CITY COMMISSION MEETING AGENDA

CITY COMMISSION MEETING AGENDA

CITY COMMISSION
DAYTON, OHIO
NOVEMBER 24, 2021
8:30 A.M.

I. AGENDA SCHEDULE

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

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

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

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

1. Purchase Orders:

   POLICE
   A1. Peak Credibility Assessment Training Center- (two Lafayette polygraph equipment systems with accessories) $18,952.00
1. (Cont’d):

**PUBLIC WORKS**

**B1. Airmark Uniform & Career Apparel Group** (work uniforms rental and related services as needed through 12/31/21)  $4,000.00

**B2. Trugreen Chemlawn dba Leisure Lawn** (commercial ground maintenance services as needed through 12/31/24)  $248,700.00

-Department of Police and Public Works  **Total: $271,652.00**

2. **Homefull – Service Agreement** – Community Development Block Grant Subrecipient Agreement to administer the West Dayton Food and Jobs Program - Department of Planning, Neighborhoods and Development.  $200,000.00 (Thru 12/31/22)

3. **Optica Consulting, Inc. – Service Agreement** – one-year renewal agreement to provide crime and data analysis, criminal information system support, hot spot identification, to reduce gun violence and support for Problem-Oriented Policing – Department of Police  $271,008.00 (Thru 12/31/22)

4. **Optica Consulting, Inc. – Service Agreement** – one-year renewal agreement to provide analysis, review and redaction services to videos recorded from video recorders, body work cameras and other audio/video recording devices - Department of Police  $142,848.00 (Thru 12/31/22)

5. **Vertex Data Utility Services, LLC. – Contract Modification** – fourth amendment and extension to provide utility bill printing and mailing services, online portal management and payment services via PayDaytonWater.com, other expanded e-solutions and access to retail payment sites for cash payments - Department of Finance  $218,000.00 (Thru 10/31/22)

E. **Other – Contributions, Etc.:**

**BY THE BOARD OF REVISION OF ASSESSMENTS**

6. In the Matter of Declaring the Intention of the Commission To Vacate Jackson Boulevard, Milwaukee Avenue, Windsor Street, Leeland Street, Florida Avenue, St. Clair Avenue, Island Park Avenue, Boden Street and associated alleys within the Grounds of Carillion Historical Park.
Ordinances – Second Reading

7. No. 31938-21 Amending Section 95.24 of the Revised Code of General Ordinances.

8. No. 31939-21 To Vacate Jackson Boulevard, Milwaukee Avenue, Windsor Street, Leeland Street, Florida Avenue, St. Clair Avenue, Island Park Avenue, Boden Street and associated alleys within the Grounds of Carillon Historical Park.

V. PLANNING ACTION

A. PUBLIC HEARING:

Case: PLN2021-00357 Rezone 1.094 +/- acres for the property located at 2532 E. Third Street, Dayton OH 45403 from T (Transitional) to MNC (Mature Neighborhood Commercial). Per the application submitted, the property would continue to be utilized as a retail store (Rite Aid). This property is identified via parcels: R72 04510 0001, R72 04510 0002, R72 04510 0081, R72 04510 0082, R72 04510 0003, R72 04510 0004, R72 04510 0005, R72 04510 0090, R72 04510 0006, and R72 04510 0007 per the Montgomery County Auditor.

VI. MISCELLANEOUS:

ORDINANCE NO. 31942-21

RESOLUTION NO. 6622-21

IMPROVEMENT RESOLUTION NO. 3599-21

INFORMAL RESOLUTION NO. 994-21
### Police

**P0211280 – PEAK CREDIBILITY ASSESSMENT TRAINING CENTER, LAFAYETTE, IN**

- Two (2) Lafayette polygraph equipment systems with accessories.
- These goods are required for criminal investigations and the department’s recruitment selection process.
- Peak Credibility Assessment Training Center is recommended based upon proven past performance and to ensure continuity of service; therefore, this purchase was negotiated.
- The Department of Police recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6210-1411-71</td>
<td>$18,952.00</td>
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**Signatures/Approval**

*Approved by City Commission*

<table>
<thead>
<tr>
<th>Clerk</th>
<th>Date</th>
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<tbody>
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*Updated 06/2016*
PUBLIC WORKS – PROPERTY MANAGEMENT

(B1) P0210195 – ARAMARK UNIFORM & CAREER APPAREL GROUP, DAYTON, OH

- Work uniforms rental and related services as needed through 12/31/2021.
- These goods and services are required to provide work uniforms.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 14010K with pricing extended through 12/31/2021.
- Aramark Uniform & Career Apparel Group qualifies as a Dayton local vendor.
- This amendment increases the previously authorized amount of $9,000.00 by $4,000.00 for a total not to exceed $13,000.00 and therefore requires City Commission approval.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
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PUBLIC WORKS – STREET MAINTENANCE

(B2) P0211274 – TRUGREEN CHEMLAWN dba LEISURE LAWN, WEST CARROLLTON, OH

- Commercial ground maintenance services as needed through 12/31/2021.
- These services are required to maintain City-owned properties.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 21014D with pricing through 3/31/2024.
- The Department of Public Works requests additional authority of $185,000.00 through 3/31/2024.
- The Department of Public Works recommends approval of this order.

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<thead>
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<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<td>2024</td>
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<td>$35,000.00</td>
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The aforementioned departments recommend approval of this order.
City Manager’s Report

From 2390 - Planning, Neighborhoods & Development
Supplier, Vendor, Company, Individual
Homefull
Address 2621 Dryden Road, Suite 302 Moraine, Ohio 45439

Date November 24, 2021
Expense Type Service Agreement
Total Amount $200,000.00 (thru 12/31/2022)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tbody>
<tr>
<td>Community Development Block Grant (CDBG)</td>
<td>26301-2390-1159-31-PL1988</td>
<td>200,000.00</td>
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</tbody>
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Includes Revenue to the City Yes ☑ No ☐
Affirmative Action Program Yes ☑ No ☐ N/A

Description

COMMUNITY DEVELOPMENT BLOCK GRANT SUBRECIPIENT AGREEMENT HOMEFULL

The Department of Planning, Neighborhoods, and Development requests approval to enter into an Agreement with Homefull in the amount of $200,000.00, to administer the West Dayton Food and Jobs Program. These funds will provide job training and workforce development programming within an urban farm environment. The West Dayton Food and Jobs Program will expand the creation and operation of community and school-based urban gardens throughout West Dayton while providing job training to 20 low- to moderate-income (LMI) participants at or below 80% of the Area Median Income (AMI). This program will support the creation or retention of jobs for approximately 7-10 LMI individuals in the City of Dayton.

This agreement shall commence upon execution by the City and it shall expire December 31, 2022. This agreement is funded with 2020 and 2021 Community Development Block Grant (CDBG) funding.

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

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

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 10/2019
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

Renewal Contract

Change Order

Contract Start Date
Expiration Date
12/31/22

Original Commission Approval
$ 200,000.00

Initial Encumbrance
$ 200,000.00

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

Copy of City Manager's Report

Copy of Original Certificate of Funds

Amount: $ 200,000.00

Fund Code 26301 2390 1159 31 PL1988 XXXX

Attach additional pages for more FOAPALs

Vendor Name: Homefull

Vendor Address: 2621 Dryden Road, Suite 302 Moraine OH 45439

Street City State Zip code + 4

Federal ID: 311236989

Commodity Code: 96199

Purpose:
Homefull will provide job training and workforce development programming through the expansion of community and school-based urban gardens throughout West Dayton.

Contact Person: Ashley Hatton X3696 Planning, Neighborhoods, & Developme Department/Division 11/12/2021

Date

Originating Department Director's Signature: 

SECTION II - to be completed by the Finance Department

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

Finance Director Signature

Date

CF Prepared by

Date

Finance Department

October 18, 2011
"Homefull - WDFJ - CMR & CF" History

Document created by Ashley Hatton (ashley.hatton@daytonohio.gov)
2021-11-12 - 3:30:59 PM GMT - IP address: 198.30.33.2

Document emailed to Todd Kinskey (todd.kinskey@daytonohio.gov) for signature
2021-11-12 - 3:32:07 PM GMT

Email viewed by Todd Kinskey (todd.kinskey@daytonohio.gov)
2021-11-12 - 6:13:00 PM GMT - IP address: 198.30.33.2

Document e-signed by Todd Kinskey (todd.kinskey@daytonohio.gov)
Signature Date: 2021-11-12 - 6:13:40 PM GMT - Time Source: server - IP address: 198.30.33.2

Agreement completed.
2021-11-12 - 6:13:40 PM GMT
CDBG SUBRECIPIENT AGREEMENT
WEST DAYTON FOOD AND JOBS PROGRAM
CFDA 14.218

THIS AGREEMENT, entered into this __________ day of ____________________, 2021, is
between the CITY OF DAYTON OHIO, a municipal corporation in and of the State of Ohio
(hereinafter referred to as “City”), and HOMEFULL, a not-for-profit corporation organized under
the laws of the State of Ohio (hereinafter called “Subrecipient”).

WITNESSETH, THAT:

WHEREAS, the City is a grantee of funds from the United States Department of Housing and
Urban Development, hereinafter referred to as “HUD,” under Title I of the Housing and Community
Development Act of 1974, as amended, Public Law 93-383, responsible for the development,
implementation, administration, and evaluation of HUD’s Community Development Block Grant,
hereinafter referred to as “CDBG,” Program in Dayton; and

WHEREAS, CDBG requires assisted activities to meet at least one of its national objectives, as
defined in 24 Code of Federal Regulations (“CFR”), Part 570.208, and the program set forth herein aims
to benefit low/moderate income persons; and

WHEREAS, the City has delegated to the Subrecipient the responsibility of rendering workforce
training and development through the provisions of the CDBG program; and

WHEREAS, the parties desire to enter into this Agreement to assist the Subrecipient with
operating funds to assist with job creation and retention for low- to moderate-income households; and

WHEREAS, the Subrecipient possesses statutory authority and management capability necessary
to assist the City in the execution of its responsibilities as a CDBG grantee and has been determined by
the City to be the most appropriate party to assume the primary administration of the activity described
herein as “West Dayton Food and Jobs Program” under the CDBG program in the 2020 and 2021 Action
Plans for the City of Dayton and Dayton-Kettering HOME Consortium, Grant Numbers B-20-MC-39-
0010 and B-21-MC-39-0010; and

NOW, THEREFORE, for the consideration of the mutual promises hereinafter set forth, City
and Subrecipient agree as follows:

ARTICLE 1.  DEFINITIONS

A. “Program Funds” shall mean any funds disbursed to the Subrecipient by the City from the CDBG
Program under this agreement.
B. “Program Income” is income received by the Subrecipient directly generated from the use of
CDBG funds.
C. “CDBG Program Funds” shall mean funding received by the City from HUD under the City of
Dayton’s CDBG Program.
D. “Contract Period” shall mean the effective date of this agreement and time given for performance.
E. “Project Activity” shall mean the activity therein described in Exhibit A of this Agreement.
F. “Moderate, Low, and Very Low Income” shall mean 80% or less, 50% or less, and 30% or less –
respectively – of the area median income as defined by HUD for the current Agreement period.
ARTICLE 2. PURPOSE

The purpose of this Agreement is to provide funding for project activities approved by the City under the CDBG Program for Program Years 2020 and 2021 as described in Exhibit A – Scope of Services. Project accomplishments will be reported in the 2021 and 2022 Consolidated Annual Performance Evaluation Reports (CAPERs). Project activities, tasks, and budget are included in Exhibits B – Program Budget, C – CDBG Program Monitoring Schedule, D – Monthly and Cumulative Reports, and E – CDBG Sample Timesheet and Activity Log.

All activities authorized by this Agreement will be performed in accordance with the goals and objectives set forth in Exhibit A – Scope of Services, the budget set forth in Exhibit B – Program Budget, the monitoring scheduling set forth in Exhibit C – CDBG Program Monitoring Schedule, and the conditions, assurances, and requirements set forth in the HUD CDBG Program regulations as detailed in Exhibit A. Subrecipient further agrees that it will notify the City prior to undertaking any activity or authorizing any expenditure that is not clearly consistent with the terms of this Agreement and its appendices and/or with the conditions, assurances, and requirements of the HUD CDBG Program and that no such activity or expenditure of a questionable nature shall be authorized without prior approval of the City.

ARTICLE 3. SCOPE OF SERVICES

Subrecipient shall provide the work and services, in a manner satisfactory to the City consistent with any standards required as a condition of providing these funds. Subrecipient hereby agrees to use CDBG funds made available to the West Dayton Food and Jobs Program for the purpose fully described in Exhibit A - Scope of Services, which is attached hereto and incorporated herein.

ARTICLE 4. TERM OF AGREEMENT

This Agreement shall commence upon execution by the City, and shall be undertaken and completed in such sequence as to assure its expeditious completion of light of the purposes of this Agreement; but in any event, all of the work and services required herein shall be completed and this Agreement shall terminate on December 31, 2022.

ARTICLE 5. GRANT OF FUNDS AND PAYMENT

The City shall make available to Subrecipient the City’s 2020 and 2021 CDBG funds, in the amount of TWO HUNDRED THOUSAND DOLLARS AND ZERO CENTS ($200,000.00) for the work and services to be provided by Subrecipient for the Program, pursuant to this Agreement. Draws for the payment of eligible expenses shall be made against the line item budgets specified in Exhibit B – Program Budget, which is attached hereto and incorporated herein, and in accordance with performance. Expenses for general administration shall also be paid against the line item budget specified in Exhibit B and in accordance with performance. Any indirect costs charged must be consistent with the conditions of Article 8 (C) (2) - of this Agreement. Any amendments to the budget must be approved in writing by both the City and Subrecipient.

Expenditures between November 1, 2021 and December 31, 2022, are eligible for reimbursement. Payments may be contingent upon certification of Subrecipient’s financial management system in accordance with the standards specified in 2 CFR Part 200, Subparts D & E.

ARTICLE 6. GENERAL CONDITIONS

A. Compliance

1. Subrecipient agrees that the HUD regulations set forth in 24 CFR Part 570 and 2 CFR Part 200 are applicable to the grant funds it receives pursuant to this Agreement.
2. Subrecipient agrees that the work and services authorized by this Agreement shall be performed in accordance with any and all applicable local, state, and federal regulations, directives, or guidelines.

3. Subrecipient agrees to prohibit the use of federal funds for lobbying in compliance with the following:

   (a) No federal appropriated funds have been paid or will be paid, by or on behalf of Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

   (b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this federal agreement, grant, loan or cooperative agreement, Subrecipient shall notify the City, and complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

4. Subrecipient shall include the requirements of this Subsection A in award documents for all sub-awards at all times (including sub-contracts, subgrants, and Agreements) and require that all sub-award recipients disclose the same accordingly.

B. "Independent Contractor"

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

Consultant, its employees and any person retained or hired by Consultant to perform duties and responsibilities under this Agreement are not the City employees, and therefore, such persons will not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Further, Consultant will be responsible to withhold and pay, or cause such agents, contractors and subcontractors to withhold and pay, all applicable local, state and federal taxes. Consultant further acknowledges and agrees that none of its employees are public employees for the purpose of membership and/or participation in the Ohio Public Employees Retirement System (OPERS).

C. Indemnification

Subrecipient agrees to defend, indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against legal liability for all claims, losses, damages, and expenses (including reasonable attorneys’ fees) 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 Subrecipient or its employees, agents, Subrecipient(s), subcontractor(s), and representatives. Further, in the event that Subrecipient violates any CDBG rule, regulation, grant requirement or law governing the use and expenditure of CDBG funds, Subrecipient shall assume full and complete responsibility for said violation(s), including payment of the penalty imposed or re-payment of improperly expended funds, and shall defend, indemnify and hold harmless the City, its elected officials, officers, agents, and employees.

D. **Workers’ Compensation**

Subrecipient shall provide Workers’ Compensation Insurance Coverage for all its employees’ invoices in the performance of this Agreement.

E. **Insurance and Bonding**

Subrecipient shall carry sufficient insurance coverage to protect Agreement assets from loss due to theft, fraud and/or undue physical damage, and, at a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to at least **TWO HUNDRED THOUSAND DOLLARS AND ZERO CENTS ($200,000.00)**. Subrecipient shall comply with the bonding and insurance requirements of 2 CFR Part 200, Subpart D.

F. **Grantor Recognition**

Subrecipient shall ensure recognition of the grantor agency in providing services through this Agreement. All activities, facilities, and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, Subrecipient will include a reference to the support provided in all publications made possible with funds made available under this Agreement.

G. **Amendments**

The City or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, are executed in writing, signed by a duly authorized representative for each party, approved by City’s Director of the Department of Planning, Neighborhoods, and Development or designee, and, if applicable or required, approved by the City Manager and the Commission of the City of Dayton. Such amendments shall not invalidate this Agreement, nor relieve or release the City or Subrecipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with federal, state, or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City and Subrecipient.

H. **Suspension or Termination**

In accordance with 2 CFR 200.338-200.342, the City may suspend or terminate this Agreement if Subrecipient materially fails to comply with any terms of this Agreement, which include (but are not limited to,) the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein,
or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;

2. Failure, for any reason, of Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;

3. Ineffective or improper use of funds provided under this Agreement;

4. Submission by Subrecipient to the City reports that are incorrect or incomplete in any material respect.

In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the City or Subrecipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the City determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the City may terminate the award in its entirety.

I. Political Contributions

Subrecipient affirms and certifies that it is in compliance with Ohio Revised Code §3517.13 limiting political contributions.

ARTICLE 7. CONTACTS

All communications or notices required or permitted under this Agreement, including invoices for payment, shall be sufficient if sent to the City or Subrecipient by first class U. S. Mail, postage pre-paid, and addressed as follows:

To City: City of Dayton, Ohio
Department of Planning, Neighborhoods, and Development
101 West Third Street
Dayton, Ohio 45402
Attn: Ashley Hatton
(937) 333-3696
Ashley.Hatton@daytonohio.gov

To Subrecipient: Homefull
2621 Dryden Road, Suite 302
Moraine, OH 45439
Attn: Tina Patterson
(937) 262-4622
tinap@homefull.org

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

ARTICLE 8. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

Subrecipient agrees to comply with 2 CFR Part 200 Subparts, D and E, as applicable, and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
2. Cost Principles

Subrecipient shall administer its program in conformance with 2 CFR Part 200 Subparts, D and E, as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

3. Financial Records

a. The City may require quarterly reports of all cash receipts, including Program Income, from all sources and disposition thereof, and such other financial statements, as the City deems appropriate. Quarterly reports and financial statements may continue to be required after termination of this Agreement until the collected Program Income has been expended.

b. All costs and expenditures shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to this Agreement and shall be clearly identified and readily accessible to the City.

B. Documentation and Record Keeping

1. Records to be Maintained

Subrecipient shall maintain all records required by the federal regulations specified in 2 CFR Part 200 and 24 CFR 570.506, which are pertinent to the services and activities to be funded under this Agreement. Such records shall include, but not be limited to:

a. Records providing a full description of each activity undertaken;

b. Records providing a full description and reporting of all accomplishments by Homefull between November 1, 2021 and December 31, 2022, regardless of program.

c. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

d. Records required to determine the eligibility of activities;

e. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

f. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

g. Financial records are required by 24 CFR 570.502, and 2 CFR Part 200; and

h. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Client Data

Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, race and ethnicity, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

3. Retention of Records and Documentation

Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four (4) years. The retention period begins on the date of the submission of the City’s Annual Performance
and Evaluation Report to HUD in which the activities assisted under the Agreement are reported on for the final time.

Within thirty (30) days of the expiration or conclusion of the Agreement, the Subrecipient shall provide the City with full and complete copies of all project files and records associated with the Agreement. Additionally, copies of all files and records pertaining to federal funding contracted through the City shall be provided to the City should the Subrecipient cease operations.

Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

4. Disclosure

Subrecipient understands that applicant information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of City's or Subrecipient's responsibilities with respect to work or services to be provided under this Agreement, is prohibited by federal law, unless written consent is obtained from such person receiving service, and in the case of a minor, that of a responsible parent/guardian or otherwise required by law or court order.

5. Close-Outs

Subrecipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, Program Income balances, and accounts receivable to City), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that Subrecipient has control over CDBG funds, including Program Income.

6. Audits, Monitoring, and Evaluation

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to City or the Federal Government, or their designees or agents, at any time during normal business hours, as often as City or Federal Government deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data and records. Any deficiencies noted in audit reports must be fully cleared by Subrecipient within thirty (30) days after notice thereof. Failure of Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. Subrecipient hereby agrees to have an annual audit conducted in accordance with current City policy concerning subrecipient audits. Subrecipient shall also comply with 2 CFR Part 200, Subpart F. Upon completion, such audits shall be made available for public inspection.

Subrecipient shall allow City to conduct on-site monitoring, tests, and inspections at such time as proposed in a written notification requesting a monitoring visit. Subrecipient shall provide to City such statements, records, reports, and other information as City may request at the time of scheduled monitoring visits and in such format and detail, as City shall specify.
7. **Property Records**

Subrecipient shall maintain, as may be applicable, real property inventory records, which clearly identify properties purchased, improved, or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the “changes in use” restrictions specified in 24 CFR 560.503 (b) (8) and 2 CFR Part 200, as applicable.

C. **Reporting Procedures**

1. **Program Income**

Subrecipient shall report no less than quarterly all “Program Income,” as defined at 24 CFR Part 570.500(a), generated by activities carried out with CDBG funds made available under this Agreement. The use of Program Income by Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, Subrecipient may use such Program Income during the Agreement term for activities permitted under this Agreement, and shall reduce requests for additional funds by the amount of any such Program Income balance on-hand. All unused Program Income shall be returned to City at the end of the term of this Agreement. Any interest earned on cash advances from the City or from funds maintained in revolving loan accounts are not Program Income and shall be remitted promptly to City.

2. **Indirect Costs**

If indirect costs are charged, subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient’s share of administrative cost in accordance with 2 CFR Part 200 and shall submit such plan to the City for approval, in a form specified by the City.

3. **Payment Procedures**

The City will pay to Subrecipient funds available under this Agreement based upon supplemental documents submitted by Subrecipient (See Exhibit A) and consistent with any approved budget (See Exhibit B) and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and Program Income balances available in Subrecipient accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of Subrecipient.

4. **Progress Reports**

Subrecipient shall submit regular Progress Reports to City in the form, content, and frequency, as required by City and specified in Exhibit A – Scope of Services.

D. **Procurement**

1. **Compliance**

Subrecipient shall comply with current City policies concerning the purchase of equipment, goods, services, and shall maintain inventory records of all non-expendable
personal property, as defined by such City policies as may be procured with the CDBG funds provided herein. All program assets (unexpended Program Income, property, equipment, etc.) shall revert to City upon termination or expiration of this Agreement.

Subrecipient shall procure all materials, property, or services in accordance with the requirements of 2 CFR 200, Subpart D, Procurement, and shall subsequently follow Property Management Standards as modified by 2 CFR 200, Subpart D, covering utilization and disposal of property.

2. **OMB Standards**

Unless specified otherwise within this agreement, Subrecipient shall procure all materials, property, or services in accordance with the requirements of 2 CFR 200.317-200.326.

3. **Travel**

Subrecipient shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this Agreement.

E. **Use and Reversion of Assets**

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, 570.504, and 570.505, as applicable, which include but are not limited to the following:

1. Subrecipient shall transfer to the City any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under Subrecipient’s control that was acquired or improved, in whole or in part, with funds under this Agreement shall be used to meet one of the CDBG National Objectives pursuant to 2 CFR 200.310-200.316 until five (5) years after expiration of this Agreement. If Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, Subrecipient shall pay the City an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute Program Income to the City. Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the five (5) year period.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be Program Income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by subrecipient for activities under this Agreement shall be (a) transferred to the City for the CDBG program or (b) retained after compensating the City an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment.
ARTICLE 9. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

Subrecipient agrees to comply with all local and state civil rights statutes, rules, regulations and ordinances, and with Title VI of the Civil Rights Act of 1964, as amended, Title VIII of the Civil Rights Act of 1968, as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246, as amended by Executive Orders 11375, 11478, 12107, and 12086.

2. Nondiscrimination

Subrecipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 270.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

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

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

3. Land Covenants

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

Subrecipient shall comply with any federal regulations or orders issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which
prohibits discrimination against the disabled in any federally assisted program. The City shall provide Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. **Affirmative Action**

1. **Approved Plan**

Subrecipient agrees that it shall be committed to carry out, pursuant to the City's specifications, an Affirmative Action Program keeping with the principles provided in the President's Executive Order 11246 of September 24, 1966. The City shall provide Affirmative Action guidelines to Subrecipient to assist in the formulation of such program. Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the award of funds. Subrecipient must also submit the proper letter of certification from the Dayton Human Relations Council, which will serve as documentation for their Affirmative Action Plan.

2. **Women and Minority-Owned Businesses**

Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms “small business” means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and “minority and women’s business enterprise” means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, “minority group members” are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. **Access to Records**

Subrecipient shall furnish and cause each of its own contractors or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records, and accounts by City, HUD or its agent, or other authorized federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. **Notifications**

Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract of understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.


Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.
6. **Subcontract Provisions**

Subrecipient will include the provisions of this Paragraph’s Section A, Civil Rights, and Section B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subcontractors.

C. **Employment Restrictions**

1. **Prohibited Activity**

Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or inherently religious activities, lobbying, political patronage, or nepotism activities.

2. **Labor Standards**

Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. Subrecipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 et seq.) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

3. **“Section 3” Clause**

a. **Compliance**

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the federal financial assistance provided under this contract and binding upon the City, Subrecipient and any of Subrecipient’s subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, Subrecipient and any of Subrecipient’s subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. Subrecipient certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

Subrecipient agrees to comply with the “Section 3 Clause” requirements set forth above, and shall include the following language in all subcontracts executed for the program:

“The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities
generated by HUD assistance or HUD-assisted projects covered by
Section 3, shall, to the greatest extent feasible, be directed to low- and
very low-income persons, particularly persons who are recipients of
HUD assistance for housing.

The parties to this contract agree to comply with HUD’s regulations in 24
CFR Part 135, which implements Section 3. As evidenced by their
execution of this contract, the parties to this contract certify that they are
under no contractual or other impediment that would prevent them from
complying with the Part 135 regulations.

The contractor agrees to send to each labor organization or representative
or workers with which the contractor has a collective bargaining
agreement or other understanding, if any, a notice advising the labor
organization or workers’ representative of the contractor’s commitments
under this Section 3 clause, and will post copies of the notice in
conspicuous places at the work site where both employees and applicants
for training and employment positions can see the notice. The notice shall
describe the Section 3 preference, shall set forth minimum number and
job titles subject to hire, availability of apprenticeship and training
positions, the qualifications for each; and the name and location of the
person(s) taking applications for each of the positions; and the anticipated
date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract
subject to compliance with regulations in 24 CFR Part 135, and agrees to
take appropriate action, as provided in an applicable provision of the
subcontract or in this Section 3 clause, upon a finding that the
subcontractor is in violation of the regulations in 24 CFR Part 135. The
contractor will not subcontract with any subcontractor where the
contractor has notice or knowledge that the subcontractor has been found

The contractor will certify that any vacant employment positions,
including training positions, that are filled (1) after the contractor is
selected but before the contract is executed, and (2) with persons other
than those to whom the regulations of 24 CFR Part 135 require
employment opportunities to be directed, were not filled to circumvent the
contractor’s obligations under 24 CFR Part 135.

Noncompliance with HUD’s regulations in 24 CFR Part 135 may result in
sanctions, termination of this contract for default, and debarment or
suspension from future HUD assisted contracts.

With respect to work performed in connection with Section 3 covered
Indian housing assistance, Section 7(b) of the Indian Self-Determination
and Education Assistance Act (25 U.S.C. 450e) also applies to the work to
be performed under this contract. Section 7(b) requires that to the greatest
extent feasible (i) preference and opportunities for training and
employment shall be given to Indians, and (ii) preference in the award of
contracts and subcontracts shall be given to Indian organizations and
Indian-owned Economic Enterprises. Parties to this contract are subject to
the provisions of Section 3 to the maximum extent feasible, but not in
derogation of compliance with Section 7(b)."

b. **HUD Section 3 Participation Goals**

Developer agrees that the aspiration sub-contracting goals for certified HUD
Section 3 certified business sub-contracting and hiring goals will be:

Employment: Thirty percent (30%) of the aggregate number of new hires during
a one-year period of the project. (Example: A construction contractor hires 10
new workers. Three of the new workers should be Section 3 eligible persons.)

Contracting: (a) At least 10 percent (10%) of the total dollar amount of all Section
3 covered contracts for building trades work arising in connection with housing
rehabilitation, construction, and other public construction with federal funds; and
(b) At least three percent (3%) of the total dollar amount of all other, including
professional services, covered Section 3 contracts to eligible Section 3 business
concerns. HUD Section 3 companies can be found at
http://daytonhrc.org/business-technical-assistance/certification/

c. **Notifications**

Subrecipient agrees to send to each labor organization or representative of
workers with which it has a collective bargaining agreement or other contract or
understanding, if any, a notice advising said labor organization or worker's
representative of its commitments under this Section 3 clause and shall post
copies of the notice in conspicuous places available to employees and applicants
for employment or training.

d. **Subcontracts**

Subrecipient will include the Section 3 Clause required language in every
subcontract and will take appropriate action pursuant to the subcontract upon a
finding that the subcontractor is in violation of regulations issued by City.
Subrecipient will not subcontract with any entity where it has notice or
knowledge that the latter has been found in violation of regulations under 24
CFR Part 135, and will not let any subcontract unless the entity has first provided
a preliminary statement of ability to comply with the requirements of these
regulations.

D. **Conduct**

1. **Assignability**

Subrecipient shall not assign or transfer any interest in this Agreement without the prior
written consent of City thereto; provided, however, that claims for money due or to become
due to Subrecipient from City under this Agreement may be assigned to a bank, trust
company, or other financial institution without such approval. Notice of any such
assignment or transfer shall be furnished promptly to City.
2. **Subcontracts**

   a. **Approvals**

   Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of City prior to the execution of such agreement.

   b. **Monitoring**

   Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Evidence of noncompliance shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

   c. **Content**

   Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

   d. **Selection Process**

   Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

3. **Hatch Act**

   Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. **Conflict of Interest**

   Subrecipient agrees to abide by the provisions of 24 CFR 84.42, 24 CFR 85.36, and 570.611, which include (but are not limited to) the following:

   a. Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by federal funds.

   b. No employee, officer, or agent of subrecipient shall participate in the selection, or in the award, or administration of, a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.

   c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a
financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a “covered person” includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the City, subrecipient, or any designated public agency.

5. **Lobbying**

Subrecipient hereby certifies that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-L.L.L, “Disclosure Form to Report Lobbying,” in accordance with its instructions; and

c. It will require that the language of Paragraph (d) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all subcontractors shall certify and disclose accordingly.

d. **Lobbying Certification**

This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U.S.C. and 2 CFR 200.450. As stated in Section 1352, Title 31, U.S.C. and 2 CFR 200.450, this certification must be filed by the Subrecipient during the submission of its annual indirect cost rate proposal. Any person who fails to file the required certification shall be subject to a civil penalty of not less than **TEN THOUSAND DOLLARS AND ZERO CENTS ($10,000.00)** and not more than **ONE HUNDRED THOUSAND DOLLARS AND ZERO CENTS ($100,000.00)** for each such failure.

6. **Copyright**

If this contract results in any copyrightable material or inventions, the City and/or HUD reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.
7. Religious Activities

Subrecipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

ARTICLE 10. ENVIRONMENTAL CONDITIONS

A. Air and Water

Subrecipient shall comply with the following requirements insofar as they apply to the performance of this Agreement:


2. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

3. Environmental Protection Agency (EPA) regulations pursuant to 40 CFR, Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the national flood insurance program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR, Part 570.608 and 24 CFR, Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.

ARTICLE 11. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.
ARTICLE 12. SECTION HEADINGS AND SUBHEADINGS

The section heading and subheading contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

ARTICLE 13. WAIVER

The City’s failure to act with respect to a breach by subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver or such right or provision.

ARTICLE 14. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the City and subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and subrecipient with respect to this Agreement.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]
ARTICLE 15. REFERENCES TO LAW

All references to federal, state or local laws, regulations, or orders contained in this Agreement shall include any and all subsequent amendments, modifications, additions or other changes as may be enacted or codified by the proper governmental authority during the term of this Agreement.

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

CITY OF DAYTON, OHIO

__________________________________________
City Manager

__________________________________________
Date

HOMEFULL

Tina M. Patterson Nov 15, 2021
By and Date:

CEO

Title:__________________________

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

__________________________, 2021

Min./Bk. ___________ Page _______

Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:

11/12/2021

X John Musto for

City Attorney

Signed by: Musto, John
EXHIBIT A
SCOPE OF SERVICES
HOMEFULL
WEST DAYTON FOOD AND JOBS PROGRAM

1. PROGRAM DESCRIPTION

Subrecipient will use all funds granted hereunder to operate the “West Dayton Food and Jobs Program,” through December 31, 2022. The program will provide for the West Dayton Food and Jobs (WDFJ) to address the needs of LMI persons and neighborhoods through food-related job training and job creation. This program will enhance and expand Homefull’s creative methods of equitable job training, employment, and food access. These creative methods include the culturally-sensitive job training and jobs themselves necessary for the operation of Community Gardens, Farmers Markets, Food Hub, and Mobile Grocery and Shuttle Service to ensure that food production and distribution is conducted by, and ultimately benefits, residents of West Dayton. This program will result in job training programming for 20 LMI participants at or below 80% AMI and the creation or retention of jobs for approximately 7-10 individuals in the City of Dayton.

Through WDFJ, Homefull is establishing meaningful and sustainable urban agriculture employment via “Green Collar Jobs” that support the creation and maintenance of vibrant, strong communities. Urban agriculture promotes the local economy as the growing demand for safe, locally sourced food leads to increased economic transactions within a community through the local food start-ups and businesses that support urban agricultural sources. Increased demand fuels job creation and a need for further job training and development. The practice of farming promotes the development of marketable trades and crafts, and often requires skills in carpentry, irrigation, electric work, construction, plumbing, planting, harvesting, stocking, distribution, canning, pickling, and cooking. These skills are useful and profitable in other spheres of local community economics.

The West Dayton Food and Jobs Program will expand the creation and operation of community and school-based urban gardens throughout West Dayton. As gardens expand their competency and capacity through the training efforts of WDFJ, Homefull will purchase produce directly from the gardens and distribute the produce at Farm Stands that include 2nd Street Market, and pop-up Markets in West Dayton. Job training initiatives will continue through Homefull’s Mobile Grocery and food packaging, aggregation and distribution, where the farm-to-market model can employ job training participants in low-skill, high-demand job opportunities that range from farm/garden planting, harvesting, food prep, warehousing, logistics, distribution, and stocking, to Market sales, customer service, reconciliation, and reporting.

Homefull supports the residents of West Dayton by providing job training opportunities and direct access to local, nutritious, affordable food as well as food-related education. By creating workforce training opportunities for green collar jobs, Homefull encourages the improvement of the health of program participants as well as their families and wider community.

The Subrecipient shall provide staff supportive services to the West Dayton Food and Jobs Program as well as operating expenses to continue the expansion of WDFJ. This activity is an eligible public service that provides workforce training and development, and is eligible for Community Development Block Grant (CDBG) program funding under the national objective benefiting low/moderate income persons. Under the Limited Clientele presumed benefit designation, this activity is considered to benefit LMI individuals since 100% of the beneficiaries are at or below 80% of the Area Median Income (AMI).

2. COMMUNITY DEVELOPMENT OBJECTIVES
Subrecipient certifies that the activities carried out under this Agreement are allowable expenses under HCDA Section 105 (a) (8) and 24 CFR 570.201, CDBG Matrix Code 05H (Employment Training), benefitting low- and moderate income (LMI) persons under the National Objective of Low/Mod Clientele (LMC) Benefit. The program will provide staff supportive services and operating expenses to Homeful in order to provide workforce training and development to individuals participating in the West Dayton Food and Jobs Program. The provision of employment training as a public service is considered to address the LMC National Objective per 24 CFR 570.201 (e).

3. PROGRAM GUIDELINES

The Sub-recipient shall use City of Dayton CDBG funds for provision of West Dayton Food and Jobs Program, not to exceed TWO HUNDRED THOUSAND DOLLARS AND ZERO CENTS ($200,000.00). The period will be between November 1, 2021 through December 31, 2022, as contemplated in this agreement.

A. Implementation of Workforce Training and Development through the West Dayton Food and Jobs Program

1. The program provides the funding, labor, and materials necessary to implement a workforce training and development program at urban agriculture sites in West Dayton.

2. Eligible beneficiaries of this program are City of Dayton residents at or below 80% of the Area Median Income (AMI).

<table>
<thead>
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<th>Household Size</th>
<th>FY 2021 Dayton, OH MSA Income Limits</th>
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3. Eligible program participants will be determined by evaluating the family size and income of a participant. Required documentation includes a certification of family size and income qualification through the provision of pay stubs, bank statements, income tax returns, SSI statements, or a notarized self-certification.

4. The creation and retention of jobs will be tracked on a full-time equivalent (FTE) basis. Job creation and retention data will be reported on a monthly and annual basis through the required Monthly and Annual reports.

4. OUTCOME MEASUREMENTS: PERFORMANCE AND OUTCOME MEASURES

In accordance with U.S. Department of Housing and Urban Development (HUD) requirements, the City has implemented a performance measurement system that is based on an outcomes-based approach to funding projects. The City requires recipients of federal funds to assess the productivity and impact of
their programs. This Performance and Outcome Measurement System will help to quantify the effectiveness of programs and establish clearly defined outcomes.

The City shall report outcomes-based accomplishments to HUD. The City therefore requires Subrecipient to submit timely and consistent performance measurement reports that focus on establishing clearly articulated objectives, performance measures, outputs, and program outcomes (desired end results). The City shall review the reports to track progress, provide feedback, and when necessary, provide technical assistance. Program performance is also considered in the decision-making process for fund allocation. The Subrecipient agrees to submit the reports detailed in Section 10, Reporting Procedures.

5. **SUBRECIPIENT RESPONSIBILITIES**

The Subrecipient will be responsible for the implementation and execution of workforce training and development services, data tracking and management regarding the number of full-time equivalent (FTE) positions created or retained through the workforce training and development programming, documentation of family size and income of all beneficiaries, compliance with all CDBG regulations, provision of employment services and job training for program participants, and preparation of reports to the City as detailed in Section 10, Reporting Procedures and as display in Exhibit D – Monthly and Cumulative Reports.

6. **BUDGET**

The program budget is attached to this document as Exhibit B – Program Budget.

7. **STAFFING**

Subrecipient shall assign the following staff as Key Personnel to the West Dayton Food and Jobs Program:

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<thead>
<tr>
<th>Staff Member/Title</th>
<th>General Program Duties</th>
<th>Time Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dana Carter</td>
<td>Homefull, in an effort to address food desert areas of Dayton &amp; Montgomery County who suffer from hunger and access to grocery shopping options, is operating a Mobile Grocery Store and handicap-accessible Shuttle. The drivers will transport food and people and follow all Department of Transportation and Safety Rules / Regulations. The drivers will monitor the physical and mechanical condition of the vehicles to help maintain a safe and efficient operation. The drivers will serve as an integral part of Homefull’s multi-disciplinary Food Team.</td>
<td>2 FTE - 40 hours/week</td>
</tr>
<tr>
<td>Angelica Champion</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CDL drivers</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Driving vehicles to transport food and people to select locations, agencies, and other areas as assigned;
- Loading, unloading and cleaning vehicles;
- Communicating knowledgeably with co-workers, customers and clients about Homefull, the mission of the Mobile Grocery & Shuttle and other promotional activities;
- Assisting with special events and distributions of the Mobile Grocery, Shuttle, & Food Programs;
- Assisting with operations as needed, and directed by the Homefull Food Initiatives Program Manager;
- Performing other duties as assigned.

<table>
<thead>
<tr>
<th>The Chief Strategic Officer delivers project management, strategic planning, and implementation direction and support for key organizational initiatives as assigned by the Chief Executive Officer.</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>The Chief Strategic Officer is responsible for:</td>
<td></td>
</tr>
<tr>
<td>- Scoping and implementing Homefull’s special projects and strategic initiatives, including the development and implementation of the strategic plan and its initiatives, as determined by the CEO. Works in conjunction with Homefull senior management and Board of Directors to pursue and achieve tactical or strategic objectives pertaining to the vision assisting in the execution of work necessary to meet short term objectives as well.</td>
<td></td>
</tr>
<tr>
<td>- Leading selected program based special projects that require cross-functional engagement with key staff across the organization, and with external stakeholders, as appropriate.</td>
<td></td>
</tr>
<tr>
<td>- Providing staff support to the CEO for the convening of a range of meetings on short- or long-term projects of Homefull. This may include undertaking research, tracking trends, preparing presentations; development of meeting agendas; drafting briefing papers and/or compiling pertinent background materials for attendees; preparing summaries of discussion; coordinating logistical arrangements; and ensuring appropriate and effective communications with participants, as needed.</td>
<td></td>
</tr>
<tr>
<td>- Identifying and engaging individual experts, as well as informational resources, that can help frame and advance Homefull’s work on key trends or emerging issues for the field.</td>
<td></td>
</tr>
<tr>
<td>- In the context of Homefull’s annual work plan, researching, and analyzing issues that have the potential to impact the organization and provide thought leadership on whether Homefull may play a meaningful role in advancing our interests.</td>
<td></td>
</tr>
<tr>
<td>- Preparing background materials and developing proposed action strategies in support of Homefull’s efforts to advance our interests relative to identified trends and emerging issues.</td>
<td></td>
</tr>
<tr>
<td>- Assisting in the development of the organization’s annual work plan and budget.</td>
<td></td>
</tr>
<tr>
<td>- Assisting in developing funding proposals for new programs and/or organizational projects and initiatives including for fundraising purposes.</td>
<td></td>
</tr>
<tr>
<td>- Other duties as assigned by the CEO.</td>
<td></td>
</tr>
</tbody>
</table>

| Trudy Elder, Chief Strategic Officer | 4 hours/week |

<table>
<thead>
<tr>
<th>Elena Williams, Dawn Roberts, David Paxton, Mobile Grocery Clerks, Market Workers</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>The primary role of the Market Worker is to ensure the daily assigned tasks at Homefull Markets are completed. There are full-time and part-time, hourly paid position opportunities. Currently, Homefull operates 2nd Street Market, Mobile Grocery and pop-up locations across the community.</td>
<td></td>
</tr>
<tr>
<td>The Grocery Clerk will be responsible for:</td>
<td></td>
</tr>
</tbody>
</table>

| 1.8 FTE – 40 hours/week |  |
• Completing daily assigned market tasks, including but not limited to opening, closing, stocking, transporting, weighing/bagging produce, cleaning, cashier & reporting through Point of Sale System, and customer service duties.
• Assisting with other Urban Agriculture projects as needed and participating as part of a Team.
• Responding to customer needs and providing a high level of customer service.
• Managing cash, credit, and SNAP-EBT transactions with accuracy, efficiency, and confidentiality.
• Answering questions about produce.
• Representing Homefull and Market partners with professionalism.
• Reporting on needs and progress to supervisor.
• Attending trainings & meetings as requested.
• Other duties as assigned and related to the specific program assignment.

Any changes in the Key Personnel assigned or their general responsibilities under this project are subject to the prior approval of the City.

8. PAYMENT PROCEDURES

The City will reimburse Subrecipient for expenditures for the Project and in accordance with the line-item budget set forth in Exhibit B – Program Budget. Subrecipient shall submit all invoices and supporting documentation to the City’s Department of Planning, Neighborhoods, and Development on a monthly basis. Subrecipient shall comply with the following requirements for the submission of requests for reimbursement:

A. Invoice Information

Subrecipient’s invoice shall contain the following:

1. City Contract Number
2. Invoice Number
3. Period Covered
4. Work Done/Accomplishments Summary, etc.
5. Written documentation verifying that weekly payroll reports were reviewed and comply with approved wage determination.
6. Total Amount Requested
7. List of Enclosed Documents
8. Agreement Funding Balance
9. Other information Subrecipient desires to communicate to the City’s Project Coordinator
10. Signature of Subrecipient’s Chief Financial Officer

B. Supporting Documentation

Subrecipient shall collect, maintain, and submit the following documentation and information with invoices for payment. For personnel invoicing, the Subrecipient will include the number of hours worked on the program/project funded, and a detailed summary of work performed by the employee during the time for which payment was made. The detailed summary should include a description of each activity/action performed by the personnel as well as a total of the amount of

24
invoiced time spent working on that activity/action. At a minimum, invoicing for personnel charges must include the level of detail and information provided in Exhibit E – CDBG Sample Timesheet and Activity Log. For supplies and materials invoicing, the documentation and information shall include an invoice from the vendor or company detailing the item(s)/services purchased and a copy of the Subrecipient’s check showing that the Subrecipient paid the vendor for the invoiced goods/services. Monthly invoicing documentation should include a copy of the required Monthly Report as enumerated in Exhibit D.

Unless disputed or the City determines that there is insufficient documentation to substantiate the invoice, the City will tender payment to Subrecipient in a timely manner.

9. DOCUMENTATION AND RECORD KEEPING

In order to ensure that program participants and activities meet the program eligibility criteria, subrecipient must record the name, race and ethnicity, income, job descriptions, duties performed by program participants, and proof of payment to contractor(s).

The following financial records related to the payment of salaries and fringes for operational staff should be included in the project file if applicable:

A. Accounting journals and ledgers
B. Source documentation that costs were eligible and paid (invoices, purchase orders, cancelled checks, etc.)
C. Bank account records
D. Time sheets and activity logs for personnel
E. Income verification or self-certification documents verifying the income level of program participants
F. Payroll records and reports
G. Documentation of other administrative costs charged
H. Financial reports
I. Audit files
J. Financial correspondence

Subrecipient will maintain case files, including the above information for a period of not less than four years after completion of the program and all affordability requirements. Subrecipient will maintain these and other documents and financial records in accordance with the requirements for record retention specified in Article 8 of the Agreement.

10. REPORTING PROCEDURES

The City will require timely and consistent reports to ensure that the program is proceeding according to the work program and in accordance with federal regulations. The Sub-recipient agrees to submit the following reports.

A. Monthly Progress Reports

Subrecipient agrees to submit on the fifteenth (15th) day of each month, regardless of invoicing and beginning on or before December 15, 2021, a written progress report covering the agreed upon objectives, activities, and expenditures of the previous month. The Monthly Progress Report must detail, at a minimum, the following information per reporting period:
1. The total number of persons assisted during the reporting period;
2. The race/ethnicity for each individual assisted;
3. The income level for each individual assisted;
4. The income verification or certification for each individual assisted;
5. The total number of persons with new or continuing access to a service or benefit;
6. The total number of persons who receive a service or benefit that is no longer substandard;
7. The total number of part-time and full-time jobs created or retained.

A copy of the Monthly Report is included in Exhibit D – Monthly and Cumulative Reports.

A. Cumulative Reports

The Subrecipient shall submit an annual Cumulative Report detailing the activities of the Subrecipient to the City no later than December 30, 2021 and December 30, 2022. A copy of the report is included in Exhibit D – Monthly and Cumulative Reports.

Within 60 days after expiration or termination of this Agreement or within 60 days of submitting the final invoice, whichever comes first, Subrecipient shall submit an additional cumulative report to the City. This report shall be in a format approved by the City, and it shall detail all sources and uses of funds and describe Subrecipient’s activities and outcomes of the services provided throughout the course of the Agreement. This exhibit shall survive termination or expiration of this Agreement.

B. Meetings and Evaluation

Subrecipient shall meet with the City and/or its designees at such times designated by the City to review and discuss the Subrecipient’s performance of this Agreement. The Subrecipient shall allow the City to conduct on-site inspections, tests and monitoring of its financial, personnel and employment activities pursuant to this Agreement, and will cooperate with the City in all respects concerning the review and monitoring of the Subrecipient’s performance.

11. COMMUNICATIONS

All invoices, reports, notices, and/or correspondence regarding this Agreement and the Project shall be submitted to the parties as specified in Article 7 of the Agreement.
## EXHIBIT B
### PROGRAM BUDGET

<table>
<thead>
<tr>
<th></th>
<th>City CDBG</th>
<th>Private</th>
<th>Federal</th>
<th>Local</th>
<th>County</th>
<th>In-Kind</th>
<th>Project Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personnel Costs</td>
<td>$200,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>$138,152</td>
<td>-</td>
<td>$338,152</td>
</tr>
<tr>
<td>CDL Drivers</td>
<td>133,050</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Grocery Clerks</td>
<td>$57,590</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Chief Strategic Officer</td>
<td>$7,060</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Utilities</td>
<td>-</td>
<td>2,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>$2,000</td>
</tr>
<tr>
<td>Supplies/Materials</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>8,500</td>
<td>-</td>
<td>$8,500</td>
</tr>
<tr>
<td>Communications</td>
<td>-</td>
<td>2,500</td>
<td>-</td>
<td>-</td>
<td>3,500</td>
<td>-</td>
<td>$6,000</td>
</tr>
<tr>
<td>Legal/Auditing Services</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Equipment</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Occupancy</td>
<td>-</td>
<td>12,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>$12,000</td>
</tr>
<tr>
<td>In-Kind Support</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>$20,000</td>
</tr>
<tr>
<td>Labor (volunteers)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>$15,000</td>
</tr>
<tr>
<td>Materials</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>$5,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$200,000</td>
<td>$16,500</td>
<td>$-</td>
<td>$-</td>
<td>$150,152</td>
<td>$20,000</td>
<td>$386,652</td>
</tr>
</tbody>
</table>
EXHIBIT C  
CDBG MONITORING SCHEDULE

Grantee: City of Dayton Department of Planning, Neighborhoods, and Development

Subrecipient: Homefull

Project/Program: West Dayton Food and Jobs Program

<table>
<thead>
<tr>
<th>Monitoring Subject Area</th>
<th>Date of Review</th>
<th>City Representative</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section I. Required Monitoring for ALL CDBG Subrecipient Agreements</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Financial and Program Eligibility</td>
<td>Upon submission of invoice(s)</td>
<td>Sarah Geist or designated staff</td>
</tr>
<tr>
<td>Program Performance and Records Management</td>
<td>Ongoing on a monthly basis until termination of Agreement</td>
<td>Sarah Geist or designated staff</td>
</tr>
<tr>
<td>Environmental Review</td>
<td>At the start of agreement</td>
<td>Pete Thornburgh or designated staff</td>
</tr>
<tr>
<td>Historic Properties Protection Review</td>
<td>Not Applicable</td>
<td></td>
</tr>
<tr>
<td>On-Site Monitoring Visit</td>
<td>TBD in accordance with CDBG risk assessment policy</td>
<td>Sarah Geist or designated staff</td>
</tr>
</tbody>
</table>

**Section II. Specific Monitoring Areas based on Project Type**

|                                                                                           |                                                         |
| Construction Activities (Prevailing Wage Compliance and Record Keeping, Bidding and Procurement Process) | Not Applicable                                        |
| Acquisition and Relocation Compliance                                                      | Not Applicable                                        |
| Housing Rehabilitation Guidelines                                                          | Not Applicable                                        |
| Economic Development Guidelines                                                            | Not Applicable                                        |
EXHIBIT D
MONTHLY AND CUMULATIVE REPORTS

Monthly and Cumulative Report

**Project Name:** West Dayton Food and Jobs Program  
**Subrecipient:** Homeful  
**Action Plan Year:** 2021  
**Period Covered by Report:**

1. Provide a description of all activities and accomplishments occurring during this reporting period. Quantify all accomplishments and identify the location of physical improvements with an address

2. Total number of persons assisted: ______________

3. Race/Ethnicity  

<table>
<thead>
<tr>
<th>Race</th>
<th>Total</th>
<th>Hispanic/Latino</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Black/African-American</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asian</td>
<td></td>
<td></td>
</tr>
<tr>
<td>American Indian/Alaskan Native</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Native Hawaiian/Other Pacific Islander</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Black/African-American &amp; White</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asian &amp; White</td>
<td></td>
<td></td>
</tr>
<tr>
<td>American Indian/Alaskan Native &amp; White</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Native Hawaiian/Other Pacific Islander &amp; White</td>
<td></td>
<td></td>
</tr>
<tr>
<td>American Indian/Alaskan Native &amp; Black/African-American</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other multi-racial</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4. Income Levels

<table>
<thead>
<tr>
<th>Income Level</th>
<th>Number Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>Extremely Low - 0-30%</td>
<td></td>
</tr>
<tr>
<td>Low - 30-50%</td>
<td></td>
</tr>
<tr>
<td>Moderate - 50-80%</td>
<td></td>
</tr>
<tr>
<td>Non-Low/Moderate</td>
<td></td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td></td>
</tr>
<tr>
<td>Percent Low/Mod</td>
<td>%</td>
</tr>
</tbody>
</table>

**NOTE:** Please provide a copy of all income documentation or self-certifications.

5. Job Creation/Retention

<table>
<thead>
<tr>
<th></th>
<th>Part-Time</th>
<th>Part-Time Low/Mod</th>
<th>Part-Time Weekly Hours</th>
<th>Full-Time</th>
<th>Full-Time Low/Mod</th>
<th>Full-Time Weekly Hours</th>
<th>Percent Low/Mod</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jobs Created</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>%</td>
</tr>
<tr>
<td>Jobs Retained</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>%</td>
</tr>
</tbody>
</table>

6. FTE jobs created/retained: ____________

7. Job Categories – FTE

<table>
<thead>
<tr>
<th>Job Category</th>
<th>Jobs Created (FTE)</th>
<th>Jobs Retained (FTE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Officials and Managers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professional</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Technicians</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office and Clerical</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Craft Workers (Skilled)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operatives (Semi-Skilled)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Laborers (Unskilled)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Service Workers</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

8. Total Number of Persons Assisted:

- With new or continuing access to a service or benefit:
- With improved access to a service or benefit:
- That receive a service or benefit that is no longer substandard:

9. Total Number of Persons Assisted:

- Homeless Persons Given Overnight Shelter:
- Beds Created in Overnight Shelter or Other Emergency Housing:
EXHIBIT E
CDBG SAMPLE TIMESHEET AND ACTIVITY LOG

For Personnel Funded 100% through this agreement, please use this certification:

**Certification & Support for Personnel Invoicing**

2 CFR 225, APPENDIX B §8(h)(4-5) states that employees paid by Federal and non-Federal sources need to complete time and effort certifications at least monthly, which reflect the individual’s total work time and identify the portion of time spent on federal projects. The certification must be signed by the employee and their supervisor. When multiple funding sources contribute to an employee’s salary, the certification must be supported with documentation of actual effort (i.e. timesheets). Paycor is the official timekeeping record for Homefull -West Dayton Food and Jobs Program and serves as documentation of actual effort for grant-funded employees.

Pay Dates Included in this Certification:

<table>
<thead>
<tr>
<th>Name</th>
<th>Total Hours Worked</th>
<th>Pay Rate</th>
<th>Total Wages</th>
<th>Fringe Benefits Percentage (If Applicable)</th>
<th>Total Amount Billed for Personnel</th>
</tr>
</thead>
</table>

Summary of Work Performed:
The above wages and benefits are for............insert a paragraph explaining the work accomplished during this period by the personnel identified above.

_I, ____________ (print name) certify that 100% of my time reported during this reporting period was spent performing the activities described above. I hereby this report is an after-the-fact determination of the total activity and actual effort expended for the period indicated, and I have full knowledge of 100% of these activities._

<table>
<thead>
<tr>
<th>Employee Signature</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supervisor Signature</td>
<td>Date</td>
</tr>
</tbody>
</table>
For personnel charging a percentage of their time LESS THAN 100% to toward this agreement, please use this timesheet and activity log. The activity log MUST provide adequate information detailing activities, events, processes, etc. billed toward the agreement so that the Project Manager can determine cost allocability and cost allowability per 2 CFR 200 requirements.

**Homefull - WDFJ**
**MONTHLY TIMESHEET**

<table>
<thead>
<tr>
<th>Name</th>
<th>John Smith</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
<td>September 1-30, 2021</td>
</tr>
</tbody>
</table>

**FY 2021**

<table>
<thead>
<tr>
<th>Code</th>
<th>Project</th>
<th>Date:</th>
<th>1-Sep</th>
<th>2-Sep</th>
<th>3-Sep</th>
<th>4-Sep</th>
<th>5-Sep</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Sun</td>
<td>Mon</td>
<td>Tue</td>
<td>Wed</td>
<td>Thu</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Market cashier</td>
<td></td>
<td></td>
<td>4.00</td>
<td>3.00</td>
<td>3.00</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Training Program</td>
<td></td>
<td></td>
<td>3.00</td>
<td>4.00</td>
<td>4.00</td>
<td></td>
</tr>
</tbody>
</table>

| Total Hours Worked | 7.00 | 7.00 | 7.00 |
Homefull – West Dayton Food and Jobs Program
MONTHLY ACTIVITY LOG

Homefull – West Dayton Food and Jobs Program
Employee Name
Month & Year

Activity Log – June 2021

June 1, 2021
8:00 AM/PM – 5:00 AM/PM
- Mobile Market – cashier – checking out customers, organizing stock, providing accounting of drawer
- Training Program – seminar on workforce etiquette, training on using raised garden beds

June 2, 2021
7:30 AM/PM – 4:30 AM/PM
- Training Program – Carpentry – making raised garden beds;
- Training Program – Proper techniques for harvesting peppers;
- Training Program – Operation of Gettysburg hoop house

June 3, 2021
8:00 AM/PM – 5:00 AM/PM
- Mobile Market – Setup at 2nd Street Market; Stocking and replenishment for market stand; transportation of signage and produce from XYZ Garden to 2nd Street Market
- XYZ Garden – volunteer training;
- XYZ Garden – harvesting tomatoes and preparing fertilizer
"Homefull West Dayton - FINAL -routed for Homefull signature"

History

Document created by Ashley Hatton (ashley.hatton@daytonohio.gov)  
2021-11-15 - 3:39:06 PM GMT - IP address: 198.30.33.2

Document emailed to Tina M. Patterson (tinap@homefull.org) for signature  
2021-11-15 - 3:41:04 PM GMT

Email viewed by Tina M. Patterson (tinap@homefull.org)  
2021-11-15 - 3:50:59 PM GMT - IP address: 65.29.81.210

Document e-signed by Tina M. Patterson (tinap@homefull.org)  
Signature Date: 2021-11-15 - 5:02:12 PM GMT - Time Source: server - IP address: 65.29.81.210

Agreement completed.  
2021-11-15 - 5:02:12 PM GMT
City Manager's Report

From 6210 - Police Director

Supplier, Vendor, Company, Individual
Name Optica Consulting, Inc.
Address PMB#105
2312 Far Hills Ave.
Dayton, Ohio 45419

Date November 24, 2021
Expense Type Service Agreement
Total Amount $271,008.00 thru 12/31/2022

Fund Source(s) Fund Code(s) Fund Amount(s)
General Fund 10000-6210-1158-71 $271,008.00

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

Description
Renewal of Professional Services Agreement

The City of Dayton, Department of Police is requesting approval to exercise a one-year renewal agreement with Optica Consulting, Incorporated ("Optica") for services to provide crime and data analysis, criminal information system support, hot spot identification, to reduce gun violence and support for Problem-Oriented Policing. These services are critical for DPD to combat crime and evaluate effectiveness of operations. The total agreement shall not exceed $789,632.00 with this renewal not to exceed $271,008.00. This is the first of three renewals.

Optica, founded in 1998, provides software development, technology solutions, systems integration, and data analysis services to the public safety industry.

The original Agreement was approved by the Dayton City Commission on December 18, 2019 as Calendar Item No. 10 and was signed on December 26, 2019.

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

A Certificate of Funds and a copy of the Amendment are attached.
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Orders</th>
</tr>
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<tbody>
<tr>
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<tr>
<td>Remaining Commission Approval</td>
<td>$ -</td>
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</tbody>
</table>

Required Documentation

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

Seq. #1

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<th>Amount: $271,008.00</th>
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</table>

Attach additional pages for more FOAPALs

Vendor Name: Optica Consulting Inc.
Vendor Address: PMB #105, 2312 Far Hills Avenue, Dayton, Ohio 45419
Federal ID: 52-2436353
Commodity Code: 92099
Purpose: 2022 Renewal for crime analysis services.

Contact Person: Meredith Weber x1099
Department/Division: Police/Chief's Office
Date: 11/9/2021
Originating Department Director's Signature:
E-SIGNED by Matt Carper on 2021-11-12 13:56:01 GMT

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: 11/16/21

CF Prepared by: [Signature]
Date: 11/15/21
CF/CT Number: CT22-2506

Finance Department

October 18, 2011
FIRST RENEWAL PROFESSIONAL SERVICES AGREEMENT

This FIRST RENEWAL OF PROFESSIONAL SERVICES AGREEMENT FOR SERVICES RELATED TO ANALYSIS OF CRIME, ARREST AND DISPATCH DATA is entered this ___ day of ___________, 2021, between the City of Dayton, Ohio ("City") and Optica Consulting, Inc. ("Consultant").

WHEREAS, on December 26, 2019 the City entered into an agreement with the Consultant for services related to analysis of crime, arrest and dispatch data for the City’s Department of Police; and

WHEREAS, the City seeks to continue the Agreement to continue the services to support law enforcement efforts throughout the City; and

WHEREAS, the Contractor is willing to provide the services for additional compensation and the City and Contractor agree upon the amount to be paid for the additional services.

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

1. Pursuant to Section 2 of the Agreement, both City and Contractor hereby mutually agree to renew the Agreement for one year. This renewal period shall begin on January 1, 2022 and terminate on December 31, 2022.

2. 3.1 Funding. The City total compensation under this Renewal shall not exceed Two Hundred Seventy-One Thousand Eight Dollars and Zero Cents ($271,008.00) for all technical consulting services provided by Consultant pursuant to this Agreement. Consultant will request reimbursement by issuing an invoice to the City.

3. Except as modified by the first Agreement Amendment, the Agreement between the City and Contractor remains unchanged and in full force and effect.

The remainder of this page left blank.
Section 5. Except as herein modified, all other provisions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and Consultant, by duly authorized representatives have executed this First Amendment as of the date first above written.

CITY OF DAYTON, OHIO

City Manager

OPTICA CONSULTING, INC.

E-SIGNED by Tom Lachey
on 2021-11-10 09:02:41 EST

Tom Lachey, President

APPROVED AS TO FORM AND CORRECTNESS:

11/9/2021

X John Musto for
City Attorney

Signed by: Musto, John

APPROVED:

E-SIGNED by Eric Henderson
on 2021-11-10 13:02:40 EST

Director and Chief of Police

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

__________________________, 2021

Min./Bk._________ Pg. ___________

Clerk of Commission
FIRST AMENDMENT
PROFESSIONAL SERVICES AGREEMENT

This FIRST AMENDMENT is dated this 11th day of January, 2021, between the City of Dayton, Ohio ("City") and Optica Consulting, Inc. ("Consultant").

WHEREAS, on December 26, 2019 the City entered into an agreement with the Consultant for services related to analysis of crime, arrest and dispatch data for the City’s Department of Police; and

WHEREAS, the City seeks to continue the Agreement to continue the services to support law enforcement efforts throughout the City; and

WHEREAS, the City seeks to amend and extend the Agreement until December 31, 2021; and

WHEREAS, the Consultant agrees with the amendment and extension.

NOW, THEREFORE, in consideration of the mutual covenants and warranties contained herein, the parties agree to amend the Agreement as follows:

Section 1. Section 2. Term and Termination, Section 2.1 of the Agreement shall be deleted and replaced with the following:

2.1 This Agreement shall commence on January 1, 2020 and shall continue until December 31, 2021 unless terminated earlier as provided in Subsections 2.3 or 2.4. The City shall have the right, but not the obligation, to extend the Agreement for three (3) consecutive one (1) year periods through December 31, 2024; provided however, that any such extension or renewal shall be reduced to writing, making specific references to this Agreement, and shall be executed by a duly authorized representative for each party, and if required or applicable, approved by the Commission of the City of Dayton.

Section 2. Section 3. Funding, Financial Standards and Auditing, Section 3.1. Funding shall be deleted and replaced with the following:

3.1. Funding. The City total compensation under this Agreement shall not exceed Five Hundred Eighteen Thousand Six Hundred Twenty-Four Thousand Dollars and Zero Cents ($518,624.00) for all technical consulting services provided by Consultant pursuant to this Agreement. Consultant will request reimbursement by issuing an invoice to the City. Funding shall be divided as follows for each fiscal year, currently January 1 through December 31 (FY):

   FY 2020    $255,500.00
   FY 2021    $263,124.00
   $518,624.00
Section 5. Except as herein modified, all other provisions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and Consultant, by duly authorized representatives have executed this First Amendment as of the date first above written.

CITY OF DAYTON, OHIO

[Signature]
City Manager

OPTICA CONSULTING, INC.

[Signature]
Tom Lachey, President

APPROVED AS TO FORM
AND CORRECTNESS:

12/4/2020

[X] John Musto for
City Attorney

Signed by: Musto, John

APPROVED:

[Signature]
Director and Chief of Police

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

[Signature]
Clerk of Commission
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
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<td>Initial Encumbrance</td>
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<td></td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$263,124.00</td>
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</tr>
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Required Documentation

<table>
<thead>
<tr>
<th>Initial City Manager's Report</th>
<th>Initial Certificate of Funds</th>
<th>Initial Agreement/Contract</th>
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<tr>
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Original CT/CF: CT20-2506

Seq. #1

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Seq. #2

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<td>Fund</td>
<td>Org</td>
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</table>

Attach additional pages for more FOAPALS

Vendor Name: Optica Consulting, Inc.
Vendor Address: 2312 Far Hills Ave., Dayton, OH 45419
Federal ID: 52-2436353
Commodity Code: 92-099
Purpose: Agreement for criminal justice technology support and crime and data analysis services.

Revised per KB/JM-FIN

Contact Person: Sheelah Moyer ext. 1045
Police/Director's Office: Department/Division 12/16/2020 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]
Date: 12/19/2020

CF Prepared by: [Signature]
Date: 12/19/2020
CF/CT Number: CT20-2506

October 18, 2011
City Manager’s Report

From 6210 - Police Director
Supplier, Vendor, Company, Individual
Name Optica Consulting, Inc.
Address 2312 Far Hills Ave.
Dayton, Ohio 45419

Date December 30, 2020
Expense Type Service Agreement
Total Amount $241,880.00 thru 12/31/2021

<table>
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<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
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<tr>
<td>General Fund 2021</td>
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<td>$241,880.00</td>
</tr>
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Includes Revenue to the City ☑ Yes ☐ No
Affirmative Action Program ☑ Yes ☐ No ☐ N/A

Description

First Amendment to Professional Services Agreement

The City of Dayton, Department of Police is requesting approval of a First Amendment to an Agreement for $263,124.00 with Optica Consulting, Incorporated (“Optica”). Optica will continue services to provide crime and data analysis, criminal information system support, hot spot identification and support for Problem-Oriented Policing and the Community Initiative to Reduce Gun Violence. These services are critical for DPD to combat crime and evaluate effectiveness of operations. This First Amendment will increase expenditure authority by $241,880.00, which when added to unspent 2020 authority of $21,244.00 equals $263,124.00 for 2021. The total expenditure authority for both 2020 and 2021 is $518,624.00. The Amendment also will extend the termination date from January 31, 2021 to December 31, 2021.

Optica, founded in 1998, provides software development, technology solutions, systems integration and data analysis services to the public safety industry.

The original Agreement was approved by the Dayton City Commission on December 18, 2019 as Calendar Item No. 10 and was signed on December 26, 2019.

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

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

SM

Signatures/Approval

Approved by City Commission

Division

Department

City Manager

FORM NO. MS-16

Approved by City Commission

Clark

Date December 30, 2020

Updated 8/2016
FIRST AMENDMENT
PROFESSIONAL SERVICES AGREEMENT

This FIRST AMENDMENT is dated this 1st day of January, 2021, between the City of Dayton, Ohio ("City") and Optica Consulting, Inc. ("Consultant").

WHEREAS, on December 26, 2019 the City entered into an agreement with the Consultant for services related to analysis of crime, arrest and dispatch data for the City’s Department of Police; and

WHEREAS, the City seeks to continue the Agreement to continue the services to support law enforcement efforts throughout the City; and

WHEREAS, the City seeks to amend and extend the Agreement until December 31, 2021; and

WHEREAS, the Consultant agrees with the amendment and extension.

NOW, THEREFORE, in consideration of the mutual covenants and warranties contained herein, the parties agree to amend the Agreement as follows:

Section 1. Section 2. Term and Termination, Section 2.1 of the Agreement shall be deleted and replaced with the following:

2.1 This Agreement shall commence on January 1, 2020 and shall continue until December 31, 2021 unless terminated earlier as provided in Subsections 2.3 or 2.4. The City shall have the right, but not the obligation, to extend the Agreement for three (3) consecutive one (1) year periods through December 31, 2024; provided however, that any such extension or renewal shall be reduced to writing, making specific references to this Agreement, and shall be executed by a duly authorized representative for each party, and if required or applicable, approved by the Commission of the City of Dayton.

Section 2. Section 3. Funding, Financial Standards and Auditing, Section 3.1. Funding shall be deleted and replaced with the following:

3.1. Funding. The City total compensation under this Agreement shall not exceed Five Hundred Eighteen Thousand Six Hundred Twenty-Four Thousand Dollars and Zero Cents ($518,624.00) for all technical consulting services provided by Consultant pursuant to this Agreement. Consultant will request reimbursement by issuing an invoice to the City. Funding shall be divided as follows for each fiscal year, currently January 1 through December 31 (FY):

FY 2020 $255,500.00
FY 2021 $263,124.00
$518,624.00
Section 3. Section 3. Funding, Financial Standards and Auditing, Section 3.2. Invoices shall be deleted and replaced with the following:

3.2. Invoices. The Consultant shall submit, not more frequently than monthly, an invoice for payment of services provided during the previous month. The consulting work provided will be invoiced in monthly not to exceed amounts each fiscal year, currently January 1 through December 31 (FY) as indicated below.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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<tr>
<td>FY 2020</td>
<td>$21,288.00</td>
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<tr>
<td>FY 2021</td>
<td>$21,927.00</td>
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</table>

Invoices shall detail the professional services and/or deliverables provided during the invoice period, list the total charges for such professional services, number of hours the Consultant’s personnel devoted to the performance of such services and/or providing deliverables and the total amount of expenses incurred during the invoice period. All invoices shall be reviewed by the appropriate City staff to verify that the Consultant rendered services and/or provided deliverables during the invoice period. Upon verification of the invoice, the City will tender payment of all invoices within fifteen (15) days from approval of the invoice, unless disputed.

Section 4. The parties agree that they have actively negotiated and drafted the provisions of this Agreement. Notwithstanding any rule to the contrary, no provision of this Agreement shall be interpreted or construed against any party because such party or its legal counsel was the drafter of the provision.

The remainder of this page left blank.
Section 5. Except as herein modified, all other provisions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and Consultant, by duly authorized representatives have executed this First Amendment as of the date first above written.

CITY OF DAYTON, OHIO

[Signature]
City Manager

OPTICA CONSULTING, INC.

[Signature]
Tom Lachey, President

APPROVED AS TO FORM AND CORRECTNESS:

12/4/2020

X John Musto for
City Attorney

Signed by: Musto, John

APPROVED:

[Signature]
Director and Chief of Police

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

December 30, 2020
Min./Bk. J-14 Pg. ___________________
January 4, 2021

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

FROM: Richard S. Biem
    Director and Chief of Police

SUBJECT: Optica First Amendment – Route to Sign

Attached for your review and signature is a First Amendment to the Professional Services Agreement with Optica Consulting, Inc. The Consultant will provide crime and data analysis services and criminal information system support to the Dayton Police Department. The Amendment will allow $263,124 in expenditures in 2021 for $518,624 of total expenditure authority. The Amendment will extend the termination date from January 31, 2021 to December 31, 2021.

The First Amendment was approved by the Dayton City Commission on December 30, 2020 as Calendar Items No. 10. The original Agreement was approved by the Dayton City Commission on December 18, 2019 as Calendar Item No. 10 and was signed on December 26, 2019.

Please have your staff contact Sheelah Moyer at ext. 1045 with any questions.

Attachments

RSB:sm
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

Renewal Contract

Change Orders

Contract Start Date 1/1/2020
Expiration Date 1/31/2021
Original Commission Approval $276,744.00
Initial Encumbrance $255,500.00
Remaining Commission Approval $21,244.00

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

Seq. #1
Amount: $255,500.00
Fund Code 10000 - 6210 - 1158 - 71 -
Fund Org Acct Prog Act Loc

Seq. #2
Amount: 
Fund Code 
Fund Org Acct Prog Act Loc

Attach additional pages for more FOAPALS

Vendor Name: Optica Consulting, Inc.
Vendor Address: 2312 Far Hills Ave. Dayton OH 45419
Federal ID: 52-2436353
Commodity Code: 92-099
Purpose: Agreement for criminal justice technology support and crime and data analysis services.

Contact Person: Sheelah Moyer ext. 1045

Police/Director's Office 11/25/2019
Department/Division Date

SECTION II - to be completed by the Finance Department

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

Finance Director's Signature

Date

CF Prepared by

Date

Finance Department
City Manager's Report

From: 6210 - Police Director
Supplier, Vendor, Company, Individual
Name: Optica Consulting, Inc.
Address: 2312 Far Hills Ave.
Dayton, Ohio 45419

Date: December 18, 2019
Expense Type: Service Agreement
Total Amount: $276,744.00 thru 1/31/21

<table>
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<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
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<tr>
<td>General Fund 2020</td>
<td>10000-6210-1158-71</td>
<td>$276,744.00</td>
</tr>
</tbody>
</table>

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

Description:

Professional Services Agreement

The City of Dayton, Department of Police is requesting permission to enter into an Agreement for $276,744.00 with Optica Consulting, Incorporated ("Optica"). Optica, founded in 1998, provides software development, technology solutions, systems integration and data analysis services to the public safety industry. The Agreement will provide the Police Department with criminal justice information system maintenance and upgrades, trend analysis, hot spot identification and support for Problem-Oriented Policing and the Community Initiative to Reduce Gun Violence. These services are critical for DPD to combat crime and evaluate effectiveness of operations.

The Certificate of Funds encumbers $255,500.00 from Police's 2020 General Fund allocation with additional funds encumbered based upon the need for services. This Agreement will begin on January 1, 2020 and expire on January 31, 2021.

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

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

Signatures/Approval

Approved by City Commission

Rachelle Lanier
City Manager

Date: December 18, 2019
Updated 8/2016
PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is entered into this 26th day of December, 2019 between the City of Dayton, Ohio ("City") and Optica Consulting, Incorporated ("Consultant"), an Ohio corporation.

WITNESSETH THAT:

WHEREAS, the City of Dayton seeks to provide a safe and secure environment in the City; and

WHEREAS, the City of Dayton has been negatively impacted by crime and seeks assistance in using data driven methods to use resources to combat crime and identify trends in criminal activity; and

WHEREAS, the City desires a Consultant to provide professional services related to the analysis of crime, arrest, and dispatch data for the City’s Department of Police; and

WHEREAS, the City now desires the Consultant to continue to provide professional services to support law enforcement efforts throughout the City; and

WHEREAS, the Consultant is willing to perform such services and represents that its staff has the experience and expertise to perform such services for the City; now, therefore,

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

1. Scope of Work

1.1. Consultant shall provide, as needed and upon request by the City, any of the professional services described in the Scope of Services, which is included as “Attachment A” hereto and incorporated herein. Specifically, Consultant shall assign up to three (3) full-time equivalent (FTE) employees, resulting in one or more Crime Analyst(s) and one or more Business Analyst(s) to provide the consulting services to the City. During the term of the Agreement, the Crime Analyst(s) will provide a minimum of 1,800 service hours, and the Business Analyst(s) will provide a minimum of 1,800 service hours (generally delivered during standard business hours Monday through Friday, or as mutually agreed between Consultant and City). Consultant agrees that its employees will use all reasonable efforts to schedule vacations, training, and meeting days in such a manner to minimize disruption of services to the City.

1.2. Consultant represents that its employees are adequately trained to perform the services requested under this Agreement. Consultant shall not knowingly assign any personnel to provide consulting services to the City, if such person has a record of any criminal conviction. Consultant shall cause its employees to know and abide by those business
policies, procedures, and security requirements of City. In the event the employees are not able to perform the services or do not perform the services to the reasonable satisfaction of the City, Consultant agrees to replace said employees with mutually agreeable replacements having similar capabilities, training and qualifications. In the event suitable and mutually agreeable replacements are not available, the City may, at its option, terminate this Agreement or proportionally reduce the amount of monthly compensation to be paid for services.

1.3. The City reserves the right to conduct, for security reasons, a lawful background investigation on Consultant, its principals and personnel, including all employees assigned to perform the services. Consultant agrees to fully cooperate with the City in this endeavor and to provide any information, to the extent allowed by law, which is reasonably necessary to perform such background investigation. The City will, upon Consultant’s written request and if allowable by law, provide a copy of such background investigations to Consultant. Dependent upon the results of the background check, the City and Consultant may, by mutual written agreement, immediately remove any of Consultant’s employee from performance of the services.

2. Term and Termination

2.1. This Agreement shall commence on January 1, 2020 and shall expire on January 31, 2021 unless terminated earlier as provided in Subsections 2.3 or 2.4. This Agreement shall be renewable for one (1) additional twelve (12) month term. The renewal must be executed in writing, approved by the Commission of the City of Dayton, and signed by a duly authorized representative for each party.

2.2. Either party may immediately terminate this Agreement, if the other party defaults in the performance of any of the covenants and conditions required herein to be kept and performed by it, and such defaulting party fails to cure the default within thirty (30) days after receipt of written notice of said default.

2.3. This Agreement may be terminated by either party upon giving written notice of termination to the other party at least sixty (60) days prior to the effective date of such termination.

2.4. In the event this Agreement is terminated, the City shall be relieved of any obligation to pay for any work or services performed subsequent to the effective date of termination.

3. Funding, Financial Standards and Auditing

3.1. Funding. The City shall reimburse the Consultant a total not to exceed Two Hundred Seventy-Six Thousand Seven Hundred Forty-Four Dollars and Zero Cents ($276,744.00) for all technical consulting services provided by Consultant pursuant to this Agreement. Consultant will request reimbursement by issuing an invoice to the City.
3.2. Invoices. The Consultant shall submit, not more frequently than monthly, an invoice for payment of services provided during the previous month. The consulting work provided will be invoiced in a monthly amount that shall not exceed Twenty-One Thousand Two Hundred Eighty-Eight Dollars and Zero Cents ($21,288.00). Such invoices shall detail the professional services and/or deliverables provided during the invoice period, list the total charges for such professional services, number of hours the Consultant’s personnel devoted to the performance of such services and/or providing deliverables and the total amount of expenses incurred during the invoice period. All invoices shall be reviewed by the appropriate City staff to verify that the Consultant rendered services and/or provided deliverables during the invoice period. Upon verification of the invoice, the City will tender payment of all invoices within fifteen (15) days from approval of the invoice, unless disputed.

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

3.4. Auditing. If Consultant performs an independent audit of business and/or financial records, the Consultant shall require the company and/or auditor(s) to comply with all applicable Generally Accepted Auditing Standards that have been developed by the American Institute of Certified Public Accountants. The City shall receive a summary of the audit findings and, if requested, the Consultant shall provide the City with a complete copy of such audit report.

4. City Responsibilities

4.1. The City will direct and prioritize the services that Consultant’s employees will provide under this Agreement so that the selected technical consulting services can be completed during the term hereof.

4.2. The City agrees to provide the Consultant employees with access to the City building(s) that are necessary to perform the services twenty-four (24) hours a day, seven (7) days a week. Further, the City agrees to provide the Consultant and its employees with access necessary to complete the services, including access to internal workstations and remote access to the City’s network and e-mail system for information exchange.
4.3. The City shall make arrangements for the ordering and set-up of any necessary hardware, software, network connections or other services needed by the Consultant, which may affect the schedule and work efforts or technical consulting services to be performed by the consultants.

5. Confidential Information

5.1. Either party may provide the other party with information that it considers confidential or proprietary. Proprietary information shall be information, which, if made public, would put the disclosing party at a disadvantage in the market place or trade of which the party is a part. Confidential information shall be information which, under the laws of the State of Ohio, is classified as being “private” or “confidential.” Such information shall be marked “confidential” and/or “proprietary” by the party providing it within ten (10) days after disclosure.

5.2. To the extent permitted by law and recognizing that the City is a political subdivision of the State of Ohio and subject to the Ohio Public Records Act (Ohio Revised Code §149.43 et seq.), the Consultant agrees not to disclose confidential or proprietary information. Subject to Ohio law, the City agrees to not disclose confidential or proprietary information belonging to the Consultant for a period of two (2) years following the date of disclosure of confidential or proprietary information, it will not disclose such information to any third party without the other party's written consent. During this two-year period, the City will protect the confidential or proprietary information received by it in the same manner that it protects its own confidential information of a similar nature. Each party agrees that it will only copy the confidential or proprietary information to the extent necessary to perform the services contracted for under this Agreement.

5.3. Nothing in this Section 5 shall prohibit or limit Consultant's disclosure of confidential information: (i) when such disclosure is required by an order of a Court or under state and/or federal law; or (ii) when such disclosure is authorized in writing by the City.

6. Deliverables and Ownership

6.1. General Deliverables: Consultant will deliver to the City, based upon City's selection of the technical consulting services listed in Attachment A, all documentation, designs, scripts, databases, descriptions, and technical diagrams resulting from performance of the technical consulting services. These materials will be provided to the City in both paper and electronic (CD or DVD) formats.

6.2. Specific Deliverables: Specific deliverables shall be determined and agreed upon between the parties based upon the amount of detailed specifications provided by the City to Consultant before commencement of such services. However, the “Change Control” process outlined in Section 13 can be used to move a general deliverable, as described in Subsection 6.1, into a specific deliverable, as described in this Subsection 6.2.
6.3. Consultant assigns ownership of the copyrights to all general deliverables and specific deliverables (as these terms are identified in Subsections 6.1 and 6.2 above, which shall be collectively referred to as “Custom Deliverables”) to the City.

6.4. The City acknowledges that Consultant enhances its ability to provide the City with quality services and Custom Deliverables through the expertise it gains working with many customers, and that the City and all Consultant’s customers benefit from such experience. The City agrees that, provided Consultant does not disclose the City’s confidential and/or proprietary information in doing so, Consultant is permitted, upon notification to the City, to create similar Custom Deliverables and perform similar services for its other customers without restriction.

7. Defects, Acceptance and Warranty

7.1. All deliverables, whether a general deliverable or specific deliverable as these terms are defined in Section 6, provided under this Agreement by Consultant to the City shall, to the fullest extent possible, be free from defects. For purposes of this Agreement, a “defect” shall mean any failure of the particular deliverable or any component thereof to conform to the functionality and other specifications identified by the City, including any problems with network connectivity. In the event the City identifies a defect, it shall provide written notice to Consultant indicating, to the best of the City’s ability, the nature and type of defect. Consultant agrees to promptly, and without additional cost to the City, repair and/or replace such defect(s) or, if such defect cannot be promptly corrected, shall provide to the City’s reasonable satisfaction, a detailed plan, including a date of completion, for correction of the defect(s) or replacement of the particular deliverable.

7.2. Consultant shall have no obligation to correct defects resulting from: (i) any use of the particular deliverable not in accordance with, or for purposes not intended by, this Agreement; or (ii) the use or combination of the deliverable with other products, equipment, software, hardware, media or data not intended, authorized, or intended where the breach of warranty would not exist but for such use or combination. If any Other Deliverable is the subject of, or is likely to become the subject of, any claim, action, suit, or proceeding for infringement, then Consultant may, at its option and expense: (a) acquire or procure for the City from the third party the right to continue to use the Other Deliverable or (b) modify or replace the Other Deliverable so as to be non-infringing.

7.3. Consultant warrants that title to any and all deliverables provided to the City hereunder shall be free and clear of all claims, charges, security interests, liens and encumbrances. Consultant shall insure that all third party warranties for Other Deliverables or other equipment or items procured under this Agreement shall be transferred to the City upon receipt of payment.

7.4. Consultant warrants to the City that all materials, equipment and any type of deliverable, including any software, license or other intellectual property, furnished hereunder: (1) shall be new, unless otherwise agreed to by the City; (2) shall be free from defects, as this term is defined herein; (3) shall be free of known viruses, worms and Trojan horses, and
any code designed to disable the intellectual property because of the passage of time, alleged failure to make payments due, or otherwise, except for documented security measures such as password expiration functions; (4) will perform in conformity with the functionality requirements and specifications identified by the City; and, (5) is, in all material respects, complete and accurate, and will enable City employees and/or City contractors with ordinary skill and experience to use the deliverable for all purposes for which it is being provided to the City.

7.5. Consultant warrants that its personnel shall perform the technical consulting services under this Agreement in a workmanlike manner and in accordance with the specifications provided by the City when selecting the services needed and all requirements set forth in this Agreement.

7.6. Unless the City notifies Consultant of a defect as provided in this Section 7 or rejects a particular deliverable within a sixty (60) days from implementation of a particular deliverable, the particular deliverable and all technical consulting services related thereto shall be deemed accepted by the City.

8. Indemnification and Insurance

8.1. As an independent contractor, Consultant shall defend, indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against legal liability for all claims, losses, damages and expenses (including attorney fees) 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 infringement or alleged infringement of any patent, copyright, trademark, or other intellectual property right, privacy or similar right of any third party and/or the acts, omissions or conduct of Consultant or its employees and agents; excepting such claims, losses, damages and expenses or liabilities that are solely caused by or arise out of the negligence or wrongful acts or omissions of the City, its officers, employees and agents.

8.2. During the entire term of this Agreement, Consultant shall maintain with an insurance company authorized to conduct business in the State of Ohio and having at least an “A” rating from A.M. Best, the following insurance:

8.2.1 General/Comprehensive Liability Insurance, with a combined single limit of One Million Dollars ($1,000,000) for each occurrence and One Million Dollars ($1,000,000) in the aggregate; and

8.2.2 Worker’s Compensation Insurance for all employees, in such amounts as required by law.

8.3. The policy or concurrent policies of insurance required herein, but excluding Worker’s Compensation Insurance, shall name the City, its elected officials, officers, agents, employees, and volunteers as additionally insured. Further, such policies of insurance,
excluding Worker’s Compensation Insurance, shall contain the requirement that City be notified thirty (30) days in advance of any termination or diminution of coverage.

8.4. Within thirty (30) days of the execution of this Agreement, Consultant shall furnish the City with copies of the policy of insurance, including declaration page(s), demonstrating compliance with the insurance requirements contained herein.

9. Taxes

9.1. City will provide Consultant with the appropriate tax exemption certificates for purchases made to benefit the City during the term of this Agreement, if applicable.

10. Disputes

10.1. “Dispute” means any controversy or claim between City and Consultant. It includes controversies or claims that are related directly or indirectly to this Agreement, whether based on contract, statute, tort, fraud, fraudulent inducement, misrepresentation, or other legal or equitable theory, whenever brought, between City and Consultant or any of City’s or Consultant’s employees or agents.

10.2. The City and Consultant agree to use good faith efforts to first negotiate a solution to the Dispute, including progressively escalating any controversy or claim through senior levels of management. If negotiation does not result in a resolution within fifteen (15) business days of when one party first notifies the other of the Dispute, the parties agree to submit the Dispute to non-binding mediation in accordance with Subsection 11.3.

10.3. If the City and Consultant are unable to resolve a Dispute by negotiation, both parties agree to submit it to non-binding mediation conducted by the Dayton Mediation Center.

10.4. Except for Disputes resolved in accordance with this Section, the City and Consultant agree to exercise any right or remedy in connection with this Agreement exclusively in, and hereby submit to the jurisdiction of, the courts of Montgomery County, Ohio. The parties waive the right to a jury trial of any claim and consent to a bench trial in any court of appropriate jurisdiction in Montgomery County.

11. Change Control Process

11.1. The Change Control Process described in this Section 11 shall govern changes to the scope of any technical consulting services project. Either party may request changes to a particular technical consulting services project during the term of this Agreement, as may be necessary.

11.2. A Change Request Form will be the vehicle for communicating any desired changes to the particular technical consulting services project. The City or, as applicable, Consultant will complete a “Change Request Form,” which will be in substantially the same format as set forth in the attached and incorporated Attachment B, describing the
change, the reason for the change and the effect the change may have on the particular
technical consulting services project.

11.3. Both Consultant and the City will review the proposed Change Request Form and
approve it or reject it. Both Consultant and the City must sign the approval portion of the
Change Request Form to authorize the implementation of the change(s) to the particular
technical consulting services project.

11.4. The City’s Director of Police, or his designee, shall be authorized on behalf of the City to
approve and execute any changes to the technical consulting services project(s) that are
mutually agreed between the City and Consultant. Any changes that increase the amount
to be paid to the Consultant must be approved by the City Manager and/or the
Commission, depending upon the dollar amount of the change.


12.1. This Agreement, together with Attachments A and B, represents the entire and integrated
agreement between the City and Consultant. 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.

12.2. If any provision of this Agreement is held invalid, the remainder of the Agreement shall
not be affected thereby, and all other parts of this Agreement shall nevertheless be in full
force and effect.

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

12.4. Consultant shall meet with the City, and its designees at such times designated by the City
to review and discuss performance of this Agreement and/or the services. Consultant shall
allow the City to conduct inspections or monitoring, and shall cooperate with the City and
its contractors in all respects concerning the performance of the services and the review
and monitoring of its performance under this Agreement.

12.5. Consultant shall not assign any rights or duties under this Agreement without the prior
written consent of the City. Unless otherwise stated in the City’s written consent to an
assignment, no assignment will release or discharge Consultant from any obligation under
this Agreement. Nothing contained in this subsection shall prevent Consultant from
employing independent contractors, associates, and subcontractors to assist in the
performance of the services required hereunder.

12.6. All promises, covenants, stipulations, and agreements set forth in this Agreement shall
extend to and bind the legal representatives, successors and assigns of the respective
parties hereto.
12.7. By executing this Agreement, Consultant acknowledges and agrees that it will be providing services to the City as an "independent contractor." As an independent contractor for the City, Consultant shall be prohibited from representing or allowing others to construe the parties' relationship in a manner inconsistent with this subsection. Consultant shall have no authority to assume or create any obligation on behalf of, or in the name of the City, without the express prior written approval of a duly authorized representative of the City. Consultant, its employees and any other persons retained or hired by Consultant to perform the services, duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Consultant is not a "public employer" for the purpose of Ohio Public Employees Retirement System membership. Further, Consultant shall be responsible to withhold and pay, or cause such agents, contractors and sub-contractors to withhold and pay all applicable local, state and federal taxes and Workers' Compensation Insurance.

12.8. The City or Consultant may request to amend or modify this Agreement, at any time, provided that upon mutual agreement, any such amendment or modification is executed in writing, makes specific reference to this Agreement, is signed by a duly authorized representative of City and Consultant and, if required or applicable, is approved by the Commission of the City of Dayton, Ohio.

12.9. 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 laws. By execution hereof, Consultant irrevocably consents to the jurisdiction of the state and federal courts located in Montgomery County, Ohio, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement.

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

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

12.11. Consultant shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all services funded
under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final payment. Notwithstanding the above, if there are claims, litigation, audits, negotiations or other actions that involve any of the records pertaining to this Agreement, which commence prior to the expiration of the three-year period, then Consultant shall retain records until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

12.12. Consultant affirms and certifies that it is in compliance with Ohio Revised Code §3517.13 limiting political contributions.

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

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

CITY OF DAYTON, OHIO

City Manager

OPTICA CONSULTING, INC.

By: President

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney

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

December 18, 2019

Min. / Bk. Pg. Clerk of the Commission
Scope of Work

1. TECHNICAL CONSULTING SERVICES:

Consultant will provide any or all of the following technical consulting services from which the City can select and prioritize the work effort, given the time frame of the engagement:

1.1 Provide data analysis expertise, as it relates to the City’s Department of Police. Data analysis will include, but is not limited to, the following Dayton Police Department business functions:

1.1.1 Community Initiative to Reduce Gun Violence ("CIRGV");
1.1.2 Patrol Staffing and analysis;
1.1.3 Monthly Crime Analysis Prevention Efforts and Response Strategies ("CAPERS") reporting;
1.1.4 Initiatives related to Problem Oriented Policing ("POP"), including hot-spot, pattern analysis, and initiative tracking;
1.1.5 Crime analysis for division commanders and police command staff;
1.1.6 Fulfillment of public records requests for crime statistics, arrests, or other police and criminal justice related data;
1.1.7 Data mapping along with short and long term trend analysis;
1.1.8 Data analysis using online social media tools, EIS and/or Lexis-Nexis Virtual Crime Center software;
1.1.9 Best efforts for Maintenance and enhancement of Link Analysis, Executive Information System ("EIS"), Public Crime Maps, Automated Alerting, and CorVu reporting.

1.2 Compile and maintain crime, arrest, dispatch, field interview, and other criminal justice related data collected by the City’s Department of Police, and provide such data in a timely and usable format to authorized users of such data.

1.3 Provide, upon request by the City, a written analysis of the crime and arrest data to supervisory personnel of the City’s Department of Police.

1.4 Identify and recommend the adoption of nationally recognized guidelines and standards for data analysis.

1.5 Such other services related to the crime, arrest, dispatch, field interview, and other criminal justice data as the City may request.

2. Additional Terms and Conditions:

2.1. Consultant will perform the data analysis consulting services requested by the City.
2.2. E-mail is the preferred method of communications, particularly for transmitting
documents and attached files. Documentation shall be provided in MS-Office 2016 or
higher format per City needs and pursuant to Section 1 above.

2.3. Consultant is not responsible for completion of any assigned work efforts or sub-projects
outlined in Section 1 when there are circumstances outside of Consultant’s control that
cause Consultant’s portion of the work or services to not start or not be completed
within the engagement period. These circumstances include, but are not limited to:

2.3.1 Delays in delivery of, or unavailability of required equipment or software.

2.3.2 Work efforts by City resources or other third party resources where their work
efforts are delayed or become unavailable for completion in a timely manner.

2.3.3 Inadequate lead times provided for the completion of the work effort prior to the
expiration of the service delivery period. The timeframe for completion of any
work effort will be provided to the City when requested, on a case by case basis,
so that all required work can be completed during the term of this Statement of
Work.
ATTACHMENT B

Change Request Form

Project Name:

Customer Name:  City of Dayton, Ohio

Change Description

Priority:  Low:  ___  Medium:  ___  High:  ___

Change Type:

- Functional Specification
- Design Specification
- Technical Specification
- User Documentation
- Training Requirements
- Other (please specify)

- Problem Report
- Acceptance Test Plan
- Project Schedule
- Programming Module

Change Description:

References:

Submitted By:  ______________________  Date:  ________________

Impact Assessment
Time (specify unit):

Cost:

OCI Program Manager:  ______________________

City of Dayton Project Manager:  ______________________

Estimated Effort (calendar time):

Project Schedule Impact:

Project Scope Impact:
Technical Design Impact:

Approval

The undersigned agrees to purchase the above documented changes to the original statement of work. Purchaser understands that all changes mentioned herein are bound by the terms and conditions stated in the original statement of work.

__________________________________________
(City of Dayton Project Manager)

__________________________________________
(OCI Program Manager)

__________________________________________
(Estimated Completion Date- if applicable)

__________________________________________
(Date)

Estimate of Effort to Execute Requested Change:
From 6210 - Police Director
Supplier, Vendor, Company, Individual
Name Optica Consulting, Inc.
Address PMB#105
2312 Far Hills Ave.
Dayton, Ohio 45419

Date November 24, 2021
Expense Type Service Agreement
Total Amount $142,848.00 thru 12/31/2022

Fund Source(s) Fund Code(s) Fund Amount(s)
General Fund 10000-6210-1158-71 $142,848.00

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

Description
Renewal of Professional Services Agreement

The City of Dayton, Department of Police is requesting approval to exercise a one-year renewal agreement with Optica Consulting, Incorporated ("Optica") for services to provide analysis, review and redaction services to videos recorded from video recorders, body worn cameras and other audio/video recording devices. Approval of this renewal supports the implementation of the body worn camera program, which is an approved recommendation from the Use of Force Working Group established by the Dayton City Commission. The total agreement shall not exceed $201,198.00 with this renewal not to exceed $142,848.00. This is the first of three renewals.

Optica, founded in 1998, provides software development, technology solutions, systems integration, and data analysis services to the public safety industry.

The original Agreement was approved by the Dayton City Commission on July 14, 2021 as Calendar Item No. 2.

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

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

E-SIGNED by Paul Saunders on 2021-11-12 18:50:04 GMT

Signatures/Approval
Approved by City Commission

E-SIGNED by Eric Henderson on 2021-11-12 18:57:46 GMT

Department

City Manager

FORM NO. MS-16

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

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Required Documentation

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

Seq. #1

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Attach additional pages for more FOAPALS

Vendor Name: Optica Consulting Inc.
Vendor Address: PMB #105, 2312 Far Hills Avenue, Dayton, Ohio 45419
Street | City | State | Zipcode + 4
Federal ID: 52-2436353
Commodity Code: 92099
Purpose: 2022 Renewal for video review, redaction and analysis services.

Contact Person: Meredith Weber x1099
Police/Chief's Office: 11/9/2021
Department/Division: 11/11/2021
E-SIGNED by Matt Carpenter on 2021-11-12 13:56:11 GMT

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: 11/9/21
CF Prepared by: James Williams
Date: 11/11/21
CF/CT Number: CT22-3015

October 18, 2011
Finance Department
FIRST RENEWAL
PROFESSIONAL SERVICES AGREEMENT

This FIRST RENEWAL OF PROFESSIONAL SERVICES AGREEMENT FOR VIDEO ANALYSIS, REVIEW AND REDACTION SERVICES is entered this ___ day of __________, 2021, between the City of Dayton, Ohio ("City") and Optica Consulting, Inc. ("Consultant").

WHEREAS, on August 19, 2021 the City entered into an agreement with the Consultant for analysis, review and redaction services to videos recorded from video recorders, body worn cameras and other audio/video recording device for the City’s Department of Police; and

WHEREAS, the City seeks to continue the Agreement to continue the services to support law enforcement efforts throughout the City; and

WHEREAS, the Contractor is willing to provide the services for additional compensation and City and Contractor agree upon the amount to be paid for the additional services.

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

1. Pursuant to Section 2 of the Agreement, both City and Contractor hereby mutually agree to renew the Agreement for one year. This renewal period shall begin on January 1, 2022 and terminate on December 31, 2022.

2. 3.1 Funding. The City total compensation under this Renewal shall not exceed One Hundred Forty-Two Thousand Eight Hundred Forty-Eight Dollars and Zero Cents ($142,848.00) for all video analysis, review and redaction services provided by Consultant pursuant to this Agreement. Consultant will request reimbursement by issuing an invoice to the City.

The remainder of this page left blank.
Section 5. Except as herein modified, all other provisions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and Consultant, by duly authorized representatives have executed this First Amendment as of the date first above written.

CITY OF DAYTON, OHIO

___________________________
City Manager

OPTICA CONSULTING, INC.

E-SIGNED by Tom Lachey
on 2021-11-10 09:05:30 EST

___________________________
Tom Lachey, President

APPROVED AS TO FORM
AND CORRECTNESS:

11/9/2021

X John Musto for
City Attorney

Signed by: Musto, John

APPROVED:

E-SIGNED by Eric Henderson
on 2021-11-10 13:03:40 EST

___________________________
Director and Chief of Police

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

___________________________, 2021

Min./Bk.__________ Pg. ____________

___________________________
Clerk of Commission
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

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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

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Vendor Name: Optics Consulting, Inc.
Vendor Address: 2312 Fair Hills Ave. Dayton OH 45419
Federal ID: 82-2436253
Commodity Code: 02-009
Purpose: Agreement for video analysis and editing/redaction services.

Contact Person: Sheelak Moyer ext. 1045

SECTION II - to be completed by the Finance Department

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

Finance Director's Signature: [Signature]
Date: 7/6/2021

CT21-3015
CF/CT Number: 7/6/2021

Finance Department
October 18, 2011
City Manager's Report

From 6210 - Police Director
Supplier, Vendor, Company, Individual
Name Optica Consulting, Inc.
Address 2312 Far Hills Ave.
Dayton, Ohio 45419

Date July 14, 2021
Expense Type Service Agreement
Total Amount $58,350.00 thru 12/31/2021

Fund Source(s) Fund Code(s) Fund Amount(s)
General Fund 10000-6210-1168-71 $58,350.00

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

Description
Professional Services Agreement

The City of Dayton, Department of Police is requesting permission to enter into an Agreement with Optica Consulting, Incorporated (“Optica”). The Agreement will provide, as needed, the Police Department with analysis, review and redaction services to videos recorded from video recorders, body worn cameras and other audio/video recording devices. Approval of this Agreement supports the implementation of the body worn camera program, which is an approved recommendation from the Use of Force Working Group established by the Dayton City Commission. This Agreement with expenditure authority of $58,350.00 will begin on August 1, 2021 and expire on December 31, 2021. The Agreement has three (3) optional one-year renewals.

Optica, founded in 1998, provides data analysis services, software development, technology solutions, and systems integration to the public safety industry.

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

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

SM

Signatures/Approval

Division

Department
City Manager
FORM NO. MS-16

Approved by City Commission

Clerk

Date

Updated 8/2016
August 9, 2021

TO: City Commission Office
Shelley Dickstein
City Manager
Finance Department

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

SUBJECT: Request for Signature

Please sign the attached Agreement between the City of Dayton and Optica Consulting Inc. (Optica). The Agreement will provide, as needed, the Police Department with analysis, review and redaction services to videos recorded from video recorders, body worn cameras and other audio/video recording devices. Approval of this Agreement supports the implementation of the body worn cameras program, which is an approved recommendation from the Use of Force Working Group established by the Dayton City Commission. This Agreement with expenditure authority of $58,350.00 will begin upon execution and expire on December 31, 2021. The Agreement has three (3) optional one-year renewals.

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

The Agreement was approved by the City Commission on July 14, 2021 by calendar item#2 and is ready for your execution.

Thank you.

Attachments: CMR, 1 Certificate of Revenue, 4 Original Agreements

MMC/ras
PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is entered into this \( \frac{1}{1} \) day of August, 2021 between the City of Dayton, Ohio ("City") and Optica Consulting, Incorporated ("Consultant"), an Ohio corporation.

WITNESSETH THAT:

WHEREAS, the City of Dayton seeks to provide a safe and secure environment in the City and promote the transparency of interactions with law enforcement personnel; and

WHEREAS, on June 18, 2020, the Dayton City Commission announced the working structure for the Police Reform Initiative with the formation of Police Reform Working Groups (Working Groups) to make recommendations about Dayton Police Department practices and policies; and

WHEREAS, the Use of Force Working Group recommended body worn cameras be used by the Dayton Police Department; and

WHEREAS, on January 20, 2021, the Dayton City Commission approved a contract to purchase body worn cameras for Dayton Police Department sworn personnel; and

WHEREAS, the Dayton Police Department requires professional video analysis and redaction services to analyze, review and appropriately edit videos from mobile recorders, body worn cameras and other audio/video recording devices; and

WHEREAS, the Consultant is willing to perform such services and represents that its staff has the experience and expertise to perform such services for the City.

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

1. Scope of Work

A. Services. Consultant shall provide, as needed and upon request by the City, video analysis and editing/redaction services to Dayton Police Department (DPD) for the analysis, review and redaction to videos recorded from mobile video recorders, body worn cameras and other audio/video recording devices used by DPD. Specifically, Consultant shall assign two (2) or more of its analysts to provide the services requested by the City. During the term of the agreement, the analysts will provide a minimum of Seven Thousand Two Hundred (7,200) total service hours, (generally delivered during standard business hours Monday through Friday, or as mutually agreed between Consultant and City). Consultant agrees that its analysts will use all reasonable efforts to schedule vacations, training, and meeting days in such a manner as to minimize disruption of services to the City.
B. These personnel are hereinafter referred to as "Video Analysts/Redactionists" (VARs). Services performed shall include:

1. Reviewing raw footage from videos created from the multiple video recording platforms used by DPD;
2. VARs will group, analyze and prepare video for release after redacting video to comply with law enforcement investigative processes/procedures, City policy and applicable privacy laws;
3. VARs will use skills and experience in exercising judgment to interpret source data, recognizing errors prior to data entry, and edit source data to reduce or eliminate compound errors and reruns;
4. VARS will perform work to assist the Strategic Planning Bureau on special programs and the Inspection and Audits Commander with review of video for policy compliance; and
5. VARs will work primarily during normal business hours, but circumstances may arise where they may be required to work non-traditional hours.

C. Release of Information. VARs will operate in an environment where they will come into contact with law enforcement sensitive or confidential footage, documents and other media that must not be disclosed to anyone outside of the department, except in the instance of a court-ordered subpoena. Deliverables from analyses should be released to the Police Information Specialist, Training Bureau, or other formally approved parties. VARs should only release information to other persons or agencies with the written approval from either DPD's Commander of Strategic Planning, Commander of Inspections and Audits, Police Information Specialist, the managing Police Major, Assistant Chiefs or Chief of Police.

D. Employee Skills and Experience. Consultant represents that its employees are effectively trained to perform the services requested under this Agreement. Consultant's employees shall:

1. Ensure that Consultant's employees assigned to provide consulting services to the City do not have a record of any criminal conviction;
2. Know and abide by the City's business policies, procedures, and security requirements;
3. Possess a working knowledge of Ohio's Sunshine/Public Records laws;
4. Have a minimum of two years' experience on electronic data entry or preparation equipment, which includes encoding data on a computer data terminal or workstation from source documents or coding forms;
5. Demonstrate a knowledge of modern office principles, practices, and equipment;
6. Communicate in a business-like manner with these skills to include business writing, speaking and accurate spelling;
7. Maintain moderately complex clerical records and prepare detailed reports from these records; and
8. Make relatively complex arithmetic computations and tabulations accurately and with reasonable speed.
In the event the employees are not able to perform the services or do not perform the services to the reasonable satisfaction of the City, Consultant agrees to replace said employees with mutually agreeable replacements having similar capabilities, training, and qualifications. In the event suitable and mutually agreeable replacements are not available, the City may, at its option, terminate this Agreement or reduce the amount of compensation to be paid for services.

E. Consultant Employees’ Background Investigation. The City reserves the right to conduct, for security reasons, a lawful background investigation on Consultant, its principals, and personnel, including all employees assigned to perform the services. Consultant agrees to fully cooperate with the City in this endeavor and to provide any information, to the extent allowed by law, which is reasonably necessary to perform such background investigation. The City will, upon Consultant’s written request and if allowable by law, provide a copy of such background investigations to Consultant. Dependent upon the results of the background check, the City and Consultant may, by mutual written agreement, immediately remove any of Consultant’s employee from performance of the services.

2. Term and Termination

A. Term. This Agreement shall commence on August 1, 2021 and shall expire on December 31, 2021 unless terminated earlier as provided in Subsections 2.C.1 or 2.C.2. This Agreement shall be renewable for three (3) optional one-year terms. The renewal must be executed in writing, approved by the Commission of the City of Dayton, and signed by a duly authorized representative for each party.

B. Notice to Proceed. Consultant shall not commence work under this Agreement until a Notice to Proceed is issued by the Dayton Police Department. No work performed prior to the issuance of the Notice to Proceed shall be reimbursed by the City.

C. Termination. Either party may immediately terminate this Agreement, if the other party defaults in the performance of any of the covenants and conditions required herein to be kept and performed by it, and such defaulting party fails to cure the default within thirty (30) days after receipt of written notice of said default.

1. This Agreement may be terminated by either party upon giving written notice of termination to the other party at least sixty (60) days prior to the effective date of such termination.

2. In the event this Agreement is terminated, the City shall be relieved of any obligation to pay for any work or services performed subsequent to the effective date of termination.

3. Funding, Financial Standards and Auditing

This Agreement is contingent on the availability and approval of funding in future years by the Dayton City Commission, which is not guaranteed or promised in this Agreement.
A. Funding. The Agreement is a firm, fixed rate contract and the total amount of remuneration in this Agreement shall not exceed the sum of Fifty-Eight Thousand Three Hundred Fifty Dollars and Zero Cents ($58,350.00) over the initial 5-month term of this Agreement. Should the Agreement be extended, the three (3) one-year renewal terms cost shall not exceed the sum of Four Hundred Thirty-Seven Thousand One Hundred Seventy-Two Dollars and Zero Cents ($437,172.00).

B. Invoices. Payment to Consultant for the consulting services provided in accordance with this Agreement shall be made according to the following schedule.

<table>
<thead>
<tr>
<th>Initial Term Service Delivery Dates</th>
<th>Monthly Invoice</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 Months Beginning 8/1/2021</td>
<td>Not to exceed $11,670</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Renewal Terms Service Delivery Dates, if applicable</th>
<th>Monthly Invoice</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 Months Beginning 1/1/2022</td>
<td>Not to exceed $11,904</td>
</tr>
<tr>
<td>12 Months Beginning 1/1/2023</td>
<td>Not to exceed $12,142</td>
</tr>
<tr>
<td>12 months Beginning 1/1/2024</td>
<td>Not to exceed $12,385</td>
</tr>
</tbody>
</table>

Consultant shall submit a monthly invoice for the preceding month’s services. Each invoice shall be on Consultant letterhead, include the contract number, detail the professional services and/or deliverables provided during the invoice period, list the total charges for such professional services, number of hours the Consultant’s personnel devoted to the performance of such services and/or providing deliverables and the total amount of expenses incurred during the invoice period. All invoices shall be reviewed by the appropriate City staff to verify that the Consultant rendered services and/or provided deliverables during the invoice period. Upon verification of the invoice, the City will tender payment of all invoices within fifteen (15) days from approval of the invoice, unless disputed.

C. Financial Standards. The Consultant agrees to require the use of Generally Accepted Accounting Principles (GAAP) in recording and documenting all costs and expenditures relating to this Agreement. All costs and expenditures for the services performed under this Agreement shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers, or other accounting documents, which shall be clearly identified and readily accessible to the City. All costs and expenditures pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible to the City and its designees. At any time during normal business hours and as often as the City may deem necessary, the Consultant shall make available to the City all of its records with respect to all matters covered under this Agreement, and will permit the City or designee to audit, examine, and make excerpts or transcripts from such records and to have audits made of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data pertaining in whole or in part to matters covered by this Agreement.
D. Auditing. If Consultant performs an independent audit of business and/or financial records, the Consultant shall require the company and/or auditor(s) to comply with all applicable Generally Accepted Auditing Standards that have been developed by the American Institute of Certified Public Accountants. The City shall receive a summary of the audit findings and, if requested, the Consultant shall provide the City with a complete copy of such audit report.

4. City Responsibilities

A. The City will direct and prioritize the services that Consultant’s employees will provide under this Agreement so that the selected consulting services can be completed during the term hereof.

1. The City agrees to provide the Consultant employees with access to the City building(s) that are necessary to perform the services twenty-four (24) hours a day, seven (7) days a week. Further, the City agrees to provide the Consultant and its employees with access necessary to complete the services, including access to internal workstations and remote access to the City’s network and e-mail system for information exchange.

2. The City shall make arrangements for the ordering and set-up of any necessary hardware, software, network connections or other services needed by the Consultant, which may affect the schedule and work efforts or consulting services to be performed by the consultants.

5. Confidential Information

A. Either party may provide the other party with information that it considers confidential or proprietary. Proprietary information shall be information, which, if made public, would put the disclosing party at a disadvantage in the marketplace or trade of which the party is a part. Confidential information shall be information which, under the laws of the State of Ohio, is classified as being “private” or “confidential.” Such information shall be marked “confidential” and/or “proprietary” by the party providing it within ten (10) days after disclosure.

B. To the extent permitted by law and recognizing that the City is a political subdivision of the State of Ohio and subject to the Ohio Public Records Act (Ohio Revised Code §149.43 et seq.), the parties agree that for a period of two (2) years following the date of disclosure of confidential or proprietary information, it will not disclose such information to any third party without the other party’s written consent. During this two-year period, each party will protect the confidential or proprietary information received by it in the same manner that it protects its own confidential information of a similar nature. Each party agrees that it will only copy the confidential or proprietary information to the extent necessary to perform the services contracted for under this Agreement.
with the City and its contractors in all respects concerning the performance of the services and the review and monitoring of its performance under this Agreement.

E. Consultant shall not assign any rights or duties under this Agreement without the prior written consent of the City. Unless otherwise stated in the City’s written consent to an assignment, no assignment will release or discharge Consultant from any obligation under this Agreement. Nothing contained in this subsection shall prevent Consultant from employing independent contractors, associates, and subcontractors to assist in the performance of the services required hereunder.

F. All promises, covenants, stipulations, and agreements set forth in this Agreement shall extend to and bind the legal representatives, successors and assigns of the respective parties hereto.

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

H. Consultant, its employees and any other persons retained or hired by Consultant to perform the services, duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Consultant is not a “public employer” for the purpose of Ohio Public Employees Retirement System membership. Further, Consultant shall be responsible to withhold and pay, or cause such agents, contractors, and sub-contractors to withhold and pay all applicable local, state, and federal taxes and Workers’ Compensation Insurance.

I. The City or Consultant may request to amend or modify this Agreement, at any time, provided that upon mutual agreement, any such amendment or modification is executed in writing, makes specific reference to this Agreement, is signed by a duly authorized representative of City and Consultant and, if required or applicable, is approved by the Commission of the City of Dayton, Ohio.

J. 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. By execution hereof, Consultant irrevocably consents to the jurisdiction of the state and federal courts located in Montgomery County, Ohio, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement.

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

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

M. Consultant shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all services funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final payment. Notwithstanding the above, if there are claims, litigation, audits, negotiations or other actions that involve any of the records pertaining to this Agreement, which commence prior to the expiration of the three-year period, then Consultant shall retain records until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

N. Consultant affirms and certifies that it is in compliance with Ohio Revised Code §3517.13 limiting political contributions.

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

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

CITY OF DAYTON, OHIO

[Signature]
City Manager

APPROVED AS TO FORM AND CORRECTNESS:

E-SIGNED by John Musto on 2021-06-21 20:13:17 GMT
City Attorney

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

[Signature]
Clerk of the Commission

OPTICA CONSULTING, INC.

E-SIGNED by Thomas Lachey on 2021-06-23 12:12:22 GMT
Thomas Lachey, President

E-SIGNED by Eric Henderson on 2021-06-09 17:08:44 GMT
Eric Henderson

Acting Deputy Director & Assistant Chief of Police
City Manager’s Report

From 5350 - Finance/Utility Revenue Admin

Supplier, Vendor, Company, Individual

Name Vertex Data Utility Services, LLC, d/b/a VertexOne, f/k/a Vertex Business Services

Address 501 George Bush Hwy Suite 350
Richardson, TX 75080

Date November 24, 2021

Expense Type Contract Modification

Total Amount $218,000.00 thru 10.31.2022

Fund Source(s) Fund Code(s) Fund Amount(s)
Water Operating Fund 53000-5350-1159-64 $218,000.00

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

Description

Fourth Amendment and Extension - Professional Services Agreement for Utility Billing

The Department of Finance requests City Commission approval to enter into a four-month extension of the Agreement with Vertex Data Utility Services, LLC, d/b/a VertexOne, f/k/a Vertex Business Services (VertexOne). The Fourth Amendment and Extension Agreement will commence March 1, 2022, and will end on June 30, 2022, and includes an option for an additional four-month extension (July 1, 2022 – October 31, 2022). The requested increase in authority includes $28,000.00 to cover the period of February 2022, $120,000.00 for March 1, 2022 – June 30, 2022, and $70,000.00 for the optional extension for July 1, 2022 – October 31, 2022, totaling $218,000.00.

VertexOne provides the following services for City of Dayton utility customers, including Jefferson Township and the City of Clayton: 1. utility bill printing and mailing services; 2. online portal management and payment services via PayDaytonWater.com; 3. other expanded e-solutions like online recurring and consolidated payment options; and 4. access to retail payment sites for cash payments. In 2020, the City invoiced over 55,000 customer accounts through VertexOne, generating over 425,000 paper and electronic invoices, including approximately $96 million in billed revenue. The original agreement covered the period of March 1, 2015, to February 28, 2018, and a two-year amendment and extension covered March 1, 2018, to February 28, 2020. The Department of Finance elected to exercise one-year amendment and extensions covering March 1, 2020, to February 28, 2021, and March 1, 2021, to February 28, 2022. It was the intent to issue an RFP for services in 2020. Due to the COVID-19 pandemic, Finance was unable to do so until the fourth quarter of 2021.

This amendment and extension is the fourth time the City has amended the agreement and represents a total Commission authorized amount of $2,211,000.00 since 2015. Finance issued an RFP in the fourth quarter of 2021 for these services to ensure we select a vendor who can meet or exceed utility bill presentment and processing standards.

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

A Certificate of Funds in the amount of $180,000.00 is attached.

Signatures/Approval

Approved by City Commission

Division

Department

City Manager

FORM NO. MS-16

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

New Contract

X Renewal Contract

Change Order:

Contract Start Date

03/01/15

Expiration Date

10/31/22

Original Commission Approval

$ 1,993,000.00

Initial Encumbrance

$ 1,961,000.00

Remaining Commission Approval

$ 32,000.00

Original CT/CF

CT15-1088

Increase Authority

$ 218,000.00

Increase Encumbrance

$ 180,000.00

Decrease Encumbrance

$ -

Remaining Commission Approval

$ 70,000.00

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: $ 180,000.00

Fund Code

530000 - 5350 - 1159 - 64 - 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: Vertex Data Utility Services, LLC, d/b/a VertexOne, f/k/a Vertex Business Services

Vendor Address: 501 George Bush Hwy Suite #350 Richardson TX 75080

Street City State Zipcode + 4

Federal ID: 26-1398981

Commodity Code: 96600

Purpose: To cover the cost of professional services for online billing/payments and the printing, processing and mailing of utility bills, certified notices, inserts, past-due notices and shut-off notices for the City of Dayton, Jefferson Township, and the City of Clayton during the period of January 1, 2022 through October 31, 2022.

Contact Person: Jim Wedding

Finance/Utility Revenue Administration 11.15.2021

Department/Division Date

Originating Department Director's Signature: 11/16/21

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 11/16/21

CF Prepared by 11/16/21

Date CF/CT Number

October 18, 2011
FOURTH AMENDMENT AND EXTENSION OF THE VERTEXONE SERVICES AGREEMENT

THIS FOURTH AMENDMENT AND EXTENSION OF THE VERTEXONE SERVICES AGREEMENT ("Fourth Amendment") is dated __________ day of __________, 2021, between the City of Dayton ("City") and Vertex Data Utility Services, LLC, d/b/a VertexOne, f/k/a Vertex Business Services ("VertexOne").

WHEREAS, On February 25, 2015, the Commission of the City of Dayton approved a VertexOne Services Agreement ("Agreement") between the City and VertexOne, under which VertexOne provides services to the City for utility bill printing and other e-solutions, including managing the paydaytonwater.com site; and,

WHEREAS, On February 21, 2018, the Commission of the City of Dayton approved a First Amendment and Extension of VertexOne Service Agreement ("First Amendment"), which extended the term of the Agreement; and,

WHEREAS, On February 26, 2020, the Commission of the City of Dayton approved a Second Amendment and Extension of VertexOne Service Agreement ("Second Amendment"), which extended the term of the Agreement; and,

WHEREAS, On February 17, 2021, the Commission of the City of Dayton approved a Third Amendment and Extension of VertexOne Service Agreement ("Third Amendment"), which extended the term of the Agreement; and,

WHEREAS, Pursuant to Section 12.18 of the Agreement, the City and VertexOne may mutually agree to amend the Agreement in writing; and,

WHEREAS, The City and VertexOne desire to amend the Agreement by extending the term of the Agreement until June 30, 2022, to include an option for one (1) additional four-month extension.

NOW, THEREFORE, For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and VertexOne mutually agree to amend and extend the Agreement as follows:

1. Section 2 of the Agreement, "Contract Term," will be deleted in its entirety and replaced with the following:

CONTRACT TERM

This Agreement shall be effective March 1, 2015, and expire on or before June 30, 2022. At the option of the City, this Agreement may be renewed up to one (1) additional four-month period. However, no such renewal of this Agreement shall be recognized or effective unless it is reduced to writing, which makes specific reference to this Agreement, and is executed by a duly authorized representative of the City, the City of Dayton Commission, and VertexOne.
2. The following language is hereby added to the end of Section 6.1 of the Agreement, "Fees."

Notwithstanding anything in the foregoing, VertexOne and the City hereby agree that the total expenditure of funds by the City for the Services during the period beginning January 1, 2022, and ending June 30, 2022, shall not exceed the total sum of One Hundred Eighty Thousand Dollars and Zero Cents ($180,000.00) in accordance with Schedule B: Pricing. If the City renews for an additional four months, beginning July 1, 2022, and ending October 31, 2022, the additional sum paid during that period shall not exceed Seventy Thousand Dollars and Zero Cents ($70,000.00) in accordance with Schedule B: Pricing. VertexOne is not required to provide services in accordance with Schedule B that exceed the total sum unless the City agrees to a change order for the additional compensation.

3. Except as modified by the amendment, the remaining terms of the Agreement shall continue to apply and remain in full force and effect.

IN WITNESS WHEREOF, The City and VertexOne, each by a duly authorized representative, have executed this Fourth Amendment and Extension as of the date first above written.

CITY OF DAYTON, OHIO

______________________________
City Manager

VERTEX DATA UTILITY SERVICES, LLC

By: ____________________________

Its: CFO

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

______________________________, 2021

Min/Bk ___________ Pg. __________

______________________________
Clerk of the Commission

X John Musto for

City Attorney

Signed by: Musto, John
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
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<tbody>
<tr>
<td>Contract Start Date 03/01/15</td>
<td></td>
<td></td>
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<tr>
<td>Expiration Date 02/28/22</td>
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<td>Original Commission Approval $1,711,000.00</td>
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<td>Initial Encumbrance $1,711,000.00</td>
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<td>Original CT/CF CT15-1088</td>
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<td>Increase Authority $282,000.00</td>
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<td>Increase Encumbrance $250,000.00</td>
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<tr>
<td>Decrease Encumbrance $</td>
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<tr>
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<td>Fund Org Acct Prog Act Loc</td>
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</table>

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

Attach additional pages for more FOAPALs

Vendor Name: Vertex Data Utility Services LLC d/b/a Vertex Business Services
Vendor Address: 501 George Bush Hwy Suite #350 Richardson TX 75080
Federal ID: 26-1398981
Commodity Code: 96600
Purpose: To cover the cost of professional services for on-line billing/payments and the printing, processing and mailing of certified notices, inserts, past-due notices and shut-off notices for the City of Dayton, Jefferson Township, and the City of Clayton during the period of March 1, 2021 through December 31, 2021.

Contact Person: Jim Weddell
Originating Department Director's Signature: [Signature]

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: [Signature]
Date: February 9, 2021
CT21-1088

CP Prepared by
Date: 2/9/2021

Finance Department
October 18, 2011
City Manager's Report

From 5350 - Finance/Utility Revenue Admin
Supplier, Vendor, Company, Individual
Name Vertex Data Utility Services, LLC d/b/a Vertex Business Services
Address 501 George Bush Hwy Suite 350
Richardson, TX 75080

Date February 17, 2021
Expense Type Contract Modification
Total Amount $282,000.00 thru 2/28/2022

Fund Source(s) Fund Code(s) Fund Amount(s)
Water Operating Fund 53000-5350-1159-64 $282,000.00

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

Description
Second One-Year Renewal- Professional Services Agreement for Utility Billing

The Department of Finance is requesting City Commission approval to enter into a second one-year renewal of the Agreement with Vertex Business Services (Vertex) in an amount not to exceed $282,000.00. The Renewal Agreement will commence March 1, 2021, and end on February 28, 2022.

Vertex provides the following services for City of Dayton utility customers, including Jefferson Township and the City of Clayton: 1. utility bill printing and mailing services; 2. on-line portal management and payment services via PayDaytonWater.com; 3. other expanded e-solutions like on-line recurring and consolidated payment options; and 4. access to retail payment sites for cash payments. In 2020, the City invoiced over 55,000 customer accounts through Vertex, generating over 425,000 paper and electronic invoices, which included approximately $96 million in billed revenue.

The initial three-year Agreement covered the period from February 2015 through February 2018 and allowed three, 2-year renewal periods. The first 2-year renewal covered March 2018 through February 2020 and was approved by Commission on February 21, 2018. Last year, Finance opted to renew for only one year of the second 2-year renewal period through February 2021, with plans to bid out the service for 2020. This action represented the second time Finance renewed the Agreement, which was approved by Commission on February 26, 2020. However, due to the COVID-19 pandemic, the Department of Finance could not release the RFP; therefore, to maintain services throughout 2021, the City needs to execute the last year of the second 2-year renewal option that runs through February 2022.

This renewal is the third time the City has renewed the Agreement and represents a total Commission authorized amount of $1,993,000.00 since 2015. Finance will issue an RFP in 2021 for these services to ensure we select a vendor who can meet or exceed utility bill presentment and processing standards. However, the City retains the option to renew for one more 2-year period, fulfilling the full nine years provided in the initial Agreement.

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

A certificate of Funds for $250,000.00 for services provided through 12/31/2021 is attached.

Signatures/Approval

Approved by City Commission

February 17, 2021

Clerk

February 17, 2021

Date

Updated 8/2016
THIRD AMENDMENT AND EXTENSION OF
THE VERTEXONE SERVICES AGREEMENT

THIS THIRD AMENDMENT AND EXTENSION OF THE VERTEXONE
SERVICES AGREEMENT ("Third Amendment") is dated 15th day of April, 2021,
between the City of Dayton ("City") and Vertex Data Utility Services, LLC d/b/a Vertex
Business Services ("Vertex").

WHEREAS, On February 25, 2015, the Commission of the City of Dayton approved a
VertexOne Services Agreement ("Agreement") between the City and Vertex, under which
Vertex provides services to the City for utility bill printing and other e-solutions, including
managing the paydaytonwater.com site; and,

WHEREAS, On March 4, 2018, the Commission of the City of Dayton approved a First
Amendment and Extension of VertexOne Service Agreement ("First Amendment"), which
extended the term of the Agreement; and,

WHEREAS, On March 19, 2020, the Commission of the City of Dayton approved a
Second Amendment and Extension of VertexOne Service Agreement ("Second Amendment"),
which extended the term of the Agreement; and,

WHEREAS, Pursuant to Section 12.18 of the Agreement, the City and Vertex may
mutually agree to amend the Agreement in writing; and,

WHEREAS, The City and Vertex desire to amend the Agreement by extending the term
of the Agreement until February 28, 2022.

NOW THEREFORE, For good and valuable consideration, the receipt and sufficiency
of which is hereby acknowledged, the City and Vertex mutually agree to amend and extend the
Agreement as follows:

1. Section 2 of the Agreement, "Contract Term," will be deleted in its entirety and replaced
with the following:

CONTRACT TERM

This Agreement shall be effective March 1, 2015, and shall expire on February 28, 2022.

2. The following language is hereby added to the end of Section 6.1 of the Agreement,
"Fees":

Notwithstanding anything in the forgoing, Vertex and Company hereby agree that the
total expenditure of funds by Company for the Services during the period beginning
March 1, 2021, and ending February 28, 2022, shall not exceed the total sum of two
hundred eighty two thousand dollars and zero cents ($282,000.00) in accordance with
Schedule B: Pricing. Vertex is not required to provide services in accordance with
Schedule B that exceed the total sum unless the City agrees to a change order for the additional compensation.

3. Except as modified by the amendment, the remaining terms of the Agreement shall continue to apply and remain in full force and effect.

IN WITNESS WHEREOF, The City and Vertex, each by a duly authorized representative, have executed this Third Amendment and Extension as of the date first above written.

CITY OF DAYTON, OHIO

[Signature]
City Manager

APPROVED AS TO FORM
AND CORRECTNESS

[Signature]
City Attorney

VERTEX DATA UTILITY SERVICES, LLC

[Signature]
Keith Foerster, CFO

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

February 17, 2020

Min/Bk I-14 Pg. 0422

[Signature]
Clerk of the Commission
City Manager's Report

From: 5350-Finance/Utility Revenue Admin.
Supplier, Vendor, Company, Individual: Vertex Data Utility Services LLC
Address: 501 George Bush Hwy, Suite 350 Richardson, TX 75080

Expense Type: Contract Modification
Total Amount: $282,000.00 (thru 2/28/2021)

Fund Source(s) Fund Code(s) Fund Amount(s)
Water Operating Fund 53000-5350-1159-64 $282,000.00

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

Description:
Utility Billing Professional Services Agreement-Second Renewal
Vertex Data Utility Services, LLC

The Department of Finance is requesting City Commission approval to enter into the second renewal option for a 1-year extension of the professional services agreement with Vertex Data Utility Services, LLC ("Vertex") in the amount of $282,000.00. The renewal Agreement will commence on March 1, 2020, and expire on February 28, 2021.

Vertex will continue to provide utility bill printing and mailing services, on-line management and payment services via paydaytonwater.com; and other expanded e-solutions for the City of Dayton, Jefferson Township, and the City of Clayton.

Vertex provides service for over 60,000 utility accounts which are billed monthly, quarterly, semi-annually, and annually. The City generates over 450,000 invoices and bills over $100 million in annual revenue through this vendor.

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

A Certificate of Funds in the amount of $163,000.00 to cover March 1, 2020 – December 31, 2020, is attached.

Signatures/Approval

Approved by City Commission
Rachelle Lavender
February 26, 2020

FORM NO. MS-16

Updated 10/2019
SECOND AMENDMENT AND EXTENSION OF THE VERTEXONE SERVICES AGREEMENT

THIS SECOND AMENDMENT AND EXTENSION OF THE VERTEXONE SERVICES AGREEMENT ("Second Amendment") is dated this 19th day of March, 2020 between the City of Dayton, Ohio ("City") and Vertex Data Utility Services, LLC ("Vertex").

WHEREAS, On February 25, 2015, the Commission of the City of Dayton approved a VertexOne Services Agreement ("Agreement") between the City and Vertex, under which Vertex provides services to the City for utility bill printing and other e-solutions, including managing the paydayton.com site; and,

WHEREAS, On March 5, 2018, the Commission of the City of Dayton approved a First Amendment and Extension of VertexOne Service Agreement ("First Amendment"), which extended the term of the Agreement; and,

WHEREAS, Pursuant to Section 12.18 of the Agreement, the City and Vertex may mutually agree to amend the Agreement in writing; and,

WHEREAS, The City and Vertex desire to amend the Agreement by extending the term of the Agreement until February 28, 2021.

NOW THEREFORE, For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Vertex mutually agree to amend and extend the Agreement as follows:

1. Section 2 of the Agreement, "Contract Term", will be deleted in its entirety and replaced with the following:

   CONTRACT TERM

   This Agreement shall be effective on March 1, 2015 and shall expire on February 28, 2021.

2. The following language is hereby added to the end of Section 6.1 of the Agreement, Fees:

   Notwithstanding anything in the foregoing, Vertex and Company hereby agree that the total expenditure of funds by Company for the Services during the period beginning March 1, 2020 and ending February 28, 2021 shall not exceed the total sum of Two Hundred Eighty-Two Thousand Dollars and Zero Cents ($282,000.00) in accordance with Schedule B: Pricing. Vertex is not required to provide services in accordance with Schedule B that exceed the total sum unless the City agrees to a change order for the additional compensation.

3. Except as modified by the amendment, the remaining terms of the Agreement shall continue to apply and remain in full force and effect.

IN WITNESS WHEREOF, the City and Vertex, each by a duly authorized representative, have executed this Second Amendment as of the date first above written.

CITY OF DAYTON, OHIO

【Signature】
City Manager

APPROVED AS TO FORM
AND CORRECTNESS:

【Signature】
City Attorney

VERTEX DATA UTILITY SERVICES, LLC

By: 【Signature】
Chief Financial Officer

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

February 26, 2020
Min. / Bk. I-14 Pg. 0144
【Signature】
Clerk of the Commission
City Manager's Report

From: 5340 - Finance/Revenue Admin
      Supplier, Vendor, Company, Individual
Name: Vertex Business Services
Address: 501 George Bush Hwy Suite 350
        Richardson, TX 75080

Expense Type: Contract Modification
Total Amount $564,000.00 (thru 2/28/20)

Fund Source(s) | Fund Code(s) | Fund Amount(s)
----------------|-------------|-----------------|
Water Operating Fund | 53000-5350-1159-64 | $564,000.00

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

Description
The Department of Finance is requesting City Commission approval to enter into a 2-year Contract Renewal with Vertex Business Services (Vertex) in the amount of $564,000.00 ($282,000.00 – Yr. 1, $282,000.00 – Yr. 2). The agreement will commence upon execution by the City and expire on February 28, 2020. The City has the option to renew for two additional 2-year periods. Vertex will continue to provide utility bill printing and mailing services; on-line management and payment services via PayDaytonWater.com; and other expanded e-solutions for the City of Dayton, Jefferson Township and the City of Clayton.

Vertex has over ten years of experience in the utility billing and on-line presentment industry. The customer service tools provided by Vertex include mail tracking, Retail Cash Payment Options, payment tracking, management and tracking tools for landlords, the City’s mobile app and re-occurring payment options.

Vertex provided service for over 60,000 utility accounts which are billed monthly, quarterly, semi-annually and annually. The City generates over 450,000 invoices and bills over $100 million in revenue annually.

A certificate of Funds in the amount of $282,000.00 for Year 1 of the Contract Renewal is attached.

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

Signatures/Approval

Approved by City Commission

Rachelle Puente
Stark
February 21, 2018
Date

FORM NO. MS-16

Updated 9/2016
FIRST AMENDMENT AND EXTENSION OF VERTEXONE SERVICES AGREEMENT

This FIRST AMENDMENT AND EXTENSION OF VERTEXONE SERVICES AGREEMENT is dated this 5th day of March, 2018 between the City of Dayton, Ohio ("City") and Vertex Data Utility Services, LLC ("Vertex").

WHEREAS, on February 25, 2015, the Commission of the City of Dayton approved a VertexOne Services Agreement ("Agreement") between the City and Vertex, under which Vertex provides services to the City for utility bill printing and other e-solutions, including managing the paydayton.com site; and,

WHEREAS, Pursuant to Section 12.18 of the Agreement, the City and Vertex may mutually agree to amend the Agreement in writing; and,

WHEREAS, the City and Vertex desire to amend the Agreement by extending the term of the agreement until February 29, 2020.

NOW THEREFORE, For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Contractor mutually agree to amend and extend the Agreement as follows:

1. Section 2 of the Agreement, "Contract Term", will be deleted in its entirety and replaced with the following:

   CONTRACT TERM

   This Agreement shall be effective on March 1, 2015 and shall expire on February 29, 2020.

2. Except as modified by the amendment, the remaining terms of the Agreement shall continue to apply and remain in full force and effect.

IN WITNESS WHEREOF, the City and Vertex, each by a duly authorized representative, have executed this First Amendment as of the date first above written.

CITY OF DAYTON, OHIO

[Signature]
City Manager

APPROVED AS TO FORM
AND CORRECTNESS:

[Signature]
City Attorney

VERTEX DATA UTILITY SERVICES, LLC

[Signature]
By:

[Signature]
Its:

APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO

[Signature]
February 27, 2018
Min. Book 55, Page 0163

CLERK OF THE COMMISSION
TO: City Manager

FROM: Finance/ Director's Office

(CHECK ONE)

Γ Purchase Order  Γ Lease Agreement
Γ Price Agreement  Γ Estimate of Cost
Γ Award of Contract  Γ Payment of Voucher
Γ Other

Date February 25, 2015

Code 53000-5340-1159-84

Fund Title Water Operating Fund

Amount $865,000.00 (3 Yr. Total)

Supplier/Vendor/Company/Individual:
NAME Vertex Business Services
ADDRESS 501 George Bush Hwy Suite 350
Richardson, TX 75080

Justification and description of purchase, contract or payment:

The Department of Finance is requesting City Commission approval to enter into a 3-year agreement with Vertex Business Services (Vertex) in the amount of $865,000.00 ($306,000- Yr 1; $277,000- Yr 2; $282,000- Yr 3). The agreement will commence upon execution by the vendor and end three years after the effective date. The City has the option to renew for three additional 2-year periods. Vertex will provide utility bill printing and mailing services; on-line management and payment services via paydaytonwater.com; and other expanded e-solutions for the City of Dayton, Jefferson Township and the City of Riverside.

Requests for Proposals (RFP) No. 14046D were sent to 20 vendors and seven responded including the current vendor, Standard Register (formerly WorkFlow One). Staff from the Department of Finance, Water and Central Services evaluated each submission based on seven criteria. Vertex was selected as the best and overall lowest bid. The vendor with lowest bid proposal was substantially deficient in their ability to provide the requested services and scope of work.

Vertex has over ten years of experience in the utility billing and on-line presentment industry. Vertex was formed by a water utility company that needed a comprehensive billing and electronic bill payment system. They currently provide similar services to Greater Cincinnati Water Works, Cleveland Public Power, City of Cleveland Water, and Duke Energy. The services provided through this contract will give the City more customer service tools than we have ever had, most notably the following: Mail tracking to reduce return mail volume and costs; Potential remote payment site partnership which will allow our cash-paying customer the ability to pay at select retail establishments; Better management and tracking tools for landlords; Mobile app with payment options; Process and manage monthly or re-occurring payments.

The City has over 60,000 customer accounts that are billed monthly, quarterly, semi-annually and annually. The City generates over 450,000 invoices and bills over $100 million in revenue annually. The agreement with the current vendor, Standard Register expires March 31, 2015. The Finance Department will extend its agreement for three additional months to allow for implementation, start-up and crossover to Vertex by June 1, 2015.

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

A Certificate of Funds in the amount of $306,000.00 for Year 1 of the Contract is attached.

Approved Affirmative Action Program on File  Γ Yes  Γ No  Γ NA

Approved by City Commission

Rachelle Laverder

Clerk

February 25, 2015

Division

City Manager

Updated: 1/2012
### SECTION I - to be completed by User Department

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<th>Renewal Contract</th>
<th>Change Order</th>
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<td>Remaining Commission Approval</td>
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<td></td>
</tr>
</tbody>
</table>

### Attach additional pages for more FOAPALs

**Vendor Name:** Vertex Business Services

**Vendor Address:** 501 George Bush Hwy Suite #350 Richardson TX 75080

**Federal ID:** 26-1398981

**Commodity Code:** 96-600

**Purpose:** Professional services for on-line billing/payments and the printing, processing and mailing of utility bills, certified notices, inserts, past-due notices and shut-off notices for the City of Dayton, Jefferson Township and the City of Riverside.

**Contact Person:** Valerie Hudson

**Finances/Revenue Administration:** 1/30/2015

**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:** 2-11-2015

**CF Prepared by:**

**Date:** 3/11/2015

**CF/ICT Number:** CT15-1088

---

**Finance Department**

October 18, 2011
VertexOne Services Agreement
between
Vertex Data Utility Services, LLC d/b/a Vertex Business Services
&
City of Dayton

January, 2015
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VertexOne Services Agreement

This VertexOne Services Agreement (this "Agreement") dated as of _____ day of _____, 2015, (the "Effective Date") is entered into by City of Dayton, ("Company") and Vertex Data Utility Services, LLC d/b/a Vertex Business Services, ("Vertex"). Vertex and Company are hereinafter referred to individually as a "Party" and collectively as the "Parties."

1. SERVICES

Company appoints Vertex as the exclusive provider of the services set forth in Section A.1 of the attached Schedule A (the "Services") to the Company and Vertex shall provide the Services in accordance with the terms of this Agreement. Company agrees that the appointment of Vertex is exclusive and Company shall not during the term of this Agreement appoint or engage any other party to provide the Services or any services that are the same as or substantially similar to the Services.

2. CONTRACT TERM

This Agreement shall be effective upon execution by the Company and shall terminate three (3) years from the date of execution. This Agreement may be renewed for a maximum of three (3) additional two-year periods. However, no such renewal of this Agreement shall be recognized or effective unless it is reduced to a writing, which makes specific reference to this Agreement, and is executed by a duly authorized representative of the Company, the City of Dayton Commission, and Vertex.

3. CHANGE CONTROL PROCEDURES

Either Party may, by a proposed written project change request ("PCR"), request changes to the quantity and/or the specifications of the Services or request new services, and the Parties will undertake to negotiate an appropriate adjustment in price and terms in relation to such proposed changes. For any change that Vertex can perform on a commercially reasonable basis, within ten (10) business days of receiving notification of such proposed change, Vertex shall submit to Company a written proposal for accomplishing the changes requested (the "Change Proposal") and setting forth any proposed adjustments to the purchase price or other terms. Such Change Proposal shall be valid for thirty (30) days. If the Parties reach agreement as to the appropriate adjustments, Vertex and Company shall execute a mutually agreed Change Order amending the Agreement accordingly. No change shall be binding upon either Party until a written Change Order is executed by authorized representatives of both Parties. Upon execution of a Change Order, all services authorized by such Change Order shall become Services under this Agreement.

4. SERVICE PERFORMANCE

4.1 Implementation of Solution

Vertex shall provide to Company the implementation services described in, and in accordance with the implementation plan set forth in Section [A.1.3 of Schedule A] ("Implementation Plan") of Schedule A. Vertex shall use commercially reasonable efforts to provide the transition-in services without (i) disrupting or adversely impacting
the business or operations of Company, (ii) degrading the Services being provided, or
(iii) interfering with the ability of Company to obtain the full benefit of the Services,
except as may be otherwise provided in the Implementation Plan.

4.2 Standard Service Levels

The standard service levels for each Service shall be as described in Section A.2 of
Schedule A.

4.3 Service Limitations

a) In addition to any specific functions, responsibilities or tasks which Company is
given responsibility hereunder, Company shall at all times retain responsibility and
control of all policies, procedures, business rules or other processes related to
Company's business, including without limitation, those policies and procedures
necessary to comply with the legal and regulatory obligations applicable to Company's
business. Such obligations may include, but are not limited to: utility, privacy, credit
evaluation, credit reporting, consumer protection, debt collection and payment
processing (including regulations of credit card and debit associations and networks
such as VISA, MasterCard, Discover) laws, rules and regulations (collectively,
"Company Regulatory Requirements"). Vertex shall bear no responsibility for
reviewing the legality of such policies, procedures, business rules or other processes
and has no responsibility to monitor or interpret any applicable laws related thereto.
Company acknowledges and agrees that Vertex shall be entitled to rely upon, without
verification, any and all information, processes, procedures, guidelines, policies and
other instructions at any time submitted to Vertex by Company having to do with
Company or the Services provided by Vertex hereunder.

b) Vertex shall not be responsible for any failures in the Services or to meet
applicable service levels to the extent caused by: (i) components for which Company is
responsible; (ii) the action or inaction of Company's personnel; (iii) changes made to the
environment or Company's sites which are not made in accordance with the change
control procedures set forth herein; (iv) Company's failure to perform it obligations under
this Agreement to the extent such failure affects Vertex's ability to meet the applicable
Service requirements; (v) Company's failure to comply with the Company Regulatory
Requirements as set forth above, to the extent such failure affects Vertex's ability to
meet the applicable Service requirements; (vi) the occurrence of a force majeure event
as set forth in Section 9.4 herein; (vii) any act or omission of a third party, excluding any
subcontractor of Vertex, or any other event beyond the reasonable control of Vertex; or
(viii) Vertex adhering to a Company policy, procedure, process or other business rule
that conflicts with, interferes with or contradicts a Service requirement.

4.4 Limitation of Liability

a) NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE
AGREEMENT, VERTEX SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT,
INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES
(INCLUDING LOST PROFITS, LOSS OF DATA OR BUSINESS INTERRUPTION)
 ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE
FORM OF THE ACTION OR THE THEORY OF RECOVERY AND EVEN IF VERTEX
HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT, VERTEX’S TOTAL AGGREGATE LIABILITY HEREUNDER, (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), NON-FRAUDULENT MISREPRESENTATION, FOR BREACH OF ANY WARRANTY EXPRESS OR IMPLIED, UNDER ANY INDEMNITY, FOR LIQUIDATED DAMAGES, WILFUL DEFAULT OR OTHERWISE HOWSOEVER) WILL BE LIMITED TO THE FEES PAID OR PAYABLE BY COMPANY TO VERTEX DURING THE INITIAL THREE YEARS OF THE AGREEMENT.

b) THE LIMITATIONS SET FORTH IN THIS SECTION 4.1 SHALL BE INDEPENDENT OF, SEVERABLE FROM, AND ENFORCED INDEPENDENTLY OF ANY OTHER ENFORCEABLE OR UNENFORCEABLE PROVISION OF THIS AGREEMENT, AND SHALL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE. EACH PARTY ACKNOWLEDGES AND AGREES THAT IT HAS A DUTY TO MITIGATE DAMAGES AND COVENANTS THAT IT WILL USE COMMERCIAL REASONABLE EFFORTS TO MINIMIZE ANY DAMAGES FOR WHICH THE OTHER MAY BE RESPONSIBLE HEREUNDER.

c) A PARTY IS NEVER LIABLE TO THE OTHER PARTY FOR ANY DAMAGES RESULTING FROM THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE OTHER PARTY. VERTEX IS NOT RESPONSIBLE FOR ITS OBLIGATIONS TO THE EXTENT COMPANY OR OTHER SERVICE PROVIDERS OF COMPANY HAVE FAILED TO CARRY OUT THEIR RESPECTIVE OBLIGATIONS, OR TO THE EXTENT THAT CHANGES, ERRORS, OR OTHER SERVICE FAILURES CAUSED BY COMPANY OR OTHER CONTRACTORS OF COMPANY CAUSE DELAY, ERROR OR OTHER FAILURES IN THE SERVICES.

d) ALL CAUSE OF ACTIONS SHALL BE BROUGHT WITHIN THE TIMEFRAME SET FORTH IN O.R.C. § 2305.06 OR OTHER APPLICABLE OHIO REVISED CODE SECTION.

e) The limitations set forth in Section 4.1(a) shall not apply to a breach by either Party of its obligations for intentional acts with respect to Confidential Information.

5. DUE DILIGENCE

a) Company acknowledges that Vertex, utilizing its know-how and expertise, has provided a solution based on the information provided by Company in written or electronic form prior to the Effective Date.

b) Company warrants that the information provided to Vertex in connection with this Agreement is accurate and up to date, and as at the Effective Date all material information relevant to the Services has been disclosed to Vertex to allow Vertex to take account of the information in its solution and Charges. Company further warrants that it shall promptly provide all necessary updates to such information.

c) Each Party will notify the other Party as soon as reasonably practical if the first Party becomes aware (whether prior to or after the Effective Date) of: (i) any inaccuracies in any information provided by it to the other Party; or (ii) any additional information which should have been provided by the first Party in accordance with Section 5(b) which adversely affects Vertex’s ability to perform the Services or meet any Service Levels, or that has the potential to increase the costs which Vertex incurs in delivering the Services.
e) Should any matters or inaccuracies be notified in accordance with Section 5(c):

(i) Vertex shall be relieved from any failure to perform parts or all of its obligations under this Agreement to the extent such failure is caused by Vertex having been provided with inaccurate, misleading or incomplete information by or on behalf of Company; and

(ii) Company shall agree to any necessary and relevant changes that Vertex may propose be implemented through the Change Control Procedures and Company shall bear all reasonable costs incurred in connection with Vertex's subsequent implementation of such changes.

6. FEES, INVOICING & TERMS OF PAYMENT

6.1 Fees

In consideration for the Services, Company shall pay Vertex the remuneration set out in Schedule B attached hereto. Fees for Services shall be billed once monthly. In the event the fees payable by Vertex to any subcontractor for the performance of any portion of the Services increase, the fees set forth herein may be increased by such amount.

Company, shall pay when due any sales, use, excise, value added, services, consumption, or other tax imposed by any taxing jurisdiction ("Taxes") as of the Effective Date on the provision of Services or any component thereof, as the rate of such Tax may change from time to time during the term of this Agreement. The Parties shall cooperate with each other to enable the Parties to determine accurately their respective tax liabilities and to reduce such liabilities to the extent permitted by law. Vertex invoices to Company shall separately state the amount of any Taxes Vertex is collecting from Company as applicable. Each Party shall provide to the other any resale certificates, exemption certificates, information regarding out-of-state or out-of-country sales or use of equipment and services, and such other similar information as the other Party may reasonably request.

If any taxing jurisdiction imposes after the Effective Date a new sales, use, excise, value-added, services, consumption, or other Tax on the provision of the services or any component thereof, Company shall be liable for any such new Tax that is imposed on the charges for the provision of the Services.

Charges, including any required taxes to be paid by Company, related to procurement of products will be billed at time of order. All figures shall be in US dollars unless otherwise specified.

6.2 Invoices

Company agrees to pay Vertex invoices within thirty (30) days of receipt. If an amount remains overdue ten (10) days after the Company receives written notice from Vertex of an overdue payment then such overdue invoice shall bear interest at the rate of the lesser of 1.5% per month or the maximum permitted by law.

Company will not be obligated to pay charges that are subject to good faith dispute during the period of the dispute and until time of resolution. Company will notify Vertex of any billing problems or disputed amounts in an invoice within thirty (30) days of receipt of such invoice.
If it is determined by the Parties, acting reasonably, that Company has been overcharged or undercharged through a billing error, such overcharge or undercharge can be deducted or added on a subsequent invoice.

Unless otherwise agreed and specified in Schedule B, payment of fees shall be made by wire transfer by Company to a bank account in the U.S. specified by Vertex.

6.3 Additional Charges

Vertex's fees set out in the Service Schedules do not include any taxes or duties that may be levied against Company or otherwise against transactions under this Agreement. Company is responsible for the payment of all duties and applicable sales, use, excise or similar taxes levied against the Services or otherwise against transactions under this Agreement, exclusive of income taxes based upon Vertex's income.

6.4 Travel Costs

The Company acknowledges and agrees that Vertex is not required to travel in performance of any part of the Services. However, if the Parties agree to Vertex travelling as part of the Services then he Company agrees to reimburse Vertex for its travel expenses reasonably incurred in performance of the Services provided under this Agreement in an amount not to exceed SEVEN THOUSAND DOLLARS AND ZERO CENTS ($7,000.00) per annum. The Company will not request Vertex to travel in performance of the Services if such travel would exceed the foregoing travel expenses financial cap. However, payment for such reimbursable expenses is subject to the following limitations:

1. Travel costs shall be billed only for approved, on-site training specifically requested by the Director of the City of Dayton Finance Department. Air travel reimbursement is limited to coach/economy rates. Local automobile travel expenses are included in the hourly rates paid as compensation for services. Automobile travel expenses for any destination outside of Montgomery County, Ohio will be reimbursable at the rate of as set by the U. S. Internal Revenue Service for business mileage reimbursement.

2. Reimbursable expenses are limited to those out-of-pocket expenses paid by Consultant to some third party, excluding itself, and its employees, excluding any other consultant and sub-consultants and excluding any third party in which Consultant has an ownership interest or Consultant receives payments or benefits in consideration for service or product orders given to that third party.

3. Amounts billed as reimbursable expenses are limited to direct costs incurred by Consultant and shall not include any multiple or additional percentage of those costs.

4. In order to be reimbursable, expenses must have been reasonably appropriate or must have been necessary, when evaluated in the light of the services to be performed. The cost of alcoholic beverages or entertainment shall not be reimbursed.
5. Signed, legible and explanatory receipts must be submitted for all reimbursable expenses.

6.5 Indexation

Subject to express provisions in Schedule B, if the Parties renew this Agreement as permitted by Section 2 and have not agreed alternate pricing for such renewal, then Vertex may increase the fees payable under this Agreement on an annual basis with effect from the third anniversary of the Effective Date in line with the percentage increase in the Consumer Price Index for All Urban Consumers published by the U.S. Bureau of Labor Statistics (the "Index") in the preceding twelve (12) month period.

7. PROPRIETARY RIGHTS & CONFIDENTIAL INFORMATION

7.1 Vertex Intellectual Property

a) Vertex does not convey, nor does Company obtain, any right, title or interest in or to any Vertex Intellectual Property. Subject to the obligations of confidentiality set forth in this Agreement, Vertex hereby grants to Company a non-exclusive license to access, operate and use the Vertex Intellectual Property, subject to the terms and conditions of this Agreement, solely for Company's internal business purposes related to its receipt of the services from Vertex during the term of this Agreement. "Vertex Intellectual Property" shall mean (i) programs, systems, data, tools, methods, materials, processes, know-how, trade secrets or other intellectual property of Vertex, and related documentation, existing on the effective date of this Agreement or independent and apart from its obligations under this Agreement, including any intellectual property used or provided by Vertex in connection with its performance hereunder; (ii) multi-purpose libraries or routines, or development tools that may be provided or used in connection with the Services; (iii) any modifications, improvements, enhancements, new versions or derivative works of any Vertex Intellectual Property developed by Vertex or its employees or contractors (either solely or jointly with employees of Company or others), in connection with Vertex's performance hereunder or otherwise; and (iv) any inventions, discoveries, ideas, concepts, know-how, materials or techniques that are developed at least in part by Vertex's employees or contractors in connection with their performance under this Agreement.

b) Notwithstanding anything in this Agreement to the contrary, Vertex shall have the right to retain and use any multi-purpose libraries or routines, or development tools that may be provided or used in connection with the Services and any general skills ideas, concepts, know-how and expertise that Vertex learns, obtains, uses, develops or creates in rendering Services for Company, insofar as such ideas, concepts and know-how are of generic applicability and are acquired and applied without disclosure of any confidential or proprietary information of Company.

7.2 Company Intellectual Property

Company does not convey, nor does Vertex obtain, any right, title or interest in or to any Company Intellectual Property. Subject to the obligations of confidentiality set forth in this Agreement, Company hereby grants to Vertex a non-exclusive license to access, operate and use the Company Intellectual Property, subject to the terms and conditions of this Agreement, solely to the extent required by Vertex to provide the Services during the term of this Agreement. "Company Intellectual Property" shall mean (i) programs,
systems, data, tools, methods, materials, processes, know-how, trade secrets or other intellectual property of Company, and related documentation, existing on the effective date of this Agreement or independent and apart from its obligations under this Agreement, including any intellectual property used or provided by Company in connection with this Agreement; (ii) multi-purpose libraries or routines, or development tools that may be provided or used in connection with the Services; (iii) any modifications, improvements, enhancements, new versions or derivative works of any Company Intellectual Property developed by Company or its employees or contractors; and (iv) any inventions, discoveries, ideas, concepts, know-how, materials or techniques that are developed by Company's employees or contractors.

7.3 Ownership of Company Data

All Company Data shall remain the sole and exclusive property of Company. Company Data shall not be: (i) used by Vertex other than in connection with providing the Services, (ii) disclosed, sold, assigned, leased or otherwise provided to third parties by Vertex, or (iii) commercially exploited by or on behalf of Vertex, its employees or agents.

7.4 Definition of Confidential Information

For the purpose of this Agreement, Company and Vertex agree that all information, whether oral or written or via computer disk or electronic media, to which the other is given access or is made available to the other is referred to hereinafter as "Confidential Information." Information shall include, without limitation, all materials, documents, data, technology, know-how, processes, software, databases, trade secrets, contracts, proprietary information, all historical and financial information, business strategies, operating data and organizational and cost structures, product descriptions, pricing information, customer information and customer lists, whether received before or after the date hereof, except information that:

1) is disclosed lawfully by a third party who has no obligation of confidentiality with respect to the disclosed information;
2) is independently developed by a Party without use of the other Party's confidential information;
3) is, or becomes, generally known to the public, other than by a breach of obligations hereunder; or
4) is already known before disclosure hereunder as evidenced by written records and which is not the subject of a previous confidentiality agreement between the Parties.

Information also includes information of any parent, subsidiary or affiliates of Company or Vertex.

7.5 Confidentiality

Except as expressly provided below or with the other Party's prior written consent, Company and Vertex agree: (i) to hold all Confidential Information of the other in confidence; (ii) not to disclose any Confidential Information of the other to any third party, other than directors, officers, employees, affiliates, agents, subcontractors, or representatives (collectively, the "Representatives") who have a need to know such information in connection with the Services; and (iii) not to use any such Confidential Information for purposes other than in connection with the Services. Each Party shall exercise the same care in preventing unauthorized disclosure or use of the other Party's
Confidential Information that it takes to protect its own information of a similar nature, but in no event less than reasonable care. Reasonable care shall include (a) informing its Representatives of the confidential nature of the Confidential Information and the terms of this Agreement, directing them to comply with these terms, and obtaining their written acknowledgement that they have been so informed and directed or having them sign a confidentiality agreement with similar terms and conditions, and (b) notifying the other Party immediately upon discovery of any loss, unauthorized disclosure or use of Confidential Information, or any other breach of this Article by the other Party, and assisting such other Party in every reasonable way to regain possession of the Confidential Information and to prevent further unauthorized disclosure or use.

Either Company or Vertex may disclose Confidential Information pursuant to a requirement or request of a governmental agency or pursuant to a court or administrative subpoena, order or other such legal process or requirement of law, or in defense of any claims or causes of action asserted against it; provided, however, that it shall attempt to obtain a protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information that is disclosed. Nothing herein shall require either Company or Vertex to fail to honor a subpoena, court or administrative order, or similar requirement on a timely basis.

Both Parties acknowledge that the Confidential Information has tangible value and contains trade secrets and proprietary information of the disclosing Party and that the disclosing Party will suffer irreparable damage for which money damages will not be sufficient remedy in the event of a breach of any provision of this Agreement. The disclosing Party will be entitled to specific performance and injunctive relief as remedies for any breach or threatened breach of these confidentiality requirements.

8. TERMINATION

This Agreement may be immediately terminated by written notice in the event of or under any of the following circumstances:

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

Any such termination shall not relieve Vertex of any liability to the Company for damages sustained by virtue of any breach by Vertex. The Company will be under no further monetary obligation or commitment to Vertex.

In the event of termination, either Party may, at its option, exercise any remedy available to it according to Ohio law.
9. CONTRACT & RELATIONSHIP MANAGEMENT

9.1 Relationship Management

The Parties will abide by Schedule B, including the appointment of a person or persons to manage the relationship between Company and Vertex as outlined in Schedule C. The Parties will promptly notify the other Party of such appointment and any changes related thereto.

9.2 Dispute Resolution

In the event a dispute arises out of or in connection with this Agreement the Parties will follow the correction and resolution procedure set out below:

1) The non-breaching Party will advise the other Party in writing of the alleged breach. The Party allegedly in breach will investigate and provide a written report to the other Party within fifteen (15) business days of receiving the notice alleging breach given to the effect that: (a) the investigation reveals that the alleged breach was not committed, (b) the breach has been cured, or (c) the breach remains uncured.

2) If the Party alleging the breach is not satisfied that the other Party is not, or is no longer, in breach or wishes to pursue the dispute, then that Party will immediately advise the other Party in writing it wishes to escalate the dispute.

3) Each Party will, within ten (10) business days, submit a written report on the facts of the dispute, any relevant provisions of this Agreement, and any other relevant information: on behalf of Vertex, General Manager of Business Unit, or as otherwise designated by Vertex; on behalf of Company, Director of Finance or as otherwise designated by Company.

4) Upon receiving the reports in the previous step, such executives will jointly and diligently work to resolve the dispute within ten (10) business days of receipt of the reports.

5) If the Company and Vertex are unable to resolve a dispute by negotiation, both parties agree to submit it to non-binding mediation conducted by the Dayton Mediation Center.

6) Except for disputes resolved in accordance with this Section, the City and Contractor agree to exercise any right or remedy in connection with this Agreement exclusively in, and hereby submit to the jurisdiction of, the courts of Montgomery County, Ohio.

10. STANDARD OF CARE

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

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

11. INSURANCE

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

A) General Liability Insurance, having a combined single limit of $1,000,000.00 for each occurrence and $1,000,000.00 in the aggregate.
B) Automobile Liability Insurance, having a combined single limit of $1,000,000.00 for each person and $1,000,000.00 for each accident.
C) Employers’ Liability Insurance, having a limit of $500,000.00 for each occurrence.
D) Professional Liability Insurance, having a limit of $1,000,000.00 annual aggregate.
E) Performance Bond: Vertex shall be required to obtain a Surety Bond, in an amount not less than, $100,000.00, as a condition to award of this Agreement. Said bond is to be delivered to the Company’s Division of Purchasing prior to the beginning date of contract and shall be in place until the third anniversary of the Effective Date.
F) Vertex shall maintain errors and omissions insurance in the amount of $1,000,000.00.

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

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

12. GENERAL PROVISIONS

12.1 Assignment

Neither Party has the right to assign this Agreement without the written consent of the other Party; which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, each Party has the right to assign this Agreement to an affiliate of such Party as part of a bona fide corporate restructuring of its group, to an entity which acquires all or substantially all of the assets of the assigning party or to any successor in a divestiture, merger or acquisition upon notice to the other Party. However, any assignment by Vertex in accordance with the foregoing sentence would be inoperative if the assignee is; (i) an entity that had bid for the services covered by this Agreement; or (ii) an entity that the Company has disbarred from providing goods or services to the Company.
12.2 Severability

If one or more of the provisions in this Agreement shall, for any reason, be unenforceable or invalid in any respect, such unenforceability or invalidity shall not affect any other provision of the Agreement which can be given effect without the unenforceable or invalid provision or provisions, and to such end the provisions of this Agreement are declared severable. To the extent possible, any such invalid term shall be replaced with a similar but valid provision.

12.3 Indemnity

Vertex shall indemnify and defend the Company and its elected officials, officers, employees and agents from and against all third party 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 directly caused by or arise out of the gross negligence or willful misconduct of Vertex and its agents, employees, contractors, sub-contractors and representatives in undertaking and performing the Services.

This Section shall survive early termination or expiration of this contract.

12.4 Force Majeure

Neither Party to this Agreement shall be held responsible for delay or failure to perform its obligations under this Agreement if such delay or failure is due to circumstances beyond its reasonable control. Each Party agrees to notify the other as soon as reasonably possible of circumstances that cause failure or delay to perform an obligation hereunder. Except for the payment of monies when due and owing for the period and to the extent that a Party hereto is prevented from fulfilling, in whole or in part, its obligations hereunder, where such disability arises by reason of flood, war, fire, earthquake, explosion or other natural catastrophe or act of God ("Force Majeure Event"), acts of war, terrorism, threats of terrorism, riots, civil disorders, rebellions or revolutions, strikes, work stoppages, quarantines, embargoes and other similar governmental action, or any other similar cause beyond the reasonable control of such party; such Party will be temporarily excused from obligations as a result and to the extent so prevented until the abatement of such Force Majeure Event.

The Term of this Agreement will not be extended by the period of duration of the Force Majeure Event. Notice of any such disability and any abatement will be forthwith given to the other Party by the Party claiming same.

Both Parties shall make reasonable efforts to minimize the frequency, severity, and duration of Force Majeure Events.

12.5 Actions of Other Parties

Neither Party shall be liable for any failure or delay in the performance of its obligations under this Agreement if and to the extent such failure or delay is caused by the actions or omissions of the other Party or breaches of this Agreement by the other Party provided that the Party that is unable to perform has provided the other Party with reasonable notice of such non-performance and has used commercially reasonable efforts to perform notwithstanding the actions, omissions or breaches of the other Party.
12.6 Waiver

The failure of either Party to insist in one or more instances upon strict performance of the covenants of this Agreement, or to exercise any option herein contained, shall not be construed as a waiver, or relinquishment for the future, and such covenant shall remain and continue in full force and effect. Any waiver shall be effective only if made in writing and executed by the waiving Party.

A waiver or breach or default under the Agreement shall not be a waiver of any other subsequent default. Failure of either Party to enforce compliance with any term or condition of the Agreement shall not constitute a waiver of such term or condition.

12.7 Mutual Representations

Each Party represents and warrants that, as of the Effective Date:

(a) it is a legal entity duly incorporated or formed, as the case may be, validly existing and in good standing under the laws of the province in which it is was incorporated or formed, and is in good standing in each other jurisdiction where the failure to be in good standing would have a material adverse effect on its business or its ability to perform its obligations under this Agreement.

(b) it has all the necessary power and authority to enter into this Agreement and to perform its obligations hereunder, and the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary actions on its part.

(c) this Agreement constitutes a legal, valid and binding obligation of such Party, enforceable against it in accordance with its terms; and

(d) it is not a party to, and is not bound or affected by or subject to, any instrument, Agreement, charter, or bylaw provision, law, rule, regulation, judgment or order that would be contravened or breached as a result of the execution of this Agreement, or consummation of the transactions contemplated by this Agreement.

12.8 Warranty

EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THERE ARE NO WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED BY LAW OR OTHERWISE, BY VERTEX, INCLUDING BUT NOT LIMITED TO ANY IMPLIED AND/OR STATUTORY WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AS WELL AS ANY IMPLIED AND/OR STATUTORY WARRANTIES OR CONDITIONS ARISING FROM THE COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE, AND COMPANY HEREBY WAIVES ALL OTHER WARRANTIES. VERTEX MAKES NO WARRANTY THAT THE OPERATION OF THE SERVICES WILL BE ERROR FREE OR WITHOUT INTERRUPTION.

12.9 Notices

Notices required or authorized to be given hereunder shall be deemed sufficiently given if in writing and sent by registered mail or courier to the address of the Party set forth
below or by facsimile to the fax number of a party set forth below, and if so mailed shall be deemed to have been received by the other Party on the fifth business day following the date of mailing (excluding periods during which strikes or other occurrences interfere with normal mail service), or if sent by fax or courier, the notice will be deemed to have been received on the next business day following dispatch.

If to Vertex:

General Counsel
Vertex Business Services
501 W. President Bush Hwy, Suite 350
Richardson,
Texas 75080

If to Company:
Valerie Hudson
101 W. Third St
Dayton, Ohio 45401
Valerie.hudson@daytonohio.gov
(937) 333-3533

LaShea Smith
101 W. Third St
Dayton, Ohio 45401
LaShea.smith@daytonohio.gov
(937) 333-1705

12.10 Governing Law & Jurisdiction

Vertex shall comply with all laws and regulations applicable to the performance of the Services at the place or places at which the Services are performed. This Agreement and performance under it shall be governed by and construed in accordance with the laws of the State of Ohio, without the application of its conflict of laws provisions. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal (if permitted by law and a party elects to file an action in federal court) courts located in Ohio.

12.11 Personnel and Subcontractors

Vertex shall cause its personnel and subcontractors to abide by the terms of this Agreement. Vertex shall have the right to subcontract any of its responsibilities under this Agreement. Vertex shall remain liable for all actions of subcontractor, as between Vertex and Company, as if Vertex was performing the Services. The rights and licenses granted to Vertex hereunder shall be deemed to include the grant of such rights or
licenses to subcontractors, subject to the provisions of this Agreement. Vertex shall be solely liable and responsible for any and all payments and other compensation to, and the performance of, all subcontractors and their officers, employees, agents, and independent contractors.

12.12 Independent Contractor

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

Vertex, its employees and any persons retained or hired by Vertex to perform the duties and responsibilities under this Agreement are not Company employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the Company. Further, Vertex shall be responsible to withhold and pay, or cause such agents, contractors and sub-contractors to withhold and pay, all applicable local, state and federal taxes. Vertex acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System ("OPERS") membership.

12.13 Access

Company will provide Vertex such access to its facilities, information, materials, files, equipment and qualified personnel, as reasonably necessary for the performance by Vertex of the Services.

12.14 Restriction on Solicitation

At all times prior to termination of this Agreement and for a period of six months after termination, the Parties shall not, directly or indirectly, induce or attempt to induce any "employee" (as defined below) of another Party to terminate his or her employment, nor, without the prior written consent of the other Party, offer employment, except in the course of a public solicitation for employees, to any "employee" of the other Party. For purposes of this Section, the term "employee" shall mean any employees, agents or subcontractors of either Party who are substantially involved in the development, marketing, servicing, distribution, maintenance, support or use of the Host System, or the Services or who were so involved within the twelve (12) months prior to the date of termination.

12.15 Publicity and Promotion

Neither Party shall use the names(s), trademark(s), or trade name(s) (whether registered or not) of the other Party without securing the other Party's prior written approval. Notwithstanding the foregoing, Vertex shall be entitled to: (i) publicly announce the award of this Agreement by Company to Vertex, its length, its estimated total contract value, location, number of employees deployed by Vertex under this Agreement, and a brief description of the Services (no other details may be announced by Vertex; (ii) refer to the existence of this Agreement in any proposal to any third party by specifying the
details set out in this Section 10.15; (iii) publicize and refer to the existence of this Agreement in any internal Vertex communication and publication.

12.16 Remedies Cumulative

Notwithstanding any other provision of this Agreement, and unless otherwise expressly stated herein, all rights and remedies of either Party are in addition to such Party’s other rights and remedies and are cumulative, not alternative.

12.17 Entire Agreement/Integration

This Agreement, including the Schedules hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof. There are no agreements, representations, warranties, promises, covenants, commitments or undertakings other than those expressly set forth in this Agreement. This Agreement supersedes all other agreements, representations, warranties, promises, covenants, commitments or undertakings, whether written or oral, with respect to its subject matter.

A reference to approval, authorization or consent in this Agreement means written approval, authorization or consent regardless of whether expressly so stated. Each Party will execute and deliver such further and other agreements, documents and instruments and do such further acts and things as are within its power and as may be necessary or desirable to fully implement or carry out the intent of this Agreement.

This Agreement may be signed in any number of counterparts or facsimile counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same document.

12.18 Contract Amendment or Modification

Notwithstanding any other term of this Agreement, any modification or amendment to any provisions of this Agreement (including any Schedules) must be made in writing and signed by an authorized representative of each Party, and, if required or applicable, approved by the Commission of the City of Dayton, Ohio.

12.19 Non-Discrimination

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

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

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

In witness whereof the Parties hereto have executed this Agreement as of the date first written above.

CITY OF DAYTON, OHIO

[Signature]
City Manager

Vertex Data Utility Services LLC d/b/a Vertex Business Services

By: [Signature]
Name: [Signature]
Title: EVP

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]
City Attorney

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

February 25, 2015

Min./Bk.: Page:

[Signature]
Clerk of the Commission
SCHEDULES

Schedule A  Implementation, Services, Service Levels
Schedule B  Pricing
Schedule C  Relationship Management
Schedule A: Services & Service Levels

A.1 Service Definition

Vertex will provide the Company with access to the following Services; thereby allowing the Company to manage their Document print/mail and Electronic Bill Presentment and Payment activities.

A.1.1 Document Composition, Print and Mail Services

Document Composition Services

The document composition services to be enabled for the Company are:

- Data receipt & routing - Receipt of your CIS extract billing data in a structured file format from your existing CIS system via Internet FTP communication vehicle using PGP encryption software, for data parsing extraction and composition applications.
- Data extraction & parsing - Data extraction and parsing tools split, parse and route the identified data fields into a relational database for further processing and eventual document composition.
- Document Composition - The initial design and configuration of the electronic document templates for the monthly utility bills and reminder notice applications. The monthly utility bills and reminder notices would require approximately 3 templates to support the applications in question. These templates are then linked to data elements processed in the extraction and parsing routines.
- Business rules application - Sophisticated rules-based logic captures and automates all pre-defined business rules and manual operations associated with traditional document printing and insertion processes.
- Postal processing - The postal processing software facilitates address correction/verification (ACE/CASS Certified) editing/reports and the mail stream database is coded (appended with zip + 4 data) and package codes are appended to indicate weight class. These codes are then passed to the pre-sort process to be sorted and qualified for the proper rate categories. The presort software produces all of the necessary documentation (CASS Certificate) needed for mail presentation to the USPS BMEU (Business Mailing Entry Unit).
- Personalization/Data Management –Composition software that applies personalized messaging applications through the use of barcodes for selective insertion (offline). Advanced data mapping and data management applications enable targeted messaging within the document (online/浮动 text boxes). Bar-codes are also assigned to each document at this stage to support our intelligent insertion equipment, selective insertion applications, amalgamation/commingling of documents and our quality control processes.
- Print File Construction - Data elements and the associated document templates are composed and assembled into electronic documents and rendered into a print file for routing and on-demand production printing. Vertex will utilize a primary production facility and a disaster recovery facility, as required.

Document Printing

The document printing services to be enabled for the Company are:
• High-volume printing – Dynamic laser printing of the composed print file via our distributed print network environment. Quality control checks and balances along with our bar-coding technology ensure the highest levels of data integrity, accuracy and document print quality.

Document Insertion

The document insertion services to be enabled for the Company are:

• Intelligent folding & insertion – Bills are grouped, based on barcode identifiers, folded, Business Reply Envelope (BRE) and selective/global inserts sourced and the items inserted into Outer Mailing envelopes (OME).

• Selective and global insertion - Through the use of barcodes and our database management software, inserts are selectively or globally sourced from a series of insert stations (6 insert stations of which 1 is reserved for the BRE) and added to the document package for insertion into the mailing envelope.

• Postal sorting & mail finishing - Processed mail packages are applied with the appropriate postage based on the job account profile information. The sequence of the mail packages is pre-determined from the Postal Processing step. Mail packages are grouped, containerized and labelled according to postal processing regulations.

• Postal facility delivery - The finished mail pieces are audited and delivered to the USPS BMEU (Business Mailing Entry Unit) for postal processing and recipient delivery supporting the defined Service Level Agreement.

Business Process Management

The business process management services to be enabled for the Company are:

• Hosting and support for on-line administrative portal for:
  o Monitoring of processes
  o Accessing of operational reports
  o Management of on-document messaging
  o Management of inserts
  o Postage account monitoring
  o Inventory management

Responsibility Matrix

<table>
<thead>
<tr>
<th>#</th>
<th>Function</th>
<th>Dayton</th>
<th>Vertex</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Generation of the invoice and letter data files</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>Set-up of FTP and PGP encryption process to send the invoice and letter data files from the Company billing system to Vertex</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Design and provide inserts for inclusion in the print and mail process</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>4</td>
<td>Define statement messages and configure business rules for placement on the printed documents</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Compose the invoice data file, insert Company defined and provided inserts, print and mail invoices</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>#</td>
<td>Function</td>
<td>Dayton</td>
<td>Vertex</td>
</tr>
<tr>
<td>----</td>
<td>--------------------------------------------------------------------------</td>
<td>--------</td>
<td>--------</td>
</tr>
<tr>
<td>6.</td>
<td>Hosting and management of on-line administrative portal for use by Company employees</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>7.</td>
<td>Access to the on-line administrative portal for management of day-to-day operations (i.e. review of reports, configuration of inserts, messages)</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>8.</td>
<td>Support for business use of on-line administrative portal</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>9.</td>
<td>Training for use of on-line administrative portal</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>10</td>
<td>Establishment and funding of CAPS account for postage</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>11</td>
<td>Funding of postage metering account for residual, metered mail</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

A.1.2 Electronic Document Archival, Presentment and Payment Services

Document Archival

The document archival services to be enabled for the Company are:

- Data receipt & routing - Receipt of your core data extract billing files in a flat file format from your billing system via Internet FTP communication vehicle using PGP encryption software, for data parsing extraction and composition applications. After a series of validation, balance acknowledgement/reconciliation and quality control applications the data files are routed to the parsing and extraction engine.
- Data extraction & parsing - Data extraction and parsing tools split, parse and route the identified data fields into a relational database for further processing and eventual document composition. PDF/PNG presentment of source content via a Web browser.
- Composition & Presentment – Upon a request from an authorized internal user, data elements along with the associated document templates are mapped to PNG pages utilizing a robust set of APIs and presented to the Customer in the form of a dynamic web page.
- Storage & Hosting – Storage and archival of all documents loaded within our redundant and secure data centers. Support of up to 8 search criteria for internal access across each document catalogue or type.
- Administration – Access to the Admin and User Consoles for enterprise tracking, management, and support tools.
- Single Sign-on (SSO) - Integration to Company customer care application(s).

Electronic Presentment

The electronic presentment services to be enabled for the Company are:

  - Continued use of existing Company URL
- Enrolment Processing – Support of a customized enrolment, validation, activation and de-activation program on a biller-direct site Standard Single Sign-On (SSO) support.
- Composition and Presentment - Validation, composition and dynamic rendition of legacy Bill data files into an interactive branded summary and detailed electronic
formats allowing for the granular presentment, customer self-service, and online account management support applications upon request from the Customer.

- Summary register – Supports an actionable summary register (sortable fields with bill date, amount due, account number, etc.) with options to view, pay, download, and get current balance information with links to payment details, filed bills, profile information, and historical payments.
- Decision Support – Display of data in multiple formats with options for downloads and navigation on-demand.
- Notification - e-mail notification/reminders of e-bills availability, forgotten passwords, and new enrolments.
- Self-service – Capture and routing of on-line customer inquiries/issues.
- User Interface Design – Support of a customized User Interface with regards to framing, navigation, and all associated cosmetic elements.
- Balance Update Engine - Support for receipt and processing of customer account balance update file.

**Payment Processing**

The payment processing services to be enabled for the Company are:

- Real-time payment enrolment and validation for ACH, credit card, debit card and ATM PIN-less Debit payment accounts.
- The capture and construction of consolidated, recurring, one-time), future and e-bill integrated payment instruction file creation and delivery.
- Warehousing of payment accounts, profiles, preferences, and payment transactional history.
- Support of a payment scheduling interface (one-time, recurring variable, recurring fixed) and a payment profile and history interface with varying levels of detail.
- Delivery of the payment instruction files to the noted ACH originators and credit/debit card processors for settlement.
  - Merchant service integration to Elavon.
  - ACH banking integration to US Bank.
- Capture and processing of the remittance advice from the processors for A/R posting and reconciliation.
- Integrated reporting and management tools.
- Warehousing and display of transactional payment history, forecasting data and payment profile information in the form of reports and online records.
  - Vertex will migrate 18 months of historical payment information from the Company’s CIS as provided to Vertex in Vertex’s defined file format.
- EFT engine supports the processing of payment files and warehousing of payment profiles along with management tools for new users.

**Responsibility Matrix**

<table>
<thead>
<tr>
<th>#</th>
<th>Function</th>
<th>Dayton</th>
<th>Vertex</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Establishment and on-going management of merchant agreements</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>Establishment and on-going management of ACH banking accounts</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>3</td>
<td>Collection of payment information from customer and delivery to merchant and ACH processors</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>#</td>
<td>Function</td>
<td>Dayton</td>
<td>Vertex</td>
</tr>
<tr>
<td>----</td>
<td>---------------------------------------------------------------------------------------------</td>
<td>--------</td>
<td>--------</td>
</tr>
<tr>
<td>4</td>
<td>PCI compliance for all stored and/or managed customer payment data</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>5</td>
<td>Creation of remittance file and FTP delivery of PGP encrypted file to Company</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>6</td>
<td>Processing of remittance file for purpose of posting to customer account within the CIS</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Balancing of remittance file to CIS and depository bank account</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>8</td>
<td>Definition of historical payment data import file</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>9</td>
<td>Extraction of up to 18 months historical payment data for the Company’s CIS and FTP delivery of file to Vertex in defined format</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Loading of historical payment data into Vertex’s database for on-line, end customer viewing</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>11</td>
<td>Providing branding requirements for the Vertex hosted and managed web portal</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>12</td>
<td>Configuration of the Company provided branding to the web portal</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

**A.1.3 Electronic Marketing**

The electronic marketing services to be enabled for the Company are:

- On-site (web site) marketing tools enabling:
  1. e-inserts
  2. pop-up ads
  3. emails
  4. on-site messaging
  5. banner ads

**Responsibility Matrix**

<table>
<thead>
<tr>
<th>#</th>
<th>Function</th>
<th>Dayton</th>
<th>Vertex</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Definition and configuration of Electronic Marketing strategy</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>Hosting and support of on-line administrative portal for configuration of Electronic Marketing strategy</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

**A.1.4 Mobile Self-Service**

The mobile self-service services to be enabled for the Company are:

- The Mobile Browser solution supports the integration with the traditional Biller-direct site [SSO] enrolled one-time and recurring payments, bill viewing, and payment history review. Initial enrolment and set-up of payment/customer accounts needs to be done at the traditional Biller-direct site [Traditional browser]. Mobile Brower supports the Android® and Apple® mobile browser platforms.
- Mobile app supports all functions with the Biller-direct site for the Apple® mobile app platform. Vertex will develop a Mobile App for the Apple devices that will be available within the App Store.
## Responsibility Matrix

<table>
<thead>
<tr>
<th>#</th>
<th>Function</th>
<th>Dayton</th>
<th>Vertex</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Definition of Company branding information for the mobile self-service application</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>Application and configuration of the supplied branding information to the mobile self-service application</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>3</td>
<td>Hosting and management of the mobile self-service application</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

### A.1.5 Implementation of Solution

The implementation project will be executed using the structure and processes described in this section.

#### Project Roles

Vertex will staff a project team consisting of:

- Executive sponsorship
- Overall program manager
- Business, solution and functional subject matter experts
  - Business Analysis
  - Development
  - Testing
  - IT operations

The anticipated Company resources include:

- Executive sponsorship
- Company project manager
- Business and functional subject matter experts
- Technology support

The Project Team: The core project team, led by the program manager will meet weekly or as needed to do the following;

- Tactical management of implementation project activities
- Track key project deliverables and milestones
- Address any project level issues that arise
- Track project performance against timeline

The Steering Committee: Executive sponsorship and program management will meet every two weeks to:

- Review high level project status
- Review the Transition Program Plan (project plan) and progress made to schedule.
- Identify project risks, explore alternatives and report status to executive sponsors.
• Identify change requests via the project change control process.
• Track project performance against timeline
• Escalation management
Review changes to scope and/or assumptions that impact the project timeline or budget and provide resulting direction to project team.

Methodology
The implementation project will be based on a 6 phase (sometimes overlapping) approach:

1. Project Planning
2. Analysis and Design
3. Build
4. Test
5. User Acceptance
6. Implementation

Project Planning
This phase consists of:
• Assigning and ramping-up the project team
• Delivery to Company the project start-up kit
• Initial creation of the implementation specific business requirements document and project plan
• Facilitation of the project kick-off meeting(s)

Analysis and Design
This phase consists of:
• Completion of the project start-up kit
• Documentation of configuration options
• Gathering and documentation of any custom business requirements
• Final agreement of the implementation specific business requirements document and project plan

Build
This phase consists of:
• Implementation of the base solution components and administration portal
• Document form design, data mapping and composition
• Job set-up and initial operational configuration
• Web and mobile site configuration and branding
• Payment processing configuration and integration
• Stock design and consumable ordering
• Test planning
• Unit and Systems testing

Test
This phase consists of:
• End-to-end and integration testing

User Acceptance
This phase consists of:
• User training
• User acceptance testing

Implementation
This phase consists of:
• Deployment to production of the final solution
• Migration of historical data and existing user profiles
• Go-live of systems

The final project and implementation plan with milestone and Go-live dates will be determined and finalized over the Project Planning & Analysis and Design phases.

Company shall provide inputs, review documents and complete acceptance testing promptly, and in any event within timelines set forth in the Responsibility Matrix below. Failure by the Company to comply with the foregoing requirement may lead to changes in timelines, costs and/or fees and any such changes shall be addressed through a PCR issued by Vertex.

Responsibility Matrix

<table>
<thead>
<tr>
<th>#</th>
<th>Function</th>
<th>Dayton</th>
<th>Vertex</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Program and project management for overall implementation</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>Creation and maintenance of project schedule and status reporting</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>3</td>
<td>Deliverable Acceptance <em>(Within 3 business days of submission)</em></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Management for Company activities and associated resources</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>5</td>
<td>Change Request Approval – <em>(within 3 business days of submission)</em></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Change Request Estimate – <em>(with 10 business days of request)</em></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>7</td>
<td>Release management, risk management, quality control, communication management and transition management</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
### Service Level Summary (SLA)

Vertex shall perform the Services in accordance with the service levels set forth in this Section A.2.. Changes to the business or operating processes or environment may require the Parties to re-negotiate appropriate service levels in accordance with Section 3 of this Agreement.

<table>
<thead>
<tr>
<th>#</th>
<th>Function</th>
<th>Dayton</th>
<th>Vertex</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Issue and scope management</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>9</td>
<td>Selection of configuration and business options</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Documentation and system configuration and business requirements</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>11</td>
<td>Acceptance of system configuration and business requirements</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>One day user training</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>13</td>
<td>Execution and acceptance of one week user acceptance testing</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>14</td>
<td>UAT Support</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

#### Key Service Criteria

<table>
<thead>
<tr>
<th>Key Service Criteria</th>
<th>Measurement Period</th>
<th>Hours</th>
<th>Target</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-line bill images available to the consumer</td>
<td>On-line within 12 hours of receipt of billing file</td>
<td>99%</td>
<td></td>
</tr>
</tbody>
</table>
| System availability via the Internet for all Vertex supported applications          | Monthly            | Systems available 24 x 7 excluding scheduled maintenance | 99% system uptime Events that are beyond the control of Vertex, such as web brownouts, consolidator/payment processor unscheduled downtime, and scheduled maintenance are not included. Vertex will provide 48
<table>
<thead>
<tr>
<th>Description</th>
<th>Frequency</th>
<th>Description</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delivery of payment request (draft request) files to the Company's payment providers</td>
<td>Monthly</td>
<td>Payments will be sent to the payment providers at 2 PM ET and 8 PM ET each business day. Payments made after the 8 PM ET cutoff will go out on the 2 PM ET file the following day. Payments made after the 2 PM ET cutoff and prior to the 8 PM ET cutoff will go out on the 8 PM ET transmission window.</td>
<td>99% of payment items delivered on-time.</td>
</tr>
<tr>
<td>Delivery of remittance files to the Company for processing</td>
<td>Monthly</td>
<td>Remittance files will be delivered to Company by 6 AM ET containing payments made up to the 8 PM ET cutoff the previous day.</td>
<td>99% of payment items delivered on-time.</td>
</tr>
<tr>
<td>Timely email delivery</td>
<td>Monthly</td>
<td>Emails to be sent within 4 hours of triggering event</td>
<td>99% of emails delivered on-time.</td>
</tr>
<tr>
<td>Document print and mail</td>
<td>Monthly</td>
<td>Percentage of documents</td>
<td>99% of documents</td>
</tr>
<tr>
<td></td>
<td>documents delivered to the USPS, excluding reprints. Files received prior to 6 PM ET will have delivery to the USPS by 6 PM ET the next business day</td>
<td>delivered to the USPS on-time.</td>
<td></td>
</tr>
</tbody>
</table>
Schedule B: Pricing

B.1 Pricing

The Company shall pay Vertex the fees for the Services in accordance with the prices contained in this Schedule and the payment terms contained in Section 6 of the Agreement.

B.1.1 Implementation Fees:

<table>
<thead>
<tr>
<th>Service Implementation Fees</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Print and Mail</td>
<td>$ 52,992.00</td>
</tr>
<tr>
<td>Electronic Bill Presentation and Payment</td>
<td>$ 35,833.00</td>
</tr>
<tr>
<td>Mobile Self-service</td>
<td>$ 16,667.00</td>
</tr>
</tbody>
</table>

Payment of the implementation fees set forth above shall become due and payable by the Company to Vertex as follows:

(i) $52,746 on the Effective Date; and
(ii) $52,746 on the Services being operational (or available to be operational).

Implementation fees include:

- Project management
- Business requirements gathering
- Business requirements documentation and project planning
- Processing of Company provided data files for composition data extraction and mapping
- Document template construction
- Business rules application (configuration)
- Programming (as needed)
- Consumables sourcing (paper and envelopes)
- Bar-code and OCR compliance testing
- System testing
- User Training
- Activation of the following application modules:
  - Document composition
  - Document template manager
- On-document messaging manager
- Insert manager
- Document archival
- Payment processing
- On-site (web site) marketing
- Mobile self-service

Implementation templates will be as follows:

- 3 application/form templates per template category
- 1 invoice template category
- 2 notice template categories
- 1 final and adjusted invoice template category

B.1.2 Hosting and Support Fees:

<table>
<thead>
<tr>
<th>Monthly Hosting and Support Fees</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Hosting and Support</td>
<td>$799.00</td>
</tr>
</tbody>
</table>

B.1.3 Print and Mail Transactional Fees

<table>
<thead>
<tr>
<th>Print and Mail Transactional Fees</th>
<th>USD</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-processing composition</td>
<td>$0.00267</td>
<td>per impression</td>
</tr>
<tr>
<td>Printing (Cut Sheet)</td>
<td>$0.01659</td>
<td>per sheet</td>
</tr>
<tr>
<td>Automated Folding and Insertion (6 insert station)</td>
<td>$0.03016</td>
<td>per package</td>
</tr>
<tr>
<td>Marketing Insert Fees</td>
<td>$0.00217</td>
<td>per marketing insert, business return envelope is inserted at no charge</td>
</tr>
<tr>
<td>Oversized Folding and Insertion up to 50 pages (Oversized package)</td>
<td>$0.36179</td>
<td>per occurrence</td>
</tr>
<tr>
<td>Manual Folding and Insertion for &gt; 50 pages (Oversized package)</td>
<td>$1.81</td>
<td>per occurrence</td>
</tr>
<tr>
<td>NCOA Link - Address Update</td>
<td>$0.43290</td>
<td>per occurrence</td>
</tr>
<tr>
<td>Courier preparation</td>
<td>$1.66</td>
<td>per occurrence</td>
</tr>
<tr>
<td>IMB (Intelligent Mail Bar-Code)</td>
<td>$217</td>
<td>per month</td>
</tr>
</tbody>
</table>
### Consumable Fees

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
<th>Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Postage</td>
<td></td>
<td>Pass through</td>
</tr>
<tr>
<td>Outer Mailing Envelope #10 (OME)</td>
<td>$0.01960</td>
<td>per envelope</td>
</tr>
<tr>
<td>Business Reply Envelope #9 (BRE)</td>
<td>$0.02270</td>
<td>per envelope</td>
</tr>
<tr>
<td>Form Type #1 (cut sheet paper)</td>
<td>$0.01680</td>
<td>per page</td>
</tr>
<tr>
<td>Form Type #2 (cut sheet paper page 2)</td>
<td>$0.01680</td>
<td>per page</td>
</tr>
<tr>
<td>9 x 12 Outer Mailing Envelope (OME)</td>
<td>$0.25000</td>
<td>per page</td>
</tr>
<tr>
<td>Insert Production</td>
<td></td>
<td>Specific per request</td>
</tr>
<tr>
<td>Inventory storage fee</td>
<td>$36.07</td>
<td>per pallet, per month</td>
</tr>
<tr>
<td>Inventory recycling fee</td>
<td>$0.00144</td>
<td>per item recycled</td>
</tr>
<tr>
<td>Inventory return fee</td>
<td>$36.07</td>
<td></td>
</tr>
</tbody>
</table>

### Print and Mail Transactional fee definitions

<table>
<thead>
<tr>
<th>Description</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-processing</td>
<td>This fee is applied per image received irrelevant of eventual document production and includes all core document composition activities including Communication/Data Receipt, Data extraction &amp; parsing, Document composition, Business rules application, Personalization, Postal processing and Print File Construction and Routing.</td>
</tr>
<tr>
<td>Printing</td>
<td>This fee is applied per impression and includes the actual application of the ink on a document at the noted distribution facility. This fee includes the actual service of printing and the ink consumables.</td>
</tr>
<tr>
<td>Automated Folding and Insertion</td>
<td>This fee includes the intelligent folding and insertion of said documents into an OME (Outer Mailing Envelope). This fee supports up-to 6 pages into a number 10 OME. This fee does include the insert of a BRE.</td>
</tr>
<tr>
<td>Oversized Folding and Insertion</td>
<td>This fee includes the insertion of said documents into an OME (Outer Mailing Envelope). This fee supports up-to 50 pages into a 9 * 12 OME.</td>
</tr>
<tr>
<td>Manual Folding and Insertion</td>
<td>This fee supports processing of mail pieces that contain more than 50 pages.</td>
</tr>
<tr>
<td>Marketing Inserts</td>
<td>Fee charged per insert applied. The BRE is NOT considered a billable Marketing insert.</td>
</tr>
<tr>
<td>IMB</td>
<td>USPS Intelligent Mail Bar-code monthly service fee. This is for the confirm service to track delivery of mail to the customer.</td>
</tr>
<tr>
<td>-------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>NCOA Link</td>
<td>Real-time processing of National Change of Address allows for addresses to be appended on “the fly” and mailed to the updated or new address. All addresses are processed through NCOA cleansing with only addresses appended incurring fees.</td>
</tr>
<tr>
<td>Courier Preparation</td>
<td>Fee includes the creation of the courier label, packaging and preparation activities.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Consumable Fee definitions</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Form Type#1</td>
<td>Includes 1 standardized 24 pound, 8 ½ x 11 cut sheet form with a horizontal perf and pre-printed Company colors (2/1).</td>
</tr>
<tr>
<td>Form Type#2 (Page 2)</td>
<td>Includes 1 standardized 24 pound, 8 ½ x 11 cut sheet form, pre-printed Company colors (2/1).</td>
</tr>
<tr>
<td>Outer Mailing Envelope (#10)</td>
<td>Includes a a # 10 custom, single window envelope, 24 pound, white wove, within liner, a standard window placement and One color</td>
</tr>
<tr>
<td>Business Reply Envelope</td>
<td>Includes a # 9 Custom BRE (3 ¾ * 8 ¾ ), 24 pound, with 1 color, non-window</td>
</tr>
<tr>
<td>9 x 12 Outer Mailing Envelope</td>
<td>Includes 1 standard #9 X 12 Outer Mailing Envelope, 24 pound, white wove with standard window(s)</td>
</tr>
<tr>
<td>Insert Production</td>
<td>Fees are based on size, quantities, colors, stock weight, size, volume, etc. Our insert production department will provide quotes per insert project.</td>
</tr>
<tr>
<td>Inventory Recycle</td>
<td>Applies to OME, BRE, letterhead and inserts. When physical inserts are recycled, the insert will automatically deactivate the inventory item and will not be available for use in any future campaign.</td>
</tr>
<tr>
<td>Inventory Return</td>
<td>Use of a third party courier to ship inventories back to the Company. Courier charges are extra.</td>
</tr>
</tbody>
</table>

**Pricing Notes:**

1. Post implementation Professional Services hours are billed out at rate outlined in the professional services rate card for adjustments to the in-production system. An estimate will be created with respect to the number of billable hours required and a statement of work signed prior to work commencing.

2. Adjustments to the in-production system requiring less than 4 hours of total professional services can be managed through the ticketing system.
3. Provider reserves the right to increase consumable pricing (paper and envelopes) based on an industry wide increase which is established through public articles from at least two pulp and paper mills.

4. Black is considered a color if pre-printed on the form but not if dynamically printed on the document.

5. Form definitions do not support form “bleeds” (there must be a white margin).

6. Colors can be used on front and back of the form but are limited to 4 colors in total (i.e. 4/0 or 2/2).

7. Customized consumable orders support a minimum 3 month order (50,000) and usage rate of 17,000 per month – situations outside of these requirements require special pricing.

8. Requirements to order or change consumables prior to depletion of current stock will result in additional fees (cost to destroy existing stock and/or premium fee for low volume consumable orders).

9. Upon termination of the agreement Customer is required to pay for any remaining consumable inventory at the noted fees referenced within this schedule.

10. Vertex is not responsible for the delivery timelines within the postal system and can only control and adhere to SLA with regards to the receipt, production, print, insertion and mail finishing services supported within our solution.

11. Requirements to destroy inserts or stock will result in a destruction fee – reference Applicable schedule.

12. In the event that changes are required that would alter the scope defined by this contract, a Project Change Request (“PCR”) will be initiated.

13. Client must leverage Vertex and the then current pricing specific to the consumable elements of the Vertex solution.

14. Document Template Manager upfront fee does includes the establishment of two (2) client specific document templates.

15. Storage Fees are charged for the storage of Consumables/inserts under the following circumstances:
   
   (i) If Consumables are not secured through Vertex directly. Consumables are defined as Letterhead, Outer Mailing Envelopes and Business Reply Envelopes.
   
   (ii) Inserts received two months or more prior to insert start date.
   
   (iii) Request to store inserts after initial campaign run for future usage. (Exceeds 90 days)

16. A maximum limit of 3 months’ worth of consumable inventory can be stored at our facilities. Any requests for greater than 3 months storage for Consumables will result in Storage Fees.

17. Post campaign; residual inserts that have been inactive for more than 2 months will result in Storage Fees.
## B.1.4 Electronic Bill Presentment and Payment Transactional Fees

<table>
<thead>
<tr>
<th>EBPP Transactional Fees</th>
<th>USD</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Document archival transaction fee</td>
<td>$ 0.00361</td>
<td>per impression</td>
</tr>
<tr>
<td>Archived document customer viewing</td>
<td>$ 0.08658</td>
<td>Per initial view of archived document by end customer. Subsequent views are at no cost. Views by Company support staff are at no cost.</td>
</tr>
<tr>
<td>Email notification with attached, secure .pdf</td>
<td>$ 0.14430</td>
<td>Per email sent with attached .pdf</td>
</tr>
<tr>
<td>Email notification with embedded link</td>
<td>no charge</td>
<td></td>
</tr>
<tr>
<td>Attached, secure .pdf processing</td>
<td>$ 0.02886</td>
<td>Per page of attached .pdf</td>
</tr>
<tr>
<td>Credit card and ACH processing</td>
<td>$ 0.06490</td>
<td>Per payment transaction</td>
</tr>
<tr>
<td>Biller-direct remittance</td>
<td>$ 0.01450</td>
<td>Per item included in remittance file</td>
</tr>
<tr>
<td>Notification Manager SMS</td>
<td>$ 0.07215</td>
<td>Per SMS message</td>
</tr>
</tbody>
</table>

### Pricing Notes:

1. Document archival transaction fee applies to the back-loading of historical data (data migration).
2. Viewed pricing metric is only levied towards outside customers. Internal employees can access all bills an unlimited number of times with no presentment fees.
3. View pricing metric refers to bills that have been viewed by the Customer. Transaction fees are only applied once. Bill can be viewed an unlimited number of times.
4. View fee is applied irrelevant if the end customer is viewing on a mobile browser or a traditional desktop browser.
5. SMS transactional fees are applied per SMS transactions (in-bound and outbound).
6. ACH transactional fees do not include ACH origination charges – levied directly by originator.
7. Credit card authorization, settlement and interchange fees are separate and applied directly by the acquirer.
8. Return fees are applied to all returns (i.e. invalid account number, NSF, NOC, etc. for ACH) and are levied directly by the ACH originator to the Biller.
9. The Payment Module supports a non-convenience fee or Biller-Fund payment model, pricing in this schedule assumes a non-convenience fee model.
10. EFT Application supports legacy EFP processing and support for existing and net new EFT customers.
11. Biller Direct remittance fee is applied to each payment settled within the Payment Module—one-time, recurring, or EFT.
12. Notice of change (NOC) processing is available based on the ODFI.
13. The payment fee is applied irrelevant if the payment is made on the website, via e-mail, or a mobile device.
14. Presentment and payment fees are consistent across e-mail, traditional browser, mobile browser, and mobile app delivery channels.
15. There is no presentment fees apply for summary delivery of content delivered via a SMS/Text. Only fee is the text charge and the existing payment fee [same fee for all other channels] if they pay via this device.
16. Activation of pay by text functionality will require an incremental implementation fee.
17. The Verizon carrier is not certified at this time for payments.

B.1.5 Professional Services Fees

<table>
<thead>
<tr>
<th>Professional Services Rates</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional Services</td>
<td>$180.00 per hour</td>
</tr>
</tbody>
</table>
Schedule C: Relationship Management

C.1 Governance Process Description

The implementation of an effective Governance methodology will allow Company to manage the relationship with reasonable effort to ensure that services with minimal defects are delivered in the most effective way. The Governance process is intended to establish the working structure of communication between Company and Vertex as well as to define Company's expectations and criteria regarding the provision of the described processes. The stipulations within this document will provide the framework for the ongoing management, measurement and maintenance of the Vertex-provided services and the responsibility to the relationship between Company and Vertex.

Business Objective: (1) To provide Company and Vertex with an effective vehicle for Communication.

Scope: Vertex will provide governance and has full responsibility to perform all in-scope functions for deploying technical resources in a cost-effective and measurable manner. The stipulations stated in this document include, but are not limited to: timely billing of Company accounts, management of strategic additions or function upgrade function requests, contract change management, performance and status reporting/reviews, problem management, change management and project management. The scope of services provided by Vertex will be documented and measured against the stated Service Level Specifications.

Vertex and Company will hold management meetings to review the success and performance of the services provided by Vertex using phones and online meetings.

<table>
<thead>
<tr>
<th>Monthly Conference Call</th>
<th>Purpose:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- To discuss any issues relating to Vertex's provision of services, problem status and updates, operational issues, end user complaints, and delivery successes.</td>
</tr>
<tr>
<td></td>
<td>- To discuss any issues relating to Vertex's provision of services that need immediate attention of management.</td>
</tr>
<tr>
<td>Action:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- To hold a monthly meeting and to produce and communicate a list of updates, topics and actions.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Quarterly Conference Call</th>
<th>Purpose:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- To review Vertex performance over the previous three (3) months, including Service Metrics, costs, and process issues.</td>
</tr>
<tr>
<td></td>
<td>- Attendees would include Company's Solution Coordinator and Company Manager from Vertex.</td>
</tr>
<tr>
<td>Action:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- To hold the meeting quarterly (as required) and to produce and communicate a list of topics and actions.</td>
</tr>
<tr>
<td>Annual</td>
<td>Purpose:</td>
</tr>
<tr>
<td>--------</td>
<td>----------</td>
</tr>
<tr>
<td></td>
<td>• To review the service metrics and determine if there are changes to be made.</td>
</tr>
</tbody>
</table>

**Action:**

• To hold an annual meeting (conference call) to review the service metrics and determine if changes are to be made.
FORTH AMENDMENT AND EXTENSION OF
THE VERTEXONE SERVICES AGREEMENT

This Fourth Amendment and Extension of the VertexOne Services Agreement ("Fourth Amendment") is dated ______ day of __________, 2021, between the City of Dayton ("City") and Vertex Data Utility Services, LLC, d/b/a VertexOne, f/k/a Vertex Business Services ("VertexOne").

WHEREAS, On February 25, 2015, the Commission of the City of Dayton approved a VertexOne Services Agreement ("Agreement") between the City and VertexOne, under which VertexOne provides services to the City for utility bill printing and other e-solutions, including managing the paydaytonwater.com site; and,

WHEREAS, On February 21, 2018, the Commission of the City of Dayton approved a First Amendment and Extension of VertexOne Service Agreement ("First Amendment"), which extended the term of the Agreement; and,

WHEREAS, On February 26, 2020, the Commission of the City of Dayton approved a Second Amendment and Extension of VertexOne Service Agreement ("Second Amendment"), which extended the term of the Agreement; and,

WHEREAS, On February 17, 2021, the Commission of the City of Dayton approved a Third Amendment and Extension of VertexOne Service Agreement ("Third Amendment"), which extended the term of the Agreement; and,

WHEREAS, Pursuant to Section 12.18 of the Agreement, the City and VertexOne may mutually agree to amend the Agreement in writing; and,

WHEREAS, The City and VertexOne desire to amend the Agreement by extending the term of the Agreement until June 30, 2022, to include an option for one (1) additional four-month extension.

NOW, THEREFORE, For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and VertexOne mutually agree to amend and extend the Agreement as follows:

1. Section 2 of the Agreement, "Contract Term," will be deleted in its entirety and replaced with the following:

CONTRACT TERM

This Agreement shall be effective March 1, 2015, and expire on or before June 30, 2022. At the option of the City, this Agreement may be renewed up to one (1) additional four-month period. However, no such renewal of this Agreement shall be recognized or effective unless it is reduced to writing, which makes specific reference to this Agreement, and is executed by a duly authorized representative of the City, the City of Dayton Commission, and VertexOne.
2. The following language is hereby added to the end of Section 6.1 of the Agreement, "Fees."

Notwithstanding anything in the foregoing, VertexOne and the City hereby agree that the total expenditure of funds by the City for the Services during the period beginning January 1, 2022, and ending June 30, 2022, shall not exceed the total sum of One Hundred Eighty Thousand Dollars and Zero Cents ($180,000.00) in accordance with Schedule B: Pricing. If the City renews for an additional four months, beginning July 1, 2022, and ending October 31, 2022, the additional sum paid during that period shall not exceed Seventy Thousand Dollars and Zero Cents ($70,000.00) in accordance with Schedule B: Pricing. VertexOne is not required to provide services in accordance with Schedule B that exceed the total sum unless the City agrees to a change order for the additional compensation.

3. Except as modified by the amendment, the remaining terms of the Agreement shall continue to apply and remain in full force and effect.

IN WITNESS WHEREOF, The City and VertexOne, each by a duly authorized representative, have executed this Fourth Amendment and Extension as of the date first above written.

CITY OF DAYTON, OHIO

________________________________________
City Manager

 VERTEX DATA UTILITY SERVICES, LLC

By: ____________________________
Its: CFO

APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO

________________________________________, 2021
Min/Bk ___________ Pg. __________

________________________________________
Clerk of the Commission

X John Musto for
City Attorney

Signed by: Musto, John

11/9/2021
REPORT AND MINUTES OF THE BOARD OF REVISION OF ASSESSMENTS
TO THE CITY COMMISSION OF THE CITY OF DAYTON

In the Matter of the Vacation of Jackson Boulevard, Milwaukee Avenue, Windsor Street, Leeland Street, Florida Avenue, St. Clair Avenue, Island Park Avenue, Boden Street and Associated Alleys within the Grounds of Carillon Historical Park.

Pursuant to proper notice being given, the Board of Revision of Assessments reports that it convened its meeting on October 18, 2021 in the Fifth Floor Conference Room of the Department of Public Works for the purpose of considering the above matter.

Attended by
John Musto
Patricia Jones
Brian Zamonsty
Joe Weinel
Amy Walbridge

AGENDA ITEMS: One item was on the agenda. There were no interested parties in attendance.

The Board of Revision of Assessments meeting was convened by Mr. John Musto on October 18, 2021 in the Public Works Fifth Floor Conference Room. Mr. John Musto agreed to chair the meeting.

ITEM # 1: Resolution No. 6607-21 In the Matter of the Vacation of Jackson Boulevard, Milwaukee Avenue, Windsor Street, Leeland Street, Florida Avenue, St. Clair Avenue, Island Park Avenue, Boden Street and Associated Alleys within the Grounds of Carillon Historical Park.

Service was made to two property owners: Coolidge Wall, C/O Shannon Costello, 33 West First Street, Dayton, Ohio 45402; Dayton History, Mr. Brady Kress, President, 1000 Carillon Blvd., Dayton, Ohio 45409.

Discussion followed as to the reason for the vacation request. There were no conditions from the City Plan Board meeting on July 13, 2021.

Ms. Amy Walbridge made a motion to accept the vacation with no conditions from the City Plan Board meeting on July 13, 2021. With no other business to come before the Board, Mr. Zamonsty made motion to close the meeting, and Ms. Amy Walbridge seconded. All present said “aye”, and the motion carried. The meeting was adjourned.

Respectfully submitted,

Patricia N. Jones,
Secretary
to the Board of Revision of Assessments

cc: Board Members
    Assessment File
    Joe Weinel

BOARD OF REVISION OF ASSESSMENTS

Senior Engineer I, Public Works

Chief Counsel, Department of Law

APPROVED BY THE CITY COMMISSION

City Manager

BACK
AN ORDINANCE

Amending Section 95.24 of the Revised Code of General Ordinances.

WHEREAS, The City Commission of the City of Dayton ("Commission") passed Ordinance No. 27559 ("Ordinance") on June 10, 1987 which prohibits the riding of a skateboard on any sidewalk, street, alley or public ground in the Central Business District; and,

WHEREAS, The Ordinance defines "Central Business District" as the area defined in Section 112.103 of the Revised Code of General Ordinances ("R.C.G.O."); and,

WHEREAS, Section 112.103 of the R.C.G.O. has been previously amended, removing the definition of "Central Business District," making Section 95.24 inconsistent from its original language; and,

WHEREAS, The Commission wishes to amend the Ordinance to clarify the region specified in Section 95.24 and include the central area of the city and the commercial area of the Oregon District Neighborhood in the prohibited boundaries; and,

WHEREAS, This Commission finds it in the best interest of the City to amend Section 95.24 of the R.C.G.O.; now, therefore,

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

Section 1. That Section 95.24 of the R.C.G.O. be, and hereby is, amended to read as follows:

Sec. 95.24. – Skateboard use regulations.

(A) No person shall ride a skateboard on any sidewalk, street, alley, or a public place within the central area of the city or within the commercial area of the Oregon District Neighborhood.

(B) For purposes of this section, "the central area of the city" is located within an area inclusive of and bounded by the Miami and Mad Rivers to the north; Keowee Street to the east until it transverses the Railroad; the Railroad line as the southern boundary; with the western boundary being the Miami River.

(C) For purposes of this section, "the commercial area of the Oregon District Neighborhood" is located within an area inclusive of and bounded by the southern sidewalk along E. Fifth Street; the Railroad line to the west and north; with the eastern boundary being Keowee Street.
Section 2. That Section 95.24 of the R.C.G.O. as previously enacted is hereby repealed.

PASSED BY THE COMMISSION.............................., 2021
SIGNED BY THE MAYOR................................., 2021

Mayor of the City of Dayton, Ohio

Attest:

______________________________
Clerk of the Commission

Approved as to form:

______________________________
City Attorney
November 8, 2021

TO: Shelley Dickstein  
    City Manager

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

SUBJECT: Request for Commission Calendar - Skateboarding Ordinance

The Police Department is requesting the attached skateboarding ordinance be placed on the City Commission calendar for first reading on November 24, 2021. This update to the existing ordinance codifies the boundaries of the Central Business District (CBD) for police enforcement of skateboarding violations detrimental to vehicle traffic, foot traffic and property.

If you have any questions, please contact Lieutenant James Mullins at extension 1333.

MMC:jar

Attachment (1): Skateboard Ordinance

cc: Mr. Parlette  
    Ms. Lofton  
    Ms. Doseck  
    Mr. Musto
AN ORDINANCE

To Vacate Jackson Boulevard, Milwaukee Avenue, Windsor Street, Leeland Street, Florida Avenue, St. Clair Avenue, Island Park Avenue, Boden Street and Associated Alleys within the Grounds of Carillion Historical Park.

WHEREAS, The City Commission did on the 22nd day of September, 2021, by Resolution No. 6607-21, declare its intention to vacate Jackson Boulevard, Milwaukee Avenue, Windsor Street, Leeland Street, Florida Avenue, St. Clair Avenue, Island Park Avenue, Boden Street and associated alleys within the grounds of Carillion Historical Park; and

WHEREAS, The Board of Revision of Assessments, after a hearing regularly held for the purpose of consideration of objections to said proposed vacation, as provided by the Charter of the City of Dayton, has recommended that Jackson Boulevard, Milwaukee Avenue, Windsor Street, Leeland Street, Florida Avenue, St. Clair Avenue, Island Park Avenue, Boden Street and associated alleys within the grounds of Carillion Historical Park; vacated; and

WHEREAS, The City Plan Board has approved said vacation; and

WHEREAS, The vacation of Jackson Boulevard, Milwaukee Avenue, Windsor Street, Leeland Street, Florida Avenue, St. Clair Avenue, Island Park Avenue, Boden Street and associated alleys within the grounds of Carillion Historical Park; described herein will enable the abutting property owner to develop this property; and

WHEREAS, The Commission is satisfied that there is good cause for said vacation and that it will serve the public interest and welfare and should be made; now, therefore,

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

Section 1. That Jackson Boulevard, Milwaukee Avenue, Windsor Street, Leeland Street, Florida Avenue, St. Clair Avenue, Island Park Avenue, Boden Street and associated alleys within the grounds of Carillion Historical Park; being more particularly bounded and described in as follows:

Being all of the Jackson Blvd (60' ROW), Milwaukee Ave (50' ROW), Windsor St (50' ROW), Leeland St (50' ROW), Florida Ave (50' ROW), St. Clair Ave (50' ROW), Island Park Ave (60' ROW), Boden St (50' ROW) and associated alleys within the grounds of Carillion Historical Park

is hereby vacated.
Passed by the Commission ........................................, 2021

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

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
November 8, 2021

TO: Shelley Dickstein
   City Manager

FROM: Joseph Weinel, Chief Engineer
       Division of Civil Engineering

SUBJECT: The Vacation Jackson Boulevard, Milwaukee Avenue, Windsor Street,
         Leeland Street, Florida Avenue, St. Clair Avenue, Island Park Avenue,
         Boden Street and associated alleys within the grounds of Carillon
         Historical Park

Attached is the ordinance to vacate the subject property. Please present this legislation to the City
Commission for their action at the November 17, 2021 meeting.

Petition No. 21590 requesting the vacation was received from Dayton History Inc. on August 19,
2021. Resolution No. 6607-21 declaring the Commission’s intention to vacate was adopted on
September 21, 2021. The Board of Revision of Assessments recommended the vacation on October
18, 2021. The vacation will clean up property no longer used as public right of way.

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

JRW

Attachments

cc: Mr. Parlette
    Ms. Lofton
    Mr. Stovall
    Department of Planning
    Department of Law
    Clerk of Commission
    Secretary / Board of Revision of Assessments