoting peace, justice, freedom, and dignity for all. The YWCA provides victims of violence with immediate shelter and supportive services, operates a tiered offering of four (4) housing programs, operates a 24/7 domestic violence and crisis hotline, serves as the county's only Rape Crisis Center, and operates two youth development programs, AMEND Together and Girls LEAD! YWCA Dayton has been at the forefront of the most pressing social movements for 150 years — from voting rights to civil rights, from affordable housing to pay equity, from violence prevention to health care reform. Today, we combine programming and advocacy to generate institutional change in three key areas: racial justice and civil rights, empowerment and economic advancement of women and girls, and health and safety of women and girls.

ARTICLE 2. PAYMENT.
City will provide Recipient a City Grant in an amount not to exceed One Hundred Three Thousand Seven Hundred Seventy Dollars and Ninety Cents ($103,770.90) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds
the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the City by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a public 501(c)(3) non-profit organization that is in good standing with 500 or less employees;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as a non-profit organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of
the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of such termination, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

**ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.**

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

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

**ARTICLE 10. POLITICAL CONTRIBUTIONS.**

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

**ARTICLE 11. RECORDS AND RETENTION.**

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the five-year period, Recipient shall retain such Records until completion of the
actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

G. Waiver. A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect City’s rights with respect to any other or further breach.
H. **Relationship.** This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.

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

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Shannon TL Isom  
141 W. Third Street,  
Dayton, Ohio 45402

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

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

YWCA DAYTON

By: __________________________________________

Print name: Shannon TL Isom

Its: President & CEO

CITY OF DAYTON, OHIO

________________________________________

City Manager

________________________________________

Date

APPROVED AS TO FORM
AND CORRECTNESS:

________________________________________

City Attorney

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

________________________________________, 2020

Min. / Bk. _____  Pg. _____

Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income from canceled or postponed public activity due to executive orders associated with the COVID-19 pandemic
- Business demonstrates that COVID-19 resulted in a “loss of funding” due to the following: decrease in donations, service level decreases, loss of federal or state funding
- Expenses incurred due to executive orders associated with the COVID-19 pandemic; including
  - PPE and sanitation supplies, and related COVID-19 expenses
  - Facility alterations, cleaning expenses, and PPE to meet reopening guidelines
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual activity, etc.
- Operating costs and supplier payments related to COVID-19 activity or expenses
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence), that was used to provide COVID-19 related activity
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment) that was used to provide COVID-19 related activity
- New or expanded technology applications and Wi-Fi services required due to COVID-19
- Increased utility costs related to COVID-19 activity, specifically for COVID-19 related business properties (excluding personal residence)
- Cost of critical business operations (raw materials, marketing expenses, etc.) related to COVID-19 activity or expenses
- Interest on other business debt obligations incurred after March 1, 2020, excluding personal debt obligations related to COVID-19 activity or expenses

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred before March 1, 2020 or after December 30, 2020
- Performance or delivery of a good or service received before March 1, 2020 or after December 30, 2020
- Damages covered by insurance
- Reimbursement to donors for donated items or services
- Expenses that have been or will be reimbursed under any federal activity such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds
- Workforce bonuses other than hazard pay or overtime
• Property taxes
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19
• Severance pay
• Legal settlements
City Manager’s Report

From 9980- Procurement, Management & Budget
Supplier, Vendor, Company, Individual
Name Cultural Support Relief Fund
Address Various

Date November 18, 2020
Expense Type Other
Total Amount $3,000,000.00 (thru 12/30/2020)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Coronavirus Relief Fund</td>
<td>28133-9980-1385-99-CRF47</td>
<td>$3,000,000.00</td>
</tr>
</tbody>
</table>

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

Description
Coronavirus Aid, Relief and Economic Security (CARES) Act
Cultural Support Relief Fund

The Department of Procurement, Management & Budget requests permission to enter into grant agreements with 19 arts and culture organizations, identified through Notice of Funding Opportunity (NOFO) No. 20-017PMB, issued in October 2020. The total amount for the Cultural Support Relief Fund is not to exceed $3,000,000.00. All 19 organizations that submitted applications will receive relief funds made possible from the CARES Act.


The CARES Act established the $150 billion Coronavirus Relief Fund (CRF) nationwide. Through legislative action, the State of Ohio has released $17.4 million in CARES Act funds to the City of Dayton.

The Department of Law has reviewed and approved the attached grant agreements as to form and correctness.

19 Certificates of Funds are attached.

Signatures/Approval
Approved by City Commission

Division
Melissa Wilson Nov 10, 2020

Department

City Manager

FORM NO. MS-16

Clerk

Date

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: 12/30/20
Commission Approval: $146,911.76
Initial Encumbrance: $146,911.76
Remaining Commission Approval: $

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

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

<table>
<thead>
<tr>
<th>Amount: $146,911.76</th>
<th>Seq #1</th>
<th>Amount:</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code 28133 Fund</td>
<td>9980 Org</td>
<td>1385 Acct</td>
<td>99 Prog</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund Code XXXXX Fund</td>
<td>XXXX Org</td>
<td>XXXX Acct</td>
<td>XXXX XX Prog</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund Code XXXXX Fund</td>
<td>XXXX Org</td>
<td>XXXX Acct</td>
<td>XXXX XX Prog</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Attach additional pages for more POAPALs

Vendor Name: Culture Works
Vendor Address: 110 North Main Street Dayton, Ohio 45402
Street
City
State
Zipcode + 4
Federal ID: 23-7412338
Commodity Code: 95299
Purpose:
The City’s Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton.
Culture Works is the funding, advocacy, and service organization that passionately inspires, supports, and sustains arts and culture in the Dayton Region
Contact Person: Monica Jones x3663
PMB
Department/Division
11/4/2020
Date

Originating Department Director’s Signature: Diane J. Johnson 11-6-2020

SECTION II - to be completed by the Finance Department

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

DocuSigned by: 11/10/2020
Finance Director Signature

CF Prepared by 11/9/2020

Finance Department

October 18, 2011
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and CULTURE WORKS, an Ohio non-profit corporation ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of One Hundred Forty-Six Thousand Nine Hundred Eleven Dollars and Seventy-Six Cents ($146,911.76); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Since 1974, Culture Works has been on a mission to support, sustain, and inspire arts and culture in the Dayton Region. The Campaign for the Arts promotes arts and culture throughout the Dayton Region, makes the arts accessible through workplace performances and discount opportunities, and supports local artistic and cultural institutions through grant making. Additionally, the organization provides grants to artists and organizations through a partnership with Montgomery County Arts & Cultural District, awards scholarships to high school seniors and college students, and enhances local education programs through its ArtsDEEP program.

ARTICLE 2. PAYMENT.

City shall provide Recipient a City Grant in an amount not to exceed One Hundred Forty-Six Thousand Nine Hundred Eleven Dollars and Seventy-Six Cents ($146,911.76) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.
Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as "Eligible Expenditures" in Exhibit A, attached hereto and incorporated herein, shall be considered "Eligible Expenses" that Recipient may use the City Grant for. The City and Recipient agree that the items identified as "Ineligible Expenditures" in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds.
Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.
This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.
Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including
reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the
actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

F. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to any activities to be completed by Company.
G. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Bill Perry  
110 N. Main Street,  
Dayton Ohio 45402

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

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

CULTURAL WORKS
By: [Signature]
Print name: LISA HANSON
Its: EXECUTIVE DIRECTOR

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:

☑ Recoverable Signature

X Amelina N. Blankenship
City Attorney
Signed by: Blankenship, Amelia

APPROVED AS TO FORM AND CORRECTNESS

[Signature]
CITY ATTORNEY

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

__________________________, 2020

Min. / Bk. _______ Pg. _______

Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:
- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
- Damages covered by insurance;
- Reimbursement to donors for donated items or services;
- Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
- Workforce bonuses other than hazard pay or overtime;
- Property taxes;
- Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
- Severance pay; and,
- Legal settlements.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th></th>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commission Approval</td>
<td>$ 266,683.49</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 266,683.49</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original CT/CF</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Required Documentation

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

<table>
<thead>
<tr>
<th>Seq #1</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount: $ 266,683.49</td>
<td>Amount:</td>
</tr>
<tr>
<td>Fund Code 28133</td>
<td>Fund Code XXXX-XXXX-XXXX-XXXX</td>
</tr>
<tr>
<td>Fund</td>
<td>Fund</td>
</tr>
<tr>
<td>Org 9980</td>
<td>Org XXXX-XXXX</td>
</tr>
<tr>
<td>Acct 1385</td>
<td>Acct XX-XXXX</td>
</tr>
<tr>
<td>Prog 99</td>
<td>Prog X-XXXX</td>
</tr>
<tr>
<td>Act CRF47</td>
<td>Act XXXX-XXXX</td>
</tr>
<tr>
<td>Loc</td>
<td>Loc</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Seq #1</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount:</td>
<td>Amount:</td>
</tr>
<tr>
<td>Fund Code XXXX-XXXX-XXXX-XXXX</td>
<td>Fund Code XXXX-XXXX-XXXX-XXXX</td>
</tr>
<tr>
<td>Fund</td>
<td>Fund</td>
</tr>
<tr>
<td>Org XXXX-XXXX</td>
<td>Org XXXX-XXXX</td>
</tr>
<tr>
<td>Acct XX-XXXX</td>
<td>Acct XX-XXXX</td>
</tr>
<tr>
<td>Prog X-XXXX</td>
<td>Prog X-XXXX</td>
</tr>
<tr>
<td>Act XXXX-XXXX</td>
<td>Act XXXX-XXXX</td>
</tr>
<tr>
<td>Loc</td>
<td>Loc</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALS

Vendor Name: The Dayton Art Institute
Vendor Address: 456 Belmonte Park North Dayton, Ohio 45403
Federal ID: 31-0537480
Commodity Code: 95299
Purpose: The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton. The Dayton Art Institute (DAI) maintains its historic facility (currently on the National Register of Historic Places) and preserves & promotes a collection of over 26,000 objects spanning 5,000 years of art history. Over 1,000 works are on view in their permanent collection.
Contact Person: Monica Jones x3663

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.

DocuSigned by: [Signature] 11/10/2020
Finance Director Signature

CF Prepared by [Signature] 40D25B13082A482... 11/10/2020

Finance Department

October 18, 2011
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and THE DAYTON ART INSTITUTE ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of Two Hundred Sixty-Six Thousand Six Hundred Eighty-Three Dollars and Forty-Nine Cents ($266,683.49); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Founded in 1919 as the Dayton Museum of Fine Arts, the museum operated a traditional art school from 1919 to 1975. Today the DAI maintains its historic facility (currently on the National Register of Historic Places) and preserves and promotes a collection comprised of over 26,000 objects spanning 5,000 years of art history. More than 1,000 works are on view in the museum’s permanent collection galleries at any given time. In addition to world-class galleries, the DAI boasts a robust education department that includes classes, programs and art making activities available to children, starting at Pre-K, to senior adults. The DAI, with a mission of creating meaningful experiences with art that are available to all, is the premier visual arts destination for residents in Dayton and surrounding communities.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Two Hundred Sixty-Six Thousand Six Hundred Eighty-Three Dollars and Forty-Nine Cents ($266,683.49) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.
Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses, as defined below and as outlined in the Recipient’s NOFO application. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.
ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.
ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

Recipient 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 (as applicable).

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees.
for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

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

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

For City:  
Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH  45401

For Recipient:  
Natasha R. Spears  
456 Belmonte Park N.  
Dayton, Ohio 45405

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

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

THE DAYTON ART INSTITUTE

By: Michael R. Roediger

Print name: Michael R. Roediger

Its: Director & CEO

CITY OF DAYTON, OHIO

________________________
City Manager

________________________
Date

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

________________________
Min. / Bk. _______ Pg. _______

________________________
Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:

☐ Recoverable Signature

X John Musto for

City Attorney

Signed by: Musto, John

APPROVED AS TO FORM AND CORRECTNESS

________________________
CITY ATTORNEY
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
- Damages covered by insurance;
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
# CERTIFICATE OF FUNDS

**SECTION I - to be completed by User Department**

- **x** New Contract
- **___** Renewal Contract
- **___** Change Order

<table>
<thead>
<tr>
<th>Required Documentation</th>
<th>Seq #1</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date: <strong>Upon Execution</strong></td>
<td><strong>Amount: $ 290,507.02</strong></td>
<td><strong>Amount:</strong></td>
</tr>
<tr>
<td>Expiration Date: <strong>12/30/20</strong></td>
<td><strong>Fund Code 28133</strong></td>
<td><strong>Fund Code XXXXX</strong></td>
</tr>
<tr>
<td>Commission Approval: <strong>290,507.02</strong></td>
<td><strong>99</strong></td>
<td><strong>-</strong></td>
</tr>
<tr>
<td>Initial Encumbrance: <strong>290,507.02</strong></td>
<td><strong>Org Acct 99 CRF47</strong></td>
<td><strong>Loc</strong></td>
</tr>
<tr>
<td>Remaining Commission Approval: <strong>$ -</strong></td>
<td><strong>Seq #1</strong></td>
<td><strong>Seq #2</strong></td>
</tr>
<tr>
<td>Increase Encumbrance: <strong>$ -</strong></td>
<td><strong>Fund Code XXXXX - XXXXX - XXXXX - XXXX - XXXX - XXXX</strong></td>
<td><strong>Fund Code XXXXX - XXXXX - XXXXX - XXXX - XXXX - XXXX</strong></td>
</tr>
<tr>
<td>Decrease Encumbrance: <strong>$ -</strong></td>
<td><strong>Loc</strong></td>
<td><strong>Loc</strong></td>
</tr>
<tr>
<td>Remaining Commission Approval: <strong>$ -</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Attach additional pages for more FOAPALs**

- **Vendor Name:** Dayton Contemporary Dance Company
- **Vendor Address:** 840 Germantown Street Dayton, Ohio 45402
- **Federal ID:** 23-7220259
- **Commodity Code:** 95299
- **Purpose:** The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton. Rooted in the African American experience, the Dayton Contemporary Dance Company is a culturally diverse contemporary dance committed to reaching the broadest audience through exceptional performance and arts-integrated education.
- **Contact Person:** Monica Jones x3663
- **PMB:** 114202
- **Date:** 11/4/2020
- **Originating Department Director's Signature:** Diane J. Pfeffer, 11/6/2020

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

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

**DocuSigned by:**

- **Finance Director Signature:** 11/10/2020
- **CF Prepared by:**
- **CF/CT Number:**

**Finance Department**

October 18, 2011
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and DAYTON CONTEMPORARY DANCE COMPANY ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of Two Hundred Ninety Thousand Five Hundred Seven Dollars and Two Cents ($290,507.02); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Rooted in the African American experience, the Dayton Contemporary Dance Company is a culturally diverse contemporary dance company committed to reaching the broadest audience through exceptional performance and arts-integrated education. Dayton Contemporary Dance Company was founded in 1968 to create performance opportunities for dancers of color. Dayton Contemporary Dance Company is known for its extraordinary artistic execution, dance precision, and storytelling through dance art of international standard. Dayton Contemporary Dance Company tours locally, nationally, and internationally with Dayton Contemporary Dance Company's two main goals being: A) create, perform, and tour dance art of exceptional quality, and B) deliver premier arts-integrated education services to the local community and while on tour. Dayton Contemporary Dance Company is an artistic "incubator" where choreographers create new work for the company, thus acquiring the largest body of classic contemporary dance art created by African American artists.

ARTICLE 2. PAYMENT.
City will provide Recipient a City Grant in an amount not to exceed Two Hundred Ninety Thousand Five Hundred Seven Dollars and Two Cents ($290,507.02) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as "Eligible Expenditures" in Exhibit A, attached hereto and incorporated herein, shall be considered "Eligible Expenses" that Recipient may use the City Grant for. The City and Recipient agree that the items identified as "Ineligible Expenditures" in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 1. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 2. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient's business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.
In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 3. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related
to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or nonperformance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, subcontractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

Recipient shall use Generally Accepted Accounting Principles ("GAAP") or the Income Tax Accounting Method in recording and documenting all costs and expenditures related in whole or part to the City Grant. All costs and expenditures for which Recipient will be granted hereunder shall be supported by properly executed invoices, contracts, vouchers, or other accounting documents and other evidence (collectively, "Records"). All Records shall be clearly identified and readily accessible. At any time during normal business hours and as often as City may reasonably request, Recipient shall make available to City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees, all of its Records related to this Agreement. Recipient shall permit City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies and any of their designees to audit, examine, and make excerpts or transcripts from such Records and to have audits made of all contracts, invoices, materials, payrolls, personnel records, conditions of employment and other data pertaining in whole or in part to matters covered by this Agreement.
All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

D. Amendment. The parties may amend this Agreement, provided that no such amendment shall be effective unless it is reduced to a writing, which makes specific reference to this Agreement, is executed by a duly authorized representative of each party to this Agreement and, if required or applicable, is approved by the Commission of the City of Dayton, Ohio.
E. **Waiver.** A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect City's rights with respect to any other or further breach.

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

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

   For City: Monica Jones  
   City of Dayton  
   101 W. Third Street  
   Dayton, OH 45401

   For Recipient: Ro Nita Hawes-Saunders  
   840 Germantown St.  
   Dayton Ohio 45402

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

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

DAYTON CONTEMPORARY DANCE COMPANY
By: [Signature]
Print name: Rona Nita Hous-Sanders
Its: Chief Executive Officer

CITY OF DAYTON, OHIO

City Manager

Date

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

__________________________, 2020

Min. / Bk. _______  Pg. _______

Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]

City Attorney
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
• Damages covered by insurance;
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td>Required Documentation</td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
<td></td>
</tr>
<tr>
<td>Commission Approval</td>
<td>$300,000.00</td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$300,000.00</td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Seq #1</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount: $300,000.00</td>
<td>Amount:</td>
</tr>
<tr>
<td>Fund Code 28133 9980 1385 99 CRF47</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</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: Palisades Arcadia Baseball LLC
Vendor Address: 220 N Patterson Blvd Dayton, Ohio 45402
Federal ID: 46-5672433
Commodity Code: 95299
Purpose: The City has determined providing eligible CARES assistance in response to the economic crisis facing our community due to the COVID-19 pandemic is appropriate. The Dayton Dragons are a Class A minor league baseball team playing in the Midwest League. The City recognizes the positive impact they have on our community and also acknowledges the adverse effect an entire inactive season has had on the organization. The goal of the assistance is to mitigate the negative economic impact of COVID-19.
Contact Person: Monica Jones x3663

Originating Department Director's Signature: Diane E. Plummer 11-6-2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: 
Date: 11/10/2020

Finance Department
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and PALISADES ARCADIA BASEBALL LLC ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of Three Hundred Thousand Dollars and Zero Cents ($300,000.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

The Dayton Dragons are a Class A minor league baseball team playing in the Midwest League based in Dayton, Ohio. They moved to Dayton in 2000 and their home stadium is Day Air Ballpark. The Ballpark has a capacity of 6,831 stadium seats.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Three Hundred Thousand Dollars and Zero Cents ($300,000.00) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.
The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

**ARTICLE 4. TIMELINE.**

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

**ARTICLE 5. RECIPIENT REPRESENTATIONS.**

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

**ARTICLE 6. SPECIFIC CONDITIONS.**

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).
ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

Recipient 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 entitled City to terminate this Agreement at its option.

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.
Recipient certifies that, as of the date of execution, it does not owe any delinquent taxes to the City of Dayton and/or does not owe delinquent taxes for which Recipient is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code or, if such delinquent taxes are owed, Recipient currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, or Recipient filed a petition in bankruptcy under 11 U.S.C. Section 101. et seq., or such a petition has been filed against Recipient. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

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

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

For City: Monica Jones
City of Dayton
101 W. Third Street
Dayton, OH 45401

For Recipient: Robert Murphy
220 N Patterson Blvd
Dayton, Ohio 45402

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

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

PALISADES ARCADIA BASEBALL, LLC

By: [Signature]

Print name: Robert Murphy

Its: President

CITY OF DAYTON, OHIO

City Manager

Date

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

_____________________, 2020

Min. / Bk. _____ Pg. _____

Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:

X Recoverable Signature

John Musto for

City Attorney

Signed by: Musto, John

APPROVED AS TO FORM AND CORRECTNESS

[Signature]

CITY ATTORNEY
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.

- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

ineligible expenditures:
The City Grant may not be used for:

- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
- Damages covered by insurance;
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

x New Contract

Renewal Contract

Change Order:

Contract Start Date: Upon Execution
Expiration Date: 12/30/20
Commission Approval: $68,167.00
Initial Encumbrance: $68,167.00
Remaining Commission Approval: $

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

NO DRAFT DOCUMENTS PERMITTED

Required Documentation:

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

Copy of City Manager's Report
Copy of Original Certificate of Funds

<table>
<thead>
<tr>
<th>Seq #1</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount: $68,167.00</td>
<td>Amount:</td>
</tr>
<tr>
<td>Fund Code XXXX Fund XXXX Org XXXX Acct XXXX Prog XXXX Act XXXX Loc</td>
<td>Fund Code XXXX Fund XXXX Org XXXX Acct XXXX Prog XXXX Act XXXX Loc</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: Dayton International Peace Museum Inc.
Vendor Address: 208 W Monument Ave Dayton, Ohio 45402
Federal ID: 30-0207231
Commodity Code: 95299
Purpose: The City’s Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton.
The Dayton International Peace Museum raises awareness of nonviolent strategies for achieving peace now and in the future. Its mission is to inspire a local, national, and international culture of peace.
Contact Person: Monica Jones x3663
Originating Department Director’s Signature: Diane Phillips, 11/6/2020
Department/Division PMB
Date 11/4/2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature

Date 11/10/2020

CF Prepared by

Date 11/19/2020

Finance Department
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and DAYTON INTERNATIONAL PEACE MUSEUM INC. ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of Sixty-Eight Thousand One Hundred Sixty-Seven and Zero Cents ($68,167.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

1. RECIPIENT.

The Dayton International Peace Museum raises awareness of nonviolent strategies for achieving peace now and in the future. Its mission is to inspire a local, national, and international culture of peace. The Peace Museum partners with other community agencies to offer interactive programming on topics of peace literacy, nonviolence, social justice and effective communication to reduce societal tension. The museum offers exhibits both on-site and that travel to libraries and schools.

2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Sixty-Eight Thousand One Hundred Sixty-Seven and Zero Cents ($68,167.00) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount
shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

4. TIMELINE.
Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

5. RECIPIENT REPRESENTATIONS.
Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

6. SPECIFIC CONDITIONS.
A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly
expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager's Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys 'fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or nonperformance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees,
contractors, subcontractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.
Recipient certifies that, as of the date of execution, it does not owe any delinquent taxes to the City of Dayton and/or does not owe delinquent taxes for which Recipient is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code or, if such delinquent taxes are owed, Recipient currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, or Recipient filed a petition in bankruptcy under 11 U.S.C. Section 101. et seq., or such a petition has been filed against Recipient. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

**ARTICLE 13. GENERAL PROVISIONS.**

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

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

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

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

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

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

G. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:
For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401  

For Recipient: Kevin Kelly  
208 W. Monument Ave  
Dayton, Ohio 45402  

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

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

DAYTON INTERNATIONAL PEACE MUSEUM INC.

By: __________________________

Print name: Kevin Kelly

Its: Executive Director

CITY OF DAYTON, OHIO

______________________________________
City Manager

______________________________________
Date

APPROVED AS TO FORM
AND CORRECTNESS:

X

City Attorney

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

______________________________________, 2020
Min. / Bk. _______ Pg. _______

_____________________________________
Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.

- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.

- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.

- Operating costs.

- Contract labor.

- Supplier payments.

- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).

- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).

- New or expanded technology applications and Wi-Fi services.

- Utility payments for business properties (excluding personal residence).

- Cost of critical business operations (raw materials, marketing expenses, etc.).
• Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

**INELIGIBLE EXPENDITURES:**

The City Grant may not be used for:

• Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
• Performance or delivery of a good or service received prior to or after the covered period;
• Damages covered by insurance;
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
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 Execution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expired Date</td>
<td>12/30/20</td>
</tr>
<tr>
<td>Commission Approval</td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 138,511.00</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ 138,511.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Original CT/CF</th>
<th>Increase Encumbrance</th>
<th>Decrease Encumbrance</th>
<th>Remaining Commission Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Seq #1</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount: $ 138,511.00</td>
<td>Amount:</td>
</tr>
<tr>
<td>Fund Code 28133 9980 1385 99 CRF47</td>
<td>Fund Code XXXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
<tr>
<td>Fund Code XXXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
<td>Fund Code XXXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: Dayton Movies Inc.
Vendor Address: 130 East Fifth Street Dayton, Ohio 45402
Federal ID: 83-1702784
Commodity Code: 95299
Purpose: The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton. The Dayton Movies has been organized for the purpose of providing a first-run movie theatre focused on diversity and multi-cultural programming for downtown Dayton and the urban core.
Contact Person: Monica Jones x3663
PMB
Department/Division
11/4/2020
11/6/2020

SECTION II - to be completed by the Finance Department

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

DocuSigned by:
Finance Director Signature

CF Prepared by

Finance Department

October 18, 2011
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and DAYTON MOVIES INC. ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of One Hundred Thirty-Eight Thousand Five Hundred Eleven Dollars and Zero Cents ($138,511.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

The Dayton Movies has been organized for the purpose of providing a first-run movie theatre focused on diversity and multi-cultural programming for downtown Dayton and the urban core; to promote and host local film festivals, producers and artists; to provide a facility for fund-raising and promotional events for grass-root and community organizations.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed One Hundred Thirty-Eight Thousand Five Hundred Eleven Dollars and Zero Cents ($138,511.00) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.
ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as "Eligible Expenditures" in Exhibit A, attached hereto and incorporated herein, shall be considered "Eligible Expenses" that Recipient may use the City Grant for. The City and Recipient agree that the items identified as "Ineligible Expenditures" in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).
ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.
Recipient certifies that, as of the date of execution, it does not owe any delinquent taxes to the City of Dayton and/or does not owe delinquent taxes for which Recipient is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code or, if such delinquent taxes are owed, Recipient currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, or Recipient filed a petition in bankruptcy under 11 U.S.C. Section 101. et seq., or such a petition has been filed against Recipient. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

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

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

For City: Monica Jones
City of Dayton
101 W. Third Street
Dayton, OH 45401

For Recipient: Steven Budd
130 E. 5th St.
Dayton, Ohio 45402

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

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

DAYTON MOVIES INC.

By: [Signature]
Print name: [Signature]
Its: [Signature]

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]
City Attorney

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

__________________________, 2020

Min. / Bk. _______ Pg. _______

Clerk of the Commission
ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:
- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:
- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
- Damages covered by insurance;
- Reimbursement to donors for donated items or services;
- Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
- Workforce bonuses other than hazard pay or overtime;
- Property taxes;
- Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
- Severance pay; and,
- Legal settlements.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

x New Contract  ______ Renewal Contract  ______ Change Order

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>Expiration Date</th>
<th>Commission Approval</th>
<th>Initial Encumbrance</th>
<th>Remaining Commission Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>12/30/20</td>
<td>$294,477.61</td>
<td>$294,477.61</td>
<td>$</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Original CT/CF Increase Encumbrance Decrease Encumbrance Remaining Commission Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

Seq #1

<table>
<thead>
<tr>
<th>Amount:</th>
</tr>
</thead>
<tbody>
<tr>
<td>$294,477.61</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>Seq #1</th>
</tr>
</thead>
<tbody>
<tr>
<td>28133</td>
<td>9980</td>
</tr>
<tr>
<td>1385</td>
<td>99</td>
</tr>
<tr>
<td>CRF47</td>
<td></td>
</tr>
</tbody>
</table>

Seq #2

<table>
<thead>
<tr>
<th>Amount:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>XXXX</td>
<td>XXXX</td>
</tr>
<tr>
<td>XXXX</td>
<td>XXXX</td>
</tr>
<tr>
<td>XXXX</td>
<td>XXXX</td>
</tr>
<tr>
<td>XXXX</td>
<td>XXXX</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: Dayton Performing Arts Alliance
Vendor Address: 126 N Main Street, Suite 210 Dayton, Ohio 45402
Federal ID: 31-6000101
Commodity Code: 95299
Purpose: The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton.
Dayton Performing Arts Alliance is an unique-in-the-nation collaborative organization that unites a professional ballet company, opera company, and symphony orchestra as one. Their vision is to transform lives through the power of music and dance.
Contact Person: Monica Jones x3663
Orinating Department Director's Signature: [Signature]
Date: 11/4/2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: [Signature]
Date: 11/10/2020

CF Prepared by: [Signature]
Date: [Signature]
CF/CT Number: CT20-2702

Finance Department

October 18, 2011
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and DAYTON PERFORMING ARTS ALLIANCE ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of Two Hundred Ninety-Four Thousand Four Hundred Seventy-Seven Dollars and Sixty-One Cents ($294,477.61); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

In 2012, leadership of the Dayton Opera, Dayton Ballet, and Dayton Philharmonic Orchestra created a groundbreaking and innovative merger, forging these three art forms into one organization named the Dayton Performing Arts Alliance. The Dayton Performing Arts Alliance is an unique-in-the-nation collaborative organization that unites a professional ballet company, opera company, and symphony orchestra as one. DPAA's purpose is to be our community’s indispensable source for traditional, diverse, and innovative experiences in ballet, opera, and orchestral music, and our vision is to transform lives through the power of music and dance.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Two Hundred Ninety-Four Thousand Four Hundred Seventy-Seven Dollars and Sixty-One Cents ($294,477.61) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount...
shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly
expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

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

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

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401  

For Recipient: Dennis TenWolde  
126 N Main St #210  
Dayton, Ohio 45429  

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

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

DAYTON PERFORMING ARTS ALLIANCE

By: [Signature]
Print name: TERY WARWICK
Its: chief financial officer

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:

☑ Recoverable Signature

X Amelia N. Blankenship for
City Attorney
Signed by: Blankenship, Amelia

APPROVED AS TO FORM AND CORRECTNESS

[Signature]
CITY ATTORNEY
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
- Damages covered by insurance;
- Reimbursement to donors for donated items or services;
- Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
- Workforce bonuses other than hazard pay or overtime;
- Property taxes;
- Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
- Severance pay; and,
- Legal settlements.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

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

| Contract Start Date | Upon Execution |   |   |
| Expired Date | 12/30/20 |   |   |
| Commission Approval | $298,448.20 |   |   |
| Initial Encumbrance | $298,448.20 |   |   |
| Remaining Commission Approval | $ |   |   |
| Original CT/CF |   |   |   |
| Increase Encumbrance |   |   |   |
| Decrease Encumbrance |   |   |   |
| Remaining Commission Approval | $ |   |   |

| Seq #1 |
| Amount: $298,448.20 |
| Fund Code: 28133 9980 1385 99 CRF47 |

| Seq #2 |
| Amount: |
| Fund Code: XXXX - XXXX - XXXX - XX - XXXX - XXXX |

Attach additional pages for more FOAPALs

Vendor Name: Dayton Society of Natural History
Vendor Address: 2600 DeWeese Parkway Dayton, Ohio 45414
Federal ID: 31-0585917
Commodity Code: 95299
Purpose: The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton. The DSNH consists of the Boonshoft Museum of Discovery & SunWatch Indian Village/Archaeological Park. They curate 1.8+ million objects & is a children's museum, planetarium, zoo, and cultural site. They offer world-class exhibitions and programs in a variety of formats.
Contact Person: Monica Jones x3663
Date: 11/4/2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: 11/10/2020
CF Prepared by: 11/10/2020

Finance Department

October 18, 2011
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and DAYTON SOCIETY OF NATURAL HISTORY ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of Two Hundred Ninety-Eight Thousand Four Hundred Forty-Eight Dollars and Twenty Cents ($298,448.20); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

The Dayton Society of Natural History originated in 1893 as the Dayton Public Library and Museum and transitioned to the organization we know today in 1952. The Dayton Society of Natural History consists of the Boonshoft Museum of Discovery and SunWatch Indian Village/Archaeological Park. The Dayton Society of Natural History curates 1.8+ million objects and is a children's museum, planetarium, zoo, and cultural site. It offers world-class exhibitions and programs for families in a variety of formats including hands-on activities, virtual field trips, special events and shows, and educational lectures. It employs knowledgeable staff in history, archaeology, astronomy, and biology. The Dayton Society of Natural History is affiliated with the Association of Children's Museums, accredited by the Association of Zoos and Aquariums, and is a governing member of the Association of Science and Technology Centers, among others.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Two Hundred Ninety-Eight Thousand Four Hundred Forty-Eight Dollars and Twenty Cents ($298,448.20) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.
Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.
ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.
ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees.
for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

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

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

For City: Monica Jones
City of Dayton
101 W. Third Street
Dayton, OH 45401

For Recipient: Tracey Tomme
2600 Deweese Pkwy,
Dayton, Ohio 45414

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

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

DAYTON SOCIETY OF NATURAL HISTORY

Print name: Michael Westendorf

Its: CFO

CITY OF DAYTON, OHIO

City Manager

Date

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

Min. / Bk. ______  Pg. ______

Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:

☐ Recoverable Signature

X Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

APPROVED AS TO FORM AND CORRECTNESS

[Signature]
CITY ATTORNEY
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
- Damages covered by insurance;
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>12/30/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td></td>
</tr>
<tr>
<td>Commission Approval</td>
<td>$ 9,800.00</td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 9,800.00</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>$ 9,800.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code</td>
<td>28133, 9980, 1385, 99, CRF47</td>
</tr>
<tr>
<td>Seq #1</td>
<td>Seq #2</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: Dayton Theatre Guild Inc.
Vendor Address: 430 Wayne Ave, Dayton Ohio 45410
Federal ID: 31-6030817
Commodity Code: 95299
Purpose: The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton. The mission of the Dayton Theatre Guild is to provide entertainment, encourage the advancement of theatre art in the community and provide the opportunity for cultural and technical growth through experience in live theatre.
Contact Person: Monica Jones x3663
PMB 11/4/2020
Department/Division

Originating Department Director's Signature: Diane J. Phillips 11/6/2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: [Signature] 11/10/2020

CF Prepared by: [Signature] 11/9/2020

November 18, 2011
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and DAYTON THEATRE GUILD, INC. ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of Nine Thousand Eight Hundred Dollars and Zero Cents ($9,800.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

The mission of the Dayton Theatre Guild is to provide entertainment, encourage the advancement of theatre art in the community and provide the opportunity for cultural and technical growth through experience in live theatre. The Dayton Theatre Guild has a tradition of producing seldom-seen plays, as well as bringing in contemporary shows and area premieres, without forgetting the classics. Its goal is to produce good plays done well, utilizing all-volunteer casts, crews and administration. Participation is open to anyone with a passion for theatre, regardless of prior experience.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Nine Thousand Eight Hundred Dollars and Zero Cents ($9,800.00) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount
shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such
expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A,
attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient
may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible
Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant
funds on. In the event there is a question about whether an expense is an Eligible Expense,
Recipient shall reach out to the City for clarification prior to spending any funds on the expense
in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover
any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all
supporting documentation related to the use of the City Grants funds. The City retains the right
to request any and all documentation related to the use of the City Grant including, but not
limited to, a one-page narrative describing the use of the funds, invoices, financial statements,
receipts, and any other documents that the City deem relevant and related to the use of the City
Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by
December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return
of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this
Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of
   2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue,
Recipient shall return all funding provided under the City Grant in the full Grant Amount to the
City within five (5) business days.

ARTICLE 3. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable
rules, regulations, and orders governing receipt and use of municipal and other public funds.
Recipient shall assume full and complete responsibility for any alleged or actual violation of
the foregoing, including payment of any penalty imposed and/or repayment of improperly
expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the
actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

E. Waiver. A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect City’s rights with respect to any other or further breach.
F. **Relationship.** This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.

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

For City: 
Monica Jones
City of Dayton
101 W. Third Street
Dayton, OH 45401

For Recipient: 
Deidre Bray Root
430 Wayne Ave,
Dayton, Ohio 45410

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

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

DAYTON THEATRE GUILD, INC.

By: Deirdre Bray Root

Print name: Deirdre Bray Root

Its: Treasurer

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM
AND CORRECTNESS:

X

City Attorney

**No Commission Action Required**
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:
  • Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
  • Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
    o PPE and sanitation supplies, and related COVID-19 expenses;
    o Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
    o Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
  • Payroll costs for permanent employees. This includes:
    o Salary, wages, commissions or tips;
    o Payments required for the provisions of group health care benefits including insurance premiums;
    o State and local taxes assessed on compensation; and,
    o For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
  • Operating costs.
  • Contract labor.
  • Supplier payments.
  • Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
  • Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
  • New or expanded technology applications and Wi-Fi services.
  • Utility payments for business properties (excluding personal residence).
  • Cost of critical business operations (raw materials, marketing expenses, etc.).
  • Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELEGIBLE EXPENDITURES:
The City Grant may not be used for:
  • Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
  • Performance or delivery of a good or service received prior to or after the covered period;
  • Damages covered by insurance;
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
# Certificate of Funds

## Section I - to be completed by User Department

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>Expiration Date</th>
<th>Commission Approval</th>
<th>Initial Encumbrance</th>
<th>Remaining Commission Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upon Execution</td>
<td>12/30/20</td>
<td>$154,852.95</td>
<td>$154,852.95</td>
<td>$-</td>
</tr>
</tbody>
</table>

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

### Amount: $154,852.95

<table>
<thead>
<tr>
<th>Seq #1</th>
</tr>
</thead>
</table>
| Fund Code | 28133  
| Fund   | 9980  
| Org    | 1385  
| Acct   | 99  
| CRF47  | CRF47 |

<table>
<thead>
<tr>
<th>Seq #2</th>
</tr>
</thead>
</table>
| Fund Code | XXXX  
| Fund   | XXXX  
| Org    | XXXX  
| Acct   | XX  
| Prog   | XXXX  
| Act    | XXXX  
| Loc    | XXXX  |

## Attach additional pages for more FOAPALs

### Vendor Information
- **Vendor Name:** Friends of Levitt Pavilion Dayton
- **Vendor Address:** 2312 Far Hills Ave, Suite 194 Dayton, Ohio 45419
- **Street:** Dayton
- **State:** Ohio
- **Zipcode + 4:** 45419
- **Federal ID:** 81-0743640
- **Commodity Code:** 95299

**Purpose:** The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton.

**Opened in 2018,** Levitt Dayton provides at least 50 free concerts for the community every summer. Levitt Dayton is committed to building community through the power of free music.

### Contact Person
- **Monica Jones x3663**

### Originating Department Director's Signature
- **Date:** 11/4/2020

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

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

### Finance Director Signature
- **Date:** 11/10/2020

### CF Prepared by
- **Date:** 11/10/2020

---

**Finance Department**

**October 18, 2011**
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and FRIENDS OF LEVITT PAVILION DAYTON ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of One Hundred Fifty-Four Thousand Eight Hundred Fifty-Two Dollars and Ninety-Five Cents ($154,852.95); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Opened in 2018, Levitt Dayton provides at least fifty (50) free concerts for the community every summer. Levitt Dayton is committed to building community through the power of free music, and also an economic driver with the activation of the space in the urban core, offering 100,000 visitors to neighboring businesses. In 2019 the Levitt Pavilion provided $5.4 million in free programming to the community.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed One Hundred Fifty-Four Thousand Eight Hundred Fifty-Two Dollars and Ninety-Five Cents ($154,852.95) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.
ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.
This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.
Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees,
contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

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

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

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Lisa Wagner  
2312 Far Hills Ave  
Suite 194  
Dayton, Ohio 45419

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

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

FRIENDS OF LEVITT PAVILION DAYTON
By: __________________________ 11/9/2020
Print name: Lisa A Wagner
Its: Executive Director

CITY OF DAYTON, OHIO
City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:

☐ Recoverable Signature

x Amelia N. Blankenship for
City Attorney
Signed by: Blankenship, Amelia

APPROVED AS TO FORM AND CORRECTNESS

City Attorney
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td></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

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>Expiration Date</th>
<th>Commission Approval</th>
<th>Initial Encumbrance</th>
<th>Remaining Commission Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upon Execution</td>
<td>12/30/20</td>
<td>$158,823.53</td>
<td>$158,823.53</td>
<td>$ -</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Original CT/CF</th>
<th>Increase Encumbrance</th>
<th>Decrease Encumbrance</th>
<th>Remaining Commission Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount: $158,823.53</th>
<th>Seq #1</th>
<th>Amount:</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code 28133 9980 1385 99 CRF47</td>
<td>Fund Code XXXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund</td>
<td>Org</td>
<td>Acct</td>
<td>Prog</td>
</tr>
<tr>
<td>XXXXX</td>
<td>XXXX</td>
<td>- XXXX</td>
<td>- XX</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALS

Vendor Name: K12 Gallery for Young People
Vendor Address: 341 S. Jefferson Street Dayton, Ohio 45402
Federal ID: 31-1459482
Commodity Code: 95299
Purpose: The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton.
K12 Gallery for Young People is an artist-centered regional visual arts center offering innovative visual arts programs for all ages in the Miami Valley, Ohio. They aim to offer equal access to experience the educational and healing quality of the arts.
Contact Person: Monica Jones x3663

Originating Department Director's Signature: [Signature]
Date: 11/4/2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: [Signature]
Date: 11/10/2020

CF Prepared by: [Signature]
Date: 11/14/2020

October 18, 2011
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and K12 GALLERY FOR YOUNG PEOPLE ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of One Hundred Fifty-Eight Thousand Dollars Eight Hundred Twenty-Three Dollars And Fifty-Three Cents ($158,823.53); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

K12 Gallery for Young People is an artist-centered regional visual arts center offering innovative visual arts programs for all ages in the Miami Valley, Ohio. These programs include art classes, in school and after school hands-on making programs, summer art camps, field trips, professional exhibitions, public art, workshops, community outreach, and art parties for all ages. Professional artists also lead low-income students, youth on probation, adults with disabilities, prisoners, and survivors of violence achieve equal access to experience the educational and healing quality of the arts. Their members represent geographic diversity and wide range activity areas. They engage talent in the service of the community, leading through the arts to problem-solve. Twenty seven years of serving positive mental health services to the community through hands on art making, exhibition and off site school and organizational partnerships. They want to inspire people of all ages to imagine, learn, and create art in a unique and encouraging environment.
ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed One Hundred Fifty-Eight Thousand Dollars Eight Hundred Twenty-Three Dollars And Fifty-Three Cents ($158,823.53) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.
In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related
to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.
Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.
Recipient 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 entitled City to terminate this Agreement at its option.

ARTICLE 10. POLITICAL CONTRIBUTIONS.
Recipient affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

ARTICLE 11. RECORDS AND RETENTION.
Recipient shall use Generally Accepted Accounting Principles ("GAAP") or the Income Tax Accounting Method in recording and documenting all costs and expenditures related in whole or part to the City Grant. All costs and expenditures for which Recipient will be granted hereunder shall be supported by properly executed invoices, contracts, vouchers, or other accounting documents and other evidence (collectively, "Records"). All Records shall be clearly identified and readily accessible. At any time during normal business hours and as often as City may reasonably request, Recipient shall make available to City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees, all of its Records related to this Agreement. Recipient shall permit City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies and any of their designees to audit, examine, and make excerpts or transcripts from such Records and to have audits made of all contracts, invoices, materials, payrolls, personnel records, conditions of employment and other data pertaining in whole or in part to matters covered by this Agreement.
All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

D. **Amendment.** The parties may amend this Agreement, provided that no such amendment shall be effective unless it is reduced to a writing, which makes specific reference to this Agreement, is executed by a duly authorized representative of each party to this Agreement and, if required or applicable, is approved by the Commission of the City of Dayton, Ohio.
E. **Waiver.** A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect City’s rights with respect to any other or further breach.

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

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

*For City:*
Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

*For Recipient:*
Jerri Stanard  
341 S. Jefferson St.  
Dayton, Ohio 45402

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

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

K12 GALLERY FOR YOUNG PEOPLE

By: [Signature]

Print name: [Print Name]

[Title]

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM
AND CORRECTNESS:

11/5/2020

[Signature] Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

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

[Signature], 2020

Min. / Bk. _____ Pg. _____

Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expense;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
- Damages covered by insurance;
- Reimbursement to donors for donated items or services;
- Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
- Workforce bonuses other than hazard pay or overtime;
- Property taxes;
- Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
- Severance pay; and,
- Legal settlements.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

**x** New Contract

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>Upon Execution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
</tr>
<tr>
<td>Commission Approval</td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$ 46,430.00</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Original CT/CF</th>
<th>Increase Encumbrance</th>
<th>Decrease Encumbrance</th>
<th>Remaining Commission Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NO DRAFT DOCUMENTS PERMITTED

**x** Change Order:

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

<table>
<thead>
<tr>
<th>Amount:</th>
<th>Seq #1</th>
<th>Amount:</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 46,430.00</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>Seq #1</th>
</tr>
</thead>
<tbody>
<tr>
<td>28133</td>
<td></td>
</tr>
<tr>
<td>9980</td>
<td></td>
</tr>
<tr>
<td>1385</td>
<td></td>
</tr>
<tr>
<td>99</td>
<td></td>
</tr>
<tr>
<td>CRF47</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Amount:</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
<td></td>
</tr>
<tr>
<td>Fund</td>
<td>Org Acct Prog Act Loc</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: Miami Valley Symphony Orchestra Inc.

Vendor Address: PO Box 164 Dayton, Ohio 45409

Street          City       State       Zipcode + 4

Federal ID: 31-1533468

Commodity Code: 95299

Purpose: The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton. The Miami Valley Symphony Orchestra is a member volunteer orchestra performing year round in the greater Dayton area. They provide high quality performances to entertain, enrich and inspire the community, advancing the knowledge & appreciation of music.

Contact Person: Monica Jones x3663

PMB: 11/4/2020

Department/Division Date

Originating Department Director's Signature: Diane J. Frehim, 11.6.2020

SECTION II - to be completed by the Finance Department

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

**DocuSigned by:**

Finance Director Signature: 11/10/2020

CF Prepared by: 11/9/2020

Date

CF/CT Number: CTAO-2707

Finance Department
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and MIAMI VALLEY SYMPHONY ORCHESTRA INC. ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of Forty-Six Thousand Four Hundred Thirty Dollars and Zero Cents ($46,430.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.
The Miami Valley Symphony Orchestra is a member volunteer orchestra performing year round in the greater Dayton area. As a community based, non-profit organization, the Miami Valley Symphony Orchestra brings together accomplished and dedicated musicians to provide high quality performances to entertain, enrich and inspire the community and advance the knowledge and appreciation of music. The orchestra serves Dayton and surrounding communities in the following ways: provides opportunities for non paid community, professional, and student musicians to perform publicly; provides, through our Youth Strings program, educational opportunities for students to learn as well as perform publicly including joint performances with the full orchestra; and provides educational and entertainment opportunities to the public through our classical and pops series concerts, through major collaborations with local dance, theatrical, and related arts groups, and through our free summer and Holiday special concert events.
ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Forty-Six Thousand Four Hundred Thirty Dollars and Zero Cents ($46,430.00) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as "Eligible Expenditures" in Exhibit A, attached hereto and incorporated herein, shall be considered "Eligible Expenses" that Recipient may use the City Grant for. The City and Recipient agree that the items identified as "Ineligible Expenditures" in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.
In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related
to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

Recipient shall use Generally Accepted Accounting Principles ("GAAP") or the Income Tax Accounting Method in recording and documenting all costs and expenditures related in whole or part to the City Grant. All costs and expenditures for which Recipient will be granted hereunder shall be supported by properly executed invoices, contracts, vouchers, or other accounting documents and other evidence (collectively, "Records"). All Records shall be clearly identified and readily accessible. At any time during normal business hours and as often as City may reasonably request, Recipient shall make available to City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees, all of its Records related to this Agreement. Recipient shall permit City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies and any of their designees to audit, examine, and make excerpts or transcripts from such Records and to have audits made of all contracts, invoices, materials, payrolls, personnel records, conditions of employment and other data pertaining in whole or in part to matters covered by this Agreement.
All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

D. Amendment. The parties may amend this Agreement, provided that no such amendment shall be effective unless it is reduced to a writing, which makes specific reference to this Agreement, is executed by a duly authorized representative of each party to this Agreement and, if required or applicable, is approved by the Commission of the City of Dayton, Ohio.
E. **Waiver.** A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect City’s rights with respect to any other or further breach.

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

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

   For City:       Monica Jones  
                    City of Dayton  
                    101 W. Third Street  
                    Dayton, OH 45401

   For Recipient:  John H. Root  
                   P.O. Box 164  
                   Dayton, Ohio 45409

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

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

MIAMI VALLEY SYMPHONY ORCHESTRA INC.

By: [Signature]

Print name: JOHN H. ROOT

Its: PRESIDENT

CITY OF DAYTON, OHIO

City Manager

Date

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

__________________________, 2020

Min. / Bk. _______  Pg. _______

Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]

Amelia N. Blankenship for

City Attorney

Signed by: Blankenship, Amelia

APPROVED AS TO FORM AND CORRECTNESS

[Signature]

CITY ATTORNEY
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
- Damages covered by insurance;
- Reimbursement to donors for donated items or services;
- Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
- Workforce bonuses other than hazard pay or overtime;
- Property taxes;
- Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
- Severance pay; and,
- Legal settlements.
# CERTIFICATE OF FUNDS

## SECTION I - to be completed by User Department

- **x** New Contract
- **_** Renewal Contract
- **_** Change Order

**Required Documentation**

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

<table>
<thead>
<tr>
<th>Amount:</th>
<th>$18,256.50</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seq #1</td>
<td></td>
</tr>
<tr>
<td>Fund Code: 28133 9980 1385 99 CRF47</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Seq #2</td>
<td></td>
</tr>
<tr>
<td>Fund Code: XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
<td></td>
</tr>
</tbody>
</table>

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

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

**Vendor Name:** Shango: Center for the Study of African-American Art and Culture

**Vendor Address:**
1135 W Third Street Dayton, Ohio 45402

**Federal ID:** 30-0021916

**Commodity Code:** 95299

**Purpose:** The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton.

Shango is designed to provide art and cultural experiences to enhance the understanding and appreciation of African American art and culture. Shango reinforces the relationship between visual arts and other artistic and cultural expressions.

**Contact Person:** Monica Jones x3663

**PMB:**

**Department/Division:**

**Date:** 11/4/2020

**Originating Department Director’s Signature:**

**Finance Director Signature:**

**CF Prepared by:**

**Finance Department**

[Signature]

11/10/2020

CTA0-2713

[Signature]

11/10/2020

[Signature]

CTA0-2713

[Signature]

11/10/2020
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and SHANGO: CENTER FOR THE STUDY OF AFRICAN-AMERICAN ART AND CULTURE ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of Eighteen Thousand Two Hundred Fifty-Six Dollars and Fifty Cents ($18,256.50); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

Shango, Inc. a not-for-profit organization that provides art & cultural programs and activities for underserved youth and community in the Dayton Miami Valley Region. Shango is designed to provide art and cultural experiences to enhance the understanding and appreciation of African American art and culture. Through traditional and innovative workshops, camps, exhibitions, lectures, and symposiums, Shango reinforces the relationship between visual arts and other artistic and cultural expressions.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Eighteen Thousand Two Hundred Fifty-Six Dollars and Fifty Cents ($18,256.50) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount
shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly
expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

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

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

For City: Monica Jones
City of Dayton
101 W. Third Street
Dayton, OH 45401

For Recipient: Willis Bing Davis
1135 W. 3rd St.
Dayton, Ohio 45402

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

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

SHANGO: CENTER FOR THE STUDY OF AFRICAN-AMERICAN ART AND CULTURE

By: 

Print name: WILLIS BING DAVIS

Its: DIP.

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:

☐ Recoverable Signature

X John Musto for

City Attorney

Signed by: Musto, John

APPROVED AS TO FORM AND CORRECTNESS

CITY ATTORNEY
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the
  reimbursement by the federal government pursuant to the CARES Act of contributions by
  States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
</table>

- **Contract Start Date**: Upon Execution
- **Expiration Date**: 12/30/20
- **Commission Approval**: $100,000.00
- **Initial Encumbrance**: $100,000.00
- **Remaining Commission Approval**: 
- **Original CT/CF**: 
- **Increase Encumbrance**: 
- **Decrease Encumbrance**: 
- **Remaining Commission Approval**: 
- **Required Documentation**:
  - Initial City Manager's Report
  - Initial Certificate of Funds
  - Initial Agreement/Contract
  - Copy of City Manager's Report
  - Copy of Original Certificate of Funds

<table>
<thead>
<tr>
<th>Amount: $100,000.00</th>
<th>Seq #1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code: 28133</td>
<td></td>
</tr>
<tr>
<td>Org: 9980</td>
<td></td>
</tr>
<tr>
<td>Acct: 1385</td>
<td>CRF47</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount:</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code: XXXXX-</td>
<td></td>
</tr>
<tr>
<td>Org: XXXX</td>
<td></td>
</tr>
<tr>
<td>Acct: XX</td>
<td></td>
</tr>
<tr>
<td>CRF47</td>
<td></td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

- **Vendor Name**: The Contemporary Dayton
- **Vendor Address**: 118 N Jefferson Street Dayton, Ohio 45402
- **Street**: Dayton, Ohio
- **City**: 
- **State**: 
- **Zipcode + 4**: 
- **Federal ID**: 31-1332017
- **Commodity Code**: 95299
- **Purpose**: The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton. The Contemporary Dayton (The Co, formerly the Dayton Visual Arts Center) was established in 1991 as Dayton's not-for-profit art center whose mission is to provide art for the community and a community for artists.
- **Contact Person**: Monica Jones x3663
- **PMB**: Department/Division PMB 11/4/2020
- **Department/Division**: 
- **Date**: 11/4/2020
- **Originating Department Director's Signature**: 
- **Date**: 11/6/2020

SECTION II - to be completed by the Finance Department

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

- **Finance Director Signature**: 
- **Date**: 11/10/2020
- **CF Prepared by**: 
- **Date**: 11/10/2020
- **CF/CT Number**: 

October 18, 2021
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and THE CONTEMPORARY DAYTON ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of One Hundred Thousand Dollars and Zero Cents ($100,000.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

The Contemporary Dayton (formerly the Dayton Visual Arts Center) was established in 1991 as Dayton's not-for-profit art center whose mission is to provide art for the community and a community for artists. Currently located in downtown Dayton with 1,800/sq ft of exhibition space, The Co produces and presents 8-10 Exhibitions of art by local, Ohio, and national artists; 6-8 Public Programs & Events—including Art in the City and the Annual Art Auction; a series of Community Partnerships—including a citywide mural program; and dozens of professional development Artist Opportunities, each year.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed One Hundred Thousand Dollars and Zero Cents ($100,000.00) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount
shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as "Eligible Expenditures" in Exhibit A, attached hereto and incorporated herein, shall be considered "Eligible Expenses" that Recipient may use the City Grant for. The City and Recipient agree that the items identified as "Ineligible Expenditures" in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of
the foregoing, including payment of any penalty imposed and/or repayment of improperly
expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected
officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release
tax records to the City Manager’s Office, for any verification as it applies to this Agreement.
Such records will be kept confidential, shall only be used for the purposes stated herein, and
returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.
This Agreement shall terminate December 30, 2020 unless extended to a later date by
amendment and may be immediately terminated in the event of or under any of the following
circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by
operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this
Agreement to be kept, performed and observed by it, and the failure of Recipient
to remedy such failure within thirty (30) days from the date of written notice from
City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the
City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty
(30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder,
Recipient shall repay to City within fifteen (15) business days from the effective date of
termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon
such repayment, Recipient shall be released from its obligations hereunder, except those related
to auditing. This obligation to remit repayment of funding shall survive termination of this
Agreement until such funds are actually received by City. If no funds were provided, the parties
shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.
Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers,
employees, and agents from and against all claims, losses, damages, and expenses (including
reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses,
damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, sub-contractors, and representatives, and/or Recipient's failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the
actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

F. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.
G. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Lauren Gleason  
118 N. Jefferson St.  
Dayton, Ohio 45402

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

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

THE CONTEMPORARY DAYTON

By: ____________________________
Print name: Eva M. Haddad
Its: Executive Director

CITY OF DAYTON, OHIO

________________________________________
City Manager

________________________________________
Date

APPROVED AS TO FORM
AND CORRECTNESS:

11/5/2020

X John Musto for
City Attorney

Approved by the Commission of the City of Dayton, Ohio:

________________________, 2020
Min. / Bk. _____ Pg. _____

Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:
- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:
- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
- Damages covered by insurance;
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
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>Expiration Date</th>
<th>Commission Approval</th>
<th>Initial Encumbrance</th>
<th>Remaining Commission Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upon Execution</td>
<td>12/30/20</td>
<td>$14,679.50</td>
<td>$14,679.50</td>
<td>$-</td>
</tr>
<tr>
<td>Original CT/CF</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td></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

<table>
<thead>
<tr>
<th>Seq #1</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount:</td>
<td>$14,679.50</td>
</tr>
<tr>
<td>Fund Code</td>
<td>28133 9980 1385 99 CRF47</td>
</tr>
<tr>
<td>Fund</td>
<td>Org</td>
</tr>
<tr>
<td>XXXX</td>
<td>XXXX</td>
</tr>
<tr>
<td>XXXX</td>
<td>XXXX</td>
</tr>
<tr>
<td>Fund Code</td>
<td>XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
<tr>
<td>Fund</td>
<td>Org</td>
</tr>
<tr>
<td>XXXX</td>
<td>XXXX</td>
</tr>
<tr>
<td>XXXX</td>
<td>XXXX</td>
</tr>
<tr>
<td>Fund Code</td>
<td>XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALS

Vendor Name: The Dayton Playhouse, Inc.
Vendor Address: PO Box 3017 Dayton, Ohio 45401
Street City State Zipcode + 4
Federal ID: 31-1001759
Commodity Code: 95299
Purpose: The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton. The Dayton Playhouse has provided theatrical performances, as well as artistic opportunities for amateur actors and theater technicians since 1959. They stage five productions per season, plus FutureFest, a summer festival of new works.
Contact Person: Monica Jones x3663
Contact Person: PMB 11/4/2020
Originating Department Director's Signature: Diane J. Showalter 11/6/2020
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: DocuSigned by: C. J. Showalter 11/10/2020
Date

CF Prepared by: Janice Williamson 40D25B13082A4B2 Date

Finance Department October 18, 2011
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and THE DAYTON PLAYHOUSE, INC. ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of Fourteen Thousand Six Hundred Seventy-Nine Dollars and Fifty Cents ($14,679.50); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.
The Dayton Playhouse has provided theatrical performances, as well as artistic opportunities for amateur actors and theater technicians in the City of Dayton since 1959. The Dayton Playhouse stages five productions per season, plus FutureFest, a summer festival of new works.

ARTICLE 2. PAYMENT.
City will provide Recipient a City Grant in an amount not to exceed Fourteen Thousand Six Hundred Seventy-Nine Dollars and Fifty Cents ($14,679.50) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.
The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).
ARTICLE 9.  EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10.  POLITICAL CONTRIBUTIONS.

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

ARTICLE 11.  RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12.  TAX REPRESENTATION.
Recipient certifies that, as of the date of execution, it does not owe any delinquent taxes to the City of Dayton and/or does not owe delinquent taxes for which Recipient is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code or, if such delinquent taxes are owed, Recipient currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, or Recipient filed a petition in bankruptcy under 11 U.S.C. Section 101. et seq., or such a petition has been filed against Recipient. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

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

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

For City: Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: Matthew Lindsay  
P.O. Box 3017  
Dayton, Ohio 45401

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

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

THE DAYTON PLAYHOUSE, INC.

By: Matthew W. Lindsay

Print name: Matthew W. Lindsay

Its: Chair, Board of Directors

CITY OF DAYTON, OHIO

________________________________________
City Manager

________________________________________
Date

APPROVED AS TO FORM
AND CORRECTNESS:

X
City Attorney

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

________________________________________, 2020

Min. / Bk. ______  Pg. ______

________________________________________
Clerk of the Commission
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
# CERTIFICATE OF FUNDS

## SECTION I - to be completed by User Department

- **New Contract**
- **Renewal Contract**
- **Change Order**

<table>
<thead>
<tr>
<th>Required Documentation</th>
<th>Seq #1</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initialize City Manager's Report</td>
<td>$158,823.53</td>
<td>Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
<tr>
<td>Initialize Certificate of Funds</td>
<td>$158,823.53</td>
<td>Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
<tr>
<td>Initialize Agreement/Contract</td>
<td>$158,823.53</td>
<td>Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
</tbody>
</table>

### Amount

<table>
<thead>
<tr>
<th>Seq #1</th>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>$158,823.53</td>
<td>Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
</tbody>
</table>

### Fund Code

- **28133**
- **9980**
- **1385**
- **99**
- **CRF47**

### Amount

<table>
<thead>
<tr>
<th>Seq #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
</tbody>
</table>

### Fund Code

- **XXXX - XXXX - XXXX - XX - XXXX - XXXX**

---

**Vendor Name:** The Human Race, Inc.

**Vendor Address:** 126 N Main Street, Suite 300 Dayton Ohio 45402

**Federal ID:** 31-1176135

**Commodity Code:** 95299

**Purpose:** The City’s Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton. The Human Race Theatre Company has brought the beauty, drama & excitement of live professional theatre to Dayton for 33 seasons, serving a population numbering nearly one million. Their education and community engagement programs touch thousands in the Miami Valley.

**Contact Person:** Monica Jones x3663

**Date:** 11/4/2020

**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:**

**CF/CF Number:** 40025813082A482...

**Date:** 11/6/2020
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and THE HUMAN RACE, INC. ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of One Hundred Fifty-Eight Thousand Eight Hundred Twenty-Three Dollars and Fifty-Three Cents ($158,823.53); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

The Human Race Theatre Company has brought the beauty, drama and excitement of live professional theatre to Dayton for 33 seasons, serving a population numbering nearly one million. Its Loft Season provides audiences with award-winning, cutting edge dramas, American classics and regional and world premieres whereas its New Works series expands the repertoire of enthusiastic audiences with brand new or seldom performed material. The Human Race's education and community engagement programs touch thousands and address the cultural needs of challenged individuals throughout the Miami Valley.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed One Hundred Fifty-Eight Thousand Eight Hundred Twenty-Three Dollars and Fifty-Three Cents ($158,823.53) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount
shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly
expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their desigenees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.
ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

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

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

For City: 
Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient: 
Katherine Kilburn  
126 N. Main St.  
Dayton, Ohio 45402

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

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

THE HUMAN RACE, INC.

By: _____________________________

Print name: Katherine Kilburn

Its: _____________________________

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM
AND CORRECTNESS:

11/5/2020

X John Musto for

City Attorney

Signed by: Musto, John

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

______________________________, 2020

Min. / Bk. _______ Pg. _______

Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
- Damages covered by insurance;
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>12/30/20</td>
<td></td>
</tr>
<tr>
<td>Commission Approval</td>
<td>$136,915.00</td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$136,915.00</td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Original CT/CF</th>
<th>Increase Encumbrance</th>
<th>Decrease Encumbrance</th>
<th>Remaining Commission Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$ -</td>
<td>$ -</td>
<td></td>
</tr>
</tbody>
</table>

NO DRAFT DOCUMENTS PERMITTED

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

<table>
<thead>
<tr>
<th>Amount: $136,915.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seq #1</td>
</tr>
<tr>
<td>Fund Code 28133 9980 1385 99 CRF47</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seq #2</td>
</tr>
<tr>
<td>Fund Code XXXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: The Muse Machine, Inc.
Vendor Address: 126 N Main Street Dayton, Ohio 45402
Street: 126 N Main Street
City: Dayton
State: Ohio
Zipcode + 4: 45402
Federal ID: 31-1028673
Commodity Code: 95299
Purpose: The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton.
Muse Machine is a nationally celebrated arts education organization serving more than 76,800 students and their teachers each year throughout central & southwestern Ohio & Kentucky since 1982. They are in 114 schools & organizations with associated 600 teachers.

Contact Person: Monica Jones x3663
PMB: 11/4/2020
Department/Division: 11/4/2020
Date: 11/4/2020

Originating Department Director's Signature: Diane J. Pherson 11/6/2020

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: [Signature]
Date: 11/10/2020

CF Prepared by: [Signature]
Date: 11/10/2020

CF/CT Number: CTAO-2715

Finance Department October 18, 2011
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and THE MUSE MACHINE, INC ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of One Hundred Thirty-Six Thousand Nine Hundred Fifteen Dollars and Zero Cents (136,915.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.
Muse Machine is a nationally celebrated arts education organization serving more than 76,800 students and their teachers each year throughout central and southwestern Ohio and Kentucky since 1982. Muse Machine is in 114 schools and organizations with 600 teachers; 64% of Muse-affiliated pre-K and elementary schools as well as 45% of middle and high schools are Title 1.

ARTICLE 2. PAYMENT.
City will provide Recipient a City Grant in an amount not to exceed One Hundred Thirty-Six Thousand Nine Hundred Fifteen Dollars and Zero Cents ($136,915.00) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.

Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.
The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

**ARTICLE 7. TERM AND TERMINATION.**

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

**ARTICLE 8. INDEMNIFICATION.**

Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).
ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.
Recipient certifies that, as of the date of execution, it does not owe any delinquent taxes to the City of Dayton and/or does not owe delinquent taxes for which Recipient is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code or, if such delinquent taxes are owed, Recipient currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, or Recipient filed a petition in bankruptcy under 11 U.S.C. Section 101. et seq., or such a petition has been filed against Recipient. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

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

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

For City: Monica Jones
City of Dayton
101 W. Third Street
Dayton, OH 45401

For Recipient: Mary Campbell Zopf
126 N. Main St. #310
Dayton, Ohio 45402

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

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

THE MUSE MACHINE, INC.
By:  
Print name: Mary Campbell Zopf
Its: Executive Director

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:

X  
City Attorney

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

, 2020

Min. / Bk. ______  Pg. ______

Clerk of the Commission
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
- Damages covered by insurance;
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
# CERTIFICATE OF FUNDS

## SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th></th>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commission Approval</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Encumbrance</td>
<td>$278,595.26</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original CT/CF</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decrease Encumbrance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

## Seq #1

<table>
<thead>
<tr>
<th>Amount:</th>
<th>$278,595.26</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code:</td>
<td>28133</td>
</tr>
<tr>
<td>Org:</td>
<td>9980</td>
</tr>
<tr>
<td>Acct:</td>
<td>1385</td>
</tr>
<tr>
<td>CRF47:</td>
<td>99</td>
</tr>
</tbody>
</table>

## Seq #2

| Amount: | |
|---------| |
| Fund Code: | XXXX - XXXX - XXXX - XX - XXXX - XXXX |
| Fund: | Xxxx |
| Org: | Xxxx |
| Acct: | Xxxx |
| Prog: | Xxxx |
| Act: | Xxxx |

## Attach additional pages for more FOAPALs

- Vendor Name: Victoria Theatre Association
- Vendor Address: 138 N. Main Street Dayton, Ohio 45402
- Federal ID: 31-0897638
- Commodity Code: 95299
- Purpose: The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton. The Victoria Theatre Association (also known as Dayton Live) is a not-for-profit arts organization that is amongst the largest real estate owners in downtown proper. The Victoria Theatre Association presents more than 300 performances for all ages and interests each year.
- Contact Person: Monica Jones x3663
- PMB: 114/2020
- Department/Division: June O. Gourley 11/6/2020
- Date: 11/4/2020
- Originating Department Director's Signature: June O. Gourley 11/6/2020
- Finance Director Signature: 11/10/2020
- CF Prepared by: 11/9/2020

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

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

DocuSigned by: 11/10/2020

Finance Director Signature: 11/10/2020

CF Prepared by: 11/9/2020

Finance Department

October 18, 2011
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and VICTORIA THEATRE ASSOCIATION ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant ("City Grant") in the amount of Two Hundred Seventy-Eight Thousand Five Hundred Ninety-Five Dollars and Twenty-Six Cents ($278,595.26); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

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

ARTICLE 1. RECIPIENT.

The Victoria Theatre Association (also known as Dayton Live) is a not-for-profit arts organizations that is amongst the largest real estate owners in downtown proper. The Victoria Theatre Association presents more than 300 performances for all ages and interests each year, including touring Broadway, comedians, concerts, films, and family shows. They operate and maintain the Benjamin & Marian Schuster Performing Arts Center, Victoria Theatre, the PNC Arts Annex, and Metropolitan Arts Center (home of The Loft Theatre) for the benefit of the community and the arts organizations that use them. They also own and operate The Arts Garage.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Two Hundred Seventy-Eight Thousand Five Hundred Ninety-Five Dollars and Twenty-Six Cents ($278,595.26) ("Grant Amount") and any check will be postmarked no later than December 30, 2020.
Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds.
Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

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

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

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.

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

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 10. POLITICAL CONTRIBUTIONS.

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

ARTICLE 11. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the...
actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

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

ARTICLE 13. GENERAL PROVISIONS.

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

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

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

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

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

F. Relationship. This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to any activities to be completed by Company.
G. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City:  
Monica Jones  
City of Dayton  
101 W. Third Street  
Dayton, OH 45401

For Recipient:  
David Schrodi  
138 N. Main St.  
Dayton, Ohio 45402

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

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]
IN WITNESS WHEREOF, City and Recipient, each by a duly authorized representative, have executed this Agreement as of the date set forth below.

VICTORIA THEATRE ASSOCIATION

By: ____________
Print name: ____________
Its: ____________

CITY OF DAYTON, OHIO

________________________
City Manager

________________________
Date

APPROVED AS TO FORM AND CORRECTNESS:

☐ Recoverable Signature

X John Musto for
City Attorney

Signed by: Musto, John

APPROVED AS TO FORM AND CORRECTNESS

________________________
CITY ATTORNEY
ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
- Damages covered by insurance;
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
# CERTIFICATE OF FUNDS

## SECTION I - to be completed by User Department

- **x** New Contract
- **_____** Renewal Contract
- **_____** Change Order

<table>
<thead>
<tr>
<th>Required Documentation</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial City Manager's Report</td>
<td></td>
</tr>
<tr>
<td>Initial Certificate of Funds</td>
<td></td>
</tr>
<tr>
<td>Initial Agreement/Contract</td>
<td></td>
</tr>
<tr>
<td>Copy of City Manager's Report</td>
<td></td>
</tr>
<tr>
<td>Copy of Original Certificate of Funds</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contract Start Date</th>
<th>Upon Execution</th>
<th>Expiration Date</th>
<th>12/30/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commission Approval</td>
<td>$ 119,117.65</td>
<td>Initial Encumbrance</td>
<td>$ 119,117.65</td>
</tr>
<tr>
<td>Original CT/CF</td>
<td></td>
<td>Decrease Encumbrance</td>
<td>$ -</td>
</tr>
<tr>
<td>Increase Encumbrance</td>
<td></td>
<td>Remaining Commission Approval</td>
<td>$ -</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount:</th>
<th>$ 119,117.65</th>
</tr>
</thead>
</table>

### Seq #1

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>Seq #</th>
</tr>
</thead>
<tbody>
<tr>
<td>28133</td>
<td>9980</td>
</tr>
<tr>
<td>1385</td>
<td>99</td>
</tr>
<tr>
<td>CRF47</td>
<td></td>
</tr>
</tbody>
</table>

#### Seq #2

<table>
<thead>
<tr>
<th>Amount:</th>
<th></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Fund Code</th>
<th>Seq #</th>
</tr>
</thead>
<tbody>
<tr>
<td>XXXX - XXXX - XXXX - XX - XXXX - XXXX</td>
<td></td>
</tr>
</tbody>
</table>

## Additional pages for more FOAPALs

### Vendor Details

- **Vendor Name:** Women's Club of Dayton Foundation
- **Vendor Address:** 225 N Ludlow Street Dayton, Ohio 45402
- **Federal ID:** 31-1446664
- **Commodity Code:** 95299
- **Purpose:** The City's Cultural Support Relief Fund was developed in response to the economic crisis facing our community due to the COVID-19 pandemic. The goal is to mitigate the negative economic impact on cultural organizations in the City of Dayton.

Since its founding in 1916, the purpose of the club has remained the same: to serve as a place for education & culture & to bring women together for activities that will strengthen and empower. Through their work they also strive to cultivate a sense of civic responsibility.

### Contact

- **Contact Person:** Monica Jones x3663
- **PMB:** PMB
- **Department/Division:** 11/4/2020
- **Date:** 11/4/2020

### Originating Department Director's Signature

**Diane Skorka 11-4-2020**

## SECTION II - to be completed by the Finance Department

I hereby certify that the amount of money required to meet the payment(s) called for in the aforesaid request have been lawfully appropriated for such purpose and is in the Treasury, or in the process of collection, to the credit of the fund from which it is to be drawn free and clear from any previous encumbrance.

**Finance Director Signature**

**Date:** 11/10/2020

**CF Prepared by:**

**Date:** 11/10/2020

**CF/CF Number:** CTA0-2706
CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT

THIS CARES CULTURAL SUPPORT RELIEF GRANT AGREEMENT (“Agreement”) is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio (“City”), and WOMEN’S CLUB OF DAYTON FOUNDATION (“Recipient”).

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and wants to support local cultural organizations that have been directly and adversely impacted by COVID-19 by making grants available for eligible costs as outlined in the CARES Act, specifically, costs that: (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (b) were not accounted for in the budget most recently approved; and (c) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and,

WHEREAS, The City instituted a program that would allow cultural organizations and cultural community venues to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton Cultural Support Relief Grant (“City Grant”) in the amount of One Hundred Nineteen Thousand One Hundred Seventeen Dollars and Sixty-Five Cents ($119,117.65); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, City and Recipient agree as follows:

ARTICLE 1. RECIPIENT.

Since its founding in 1916, the purpose of the club has remained the same: to serve as a place for education and culture and to bring women together for activities that will strengthen and empower. They maintain and preserve the historic property of the Woman's Club of Dayton Foundation, they present the property to the public, and they increase awareness of the property's historical significance in advancing educational and cultural opportunities for the area. They provide a historically significant place where the public may enjoy literature, music, science, philanthropic programs and the fine arts. They cultivate a sense of civic responsibility. The Women's Club of Dayton Foundation fosters culture and promotes educational opportunities. Their mission is to “strengthens our community through charitable, educational, and patriotic activities and to preserve and maintain our historic property.”

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed One Hundred Nineteen Thousand One Hundred Seventeen Dollars and Sixty-Five Cents ($199,117.65) (“Grant Amount”) and any check will be postmarked no later than December 30, 2020.
Recipient hereby acknowledges and agrees that it shall only use the City Grant for Eligible Expenses. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the items identified as “Eligible Expenditures” in Exhibit A, attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Recipient may use the City Grant for. The City and Recipient agree that the items identified as “Ineligible Expenditures” in Exhibit A are expenses that Recipient is not permitted to use the City Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. For clarity, Recipient is not permitted to use any portion of the City Grant to cover any expenses covered by other CARES Act funding sources received through any other party.

Recipient understands and agrees that it is responsible for retaining and compiling any and all supporting documentation related to the use of the City Grants funds. The City retains the right to request any and all documentation related to the use of the City Grant including, but not limited to, a one-page narrative describing the use of the funds, invoices, financial statements, receipts, and any other documents that the City deem relevant and related to the use of the City Grant. If requested, Recipient shall provide all documentation to City by January 30, 2021.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all Eligible Expenses will be incurred by December 30, 2020. Failure to incur the expenses by December 30, 2020 shall result in the return of all non-expensed funding to the City within five (5) business days.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is an eligible organization that is in good standing;
2) Recipient’s business is located within the City of Dayton;
3) Recipient was operating as an eligible organization for the entire calendar year of 2019; and,
4) Recipient has no outstanding tax liens or judgments, excluding 2019 property taxes.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.
ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release tax records to the City Manager’s Office, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

C. If it becomes necessary for review, audit, or verification purposes, Recipient shall allow City to inspect applicable, confidential records.

D. Recipient agrees to supply additional information upon reasonable request by the City and to cooperate in any audit or review of the funding provided hereunder.

ARTICLE 7. TERM AND TERMINATION.

This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient’s assets is appointed by a court of competent jurisdiction.

2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.

3. Recipient’s failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.

4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.

5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within fifteen (15) business days from the effective date of termination or December 30, 2020, whichever is sooner, all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.
ARTICLE 8. INDEMNIFICATION.

Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

Recipient 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 entitled City to terminate this Agreement at its option.

ARTICLE 10. POLITICAL CONTRIBUTIONS.

Recipient affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

ARTICLE 11. RECORDS AND RETENTION.

Recipient shall use Generally Accepted Accounting Principles (“GAAP”) or the Income Tax Accounting Method in recording and documenting all costs and expenditures related in whole or part to the City Grant. All costs and expenditures for which Recipient will be granted hereunder shall be supported by properly executed invoices, contracts, vouchers, or other accounting documents and other evidence (collectively, “Records”). All Records shall be clearly identified and readily accessible. At any time during normal business hours and as often as City may reasonably request, Recipient shall make available to City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees, all of its Records related to this Agreement. Recipient shall permit City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies and any of their designees to audit, examine, and make excerpts or transcripts from such Records and to have audits made of all contracts, invoices, materials, payrolls, personnel records, conditions of employment and other data pertaining in whole or in part to matters covered by this Agreement.

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees
for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

Recipient certifies that, as of the date of execution, it does not owe any delinquent taxes to the City of Dayton and/or does not owe delinquent taxes for which Recipient is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code or, if such delinquent taxes are owed, Recipient currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, or Recipient filed a petition in bankruptcy under 11 U.S.C. Section 101 et seq., or such a petition has been filed against Recipient. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

ARTICLE 13. GENERAL PROVISIONS.

A. **Conflict of Interest.** Recipient represents that to the best of its knowledge it has no interest that would undermine the impartiality of either party because of the conflict between the party’s self-interest and this agreement or public interest in any manner or degree. Recipient further covenants that it will not acquire any such interest, directly or indirectly during the term of this Agreement.

B. **Entire Understanding.** This Agreement represents the entire and integrated agreement between the parties. This Agreement supersedes all prior and contemporaneous communications, representations, understandings, agreements or contracts, whether oral or written, relating to the subject matter of this Agreement.

C. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws. Any arbitration, litigation or other legal matter regarding this Agreement or performance by either party must be brought in a court of competent jurisdiction in Montgomery County, Ohio.

D. **Amendment.** The parties may amend this Agreement, provided that no such amendment shall be effective unless it is reduced to a writing, which makes specific reference to this Agreement, is executed by a duly authorized representative of each party to this Agreement and, if required or applicable, is approved by the Commission of the City of Dayton, Ohio.

E. **Waiver.** A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for
which it is given and shall not affect City’s rights with respect to any other or further breach.

F. **Relationship.** This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to the any activities to be completed by Company.

G. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

   For City:          Monica Jones  
                     City of Dayton  
                     101 W. Third Street  
                     Dayton, OH 45401

   For Recipient:    Margaret Kruckemeyer  
                     225 N. Ludlow Street  
                     Dayton Ohio 45402

H. **Severability.** The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any provision of this Agreement void shall in no way affect the validity or enforceability of any other provision of this Agreement. Any void, unenforceable, invalid, or illegal provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular provision.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]
IN WITNESS WHEREOF, City and Recipient, each by a duly authorized representative, have executed this Agreement as of the date set forth below.

WOMEN’S CLUB OF DAYTON FOUNDATION

By: ____________________________

Print name: Margaret Kruckemeyer

Its: ____________________________

CITY OF DAYTON, OHIO

________________________________________

City Manager

________________________________________

Date

APPROVED BY THE COMMISSION 
OF THE CITY OF DAYTON, OHIO:

________________________________________

Min. / Bk. ______  Pg. ______

Clerk of the Commission

APPROVED AS TO FORM 
AND CORRECTNESS:

X ____________________________
City Attorney
EXHIBIT A

ELIGIBLE EXPENDITURES:
Per the US Treasury Guidelines, funds can be used to cover expenses incurred by the COVID-19 public health emergency that were not accounted for in the organization’s budget prior to March 27, 2020 but were incurred between March 1, 2020 and December 30, 2020. These include:

- Loss of income due to canceled or postponed public programming due to executive orders associated with the COVID-19 pandemic.
- Expenses incurred due to executive orders associated with the COVID-19 pandemic including:
  - PPE and sanitation supplies, and related COVID-19 expenses;
  - Facility alterations, cleaning expenses/PPE to meet reopening guidelines; and,
  - Purchase of durable goods or services previously unbudgeted, such as staff telecommuting expenses, hard costs associated with move to virtual programming, etc.
- Payroll costs for permanent employees. This includes:
  - Salary, wages, commissions or tips;
  - Payments required for the provisions of group health care benefits including insurance premiums;
  - State and local taxes assessed on compensation; and,
  - For a sole proprietor or independent contractor: wages, commissions, and income or net earnings from self-employment on an annualized basis.
- Operating costs.
- Contract labor.
- Supplier payments.
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence).
- Rent, lease or purchase payment for business equipment (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment).
- New or expanded technology applications and Wi-Fi services.
- Utility payments for business properties (excluding personal residence).
- Cost of critical business operations (raw materials, marketing expenses, etc.).
- Interest on other business debt obligations incurred after March 13, 2020, excluding personal debt obligations.

INELIGIBLE EXPENDITURES:
The City Grant may not be used for:

- Previously budgeted costs incurred outside of the covered period (March 1, 2020 to December 30, 2020);
- Performance or delivery of a good or service received prior to or after the covered period;
- Damages covered by insurance;
• Reimbursement to donors for donated items or services;
• Expenses that have been or will be reimbursed under any federal program such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds;
• Workforce bonuses other than hazard pay or overtime;
• Property taxes;
• Capital improvement projects, if not a necessary expenditure incurred due to COVID-19;
• Severance pay; and,
• Legal settlements.
City Manager’s Report

From 2340 - Planning & CD / Land Use Administration
Supplier, Vendor, Company, Individual

Name Little Gem Coffee Company LLC, DBA Wholly Grounds
Address 825 Wayne Ave
Dayton, Ohio 45410

Date November 18, 2020
Total Amount $10,714.00 (thru 12/30/20)

Expense Type Other

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coronavirus Aid, Relief, and Economic Security (CARES) Act</td>
<td>28133-2340-1385-31-CRF07</td>
<td>$10,714.00</td>
</tr>
</tbody>
</table>

Includes Revenue to the City [ ] Yes    [ ] No

Affirmative Action Program [ ] Yes    [ ] No    [ ] N/A

Description

Dayton CARES Act Small Business Capital Grant Agreement – Little Gem Coffee Company LLC, DBA Wholly Grounds

The Department of Planning and Community Development requests approval to enter into a Grant Agreement with Little Gem Coffee Company LLC, DBA Wholly Grounds, to disburse funds in support of capital expenses incurred while meeting COVID-19 health and safety requirements. These funds will help the local small business create new outdoor seating and alter interior areas in support of social distancing. This grant is funded by the City of Dayton’s CARES Act allocation and will help Little Gem Coffee Company LLC, DBA Wholly Grounds, alter its operations so that it may operate safely while meeting CDC health requirements for social distancing. The City is awarding a $10,714.00 grant to pay for eligible expenses that will be incurred by December 30, 2020.

This Agreement shall commence upon execution and it shall terminate on December 30, 2020.

This Agreement has been reviewed by the Law Department as to form and correctness.

A Certificate of Funds and a copy of the Grant Agreement are attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 1/2019
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

Renewal Contract

Change Order

Contract Start Date 11/18/20
Expiration Date 12/30/20
Original Commission Approval $ 10,714.00
Initial Encumbrance $ 10,714.00
Remaining Commission Approval $

Original CT/CF
Increase Encumbrance
Decrease Encumbrance $
Remaining Commission Approval

Required Documentation

X Initial City Manager's Report
X Initial Certificate of Funds
X Initial Agreement/Contract

X Copy of City Manager's Report
X Copy of Original Certificate of Funds

Amount: $ 10,714.00

Fund Code 28133
Fund Org 2340
1385 - 31 - CRF07 - XXXX
Acct Act Loc

Amount: 

Fund Code XXXX
Fund Org XXXX
1385 - 31 - CRF07 - XXXX
Acct Act Loc

Attach additional pages for more FOAPALs

Vendor Name: Little Gem Coffee Company LLC, DBA Wholly Grounds
Vendor Address: 825 Wayne Ave, Dayton, Ohio 45410
Street City State Zip code + 4
Federal ID: 82-2251156
Commodity Code: 90900
Purpose: Grant award to fund necessary expenses that address the physical alterations required due to the COVID19 health crisis including capital health and safety improvements or expansions that support social distancing.

Contact Person: Susan Vincent, ext 3683
Planning & Community Development Department/Division 11/12/2020 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

Date
11/12/2020
11/12/2020 CF/CT Number

Finance Department October 18, 2011
CARES ACT SMALL BUSINESS CAPITAL GRANT AGREEMENT

THIS CARES ACT SMALL BUSINESS CAPITAL GRANT AGREEMENT ("Agreement") is made and entered into between the CITY OF DAYTON, OHIO, a municipal corporation in and of the State of Ohio ("City"), and LITTLE GEM COFFEE COMPANY LLC, DBA WHOLLY GROUNDS, an Ohio for profit limited liability company ("Recipient").

WITNESSETH THAT:

WHEREAS, The City is in receipt of funding under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and wants to support local businesses who have been directly impacted by COVID-19 by making grants available for capital expenses (such as constructing new outdoor eating areas or altered interior customer areas) which are required to allow customer-facing businesses to continue to operate during this health crisis; and,

WHEREAS, The City instituted a program that would allow small businesses to apply for some of the funding provided to the City under the CARES Act; and,

WHEREAS, Recipient applied for and has been awarded a City of Dayton CARES Small Business Capital Grant ("City Grant") in the amount of Ten Thousand Seven Hundred Fourteen Dollars and Zero Cents ($10,714.00); and,

WHEREAS, The City believes it is in its best interest to award Recipient a City Grant.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, City and Recipient agree as follows:

ARTICLE 1. RECIPIENT.

Little Gem Coffee Company LLC, DBA Wholly Grounds is a locally-owned Dayton, Ohio small business that operates a coffee and tea shop in South Park.

ARTICLE 2. PAYMENT.

City will provide Recipient a City Grant in an amount not to exceed Ten Thousand Seven Hundred Fourteen Dollars and Zero Cents ($10,714.00) ("Grant Amount") within three (3) weeks of the full execution of this Agreement.

Recipient hereby acknowledges and agrees that is shall only use the City Grant for Eligible Expenses, as defined below. Any expenses incurred by Recipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Recipient and Recipient shall not seek reimbursement of such expenses from the City.

ARTICLE 3. ELIGIBLE EXPENSES AND REPORTING.

The City and Recipient agree that the following items shall be considered "Eligible Expenses" that Recipient may use the City Grant for:

1) Necessary capital costs associated with altering operational spaces to accommodate new social distancing requirements due to the COVID-19 crisis;
2) Required capital expenses may include physical improvements that will allow local businesses to meet new health and safety requirements due to the COVID-19 crisis including new permanent outdoor eating areas, temporary installations (such as a pop-up patio), and/or rental equipment or furniture to furnish new spaces; and,

3) Any of the eligible expenses identified in Exhibit A.

Recipient shall provide the City with supporting documentation in accordance with, and in the proper form of, Exhibit B attached hereto and incorporated herein. All supporting documentation requesting in Exhibit B shall be attached at the time of submission and the City retains the right to ask Recipient for any additional documentation as necessary to satisfy this requirement and Recipient agrees to comply with said request. Failure to satisfy this requirement shall be considered a breach of this Agreement and the City shall have the right to pursue Recipient accordingly.

In the event there is a question about whether an expense is an Eligible Expense, Recipient shall reach out to the City for clarification prior to spending any funds on the expense in question. Ineligible expenses include, but are not limited to operational costs such as rent/mortgage payments, payroll, and personal protection equipment.

ARTICLE 4. TIMELINE.

Recipient hereby acknowledges and agrees that all eligible expenses will be incurred by December 30, 2020. Recipient shall return all non-expensed funding to the city by January 7, 2021.

ARTICLE 5. RECIPIENT REPRESENTATIONS.

Recipient represents and warrants that all of the following are true at the time of execution of this Agreement:

1) Recipient is a locally owned, for-profit business or a non-profit organization that supports the small business community;
2) Recipient’s business is located within the City of Dayton;
3) Recipient is not part of a national chain; and,
4) Recipient’s business started operating prior to March 27, 2020.

In the event Recipient’s representations under this Article 5 are discovered to be untrue, Recipient shall return all funding provided under the City Grant in the full Grant Amount to the City within five (5) business days.

ARTICLE 6. SPECIFIC CONDITIONS.

A. Recipient shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds. Recipient shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Recipient expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Planning & Community Development, for any verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes
stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete.

C. If it becomes necessary for review, audit, or verification purposes, Recipient shall allow City to inspect applicable, confidential records.

D. Recipient agrees to supply additional information upon reasonable request by the City and to cooperate in any audit or review of the funding provided hereunder.

ARTICLE 7. TERM AND TERMINATION.
This Agreement shall terminate December 30, 2020 unless extended to a later date by amendment and may be immediately terminated in the event of or under any of the following circumstances:

1. A receiver for Recipient's assets is appointed by a court of competent jurisdiction.
2. Recipient is divested of its rights, powers, and privileges under this Agreement by operation of law.
3. Recipient's failure to comply with any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Recipient to remedy such failure within thirty (30) days from the date of written notice from City.
4. Recipient’s violation of any applicable federal, state, or local law applicable to the City Grant or CARES Act.
5. If, prior to the receipt of any funding from City hereunder and upon giving thirty (30) days prior written notice, Recipient desires to terminate this Agreement.

In the event of early termination and if City provided any funds to Recipient hereunder, Recipient shall repay to City within ten (10) business days from the effective date of termination all funds provided hereunder and, upon such repayment, Recipient shall be released from its obligations hereunder, except those related to auditing. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 8. INDEMNIFICATION.
Recipient shall defend, indemnify, and hold harmless City and its elected officials, officers, employees, and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys’ fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions or conduct of Recipient, and its agents, employees, contractors, sub-contractors, and representatives, and/or Recipient’s failure to comply with federal, state, and local laws, including (as applicable).

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.
Recipient shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off, termination, rates of pay or other forms of compensation, or selection for training, including apprenticeship.
It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton constitutes a material condition of this Agreement as fully and as if specifically rewritten herein and that failure to comply therewith shall constitute a breach thereof entitling City to terminate this Agreement at its option.

ARTICLE 10. POLITICAL CONTRIBUTIONS.

Recipient affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

ARTICLE 11. RECORDS AND RETENTION.

Recipient shall use Generally Accepted Accounting Principles ("GAAP") or the Income Tax Accounting Method in recording and documenting all costs and expenditures related in whole or part to the City Grant. All costs and expenditures for which Recipient will be granted hereunder shall be supported by properly executed invoices, contracts, vouchers, or other accounting documents and other evidence (collectively, "Records"). All Records shall be clearly identified and readily accessible. At any time during normal business hours and as often as City may reasonably request, Recipient shall make available to City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees, all of its Records related to this Agreement. Recipient shall permit City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies and any of their designees to audit, examine, and make excerpts or transcripts from such Records and to have audits made of all contracts, invoices, materials, payrolls, personnel records, conditions of employment and other data pertaining in whole or in part to matters covered by this Agreement.

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Recipient and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Recipient shall retain such Records until completion of the actions and resolution of all issues or the expiration of the five (5) year period, whichever occurs later.

ARTICLE 12. TAX REPRESENTATION.

Recipient certifies that, as of the date of execution, it does not owe any delinquent taxes to the City of Dayton and/or does not owe delinquent taxes for which Recipient is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code or, if such delinquent taxes are owed, Recipient currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, or Recipient filed a petition in bankruptcy under 11 U.S.C. Section 101, et seq., or such a petition has been filed against Recipient. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

ARTICLE 13. GENERAL PROVISIONS.

A. Conflict of Interest. Recipient represents that to the best of its knowledge it has no interest that would undermine the impartiality of either party because of the conflict between the party’s self-interest and this agreement or public interest in any manner or degree. Recipient further
covenants that it will not acquire any such interest, directly or indirectly during the term of this Agreement.

B. **Entire Understanding.** This Agreement represents the entire and integrated agreement between the parties. This Agreement supersedes all prior and contemporaneous communications, representations, understandings, agreements or contracts, whether oral or written, relating to the subject matter of this Agreement.

C. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws. Any arbitration, litigation or other legal matter regarding this Agreement or performance by either party must be brought in a court of competent jurisdiction in Montgomery County, Ohio.

D. **Amendment.** The parties may amend this Agreement, provided that no such amendment shall be effective unless it is reduced to a writing, which makes specific reference to this Agreement, is executed by a duly authorized representative of each party to this Agreement and, if required or applicable, is approved by the Commission of the City of Dayton, Ohio.

E. **Waiver.** A waiver by City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect City's rights with respect to any other or further breach.

F. **Relationship.** This Agreement is not intended to be, nor shall it be construed, as creating a partnership, joint venture, corporation, or other relationship between the parties with respect to this Agreement or any activities to be completed by Recipient.

G. **Communications.** Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given, if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and addressed as follows:

For City:  
Susan Vincent  
Planning and Community Development  
City of Dayton  
P.O. Box 22, 101 W. Third Street  
Dayton, OH 45401  
Susan.vincent@daytonohio.gov  
(937) 333 – 3683

For Recipient:  
Amy Williams  
Little Gem Coffee Company LLC, DBA Wholly Grounds  
825 Wayne Ave  
Dayton, Ohio 45410  
Info@whollygrounds.com  
(937) 356-8669

H. **Severability.** The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any provision of this Agreement void shall in no way affect the validity or enforceability of any other provision of this Agreement. Any void, unenforceable, invalid, or illegal provision shall be deemed severed from this Agreement and the balance of this
Agreement shall be construed and enforced as if this Agreement did not contain the particular provision.

IN WITNESS WHEREOF, City and Recipient, each by a duly authorized representative, have executed this Agreement as of the date set forth below.

LITTLE GEM COFFEE COMPANY LLC,
DBA WHOLLY GROUNDS

By: __________________________
    Amy Williams

Print name: __________________________

Its: Owner

CITY OF DAYTON, OHIO

_________________________
City Manager

_________________________
Date

APPROVED AS TO FORM
AND CORRECTNESS:

_________________________
City Attorney

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO:

_________________________
, 2020

Min. / Bk. _____  Pg. _____

_________________________
Clerk of the Commission
<table>
<thead>
<tr>
<th>Item</th>
<th>Eligible Expense Category</th>
<th>Type of Improvement</th>
<th>Unit Cost</th>
<th>per</th>
<th>Quantity</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Sneeze Guard</td>
<td>Raw Materials</td>
<td>Interior barriers</td>
<td>$113.00</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>Patio Remodel</td>
<td>Labor</td>
<td>Exterior eating area materials</td>
<td>$6,500.00</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>3</td>
<td>Umbrellas and tables</td>
<td>Furniture and Fixtures</td>
<td>Exterior eating area materials</td>
<td>$3,200.00</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>4</td>
<td>Honeywell Hepa air filter.</td>
<td>Furniture and Fixtures</td>
<td>Interior materials</td>
<td>$269.00</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>5</td>
<td>Room divider from Remember when antiques</td>
<td>Furniture and Fixtures</td>
<td>Interior barriers</td>
<td>$150.00</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>6</td>
<td>Room divider from Remember when antiques</td>
<td>Furniture and Fixtures</td>
<td>Interior barriers</td>
<td>$100.00</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

Total Grant Request: $226.00 + $6,500.00 + $3,200.00 + $538.00 + $150.00 + $100.00 = $10,484.00
I. Narrative Grant Report

1) Describe impact. In the section below, describe how the grant helped your business survive or reopen during the COVID-19 health crisis. Explain how your sales or revenue have changed since implementing your grant funded improvement, describe how the number of customers served changed, etc. (example: have you seen a percent increase in sales due to an increase in number of tables?)

Due to project(s) supported by this grant, was your business able to retain or bring back any full-time or part-time employees? If so, how many?

2) Explain your challenges. Describe any unforeseen circumstances or challenges you’ve experienced during the grant period. How did they cause you to adjust what you were doing?
3) **Share your successes.** Provide at least one example, story or quote that illustrates how your business was affected by the work supported by this grant.

II. Expense Report

1) **Summary.** In the boxes below provide the projected budget of expenses (taken from your grant proposal), the actual expenses, and the difference between the two.

   $\text{Projected} \quad - \quad \text{Actual} \quad = \quad \text{Difference}$

2) **Explanation.** Write a short narrative explanation of one paragraph or less to answer the question: How was this grant spent? (Example: The $5,000 grant was used to install a new outdoor seating area which cost $3,000 and to purchase $2,000 of new outdoor chairs, tables, and fencing.)

   Note: Please note that if there are remaining funds from an individual grant, the City of Dayton may either: 1) request repayment of the unspent funds, or 2) request a revised proposal to use the unspent funds.

3) **Detailed expense report.** In the excel sheet provided, account for all project expenses by listing each item on a separate line. Total expenses should match the provided back-up documentation.

4) **Attachments.** Assemble all detailed receipts, paid invoices, contracts, permits, etc. into one PDF or Word Document to provide documentation of the expenses included in your detailed expense report. Organize the back-up materials so that they are in the same order as the line items included in your detailed expense report. Include page numbers or reference numbers on the individual expense back-up items that match the “backup reference” column in your detailed excel report.
AN ORDINANCE

Providing Temporary Appropriations for the Ordinary Operating and Capital Expenses of the City of Dayton Pending Passage of the Year 2021 Annual Appropriation Ordinance, and Declaring an Emergency.

WHEREAS, Pursuant to the City Charter, an annual appropriations ordinance cannot be passed before the second Monday in January; and,

WHEREAS, No obligations for the expenditure of money may be made except pursuant to appropriations approved by the Commission of the City of Dayton; and,

WHEREAS, State law permits the passage of a temporary appropriations measure pending passage of an annual appropriations ordinance; and,

WHEREAS, To allow for the timely processing of 2021 orders necessary for the usual daily operation of the various Departments of the City of Dayton, it is necessary that this Ordinance take effect at the earliest possible date; now, therefore,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That, effective January 1, 2021, monies in the treasury of the City of Dayton or monies available for use from revenue accruing to the City, are appropriated in the specified amounts to the following funds for the purposes identified:

2021 Recommendation

GOVERNMENTAL FUND TYPE
(l) General Fund - 10

<p>| 1200 | Clerk of Commission | 521,000 |
| 1300 | Civil Service Board | 610,100 |
| 1400 | Human Relations Council | 400,500 |
| 2100 | City Manager’s Office | 552,400 |
| 2101 | Public Affairs | 504,400 |
| 2105 | Office of Sustainability | 85,000 |
| 2300 | Dept. of Planning and Community Development (including Housing Inspection) | 1,370,800 |
|  | Expenses | 150,000 |
|  | Transfers Out | 1,520,800 |
| 2500 | Clerk of Courts | 1,556,800 |
| 2510 | Municipal Court | 1,963,900 |
| 2600 | Department of Economic Development (including Zoning Admin. &amp; Building Inspection) | 1,476,400 |
| 2700 | Dept. of Procurement, Management &amp; Budget | 740,800 |</p>
<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>3400</td>
<td>Department of Water</td>
<td>47,400</td>
</tr>
<tr>
<td>5200</td>
<td>Department of Law</td>
<td>1,161,500</td>
</tr>
<tr>
<td>5300</td>
<td>Department of Finance</td>
<td>1,620,200</td>
</tr>
<tr>
<td>5500</td>
<td>Department of Information Technology</td>
<td>2,808,900</td>
</tr>
<tr>
<td>5600</td>
<td>Department of Human Resources</td>
<td>465,800</td>
</tr>
<tr>
<td>6200</td>
<td>Department of Police</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Expenses</td>
<td>21,248,500</td>
</tr>
<tr>
<td></td>
<td>Transfers Out</td>
<td>40,000</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>21,288,500</td>
</tr>
<tr>
<td>6300</td>
<td>Department of Fire</td>
<td>17,141,600</td>
</tr>
<tr>
<td>6400</td>
<td>Department of Public Works</td>
<td>10,400,600</td>
</tr>
<tr>
<td>6500</td>
<td>Department of Recreation &amp; Youth Services (incl. Convention Ctr.)</td>
<td>2,290,700</td>
</tr>
<tr>
<td>9980</td>
<td>Non-Departmental</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Expenses</td>
<td>643,100</td>
</tr>
<tr>
<td></td>
<td>Transfers Out</td>
<td>822,500</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>1,465,600</td>
</tr>
</tbody>
</table>

**Issue 9 - General Fund - 10001**

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>6400</td>
<td>Department of Public Works</td>
<td>249,600</td>
</tr>
<tr>
<td>9980</td>
<td>Non-Departmental</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Transfers Out</td>
<td>4,300,000</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>4,300,000</td>
</tr>
<tr>
<td></td>
<td>Total Issue 9 - General Fund</td>
<td>4,549,600</td>
</tr>
</tbody>
</table>

**Community Golf & Recreation Fund - 13000**

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>6550</td>
<td>Department of Recreation &amp; Youth Services</td>
<td>715,000</td>
</tr>
<tr>
<td></td>
<td>Total Community Golf &amp; Recreation Fund</td>
<td>715,000</td>
</tr>
<tr>
<td>16999</td>
<td>Special Projects</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Expenses</td>
<td>5,825,200</td>
</tr>
<tr>
<td></td>
<td>Transfers Out</td>
<td>2,034,300</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>7,859,500</td>
</tr>
<tr>
<td>75000</td>
<td>Income Tax Fund</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Transfers Out</td>
<td>5,250,000</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>5,250,000</td>
</tr>
</tbody>
</table>

**Total General Fund**

**86,997,000**

(2) **Special Revenue**

**Roadway Maintenance Fund – 21999**

**Street Maintenance Fund - 21000**

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>6400</td>
<td>Department of Public Works</td>
<td>2,426,300</td>
</tr>
<tr>
<td></td>
<td>Total Roadway Maintenance Fund</td>
<td>2,426,300</td>
</tr>
</tbody>
</table>

**Street Maintenance Capital - 21200**

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>6400</td>
<td>Department of Public Works</td>
<td>760,000</td>
</tr>
<tr>
<td></td>
<td>Total Street Maintenance Capital</td>
<td>760,000</td>
</tr>
</tbody>
</table>

**Highway Maintenance Fund - 21100**
<table>
<thead>
<tr>
<th>Department/Program</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>6400 Department of Public Works</td>
<td></td>
</tr>
<tr>
<td>Total Highway Maintenance Fund</td>
<td>289,200</td>
</tr>
<tr>
<td>Total Roadway Maintenance Fund</td>
<td>3,475,500</td>
</tr>
<tr>
<td><strong>HUD Programs Operating</strong></td>
<td></td>
</tr>
<tr>
<td>Community Dev. Block Grant Fund - 26204-26209 and 26102</td>
<td></td>
</tr>
<tr>
<td>2300 Dept. of Planning and Community Development</td>
<td>1,053,800</td>
</tr>
<tr>
<td>5300 Department of Finance</td>
<td>32,000</td>
</tr>
<tr>
<td>Total Community Dev. Block Grant Fund</td>
<td>1,085,800</td>
</tr>
<tr>
<td><strong>HOME Operating Fund - 27000</strong></td>
<td></td>
</tr>
<tr>
<td>2300 Dept. of Planning and Community Development</td>
<td>53,700</td>
</tr>
<tr>
<td>Total HOME Operating Fund</td>
<td>53,700</td>
</tr>
<tr>
<td><strong>Total HUD Programs Operating</strong></td>
<td>1,139,500</td>
</tr>
<tr>
<td><strong>HUD Programs Non-Operating</strong></td>
<td></td>
</tr>
<tr>
<td>Fair Housing Grant Fund - 23000 - 23999</td>
<td></td>
</tr>
<tr>
<td>Various Departments</td>
<td>20,000</td>
</tr>
<tr>
<td>Total Fair Housing Grant Fund</td>
<td>20,000</td>
</tr>
<tr>
<td><strong>Emergency Solutions Grant - 25002</strong></td>
<td></td>
</tr>
<tr>
<td>Various Departments</td>
<td>186,600</td>
</tr>
<tr>
<td>Total Emergency Solutions Grant</td>
<td>186,600</td>
</tr>
<tr>
<td><strong>Continuum of Care Grant - 25525 - 25599</strong></td>
<td></td>
</tr>
<tr>
<td>Various Departments</td>
<td>1,105,000</td>
</tr>
<tr>
<td>Total Continuum of Care Grant</td>
<td>1,105,000</td>
</tr>
<tr>
<td><strong>Community Dev. Block Grant Non-Operating Fund - 26001 - 26906</strong></td>
<td></td>
</tr>
<tr>
<td>Various Departments</td>
<td>1,031,900</td>
</tr>
<tr>
<td>Total Community Dev. Block Grant Non-Operating Fund</td>
<td>1,031,900</td>
</tr>
<tr>
<td><strong>HOME Non-Operating Fund - 27001 - 27999</strong></td>
<td></td>
</tr>
<tr>
<td>Various Departments</td>
<td>0</td>
</tr>
<tr>
<td>Total HOME Non-Operating Fund</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total HUD Programs Non-Operating</strong></td>
<td>2,343,500</td>
</tr>
<tr>
<td><strong>Miscellaneous Grants - 28000; 29000</strong></td>
<td></td>
</tr>
<tr>
<td>Various Departments</td>
<td>1,170,300</td>
</tr>
<tr>
<td>Total Miscellaneous Grants</td>
<td>1,170,300</td>
</tr>
<tr>
<td><strong>Other Special Revenue - 22111-515</strong></td>
<td></td>
</tr>
<tr>
<td>Various Departments</td>
<td>3,849,200</td>
</tr>
</tbody>
</table>
Total Other Special Revenue Fund

Total Special Revenue

(3) Debt Service
General Debt Retirement Fund - 31100-33100
  5300  Department of Finance
  Total General Debt Retirement Fund 4,179,000
Total Debt Service 4,179,000

(4) Capital Project Funds
General Capital Fund - 40000
  Various Capital Projects
  Transfers Out 337,000
  Total 12,969,200
Total Capital Project Funds 12,969,200

(5) Permanent Funds
Permanent Fund - 71000
  Various Departments
  Total Permanent Fund 20,000

TOTAL GOVERNMENTAL FUND 116,143,200

PROPRIETARY FUND TYPE

(6) Enterprise Funds
Aviation Operating Fund - 51000 and 51001
  3200- 9990  Department of Aviation
            Expenses 14,094,900
            Transfers Out 2,133,000
            Total 16,227,900
Total Aviation Operating Fund 16,227,900

Aviation Capital Fund - 51002 - 52999
  Various Capital Projects
  Transfers Out 5,056,200
  Total 8,282,400
Total Aviation Capital Fund 8,282,400

Water Operating Fund - 53000, 53997 and 53998
  2600  Department of Economic Development 52,800
  3400  Department of Water - 3400 and 9970
        Expenses 21,154,200
        Transfers Out 9,058,400
        Total 30,212,600
  5300  Department of Finance 1,694,200
        Total Water Operating Fund 31,959,600

Water Capital Fund - 53001 - 53996
  Various Capital Projects 3,743,400
<table>
<thead>
<tr>
<th>Fund Details</th>
<th>2021 Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Water Capital Fund</td>
<td>3,743,400</td>
</tr>
<tr>
<td><strong>Sanitary Sewer Operating Fund - 55000</strong></td>
<td></td>
</tr>
<tr>
<td>3400 Department of Water - 3400 and 9970 Expenses</td>
<td>13,273,200</td>
</tr>
<tr>
<td>Transfers Out</td>
<td>6,925,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>20,198,200</td>
</tr>
<tr>
<td><strong>Total Sanitary Sewer Operating Fund</strong></td>
<td>20,198,200</td>
</tr>
<tr>
<td><strong>Sanitary Sewer Capital Fund - 55001 - 55999</strong></td>
<td></td>
</tr>
<tr>
<td>Various Capital Projects</td>
<td>9,600,000</td>
</tr>
<tr>
<td><strong>Total Sanitary Sewer Capital Fund</strong></td>
<td>9,600,000</td>
</tr>
<tr>
<td><strong>Storm Water Operating Fund - 58000</strong></td>
<td></td>
</tr>
<tr>
<td>3400 Department of Water - 3400 and 9970 Expenses</td>
<td>2,220,400</td>
</tr>
<tr>
<td>Transfers Out</td>
<td>1,000,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>3,220,400</td>
</tr>
<tr>
<td>6400 Department of Public Works Expenses</td>
<td>551,100</td>
</tr>
<tr>
<td>Transfers Out</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>551,100</td>
</tr>
<tr>
<td><strong>Total Storm Water Operating Fund</strong></td>
<td>3,771,500</td>
</tr>
<tr>
<td><strong>Storm Water Capital Fund - 58001 - 58999</strong></td>
<td></td>
</tr>
<tr>
<td>Various Capital Projects</td>
<td>1,600,000</td>
</tr>
<tr>
<td><strong>Total Storm Water Capital Fund</strong></td>
<td>1,600,000</td>
</tr>
<tr>
<td><strong>Golf Operating Fund - 59000</strong></td>
<td></td>
</tr>
<tr>
<td>6500 Department of Recreation &amp; Youth Services Expenses</td>
<td>1,230,000</td>
</tr>
<tr>
<td>Transfers Out</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1,230,000</td>
</tr>
<tr>
<td><strong>Total Golf Operating Fund</strong></td>
<td>1,230,000</td>
</tr>
<tr>
<td><strong>Golf Capital - 59001</strong></td>
<td></td>
</tr>
<tr>
<td>Various Capital Projects</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total Golf Capital Fund</strong></td>
<td>0</td>
</tr>
<tr>
<td><strong>Total Enterprise Funds</strong></td>
<td>96,613,000</td>
</tr>
</tbody>
</table>

**Internal Service Funds**

<table>
<thead>
<tr>
<th>Fund Details</th>
<th>2021 Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fleet Management Fund - 61000</td>
<td></td>
</tr>
<tr>
<td>6400 Department of Public Works</td>
<td>3,222,700</td>
</tr>
<tr>
<td><strong>Total Fleet Management Fund</strong></td>
<td>3,222,700</td>
</tr>
<tr>
<td>Document Management Services Fund - 62100</td>
<td></td>
</tr>
<tr>
<td>5500 Department of Central Services</td>
<td>247,000</td>
</tr>
<tr>
<td><strong>Total Stores and Reproduction Fund</strong></td>
<td>247,000</td>
</tr>
<tr>
<td>Healthcare Self Insurance - 63000</td>
<td></td>
</tr>
<tr>
<td>5600 Department of Human Resources</td>
<td>12,295,300</td>
</tr>
</tbody>
</table>
### Total Healthcare Self Insurance Fund

2021 Recommendation: 12,295,300

### Workers' Compensation Fund - 65000
- 5600 Department of Human Resources
  - Total Workers' Compensation Fund: 1,931,100

### Plumbing Shop - 66000
- 6400 Department of Public Works
  - Total Plumbing Shop: 301,300

### Fire Fleet Management - 67000
- 6330 Department of Fire
  - Total Fire Fleet Management Fund: 524,900

### Total Internal Service Funds
- Total: 18,522,300

### TOTAL PROPRIETARY FUND
- Total: 115,135,300

### TOTAL ALL OPERATING FUNDS
- Total: 231,278,500

---

**Section 2.** That the City Manager is authorized to transfer funds in the amounts set forth in Section 1 and as described below:

<table>
<thead>
<tr>
<th>GOVERNMENTAL FUND TYPE</th>
<th>2021 Transfers Out</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>(1) General Fund - 10</strong></td>
<td></td>
</tr>
<tr>
<td><strong>From</strong></td>
<td><strong>To</strong></td>
</tr>
<tr>
<td>10000-2300 Planning and Community Development</td>
<td>16999-2300 Special Projects</td>
</tr>
<tr>
<td>10000-6200 Police</td>
<td>16000-2300 Special Projects</td>
</tr>
<tr>
<td>10000-9980 Non-Departmental</td>
<td>16999-2700 Special Projects</td>
</tr>
<tr>
<td></td>
<td>16999-5600 Special Projects</td>
</tr>
<tr>
<td></td>
<td>16999-1400 Special Projects</td>
</tr>
<tr>
<td></td>
<td>28999-1400 Miscellaneous Grants</td>
</tr>
<tr>
<td><strong>Subtotal Transfers Out 10000</strong></td>
<td>1,012,500</td>
</tr>
<tr>
<td>16999-2600 Special Projects</td>
<td>40000-2600 Capital</td>
</tr>
<tr>
<td></td>
<td>31100-5300 G.O. Debt</td>
</tr>
<tr>
<td>16999-9980 General Fund</td>
<td>10000-9980 General Fund</td>
</tr>
<tr>
<td><strong>Issue 9 - General Fund - 10001</strong></td>
<td>2,034,300</td>
</tr>
<tr>
<td>10001-9980 Non-Departmental</td>
<td>16999-2300 Special Project</td>
</tr>
<tr>
<td><strong>Subtotal Transfers Out 10001</strong></td>
<td>4,300,000</td>
</tr>
<tr>
<td>Category</td>
<td>Amount 1</td>
</tr>
<tr>
<td>-----------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>75000-5300 Income Tax Fund</td>
<td>16999-2600</td>
</tr>
<tr>
<td></td>
<td>16999-2300</td>
</tr>
<tr>
<td></td>
<td>40000-6400</td>
</tr>
<tr>
<td>Subtotal Transfers Out</td>
<td></td>
</tr>
<tr>
<td>75000 Total General Fund Transfers Out</td>
<td></td>
</tr>
<tr>
<td>(4) Capital Projects</td>
<td></td>
</tr>
<tr>
<td>40001-49999 General Capital Fund</td>
<td>31100-5300</td>
</tr>
</tbody>
</table>

**PROPRIETARY FUND TYPE**

<table>
<thead>
<tr>
<th>Category</th>
<th>From</th>
<th>To</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>(6) Enterprise Funds</td>
<td>51000 and 51001-9960</td>
<td>Aviation Operating Fund</td>
<td>51002-52999-3200</td>
</tr>
<tr>
<td></td>
<td>51002-52999-3200</td>
<td>Aviation Capital</td>
<td>51000-51000-3200</td>
</tr>
<tr>
<td>53000-9970 Water Operating Fund</td>
<td>53001-53996-3400</td>
<td>Water Capital</td>
<td>9,058,400</td>
</tr>
<tr>
<td>55000-9970 Sanitary Sewer Operating Fund</td>
<td>55001-55999-3400</td>
<td>Sanitary Sewer Capital</td>
<td>6,925,000</td>
</tr>
<tr>
<td>58000-9970 Storm Water Operating Fund</td>
<td>58001-58999-3400</td>
<td>Storm Water Capital</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Total Enterprise Fund Transfers Out</td>
<td></td>
<td></td>
<td>24,172,600</td>
</tr>
<tr>
<td>TOTAL ALL FUNDS</td>
<td></td>
<td></td>
<td>37,106,400</td>
</tr>
</tbody>
</table>

**Section 3.** That the City Manager is authorized to advance up to Zero Dollars ($0.00) from the General Fund to HUD Operating Programs due to timing of grant agreements.

**Section 4.** That the City Manager is authorized to advance up to One Million Dollars and Zero Cents ($1,000,000.00) from the General Fund to HUD Non-Operating Programs due to timing of grant agreements.

**Section 5.** That monies herein appropriated shall be charged to and included in the 2021 annual appropriation ordinance.
Section 6. For the reasons stated in the preamble hereof, this Ordinance is declared to be an emergency measure and shall take effect immediately upon passage.

PASSED BY THE COMMISSION.........................., 2020

SIGNED BY THE MAYOR................................., 2020

_____________________________
Mayor of City of Dayton, Ohio

Attest:

_____________________________
Clerk of the Commission

Approved as to form:

_____________________________
City Attorney
November 11, 2020

TO: Shelley Dickstein, City Manager

FROM: Diane T. Shannon, Director
        Department of Procurement, Management & Budget

SUBJECT: 2021 Temporary Appropriation Ordinance

Attached for your review and submission to the City Commission is the 2021 Temporary Appropriation Ordinance. The State of Ohio statute requires governmental units to appropriate public funds prior to incurring expenses and allows governments until April 1 to meet all statutory requirements such as publishing the appropriation and holding a public hearing prior to its adoption. The City of Dayton’s fiscal year ends December 31. This ordinance is intended to satisfy our statutory obligation. It provides an interim authorization to expend funds for City obligations between January 1, 2021 and the date the annual appropriation ordinance is adopted.

In 2017, we attempted to streamline the process and more accurately reflect City Commission priorities by using the entire 2018 budget as presented during our budget work sessions and as enumerated in the 2018 Budget Resolution. This change resulted in the Temporary being passed in December. However, to ensure a continuity of essential City services, 2021 Purchase Orders and Contract encumbrances are required to be in place prior to the start of 2021 and cannot be processed without the prior approval of the appropriation (Ohio Rev. Code Section 5705.41). As a result, we are reverting back to our methodology of using a pro-rated portion (40%) of the 2020 Original Appropriation for all departments and agencies, and 100% of approved 2021 transfers out as the basis for the 2021 Temporary Appropriation. Section 2 itemizes 2021 Transfers Out.

We are requesting that this ordinance be submitted for the City Commission calendar as an emergency ordinance with two readings at one meeting on November 18, 2020.

We have also included a section in the temporary appropriation that authorizes the advance of funds for HUD Non-Operating Programs due to timing of grant agreements. Specifically, the advance will ensure continuity of service for the Emergency Shelter program.

If you have any questions or require additional information concerning the ordinance, please contact me.

DTS/sb

Attachment
cc: Mr. Parlette, Ms. Lofton, Management & Budget Staff
"Memo to CM re 2021 Temp Approp" History

Document created by Abhigna Patel-Jones (budget@daytonohio.gov)
2020-11-11 - 1:40:36 PM GMT - IP address: 198.30.33.2

Document emailed to Melissa Wilson (melissa.wilson@daytonohio.gov) for signature
2020-11-11 - 1:41:31 PM GMT

Email viewed by Melissa Wilson (melissa.wilson@daytonohio.gov)
2020-11-11 - 1:42:48 PM GMT - IP address: 198.30.33.2

Document e-signed by Melissa Wilson (melissa.wilson@daytonohio.gov)
Signature Date: 2020-11-11 - 1:43:02 PM GMT - Time Source: server - IP address: 198.30.33.2

Agreement completed.
2020-11-11 - 1:43:02 PM GMT
AN ORDINANCE

An Ordinance Declaring the Improvement of Certain Real Property Located in the City of Dayton, Ohio to be a Public Purpose; Designating Specific Public Infrastructure Improvements that, once Made, Will Benefit the Parcels for Which Improvement is Declared to be a Public Purpose; Creating the Willow Hills Incentive District within the City; Declaring the Improvements to Real Property within the Incentive District to be a Public Purpose; Exempting Seventy-Five Percent of the Value of such Incentive District Improvements from Real Property Taxation for a Period of Ten Years; Requiring the Owners of Parcels for which Improvements are Declared to be a Public Purpose to Make Annual Service Payments in lieu of Taxes During the Period of Exemption; Describing the Public Infrastructure Improvements Made or to be Made to Directly Benefit the Parcels for which Improvements are Declared to be a Public Purpose; Establishing a Municipal Public Improvement Tax Increment Equivalent Fund for the Deposit of such Service Payments; Authorizing the Execution of a Tax Increment Financing Agreement; and Approving Related Matters, and Declaring an Emergency.

WHEREAS, Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code (collectively, the “TIF Statutes”) authorize this Commission, by ordinance, to create an incentive district within the corporate boundaries of the City of Dayton, Ohio (the “City”), and declare the improvement to each parcel of real property located within the incentive district to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, establish a municipal public improvement tax increment equivalent fund for the deposit of those service payments, and specify public infrastructure improvements made, to be made, or in the process of being made that directly benefit or serve, or that once made will benefit or serve, parcels in the incentive district; and,

WHEREAS, This Commission has determined to create the Willow Hills Incentive District (the “Incentive District”), the boundaries of which will be coextensive with the boundaries of, and will include, the parcels of real property specifically identified and depicted in Exhibit A attached hereto (with each of those parcels, whether as presently appearing on the county tax duplicate or as subdivided or combined and appearing on future tax duplicates, referred to herein individually as a “Parcel” and collectively as the “Parcels”): and,

WHEREAS, The City intends to exempt 75% of the Improvements (as defined herein) attributable to new buildings or structures on each Parcel for a period of 10 years; and,

WHEREAS, Willow Hills Developers, Ltd. or its designated affiliate (the “Developer”), intends to construct or cause to be constructed within the Willow Hills Incentive District certain public infrastructure improvements described in Exhibit B attached hereto and incorporated into this Ordinance (collectively, the “Project”), which public infrastructure improvements, once made, will benefit or serve the Parcels; and,

WHEREAS, The Incentive District is in a situational distress area as designated by the Director of Development Services under division (F) of Section 122.23 of the Ohio Revised Code; and,
WHEREAS, This Commission has determined to provide for the execution and delivery of one or more Tax Increment Financing Agreements to provide for the development of the Parcels.

WHEREAS, The notice of this Commission’s intention to grant an exemption from real property taxes pursuant to the TIF Statutes, and to pass this Ordinance, has been delivered to the Board of Education of the Mad River Local School District (the “School District”) in accordance with Ohio Revised Code Sections 5709.40 and 5709.83, therefore.

WHEREAS, In order for this Ordinance to take effect within the time frame specified and for the immediate preservation of the public peace, property, health and safety, it is necessary that this Ordinance take effect immediately; now, therefore,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. Creation of Incentive District. Pursuant to the TIF Statutes, this Commission hereby creates the “Willow Hills Incentive District,” the boundaries of which shall be coextensive with the boundaries of the Parcels and shall include the Parcels as specifically identified and depicted in Exhibit A attached hereto.

Section 2. Authorization of TIF Exemption. This Commission hereby finds and determines that seventy-five percent (75%) of the increase in assessed value of the Parcels subsequent to the effective date of this Ordinance (which increase in assessed value is hereby referred to as the “Improvement” as defined in ORC Section 5709.40(A)) is hereby declared to be a public purpose and shall be exempt from real property taxes on seventy-five (75%) of such Improvement to provide for Service Payments (as defined in Section 3) to pay costs of the public infrastructure (including the payment of obligations issued to pay such costs), which public infrastructure will benefit or serve real property located within the Incentive District.

The life of the Incentive District shall be for ten (10) years, commencing tax year 2021 and ending tax year 2031. For each separately identifiable parcel located within the Incentive District, the TIF exemption commences the earlier of (i) January 1 of the first tax year for which an Improvement equal to Fifty Thousand Dollars and Zero Cents ($50,000.00) or greater for that Parcel first appears on the tax list and duplicate of real and public utility property, or (ii) January 1, 2031, and ends on the earlier of (i) ten (10) years after such date, or (ii) on the date on which the City can no longer require Service Payments to be paid, all in accordance with the requirements of the TIF Statutes.

Section 3. Service Payments and Property Tax Rollback Payments. As provided in ORC Section 5709.42, the current or future owner of each Parcel (collectively, the “Owner”) is hereby required to and shall make service payments in lieu of taxes with respect to the Improvements allocable thereto to the Treasurer of Montgomery County, Ohio (the “County Treasurer”) on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against that Parcel if it were not exempt from taxation pursuant to Section 2 of this Ordinance, including any penalties and interest (collectively, the “Service Payments”). The Service Payments and any other payments with respect to each Parcel that are received by the County Treasurer in connection with the reduction required by ORC Sections 319.302, 321.24, 323.152, and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the “Property Tax Rollback Payments”), shall be allocated and distributed in accordance with Section 4 of this Ordinance.
Section 4. Distribution of Funds. Pursuant to the TIF Statutes, the County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments derived from the Parcels to the City. The City shall then deposit the Service Payment into the TIF Fund (as defined in Section 5 of this Ordinance) and distribute the Service Payments and any Property Tax Rollback Payments as follows:

(1) FIRST, either (a) to the Developer or its assignee, or (b) to a governmental issuer of revenue obligations approved by the City, or a trustee or fiscal agent for such obligations, to reimburse the Developer for the payment of; or to finance, costs of the Public Infrastructure Improvements constructed by or on behalf of the Developer, as further described in the TIF Agreement; and,

(2) SECOND, to the City to reimburse the City for any costs incurred in connection with the administration of the TIF Exemption or the TIF Fund, including any and all costs of City staff and legal counsel incurred in connection with such administration; and,

(3) THIRD, to the City, all remaining amounts, after such Service Payments and any Property Tax Rollback Payments are used to reimburse the Developer for, or to finance, costs of the Public Infrastructure Improvements as provided in subsection (1) above, to be used as provided in the TIF Statutes.

Section 5. Tax Increment Equivalent Fund. This Commission hereby establishes, pursuant to and in accordance with the provisions of ORC Section 5709.43, the Willow Hills Municipal Public Improvement Tax Increment Equivalent Fund (the “TIF Fund”). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 4 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of the Parcels and so deposited pursuant to ORC Section 5709.42 shall be used solely for the purposes authorized in the TIF Statutes. The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund may be dissolved and any surplus funds remaining therein transferred to the City’s General Fund, all in accordance with ORC 5709.43.

Section 6. Public Infrastructure Improvements. This Commission hereby designates the public infrastructure improvements described in Exhibit B attached hereto (the “Public Infrastructure Improvements”) as public infrastructure improvements made or to be made that benefit or serve the Parcels in the Incentive District.

Section 7. Tax Increment Financing Agreement. The form of Tax Increment Financing Agreement (the “TIF Agreement”), attached hereto as Exhibit C, is hereby approved and authorized with changes and completions thereto that are not inconsistent with this ordinance, not substantially adverse to the City, and approved by the City Manager. The City Manager, for and in the name of the City, is hereby authorized to execute and deliver the TIF Agreement in substantially that form along with any changes or completions thereto, provided that the approval of such changes and completions thereto by the City Manager, and the character of those changes and completions as not being substantially adverse to the City, will be evidenced conclusively by the City Manager’s
execution thereof.

Section 8. Further Authorizations. This Commission hereby authorizes and directs the City Manager, Clerk of the Commission or other appropriate officers of the City, to make such arrangements as are necessary and proper for collection of the Service Payments. This Commission further hereby authorizes and directs the City Manager, Clerk of the Commission or other appropriate officers of the City to prepare and sign all agreements and instruments to take any other actions as may be appropriate to implement in this Ordinance.

Section 9. Notification of Adoption. Pursuant to Ohio Revised Code Section 5709.40(I), the Clerk of the Commission is hereby directed to deliver a copy of this Ordinance to the Director of Development of the State of Ohio within fifteen days after its effective date. Further, and on or before March 31 of each year that the TIF exemption set forth in this Ordinance remains in effect, the Clerk of the Commission or other authorized officer of the City shall prepare and submit to the Director of Development of the State of Ohio a status report listing the information required under Ohio Revised Code 5709.40(I).

Section 10. Open Meeting. This Commission finds and determines that all formal actions of this Commission and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Commission or committees, and that all deliberations of this Commission and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Ohio Revised Code Section 121.22.

Section 11. Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health or safety of the City, to wit: so the Developer may initiate construction of the public infrastructure improvements as soon as possible, and shall take effect and be in force from and after its adoption.

PASSED BY THE COMMISSION.................................., 2020

SIGNED BY THE MAYOR..........................................., 2020

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
EXHIBIT A

WILLOW HILLS INCENTIVE DISTRICT PROPERTY

The area outlined on the following map specifically identifies and depicts the Parcels included in the Willow Hills Incentive District.

(Map Attached Here)
EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements are expected to consist of, but are not limited to, the following:

Extension of natural gas, water, storm and sanitary sewer lines; street lighting; sidewalks and/or bike paths; acquisition and installation of equipment in parks; construction of other park improvements; construction of roads and all related appurtenances; costs incurred by the Developer from ODOT associated with ODOT Improvements; traffic signs and signals; engineering and other professional services secured in connection with the Public Infrastructure Improvements including legal, planning, citizen participation, environmental studies and remediation; streetscape and other improvements including, but not limited to, grading, draining, curbing, paving, resurfacing, constructing or reconstructing storm sewers, sanitary sewers, water mains, sidewalks, driveway approaches and aprons, public parking spaces and structures; electrical lighting; removal and placement of overhead utilities underground; installation of the desired conduit; traffic control devices, including traffic lights, signs and other markings; installing public benches, seating areas and trash receptacles; planting trees, shrubbery and other landscaping materials, together with all other necessary and appropriate appurtenances; public roads and highways; water and sewer lines; the continued maintenance of those public roads and highways and water and sewer lines; land acquisition, including acquisition in aid of industry, commerce, distribution, or research and specifically including acquisition of land for park purposes, and acquisition of land for rights of way; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of gas, electric, and communications service facilities, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; the enhancement of public waterways through improvements that allow for greater public access; and all associated “costs of permanent improvements” described in R.C. Section 133.15(B).
EXHIBIT C

FORM OF TIF AGREEMENT

(Attached Hereto)
TAX INCREMENT FINANCING AGREEMENT

This Tax Increment Financing Agreement (this "Agreement") is made and entered into as of __________, 2020 by and among the CITY OF DAYTON, Montgomery County, Ohio (the "City"), an Ohio political subdivision and municipal corporation, WILLOW HILLS DEVELOPERS, LTD. or its designated affiliate (the "Developer"), an Ohio limited liability company with an office located at 3445 Newmark Drive Miamisburg, OH 45342 and LIBERTY-BRAVO III, LLC, an Ohio limited liability company, whose address is 5942 Tylersville Road, West Chester, OH 45069 the ("Seller").

WITNESSETH:

WHEREAS, On __________, 2020, the Commission of the City of Dayton ("Commission") passed Ordinance __________, a copy of which is attached hereto as Exhibit A (the "TIF Ordinance"), which created the Willow Hills Incentive District; and,

WHEREAS, The Developer intends to acquire certain real property situated in the City and located solely within the Willow Hills Incentive District, a description of which is attached hereto as Exhibit B (the "Project Area") and incorporated herein by reference, with each parcel of real property within the Project Area referred to herein as a "Parcel" (whether as presently appearing on the county tax duplicate or as subdivided or combined and appearing on future tax duplicates) from the Seller; and,

WHEREAS, Each of the Parcels within the Project Area are currently owned by the Seller and subject to the terms of this Agreement, the Seller will sell the Parcels to the Developer from time to time pursuant to a purchase and sale agreement between the Seller and the Developer, in connection with the development of a single-family home project by the Developer; and

WHEREAS, In order to successfully develop the Parcels, it is necessary to construct or to cause to be constructed certain public infrastructure improvements as described in Exhibit C attached hereto (the "Public Infrastructure Improvements"), which the City and Developer agree will benefit or serve Parcels within the Project Area; and,

WHEREAS, In accordance with Section 5709.40(C) of the Ohio Revised Code, the TIF Ordinance established the terms of the real property exemption for the Project Area, which real property tax exemption will benefit the Willow Hills Incentive District; and,

WHEREAS, The City, by the TIF Ordinance, has declared that seventy-five percent (75%) of the increase in the assessed value of each Parcel subsequent to the effective date of the TIF Ordinance (each such increase hereinafter referred to as an "Improvement," as further defined in Section 5709.40 of the Ohio Revised Code and the TIF Ordinance) is a public purpose and is exempt from taxation for a period commencing for each Parcel the earlier of the first day of (i) the tax year in which there is an Improvement with respect to each Parcel (as it may be subdivided or combined in connection with the acquisition of the Parcel by the Developer or its affiliates, of at least $50,000, or (ii) tax year 2031, and ending on the earlier of (a) ten (10) years
after such commencement, or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code and the TIF Ordinance (the “TIF Exemption”); and,

WHEREAS, The City has determined that it is necessary and appropriate and in the best interest of the City to provide for the owner of each Parcel (referred to herein individually as an “Owner” and collectively as the “Owners”) to make annual service payments in lieu of taxes with respect to any Improvement allocable thereto (collectively for all Parcels, the “Service Payments”) to the Montgomery County Treasurer (the “County Treasurer”) for distribution to the City. The Service Payments shall be used (i) to fully reimburse the Developer for costs of the Public Infrastructure Improvements; and (ii) for such other purposes as may be authorized by law, all pursuant to and in accordance with Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code (collectively, the “TIF Statutes”), the TIF Ordinance and this Agreement; and,

WHEREAS, The Commission of the City in the TIF Ordinance approved the terms of this Agreement and authorized its execution on behalf of the City; and,

WHEREAS, The parties desire to enter into this Agreement on the terms and conditions hereinafter set forth to provide for the collection of and disbursement of the Service Payments and to facilitate the construction of the Public Infrastructure Improvements, which will benefit or serve Parcels within the Project Area; and,

NOW, THEREFORE, in consideration of the premises and covenants contained herein and to induce the Developer to proceed with the construction of the Public Infrastructure Improvements, the Developer and the City agree as follows:

Section 1. TIF Exemption and Agreements Related Thereto.

A. In connection with the construction of the Public Infrastructure Improvements, the City, through the TIF Ordinance, has granted, among other things, with respect to the Improvements, a seventy-five percent (75%) exemption from real property taxation, commencing for each Parcel the earlier of the first day of (i) the tax year in which there is an Improvement with respect to the Parcel (as it may be subdivided or combined in connection with the acquisition of the Parcel by the Developer or otherwise) of at least Fifty Thousand Dollars and Zero Cents ($50,000.00), or (ii) tax year 2031, and ending on the earlier of (a) ten (10) years after such commencement, or (b) the date on which the City can no longer require Service Payments, all in accordance with the requirements of Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code and the TIF Ordinance.

B. The City shall perform such acts as are reasonably necessary or appropriate to affect, claim, reserve and maintain the exemptions from real property taxation granted under the TIF Ordinance and this Agreement, including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.
Section 2. Obligation to Make Service Payments.

A. Service Payments. The Owner hereby agrees to make the Service Payments due during its period of ownership of each Parcel, all pursuant to and in accordance with the requirements of the TIF Statutes, the TIF Ordinance, the provisions of Ohio law relating to real property tax collections, and any subsequent amendments or supplements thereto. Service Payments will be made semiannually to the County Treasurer (or to the County Treasurer’s designated agent for collection of the Service Payments) on or before the final dates for payment of real property taxes for the Parcels, until expiration of the TIF Exemption. Any late payments will bear penalties and interest at the then current rate established under Sections 323.121 and 5703.47 of the Ohio Revised Code or any successor provisions thereto, as the same may be amended from time to time. The parties acknowledge and agree that, prior to distributing the Service Payments to the City, the County Treasurer shall first distribute to the appropriate taxing authority any amounts owed to such taxing authority pursuant to Section 5709.40(F) of the Ohio Revised Code. The County Treasurer shall then distribute the remaining Service Payments to the City, which shall deposit the Service Payments into the Willow Hills Project Municipal Public Improvement Tax Increment Equivalent Fund referenced in Section 5 of the TIF Ordinance (the ”TIF Fund”) and distribute the Service Payments as follows:

1. FIRST, to the Developer or its assignee to reimburse the Developer for amounts paid by the Developer for costs of the Public Infrastructure Improvements constructed by or on behalf of the Developer, as further described in this Agreement; and

2. SECOND, to the City to reimburse the City for any costs incurred in connection with the administration of the TIF Exemption or the TIF Fund, including any and all costs of City staff and legal counsel incurred in connection with such administration; and

3. THIRD, to the City, all remaining amounts for further deposit into the TIF Fund. The City shall use all such amounts in accordance with this Agreement and as permitted by law.

The Owner will not, under any circumstances, be required for any tax year to pay both real property taxes and Service Payments with respect to any portion of the Improvement to a Parcel, whether pursuant to Section 5709.42 of the Ohio Revised Code or this Agreement.

Notwithstanding any other provision of this Agreement or the TIF Ordinance, the TIF Exemption and the obligation to make Service Payments are subject and subordinate to any tax exemption applicable to the Improvements under Sections 3735.65 through 3735.70 of the Ohio Revised Code.

B. Priority of Lien. The Owner acknowledges, for itself and any and all future Owners, that the provisions of Section 5709.91 of the Ohio Revised Code, which specify that the Service Payments for each Parcel will be treated in the same manner as taxes for all purposes of the lien described in Section 323.11 of the Ohio Revised Code, including, but not limited to, the priority of the lien and the collection of Service Payments, will apply to this Agreement and to the Parcels and any Improvements thereon.
C. **Failure to Make Payments.** Should any Owner fail to make any payment required hereunder, the Owner shall pay, in addition to the Service Payments it is required to pay hereunder, such amount as is required to reimburse the City for any and all reasonably and actually incurred costs, expenses and amounts (including reasonable attorneys' fees) required by the City to enforce the provisions of this Agreement against that Owner.

**Section 3. Establishment of a TIF Fund by the City; Distribution of Funds.** The City agrees that it shall establish the TIF Fund as a depository fund to be held in the custody of the City for the sole purpose of receiving the Service Payments made from the Owners to the County Treasurer and distributed to the City. The Service Payments shall be deposited to the TIF Fund. Amounts on deposit in the TIF Fund shall be used by the City to reimburse the Developer for costs of the Public Infrastructure Improvements in the manner and amounts described and permitted herein.

**Section 4. Exemption Applications, Maintenance and Notice.** In accordance with Ohio Revised Code Sections 5715.27 and 5709.911, the Developer or the City, at the Developer’s request, shall file or cause to be filed an application prepared by the Developer for an exemption from real property taxation (DTE Form 24 or its successor form) with the Montgomery County Auditor (the “County Auditor”) for the Improvements. The Developer and the City agree to cooperate with each other for this purpose, and to cooperate with the County Auditor, the Ohio Department of Taxation and other public officials and governmental agencies in the performance by the public officials and governmental agencies of their duties in connection with the TIF Ordinance and this Agreement.

**Section 5. Reimbursements to the Developer from TIF Fund.** The City shall use the Service Payments in the TIF Fund to reimburse the Developer for the payment of costs associated with the Public Infrastructure Improvements (with the costs collectively referred to herein as the “Costs”). The Costs include but are not necessarily limited to: (i) cash paid by the Developer for Public Infrastructure Improvements; (ii) review and inspection fees incurred in connection with the construction of the Public Infrastructure Improvements; (iii) professional fees; (iv) any and all fees and direct or indirect costs incurred in connection with the Developer obtaining and maintaining a letter of credit or depositing funds into escrow related to the construction of the Public Infrastructure Improvements, whether incurred by the Developer or by one or more other parties on behalf of the Developer, including, but not limited to, any and all costs, fees or other charges attributable to the Developer’s reimbursement of the letter of credit provider for any draws against the letter of credit or escrow account and any and all costs, fees or other charge relating thereto; and (v) construction management and supervisory costs and fees.

For purposes of this Agreement, “costs” of the Public Infrastructure Improvements includable in the Costs include the items of “costs of permanent improvements” set forth in Section 133.15(B) of the Ohio Revised Code and incurred by the Developer directly or indirectly with respect to the Public Infrastructure Improvements. Notwithstanding anything to the contrary in this Agreement, the City and the Developer agree that the non-interest portions of the Costs of the Public Infrastructure Improvements which the Developer is authorized to incur and for which the Developer may be reimbursed out of the TIF Fund pursuant to this Agreement shall not exceed Six Million Five Hundred Thousand Dollars and Zero Cents ($6,500,000.00) and the City shall
have no obligation to pay or reimburse the Developer out of the TIF Fund or otherwise for any amount in excess of said sum in accordance with this Agreement.

From time to time after commencement of construction of the Public Infrastructure Improvements, the Developer shall provide a certified statement to the City setting forth and providing reasonable evidence concerning costs of the Public Infrastructure Improvements (each a "Certified Statement", and collectively, the "Certified Statements"). Upon receipt of each Certified Statement, the City shall review the costs evidenced in the Certified Statement to determine whether each of the costs constitutes Costs of Public Infrastructure Improvements eligible to be reimbursed out of the TIF Fund under this Agreement. Within twenty (20) business days of the City’s receipt of each Certified Statement, the City shall certify to the Developer the portion of the Costs evidenced in the Certified Statement which has been approved by the City for reimbursement out of the TIF Fund pursuant to this Agreement, which approval shall not be unreasonably withheld.

The City shall pay the approved Costs of the Public Infrastructure Improvements as shown in the Certified Statements out of the funds at that time on deposit in the TIF Fund on or before the date which is sixty business (60) days after each semi-annual date on which the Montgomery County Auditor settles real property taxes with the City (each, a "Payment Date") until the Costs have been paid in full.

All payments to the Developer hereunder on each Payment Date must be made pursuant to written instructions provided by the Developer, to the extent allowed by law and in a manner consistent with the City’s customary payment practices.

Notwithstanding any other provision of this Agreement, the City’s payment obligations hereunder are limited to the monies in the TIF Fund and do not constitute an indebtedness of the City, the State of Ohio, or any other political subdivision thereof, within the provisions and limitations of the laws and the Constitution of the State of Ohio, and the Developer does not have the right to have taxes or excises levied by the City, the State of Ohio, or any other political subdivision thereof for the payment of the Costs and accrued interest.

Section 6. Ohio Department of Transportation Fees. The Developer hereby agrees to pay all Ohio Department of Transportation administrative fees associated with the Public Infrastructure Improvements and acknowledges that the City’s granting of the TIF Exemption is contingent upon such payment by the Developer.

Section 7. Representations of the Parties. The Developer hereby represents that it has full power and authority to enter into this Agreement and carry out its terms. The City hereby represents that (i) the TIF Ordinance was passed by the Commission on __________, 2020; (ii) the TIF Ordinance remains in full force and effect; (iii) this Agreement is authorized by the TIF Ordinance; and (iv) the City has full power and authority to enter into this Agreement, to carry out its terms and to perform its obligations hereunder and thereunder. The City further represents and warrants that it shall not take action which would result in a reduction in the period of the TIF Exemption, the percentage of the TIF Exemption, or the amount of Service Payments to be received and made available to pay the Costs of the Public Infrastructure Improvements unless
such action shall be permitted by law and not inconsistent with the City's obligations under this Agreement.

Section 8. Provision of Information. The Developer agrees to (i) cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated tax incentive review council to enable that tax incentive review council to review and determine annually during the term of this Agreement the compliance of the Owners with the terms of this Agreement; and (ii) to cooperate in all reasonable ways with, and provide necessary and reasonable information to the City to enable the City to submit the status report required by Section 5709.40(I) of the Ohio Revised Code to the Director of the Ohio Development Services Agency on or before March 31 of each year, or as may be amended.

Section 9. Nondiscriminatory Hiring Policy. The Developer agrees to comply with the City's nondiscriminatory hiring policy adopted pursuant to Ohio Revised Code Section 5709.832 to ensure that recipients of tax exemptions practice nondiscriminatory hiring in their operations. The City will provide a copy of that policy and any updates to that policy to the Developer. In furtherance of that policy, the Developer agrees that it will not deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

Section 10. Prevailing Wage. The Developer and the City acknowledge and agree that the construction of Public Infrastructure Improvements owned or to be owned by the City or another "public authority" (as defined in Section 4115.03(A) of the Ohio Revised Code) are subject to the prevailing wage requirements of Ohio Revised Code Chapter 4115, and all wages paid to laborers and mechanics employed to construct the Public Infrastructure Improvements must be paid at not less than the prevailing rates of wages of laborers and mechanics for the classes of work called for by the Public Infrastructure Improvements, which wages must be determined in accordance with the requirements of that Chapter 4115. The City and the Developer have or will comply, and the Developer has or will require compliance by all contractors working on any Public Infrastructure Improvements owned or to be owned by the City or another public authority, with all applicable requirements of that Chapter 4115, including, without limitation, (i) obtaining the determination required by that Chapter 4115 of the prevailing rates of wages to be paid for all classes of work called for by the Public Infrastructure Improvements, (ii) obtaining the designation of a prevailing wage coordinator for the Public Infrastructure Improvements, and (iii) insuring that all subcontractors receive notification of changes in prevailing wage rates as required by that Chapter 4115. Notwithstanding anything to the contrary above, the Developer and the City recognize and acknowledge that ODOT retains sole responsibility for satisfying the prevailing wage requirements of Ohio Revised Code Chapter 4115 for the construction of all ODOT Improvements.

Section 11. Estoppel Certificate. Within thirty (30) days after a request from a Developer or any Owner of a Parcel, the City will execute and deliver to that Developer or Owner or any proposed purchaser, mortgagee or lessee of that Parcel, a certificate stating that, with respect to that Parcel, if the same is true: (i) this Agreement is in full force and effect; (ii) the requesting Developer or Owner is not in default under any of the terms, covenants or conditions of this Agreement, or, if that Developer or Owner is in default, specifying same; and (iii) such other matters as that Developer or Owner reasonably requests.
Section 12. Notices. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder must be in writing and will be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, or to such other address as the recipient has previously notified the sender of in writing, and will be deemed received upon actual receipt, unless sent by certified mail, in which event such notice will be deemed to have been received when the return receipt is signed or refused. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications must be sent. The present addresses of the parties follow:

(a) To the Developer at: Willow Hills Developers, LTD.
   3445 Newmark Drive
   Miamisburg Ohio 45342
   Attention: Robert M. McCann, CFO
   Phone: (937) 531-5521
   Fax: (937) 531-5597

   With a copy to: Thompson Hine LLP
   Austin Landing I
   10050 Innovation Drive, Suite 400
   Dayton, Ohio 45342-1934
   Attention: Arik A. Sherk
   Phone: (937) 443-6757
   Fax: (937) 443-6635

(b) To the City at: City of Dayton, Ohio
   101 W. Third Street
   Dayton, Ohio 45402
   Attention: Director of Economic Development

   With a copy to: Bricker & Eckler LLP
   100 South Third Street
   Columbus, Ohio 43215-4291
   Attention: J. Caleb Bell
   Phone: (614) 227-2384

Section 13. Successors; Assignment; Amendments; City Consents. This Agreement will be binding upon the parties hereto and their successors and assigns. Each Owner's obligations under this Agreement, including, without limitation, its obligation to make Service Payments with respect to each Parcel it owns, are absolute and unconditional covenants running with the land and are enforceable by the City. Each Owner further agrees that all covenants herein, including, without limitation, its obligation to make Service Payments, whether or not these covenants are included by any Owner of any Parcel in any deed or instrument of conveyance to that Owner's successors and assigns, are binding upon each subsequent owner and are enforceable by the City.
Any future Owner of any Parcel, or any successors or assigns of such Owner, will be treated as an Owner for all purposes of this Agreement.

The parties may only assign this Agreement with the consent of all parties hereto, which consent shall not be unreasonably withheld, provided that (a) the Developer may, without the consent of the City, assign all of its rights and obligations under this Agreement (or, if the Parcels are being developed in phases, all of its rights and obligations under this Agreement as they relate to that phase) to an affiliate of the Developer, provided that the Developer delivers to the City a written instrument designating to the City that such assignee has assumed all of the obligations of the Developer under this Agreement (or, if applicable, with respect to a phase of the development of the Parcel) and is entitled to its benefits, which instrument shall describe in reasonable detail how such assignee is affiliated with the Developer (which affiliate shall share at least 50% direct or indirect ownership with the Developer), (b) the Developer may, without the consent of the City, assign its right to receive Service Payments under Section 5 of this Agreement to the holder of any indebtedness incurred by the Developer to pay all or any portion of the Costs of the Public Infrastructure Improvements. Furthermore, nothing in this Agreement prevents an Owner from transferring any or all of its interest in the Parcels to another person or entity, and (c) the Seller may, without the consent of the City, assign all of its rights and obligations under this Agreement to the Developer. This Agreement may only be amended by written instrument executed by all parties to this Agreement. Any consent of the City to be given under this Agreement may be given by the City Manager and must be given in writing.

Section 14. Extent of Covenants; No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this Agreement are effective and enforceable to the extent authorized and permitted by applicable law. The obligations of the City may be enforced to the extent permitted by law by mandamus or any suit or proceeding in law or equity. No such covenant, stipulation, obligation or agreement will be deemed a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of any of the parties hereto in their individual capacity, and neither the members of the Commission nor any City official executing this Agreement, or any individual person executing this Agreement on behalf of the Developer, will be liable personally by reason of the covenants, stipulations, obligations or agreements of the City or the Developer contained in this Agreement. The obligation to perform and observe the agreements contained herein on the part of the Developer shall be binding and enforceable by the City against the Developer with respect to (and only to) the Developer’s interest in its portion of the Parcels and the Improvements, or any parts thereof or any interest therein.

Section 15. Events of Default and Remedies.

A. Any one or more of the following constitutes an “Event of Default” under this Agreement:

(i) The Developer or the City fails to perform or observe any material obligation punctually and as due under this Agreement, provided that if a Force Majeure (as such term is defined below) event causes the failure, the Developer or City may receive an additional period of time as is reasonably necessary to perform or observe the material obligation in
light of the event if it notifies the other of the potential event and the extent of the delay promptly after becoming aware of the event;

(ii) The Developer or the City makes a representation or warranty in this Agreement that is materially false or misleading at the time it is made;

(iii) The Developer files a petition for the appointment of a receiver or a trustee with respect to it or any of its property;

(iv) The Developer makes a general assignment for the benefit of creditors;

(v) A court enters an order for relief pursuant to any Chapter of Title 11 of the U.S. Code, as the same may be amended from time to time, with the Developer as debtor; or;

(vi) The Developer files an insolvency proceeding with respect to itself or any proceeding with respect to itself for compromise, adjustment or other relief under the laws of any country or state relating to the relief of debtors.

As used in this Section, “Force Majeure” means any event that is not within the control of a party or its affiliates, employees, contractors, subcontractors or material suppliers that delays performance of any obligation under this Agreement including, but not limited to, the following acts: acts of God; fires; epidemics; landslides; floods; strikes; lockouts or other industrial disturbances; acts of public enemies; acts or orders of any kind of any governmental authority; insurrections; riots; civil disturbances; arrests; explosions; breakage or malfunctions of or accidents to machinery, transmission pipes or canals; partial or entire failures of utilities; shortages of labor, materials, supplies or transportation; lightning, earthquakes, hurricanes, tornadoes, storms or droughts; periods of unusually inclement weather or excessive precipitation; or orders or restraints of any kind of the government of the United States or of the State (and in the case of a Force Majeure claim by a Developer, the City or any departments, agencies, political subdivisions or officials that are not in response to a violation of law or regulations.

B. General Right to Cure. In the event of any Event of Default in or breach of this Agreement, or any of its terms or conditions, by any party hereto, the defaulting party will, upon written notice from the other, proceed, as soon as reasonably possible, to cure or remedy such Event of Default or breach, and, in any event, within thirty (30) days after receipt of such notice. In the event such Event of Default or breach is of such nature that it cannot be cured or remedied within said thirty (30) day period, then in such event the defaulting party will upon written notice from the other commence its actions to cure or remedy said breach within said thirty (30) day period, and proceed diligently thereafter to cure or remedy said breach.

C. Remedies. If a defaulting party fails to cure any Event of Default pursuant to paragraph (B) of this Section, a party may institute such proceedings against the defaulting party as may be necessary or desirable in its opinion to cure and remedy such default or breach. Such remedies include, but are not limited to: (i) instituting proceedings to compel specific performance by the defaulting party, (ii) suspending or terminating the obligations of the non-defaulting party under this Agreement, provided the aggrieved party must provide thirty (30) days' notice of any termination to the defaulting party and provided further that the aggrieved party must rescind the
termination notice and not terminate the Agreement if the defaulting party cures all Events of Default within a reasonable time thereafter, and (iii) any other rights and remedies available at law, in equity or otherwise to collect all amounts then becoming due or to enforce the performance of any obligation under this Agreement. The obligations of the City may be enforced to the extent permitted by law by mandamus or any suit or proceeding in law or equity.

Section 16. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, said provision will be fully severable. This Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible that is and will be legal, valid and enforceable.

Section 17. Separate Counterparts; Captions. This Agreement may be executed by the parties hereto in one or more counterparts or duplicate signature pages, each of which when so executed and delivered will be an original, with the same force and effect as if all required signatures were contained in a single original instrument. Any one or more of such counterparts or duplicate signature pages may be removed from any one or more original copies of this Agreement and annexed to other counterparts or duplicate signature pages to form a completely executed original instrument. Captions have been provided herein for the convenience of the reader and shall not affect the construction of this Agreement.

Section 18. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the matters covered herein and supersedes prior agreements and understandings between the parties.

Section 19. Governing Law and Choice of Forum. This Agreement will be governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question among the City, its employees, contractors, subcontractors and agents, the Developer, its employees, contractors, subcontractors and agents arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within the County of Montgomery, State of Ohio.

Section 20. Additional Documents. The City, the Developer, and their respective successors, assigns and transferees agree to execute any further agreements, documents, or instruments as may be reasonably necessary to fully effectuate the purpose and intent of this Agreement.

Section 21. Recordation. No later than fifteen (15) days following the execution of this Agreement by each of the Developer and the City the Developer will cause this Agreement, or a memorandum thereof, to be recorded in the Montgomery County, Ohio real property records on each Parcel of the Property. During the term of this Agreement, each Owner will cause all instruments of conveyance of interests in all or any portion of any Parcel to subsequent mortgagees, successors, lessees, assigns, or other transferees to be made expressly subject to this Agreement;
provided, however, that any failure by any Owner to make any such instrument of conveyance expressly subject to this Agreement shall not affect the unconditional and binding nature of this Agreement on each such subsequent mortgagee, successor, lessee, or assign.

Section 22. Legal Fees. At closing, the Developer shall pay to the City's legal counsel, or otherwise directly reimburse the City if it has already paid such legal counsel, an amount not to exceed Twenty-Five Thousand Dollars ($25,000.00) for representing the City in connection with this Agreement, in accordance with a detailed invoice documenting such services provided to the Developer.

[The Remainder of This Page Intentionally Left Blank]
IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed in their respective names by their duly authorized officers or representatives, as of the date hereinabove written.

CITY OF DAYTON, OHIO

__________________________
City Manager

STATE OF OHIO )
 )
COUNTY OF MONTGOMERY ) SS:

BE IT REMEMBERED that on the ___ day of __________________, 2020, before a Notary Public in and for said county personally came the City of Dayton, Ohio, by

__________________________, its __________________, who acknowledged the signing thereof to be its and (his/her) voluntary act and deed. No oath or affirmation was administered.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year first above written.

__________________________
Notary Public

APPROVED AS TO FORM
AND CORRECTNESS:

7/27/2020

X Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia
WILLOW HILLS DEVELOPERS, LTD.

By: [Signature]
Name: George R. Oberer, Jr.
Title: President MANAGER

STATE OF OHIO )
COUNTY OF MONTGOMERY )

The foregoing instrument was signed and acknowledged before me this 2nd day of November, 2020, by George R. Oberer, Manager of Willow Hills Developers, Ltd., an Ohio limited liability corporation, on behalf of the company. No oath or affirmation was administered.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year first above written.

[Notary Public Signature]
Patricia L. Marsh, Notary Public
In and for the State of Ohio
My Commission Expires May 20, 2022
LIBERTY-BRAVO III, LLC

By: ____________________________
Name: Robert J. Perin
Title: Sole Member

STATE OF OHIO

COUNTY OF MONTGOMERY

The foregoing instrument was signed and acknowledged before me this 4th day of
November, 2020, by Robert J. Perin, Sole Member of Liberty-Bravo III, LLC, an
Ohio limited liability corporation, on behalf of the company. No oath or affirmation was
administered.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed
my official seal the day and year first above written.

Notary Public

[Notary Seal]

Lisa C. Gibson, Notary Public
In and for the State of Ohio
My Commission Expires
March 23, 2024

15
FISCAL OFFICER'S CERTIFICATE

As fiscal officer for the City of Dayton, I hereby certify that funds sufficient to meet the obligations of the City in this Agreement have been lawfully appropriated for the purposes thereof and are available in the treasury, and/or are in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. The City has no obligation to make payments pursuant to this Agreement except from Service Payments to be collected for deposit into the TIF Fund, which Service Payments are in the process of collection. No City expenditures will be required in 2020. This certificate is given in compliance with Ohio Revised Code Sections 5705.41 et seq.

Dated: ____________, 2020

__________________________
Director of Finance
City of Dayton,
Montgomery County, Ohio
November 9, 2020

TO: Shelley Dickstein, City Manager

FROM: Ford P. Weber, Director F PW
Department of Economic Development

SUBJECT: TIF Ordinance for Willow Hills Housing Development

The Department of Economic Development, in cooperation with the Department of Planning and Community Development, is requesting adoption of the attached Ordinance establishing a Tax Increment Financing (TIF) District and a corresponding Tax Increment Financing Agreement in connection with the proposed Willow Hills housing development.

The project will be located at 4400 Old Troy Pike in the Mad River Local School District. The developer, Oberer Companies, doing business as Willow Hills Developers, Ltd., is proposing 256 single-family market rate homes on a 101-acre property in partnership with Ryan Homes. The project includes 31 acres of open space and 12.5 acres of new public right-of-way.

The TIF and corresponding Agreement will support the project by providing a 75% abatement of real property taxes on the new improvements for a period of ten (10) years following completion of the project. Service payments (assessments) will be established on each home to reimburse the developer for the cost of public infrastructure associated with the project. Mad River Local School District has been notified of this proposed TIF as required by law.

This TIF is also correlated with the developer’s request for a zoning change as both of these actions are in furtherance of the development of this site. The zoning change associated with this project was approved by the City Commission as PD-175 on November 4, 2020.

The Department of Law has reviewed and approved the Agreement as to form and correctness. If you have any questions, please contact me at extension 3621 or Keith Klein of our staff.

C: Todd Kinskey
Keith Klein

FPW
A RESOLUTION

Authorizing the Submission of the 2019 Action Plan Amendment for CARES Act CV Funding to the U.S. Department of Housing and Urban Development; Authorizing the Acceptance of Grant Awards Under One Community Planning and Development Formula Program from the U.S. Department of Housing and Urban Development on Behalf of the City of Dayton and the Dayton Kettering HOME Consortium; and Declaring an Emergency.

WHEREAS, Local jurisdictions participating in funding under any of the U.S. Department of Housing and Urban Development (HUD) Community Planning and Development formula grant programs must submit a five year Consolidated Plan, prepared in accordance with the requirements of 24 Code of Federal Regulations (CFR), Part 91; and,

WHEREAS, In addition to submitting a Consolidated Plan, local jurisdictions must annually submit to HUD an Action Plan, prepared in accordance with the requirements of 24 CFR Part 91, describing the activities the jurisdiction anticipates undertaking during the next year to address priority needs in terms of goals that are described in it Consolidated Plan; and,

WHEREAS, In response to the COVID-19 global pandemic, the U.S. Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act on March 27, 2020; and,

WHEREAS, The additional HUD formula grant funding provided through the CARES Act must be applied for via an amendment to the 2019 Action Plan; and,

WHEREAS, The City of Dayton is a local jurisdiction that participates in funding under HUD’s formula grant programs; and,

WHEREAS, The City of Dayton expects that its entitlement amount for the third round of the CDBG-CV program will be at least SEVEN HUNDRED FIFTY-THREE THOUSAND FIVE HUNDRED FIFTY-FIVE DOLLARS AND ZERO CENTS ($753,555.00); and,

WHEREAS, Public meetings have been held to obtain the view of citizens likely to be affected by the proposed community development and housing activities and thereby provided such citizens an adequate opportunity to participate in the development of the plans; and,

WHEREAS, The 2019 Action Plan Amendment must be submitted to the U.S. Department of Housing and Urban Development prior to the release of the additional HUD formula grant funding in response to COVID-19, and it is therefore necessary for the immediate protection of the public peace, health, safety and property that this resolution take effect on an early date; now, therefore,

BE IT RESOLVED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That the City Manager or her designee be, and hereby is, authorized and directed on behalf of the City of Dayton to file an amendment to the Citizen Participation Plan and an amendment to the 2019 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 the U.S. Department of Housing and Urban Development.
Development, the third round of the Community Development Block Grant CV Program in the amount of at least SEVEN HUNDRED FIFTY-THREE THOUSAND FIVE HUNDRED FIFTY-FIVE DOLLARS AND ZERO CENTS ($753,555.00).

Section 2. That if the U.S. Department of Housing and Urban Development (HUD) tenders a grant to fund said Programs, the City Manager or his 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 ___________, 2020

Signed by the Mayor ________________, 2020

MAYOR OF THE CITY OF DAYTON, OHIO

ATTEST:

Clerk of Commission

APPROVED AS TO FORM:

City Attorney
# 2019 Action Plan Amendment #4

## Community Planning and Development Resource Summary

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>CDBG</td>
<td>$ 5,761,323</td>
<td>$ 5,761,323</td>
<td>$ 5,761,323</td>
<td>$ 5,761,323</td>
</tr>
<tr>
<td>ESG</td>
<td>$ 485,102</td>
<td>$ 485,102</td>
<td>$ 485,102</td>
<td>$ 485,102</td>
</tr>
<tr>
<td>Dayton/Kettering HOME Consortium</td>
<td>$ 1,430,128</td>
<td>$ 1,430,128</td>
<td>$ 1,430,128</td>
<td>$ 1,430,128</td>
</tr>
<tr>
<td>CDBG-CV Round 1</td>
<td>$ 3,471,659</td>
<td>$ 3,471,659</td>
<td>$ 3,471,659</td>
<td>$ 3,471,659</td>
</tr>
<tr>
<td>ESG-CV Round 1</td>
<td>$ 1,745,634</td>
<td>$ 1,745,634</td>
<td>$ 1,745,634</td>
<td>$ 1,745,634</td>
</tr>
<tr>
<td>ESG-CV Round 2</td>
<td>$ 1,860,397</td>
<td>$ 1,860,397</td>
<td>$ 1,860,397</td>
<td>$ 1,860,397</td>
</tr>
<tr>
<td>2. Prior Years' Program Income NOT previously programmed or reported</td>
<td>2. Prior Years' Program Income NOT previously programmed or reported</td>
<td>2. Prior Years' Program Income NOT previously programmed or reported</td>
<td>2. Prior Years' Program Income NOT previously programmed or reported</td>
<td>2. Prior Years' Program Income NOT previously programmed or reported</td>
</tr>
<tr>
<td>CDBG</td>
<td>$ 0</td>
<td>$ 0</td>
<td>$ 0</td>
<td>$ 0</td>
</tr>
<tr>
<td>ESG</td>
<td>$ 0</td>
<td>$ 0</td>
<td>$ 0</td>
<td>$ 0</td>
</tr>
<tr>
<td>Dayton/Kettering HOME Consortium</td>
<td>$ 0</td>
<td>$ 0</td>
<td>$ 0</td>
<td>$ 0</td>
</tr>
<tr>
<td>CDBG 2016 and 2017</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
</tr>
<tr>
<td>ESG</td>
<td>$ 0</td>
<td>$ 0</td>
<td>$ 0</td>
<td>$ 0</td>
</tr>
<tr>
<td>Dayton/Kettering HOME Consortium</td>
<td>$ 0</td>
<td>$ 0</td>
<td>$ 0</td>
<td>$ 0</td>
</tr>
<tr>
<td>CDBG - City</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
</tr>
<tr>
<td>ESG</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
</tr>
<tr>
<td>Dayton/Kettering HOME Consortium</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
</tr>
<tr>
<td>Total Estimated Program Income</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
<td>$ 238,148</td>
</tr>
<tr>
<td>5. Section 108 Loan Guarantee Funds</td>
<td>$ 0</td>
<td>$ 0</td>
<td>$ 0</td>
<td>$ 0</td>
</tr>
<tr>
<td>Total Funding Source - CDBG</td>
<td>$ 5,974,471</td>
<td>$ 5,974,471</td>
<td>$ 5,974,471</td>
<td>$ 5,974,471</td>
</tr>
<tr>
<td>Total Funding Source - ESG</td>
<td>$ 485,102</td>
<td>$ 485,102</td>
<td>$ 485,102</td>
<td>$ 485,102</td>
</tr>
<tr>
<td>Total Funding Source - HOME</td>
<td>$ 1,455,128</td>
<td>$ 1,455,128</td>
<td>$ 1,455,128</td>
<td>$ 1,455,128</td>
</tr>
<tr>
<td>Total Total Funding Source - CDBG CV</td>
<td>$ 3,471,569</td>
<td>$ 3,471,569</td>
<td>$ 3,471,569</td>
<td>$ 3,471,569</td>
</tr>
<tr>
<td>Total Total Funding Source - ESG CV</td>
<td>$ 4,225,214</td>
<td>$ 4,225,214</td>
<td>$ 4,225,214</td>
<td>$ 4,225,214</td>
</tr>
<tr>
<td>Total - All Funding Sources</td>
<td>$ 14,992,391</td>
<td>$ 14,992,391</td>
<td>$ 14,992,391</td>
<td>$ 14,992,391</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 Anticipated loan repayments from the Small Business Resource Assistance Program (SBRAP) and the Housing Maintenance Opportunities Program.
2. Program income for the HOME program will come from loan repayments from HMOP, recaptured funds from Down Payment Assistance Program, and
3. Program income for the CDBG program will come from loan repayments from the Small Business Resource Assistance Program (SBRAP) and the Housing Maintenance Opportunities Program.

- CDBG Approximately 1% increase from 2018.
- ESG Approximately 4% increase from 2018.
- HOME Approximately 7.5% decrease from 2018.
# 2019 Action Plan Amendment #4
## CDBG Summary

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$5,974,471</td>
<td>$5,974,471</td>
<td>$5,974,471</td>
<td>$5,974,471</td>
<td>$5,974,471</td>
<td>$5,974,471</td>
</tr>
<tr>
<td>Subtotal Planned CDBG CV Funds Allocated</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$3,471,659</td>
<td>$4,225,214</td>
</tr>
<tr>
<td></td>
<td>$5,974,471</td>
<td>$5,974,471</td>
<td>$5,974,471</td>
<td>9,446,130</td>
<td>10,199,685</td>
</tr>
</tbody>
</table>

## Housing Stabilization and Improvement Program
| Housing Inspection/Code Enforcement | 814,000 | 814,000 | 814,000 | 814,000 | 814,000 |
| Con Plan Goal Neighborhood Safety   | 75,000  | -       | -       | -       | -       |
| Nuisance Abatement Program          | 1,735,000 | 1,735,000 | 1,660,000 | 1,660,000 | 1,660,000 |
| PCD Project Delivery Costs - Housing | 40,000 | 40,000 | 40,000 | 40,000 | 40,000 |
| Competitive Projects - Housing      | 165,180 | -       | -       | -       | -       |
| SA CDBG CV - Housing Projects      | -       | -       | -       | 800,000 | 1,000,000 |

## Economic Development Program
| PCD Project Delivery Costs - ED       | 10,000 | 10,000 | 10,000 | 10,000 | 10,000 |
| Competitive Projects - Economic Development | 50,000 | -       | -       | -       | -       |
| SA CDBG CV - Economic Development Projects | -       | -       | -       | 800,000 | 950,000 |

## Public and Social Service Support Program
| PCD Project Delivery Costs - Public & Social Services | 30,000 | 30,000 | 30,000 | 30,000 | 30,000 |
| Competitive Projects - Public & Social Services | 200,000 | -       | -       | -       | -       |
| Tomado Response Efforts                | -       | 490,180 | 490,180 | 490,180 | 490,180 |
| SA CDBG CV - Public Services Projects | -       | -       | -       | 500,000 | 630,171 |

## Infrastructure and Neighborhood Conservation Prog.
| Residential Asphalt Resurfacing         | 850,000 | 850,000 | 925,000 | 925,000 | 925,000 |
| Alley Resurfacing                       | 185,000 | 185,000 | 147,518 | 147,518 | 147,518 |
| ShotSpotter                             | 400,000 | 400,000 | 400,000 | 400,000 | 400,000 |
| Neighborhood Improvement Projects       | 54,766  | 64,766  | 102,248 | 102,248 | 102,248 |
| PCD Project Delivery Costs - Infrastructure | 35,000 | 35,000 | 35,000 | 35,000 | 35,000 |
| SA CDBG CV - Infrastructure Projects   | -       | -       | -       | 677,372 | 800,000 |

## Community Planning
| Planning Services                       | 230,000 | 230,000 | 230,000 | 230,000 | 230,000 |

## Grant Program Administration and Compliance
| Division of Community Development - Grants Administration | 704,000 | 704,000 | 704,000 | 1,389,332 | 1,549,043 |
| Indirect Costs                                      | 173,377 | 173,377 | 173,377 | 173,377 | 173,377 |
| Section 3 Coordinator (Part-Time)                   | -       | -       | -       | -       | -       |
| Fair Housing Testing                                 | -       | -       | -       | -       | -       |

Reprogrammed

## Key Amendment
- Substantial Amendment
- Operating Program

---

**10/1/2020**

2019 Amendment #4 Resource Allocation Summary

Page 2
# 2019 Action Plan Amendment #4

## ESG Summary

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subtotal Planned ESG Funds Allocated</strong></td>
<td>$ 485,102</td>
<td>$ 485,102</td>
<td>$ 485,102</td>
<td>$ 4,091,133</td>
<td>$ 4,091,133</td>
</tr>
<tr>
<td><strong>Operating Support for Area Shelters</strong></td>
<td>$ 291,061</td>
<td>$ 291,061</td>
<td>$ 291,061</td>
<td>$ 291,061</td>
<td>$ 291,061</td>
</tr>
<tr>
<td><strong>Prevention, Diversion, and Rapid Re-housing Program</strong></td>
<td>$ 194,041</td>
<td>$ 194,041</td>
<td>$ 194,041</td>
<td>$ 194,041</td>
<td>$ 194,041</td>
</tr>
<tr>
<td><strong>ESG CV Programs</strong></td>
<td></td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 3,606,031</td>
</tr>
</tbody>
</table>
## 2019 Action Plan Amendment #4
### HOME Summary

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total HOME Funds Allocated</td>
<td>$1,455,128</td>
<td>$1,455,128</td>
<td>$1,455,128</td>
<td>$1,455,128</td>
<td>$1,455,128</td>
</tr>
<tr>
<td>CITY OF DAYTON SUBTOTAL</td>
<td>$1,305,128</td>
<td>$1,305,128</td>
<td>$1,305,128</td>
<td>$1,305,128</td>
<td>$1,305,128</td>
</tr>
<tr>
<td>City Administration</td>
<td>143,012</td>
<td>143,012</td>
<td>143,012</td>
<td>143,012</td>
<td>143,012</td>
</tr>
<tr>
<td>CHDO</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City Homebuyer Programs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Homeowner Rehabilitation Projects</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rental Projects</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development Projects</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CHDO Set-Aside</td>
<td>214,519</td>
<td>214,519</td>
<td>214,519</td>
<td>214,519</td>
<td>214,519</td>
</tr>
<tr>
<td>New Construction</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Competitive Process</td>
<td>947,597</td>
<td>947,597</td>
<td>947,597</td>
<td>947,597</td>
<td>947,597</td>
</tr>
<tr>
<td>CITY OF KETTERING SUBTOTAL</td>
<td>$150,000</td>
<td>$150,000</td>
<td>$150,000</td>
<td>$150,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>Kettering Owner-Occupied Rehabilitation</td>
<td>50,000</td>
<td>50,000</td>
<td>50,000</td>
<td>50,000</td>
<td>50,000</td>
</tr>
<tr>
<td>Kettering Owner-Occupied New Construction</td>
<td>50,000</td>
<td>50,000</td>
<td>50,000</td>
<td>50,000</td>
<td>50,000</td>
</tr>
<tr>
<td>Kettering Down Payment Assistance</td>
<td>50,000</td>
<td>50,000</td>
<td>50,000</td>
<td>50,000</td>
<td>50,000</td>
</tr>
</tbody>
</table>

### KEY
- A: Amendment
- SA: Substantial Amendment
- CHDO: Certified CHDO

### NOTES
- CHDO Set-Aside
- Required Set-Aside
November 5, 2020

TO: Shelley Dickstein, City Manager
    City Manager’s Office

FROM: Todd M. Kinskey, Director
       Department of Planning and Community Development

SUBJECT: Emergency Resolution Authorizing Submission of the 2019 Action Plan Amendment #4 and Acceptance of CDBG-CV Funding

Attached for your review and placement on the November 18, 2020, City Commission Calendar is an Emergency Resolution authorizing the submission of the 2019 Action Plan Amendment #4 and the acceptance of the third round of CDBG-CV funding pertaining to the COVID-19 pandemic.

The previous amendments to the 2019 Action Plan were submitted in July and were approved by HUD. The additional amendment to the 2019 Action Plan Resource Allocation Summary for CDBG, HOME, and ESG is attached.

Due to the time sensitive nature of the 2019 Action Plan Amendment submission, we are requesting an emergency measure with two readings at the November 18, 2020, City Commission Meeting.

If there are questions, please contact Sarah Geist, Community Development Grant Administrator, at extension 3814.

Thank you.

TMK/sag
Attachments
A RESOLUTION


WHEREAS, The Coronavirus Aid, Relief, and Economic Security Act, 116 Public Law 136, ("CARES Act") was signed into law by the President of the United States on March 27, 2020; and,

WHEREAS, The 133rd Ohio General Assembly ("General Assembly") established a process for distributing funds provided by the “Coronavirus Aid, Relief, and Economic Security Act” to local government “subdivisions”; and,

WHEREAS, The General Assembly required subdivisions receiving funds under Section 1 of the CARES Act, to pass a resolution affirming that funds from the County Coronavirus Relief Distribution Fund may be expended only to cover costs of the political subdivision consistent with the requirements of Section 5001 of the CARES Act as described in 42 U.S.C. 801(d), and any applicable regulations before receiving said funds; and,

WHEREAS, On June 24, 2020 this Commission adopted Resolution Number 6513-20 and affirmed that all funds received from the Montgomery County Coronavirus Relief Distribution Fund be expended only to cover costs of the City of Dayton consistent with the requirements of Section 5001 of the CARES Act as described in 42 U.S.C. 801(d); and,

WHEREAS, The Ohio Office of Budget and Management ("OBM"), in its Guidance & Frequently Asked Questions, updated August 28, 2020 (“OBM Guidance”) directed local government subdivisions to “evaluate all proposed expenditures based on guidance contained within the U.S. Department of Treasury Guidance and Coronavirus Relief Fund Frequently Asked Questions”; and,

WHEREAS, The OBM Guidance further advised that “it is presumed for administrative convenience that personnel costs related to [public safety] are substantially dedicated” for purposes of the CARES Act unless the chief executive of the entity receiving the funds determines otherwise; and,

WHEREAS, The United States Department of the Treasury ("Treasury"), in its Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments, dated September 2, 2020 (“Treasury Guidance”) advised that “[p]ayroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency” are eligible expenditures of CARES Act funds; and,

WHEREAS, The Treasury Guidance further advised that local governments subdivisions may presume that “public health and public safety employees meet the substantially dedicated test, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise. This means that, if
this presumption applies, work performed by such employees is considered to be a substantially different use than accounted for in the most recently approved budget as of March 27, 2020. All costs of such employees may be covered using payments from the Fund for services provided during the period that begins on March 1, 2020, and ends on December 30, 2020”; and,

WHEREAS, The Treasury Guidance further advised that “public safety employees” include “police officers (including state police officers), sheriffs and deputy sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel”; and,

WHEREAS, For the immediate preservation of the public peace, property, health and safety, it is necessary that this Resolution take effect immediately; now, therefore,

BE IT RESOLVED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. In reliance on the Treasury Guidance and OBM Guidance and having examined the circumstances of the City of Dayton, this Commission finds and determines that the Treasury presumption that City of Dayton public safety employees meet the substantially dedicated test applies and no specific circumstances rebut such presumption. This Commission further finds and determines that the following City of Dayton public safety positions are substantially dedicated to mitigating or responding to the COVID-19 public health emergency:

(1) Fire Department
   a) All Fire Lieutenants and Fire Lieutenants Paramedics
   b) All Firefighter Paramedics & all Firefighters (including 48 hour and 40 hour shifts)
   c) All Paramedics
   d) All EMT-Bs
   e) All other staff associated with or responsible for addressing the COVID-19 public health emergency

(2) Police Department
   a) The COVID-19 TRU Unit
   b) All staff associated with or responsible for the emergency and special operations (including, but not limited to, emergency operations, decontamination activities, and COVID-19 response, treat, and transport crew)

Section 2. In reliance on the Treasury Guidance and OBM Guidance and having examined the circumstances of the City of Dayton, this Commission finds and determines that the administrative hours of the necessary dedicated staff required to procure goods or services, administer CARES LCRF funding, and ensure compliance meet the substantially dedicated test as applied by Treasury Guidance and OBM Guidance without rebuttal.

Section 3. That this Commission finds and determines that the current and future distributions of the CARES Act funds to the City of Dayton may be expended to cover the
payroll and benefits of the public safety positions and administrative functions listed in Section 1 and Section 2 above. Eligible payroll and benefits expenditures will be in an amount not to exceed Fifteen Million Dollars and Zero Cents ($15,000,000.00).

Section 4. For the reason set forth in the preamble hereof, the Commission declares this Resolution to be an emergency measure which shall take effect immediately upon its passage.

ADOPTED BY THE COMMISSION............... 2020

SIGNED BY THE MAYOR.......................... 2020

________________________
Mayor of the City of Dayton, Ohio

Attest:

________________________
Clerk of the Commission

Approved as to form:

________________________
City Attorney
November 11, 2020

TO: Shelley Dickstein, City Manager
FROM: Monica Jones, Assistant to the City Manager

SUBJECT: Resolution for Eligible CARES Personnel Expenses

As the City received a second and third iteration of CARES Local Coronavirus Relief Funds (LCRF), the strategy to identify the best and most appropriate eligible expenses and uses continued to evolve. The necessity to continue to evaluate and adjust the spending strategy for these funds was exacerbated by changing legislative requirements and shifting guidance documents at both the Federal and State level. The CARES team, in collaboration with our Internal Auditor and consultant, Guidehouse, is recommending the passage of a Resolution that will address recent changes in guidance from both U.S. Treasury and Ohio Auditor of State.

The U.S. Treasury’s Guidance stipulates governments may presume that public health and public safety employees meet the substantially dedicated test for administrative convenience, unless the chief executive of the relevant government determines that specific circumstances indicate otherwise. Ohio Office of Budget and Management (OBM) continues to recommend the local government Chief Executive Official declare a proclamation in some manner and document the individuals or job positions with the specific duties that meet the substantially dedicated criteria.

In the updated guidance issued by the Ohio Auditor of State on November 5th, Q&A number 16 addresses encumbering items such as payroll. Specifically, the FAQ stipulates:

“If the accounting system does not permit establishment of a PO for a direct charge, entities should work with their legal counsel and consider whether having the governing board pass an ordinance or resolution to effectively encumber such charges is a viable option to legally encumber CRF direct charges.”

The attached Resolution identifies those public safety personnel that are working on the front lines of the pandemic, providing the most public health related services to our community. Additionally, the Resolution identifies that these eligible personnel costs encompass an estimated $15M and seeks to use any current, additional or remaining CARES LCRF funds to cover these expenses, including but not limited to, any funds we receive as part of the redistribution process.

If you have any questions, I can be available at your convenience.

Attachment: Resolution
CC: J. Parlette, L. Lofton, D. Shannon