I. AGENDA SCHEDULE

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

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

   INFORMATION TECHNOLOGY
   A1. Hervey, Inc. (annual computer software license renewal including professional software consulting and support services as needed through 12/31/25) $148,500.00
1. (Cont’d):

<table>
<thead>
<tr>
<th>PLANNING, NEIGHBORHOODS &amp; DEVELOPMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>B1. Friends Service Company, Inc. dba FriendsOffice (office furniture including delivery and installation services)</td>
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</table>

<table>
<thead>
<tr>
<th>PUBLIC WORKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>C1. Carroll Wuertz Tire Company (tires, tubes and related goods and services as needed through 12/31/21)</td>
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</table>

<table>
<thead>
<tr>
<th>WATER</th>
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</thead>
<tbody>
<tr>
<td>D1. Kendall Electric, Inc. (electrical parts, supplies and related items as needed through 12/31/21)</td>
</tr>
</tbody>
</table>

-Department of Information Technology, Planning, Neighborhoods & Development, Public Works and Water

**Total: $320,958.21**

2. **Montgomery County – Service Agreement** – 2022 Operating a Vehicle While Impaired (OVI) Countywide Task Force Agreements – Department of Police.

   - $14,000.00
   - (Thru 09/30/22)

3. **Jonathan B. Ross. – Service Agreement** – for consulting services to support the goal of achieving Advance Law Enforcement Accreditation from the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA) – Department of Police

   - $50,000.00
   - (Thru 12/31/23)

4. **SJN Data Center LLC dba Encore Technologies – Contract Modification** – first amendment to provide remote tier one technology help desk user support - Department of Information Technology

   - $20,928.00
   - (Thru 12/31/22)

5. **COPP Systems – Service Agreement** – for ongoing maintenance services for the Access Control and CCTV systems at the Dayton International Airport – Department of Aviation

   - $1,250,898.00
   - (Thru 12/31/26)
B. Construction Contract:

6. L.J. DeWeese Co. Inc. – Award of Contract – for the Wayne Avenue Water Main Improvements, Phase 4 (15% MBE Participation Goal/15% MBE Participation Achieved) - Department of Water $1,971,164.80 (Thru 8/31/23)

D. Neighborhood Agreement:

7. Epix Tube Co., Inc – Development Agreement – to assist in the expansion of the business in Dayton at 14 South Marion Street. – Department of Planning, Neighborhoods and Development. $500,000.00 (Thru 6/30/27)

E. Other – Contributions, Etc.:

8. Benevate, Inc. dba Neighborly – Payment of Voucher – for payment of September 2021 invoice – Department of Planning, Neighborhoods and Development - $6,750.00 (Thru 5/30/2020)

9. Gordan Food Service, Inc. – Payment of Voucher – for purchase of candy for 2021 Fall Harvest drive-thru event held on October 31, 2021 – Department of Recreation - $9,979.88

VI. MISCELLANEOUS:

ORDINANCE NO. 31942-21

RESOLUTION NO. 6622-21

IMPROVEMENT RESOLUTION NO. 3599-21

INFORMAL RESOLUTION NO. 994-21
INFORMATION TECHNOLOGY

(A1) P0211284 – HERVEY, INC., DALLAS, TX

- Annual computer software license renewal including professional software consulting and support services.
- These goods and services are required to maintain the CityBots program for the Human Relations Council.
- Hervey, Inc. is recommended as the original software developer and sole source of this proprietary software service agreement; therefore, this purchase was negotiated.
- The Human Relations Council and Department of Information Technology request additional authority of $120,000.00 through 12/31/2025.
- The Human Relations Council and Department of Information Technology recommend approval of this order.

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<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<td>2023</td>
<td>General Fund</td>
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<tr>
<td>2025</td>
<td>General Fund</td>
<td>10000-5560-1166-65</td>
<td>$30,000.00</td>
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</tbody>
</table>

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 06/2016
PLANNING, NEIGHBORHOODS & DEVELOPMENT

(B1) P0211283 – FRIENDS SERVICE COMPANY, INC. dba FRIENDSOFFICE, MORaine, OH

- Office furniture including delivery and installation services.
- These goods and services are required to outfit four new offices within the Department of Planning, Neighborhoods & Development.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 17047D with pricing through 9/30/2022.
- The Department of Planning, Neighborhoods & Development recommends approval of this order.

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<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>Housing &amp; Neighborhood Dev ~ Planning</td>
<td>26205-2390-1411-31</td>
<td>$3,869.76</td>
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</table>

PUBLIC WORKS – FLEET MANAGEMENT

(C1) P0210064 – CARROLL WUERTZ TIRE COMPANY, DAYTON, OH

- Tires, tubes and related goods and services as needed through 12/31/2021.
- These goods and services are required to maintain the City’s fleet vehicles.
- Rates are in accordance with the State of Ohio State Term Schedule #RS902819 and Index #GPC027 with pricing through 3/31/2024.
- Carroll Wuertz Tire Company qualifies as a Dayton local entity.
- This amendment increases the previously authorized amount of $325,000.00 by $55,000.00 for a total not to exceed $380,000.00.00 and therefore requires City Commission approval.
- The Department of Public Works recommends approval of this order.

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<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2021</td>
<td>Fleet Management</td>
<td>61000-6470-1350-99</td>
<td>$55,000.00</td>
</tr>
</tbody>
</table>
WATER – WATER SUPPLY & TREATMENT

(D1) P0211285 – KENDALL ELECTRIC, INC., DAYTON, OH
- Electrical parts, supplies and related items as needed through 12/31/2021.
- These goods are required for the Busway replacement part at the Ottawa Water Treatment Plant.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 20003N with pricing through 12/31/2023.
- Pursuant to Section 86 of the City of Dayton Charter, the Director of Water has declared an emergency, the necessary funds have been encumbered and the suppliers have been notified to proceed.
- Kendall Electric, Inc. qualifies as a Dayton local entity.
- The Department of Water recommends approval of this order.

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

From 6210-Police Director
Supplier, Vendor, Company, Individual
Name Montgomery County
Address 451 W Third Street
          Dayton, OH 45422

Date December 1, 2021
Expense Type Service Agreement
Total Amount $14,000.00 (thru 9/30/22)

Fund Source(s) Fund Code(s) Fund Amount(s)
Other Grants/Federal 28303-6210-1271-71  $14,000.00

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

Description

2022 Operating a Vehicle While Impaired (OVI)
Countywide Task Force Agreements

The Department of Police requests permission to enter into an Agreement with Montgomery County for the 2022 OVI task force. The funding will be used to implement saturation patrols and area checkpoints in an effort to reduce speed, increase seat belt usage and reduce fatal accidents. The Agreement shall commence upon execution and expire on September 30, 2022.

The Agreement is funded from the OVI Task Force grant award number OVI-2022-Dayton Police Dept.-00006 from the Ohio Department of Public Safety. The Dayton City Commission accepted the $224,999.19 grant on October 6, 2021 by Resolution No. 6613-21.

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

A copy of the Certificate of Funds and Agreement requiring City Commission approval is attached.

The Agreement is being funded by the 2022 OVI Grant.

E-SIGNED by Paul Saunders on 2021-11-17 17:15:26 GMT

Division E-SIGNED by Eric Henderson on 2021-11-17 17:16:53 GMT

Department

City Manager

FORM NO. MS-16

Approved by City Commission

Clerk

Date

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
<th>Other</th>
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<th>Remaining Commission Approval</th>
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<tr>
<th>Original CT/CF</th>
<th>Initial Agreement/Contract</th>
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<tbody>
<tr>
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<td>Copy of Original Certificate of Funds</td>
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<td>Decrease Encumbrance</td>
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<tr>
<td>Remaining Commission Approval</td>
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<th>Amount:</th>
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<td>$ 14,000</td>
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Vendor Name: Montgomery County
Vendor Address: 451 W Third Street, Dayton, OH 45422
Federal ID: 31-6000172
Commodity Code: 91899
Purpose: For participation in Ohio Department of Public Safety Operating a Vehicle While Impaired (OVI) grant
No. OVI-2022-Dayton Police Dept.-00006. The grant was accepted in Resolution 6613-21 on October 6, 2021.

Contact Person: Meredith Weber, ext. 1099
Police/Director's Office: 11/16/2021
Department/Division: Date
Originating Department Director's Signature: E-SIGNED by Eric Henderson on 2021-11-17 17:16:57 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: 11/14/21

CF Prepared by: [Signature]
Date: 11/19/21
CF/CT Number: CT21-3126

Finance Department
October 18, 2011
November 16, 2021

TO: Shelley Dickstein
    City Manager

FROM: Matt Carper  E-SIGNED by Eric Henderson on 2021-11-17 17:16:48 GMT
      Interim Director and Chief of Police

SUBJECT: 2022 Traffic Safety Grants – OVI

Attached is the City Manager Report (CMR) for Montgomery County who is participating in the county-wide Operating a Vehicle while Intoxicated (OVI) task force grant from the Ohio Department of Public Safety. The County emailed the signed contract on November 10, 2021.

The OVI grant award of $224,999.19 is a collaboration with multiple jurisdictions with a minimum of 16 sobriety checkpoints, impaired driving saturation patrols, public awareness and education. The grant period began on October 1, 2021 and will end on September 30, 2022.

Please contact Meredith Weber at ext. 1099 about the attached information.

Attachments

MC:ejj

c: Matt Carper (w/o Attachment)
   Lt. Col. Eric Henderson (w/o Attachment)
   Major Paul Saunders (w/o Attachment)
   Mrs. Meredith Weber (w/o Attachment)
OPERATING A VEHICLE WHILE IMPAIRED
COUNTYWIDE TASK FORCE
AGREEMENT

THIS AGREEMENT is entered into as of this 9th day of November, 2021 by and between the City of Dayton, Ohio (hereinafter referred to as the “Lead Agency”) and Board of County Commissioners of Montgomery County, Ohio (hereinafter referred to as the “Sub-grantee”):

WITNESSETH:

WHEREAS, The State of Ohio, Department of Public Safety (“ODPS”) administers the Operating a Vehicle While Impaired Task Force (“OVI”) Grant Program in an effort to increase alcohol-related traffic enforcement, reduce speeding violations, increase seat belt usage, and reduce fatal and injury accidents; and

WHEREAS, the Lead Agency has received a Montgomery County OVI Task Force grant from ODPS, Grant Number OVI-2022-Dayton Police Dept.-00006, for Two Hundred Twenty-Four Thousand Nine Hundred Ninety-Nine Dollars and Nineteen Cents ($224,999.19) subject to all grant terms and conditions; and

WHEREAS, the Sub-grantee provides law enforcement agency services to its respective community and is eligible to participate in OVI activities; and

WHEREAS, the Lead Agency desires to engage the Sub-grantee to provide targeted enforcement activity in completion of the aforementioned grant; now, therefore;

The parties hereto do mutually agree as follows:

I. SERVICE RENDERED BY SUB-GRANTEE

Targeted enforcement by sworn law enforcement officers will take place at approved problem sites as determined by the Task Force “problem ID process.” Targeted enforcement will be conducted in support of the Montgomery County OVI Task Force goals, which are to decrease the incidence of OVI violations and crash fatalities and increase seat belt usage while using the low manpower OVI checkpoint model to conduct low-cost, highly-effective OVI checkpoints throughout Montgomery County. Also, there will be zero tolerance enforcement with respect to violations of safety belt and child safety seat laws during enforcement efforts in targeted communities. In addition:

a. Law Enforcement Reports: Sub-grantee will report enforcement activity on OCJS-TS Law Enforcement Activity (GR-24A or GR-24C) forms on a monthly basis. Monthly reporting must be submitted by the fifth (5th) calendar day of the following month to Lead Agency. Justification for sites selected for enforcement
activity should be documented and maintained as a part of Sub-grantee’s file for this agreement.

b. **Training Certification:** Sub-grantee will assure that all enforcement personnel to be involved in approved enforcement-related activity will be certified in the following type(s) of training as appropriate: Alcohol-related Traffic Enforcement, Sobriety Checkpoint Training, and SFST/ADAP Training, as well as training in standard procedures and operations associated with staffing and staging OVI checkpoints and OVI patrols.

c. **Diversity/Inclusion Training:** Sub-grantee will assure that all personnel that participate in enforcement-related activity complete any sub-recipient agency required diversity/inclusion training.

d. **Enforcement Hours Eligibility:** Direct labor hours expended in traffic safety enforcement programs must be over and above the normal work week. Part-time permanent staff is eligible for funding. Only one officer per patrol car will be funded as part of traffic enforcement grants. All enforcement hours must be reimbursed at the actual rate of pay.

e. **Safety Belt Policy:** Sub-grantee must have a policy statement requiring employees to wear safety belts. Sub-grantee must agree to conduct zero tolerance enforcement of Ohio’s occupant restraint laws.

f. **Required Activity:** All agencies utilizing National Highway Traffic Safety Administration (NHTSA) funding for overtime enforcement are required to participate in and report by the required deadlines on the “Drive Sober or Get Pulled Over” mobilization. Scheduled dates for the mobilization are as follows and are subject to change due to federal requirements: December 17, 2021 through January 1, 2022 and August 19, 2022, through September 5, 2022.

g. **Lead Agency will fund overtime enforcement during the “Click It or Ticket” (CIOT) mobilization. The scheduled dates for the mobilizations are as follows and are subject to change due to federal requirements:** May 23, 2022 through June 5, 2022.

II. **COMPENSATION AND PAYMENT**

Funding for this Agreement is contingent on receipt of funds from the State of Ohio, Department of Public Safety for the OVI grant number OVI-2022-Dayton Police Department-00006 received by the Lead Agency.

Compensation shall be on the basis of direct costs based on actual activity completed in an amount not to exceed Fourteen Thousand Dollars and No Cents ($14,000.00).
To be eligible for reimbursement, Sub-grantee will complete and submit a GR-24 progress report by the fifth (5th) calendar day of the following month to the Lead Agency. Sub-grantee shall complete and submit a GR-12 detailing name and rank of officer working the overtime activity, dates and hours worked, overtime rate earned and check/warrant/voucher number of overtime payment. Sub-grantee must provide documentation that the officer has been paid. Reimbursement will only be made for actual costs and pre-approved fringe rate incurred in support of the OVI Task Force activities.

Proof of payment documentation must include the officer’s name, regular hourly rate of pay, overtime rate of pay, overtime hours for the pay period covering the requested reimbursement, the check or pay stub number, and detail for each fringe benefit being claimed for reimbursement under the grant. Failure to provide appropriate payment documentation may result in a demand for repayment of any previously reimbursed funds and the cancellation of this Agreement.

III. DELIVERY OF SERVICES

Sub-grantee will begin work after execution of this document and complete all work no later than September 30, 2022.

IV. SUBCONTRACTORS

Sub-grantee shall not subcontract, in whole or in part, with any other firm, partnership, corporation, or entity to perform the services to be done on the OVI Task Force without prior approval from the Lead Agency.

Sub-grantee warrants that it has not employed or retained any company or person other than a bona-fide employee working solely for Sub-grantee to solicit or secure this agreement and has not paid or has not agreed to pay any fee, commission, percentage, brokerage fee, gift, or contingent fee in violation hereof.

V. MAINTENANCE OF RECORDS

Sub-grantee shall maintain all records pertaining to this contract for a minimum of three (3) years, pursuant to the requirements of the ODPS. This Agreement provides the right of any authorized representative of the federal or state government to audit and inspect any and/or all project-related records at all reasonable normal working hours during the contract period and for a period of at least three (3) years after the completion of this agreement.

Sub-grantee shall obtain and retain in force workers’ compensation and proof of liability insurance for its employees and autos operated by them for and during their employment.

VI. ASSURANCES AND INCORPORATION OF PARENT CONTRACT
The provisions of this Agreement include all of the terms, conditions and assurances of the parent agreement for OVI Task Force Grant OVI-2022-Dayton Police Department-00006, dated October 1, 2021 between ODPS and Lead Agency and the additional Sub-grantee provisions. This Agreement shall be predicated upon the receipt of the parent agreement from ODPS and the approval of the Dayton City Manager and the Dayton City Commission, if required. The “Terms and Conditions for All Grants” from ODPS is incorporated into this document and attached as “Exhibit A.”

VII. SANCTIONS FOR NON-COMPLIANCE

Should Sub-grantee fail to fulfill any of its contractual duties in a timely manner, Lead Agency shall notify Sub-grantee in writing as to such deficiencies. Such notification shall be sent by certified mail, return receipt requested. Sub-grantee shall have 30 days from the date of the transmitted letter to resolve such deficiencies, unless otherwise stated by Lead Agency.

VIII. OTHER REQUIREMENTS

The following are Provisions that shall be used by Lead Agency when entering into an agreement (contract) where funds are administered by the OCJS-TS with a total of Five Thousand Dollars ($5,000) or more. This provision includes requirements of both the federal or state government. Note: for clarification purposes the work contractor is the agency, vendor, or individual that Lead Agency is contracting with for the desired scope of service.

PROVISION 1 Security Agreement Disclaimer
Sub-grantee warrants that it has not employed or retained any company or person other than a bona-fide employee working solely for the Sub-grantee to solicit or secure this agreement, and that he has not paid or has not agreed to pay any fee, commission, percentage, brokerage fee, or other considerations contingent upon or resulting from the awarding or making of this agreement.

For breach or violation of this warrant, the State, in conjunction with Lead Agency, shall have the right to annul this agreement without liability, or in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

Either party may terminate this agreement by giving the other party written advanced notice of its election to do so. If the contract is canceled under this provision, Lead Agency shall reimburse Sub-grantee for all work completed and in progress to that date. Upon termination and final payment, all design materials, artwork and any other items/products developed by Sub-grantee shall become the property of Lead Agency.
PROVISION 2  Reporting Requirements
Performance reports will be required to be submitted by Sub-grantee as frequently as required by Lead Agency. Performance reports shall include brief information on (1) a comparison of actual accomplishments to the objectives established for the period and can include a computation of the cost per unit of output, (2) the reasons for slippage if established objectives were not met, and (3) additional pertinent information including analysis and explanation of cost overruns or high unit cost.

PROVISION 3  Intellectual Property
Neither the Sub-grantee nor any of its employees, agents, subcontractors or assigns shall make a disclosure for the purpose of securing a patent or copyright in the United States or any other country for any product resulting from this agreement unless such disclosures are approved in writing by the Lead Agency prior to application for the patent/copyright. In the event that such patent/copyright is obtained, the Sub-grantee shall provide the Lead Agency written authorization for the Sub-grantee and any other person, agency or instrumentality contributing financial support to the work covered by this agreement to make use of the subject of said intellectual property without payment.

PROVISION 4  Audit Practices
The Sub-grantee agrees to provide access to the Lead Agency, Montgomery County OVI Task Force, ODPS, OCJS-TS or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audits, examinations, excerpts, or transcriptions.

PROVISION 5  Equal Employment Opportunity (E.E.O.)
The Sub-grantee and Lead Agency must abide by all E.E.O. regulations, including but not limited to, Executive Order 11264 of September 24, 1965 “Equal Employment Opportunity” as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations. (41 CFR Chapter 60) and Section 3(a)(2)(C) of the UMT Act of 1934, as amended, which prohibits the use of exclusionary or discriminatory specifications.

PROVISION 6  Certification Regarding Lobbying
None of the funds under this program will be used for any activity specifically designed to urge or influence a Federal, State, or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any Federal, State, or local legislative body. Such activities include both direct and indirect (e.g. “grassroots”) lobbying activities, with one exception. This does not preclude an official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, as long as this activity is documented in writing.

PROVISION 7  Labor Relations
The Sub-grantee and Lead Agency must comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5).

PROVISION 8  Energy Policy
The Sub-grantee must apply mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

PROVISION 9  Assurances Regarding the Parent Agreement
The provisions of this agreement include all of the terms and conditions and assurances of the parent agreement between the ODPS and the Sub-grantee and are attached hereto as an Appendix.

PROVISION 10  Liability Disclaimer
The parties agree that the ODPS, OCJS-TS is not the employer of any personnel involved in said contract. The Sub-grantee agrees to pay any wages and related tax obligations resulting from employment of personnel in order to perform the terms of this contract.

PROVISION 11  Disclosure Disclaimer
Sub-grantee shall include language on the cover or first page of any report that reads substantially as follows:

"Funding provided in part or solely by the:

National Highway Traffic Safety Administration
Federal Highway Administration
Ohio Department of Public Safety
Office of Criminal Justice Services – Traffic Safety"

The remainder of this page left blank.
Studies, evaluations, etc., shall also include the following disclaimer: "The opinions, findings, and conclusions expressed in this publication are those of the author and not necessarily those of the National Highway Traffic Safety Administration, Federal Highway Administration, Ohio Department of Public Safety and the Office of Criminal Justice Services – Traffic Safety."

IN WITNESS WHEREOF, the Lead Agency and Sub-grantee, each by a duly Authorized Representative, have executed this Agreement on the date first written above.

CITY OF DAYTON, OHIO

By: _______________________
   City Manager

MONTGOMERY COUNTY, OHIO
SHERIFF’S OFFICE

By: _______________________
   Rob Streck, Sheriff

By: _______________________
   Michael Colbert, Administrator

APPROVED AS TO FORM
AND CORRECTNESS:

E-SIGNED by John Musto
on 2021-09-27 16:00:32 GMT
City Attorney

Montgomery County Prosecutor’s Office

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

__________________________, 2021

Min./Bk. _______ Pg. _______

Clerk of the Commission
FFY2022 Terms and Conditions for All Grants

The following terms and conditions must be met in order to obtain and conduct a federally-funded traffic safety program. Upon approval of this grant award, these terms and conditions will become a part of the executed agreement. The term “sub-recipient” refers to the Administering Agency of the project.

1.) **Agreement**
   Any inconsistencies between agreements and any attached documents shall be resolved in favor of the most current revised agreement on the online system, which shall be the controlling document. All activities conducted under this grant program must address problem ID as shown in the county profile and be data driven and evidence-based. “Countermeasures That Work” must be used to determine the work plan activities to achieve the goals of the grant.

2.) **Legislative Authority**
   The Authorizing Official shall obtain the legal legislative authority necessary to implement the activity, to make expenditures and to receive funds, as set forth by this agreement.

3.) **Nondiscrimination**
   The sub-recipient will comply with all Federal statutes and implementing regulations relating to nondiscrimination (“Federal Nondiscrimination Authorities”). These include but are not limited to:
   - **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
   - **The Uniform Relocation Assistance and Real Property Acquistion Policies Act of 1970**, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
   - **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
   - **The Age Discrimination Act of 1975**, as amended, (42 U.S.C. 6101 et seq.), (prohibits discrimination on the basis of age);
   - **The Civil Rights Restoration Act of 1987**, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, sub-recipients and contractors, whether such programs or activities are Federally-funded or not);
• **Titles II and III of the Americans with Disabilities Act** (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;

• **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and

• **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR at 74087 to 74100).

The sub-recipient —

• Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted.

• Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;

• Agrees to comply (and require any of its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;

• Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;

• Insert in all contracts and funding agreements with other State or private entities the following clause:

  During the performance of this contract/funding agreement, the contractor/ funding recipient agrees—

  a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;

  b. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in Appendix B of 49 CFR part 21 and herein;
c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;

d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and

e. To insert this clause, including paragraphs a through e, in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

4.) **Diversity / Inclusion Training**
All personnel that will work on this grant must complete any sub-recipient agency required diversity/inclusion training.

The sub-recipient will provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

b. Establishing a drug-free awareness program to inform employees about:
   o The dangers of drug abuse in the workplace.
   o The grantee's policy of maintaining a drug-free workplace.
   o Any available drug counseling, rehabilitation, and employee assistance programs.
   o The penalties that may be imposed upon employees for drug violations occurring in the workplace.
   o Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a).

c. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will –
   o Abide by the terms of the statement.
   o Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

d. Notifying the agency within ten days after receiving notice under subparagraph (c) (2) from an employee or otherwise receiving actual notice of such conviction;

e. Taking one of the following actions, within 30 days of receiving notice under subparagraph (c) (2), with respect to any employee who is so convicted –
   o Taking appropriate personnel action against such an employee, up to and including termination.
   o Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

f. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all the paragraphs above.
6.) **Buy America Act**  
The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase only steel, iron and manufactured products produced in the United States with Federal funds, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification to and approved by the Secretary of Transportation.

7.) **Political Activity (Hatch Act)**  
The sub-recipient will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

8.) **Certification Regarding Federal Lobbying**

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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.

2. 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, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.
9.) **Restriction on State Lobbying**
None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

10.) **Certification Regarding Debarment and Suspension**

**Instructions for Primary Certification (States)**

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1300.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency’s determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms *covered transaction, debarment, suspension, ineligible, lower tier, participant, person, primary tier, principal, and voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and coverage sections of 2 CFR Part 180. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled “Instructions for Lower Tier Certification” including the
"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR Parts 180 and 1300.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that its principals:
   a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
   b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;
   c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
   d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.
Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1300.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarment, suspension, ineligible, lower tier, participant, person, primary tier, principal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definition and Coverage sections of 2 CFR Part 180. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR Parts 180 and 1300.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended,
debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency with which this transaction originated may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

11.) Prohibition On Using Grant Funds To Check For Helmet Usage
The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

12.) Policy on Seat Belt Use
In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information on how to implement such a program, or statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's website at www.nhtsa.dot.gov. Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in the Washington, D.C. metropolitan area, and dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to provide technical assistance, a simple, user-friendly program kit, and an award for achieving the President’s goal of 90 percent seat belt use. NETS can be contacted at 1 (888) 221-0045 or visit its website at www.trafficsafety.org.

The Administering Agency certifies that an “employee seat belt usage policy” is in place that requires employees to wear seat belts while working on agency business. This policy will be made available for review by OTSO representatives upon request.

13.) Policy to Ban Text Messaging While Driving
In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or -rented vehicles, Government-owned, leased or rented vehicles, or privately-owned when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety
initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

14.) Limitations
This agreement is a commitment to perform the work identified herein and this authorization is limited to:
A.) The scope of work performed after the “Authorized to Proceed” and before the “Agreement Termination” dates, as specified in the transmittal letter.
B.) The scope of work, rates of participations, federal funds, special conditions, and cost category amounts as defined by the online GRANTS Plus System;
C.) Actual costs that are incurred in accordance with OMB Circulars 2 CFR Part 200, Part 215, Part 220, Part 225, Part 230 and 45 CFR Part 74 Appendix E limited to the approved activity.

15.) Supplanting
Grant funds must not be used to supplant state or local funds, meaning that grant funds must not be used to replace routine or local expenditures for costs of activities that constitute general expenses required to carry out the overall responsibilities of the sub-recipient and/or its sub-recipients.

16.) Food
Costs relating to food for meetings, award banquets, etc. are not allowable.

17.) Pre-Activity
A grant pre-activity is required before any costs can be eligible for reimbursement. OTSO will notify the sub-recipient of the availability of the pre-activity prior to the “Authorized to Proceed Date” in the transmittal letter for the executed agreement. The pre-activity must be reviewed by, but not limited to, the designated project director and fiscal officer. The Pre-Activity must be reviewed, certified (check the box), and submitted to OTSO through GRANTS Plus. If there are changes to the Project Director and/or Fiscal Officer, the Pre-Activity must be reviewed by the new personnel.

18.) OTSO/Sub-recipient Meetings
Sub-recipients must attend all scheduled OTSO/Sub-recipient meetings to coordinate and review activity including current crash data to achieve high visibility enforcement, education and awareness.

19.) Press Release
Each sub-recipient is required to submit a press release to their local media announcing the grant award, including amount and purpose of award. Additional press releases are required depending on grant type; see Special Conditions beginning on page 24 for additional requirements.

20.) Grant Revisions
Any changes, additions, or deletions to this agreement must be submitted online and approved by OTSO prior to implementing proposed changes. All final revisions to this
agreement (either programmatic or fiscal), must be submitted online prior to September 1, 2022. Any requests for revisions after this date will not be approved.

OTSO reserves the right to limit grant amounts at any time based on performance and/or available funding. Any changes made to the executed agreement limiting grant amounts by the OTSO shall be made in writing.

21.) **Required Personnel**
Each proposal/grant is required to have, at a minimum, an authorizing official, a project director and a fiscal officer. See pages 7 for a description of each. This information must be kept current.

22.) **GRANTS Plus User Accounts/Password Security**
For security purposes, each person using the GRANTS Plus system must have a separate user name and password. Each account must have its own email account. **Sub-recipient agency personnel must not share passwords with agency staff or ODPS staff.**

23.) **Labor Costs**
All work (personnel labor costs) reimbursed under this grant must be for actual paid hours worked. Labor costs based on a percentage of hours worked or hours accrued as comp time will not be accepted for reimbursement. Leave hours (i.e., sick, vacation, personal, holiday, etc.) are not reimbursable as direct labor. The employer’s share of **certain** fringe benefits (i.e., retirement, Medicare, etc.) are eligible for reimbursement. Worker’s Compensation is not eligible for reimbursement. Documentation verifying fringe percentages must be available to OTSO upon request.

24.) **Personnel Activity Reports**
Personnel activity reports may be required for any individual working on this federal grant program. These reports, at a minimum, must document date worked, detailed explanation of activity performed and the number of hours per day to be charged to this agreement. This document must be signed and dated by the individual and their immediate supervisor, maintained by the administering agency and submitted as a part of the expenditure report documentation required.

25.) **Sub-Contracts**
All sub-contracts must be submitted to OTSO for review prior to their execution and are subject to the same laws, regulations, and policies that govern this agreement. **Contracts and procurements must include a copy of these Terms and Conditions.**
Do not include a specific contractor’s name/vendor’s name in the proposal/grant.

Any public information/educational materials purchased under a sub-contract, must be submitted to OTSO on a Request to Purchase form prior to incurring the cost.

Any training courses must be submitted to and approved by OTSO on a Request to Purchase form prior to scheduling.
26.) **Equipment**  
All non-expendable equipment (i.e., having a useful life of one year or more and cost $1,000 or more) shall be entered into OTSO equipment inventory system. All purchased equipment must be used for approved traffic safety activities throughout its useful life. All purchases must be submitted to and approved by OTSO on a Request to Purchase form prior to incurring the cost.

27.) **Central Services**  
Costs for certain operational services provided to an agency on a centralized basis are unallowable. To be eligible for a reimbursement, a cost must be documented with an actual transfer of funds.

28.) **Supplies / Materials / Other Direct Costs**  
All supplies, materials, and other direct costs must be used for approved traffic safety activities throughout its useful life. All purchases must be submitted to and approved by OTSO on a Request to Purchase form prior to incurring the cost. Outreach efforts should be made and materials should be provided to reach the county’s ethnic and/or limited English speaking populations.

Alcohol is not allowed to be purchased with funds from this grant.

The sub-recipient must submit a final draft copy of all materials to OTSO for approval prior to production. In addition:

A.) All materials shall include federal sponsorship credit and/or disclaimer clauses as directed by OTSO. The credit line shall state: Funded by U.S. DOT/NHTSA and ODPS.

B.) All public service announcements funded with federal funds, in whole or in part, must be closed captioned for the hearing impaired.

C.) All data results, reports, equipment, supplies and other materials (including but not limited to electronic versions) developed by the sub-recipient must be available to ODPS/OTSO upon request.

29.) **Request for Bids**  
OTSO will not reimburse for costs incurred by a sub-recipient for “requests for bids” for any services or purchases.

30.) **Travel**  
Any request for travel and associated costs must be submitted to and approved by OTSO on a Request to Purchase form prior to incurring any travel related costs.

Attendance at any conference/seminar/workshop that charges a registration fee must be submitted to and approved by OTSO on a Request to Purchase form prior to registration. All conferences/seminars/workshops must be traffic safety related; an agenda must be provided to OTSO.

All out of state travel conducted under this grant agreement will be reimbursed using U.S. General Services Administration (GSA) rates based on travel location or your agency’s travel policy whichever is less.
A current travel policy must be submitted with the grant proposal. OTSO will not reimburse for meals provided by the conference. Dietary restrictions need to be worked out with the conference organizer. Alcohol is not allowed to be purchased with funds from this grant.

31.) **Training**
The cost of training personnel for traffic safety purposes may be funded when the training supports both the goals and scope of work of the approved grant program and the goals of OTSO. All training requests and purchases must be submitted to and approved by OTSO on a Request to Purchase form prior to incurring the cost.

32.) **Request to Purchase (RTP)**
All RTPs must be submitted to OTSO by August 1, 2022.

33.) **Expenditure Reports (Reimbursement Claims/Progress Reports)**
This agreement will operate on a reimbursement basis only. The administering agency must first incur the costs for approved expenditures and then apply for the reimbursement. Appropriate and accurate documentation will be required for each expense. Expenditure Reports with accurate documentation and corresponding report information must be submitted monthly. If there wasn’t any activity, a zero expenditure report must be submitted. The expenditure report must be submitted online to OTSO by the 15th calendar day of the following month. Failure to submit these reports in a timely manner will cause a delay in payment of claims, may jeopardize funding for present and future projects and may result in being placed in Sub-Recipient on Notice status.

34.) **Denial of Costs**
OTS O may deny costs for non-compliance with OTSO policies and procedures, terms and conditions and/or federal and state regulations by requesting the cost(s) be removed from the online expenditure report. A written response to all denials must be provided to OTSO within 30 days after the date transmitted to the sub-recipient or the sub-recipient relinquishes all rights to the denied cost(s).

35.) **Monitoring**
Programmatic and fiscal monitoring of grants shall be conducted in accordance with U.S. DOT/NHTSA and OTSO guidelines. Programmatic and fiscal monitoring may include representatives from the federal and/or state government.

36.) **Sub-recipient on Notice**
Sub-recipients that fail to meet performance standards and/or grant requirements may be placed in Sub-Recipient on Notice status. This designation will last until an agency satisfies agreed upon requirements.

Criteria for being placed in Sub-Recipient on Notice status:

- a) A pattern of untimely submissions of required expenditure reports (including required supporting documentation).
- b) Sub-recipient fails to perform activities according to the approved plan.
- c) A pattern of utilizing funds for unapproved activities, or has attempted to as identified in the review of expenditure reports and supporting documentation.
For more information about Sub-Recipient on Notice, contact the OTSO.

37.) **Final Report and Final Expenditure Report**
A final comprehensive annual report and a properly documented final expenditure report are due to the OTSO November 1st.

The final expenditure report will not be reviewed until the annual report has been submitted.

- If either the final expenditure report or the annual report are not submitted by November 1st, a 10 percent penalty may be deducted from the final expenditure report.
- If either the final expenditure report or the annual report are not submitted by November 15th, the final expenditure report will not be reimbursed.

The previous year's final expense report and/or annual report will be completed during the current federal fiscal year with a reasonable amount of hours.

38.) **Records Retention**
All records relating to project activity and/or expenditures must be maintained for review by representatives of the federal or state government for at least three years following the final reimbursement payment.

39.) **Management Letter/Audit Report Submission**
As a pass-through agency for federal funding, OTSO is required by the Office of Management and Budget (OMB) SubPart F of the Uniform Guidance to ensure you have met the audit requirements of the circular.


You are required to retain a copy of your most recent Audit Report, Management Letter and/or Single Audit Report and provide to ODPS/OTSO upon request.

40.) **Termination of Agreement**
Either OTSO or the sub-recipient may terminate this Agreement for any reason by giving the other party 30 days written notice. If the Agreement is cancelled under this provision, OTSO shall reimburse the sub-recipient for approved work completed and documented to that date. Upon termination all data results, reports and other materials developed by the sub-recipient will become the property of OTSO. All of the equipment, materials and/or supplies provided to the sub-recipient for use under this agreement must be returned to OTSO upon request within 30 days of said written notice. Should any change in federal funding adversely affect OTSO's ability to complete the fiscal year's activities, OTSO has the right to revise or terminate the agreement in writing.

41.) **End of Grant**
If a subsequent grant is not awarded after the end of the grant period, all data results, reports, equipment, supplies and other materials developed by the sub-recipient must be returned to OTSO upon request within 30 days.
Special Conditions
In addition to Terms and Conditions # 1 – 41, the following Special Conditions apply to Impaired Driving Enforcement Program (IDEP)/Selective Traffic Enforcement Program (STEP), OVI Task Forces (OVITF), Safe Communities (SC) and General (GG) grant awards:

Impaired Driving Enforcement Program/Selective Traffic Enforcement Program

42.) **Enforcing Seat Belt Laws**
The agency will enforce all seat belt and child restraint laws on all traffic stops made under this grant.

43.) **Training Certification**
The sub-recipient must assure all enforcement personnel involved in approved overtime enforcement-related activities are certified in the following type(s) of training, as appropriate:

- **Alcohol-related traffic enforcement** – (Arresting officer only): Standardized Field Sobriety Testing (SFST)
- **Drugged Driving traffic enforcement** - Advanced Roadside Impaired Driving Enforcement (ARIDE)
- **Speed management-related traffic enforcement** – Electronic Speed Measuring Device Training (ESMD)

44.) **Mandatory Blitzes**
Funding for all OTSO identified blitzes must be used for overtime traffic enforcement, saturation patrols and OVI checkpoints only. Directing traffic, conducting parking detail at events, crash investigations, criminal investigations (i.e., drug investigation/enforcement, assaults, thefts, etc.), any non-traffic safety related activities, or any activities not identified in scope of work or work plan are not reimbursable activities.

45.) **National Enforcement Campaigns**
All agencies utilizing overtime enforcement funds from OTSO are required to participate in the “Click It or Ticket” (CIOT) mobilization and both “Drive Sober or Get Pulled Over” (DSOGPO) alcohol crackdowns.

Scheduled dates for the national enforcement campaigns are:

- **Winter Holiday DSOGPO**: December 17, 2021 – January 1, 2022
- **CIOT**: May 23 – June 5, 2022
- **DSOGPO**: August 19 – September 5, 2022

46.) **Press Releases**
In addition to the grant award press release, STEP and IDEP sub-recipients must attempt to publicize its local efforts during each blitz and national enforcement campaign prior to the enforcement activity and again with the results of the enforcement effort. OTSO will provide media toolkits for the blitzes and enforcement campaigns to assist with these efforts.

47.) **Enforcement Hours Eligibility**
Direct labor hours expended in traffic safety enforcement programs must be over and above the normal active pay status work week as defined in the sub-recipient’s current labor agreement or departmental policy. Part-time permanent staff members are eligible for funding, with prior approval by OTSO. Only one officer per patrol car will be funded.
as part of traffic enforcement grants. All enforcement hours must be reimbursed at the actual rate of pay.

48. **Transportation Costs**
OTSO will reimburse a maximum of five percent of direct labor costs (Blitz and Non-Blitz hours only) for the agency to put towards fuel/transportation costs. Do not include education costs in the labor costs. Mileage logs, receipts, etc. are not required to be submitted with reimbursement claims, but must be maintained by the agency for auditing purposes.

49. **Education Efforts**
OTSO will reimburse for hours/costs spent towards education efforts for IDEP/STEP grants. These efforts can be used towards educating students, the general public at events, or officers and must be consistent with traffic safety problem identification (no interview techniques or other courses not related to traffic safety). Education efforts must be submitted to and approved by OTSO on a Request to Purchase form prior to incurring any costs. See page 31 for maximum amounts based on jurisdiction size.

**OVI Task Forces**

50. **Enforcing Seat Belt Laws**
The agency will enforce all seat belt and child restraint laws on all traffic stops made under this grant.

51. **Site Selection**
Justification for sites selected for enforcement activities must be documented and maintained as a part of the sub-recipient’s file for this agreement.

52. **Training Certification**
The sub-recipient must assure all enforcement personnel involved in approved overtime enforcement-related activities are certified in the following type(s) of training, as appropriate:

- Alcohol-related traffic enforcement – (Arresting officer only): Standardized Field Sobriety Testing (SFST)
- Drugged Driving traffic enforcement - Advanced Roadside Impaired Driving Enforcement (ARIDE)

53. **National Enforcement Campaigns**
All agencies utilizing overtime enforcement funds from OTSO are required to participate in both “Drive Sober or Get Pulled Over” (DSOGPO) alcohol crackdowns.

Scheduled dates for the national enforcement campaigns are:

- **Winter Holiday DSOGPO:** December 17, 2021 – January 1, 2022
- **DSOGPO:** August 19 – September 5, 2022

54. **Press Releases**
In addition to the grant award press release, OVI Task Forces are required to conduct three press conference events (one in coordination with the Drive Sober or Get Pulled Over alcohol crackdown), promote the task force through press releases and publicize
checkpoints as required by law. OTSO will provide media toolkits for the blitzes and
enforcement campaigns to assist with these efforts.

55.) **Enforcement Hours Eligibility**
Direct labor hours expended in traffic safety enforcement programs must be over and
above the normal active pay status workweek as defined in the sub-recipient’s current
labor agreement or departmental policy. Part-time permanent staff members are eligible
for funding, with prior approval by OTSO. Only one officer per patrol car will be funded
as part of traffic enforcement grants. All enforcement hours must be reimbursed at the
actual rate of pay.

56.) **Transportation Costs**
OTSO will reimburse a maximum of five percent of direct labor costs (saturation patrol
and checkpoint hours for both the lead and participating agencies) for the agency to put
towards fuel/transportation costs. Do not include coordination or education costs in the
labor costs. Mileage logs, receipts, etc. are not required to be submitted with
reimbursement claims, but must be maintained by the agency for auditing purposes.

57.) **Education Efforts**
OTSO will reimburse for hours/costs spent towards education efforts for OVITF grants.
These efforts can be used towards educating students, the general public at events, or
officers and must be consistent with traffic safety problem identification (no interview
techniques or other courses not related to traffic safety). Education efforts must be
submitted to and approved by OTSO on a Request to Purchase form prior to incurring
any costs. A total of five percent of direct labor costs (do not include coordination costs)
will be allowed towards education efforts.

58.) **Participating Law Enforcement Agencies**
Participating law enforcement agencies performing activity under this grant must be paid
for activity performed before reimbursement will be paid to the lead agency.

59.) **Documentation for Overtime Activity with Participating Agencies**
Documentation (check numbers, EFT, or DD) that the lead agency paid participating
agencies working under the grant must be provided. Additional documentation may be
requested.

60.) **Personnel Activity Reports**
Personnel Activity Reports are required for all coordination hours on this federal grant
program. These reports, at a minimum, must document date worked, detailed
explanation of activity performed and the number of hours per day to be charged to this
agreement. Individuals working on more than one grant, must also include start and end
times in the description. This document must be signed and dated by the individual and
their immediate supervisor. It must be included as a part of the expenditure report
documentation.
Safe Communities

61.) Coalition Meetings
Safe Communities programs must conduct a minimum of four coalition meetings during the grant period. Copies of signature rosters and the coalition meeting agenda must be kept on file and made available upon request. Notice of meetings must be sent to the assigned planner and LEL.

62.) Kick-Off Events
Each Safe Communities program is required to conduct a “Click It or Ticket” and a “Drive Sober or Get Pulled Over” kick-off event. Each Safe Communities must conduct their own event in their own county. The CIOT event must be no earlier than May 16, 2022 and no later than May 27, 2022. The DSOGPO event must be no earlier than August 12, 2022 and no later than August 26, 2022. These events must include participation, at a minimum, by your coalition members, local law enforcement, community leaders, and the media. Each Safe Communities must complete and submit a Kick-off Event Form by the required deadline. Each form will be reviewed for content. Additional participation in an adjacent county’s event will be considered on a case by case basis.

63.) Fatal Crash Data Review Committee
A Fatal Data Review Committee will meet in any quarter that a fatality has been reported in the county to review fatal crash reports to identify patterns or trends that could increase impact of traffic safety countermeasures. Copies of signature rosters and the coalition meeting agenda must be kept on file and made available upon request. Notice of meetings must be sent to the assigned planner and LEL.

64.) Reporting of Fatality Information
In order for communities to be kept informed on fatal crashes occurring in their areas, each Safe Communities program is required to report to their local media, at least quarterly, on the fatal crashes occurring in the communities using data from the OTSO Statistics Portal (https://ohiohighwaysafetyoffice.ohio.gov/otso-dashboard.aspx ). Notification shall be sent to the media no later than the 15th of the month following the ending quarter. For example: Fatalities occurring in October, November and December must be reported by January 15th. Media can include: television, radio, newspapers, etc. Copies of these releases must be kept in file and will be subject to review by OTSO.

65.) Personnel Activity Reports
Personnel Activity Reports are required for all individuals working on this federal grant program. These reports, at a minimum, must document date worked, detailed explanation of activity performed and the number of hours per day to be charged to this agreement. Individuals working on more than one grant, must also include start and end times in the description. This document must be signed and dated by the individual and their immediate supervisor. It must be included as a part of the expenditure report documentation.
General Grants

66.) Personnel Activity Reports
Personnel Activity Reports are required for all individuals working on this federal grant program. These reports, at a minimum, must document date worked, detailed explanation of activity performed and the number of hours per day to be charged to this agreement. Individuals working on more than one grant, must also include start and end times in the description. This document must be signed and dated by the individual and their immediate supervisor. It must be included as a part of the expenditure report documentation.
OVI Task Force Proposal 2022
OVI-2022-Dayton Police Dept.-00006
Dayton Police Dept.

**Grant Information**

Grant Number: OVI-2022-Dayton Police Dept.-00006

Grant Title: OVI Task Force Proposal 2022

Grant Term: 10/01/2021 - 09/30/2022

**Organizational Contacts**

**Authorized Official**
Name: Shelley Dickstein
Title: City Manager
Phone: (937) 333-1099
Email: shelley.dickstein@daytonohio.gov

**Project Director**
Name: Michelle Moser
Title: OVI Coordinator
Phone: (937) 604-9339
Email: moser.michelle16@gmail.com

**Fiscal Officer**
Name: Sheelah Moyer
Title: Grants and Budget Coordinator
Phone: (937) 333-1045
Email: sheelah.moyer@daytonohio.gov

**Grant Service Area Information**

Area Type: Urban

County or Counties served: Montgomery

Senate Legislative District(s) served:
- District 5
- District 6

House Legislative District(s) served:
- District 39
- District 40
- District 42
- District 43

US Congressional District(s) served: District 10

05/20/2021
### FSRs Funding Information

**No**

In your business or organization's preceding completed fiscal year, did your business or organization (the legal entity to which the specific CCR records, represented by a DUNS number, belong) receive (1) 80 percent or more of your annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; AND (2) $25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

### Terms and Conditions

- **✓** By checking this box, our agency acknowledges that it has reviewed and agrees to abide by the Terms and Conditions.

### Problem Identification

- **✓** By checking this box, our agency acknowledges that it has accessed and reviewed the OTSG Statistics Portal to help with problem identification. This information must be used in preparing this grant proposal and in the workplan activities to achieve the goals of the proposal.

### Proposal Guideline Presentation

- **✓** By checking this box, our agency acknowledges that it has accessed and reviewed the Proposal Guideline Presentation prior to applying for this grant.

### Countermeasures That Work

- **✓** By checking this box, our agency acknowledges that it has accessed and reviewed the Countermeasures That Work. All activities proposed must address problem ID as shown in the county profile and be data driven and evidence-based. This guide must be used in preparing this grant proposal and in the work plan activities to achieve the goals of the proposal.

### Diversity / Inclusion Training

- **✓** By checking this box, our agency verifies that all personnel that will work on this grant have completed any sub-recipient agency required diversity/inclusion training.

### Sub-Recipient Staff Access

- **✓** By checking this box, our agency verifies that all sub-recipient agency staff that will need access to this grant (grant, revisions, pre-claim, expenditure reports, annual reports) have been set up with GRANTS Plus accounts and added to the proposal. See Instructions.

### Authorization

- By checking this box, the agency verifies that the Authorized Official (named on the General Information page) has approved the submission of this proposal.

---

05/20/2021
<table>
<thead>
<tr>
<th>Agency Name</th>
<th>Fringe Rate</th>
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<tbody>
<tr>
<td>Butler Township</td>
<td>19.5500</td>
</tr>
<tr>
<td>Centerville</td>
<td>20.9500</td>
</tr>
<tr>
<td>Clay Township</td>
<td>19.5500</td>
</tr>
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<td>Clayton</td>
<td>20.9500</td>
</tr>
<tr>
<td>Five Rivers Metro Parks</td>
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<td>Huber Heights</td>
<td>21.9500</td>
</tr>
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<td>Kettering</td>
<td>20.9500</td>
</tr>
<tr>
<td>Miamisburg</td>
<td>20.9500</td>
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<tr>
<td>Montgomery County Sheriffs Office</td>
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<tr>
<td>Moraine</td>
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<td>Perry Township</td>
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<td>Riverside</td>
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<td>Trotwood</td>
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<td>West Carrollton</td>
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<tr>
<td>Vandalia</td>
<td>20.9500</td>
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<tr>
<td>GOAL TITLE</td>
<td>Alcohol-Related Fatal Crash Goal</td>
</tr>
<tr>
<td>-----------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>GOAL DESCRIPTION</td>
<td>Reduce the number of alcohol-related fatal crashes to no more than 12</td>
</tr>
<tr>
<td>BASELINE</td>
<td>Last year, there were 22 alcohol-related fatal crashes.</td>
</tr>
<tr>
<td>SCOPE</td>
<td>Through problem identification of traffic crash data, conduct checkpoints and saturation patrols in locations and at times that will have the greatest impact in reducing alcohol-related fatal/serious injury crashes. Raise public awareness through local media and personal contacts. Attend at minimum, quarterly regional meetings to coordinate and review activity including current crash data throughout the region to achieve high visibility enforcement and awareness.</td>
</tr>
<tr>
<td>EVALUATION</td>
<td>Conduct monthly reviews comparing stats from the previous year.</td>
</tr>
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</table>
## GOAL TITLE
Checkpoint Goal

## GOAL DESCRIPTION
Conduct 16 checkpoints (see the grant solicitation package for the minimum required number of checkpoints - number of checkpoints in goal must equal number of checkpoints submitted in the work plan.)

## BASELINE
Last year, 16 checkpoints were conducted.

## SCOPE
Through problem identification of traffic crash data, conduct checkpoints locations and at times that will have the greatest impact in reducing alcohol-related fatal/serious injury crashes.

## EVALUATION
Number of checkpoints conducted.
<table>
<thead>
<tr>
<th></th>
<th>OCTOBER</th>
<th>NOVEMBER</th>
<th>DECEMBER</th>
<th>JANUARY</th>
<th>FEBRUARY</th>
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<td>Media Events</td>
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<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<td>Press Releases</td>
<td>4</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td>1</td>
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<tr>
<td>Task Force Meeting</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Saturation Patrol Hours</td>
<td>186</td>
<td>210</td>
<td>206</td>
<td>180</td>
<td>160</td>
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<tr>
<td># of Low Manpower Checkpoints</td>
<td>2</td>
<td>1</td>
<td>2</td>
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<tr>
<td>Low Manpower Hours</td>
<td>100</td>
<td>58</td>
<td>112</td>
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<td>58</td>
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## MARCH
- Media Events: 1
- Press Releases: 4
- Task Force Meeting: Yes
- Saturation Patrol Hours: 210
- # of Low Manpower Checkpoints: 2
- Low Manpower Hours: 112

## APRIL
- Media Events: 0
- Press Releases: 3
- Task Force Meeting: Yes
- Saturation Patrol Hours: 112
- # of Low Manpower Checkpoints: 1
- Low Manpower Hours: 58

## MAY
- Media Events: 1
- Press Releases: 4
- Task Force Meeting: Yes
- Saturation Patrol Hours: 260
- # of Low Manpower Checkpoints: 2
- Low Manpower Hours: 110

## JUNE
- Media Events: 0
- Press Releases: 3
- Task Force Meeting: Yes
- Saturation Patrol Hours: 160
- # of Low Manpower Checkpoints: 2
- Low Manpower Hours: 102

## JULY
- Media Events: 1
- Press Releases: 3
- Task Force Meeting: Yes
- Saturation Patrol Hours: 170
- # of Low Manpower Checkpoints: 1
- Low Manpower Hours: 58
**OVI Task Force Proposal 2022**
OVI-2022-Dayton Police Dept.-00006
Dayton Police Dept.

<table>
<thead>
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<th>AUGUST</th>
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<tbody>
<tr>
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<td>4</td>
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<td>Saturation Patrol Hours</td>
<td>190</td>
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<td>Saturation Patrol Hours</td>
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<td>Low Manpower Hours</td>
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<table>
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<th>REGIONAL MEETINGS</th>
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<tr>
<td>Number of Checkpoints</td>
<td>16</td>
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<tr>
<td>Number of Checkpoint Hours</td>
<td>868</td>
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<td>Number of Saturation Patrol Hours</td>
<td>2249</td>
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<tr>
<td>Number of Media Events</td>
<td>6</td>
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[ ] By checking this box, our agency agrees to attend all scheduled regional meetings to coordinate and review activity including current crash data throughout the region to achieve high visibility enforcement and awareness.
### Lead Agency Labor

<table>
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<th>Number of Hours</th>
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<tr>
<td>1164</td>
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### Participating Agencies (Contractual)

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### Lead Agency Coordination Hours

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### Contractual Coordination Hours

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<td>520</td>
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### Lead Agency Fringe

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<th>Medicare</th>
<th>Total Fringe Rate</th>
<th>Total Fringe Benefit</th>
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### Participating Agency (Contractual) Fringe

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<td>1.45%</td>
<td>20.43%</td>
<td>$19,766.36</td>
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05/20/2021
### Lead Agency Education
| Amount Requested | $1,859.49 |

### Participating Agency Education
| Amount Requested | $2,902.55 |

### Lead Agency Transportation Costs
| Amount Requested | $3,099.15 |

### Participating Agency Transportation Costs
| Amount Requested | $4,837.58 |

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<th>Short Description of Budget Item</th>
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<td>Travel Expense</td>
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<td>Equipment</td>
<td>Purchase of equipment to aid in OVI saturation patrol and OVI</td>
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<td></td>
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**Total:** 10  $5,214.00
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<td>Totals:</td>
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</table>
September 1, 2021

Shelley Dickstein  
Dayton Police Dept.  
336 W. Third Street  
Dayton, Ohio 45402

Attention: OVI Coordinator Michelle Moser

Re: FFY 2022 Grant # OVI-2022-Dayton Police Dept-00006

Dear Ms. Dickstein:

The Federal Fiscal Year (FFY) 2022 grant proposal referenced above is approved for $224,999.19. The full PDF of the grant can be accessed on the GRANTS Plus online grant management system by clicking the "Management Tools" link and selecting "Create Full PDF Version". The GRANTS Plus system/PDF version, this letter and any attached Special Conditions comprise the entire executed agreement for this grant.

Modifications to your initial proposal are reflected in this executed agreement. Concerns regarding your executed agreement must be addressed and resolved prior to the expenditure of grant funds.

All Expenditure Reports (reimbursement claims and activity reports) for the grant must be accessed and submitted online through the GRANTS Plus system. The "Authorized to Proceed Date" for this agreement is October 1, 2021. The "Agreement Termination Date" is September 30, 2022. The only costs eligible for reimbursement under this agreement are approved costs incurred within these dates.

Before proceeding with this agreement, a representative from your agency must complete the Pre-Claim online. Directions for completing the Pre-Claim begin on page 60 of the Grantee Manual located under the "My Training Materials" link in GRANTS Plus. The representative assigned to this agreement is Kelvin Williams and can be contacted at (614) 466-3170 or kwilliams@dps.ohio.gov.

Note: All sub-recipients must follow the Uniform Guidance, 2 C.F.R. Part 200. This agreement is to be funded under the federal grant program that begins October 1, 2021.

<table>
<thead>
<tr>
<th>Catalog of Federal Domestic Assistance (CFDA)</th>
<th>Description</th>
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<td>National Priority Safety Programs</td>
<td>$224,999.19</td>
<td>68A3752130000405DOHL</td>
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</table>

Funding of this agreement is dependent upon the availability of federal funds as appropriated and obligated by the US Department of Transportation for FFY2022. Should any change in federal funding adversely affect the Ohio Traffic Safety Office's (OTSO) ability to implement an approved agreement, the OTSO reserves the right to revise or terminate any approved grant in writing. The OTSO reserves the right to limit grant amounts at any time based on performance and/or available funding.

The staff of the OTSO looks forward to working with you to reduce traffic related fatal and serious injury crashes in Ohio.

Sincerely,

Felice Moretti
Felice Moretti, Director
Ohio Traffic Safety Office
Special Conditions

In the spirit of the Federal Office of Management and Budget Memorandum M20-26, the Ohio Traffic Safety Office (OTSO) recognizes the need for flexibility to be provided in response to the COVID-19 pandemic; its effect on public health and the need for potential changes of events/activities in the FFY2022 grant year. If the sub-recipient is unable to complete the approved work plans (e.g., events, enforcement hours, meetings, etc.) in any manner on this grant, the sub-recipient must contact the assigned planner immediately and discuss potential revision(s) to the FFY2022 grant. All Federal and State regulations will apply.
By...........................MR. SBAR...................... No................6613-21......................

A RESOLUTION

Authorizing the Acceptance of a Grant Award from the Ohio Department of Public Safety Not To Exceed Two Hundred Twenty-Four Thousand Nine Hundred Ninety-Nine Dollars and Nineteen Cents ($224,999.19) on Behalf of the City of Dayton, and Declaring an Emergency.

WHEREAS, The Ohio Department of Public Safety, Office of Traffic Safety, administers the Operating a Vehicle While Impaired Task Force (“OVI”) Grant Program in an effort to increase alcohol-related traffic enforcement, reduce speeding violations, increase seat belt usage, and reduce fatal and injury accidents; and

WHEREAS, The City of Dayton (City) submitted a federal fiscal year (FFY) 2022 grant application entitled “OVI Task Force” to implement area checkpoints and saturation patrols with approximately fifteen (15) jurisdictions and the Dayton Police Department; and

WHEREAS, Pursuant to Section 36.10 of the Revised Code of General Ordinances of the City of Dayton, the City Manager executed the grant application on behalf of the City; and

WHEREAS, The Ohio Department of Public Safety has awarded the City Grant Number OVI-2022-Dayton Police Dept.-00006 for Two Hundred Twenty-Four Thousand Nine Hundred Ninety-Nine Dollars and Nineteen Cents ($224,999.19) subject to the City accepting all terms and conditions; and

WHEREAS, It is necessary to meet the grant terms for implementation to begin at the earliest possible date to conduct the required minimum enforcement efforts that will preserve public peace, property, health and safety that this resolution take effect at the earliest possible date; now, therefore,

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

Section 1. That the City Manager is authorized to accept the FFY 2022 grant allocation for Catalog of Domestic Assistance (CDFA) No. 20.616 National Priority Safety Programs known as the Montgomery County OVI Task Force grant in an amount not to exceed Two Hundred Twenty-Four Thousand Nine Hundred Ninety-Nine Dollars and Nineteen Cents ($224,999.19) on behalf of the City of Dayton and is directed to execute any and all documents and agreements on behalf of the City of Dayton which are necessary to accept the grant from the Ohio Department of Public Safety.
Section 2. That the City Manager or her designee is authorized to allocate and distribute funds accordingly, not to exceed the total grant award.

Section 3. That for the reasons set forth in the preamble hereof, the Commission declares this resolution to be an emergency measure and shall take effect immediately upon its adoption.

ADOPTED BY THE COMMISSION.....OCTOBER 6......., 2021

SIGNED BY THE MAYOR.................OCTOBER 6......., 2021

[Signature]
Mayor of the City of Dayton, Ohio

Attest:

[Signature]
Clerk of Commission

Approved as to Form:

[Signature]
City Attorney
## MONTGOMERY, COUNTY OF

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<th>SAM Unique Entity ID</th>
<th>CAGE / NCAGE</th>
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<td>VP74BLN1AX1</td>
<td>36GU0</td>
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<tbody>
<tr>
<td>451 W 3RD ST</td>
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<tr>
<td>Dayton, Ohio 45422-0001</td>
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### Registration Dates

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### Highest Level Owner

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### Executive Compensation

Registrants in the System for Award Management (SAM) respond to the Executive Compensation questions in accordance with Section 6202 of P.L. 110-252, amending the Federal Funding Accountability and Transparency Act (P.L. 109-282). This information is not displayed in SAM. It is sent to USAspending.gov for display in association with an eligible award. Maintaining an active registration in SAM demonstrates the registrant responded to the questions.

### Proceedings Questions

Registrants in the System for Award Management (SAM) respond to proceedings questions in accordance with FAR 52.209-7, FAR 52.209-9, or 2.C.F.R. 200 Appendix XII. Their responses are not displayed in SAM. They are sent to FAPIIS.gov for display as applicable. Maintaining an active registration in SAM demonstrates the registrant responded to the proceedings questions.

### SAM Search Authorization

I authorize my entity's non-sensitive information to be displayed in SAM public search results:

Yes

### Entity Types

#### Business Types

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<tr>
<th>Entity Structure</th>
<th>Entity Type</th>
<th>Organization Factors</th>
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### Government Types

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### Financial Information
**Points of Contact**

**Electronic Business**

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>City, State ZIP</th>
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<tbody>
<tr>
<td>John Parks</td>
<td>451 West Third Street</td>
<td>Dayton, Ohio 45422</td>
</tr>
<tr>
<td>Janet Holman</td>
<td>451 West Third Street</td>
<td>Dayton, Ohio 45422</td>
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**Government Business**

<table>
<thead>
<tr>
<th>Name</th>
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</thead>
<tbody>
<tr>
<td>Michael B Colbert</td>
<td>451 West Third Street</td>
<td>Dayton, Ohio 45422</td>
</tr>
<tr>
<td>Deb Decker</td>
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**Service Classifications**

**NAICS Codes**

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<tr>
<td>Yes</td>
<td>921110</td>
<td>Executive Offices</td>
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</table>

**Disaster Response**

This entity does not appear in the disaster response registry.
City Manager’s Report

From 6210 - Police Director
Supplier, Vendor, Company, Individual
Name Jonathan B. Ross
Address 204 Anton Court
Centerville, OH 45458

Date December 1, 2021
Expense Type Service Agreement
Total Amount $ 50,000.00 thru 12/31/2023

Fund Source(s) Fund Code(s) Fund Amount(s)
General Fund 10000-6210-1159-71 $50,000.00

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

Professional Services Agreement

The Police Department is requesting approval to enter into an agreement with Jonathan B. Ross to provide consulting services to support the goal of achieving Advanced Law Enforcement Accreditation from the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA).

The police reform working groups have recommended that the Dayton Police Department obtain CALEA Accreditation in order to ensure compliance with best practices and procedures. The purpose of CALEA is to improve the delivery of public safety services by maintaining a body of professional standards that support the administration of accreditation programs. Jonathan B. Ross will review the 458 CALEA standards for advanced accreditation as well as all current Dayton Police Department policies, practices and procedures. He will then consult with the Dayton Police Department to revise operations, policies, and procedures as needed to meet CALEA standards and to obtain certification.

This agreement will begin upon execution and will expire on December 31, 2023 unless amended, approved and properly documented by both parties. The total amount of this service agreement should not exceed $50,000.00.

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

A Certificate of Funds is attached.

E-SIGNED by Paul Saunders on 2021-11-19 10:06:25 EST

Signatures/Approval

Approved by City Commission

Clerk
Date

Updated 10/2019
Digital Version Updated 04/2020

E-SIGNED by Eric Henderson on 2021-11-19 10:15:51 EST

City Manager

FORM NO. MS-16
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
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<tr>
<th>x</th>
<th>New Contract</th>
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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

---

Amount: $ 50,000.00

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<td>Org</td>
<td>Acct</td>
<td>Prog</td>
<td>Act</td>
<td>Loc</td>
<td></td>
</tr>
</tbody>
</table>

Attaching additional pages for more FOAPALS

Vendor Name: Jonathan B. Ross
Vendor Address: 204 Anton Court Centerville, Ohio 45458
Federal ID: 27-5465310
Commodity Code: 91899
Purpose: Consultant for DPD CALEA certification.

Contact Person: Meredith Weber x1099
Police/Director's Office: 11/16/2021
Department/Division: E-SIGNED by Eric Henderson on 2021-11-16 16:32:30 EST
Originaling Department Director's Signature:

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: ____________________________ Date: 11/19/21

CF Prepared by: ____________________________ Date: 11/19/21
CF/CT Number: CT21-3127

Finance Department

October 18, 2011
AGREEMENT FOR SERVICES

THIS AGREEMENT FOR SERVICES ("Agreement"), dated this ___ day of ______ 2021, is between the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio ("City") and Jonathan B. Ross, an individual ("Contractor").

WITNESSETH THAT:

WHEREAS, Dayton City Commission has formed five separate police reform working groups with different areas of focus to drive policy change for the Dayton Police Department and to improve community-police relations; and,

WHEREAS, The Services set forth herein are a necessary component for the Dayton Police Department to ensure compliance with best practices and procedures; and,

WHEREAS, Contractor will work with the Dayton Police Department to achieve Advanced Law Enforcement Accreditation with the The Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA).

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

ARTICLE 1. SCOPE OF SERVICES

Contractor shall provide Services as described in Exhibit A, attached hereto and made a part hereof, in a manner satisfactory to the City. These Services shall be provided to the City of Dayton as part of a larger effort to improve policies and community-police relations.

ARTICLE 2. TERM OF CONTRACT

This Agreement shall commence at the time of execution of this Agreement, and shall terminate on December 31, 2023, or at such time as all funds hereunder are expended, whichever date occurs first.

ARTICLE 3. PAYMENT

The City shall pay an amount not to exceed Fifty Thousand Dollars and Zero Cents ($50,000.00) to Contractor for the Services to be performed pursuant to this Agreement, as reflected in Exhibit A. Contractor shall submit invoices, not more frequently than monthly, for payment of the Services actually provided. Such invoices shall state the invoice period, total amount requested, and Services provided during the invoice period. The City will, unless disputed, remit payment of all undisputed amounts of invoices within thirty (30) days from receipt thereof.
ARTICLE 4. INDEPENDENT CONTRACTOR

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

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

ARTICLES. ASSIGNMENT

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

ARTICLE 6. SUBCONTRACTING

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

ARTICLE 7. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

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

It is expressly agreed and understood by Contractor that Section 35.14, 35.15, and 35.16 of the Revised Code of the General Ordinances of the City of Dayton constitutes a material condition of the Agreement as fully and as if specifically rewritten herein and that failure to comply therewith shall constitute a breach thereof, entitling the City to terminate this Agreement at its option.
ARTICLES. RECORDS TO BE MAINTAINED BY CONTRACTOR

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

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

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

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

ARTICLE 9. LIABILITY

The parties hereby agree to release each other from any and all liability that may be caused by or arise out of the wrongful and/or negligent conduct of the parties' respective employees and agents in the performance of the Services. Notwithstanding, neither party hereby waives any available immunity under the law. This Article shall survive expiration and/or termination of this Agreement.

ARTICLE 10. TERMINATION

The City may terminate this Agreement, upon giving written notice of termination to the other party at least thirty (30) days prior to the effective date of termination. In the event that this Agreement is terminated, Contractor shall be paid for all Services provided and all supplies and materials procured up to the date of notice of termination. Upon receipt of such termination notice by the City, Contractor shall cease all performance of the Services and the City's sole obligation to Contractor is to pay Contractor for the Services that have already been completed at the time of notice of termination and any additional services mutually agreed to in writing by the City and Contractor for services rendered in the thirty (30) days following the notice of termination.
ARTICLE 11. MEETINGS AND EVALUATION

Contractor shall meet with the City and/or its designees at such times designated by the City to review and discuss Contractor's performance of this Agreement. Contractor 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 contractor's performance.

ARTICLE 12. GENERAL PROVISIONS

A. Amendment

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

B. Waiver

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

C. Notices and Communications

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

City of Dayton:

Shelley Dickstein City Manager
City of Dayton, Ohio
101 West Third Street
Dayton, Ohio 45402
Contractor

Jonathan B. Ross
204 Anton Court
Centerville, Ohio 45458
937-673-2235
email
Nothing contained in this subsection shall be construed to restrict the transmission of routine communication between representatives of the City and Contractor.

D. Conflict of Interest

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

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

E. Entire Agreement/Integration

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

F. Political Contributions

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

G. Severability

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

H. Governing Law and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws. Any arbitration, litigation or other legal matter regarding this Agreement or performance by either party must be brought in a court of competent jurisdiction in Montgomery County, Ohio.
IN WITNESS WHEREOF, the City and Contractor, each by a duly authorized representative, have executed this Agreement as of the date first set forth below.

THE CITY OF DAYTON, OHIO

________________________
City Manager

Date: ______________________

CONTRACTOR

________________________
Jonathan B. Ross

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

________________________, 2021
Min.Bk____ Pg._______

________________________
Clerk of Commission

APPROVED AS TO FORM
AND CORRECTNESS:

X
E-SIGNED by John Musto
on 2021-11-10 15:05:45 EST

City Attorney

Signed by: 
E-SIGNED by John Musto
on 2021-11-10 15:05:47 EST
EXHIBIT A

SCOPE OF SERVICES

CALEA Certification

Goal: Revise policy and procedures to achieve CALEA Advanced Law Enforcement Accreditation.

Strategy: Review CALEA requirements, current policies, and assist with revising policies and procedures to ensure compliance. Provide monthly auditable reports to monitor work and ensure progress.

Self-Assessment

Goal: All Dayton Police Department operations, policies, and procedures in compliance with applicable CALEA standards within 36 months of enrollment.

Strategy: Contractor will consult with the Dayton Police Department to make any needed changes to operations, policies, and procedures and assist with providing documentation to prove the standards are met.

- Review of all CALEA standards.
- Review of all Dayton Police Department operations, policies, and procedures.
- Consult with the Dayton Police Department to revise operations, policies, and procedures to obtain certification.
- Provide input for next steps to achieve certification.
- Consult with CALEA Regional Program Manager.
- Monthly meetings with the Dayton Police Department to help ensure process is moving in the right direction to achieve certification.

Assessment

Goal: Achieve initial accreditation 8-12 months after self-assessment completed.

Strategy: Ensure all documentation is prepared for web-based assessment and site assessment.
• Consult with CALEA Regional Program Manager to ensure readiness for assessment.

• Ensure all documents are available for web-based assessment.

• Coordinate with the Dayton Police Department and CALEA Compliance Service Member for site assessment.

Commission Review

Goal: Achieve final credentialing by the Board of CALEA commissioners.

Strategy: Consult with the Dayton Police Department and CALEA Regional Program Manager to facilitate commission review.

Deliverables

• Research CALEA requirements

• Review Dayton Police Department operations, policies, and procedures

• Identify operations, policies, and procedures that are not in compliance with CALEA requirements

• Ensure revised policies are in compliance with CALEA requirements
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<th>Detail</th>
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<td></td>
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<tr>
<td>Self-Assessment</td>
<td>Not to exceed $4,166.67 per month</td>
<td>Review and revision of Dayton Police Department policies.</td>
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<td>Assessment</td>
<td>Not to exceed $4,166.67 per month</td>
<td>Assist with web-based and site assessment.</td>
</tr>
<tr>
<td>Commission Review</td>
<td>Not to exceed $4,166.67 per month</td>
<td>Assist with final commission review.</td>
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<td>Total</td>
<td>Not to exceed $50,000.00</td>
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</table>
City Manager’s Report

Date December 1, 2021
Expense Type Contract Modification
Total Amount $20,928.00 (Thru 12/31/2022)

From 5560 - CS/Information Technology
Supplier, Vendor, Company, Individual
Name SJN Data Center LLC DBA Encore Technologies
Address 4620 Wesley Avenue
Cincinnati, OH 45212

<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>General Fund</td>
<td>10000-5560-1159-65</td>
<td>$20,928.00</td>
</tr>
</tbody>
</table>

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

Description
FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

The Department of Information Technology requests permission to enter into a First Amendment with SJN Data Center LLC DBA Encore Technologies in the amount of $20,928.00 to provide remote tier one technology help desk user support between the hours of 12:00 AM to 6:00 AM, 5 days a week Monday to Friday and on the weekend Saturday and Sunday for the full 24 hours, 365 days a year. The total amount of this agreement is $20,928.00 for the period of January 1, 2022 to December 31, 2022.

The original Agreement with SJN Data Center LLC was approved on January 20, 2021 in the amount of $20,928.00. This Amendment will increase the total Agreement amount to $41,856.00.

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

The Certificate of Funds and a copy of the Agreement is attached.

E-SIGNED by Desa Foster
on 2021-11-11 15:33:32 GMT

E-SIGNED by Jon Rike
on 2021-11-11 15:27:32 GMT

Approved by City Commission

Clerk
Date

FORM NO. MS-16

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>Contract Start Date</th>
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<tr>
<td>Expiration Date</td>
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<td>$20,928.00</td>
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<tr>
<td>Original CT/CF</td>
<td>CT21-2912</td>
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<tr>
<td>Increase Encumbrance</td>
<td>$20,928.00</td>
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<tr>
<td>Decrease Encumbrance</td>
<td>$-</td>
</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$-</td>
</tr>
</tbody>
</table>

NO DRAFT DOCUMENTS PERMITTED

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

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

<table>
<thead>
<tr>
<th>Amount</th>
<th></th>
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</thead>
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<tr>
<td>Fund Org Acct Prog Act Loc</td>
<td></td>
</tr>
</tbody>
</table>

Attach additional pages for more FOAPALS

Vendor Name: SJN Data Center LLC dba Encore Technologies
Vendor Address: 4620 Wesley Avenue Cincinnati Ohio 45212
Federal ID: 472512296
Commodity Code: 93673
Purpose: First Amendment to the Professional Services Agreement to provide remote tier one technology helpdesk user support through December 31, 2022.

Contact Person: Desa Foster
Information Technology Department/Division 9-Nov-21
Originating Department Director's Signature: E-SIGNED by Jon Rike on 2021-11-11 15:27:40 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

CF Prepared by
Date
CF/CT Number
FIRST RENEWAL AND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT FOR TIER ONE HELP DESK SERVICES

THIS FIRST RENEWAL AND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT ("Agreement"), is entered into this ___ day of __________, 2021 between the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio, (hereinafter referred to as "City") and SJN Data Center LLC dba Encore Technologies. ("Encore Technologies" or "Consultant").

WITNESSETH THAT:

WHEREAS, the City and Consultant entered into an Agreement on January 28, 2021 for tier one (1) help desk services; and,

WHEREAS, the City and the Consultant agree to renew the Agreement, expiring on December 31, 2021, for a one-year term;

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

1. Section 4. TERM is hereby amended by adding the following:

   City and Consultant agree, to enter into the first of three optional renewal periods. This first renewal period shall begin on January 1, 2022, and it shall terminate on December 31, 2022.

2. Section 3. COMPENSATION FOR PROFESSIONAL SERVICES is hereby amended by adding the following to sub-section A. Professional Fees:

   Total remuneration for all services provided by the Consultant during the term of this First Renewal and Amendment shall not exceed TWENTY THOUSAND NINE HUNDRED TWENTY-EIGHT DOLLARS AND ZERO CENTS ($20,928.00), inclusive of expenses.

3. Except as modified by this First Renewal and Amendment, the Agreement between Consultant and City shall remain unchanged and in full force and effect.
IN WITNESS WHEREOF, the City and Consultant, each by a duly authorized representative, have executed this First Renewal and Amendment as of the day and date first set forth above.

THE CITY OF DAYTON, OHIO

________________________________________
City Manager

SJN DATA CENTER LLC

By: ______________________________

Print: ________________

Its: ________________

APPROVED AS TO FORM AND CORRECTNESS:

11/8/2021

X John Musto for
City Attorney
Signed by: Musto, John

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

_______________________________, 2021

Min. Bk. _____ Pg. _____

_______________________________
Clerk of the Commission
City Manager's Report

From 5560 - CS/Information Technology
Supplier, Vendor, Company, Individual
Name SJN Data Center LLC DBA Encore Technologies
Address 4620 Wesley Avenue
Cincinnati, OH 45212

Date January 20, 2021
Expense Type Service Agreement
Total Amount $20,928.00 (Thru 12/31/2021)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
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<td>General Fund</td>
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<td>$20,928.00</td>
</tr>
</tbody>
</table>

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

Description

SJN DATA CENTER LLC PROFESSIONAL SERVICES AGREEMENT

The Department of Information Technology requests permission to enter into a Service Agreement with SJN Data Center LLC DBA Encore Technologies in the amount of $20,928.00. Encore Technologies professional services will provide remote tier one technology help desk user support between the hours of 12:00 AM to 6:00 AM, 5 days a week Monday to Friday and on the weekend Saturday and Sunday for the full 24 hours, 365 days a year. The total amount of this agreement is $20,928.00.

Working with the Division of Procurement, this vendor was chosen through a competitive request for proposal (RFP) process. Responses were received and evaluated from three vendors and SJN Data Center LLC was determined to be the lowest and best.

This Agreement shall commence upon execution and it shall terminate on December 31, 2021.

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

The Certificate of Funds and a copy of the Agreement is attached.

Deva Foster
Division
Jan Rike
Department
City Manager
FORM NO. MS-16

Signatures/Approval

Approved by City Commission
Rashellia Lambert
Clk
January 20, 2021
Date

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

Renewal Contract

Change Order

Contract Start Date
Expiry Date
Original Commission Approval $ 20,928.00
Initial Encumbrance $ 20,928.00
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

Original CT/CF
Increase Encumbrance
Decrease Encumbrance
Remaining Commission Approval

Amount: $20,928.00

Fund Code

10000 - 5560 - 1159 - 65 - XXXX - XXXX

Fund
Org
Acct
Prog
Act
Loc

Amount: 

Fund Code

XXXX - XXXX - XXXX - XX - XXXX - XXXX

Fund
Org
Acct
Prog
Act
Loc

Amount: 

Fund Code

XXXX - XXXX - XXXX - XX - XXXX - XXXX

Fund
Org
Acct
Prog
Act
Loc

Attach additional pages for more FOAPALS

Vendor Name: SJN Data Center LLC DBA Encore Technologies

Vendor Address: 4620 Wesley Avenue, Cincinnati, Ohio 45212

Federal ID: 472512286

Commodity Code: 93673

Purpose: Professional Services Agreement to provide remote tier one technology helpdesk user support through

December 31, 2021.

Contact Person: Desa Foster Information Technology

Department/Division 5-Jan-21

Date

Originating Department Director's Signature: Jan Rike

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.

C. Foster

1/11/2020

Finance Department

1. See 2nd page

October 18, 2011
PROFESSIONAL SERVICES AGREEMENT
FOR
TIER ONE (1) HELP DESK SERVICES

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into on this 5TH day of January, 2021, between the City of Dayton, Ohio ("City" or "Customer"), a municipal corporation in and of the State of Ohio, and SJN Data Center LLC dba Encore Technologies. ("Encore Technologies" or "Consultant"), a corporation authorized to conduct business in the State of Ohio.

WITNESSETH THAT:

WHEREAS, The City identified a need for certain professional services; and

WHEREAS, The Consultant represented that it is a skilled, experienced and competent consulting firm, with the personnel and equipment to perform the professional services set forth hereinafter.

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

SECTION 1. SCOPE OF SERVICES

The Consultant shall provide those professional services set forth in Exhibit “A”, titled "SERVICES STATEMENT OF WORK", which is attached hereto and incorporated herein by reference. The services are for Information Technology Help Desk Services.

These professional services are to provide remote tier one (1) technology help desk user support services. These services will include but not be limited to the following:

- Qualified personnel experienced in technical desktop troubleshooting and providing user support.
- Adequate staffing and resources to meet the City’s operational requirements as related to help desk support services.
- Support availability between the hours of 12:00 AM to 6:00 AM, 5 days a week Monday to Friday and on the weekend Saturday and Sunday for the full 24 hours, 365 days a year, to include inclement weather days and the holidays listed below. Additionally, the contractor must be able to provide emergency service coverage within an hour notification for hours outside of 12:00 AM to 6:00 AM. For context, requests for emergency service coverage have occurred less than twelve times per year.

Additionally, in order to provide the City with the comprehensive services solution as outlined by Encore Technologies within their Scope of Services response to the City’s RFP, the Consultant’s RFP response is attached hereto as Exhibit “B,” titled “Consultant Response,” and incorporated herein by reference.
SECTION 2. BACKGROUND CHECK

Consultant's personnel may be subject to criminal history background check(s) (including but not restricted to fingerprinting and identify verification).

A. PROFESSIONAL FEES

Total remuneration in this Agreement shall not exceed TWENTY THOUSAND NINE HUNDRED TWENTY-EIGHT DOLLARS AND ZERO CENTS ($20,928.00), inclusive of expenses, for all services provided by the Consultant in accordance with this Agreement.

B. BILLING FREQUENCY

Consultant shall submit an invoice at the completion of each month of services completed as outlined in Exhibit “A”, titled “SERVICES STATEMENT OF WORK” Such invoices shall state the invoice period, City contract number, total amount requested and Services provided during this period. All invoices shall be accompanied by supporting documentation and information substantiating the invoiced amount as may be requested by the City. Unless disputed, the City shall tender payment within thirty (30) days of receipt of the Consultant's invoice.

SECTION 4. TERM

This Agreement shall commence upon execution by the City and it shall terminate on December 31, 2021. Any extension of the initial term of this Agreement must be mutually agreed upon by both parties in an amendment. Consultant shall grant to the City the option to renew and extend the executed agreement for up to three (3) additional one (1) year periods upon mutual agreement between the City and Consultant at the agreed upon prices as outlined in Exhibit “A”, titled “SERVICES STATEMENT OF WORK.”

SECTION 5. CITY'S RESPONSIBILITIES

The City will furnish Consultant, at no cost or expense, all standard operating procedures, system access instructions, reports, records, and data that might be necessary or useful to complete the Services required under this Agreement.

Consultant shall be able to rely on the accuracy and completeness of all information provided by the City, without independent audit or verification thereof (except where any verification is specifically part of the scope of services to be provided).
• SECTION 6. STANDARD OF CARE

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

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

SECTION 7. CONFIDENTIALITY

All information provided to and/or gathered by Consultant in the course of its performance of Services shall be deemed "confidential" information to the extent that it is classified as "private" under the laws of the State of Ohio or is not independently available to the general public. To the extent permitted by law, Consultant agrees that it shall not disclose such information to any third party without City's written consent. Consultant shall also take all necessary steps to protect against the disclosure of City's confidential information.

Nothing in this Section shall prohibit or limit Consultant's disclosure of confidential information when such disclosure is required by an order of a Court or under state or federal law, or when such disclosure is authorized in writing by City.

SECTION 8. INDEMNIFICATION AND LIABILITY

Consultant shall indemnify and defend the City and its elected officials, officers, employees and agents (collectively, "Indemnites") 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 caused by or arise out of the negligent acts, omissions, or willful misconduct or fraud of Consultant and its agents, employees, Consultants, sub-Consultants and representatives in undertaking and performing the Services; however, no indemnification will be required for any claims, losses, damages or expenses resulting from any negligence or willful misconduct of the City or any of the other Indemnites. This Article shall survive early termination or expiration of this Agreement.

Notwithstanding the terms of any other provisions, (I) the total liability of Consultant and its subsidiaries, officers, employees, and agents for all claims of any kind arising out of Consultant's services, whether in contract, tort, or otherwise, shall be limited to the total fees paid to Consultant under this agreement; and (II) neither party shall in any event be liable for any indirect, consequential, or punitive damages, even if it has been advised of the possibility of such damages.
SECTION 9. INSURANCE

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

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

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

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

SECTION 10. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Except as otherwise provided in this Agreement, documents and reports prepared by the Consultant as part of the Services shall become the sole and exclusive property of the City upon payment. However, Consultant shall have the right to their use with prior written consent of the City, which consent shall not be unreasonably withheld.

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

All of Consultant's deliverables shall be for the exclusive use of the City for its internal business purposes and any specific purposes set forth in this Agreement, and for no other purposes without the prior written consent of Consultant. Consultant shall have no liability to any third parties who rely on any of its deliverables.

SECTION 11. TERMINATION

This Agreement may be immediately terminated by the City upon written notice in the event of substantial failure by Consultant to perform in accordance with the terms of this Agreement. Consultant shall have thirty (30) calendar days from the date of the termination notice to cure or
submit a plan for cure acceptable to the City.

The City may terminate or suspend performance of this Agreement for the City's convenience upon thirty (30) days prior to written notice to Consultant. In the event of termination by the City hereunder, the City will pay Consultant for Services actually provided up to the date of termination.

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

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

- SECTION 12. GENERAL PROVISIONS

A. FORCE MAJEURE

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

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

B. GOVERNING LAW AND VENUE

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

C. COMMUNICATIONS

Any written communication or notice required or permitted by this Agreement shall be made in writing and shall be delivered personally, sent by express delivery, certified mail or first class U.S. mail, postage pre-paid to the address specified below:
City:
City of Dayton, Ohio
101 West Third Street
Dayton, Ohio 45402
Attn: Jon Rike, Department of Information Technology

Consultant:
SJN Data Center, LLC / Encore Technologies
4620 Wesley Avenue
Cincinnati, OH 45212
Attention: General Counsel

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

D. EQUAL EMPLOYMENT OPPORTUNITY

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

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

E. WAIVER

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

F. SEVERABILITY

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

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

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

H. ASSIGNMENT

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

I. THIRD PARTY RIGHTS

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

J. AMENDMENT

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

K. POLITICAL CONTRIBUTIONS

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

This Agreement represents the entire and integrated agreement between the City and Consultant. This Agreement supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement shall control over conflicting provisions in the attached Exhibit A.

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

CITY OF DAYTON, OHIO

[Signature]
City Manager

SJN DATA CENTER, LLC
(Encore Technologies)

By: Rick Dobson November 12, 2020

Print: Rick Dobson

Its: SVP, Enterprise Solutions

APPROVED AS TO FORM AND CORRECTNESS:

12/29/2020

X John Musto for
City Attorney

Signed by: Musto, John

APPROVED BY THE COMMISSION OF THE CITY OF DAYTON, OHIO

January 20, 2021

Min./Bk. PG. Clerk of Commission

Rachelle Lavender

8
City Manager’s Report

From 3224 - Aviation/AP Police

Supplier, Vendor, Company, Individual

Name COPP Integrated Systems
Address 123 S. Keowee Street
Dayton, OH 45402

Date December 1, 2021
Expense Type Service Agreement
Total Amount $1,250,898.00 (thru 12/31/2026)

Fund Source(s) Fund Code(s) Fund Amount(s)
Aviation Operating Fund 51000-3224-1166-43 $1,250,898.00

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

Description

Standard Commercial CCTV/Access Control Service Agreement - COPP Integrated Systems

The Department of Aviation is requesting Commission approval for an Agreement with COPP Integrated Systems in the amount of $1,250,898.00 (for the years 2022-$231,309.00, 2023-$242,897.64, 2024-$251,457.25, 2025-$258,991.36, 2026-$266,242.75 or as needed). This Agreement shall commence on January 1, 2022 and shall expire on December 31, 2026.

The work and services to be provided by COPP Integrated Systems include the ongoing maintenance services for the Access Control and CCTV Systems at the Dayton International Airport. The ongoing maintenance includes all parts and labor for the security system equipment used by the airport and the Transportation Security Administration.

This agreement covers IP Security Cameras, doors and gates connected to the security system and the repair or replacement of equipment provided by COPP. These services are critical to the continuing operations of the airport. The system’s event-triggered surveillance system features an intelligent IP camera system with in-camera analytics detecting intruders at the airport.

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

A Certificate of Funds in the amount of $231,309.00 is attached to cover the period of January 1, 2022 through December 31, 2022, and annual encumbrances will be submitted each subsequent year.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 06/2016
SECTION I - to be completed by User Department

X New Contract

Renewal Contract

Change Orders

Contract Start Date 01/01/22
Expiration Date 12/31/26
Original Commission Approval $1,260,898.00
Initial Encumbrance $231,309.00
Remaining Commission Approval $1,019,589.00

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

Amount: $231,309.00
Seq. 1

Fund Code 51000 - 3224 - 1166 - 43 - 0 - 0
Fund Org Acct Prog Act Loc

Amount: $-
Seq. 2

Fund Code $-
Fund Org Acct Prog Act Loc

Amount: $-
Seq. 3

Fund Code $-
Fund Org Acct Prog Act Loc

Total ALL Funds $231,309.00

Attach additional pages for more FOAPALs

Vendor Name: COPP Integrated Systems
Vendor Address: 123 S. Keowee Street Dayton OH 45402
Street City State Zipcode + 4

Federal ID: 45-5425838
Commodity Code: 68002

Purpose: The Department of Aviation is requesting work and services to be provided by COPP Integrated Systems including maintenance services for the Access Control and CCTV Systems at the Dayton International Airport. This agreement covers IP Security Cameras, doors and gates connected to the security system as well as to repair or replace equipment provided by COPP. These services are critical to the continuing operations of the airport.

Contact Person: Mike Etter
Aviation Department/Division 10/27/2021 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: [Signature]
Date: 11/11/21

Prepared by: Tania Williams
Date: 11/10/21

Finance Department

October 18, 2011
123 S. Keowee Street, Dayton, OH 45402 (937) 228-4188

STANDARD COMMERCIAL CCTV / ACCESS CONTROL / SERVICE AGREEMENT

Date: January 1, 2022

Buyer's Name: City of Dayton Ohio, Dayton International Airport (hereinafter "City")

Address: 3600 Terminal Building Rm 300 Vandalia OH 45377

Telephone No.: 937-454-8204

1. COPP INTEGRATED SYSTEMS (hereinafter referred to as "COPP" or "ALARM COMPANY") agrees to provide ongoing maintenance services, at City's premises as described herein. Passcode to CPU software remains property of COPP. Software programmed by COPP is the intellectual property of COPP and any unauthorized use of same, including derivative works, is strictly prohibited and may violate Federal Copyright laws, Title 17 of the United States Code, and may subject violator to civil and criminal penalties.

Purchase Price: $ N/A
Taxes: $________
Total: $________

Approximate date work to begin 01-01-2022
Estimated date work to be substantially completed: on
going Monthly Payment (total from paragraph 4) $ N/A

Down Payment: $________
Balance due upon completion of installation: $ N/A

2. DESCRIPTION OF EQUIPMENT AND SERVICES: Maintenance Agreement for the Access Control, IP CCTV Systems, and Emergency IP Intercom Stations beginning January 1, 2022. This includes: the equipment for the Airport and services described in Exhibit "A" attached hereto.

3. SERVICES AND CHARGES: City agrees to pay the sum of two hundred thirty-one thousand, three hundred nine dollars ($231,309.00), for one (1) year. Total amount not to exceed for the services rendered for the entire five (5) year term of this agreement is One million two hundred fifty thousand eight hundred ninety-eight dollars ($1,250,898.00). Charges for all years listed in Exhibit attached hereto and incorporated herein. Charges are payable in advance on January 1 of each year over the term of this agreement.
4. TERM OF AGREEMENT: RENEWAL: The term of this agreement shall be for a period of five (5) years, commencing upon execution.

5. SERVICE: Service includes all parts and labor. COPP shall service upon City's request the security system installed in City's premises twenty-four (24) hours a day, seven (7) days a week and will respond within four (4) hours after receiving notice from City that service is required. All repairs, replacement or alteration to the security system made by reason of alteration to City's premises, or caused by unauthorized intrusion, lightning, or electrical surge, or caused by any means other than normal usage, wear and tear, shall be made at the cost of the City. Electrical surges, lightning damage, obsolete components and components exceeding manufacturer's useful life are not included in service and will be repaired or replaced at City's expense. No apparatus or device shall be attached to or connect with the security system as originally installed without COPP's written consent.

6. VIDEO SYSTEM OPERATION AND LIMITATIONS: If selected as a service to be provided and included in the Schedule of Equipment, Video equipment is attached to a digital recorder computer and City shall not use the computer for any other purpose. City shall be permitted to access and make changes to the system's operation on site and over the internet. If data storage is selected service, COPP shall store data received from City's system for one year, COPP shall have no liability for data corruption or inability to retrieve data except if the corruption or inability to retrieve data is caused by COPP's negligence. To the extent that COPP's negligence causes corruption or inability to retrieve data, COPP shall: restore the video surveillance system settings and configurations; restore the access control system database and system configurations; however, COPP shall not be responsible for recovering recorded video data. City's data shall be maintained confidential and shall be retrieved and released only to City or upon City's authorization or by legal process. Telephone or internet access is not provided by COPP and COPP has no responsibility for such access or IP address service. If system has remote access COPP is not responsible for the security or privacy of any wireless network system or router, and it is the City's responsibility to secure access to the system with pass codes and lock outs. COPP shall have no liability for unauthorized access to the system through the internet or other communication networks or data corruption or loss for any reason whatsoever.

GENERAL PROVISIONS

7. TESTING AND SERVICE OF ACCESS CONTROL & CCTV SYSTEMS: Access Control & CCTV System, once installed, is in the exclusive possession and control of the City, and it is City's sole responsibility to test the operation of the Security System and to notify COPP if it is in need of repair. COPP shall not be required to service the Security System unless during Warranty Period or City has contracted for service pursuant to paragraphs 2 and 5 and it has received notice from City, and upon such notice, COPP shall service the Security System to the best of its ability within thirty-six (36) hours, exclusive of Saturday, Sunday and legal holidays, during the business hours of 8 a.m. and 5 p.m. If City has not selected Service pursuant to paragraphs 2
and 5, any repair or other services provided by COPP to City's security equipment shall be at COPP's option on a per call request by City, and City shall pay for such labor and material at time such repair or other service is performed. All such repair or other service shall be governed by the terms of this contract. Only the equipment installed by COPP is covered by service. It shall be City's sole responsibility to maintain the security system.

8. CARE OF ACCESS CONTROL & CCTV SYSTEM: City agrees not to tamper with, remove or otherwise interfere with the Security System which shall remain in the same location as installed and City agrees to bear the cost of repairs or replacement made necessary as a result of any damage, including but not limited to damage caused by unauthorized intrusion to the premises, lightning or electrical surge, except for ordinary wear and tear, In which event repair or replacement to the Security System (if installed by COPP) shall be made by COPP.

9. ALTERATION OF PREMISES FOR INSTALLATION: COPP is authorized to make preparations such as drilling holes, driving nails, making attachments or doing any other thing necessary in COPP 's sole discretion for the installation and service of the security system, and City represents that the owner of the premises, if other than City, authorizes the installation of the security system under the terms of this agreement.

10. CITY'S DUTY TO SUPPLY ELECTRIC AND TELEPHONE SERVICE: City agrees to furnish, at City's expense, all 110 volt AC power, electrical outlet, ARC Type circuit breaker and dedicated receptacle, Internet connection, high speed broadband cable or DSL and IP Address, telephone hook-ups, RJ31x Block or equivalent, as deemed necessary by COPP.

11. LIEN LAW: COPP or any subcontractor engaged by COPP to perform the work or furnish material who is not paid may have a claim against purchaser or the owner of the premises if other than the purchaser which may be enforced against the property in accordance with the applicable lien laws.

12. ASSIGNMENTS: Parties agree that there are no third party beneficiaries of this contract. City shall not be permitted to assign this agreement without written consent of COPP. COPP shall have the right to assign this contract, with City's written consent, such consent shall not be unduly withheld, and shall be relieved of any obligations herein upon such assignment.

13. EXCULPATORY CLAUSE: COPP and City agree that COPP is not an insurer, and no insurance coverage is offered herein. The security equipment is designed to reduce certain risks of loss, though COPP does not guarantee that no loss will occur.
14. INSURANCE: The City is a self-insured entity that maintains funds and coverage for public liability, property damage, burglary, and theft under which COPP is named as additional insured under its Certificate of Coverage. COPP shall not be responsible for any portion of any loss or damage which is recovered or recoverable by the City from funds covering such loss or damage or for such loss or damage against which the City is indemnified or insured. City shall be self-insured to cover any loss the security services are intended to detect to one hundred percent of the insurable value, and City and all those claiming rights under City waive all rights against COPP and its subcontractors for loss or damages caused by burglary, theft, water, smoke, fire or other perils intended to be detected by the security services or covered by self-insurance.

15. LIMITATION OF LIABILITY: City agrees that should there arise any liability on the part of COPP as a result of COPP's negligent performance to any degree of failure or perform any of COPP's obligations or equipment failure, or strict products liability, that COPP's liability shall be limited to the sum of $250.00 or 5% of the sales price or six times the monthly charges City has agreed to pay pursuant to this agreement, whichever is greater. If City wishes to increase COPP's amount of limitation of liability, City may, as a matter of right, at any time, by entering into a supplemental contract, obtain a higher limit by paying an annual payment consonant with COPP's increased liability. This shall not be construed as insurance coverage.

16. COPP'S RIGHT TO SUBCONTRACT SPECIAL SERVICES: City agrees that COPP is authorized and permitted to subcontract any services to be provided by COPP to third parties who may be independent of COPP. City appoints COPP to act as City's agent with respect to such third parties, except that COPP shall not obligate City to make any payments to such third parties. City acknowledges that this agreement inure to the benefit of and are applicable to any assignee, subcontractors and central offices of COPP.

17. NON-SOLICITATION: City agrees that it will not solicit for employment for itself, or any other entity, or employ, in any capacity, any employee of COPP assigned by COPP to perform any service for or on behalf of City for a period of two years after COPP has completed providing service to City.

18. SECURITY INTEREST-COLLATERAL: To secure City's obligations under this agreement City grants COPP a security interest in the security equipment installed by COPP and COPP is authorized to file a financing statement.

19. CREDIT INVESTIGATION: City and any guarantor authorize COPP to conduct credit investigations from time to time to determine City's and guarantor's credit worthiness.

20. FULL AGREEMENT SEVERABILITY: This agreement along with the Schedule of Equipment and Services constitutes the full understanding of the parties and may not be amended, modified, or canceled,
except in writing signed by both parties, except COPP's requirements regarding items of protection provided for in this agreement imposed by Authority Having Jurisdiction. City acknowledges and represents that City has not relied on any representation, assertion, guarantee, warranty, collateral contract, or other assurance, except those set forth in this Agreement. City hereby waives all rights and remedies, at law or in equity, arising, or which may arise, as the result of City's reliance on such representation, assertion, guarantee, warranty, collateral contract, or other assurance. To the extent this agreement is inconsistent with any other document, agreement, purchase order or understanding between the parties, the terms of this agreement shall govern. Should any provision of this agreement be deemed void, the remaining parts shall not be affected.

21. ADDITIONAL SERVICES DURING TERM: City may request COPP to furnish, supply and provide additional labor, materials and services to perform additional work at City's premises. Any additional requests for work, including specifications, drawings and identified services shall be made in a "Contract Rider" and made part of this service agreement. Any "Contract Rider" shall describe the services to be provided, the equipment to be purchased and the additional amount to be paid to COPP. Both the City and COPP shall sign the "Contract Rider".

22. EQUAL EMPLOYMENT OPPORTUNITY: COPP 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.

23. POLITICAL CONTRIBUTIONS: COPP affirms and certifies that it complies with Ohio Revised Code 5 3517.13 limiting political contributions.

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

COPP, its employees and any persons retained or hired by COPP to perform the duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Further, COPP 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.

COPP acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System ("OPERS") membership.
COPP SYSTEMS
By: ____________________________
Date: 10-19-2021

CITY OF DAYTON, OHIO

City Manager

APPROVED AS TO FORM AND CORRECTNESS:

E-SIGNED by Suzanne Beck for City Attorney on 2021-10-27 12:47:03 GMT

City Attorney

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

Date

Min. BK: ——— Page: ———

Clerk of the Commission
Exhibit A

The above agreements currently covered (209) IP security cameras, (181) doors and gates connected to the security system. All security equipment, copper cabling, and labor is included for normal use. Repair/replacement of all non-abused equipment provided by COPP. Access control system (enclosures, controllers, and modules), card readers (with and without keypads), smart card printers, electromagnetic locks, delayed egress electromagnetic locks, electric controlled strikes/locks, door hold open units, request to exit switches in door hardware crash bars, flush mounted balanced magnetic door position switches, surface mounted gate position switches, gate interface relays, power supplies (controller, modules, lock, and intercom), duress alarm buttons, key switches (duress disable/reset, comm room emergency entry), audio visual horn strobes, interior and exterior fixed dome cameras, interior and exterior 360 degree cameras, interior and exterior PTZ cameras, all camera mounts, camera power supplies, joystick camera controllers, Honeywell access software, access servers (two), access workstations (four), Milestone camera video management software (VMS), VMS camera servers (six), VMS camera workstations (four), 200TB SAN storage unit configured with 100 TB for a minimum of thirty days video retention, all hard drives in servers, workstations, and SAN unit, KVM switch, 8GB fiber channel switch for SAN unit (two), code blue intercom stations in parking garage, long term lot, and economy lot, various fiber optic modules and media converters to remote gates, cameras, and intercom stations, seven Liebert GXT UPS systems and expansion units (located in A1, A2, B1, B2, T1, T2, T31 comm rooms) are also covered. A full list of equipment is provided below.

Services Provided:

1. On-site factory trained technician.
   a. 80 percent of the year (this allows time for holidays, personal time off, vacations, etc.)
      i. COPP will notify the Airport Police of any time a technician will not be on site.
      ii. During these times the airport will need to call in the COPP service department to get a technician dispatched
      iii. Service response time
           1. 24 x 7 x 4 hours (on-site 4 hours after being contacted)
           2. Emergency after hours (on-site 4 hours after being contacted)

2. All system administration for Access Control System, Digital Video Management System, cameras, intercom stations, and the SAN storage device. All minor and major upgrades of all Honeywell, Milestone, and Microsoft software. The Honeywell, and Milestone will stay approximately one to two versions behind the current versions. Maintain software support agreements with Honeywell and Milestone.
   a. Assistance for new Badge Templates
   b. Additional on-site training - 2 times a year.
   c. On-site stock of replacement part
   d. Inspect, Clean and Testing
      i. Intercom
         1. Every 4 months
      ii. Cameras
         1. Every 4 months
      iii. Card Access
         1. Every 6 months
   iv. Servers, Workstations, and San storage unit
      1. Every 6 months
      2. Updates every 4 months or when available
      3. Maintain 30 days of minimum video retention for each camera connected the Milestone video management system
   v. UPS & Battery Expansion Units in Comm Closets (A1, A2, B1, B2, T1, T2, and T31)
      1. Every 6 months
e. Backups, upgrades, and patches.
i. Card Access System
   1. Auto Nightly
   2. Monthly off-site
   3. After any updates
ii. Camera Video Management System
   1. Monthly
   2. After any updates
iii. Servers
   1. Every 6 months
   2. After any updates
iv. Workstations
   1. Every 6 months
   2. After any updates

3. Quarterly review meetings
   a. Progress updates
   b. Services Logs
   c. Updates and upgrades
   d. Current projects
   e. Future projects
   f. Any concerns

4. Covered Equipment
   a. Servers, Workstations, San Storage Unit, and Peripheral Devices
      i. Software
         1. Milestone Video Management
            a. Unlimited XProtect Corporate Server & Client License
            b. Unlimited XProtect Smart Wall
            c. Unlimited Xprotect Access
            d. (212) Hardware Device License
            e. (200) Access control Door License
            f. (1) Pro-Watch Access Control Integration License
         2. Honeywell
            a. (1) Pro-Watch Corporate Software Support Agreement Pro-Watch
               i. Includes (1) Server License, (1) Concurrent User License, (1) Concurrent Badging License, (96) Reader License
            b. (4) Add-on 32 Reader License (for 224 Total Reader License)
            c. (5) Add-on Concurrent User License
            d. (2) Add-on Concurrent Badging License
            e. (1) HSDK License up to 256 Doors
         3. Microsoft
            a. (8) Windows Server 2016 Standard
            b. (8) Windows 10 Pro
            c. (1) SQL 2016 Standard
   ii. (8) Servers includes memory, HHD, power supplies, and CPUs
      1. (2) Card Access Servers
      2. (1) Video Management Server
      3. (4) Video Recording Servers
      4. (1) Video Failover Server
iii. (8) Workstation includes memory, HHD, power supplies, and CPUs
   1. (2) ID Badging Workstations with (1) monitor each
   2. (2) Alarm Monitoring Workstations with (2) monitors each
   3. (4) Video Monitoring Stations with (4) monitor connections
iv. Monitors
   1. (12) 20” LED Monitors
   2. (5) 42” LED Monitors (provided by DAY. Not part of this agreement)
v. 200 TB SAN Storage Unit
   1. (1) Nexsan Satsbeast 42 bay SAN Main Chassis with (28) 2TB HDD
   2. (1) Nexsan Satsbeast 60 bay SAN Expansion Chassis with (40) 2TB HDD
      a. SAN currently configured with 100 TB of storage to meet the requirements
         30 days of video retention at 15 IPS.
vi. (2) Brocade 8 port 8GB Fiber network switches (connects SAN to VMS severs)
vii. (1) 8 Port KVM with wireless keyboard and mouse
viii. (7) Liebert GTX UPS w/battery expansion includes all batteries
b. Emergency Intercom Stations
   i. (29) Code Blue Series 1-E IP Intercom with Blue Strobe Free Standing
c. Security Cameras
   i. (39) Honeywell 4CIF PTZ IP Camera w/28x Optical Zoom
   ii. (36) Axis 1MP Mini Dome IP Camera
   iii. (57) Axis SVGA Mini Dome IP Camera
   iv. (12) Hanwha 2MP PTZ IP Camera w/32x Optical Zoom
   v. (11) Hanwha 2MP PTZ IP Camera w/12X Optical Zoom
   vi. (6) Hanwha 9MP Fisheye IP Camera
   vii. (1) Hanwha 2MP Mini Fixed Dome IP Camera
   viii. (43) Hikvision 12MP Fisheye IP Camera
   ix. (6) Hikvision 5MP Mini Dome IP Camera
   x. (8) Hikvision 2MP PTZ IP Camera w/36x Optical Zoom
   xi. Future Cameras to be installed by the end of year 2021
      1. (23) Hanwha 12MP Fisheye IP Camera
      2. (2) Hanwha 2MP Mini Dome IP Camera
      3. (2) Hanwha 12MP PTZ IP Camera w/12x Optical Zoom
xii. (36) Camera Power Supplies
xiii. (25) Hanwha POE Injectors
d. Card Access Equipment
   i. Headend Equipment
      1. (15) Honeywell High density Enclosures
      2. (15) Honeywell High Density Power Supply
      3. (15) MKB High Density Backup Battery
      4. (11) Honeywell Small Enclosure (remote gates)
      5. (11) Honeywell Small Enclosure Power Supply (remote gates)
      6. (11) Mier Enclosure Heaters (remote gates)
      7. (6) Altronix Trove 1 Enclosure w/power Supply (SRE Building)
      8. (21) Honeywell Intelligent Control Board
      9. (7) Honeywell Intelligent Control Board with reader ports
     10. (98) Honeywell Dual Reader Boards
     11. (2) Honeywell Input Boards
     12. (22) Altronix Lock Power Supply 10 amps
     13. (13) Altronix Lock Power Supply 4 amp
14. (61) Backup Batteries
15. (35) Memory Batteries

ii. Field Devices
   1. (171) iClass Keypad Readers
   2. (74) Push to Exit Buttons
   3. (9) Request to Exit Motion Detectors
   4. (42) Request to Exit Crash bar Switches
   5. (148) Door Position Contacts
   6. (34) Gate Position Contacts
   7. (69) Horn Strobes – Door Held Open to long
   8. (32) Magnetic Door Holder
   9. (15) Emergency Release Key Switches
  10. (10) Panic / breach Buttons
  11. (54) Maglocks
  12. (30) Exit Delay Maglocks
  13. (32) Electric Strikes
  14. (21) Electric Rim Strike
  15. (52) Gate Interface Relays with light and push buttons

   e. Other Misc. Equipment
      i. (3) Netgear 24 Port POE Network Switch (1- T1 and 2-SRE)
      ii. (16) Hanwha POE+ Power Injectors
      iii. (44) Blackbox Hardened 5 Port Fiber Network Switches
      iv. (11) Comnet Hardened Tx Media Converters w/power supply
      v. (26) Comnet Hardened Rx Media Converters 24VAC
      vi. (72) Comnet SFP GB Module
      vii. (8) Comnet SFP 100 MB Module
      viii. (17) Comnet Hardened 6 Port Fiber Network Switches
         ix. (1) Lot CAT patch cables
          x. (1) Lot Fiber Patch cables

5. Exclusions
   a. (5) 42” LED Monitors provided by DAY
   b. All Fiber Optic cable
   c. All Cisco Network switches and switch programming.
   d. US Customs Security equipment
   e. TSA 2nd Floor Office Security equipment.
Exhibit B

Dayton International Airport Master Service Agreement

5 Year Schedule of Pricing 2022 — 2026

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City Manager's Report

From: 3420- Water/Water Engineering
Supplier, Vendor, Company, Individual
Name: L.J. DeWeese Co., Inc.
Address: 3616 Tipp-Cowlesville Rd.
Tipp City, Ohio 45371

Date: December 1, 2021
Expense Type: Award of Contract
Total Amount: $1,971,164.80 (thru 8/31/2023)

Fund Source(s) | Fund Code(s) | Fund Amount(s)
--- | --- | ---
2021 Water Capital Fund | 53005-3445-1424-54-WF2107 | $1,971,164.80

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

Description

WAYNE AVENUE WATER MAIN IMPROVEMENTS, PHASE 4
(15% MBE PARTICIPATION GOAL/15% MBE PARTICIPATION ACHieved)

The Department of Water requests permission to enter into an Agreement with L.J. DeWeese Co., Inc., in the amount of $1,971,164.80 for the Wayne Avenue Water Main Improvements, Phase 4 project. This amount includes the base bid of $1,791,968.00 and Alternate No. 1 - Contingency Allowance for $179,196.80 (10% of the base bid). This project consists of the installation of approximately 3,400 linear feet of new 8" water main in Wayne Avenue from Wyoming Street to Edgar Avenue. Work includes installation of ductile iron pipe and fittings, gate valve, fire hydrants, and doing other work incidental thereto.

Three bids were received for this project on November 4, 2021. After evaluating the bids, L.J. DeWeese Co., Inc. bid was determined to be the lowest. The estimated cost for the project (including Alternate No. 1 Contingency Allowance) was $2,000,000.00. The time for contract completion is August 31, 2022. The expiration date identified on the Certificate of Funds is August 31, 2023.

This project is being funded using 2021 Water Capital Funds. This project supports the Asset Management Capital Reinvestment Program.

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

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 06/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

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## Amount: $1,971,164.80

### Fund Code

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### Amount: _____________

### Fund Code

| Fund | Org | Acct | Prog | Act | Loc |

Attach additional pages for more FOAPALs

Vendor Name: L.J.DeWeese Co., Inc.

Vendor Address: 3616 Tipp-Cowlesville Rd. Tipp City Ohio 45371

Federal ID: 31-0602186

Commodity Code: 96896

Purpose: Award of Contract for Wayne Avenue Water Main Improvements, Phase 4

Contact Person: Lisa Burton-Yates

Water/Water Engineering

Department/Division

11/17/2021

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

Date

CF Prepared by

Date

CF/CT Number

October 18, 2011
Wayne Avenue Water Main Improvements, Phase 4 (#8044519)
Owner: City of Dayton, Ohio
Solicitor: Dayton OH, City of
11/04/2021 12:00 PM EDT

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November 11, 2021

TO:         David Escobar, Senior Engineer II, Public Works  
FROM:      Donerik Black, Business & Technical Assistance Administrator  
           Human Relations Council (HRC)  

SUBJECT: Wayne Avenue Water Main Improvements Phase 4  
         (15% MBE Participation Goal)  

The HRC recommendation is to award the above contract to L.J. DeWeese, Co., Inc. They submitted a bid utilizing two PEP-certified contractors to meet the 15% MBE project participation goal. The HRC’s contract compliance analysis has verified that L.J. DeWeese, Co., Inc. is an approved bidder in the City of Dayton’s Affirmative Action Assurance program and that the company’s authorized representative signed the Contractor’s Certification to indicate fair hiring practices.

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

<table>
<thead>
<tr>
<th>PRIME CONTRACTOR</th>
<th>AMOUNT OF BASE BID</th>
</tr>
</thead>
<tbody>
<tr>
<td>L.J. DeWeese Co., Inc.</td>
<td>$1,791,968</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CERTIFIED BUSINESS PARTICIPATION</th>
<th>COMMITTED DOLLAR AMT</th>
<th>% TOWARD GOAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>W.C. Jones Asphalt Paving Co., Inc.</td>
<td>$115,500</td>
<td>6.4% MBE</td>
</tr>
<tr>
<td>Davida’s Trucking &amp; Excavating, LLC</td>
<td>$154,400</td>
<td>8.6% MBE</td>
</tr>
</tbody>
</table>

| TOTAL COMMITTED PARTICIPATION                  | 15% MBE |

The attached participation forms should be included with the contract agreement. Contract compliance will include meeting verified participation and minimal worker utilization goals as stated in the Affirmative Action Program Equal Employment Opportunity form certified in the bid submission. If you have any questions or concerns, please feel free to contact me at (937) 333-1439.

DGB
CITY OF DAYTON, OHIO
DEPARTMENT OF PUBLIC WORKS

Bid
Wayne Ave. Water Main
Improvements, Phase 4

Bidder
L.J. DeWeese Co., Inc.
3616 Tipp-Cowlesville Rd.
Tipp City, Ohio 45371
<table>
<thead>
<tr>
<th>Item Code</th>
<th>Item Description</th>
<th>UofM</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Extension</th>
</tr>
</thead>
<tbody>
<tr>
<td>207</td>
<td>Temporary Sediment and Erosion Control</td>
<td>L.S.</td>
<td>1</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>304</td>
<td>Aggregate Base</td>
<td>C.Y.</td>
<td>100</td>
<td>$45.00</td>
<td>$4,500.00</td>
</tr>
<tr>
<td>305</td>
<td>Concrete Base (ODOT 499, Class FS)</td>
<td>S.Y.</td>
<td>3,000</td>
<td>$50.00</td>
<td>$150,000.00</td>
</tr>
<tr>
<td>441</td>
<td>Asphalt Concrete</td>
<td>TONS</td>
<td>700</td>
<td>$185.00</td>
<td>$129,500.00</td>
</tr>
<tr>
<td>451</td>
<td>Reinforced Concrete Pavement, Bus Pad, 11&quot;</td>
<td>S.Y.</td>
<td>750</td>
<td>$75.00</td>
<td>$56,250.00</td>
</tr>
<tr>
<td>453</td>
<td>Concrete Driveway</td>
<td>S.F.</td>
<td>1,000</td>
<td>$7.00</td>
<td>$7,000.00</td>
</tr>
<tr>
<td>608</td>
<td>Concrete Walk</td>
<td>S.F.</td>
<td>2,500</td>
<td>$10.00</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>608</td>
<td>Curb Ramp</td>
<td>S.F.</td>
<td>400</td>
<td>$12.50</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>609</td>
<td>Barrier Curb/Curb and Gutter</td>
<td>L.F.</td>
<td>500</td>
<td>$40.00</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>614</td>
<td>Maintaining Traffic</td>
<td>LUMP</td>
<td>1</td>
<td>$210,000.00</td>
<td>$210,000.00</td>
</tr>
<tr>
<td>615</td>
<td>Low Strength Mortar Backfill, Type 1 (No Fly Ash)</td>
<td>C.Y.</td>
<td>4,000</td>
<td>$45.00</td>
<td>$180,000.00</td>
</tr>
<tr>
<td>623</td>
<td>Construction Layout Stakes</td>
<td>LUMP</td>
<td>1</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>632</td>
<td>Detector Loop</td>
<td>EA.</td>
<td>2</td>
<td>$3,500.00</td>
<td>$7,000.00</td>
</tr>
<tr>
<td>642</td>
<td>Centerline</td>
<td>L.F.</td>
<td>4,000</td>
<td>$0.75</td>
<td>$3,000.00</td>
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<tr>
<td>642</td>
<td>Stop Bar</td>
<td>L.F.</td>
<td>200</td>
<td>$3.00</td>
<td>$600.00</td>
</tr>
<tr>
<td>642</td>
<td>Crosswalk</td>
<td>L.F.</td>
<td>200</td>
<td>$2.00</td>
<td>$400.00</td>
</tr>
<tr>
<td>653</td>
<td>Topsoil Furnished and Placed, 4&quot;</td>
<td>C.Y.</td>
<td>250</td>
<td>$50.00</td>
<td>$12,500.00</td>
</tr>
<tr>
<td>659</td>
<td>Seeding and Mulching (Hydro Seed)</td>
<td>S.Y.</td>
<td>2,420</td>
<td>$2.00</td>
<td>$4,840.00</td>
</tr>
<tr>
<td>Item Code</td>
<td>Item Description</td>
<td>UofM</td>
<td>Quantity</td>
<td>Unit Price</td>
<td>Extension</td>
</tr>
<tr>
<td>-----------</td>
<td>----------------------------------------------------------</td>
<td>------</td>
<td>----------</td>
<td>------------</td>
<td>--------------</td>
</tr>
<tr>
<td>810</td>
<td>Excavation and Backfill, 6&quot; Water with Structural Backfill</td>
<td>L.F.</td>
<td>350</td>
<td>$65.00</td>
<td>$22,750.00</td>
</tr>
<tr>
<td>810</td>
<td>Excavation and Backfill, 8&quot; Water with Structural Backfill</td>
<td>L.F.</td>
<td>4,500</td>
<td>$65.00</td>
<td>$292,500.00</td>
</tr>
<tr>
<td>810</td>
<td>Excavation and Backfill, 10&quot; Water with Structural Backfill</td>
<td>L.F.</td>
<td>210</td>
<td>$85.00</td>
<td>$17,850.00</td>
</tr>
<tr>
<td>824</td>
<td>6&quot; Ductile Iron Water Pipe &amp; Fittings</td>
<td>L.F.</td>
<td>350</td>
<td>$40.00</td>
<td>$14,000.00</td>
</tr>
<tr>
<td>824</td>
<td>8&quot; Ductile Iron Water Pipe &amp; Fittings</td>
<td>L.F.</td>
<td>4,500</td>
<td>$40.00</td>
<td>$180,000.00</td>
</tr>
<tr>
<td>824</td>
<td>10&quot; Ductile Iron Water Pipe &amp; Fittings</td>
<td>L.F.</td>
<td>210</td>
<td>$70.00</td>
<td>$14,700.00</td>
</tr>
<tr>
<td>837</td>
<td>Abandoned, Special (Water Valves)</td>
<td>EA.</td>
<td>23</td>
<td>$250.00</td>
<td>$5,750.00</td>
</tr>
<tr>
<td>840</td>
<td>6&quot; Gate Valve and Appurtenances</td>
<td>EA.</td>
<td>21</td>
<td>$1,200.00</td>
<td>$25,200.00</td>
</tr>
<tr>
<td>840</td>
<td>8&quot; Gate Valve and Appurtenances</td>
<td>EA.</td>
<td>17</td>
<td>$1,750.00</td>
<td>$29,750.00</td>
</tr>
<tr>
<td>840</td>
<td>10&quot; Gate Valve and Appurtenances</td>
<td>EA.</td>
<td>2</td>
<td>$3,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>843</td>
<td>Fire Hydrant, Installed</td>
<td>EA.</td>
<td>12</td>
<td>$3,500.00</td>
<td>$42,000.00</td>
</tr>
<tr>
<td>843</td>
<td>Fire Hydrant, Removal</td>
<td>EA.</td>
<td>12</td>
<td>$640.00</td>
<td>$7,680.00</td>
</tr>
<tr>
<td>844</td>
<td>6&quot;x6&quot; Water Main Tap</td>
<td>EA.</td>
<td>1</td>
<td>$2,200.00</td>
<td>$2,200.00</td>
</tr>
</tbody>
</table>
## Wayne Avenue Water Main Improvements, Phase 4 (#8044519)

**Owner:** City of Dayton, Ohio  
**Solicitor:** Dayton OH, City of  
**11/04/2021 12:00 PM EDT**

<table>
<thead>
<tr>
<th>Item Code</th>
<th>Item Description</th>
<th>UofM</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Extension</th>
</tr>
</thead>
<tbody>
<tr>
<td>844</td>
<td>10&quot;x10&quot; Water Main Tap</td>
<td>EA.</td>
<td>3</td>
<td>$2,200.00</td>
<td>$6,600.00</td>
</tr>
<tr>
<td>844</td>
<td>12&quot;x8&quot; Water Main Tap</td>
<td>EA.</td>
<td>2</td>
<td>$2,200.00</td>
<td>$4,400.00</td>
</tr>
<tr>
<td>845</td>
<td>Service Replacement, Method &quot;B&quot;, 1&quot;</td>
<td>L.F.</td>
<td>1,750</td>
<td>$55.00</td>
<td>$96,250.00</td>
</tr>
<tr>
<td>845</td>
<td>Curb Stop, 1&quot;</td>
<td>EA.</td>
<td>70</td>
<td>$225.00</td>
<td>$15,750.00</td>
</tr>
<tr>
<td>845</td>
<td>Curb Box, 1&quot;</td>
<td>EA.</td>
<td>70</td>
<td>$175.00</td>
<td>$12,250.00</td>
</tr>
<tr>
<td>847</td>
<td>Cut &amp; Plug, 6&quot; Water Line</td>
<td>EA.</td>
<td>18</td>
<td>$700.00</td>
<td>$12,600.00</td>
</tr>
<tr>
<td>847</td>
<td>Cut &amp; Plug, 10&quot; Water Line</td>
<td>EA.</td>
<td>3</td>
<td>$700.00</td>
<td>$2,100.00</td>
</tr>
<tr>
<td>SP-1</td>
<td>Insertion Valves, 6&quot;</td>
<td>EA.</td>
<td>5</td>
<td>$9,800.00</td>
<td>$49,000.00</td>
</tr>
<tr>
<td>845</td>
<td>Service Replacement, Method &quot;B&quot;, 2&quot;</td>
<td>L.F.</td>
<td>250</td>
<td>$95.00</td>
<td>$23,750.00</td>
</tr>
<tr>
<td>845</td>
<td>Service Replacement, Method &quot;B&quot;, 4&quot;</td>
<td>L.F.</td>
<td>250</td>
<td>$110.00</td>
<td>$27,500.00</td>
</tr>
<tr>
<td>840</td>
<td>4&quot; Gate Valve and Appurtenances</td>
<td>EA.</td>
<td>3</td>
<td>$3,500.00</td>
<td>$10,500.00</td>
</tr>
<tr>
<td>845</td>
<td>2&quot; Curb Stops</td>
<td>EA.</td>
<td>10</td>
<td>$900.00</td>
<td>$9,000.00</td>
</tr>
<tr>
<td>845</td>
<td>5 1/4&quot; Valve Box</td>
<td>EA.</td>
<td>5</td>
<td>$450.00</td>
<td>$2,250.00</td>
</tr>
<tr>
<td>810</td>
<td>Street Cut Permit</td>
<td>LUMP</td>
<td>1</td>
<td>$6,048.00</td>
<td>$6,048.00</td>
</tr>
<tr>
<td>SP-2</td>
<td>Cold Weather Pavement Allowance</td>
<td>LUMP</td>
<td>1</td>
<td>$30,000.00</td>
<td>$30,000.00</td>
</tr>
</tbody>
</table>

**Alternate No. 1**  
$179,196.80

**A-1**  
Contingency Allowance (10% of Base Bid & Fixed Price Items)  
LUMP | 1 | $179,196.80 | $179,196.80

**Base Bid Total:**  
$1,791,968.00
Disclosure of Litigation: Have you or any person, group, partnership, company, or corporation affiliated with you been engaged in the past three (3) years in litigation, mediation or any form of contractual dispute resolution with any state government or any political subdivision thereof including, without limitation, the State of Ohio, the City of Dayton, Ohio, or Montgomery County, Ohio? For the purpose of your response, “affiliated” means directly or indirectly controlling, controlled by, or under common control, with “control” meaning legally or operationally in a position to exercise restraint or direction over the other.

RESPONSE: YES □ NO ✓

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

Disclosure of Investigation or Criminal Proceedings:

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

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

RESPONSE: YES □ NO ✓

(2) Been the subject of:

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

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

RESPONSE: YES □ NO ✓

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

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

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

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

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

(i) Any business-related activity, including but not limited to fraud, coercion, extortion, bribe or bribe receiving, giving or accepting unlawful gratuities, immigration or tax fraud, racketeering, mail fraud, wire fraud, price-fixing or collusive bidding; or

(ii) Any crime, whether or not business-related, the underlying conduct of which related to truthfulness, including but not limited to filing of false documents or false sworn statements, perjury or larceny.

RESPONSE: YES ☐ NO ☑

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

Business Address

Telephone

Partnership
Firm Name

Members of Firm and
Their Business Address

Corporation
Name

State of Incorporation
Ohio

Name and Title of
Officers with Authority
to Sign Contract

Home Office Address
3616 Tipp-Cowlesville Rd., Tipp City, Ohio 45371

Local Address

Same

Telephone (937) 440-1736 Fax (937) 440-0745

E-mail kldilbone@yahoo.com

Federal I.D. # 31-0602186

Dated this 4 day of November 2021

Bidder: L.J. DeWeese Co., Inc.
(Person, Firm, or Corporation)

By: Kristen Dilbone, President

Title: President
Bond Number: SOH21669391
Contractor Information
Principal: L J DeWeese Co. Inc
Address: 3616 Tipp-Cowlesville Rd Tipp City Ohio 45371 United States

Owner/Obligee Information
Bond Form: Bid Bond in accordance with Contract Specifications
Owner/Obligee: City of Dayton
Address: 101 W Third St Dayton Ohio 45402 United States

Bond Information
Surety: Western Surety Company
Bid Date: 11/4/2021
Estimated Contract Price: 2000000
Time For Completion:
Liquidated Damages:
Estimated Work On Hand:
Amount of Bid Security: 2000000
Contract # or IFB #: 8044519
Description of Job: Wayne Avenue Water Main Improvements, Phase 4
Job Breakdown:

Electronic Bidding Information
Bid Security Percentage: 10
Bid Security Maximum: 2000000
Owner Assigned Contractor Number: 6596932

Primary Agency:
Arnold Insurance Agency Inc
Power of Attorney Limited to: unlimited
Executed
Approved & Executed By:

Mark Arnold
Mark Arnold (Signed: 04-Nov-2021 10:41 AM EDT (UTC-04:00))
Signature Information

Know all men by these presents that Western Surety Company, a Corporation duly organized under the laws of the State of South Dakota, are held and firmly bound unto the above owner/obligee by this transmission. The surety agrees to waive the Statute of Fraud defense and further agrees that the owner/obligee is a third party beneficiary of the waiver for the purposes of enforcing this bid bond.
I, Judith French, hereby certify that I am the Director of Insurance in the State of Ohio and have supervision of insurance business in said State and as such I hereby certify that

WESTERN SURETY COMPANY

of South Dakota is duly organized under the laws of this State and is authorized to transact the business of insurance under the following section(s) of the Ohio Revised Code:

Section 3929.01 (A)
Fidelity
Other Liability
Surety

WESTERN SURETY COMPANY certified in its annual statement to this Department as of December 31, 2020 that it has admitted assets in the amount of $2,094,493,130, liabilities in the amount of $554,517,555, and surplus of at least $1,539,975,575.

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

Judith French, Director
WESTERN SURETY COMPANY
Sioux Falls, South Dakota
Statement of Net Admitted Assets and Liabilities
December 31, 2020

ASSETS

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonds</td>
<td>$1,912,532,179</td>
</tr>
<tr>
<td>Stocks</td>
<td>25,319,501</td>
</tr>
<tr>
<td>Cash, cash equivalents, and short-term investments</td>
<td>40,409,249</td>
</tr>
<tr>
<td>Receivables for securities</td>
<td>-</td>
</tr>
<tr>
<td>Investment income due and accrued</td>
<td>17,596,947</td>
</tr>
<tr>
<td>Premiums and considerations</td>
<td>66,346,899</td>
</tr>
<tr>
<td>Amounts recoverable from reinsurers</td>
<td>3,171,900</td>
</tr>
<tr>
<td>Current federal and foreign income tax recoverable and interest thereon</td>
<td>2,464,571</td>
</tr>
<tr>
<td>Net deferred tax asset</td>
<td>14,952,177</td>
</tr>
<tr>
<td>Receivable from parent, subsidiaries, and affiliates</td>
<td>12,599,707</td>
</tr>
<tr>
<td>Other assets</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Assets</strong></td>
<td><strong>$2,094,493,130</strong></td>
</tr>
</tbody>
</table>

LIABILITIES AND SURPLUS

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Losses</td>
<td>$215,792,050</td>
</tr>
<tr>
<td>Loss adjustment expense</td>
<td>51,323,326</td>
</tr>
<tr>
<td>Commissions payable, contingent commissions and other similar charges</td>
<td>10,245,562</td>
</tr>
<tr>
<td>Other expenses (excluding taxes, license and fees)</td>
<td>-</td>
</tr>
<tr>
<td>Taxes, License and fees (excluding federal and foreign income taxes)</td>
<td>3,169,742</td>
</tr>
<tr>
<td>Federal and foreign income taxes payable</td>
<td>-</td>
</tr>
<tr>
<td>Unearned premiums</td>
<td>256,859,522</td>
</tr>
<tr>
<td>Advance premiums</td>
<td>5,954,577</td>
</tr>
<tr>
<td>Ceded reinsurance premiums payable (net of ceding commissions)</td>
<td>977,849</td>
</tr>
<tr>
<td>Amounts withheld or retained by company for account of other</td>
<td>9,740,338</td>
</tr>
<tr>
<td>Provision for reinsurance</td>
<td>420,825</td>
</tr>
<tr>
<td>Payable to parent, subsidiaries and affiliates</td>
<td>2,297</td>
</tr>
<tr>
<td>Payable on security transactions</td>
<td>-</td>
</tr>
<tr>
<td>Other liabilities</td>
<td>31,467</td>
</tr>
<tr>
<td><strong>Total Liabilities</strong></td>
<td><strong>$554,517,555</strong></td>
</tr>
</tbody>
</table>

Surplus Account:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common stock</td>
<td>$4,000,000</td>
</tr>
<tr>
<td>Gross paid in and contributed surplus</td>
<td>280,071,837</td>
</tr>
<tr>
<td>Unassigned funds</td>
<td>1,255,903,739</td>
</tr>
<tr>
<td><strong>Surplus as regards policyholders</strong></td>
<td><strong>$1,539,975,575</strong></td>
</tr>
<tr>
<td><strong>Total Liabilities and Capital</strong></td>
<td><strong>$2,094,493,130</strong></td>
</tr>
</tbody>
</table>

I, Julie Lee, Assistant Vice President of Western Surety Company hereby certify that the above is an accurate representation of the financial statement of the Company dated December 31, 2020, as filed with the various Insurance Departments and is a true and correct statement of the condition of Western Surety Company as of that date.

WESTERN SURETY COMPANY

By [Signature]
Assistant Vice President, External Reporting

Subscribed and sworn to this 9th day of April 2021
My commission expires:

By [Signature]
Notary Public
BID BOND

Amount $ _______________________

We, the undersigned, are held and firmly bound unto the City of Dayton, Ohio in the sum
of ________________________ Dollars, for the payment of which well and truly to be made, we hereby, jointly and
severally, bind ourselves, our heirs, executors, and administrators, firmly by these presents.

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

_______________________________________________________________

named therein, and the said bidder shall within ten (10) days after being notified that said contract has been awarded to
the bidder, enter into a Contract in the form acceptable to the Director and give bond in a form to be furnished by the
Director, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Signed at Dayton, Ohio, this _____ day of ____________________ , 20_____

_______________________________________________________________

Bidder

_______________________________________________________________

Surety

_______________________________________________________________

Name of Insurance Agency

_______________________________________________________________

Address of Insurance Agency

Telephone________________ FAX________________________
CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 1 of 3)

In accordance with Ordinance No. 31487-16 of the City of Dayton, Ohio Revised Code of General Ordinances,

Kristen Dilbone, President

I, ____________________________ hereby certify that

L.J. DeWeese Co., Inc. meets the following Contractor requirements relating
to this City of Dayton construction project

Check All That Apply:

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

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

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

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

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

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

By:  

______________________________

(signature)

Title:  

President

Date:  

November 4, 2021
CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 2 of 3)

A. Please provide a complete listing of the fringe benefits provided to employees, including but not limited to health insurance and retirement benefits.

SRA- Medical

401(k)- Retirement


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

N/A


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

W.C. Jones Asphalt Paving, Inc.

Davida's Trucking & Excavating, LLC


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

<table>
<thead>
<tr>
<th>Tall View Palladium</th>
</tr>
</thead>
<tbody>
<tr>
<td>W. C. Jones Asphalt Paving</td>
</tr>
<tr>
<td>Davida's Trucking &amp; Excavating, LLC</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>None</th>
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<tbody>
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</tbody>
</table>
CERTIFICATION
OF COMPLIANCE WITH OHIO REVISED CODE SECTION 3517.13
FOR CONTRACTS IN EXCESS OF FIVE HUNDRED DOLLARS ($500.00)

STATE OF OHIO,
COUNTY OF Miami, ss:

Kristen Dilbone, President

being duly sworn, deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of
   L.J. DeWeese Co., Inc. ("the Contracting Party").

2. The Contracting Party is a/an (select one):
   
   [ ] Individual, partnership, or other unincorporated business association (including without
   limitation, a professional association organized under Ohio Revised Code Chapter
   1785), estate, or trust.
   
   [x] Corporation organized and existing under the laws of the State of Ohio.
   
   [ ] Labor organization.

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

By:  ____________________________

Title:  President
CITY OF DAYTON
CONTRACTOR NON-COLLUSION AFFIDAVIT

STATE OF Ohio )
COUNTY OF Miami ) SS:

Kristen Dilbone states that:

(1) He/she is President of L.J. DeWeese Co., Inc. that
(owners, partner, officer, representative, or agent)
(business or organization name)

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

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

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

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

SIGNED
President

[Signature]
TITLE
AFFIRMATIVE ACTION PROGRAM
EQUAL EMPLOYMENT OPPORTUNITY

PROJECT: Wayne Ave. Water Main Improvements, Phase 4
NAME

Wayne Ave., Dayton, Ohio
LOCATION

During the performance of this contract:

L.J. DeWeese Co., Inc. 3616 Tipp-Cowlesville Rd., Tipp City, Ohio 45371 937-440-1736 / 937-440-0745
CONTRACTOR ADDRESS TELEPHONE / FAX

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

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

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

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

The required goals and timetables are as follows:

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

<table>
<thead>
<tr>
<th>From 4/1/80 to Present</th>
<th>6.9%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goals of Female Worker Utilization Expressed in Percentage Terms</td>
<td></td>
</tr>
</tbody>
</table>
The percentage goals of minority and female worker utilization are expressed in terms of working hours of training and employment as a proportion of the total working hours to be worked by the contractor's entire workforce in that trade on all projects (both federal and non-federal) in the Economic Area during the performance of this contract. The working hours for minority and female work and training must be uniform throughout the length of this contract, on all projects and for each of the trades. Further, the transfer of minority and/or female or trainee from employer-to-employer or from project-to-project for the sole purpose of meeting the contractor's goals shall be a violation of this Affirmative Action Program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONTRACTOR'S CERTIFICATION

L.J. DeWeese Co., Inc. (Contractor) certifies that:

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

   Cement Mason
   Operator
   Laborer

a) as to those trades set forth in the preceding paragraph one hereof, it adopts the minimum minority and female utilization goals and the specific Affirmative Action steps contained in this Affirmative Action Program. Compliance is measured in each trade of the contractor's aggregate work force for all construction work (both federal and non-federal) in the four Counties (Greene, Miami, Montgomery and Preble) subject to this Affirmative Action Program; and

b) the successful contractor will obtain from each subcontractor and submit to the contracting or administering agency prior to the award of any subcontract under this contract, the subcontractor certification required by the Affirmative Action Program.

SIGN: [Signature]

(Signature of Authorized Representative of Bidder)

FAILURE TO SIGN AND SUBMIT THIS DOCUMENT WITH YOUR BID WILL RESULT IN YOUR BID NOT BEING READ
City Manager’s Report

From: 2600 - Planning, Neighborhoods & Dev. / Development
Supplier, Vendor, Company, Individual
Name: Epix Tube Co., Inc.
Address: 5800 Wolf Creek Pike
Dayton, Ohio 45426

Date: December 1, 2021
Expense Type: Development Agreement
Total Amount: $500,000.00 (thru 6-30-2027)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Revenue Fund</td>
<td>22502-2600-1224-41</td>
<td>$250,000.00</td>
</tr>
<tr>
<td>Special Revenue Fund</td>
<td>28310-2600-1224-41-EDG087</td>
<td>$250,000.00</td>
</tr>
</tbody>
</table>

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

Description

Development Agreement

The Department of Planning, Neighborhoods & Development – Division of Development requests approval to enter into a Development Agreement with Epix Tube Co., Inc. ("Epix") to assist in the expansion of their business in Dayton. Epix will invest approximately $4,500,000.00 in building improvements and machinery to expand into the building at 14 South Marion Street. The company is pledging to create 60 new jobs with an average salary of approximately $40,000.00 over the next five years.

Montgomery County awarded an ED/GE grant of $250,000.00 to the project, which was accepted by the Dayton City Commission on December 30, 2020 by Ordinance #6557-20. The West Dayton Development Trust Fund committee awarded $250,000.00 as a matching grant. This Agreement makes the funds available to the company on a reimbursement basis as eligible expenses are incurred for the project. The incentives are necessary to address gap funding.

The Agreement will commence upon execution and expire on June 30, 2027. The Agreement includes a "clawback" provision if the pledged payroll growth is not achieved.

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

Funding sources are the West Dayton Development Trust Fund and Montgomery County ED/GE Fund.

A map and two Certificates of Funds are attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 10/2019
### SECTION I - to be completed by User Department

**Contract Start Date**: 
- **Expiration Date**: 6/30/2027
- **Original Commission Approval**: $250,000.00
- **Initial Encumbrance**: $250,000.00
- **Remaining Commission Approval**: -

**Original CT/CF**
- **Increase Encumbrance**: -
- **Decrease Encumbrance**: -
- **Remaining Commission Approval**: -

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

<table>
<thead>
<tr>
<th>Amount</th>
<th>$250,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code</td>
<td>22502 - 2600 - 1224 - 41 - -</td>
</tr>
</tbody>
</table>

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

### Attach additional pages for more FOAPALs

**Vendor Name**: Epix Tube Co., Inc.
**Vendor Address**: 5800 Wolf Creek Pike, Dayton, Ohio 45426
**Street**: Dayton
**City**: Ohio
**State**: 45426
**Zipcode + 4**: 45426
**Federal ID**: 26-4253615
**Commodity Code**: 91849

**Purpose**: Development agreement to assist with an expansion of business operations.

---

**Contact Person**: Jill Bramini
**Planning, Neighborhoods & Development/Development Department/Division**: 11/16/2021
**Date**: 11/16/2021

**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**: 11/22/21

**CF Prepared by**: [Signature]
**Date**: 11/22/21
**CF/CT Number**: CT21-3133

---

October 18, 2011
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

New Contract

Renewal Contract

Change Order:

Contract Start Date

Expiration Date

6/30/2027

Original Commission Approval

Initial Encumbrance

$ 250,000.00

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: $ 250,000.00

Fund Code 28310 - 2600 - 1224 - 41 - EDG087 -

Fund Org Acct Prog Act Loc

Amount: 

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

Fund Org Acct Prog Act Loc

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

Fund Org Acct Prog Act Loc

Appendix additional pages for more FOAPALs

Vendor Name: Epix Tube Co., Inc.

Vendor Address: 5800 Wolf Creek Pike Dayton Ohio 45426

Street City State Zipcode + 4

Federal ID: 26-4253615

Commodity Code: 91849

Purpose: Development agreement to assist with an expansion of business operations. Montgomery county ED/GE funds.

Contact Person: Jill Bramini

Planning, Neighborhoods & Development/Development

Date

11/16/2021

Department/Division

Originating Department Director’s Signature:

SECTION II - to be completed by the Finance Department

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

Finance Director Signature

Date

11/23/21

Finance Department

CF Prepared by

Date

11/22/21

CF/CT Number

CT21-3134

October 18, 2011
DEVELOPMENT AGREEMENT
Epix Tube

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into between Epix Tube Co., Inc., a for-profit corporation organized and existing under the laws of the State of Ohio, currently located at 5800 Wolf Creek Pike, Dayton, Ohio 45426 ("Company"), and the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio ("City").

WITNESSETH THAT:

WHEREAS, City desires to stimulate, promote and increase economic and community development activities that provide meaningful, long-term benefits and improvements to Dayton residents; and,

WHEREAS, The purpose of the West Dayton Development Trust Fund ("WDDTF") is to fund projects that primarily benefit and enhance the growth and development of the West Dayton area, which is defined as the West Land Use District; and,

WHEREAS, Company pledges to create and retain full-time permanent employment positions in the city of Dayton; and,

WHEREAS, Company plans to redevelop a vacant warehouse into a manufacturing facility to house their business expansion project which will create sixty (60) full time equivalent jobs for residents in the Greater West Dayton geography: and,

WHEREAS, City finds that the project as defined herein will benefit the community and further the purpose of the WDDTF and wishes to support the Company in carrying out the project under the terms and conditions set forth herein.

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

ARTICLE 1. DEFINITIONS.
For the purposes this Agreement, the words and phrases set forth below shall have the following meanings ascribed to them respectively, regardless of whether or not the words and phrases are capitalized:

West Dayton Development Trust Fund Grant. A grant provided hereunder by the City of Dayton to assist Company in leveraging private investment and partnership opportunities in the West Land Use District and enhancing the quality of life therein.

Facility. The real property located at 14 South Marion Street, Dayton, Ohio.

Project. Improving and equipping the Facility for use as a steel tubing manufacturing facility including, without limitation, interior and exterior building improvements; electrical, plumbing, and HVAC system upgrades; machinery and equipment; furniture and fixtures; and new signage and lighting.

Project Costs. The costs company incurs and pays in completing the Project, including those costs which may be incurred prior to the term of this Agreement. Expenses for professional services and other “soft costs” are excluded from this definition.
**Eligible Project Costs.** Those Project Costs actually incurred and paid for by Company during the term of this Agreement.

**ARTICLE 2. PROJECT.**

Company will invest or cause to be invested approximately Four Million Five Hundred Thousand Dollars and Zero Cents ($4,500,000.00) or more in capital improvements and equipment (the “Project Costs”) to expand their existing business operations in Dayton (“Project”).

Company shall complete the Project by July 31, 2024, unless such time for commencement and/or completion is extended upon mutual written agreement. As further delineated herein, all construction activities and other work required to complete the Project shall be performed and completed in accordance with all applicable federal, state, and local laws, rules, regulations, and orders, including all applicable building, zoning, well field, and fire code requirements.

**ARTICLE 3. FUNDING.**

The City of Dayton is the recipient of a Montgomery County Economic Development/Government Equity Program (“ED/GE”) grant for the project on behalf of Company in the amount of up to Two Hundred Fifty Thousand Dollars and Zero Cents ($250,000.00), (hereinafter referred to as “ED/GE Funds”). The terms of the ED/GE Grant Agreement are incorporated herein and attached as **Exhibit A**. This portion of the Project Grant is restricted to reimbursement of documented expenditures associated with the Project’s Eligible Project Costs for capital improvements in accordance with the terms and conditions of the ED/GE grant.

City will also provide Company a West Dayton Development Trust Fund Grant in an amount of up to Two Hundred Fifty Thousand Dollars and Zero Cents ($250,000.00). This portion of the Project Grant is restricted to reimbursement of documented expenditures of the Project’s Eligible Project Costs but may also include installation costs and related expenses. These funds may be applied retroactively to eligible expenses occurring after May 4, 2021 (when the City issued the building permit for the Project).

The ED/GE Funds and the West Dayton Development Trust Fund Grant provide a total of up to Five Hundred Thousand Dollars and Zero Cents ($500,000.00) (hereinafter collectively referred to as the “Project Grant”). The Project Grant represents approximately twelve percent (12%) of the total Project Costs contemplated in Article 2 above (“Reimbursement Percentage”). The City shall not disburse ED/GE Grant Funds or Development Grant funds for the reimbursement of Eligible Project Costs at a proportion in excess of the Reimbursement Percentage.

Company is solely responsible for any and all Project Costs and other expenses in excess of the funding provided by City hereunder. Company shall comply with all applicable laws and regulations. If applicable, Company will pay state and local prevailing wage rates.

Company shall use the West Dayton Development Trust Fund Grant for reimbursement of Eligible Project Costs actually and directly incurred by Company during the term of this Agreement. Company shall submit its initial Request for Disbursement of the West Dayton Development Trust Fund Grant at its discretion, and no more frequently than quarterly thereafter, utilizing a form substantially similar to that attached hereto and incorporated as **Exhibit B**. The Final Request for Disbursement shall be submitted no later than ninety (90) days following final completion of the Project.
All Requests for Disbursement shall include documentation setting forth the Project Costs incurred throughout the term of this Agreement and specify the Eligible Project Costs. This documentation shall include the period during which the Project Costs and Eligible Project Costs were incurred, the total amount of the disbursement requested, details regarding the work and/or services performed, evidence of payment of the of the Project Costs and Eligible Project Costs, and such records, information, and/or documentation to substantiate the Project Costs and Eligible Project Costs. Appropriate City personnel will verify the Eligible Project Costs and Project Costs. Unless disputed, and subject to the Reimbursement Percentage, City will disburse payment within forty-five (45) days from receipt of the Request for Disbursement.

ARTICLE 4. EMPLOYMENT AND WAGE WITHHOLDING TAXES COMMITMENT

A. Income Tax Withholding Taxes Due to City. The parties acknowledge and understand that Company’s commitment to grow City’s tax base by creating and/or retaining job in the city of Dayton is the consideration upon which this Agreement is based. Company therefore agrees that by establishing and maintaining the employment figures as contemplated, Company shall pay annual minimum income taxes (based on the current 2.50% applicable tax rate) to City from Company’s employee wages subject to withholding in the amounts stated below (“Committed Employee Wage Withholding Taxes”) each year.

<table>
<thead>
<tr>
<th>Year of Agreement</th>
<th>Committed Employee Wage Withholding Taxes to be Paid**</th>
</tr>
</thead>
<tbody>
<tr>
<td>2022</td>
<td>$27,000</td>
</tr>
<tr>
<td>2023</td>
<td>$32,000</td>
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<tr>
<td>2024</td>
<td>$50,000</td>
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<tr>
<td>2025</td>
<td>$55,000</td>
</tr>
<tr>
<td>2026</td>
<td>$56,000</td>
</tr>
</tbody>
</table>

** The Committed Employee Wage Withholding Taxes to be Paid are subject to and shall be adjusted for changes in (i) the City’s Income Tax rate and/or (ii) the deductions from the gross wages paid that would impact the Committed Employee Wage Withholding Taxes to be Paid. The Committed Employee Wage Withholding Taxes shall also include the City income taxes paid by employment agencies on behalf of employees that work at Facility.

For any year after the West Dayton Development Trust Fund Grant is distributed in which the annual wage withholding taxes paid to City by Company fall below the amount stated in the “Committed Employee Wage Withholding Taxes to be Paid” for the corresponding year, Company shall pay such deficiency to City by February 1st of the following year. [By way of example, if the total amount of wage withholding taxes paid by Company to City in 2025 is $50,000.00, Company shall pay the deficiency of $5,000.00 to City no later than February 1, 2026.] The Company however shall not be required to pay in total more than Development Grant paid to the Company pursuant to this Agreement.

B. No Credit for Excess Income Tax Withholding. For any given year, Company shall not receive a monetary credit for exceeding the amount of wage withholding taxes paid to City. [By way of example, if Company pays the City $65,000.00 in wage withholding taxes in 2025, it will not receive a monetary credit of $10,000.00 for exceeding the projected figure of $55,000.00] The wage withholding taxes paid by Company for each year of this Agreement must stand on its own.
ARTICLE 5. SPECIFIC CONDITIONS.

A. Company shall comply with all applicable federal, state, and local laws, including applicable rules, regulations, and orders governing receipt and use of municipal and other public funds for the Project. All construction activities and other work required to complete the Project shall be performed and completed in accordance with all applicable federal, state, and local laws, rules, regulations, and orders, including all building, zoning and fire code requirements. Company shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.

B. Developer agrees that the City’s Procurement Enhancement Plan (“PEP”) participation goals for certified Small Business Enterprises (“SBEs”), Minority Business Enterprises (“MBEs”), Women’s Business Enterprises (“WBEs”), and Dayton Local Small Businesses (“DLSBs”) apply to the Project. The Developer and any Developer Affiliates have the obligation to require individual company compliance with the PEP. The PEP participation goals are:

<table>
<thead>
<tr>
<th>Total PEP Participation</th>
<th>20%</th>
</tr>
</thead>
<tbody>
<tr>
<td>MBE:</td>
<td>15%</td>
</tr>
<tr>
<td>WBE:</td>
<td>5%</td>
</tr>
</tbody>
</table>

C. Counting Toward Goals.

(i) To count toward the Project’s PEP Participation Goals, a company contracting on the Project must be certified with the City’s Human Relations Council (“HRC”) and must be certified to perform the proposed work. The City encourages Developer and Developer’s construction contractors to review the City’s list of PEP-certified companies at https://citybets.com/Home/Links (click on the “PEP Certification List” button) and to obtain a copy of each PEP-certified firm’s Certificate.

(ii) If a company is not currently PEP-certified, it may apply for PEP certification at any time; however, once a company is certified, only the portion of work performed on or after the company’s PEP certification date shall count toward the Project’s PEP Participation Goals. If a company’s PEP certification expires, only the portion of work performed while the company’s PEP certification was active shall count toward the Project’s PEP Participation Goals.

(iii) For each PEP-certified firm, Developer or Developer’s construction contractor shall submit to the HRC an executed PEP Participation Form describing the work to be performed, the dollar amount of the PEP firm’s contract or subcontract, and the dollar amount to be counted toward the Project’s PEP Participation Goals. The HRC shall acknowledge receipt of each PEP Participation Form within two (2) business days, and shall attempt to verify the PEP firm’s participation within five (5) business days. A verified PEP firm’s participation can be counted in any category (i.e., SBE, MBE, WBE, and/or DLSB) in which the firm is certified.

D. Company shall commit to hiring residents from the West Dayton neighborhoods surrounding the Facility and to otherwise make every reasonable effort to hire residents of the city of Dayton to fill the new employment positions to be created hereunder.

E. Company shall establish and maintain a working relationship with job placement and employment organizations, including the Montgomery County Job Center, to assist with employment recruitment and satisfaction of the employment commitment set forth above. In satisfying the New Job portion of
the employment commitment set forth above, Company shall submit a listing of all available employment positions to the Montgomery County Job Center and other job referral and placement agencies.

F. Company expressly authorizes the City of Dayton Division of Revenue & Taxation to release specific tax records to the Department of Economic Development, for payroll verification as it applies to this Agreement. Such records will be kept confidential, shall only be used for the purposes stated herein, and returned to the City of Dayton Division of Revenue & Taxation once review is complete, including all copies.

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

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

I. Reimbursement to Company will be made proportionally to the percentage of Project funding provided hereunder by City and identified above.

ARTICLE 6. TERM AND TERMINATION.

This Agreement shall commence upon execution by City and it shall expire on June 30, 2027, unless extended to a later date by amendment of earlier terminated. This Agreement may be immediately terminated in the event of or under any of the following circumstances:

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

In the event of termination prior to Project completion and if City provided any funds to Company hereunder, Company shall repay to City within forty-five (45) business days from the effective date of termination all funds provided hereunder and, upon such repayment, Company shall be released from its obligations hereunder. This obligation to remit repayment of funding shall survive termination of this Agreement until such funds are actually received by City. If no funds were provided, the parties shall be immediately relieved of their obligations hereunder.

ARTICLE 7. INDEMNIFICATION.

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

ARTICLE 8. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

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

ARTICLE 9. POLITICAL CONTRIBUTIONS.

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

ARTICLE 10. RECORDS AND RETENTION.

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

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Company and made available for review by City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of three (3) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the three-year period, Company shall retain such Records until completion of the actions and resolution of all issues or the expiration of the three year period, whichever occurs later.

ARTICLE 11. TAX REPRESENTATION.

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

ARTICLE 12. GENERAL PROVISIONS.

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

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

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

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

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

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

For City: Veronica Morris, Supervisor Division of Development City of Dayton 101 W. Third Street Dayton, OH 45402

For Company: Paul Kasperski, President Epix Tube Co., Inc. 5800 Wolf Creek Pike Dayton, OH 45426

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

[Remainder of this page intentionally left blank]
EPIX TUBE CO., INC.

By: 

Print name: 

Its: 

CITY OF DAYTON, OHIO

City Manager

Date

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney

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

______________________________, 2021

Min. / Bk. _______   Pg. _______

Clerk of the Commission
Exhibit A

ED/GE Agreement
2019
MONTGOMERY COUNTY
ECONOMIC DEVELOPMENT/GOVERNMENT EQUITY (ED/GE)
PROGRAM PROJECT AGREEMENT

THIS AGREEMENT is entered into on the date(s) at the end hereof, by and between the
BOARD OF COUNTY COMMISSIONERS OF MONTGOMERY COUNTY, OHIO,
Montgomery County Administration Building, 451 West Third Street, Dayton, Ohio 45422,
hereinafter referred to as the "Board," and the CITY OF DAYTON, MONTGOMERY
COUNTY, OHIO, hereinafter referred to as the "Participant."

WITNESSETH:

WHEREAS, O.R.C. Section 307.07 grants the Board the authority to create an Office of
Economic Development and to appoint a person to act as Director of said Office, referred to
hereinafter as the Director; and

WHEREAS, O.R.C. Section 307.07 further constitutes a grant of authority to the Board to
become actively involved in the development and execution of economic development in
Montgomery County, Ohio; and

WHEREAS, on or about June 4, 1991, and pursuant to O.R.C. Section 307.07, the Board
did create a Montgomery County Office of Economic Development and did appoint a Director of
same; and
WHEREAS, O.R.C. Section 307.07 further authorizes the Board to use a portion of its sales tax revenues for the purpose of furthering and fostering economic development in Montgomery County, Ohio; and

WHEREAS, O.R.C. Section 307.07(B)(3) authorizes the Director, with the approval of the Board, to enter into Agreements with federal, state and local governmental agencies for the purpose of carrying out economic development functions of the Board relative to economic development; and

WHEREAS, the Board and the Participant are desirous of mutually cooperating in the funding of an economic development project situated within the boundaries of the CITY OF DAYTON Montgomery County, Ohio, known as the EPIX TUBE Project, hereinafter referred to as the "Project;" and

WHEREAS, the Board is willing to use some of its sales tax revenues to foster same; and

WHEREAS, the Board has been advised by the Director that the Project properly qualifies as an economic development project in the Montgomery County area; and

WHEREAS, the Participant has supplied the Board with proof that it possesses sufficient statutory/legal authority and management capability needed to assume the primary administration of the Project; and

WHEREAS, on DECEMBER 17, 2019 by Resolution #19-1666, the Board awarded the CITY OF DAYTON an amount not to exceed $250,000 or 5.6% of total project cost, from the 2019 Primary Economic Development Fund, to provide funding support for the EPIX TUBE Project.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties to this Agreement, with the intent to be legally bound,
agree as follows:

1. The Participant agrees to assume the responsibility of administering the Project, which project is found specifically identified in the Scope of Work, which scope is attached hereto and made a part hereof as Exhibit "A," and a budget document for said project, which budget is attached hereto and made a part hereof, as Exhibit "B". The Board agrees to tender to the Participant the sum of TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000) or FIVE AND SIX TENTHS PERCENT (5.6%) of total project cost, whichever is less, of the Board's 2019 sales tax revenue to assist the Participant in conducting the Project.

2. The Participant agrees that the Board's sales tax revenues referred to in paragraph 1, above, will be used solely and exclusively by the Participant to offset the cost incurred by it in undertaking the Project, and further agrees that should any or all of Board's said sales tax revenues be used for any purpose other than that of the Project, the Participant will repay the Board the amount improperly expended, and will do so within fourteen (14) calendar days of written notice to it by the Board that such an improper expenditure has occurred, stating therein the amount which the Board believes has been misapplied.

3. Upon execution of this Agreement by both parties and certification by the Montgomery County Auditor, the Board agrees to tender the amount identified in paragraph 1 hereof to the Participant on a regular reimbursement basis as more fully explained in this paragraph. The Participant agrees to supply the Board with regular statements, or invoices, indicating therein the amount of monies expended by the Participant in the furtherance of the Project, this statement, or invoice, will also contain a statement therein identifying the date of each expenditure, the name of the person or business enterprise paid, and the goods or services provided warranting the payment. The Board will, within thirty (30) calendar days of the receipt of such a
statement, or invoice, reimburse the Participant the amount stated in the Participant's statement or invoice. Should the Board be of the opinion that any amount of monies identified in the Participant's invoice was expended for purposes other than the furtherance of the Project, the Board may, in its sole discretion, reduce such payment by the amount of the alleged misapplication, or seek reimbursement as same is provided in paragraph 2 hereof. The parties also agree that the Board, through its Office of Economic Development, has the authority to meet with the contractor, person or business entity employed by the Participant for the Project, and review documentation as it deems necessary to determine that the Board's sales tax revenues are being expended for Project purposes.

4. The Participant agrees that the Board's sales tax revenues are to be expended by the Board in its sole discretion, and that the Board's financial assistance to the Participant is voluntary and that the Participant has no legal or equitable claim to any of the Board's sales tax revenues.

5. The Participant acknowledges that ED/GE funds shall not be used for the direct benefit of institutional users such as colleges, universities, or hospitals.

6. The Participant acknowledges that if it is found that ED/GE funds were used for the direct benefit of institutional users, Montgomery County may require that the spent ED/GE funds be returned in full to Montgomery County, and the remainder of the ED/GE award shall be closed, and funds will be re-incorporated to the ED/GE fund for future projects.

7. The Participant acknowledges that part of the consideration for this Agreement emanates from the Board's sales tax revenues, and that as such, said consideration constitutes public funds, and the Participant acknowledges that the Board, the Montgomery County, Ohio Auditor and/or the Ohio Bureau of Inspection and Supervision of Public Offices (State Auditor's Office) is legally authorized to inspect and make copies of the Participant's books and audit the
receipt and expenditure of said consideration. The Participant, therefore, agrees to allow either the Board, the Montgomery County, Ohio Auditor or his representative, or a representative of the State Auditor's Office, to enter upon its premises during regular business hours and to supply the Board, the Montgomery County, Ohio Auditor or his representative, the State Auditor's Office or its representative, the books/financial records concerning the Participant's receipt and expenditure of the economic development funding received by the Participant pursuant to the Agreement.

8. The Participant agrees that all documentation, financial records and other evidence of project activity under this Agreement shall be maintained by the Participant, consistent with the records retention requirements of the Ohio Revised Code, for a period of three (3) years after the completion or termination of the Project. After this three (3) year retention period, the Participant must notify the Board, in writing, of its intent to destroy said records. The Board reserves the right to extend the retention period for such records, and if it decides to do so it will notify the Participant in writing, otherwise, the Board will issue to the Participant a written Certificate of Records Disposal, it being understood that no records in the Participant's possession will be destroyed until the Participant has received a Certificate of Records Disposal. The Participant also agrees to notify persons or business entities with which it does business in the prosecution of the work called for in the "Project" of the fact that such person or business entity is receiving public funds and that such funds may be audited by the County Auditor or the State Auditor even though they have been received by a private person or business entity.

9. The Participant agrees that, upon completion of said Project, Participant will deliver to the Board's Director of Economic Development a report certifying the Participant's expenditures for the total Project, including ED/GE funds and all other financial sources. In addition, the Participant agrees to provide to the Board's Director of Economic Development, upon the
Director's request and at such intervals as requested by the Director, but not to exceed three years, a report certifying the jobs created/retained and the tax base enhanced/retained as a direct result of the Project.

10. The parties acknowledge that this Agreement is made pursuant to the Montgomery County ED/GE program and that the distribution of funds provided for herein is made pursuant to that program and constitutes a distribution to the Participant hereunder. The parties agree that use of the funds distributed hereunder is subject to all terms and conditions of the Economic Development/Government Equity Participation Agreement previously entered into between the parties hereto.

11. The parties expressly agree that this Agreement shall not be assigned by the Participant without the prior written approval of the Board, which approval may be withheld in the sole discretion of the Board.

12. During the performance of this Agreement, the Participant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, handicap, age, political belief or place of birth. The Participant will ensure that applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, national origin, ancestry, handicap, age, political belief or place of birth. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

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

13. Either party may terminate this Agreement by serving written notice on the other party at least fourteen (14) calendar days before the effective date of such termination as is mentioned in the notice.

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

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

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

17. Signatures hereon shall act as express representations that the signing agents are authorized to bind their respective principals to all rights, duties, remedies, obligations and responsibilities incurred by way of this Agreement.
IN WITNESS WHEREOF, the parties have hereunto set their hands this 9th day of
February, 2021.

Signed and acknowledged in the presence of:

Witness

Witness

Witness

BOARD OF COUNTY COMMISSIONERS OF
MONTGOMERY COUNTY, OHIO

By: __________________________

By: __________________________

By: __________________________

OR

By: __________________________

Michael B. Colbert
County Administrator

Erik S. Collins, Director
Community & Economic Development

AND

City of Dayton, Ohio

Name of Jurisdiction

101 W Third St

Address

Dayton, OH 45402

City State Zip

By: __________________________

Title: Deputy City Manager
APPROVED AS TO FORM:
MATHIAS H. HECK, JR.
PROSECUTING ATTORNEY
BY: __________________________
Assistant Prosecuting Attorney
DATE: 11/3/20
APPROVED AS TO FORM:
MATHIAS H. HECK, JR.
PROSECUTING ATTORNEY
BY: ________________________________
Assistant Prosecuting Attorney
DATE: ______________________________

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO
December 30, 2020
Min. Book 14, Page 9

CLERK OF THE COMMISSION

APPROVED AS TO FORM AND CORRECTNESS

CITY ATTORNEY
EXHIBIT A
Work Program

Jurisdiction: CITY OF DAYTON

Project: EPIX TUBE

This project will allow Epix Tube, a manufacturer of Electric Resistance Welded steel tubing, to acquire and upgrade a facility in west Dayton. This new facility will retain their existing operations in Montgomery County and create 60 new jobs. Funds will be used for building improvements and utility upgrades at the new facility.

<table>
<thead>
<tr>
<th>Project Tasks</th>
<th>Start Date</th>
<th>End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Acquisition</td>
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<tr>
<td>Building Upgrades/Improvements</td>
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<td>9/1/2020</td>
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<tr>
<td>Utilities Upgrades</td>
<td>2/1/2020</td>
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<tr>
<td>Machinery/Equip Purchase &amp; Install</td>
<td>7/1/2020</td>
<td>10/1/2020</td>
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EXHIBIT B
Budget

Jurisdiction: CITY OF DAYTON
Project: EPIX TUBE

<table>
<thead>
<tr>
<th>Sources</th>
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<tbody>
<tr>
<td>ED/GE</td>
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<tr>
<td>Equity/Private Financing</td>
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<tr>
<td>City of Dayton</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>4,500,000</strong></td>
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<tbody>
<tr>
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<tr>
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<tr>
<td><strong>Total</strong></td>
<td><strong>4,500,000</strong></td>
</tr>
</tbody>
</table>

It is expressly understood by the Board and the Participant that the Board will reimburse to the Participant only $250,000, or 5.6% of total project cost, whichever is less. All costs, including those relating to salaries and benefits, shall be supported by documentation sufficient to support any claim for reimbursement under this Agreement.
Exhibit B

REQUEST FOR REIMBURSEMENT

DATE ___________  VENDOR/ORGANIZATION_________________________

AMOUNT REQUESTED ____________________

The above-named vendor/organization hereby submits this request for reimbursement. We have reviewed our agreement with the City of Dayton and believe our request meets the eligibility requirements for reimbursement as detailed below.

_____ The expenses for which reimbursement is sought or which, if applicable, comprise project costs that are the basis of calculating the Reimbursement Percentage, were actually incurred as established by the attached documentation. (In the case of improvements to real property, this would most likely be invoices and proof of payment (i.e. copy of cancelled check) for construction and/or equipment/materials. For professional services agreements, this would most likely be a list of activities performed and the hours and wages that correlate thereto.)

_____ The expenses were incurred and/or services were performed during the eligible time frame set forth in the agreement.

_____ The expenses were incurred for eligible activities as set forth in the agreement.

_____ Activity reports have been duly submitted to the Department of Economic Development if required. (This generally pertains to professional services agreements.)

_____ The project is “completed” if required. Evidence of completion of the project (photos, Certificate of Use and Occupancy, etc.) is attached hereto.

_____ Organization has met all job creation and retention requirements if applicable or is on track to meet such requirements. (Detail job creation and retention requirements and status thereof below if appropriate.)

ADDITIONAL INFORMATION:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

[Over]
For more information, please feel free to contact me unless another person is identified below.

Submitted by:

Signature: ____________________________

Title: ________________________________

Phone: ______________________________

Email: ______________________________

Alternative contact for further information if applicable:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
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RESOLUTION NO. 21-0163
FEBRUARY 9, 2021

RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT/GOVERNMENT EQUITY (ED/GE) AGREEMENT WITH CITY OF DAYTON, MONTGOMERY COUNTY, OHIO, FOR THE EPIX TUBE PROJECT, IN AN AMOUNT NOT TO EXCEED $250,000, OR 5.6% OF TOTAL PROJECT COST, WHICHEVER IS LESS. FUNDS IMPLEMENT A PROJECT FROM MONTGOMERY COUNTY'S PRIMARY ECONOMIC DEVELOPMENT FUND.

FUNDING SOURCE: PO# 000001579

WHEREAS, O.R.C. Section 307.07 grants the Board of County Commissioners of Montgomery County, Ohio, (the Board) the authority to create an Office of Economic Development and to become actively involved in the development and execution of economic development in Montgomery County, Ohio; and

WHEREAS, on June 4, 1991, the Board, pursuant to O.R.C. Section 307.07, did designate its Community and Economic Development Department as the Montgomery County Office of Economic Development and did appoint a Director of same; and

WHEREAS, on DECEMBER 17, 2019, by Resolution #19-1666, the Board awarded CITY OF DAYTON a distribution from the 2019 Primary Economic Development Fund not to exceed $250,000 or 5.6% of total project cost, to provide funding support for the EPIX TUBE Project.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Montgomery County, Ohio, that an Economic Development/Government Equity Program Project Agreement with CITY OF DAYTON, Montgomery County, Ohio for the EPIX TUBE Project, in an amount not to exceed $250,000 or 5.6% of total project cost, whichever is less, be and is hereby approved.

BE IT FURTHER RESOLVED that the Clerk of Commission certify this Resolution and make an imaged copy of this Resolution available on the Montgomery County, Ohio website at http://www.mcohio.org.
CERTIFICATE

Mrs. Lieberman moved the adoption of the foregoing resolution. It was seconded by Mrs. Rice, and upon call of the roll the following vote resulted:

Mrs. Lieberman, aye; Mrs. Rice, aye; Ms. Dodge, aye: Carried.

I hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the Board of County Commissioners of Montgomery County, Ohio, on the 9th day of February, 2021.

THE BOARD OF COUNTY COMMISSIONERS HEREBY FINDS AND DETERMINES THAT ALL FORMAL ACTIONS RELATIVE TO THE ADOPTION OF THIS RESOLUTION WERE TAKEN IN AN OPEN MEETING OF THIS BOARD OF COUNTY COMMISSIONERS, AND THAT ALL DELIBERATIONS OF THIS BOARD OF COUNTY COMMISSIONERS, AND OF ITS COMMITTEES, IF ANY WHICH RESULTED IN FORMAL ACTION, WERE TAKEN IN MEETINGS OPEN TO THE PUBLIC, IN FULL COMPLIANCE WITH APPLICABLE LEGAL REQUIREMENTS, INCLUDING SECTION 121.22 OF THE REVISED CODE.

Emily Bradford, Clerk
Board of County Commissioners
Montgomery County, Ohio
A RESOLUTION

Authorizing the City Manager to enter into an Intergovernmental Agreement between the City of Dayton and the Montgomery County, Ohio, and Declaring an Emergency.

WHEREAS, This Commission is committed to the welfare of the City of Dayton and the surrounding communities through the promotion of regional cooperation; and,

WHEREAS, The Board of Commissioners of Montgomery County, Ohio ("Board") desires to provide Two Hundred Fifty Thousand Dollars and Zero Cents ($250,000.00) to the Epix Tube - Dayton Project as part of local funding to enhance the local area's ability to compete successfully in a global economic marketplace by providing a significant fund of grant dollars to attract and retain jobs and tax base; and,

WHEREAS, The City of Dayton supports the project and believes it is in the best interest of the City of Dayton to enter into Intergovernmental Agreement regarding the grant funding being provided by Montgomery County; and,

WHEREAS, To provide for the timely acceptance of the grant funds and allow for the commencement of the projects, and for the immediate preservation of the public peace, property, health and safety, it is therefore necessary that this Resolution take effect at the earliest possible date; now, therefore,

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

Section 1. That the City Manager is authorized, on behalf of the City of Dayton, to execute any and all documents and agreements necessary to accept the funding awarded by the Board of County Commissioners of Montgomery County, Ohio for the following project(s) and in the following amount:

Epix Tube Co., Inc. $250,000.00
Section 2. That for the reasons stated in the preamble hereof, this Resolution is declared to be an emergency measure and shall take effect immediately upon its adoption.

ADOPTED BY THE COMMISSION ..........December 30, 2020

SIGNED BY THE MAYOR ..................December 30, 2020

[Signature]
Mayor of the City of Dayton, Ohio

Attest:

[Signature]
Clerk of the Commission

Approved as to form:

[Signature]
City Attorney
City Manager’s Report

From: 2390 - Planning, Neighborhoods & Dev. / Development (HUD programs)

Supplier, Vendor, Company, Individual

Name: Benevate, Inc. dba Neighborly

Address: 3423 Piedmont Road NE
Atlanta, GA 30305

Expense Type: Other, (See Description Below)

Total Amount: $6,750.00 (thru 05-30-2022)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Development Block Grant</td>
<td>26205-2390-1159-31</td>
<td>6,750.00</td>
</tr>
</tbody>
</table>

Includes Revenue to the City: Yes

Affirmative Action Program: Yes

Description:

Payment of Voucher for Benevate, Inc. dba Neighborly

The Department of Planning, Neighborhoods and Development (PND) Division of Development requests payment for a September 2021 invoice with Benevate, Inc. dba Neighborly. The Neighborly software system is used to manage the Community Development Block Grant competitive process, manage sub-recipient relationships, and ensure digital files are kept in accordance with Federal Housing and Urban Development (HUD) regulations. In prior years, the Neighborly subscription software was paid in advance every year.

The Division of Development received an invoice for five licenses from September 2021 to May 2022 for $150.00 per month, per license, totaling $6,750.00. The invoice was initially not processed because staff believed it had been processed by the previous Division Manager. After September 1, 2021 it was discovered that only six months were paid in 2020. PND staff are working to streamline processes and better track purchases to avoid payments of voucher in the future.

The funding source is Community Development Block Grant, in the Housing and Neighborhood Development Planning fund. We request that the City Commission approve this payment for the attached invoice.

A Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

FORM NO. MS-16

Updated 10/2019
**SECTION I - to be completed by User Department**

| X | No | Change Order |

**Contract Start Date**
09/01/21

**Expiration Date**
05/31/22

**Original Commission Approval**
$6,750.00

**Initial Encumbrance**
$6,750.00

**Remaining Commission Approval**

**Original CT/CF**

**Increase Encumbrance**

**Decrease Encumbrance**

**Attatch additional pages for more FOAPALs**

| Amount: | $6,750.00 |
| Fund Code | 26205 - 2390 - 1159 - 31 - XXXX - XXXX |
| Fund | Org | Acct | Prog | Act | Loc |
| Fund | Org | Acct | Prog | Act | Loc |
| Fund | Org | Acct | Prog | Act | Loc |
| Fund | Org | Acct | Prog | Act | Loc |

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

**Vendor Name:** Benevate, Inc. dba Neighborly

**Vendor Address:** 3423 Piedmont Road NE, Atlanta, GA 30305

**Federal ID:** 810880368

**Commodity Code:** 92045

**Purpose:** Subscription software licenses to support CDBG grant administration and project management.

This amount is for five licenses for nine months at $150.00 per month per license.

**Contact Person:** Hilary Browning x3754

**Planning, Neighborhoods & Development/Division of Development Department/Division:** 11/16/2021

**Originating Department Director's Signature:**

---

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

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

**Finance Director Signature**

**CF Prepared by**

**CF/CT Number**

**Date:** 11/30/21

**Date:** 11/22/21

**CF/CT Number:** CT21-3132

---

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**Finance Director Signature**

**CF Prepared by**

**CF/CT Number**

**Date:** 11/30/21

**Date:** 11/22/21

**CF/CT Number:** CT21-3132

---
November 16, 2021

TO: Shelley Dickstein, City Manager

FROM: Todd Kinskey, Director, Planning, Neighborhoods & Development

SUBJECT: Payment of Voucher for Benevate, Inc. dba Neighborly

The Department of Planning, Neighborhoods and Development (PND) requests payment for a September 2021 invoice with Benevate, Inc. dba Neighborly. Neighborly is a subscription software service used by the Division of Development to manage grant programs.

In prior years, Neighborly software licenses were pre-paid for a full year every year. Unbeknownst to current staff, licenses were prepaid for only 6 months in 2021 by the prior Division Manager. In September 2021, the Division of Development received an invoice for five licenses from September 2021 to May 2022 for $150.00 per month, per license. The invoice was not processed initially because staff believed the licenses had been paid in full, in accordance with previous practice. Ongoing staff turnover led to confusion about the status of the payments.

PND staff are working to streamline processes and create better tracking mechanisms to avoid this circumstance in future.

Budget authority in 2021 has been identified to pay for the invoice. Please do not hesitate to contact me with questions.

TK/hrb

C: Mr. Lipson, Ms. Geist, Ms. Browning
**Benevate**
3423 Piedmont Rd NE
Atlanta, GA 30305
sydney.maier@neighborlysoftware.com

**Invoice 2083**

**BILL TO**
City of Dayton, OH
Department of Planning and Community Development
Attn: Erin Jeffries
101 W. Third Street
Dayton, OH 45402

<table>
<thead>
<tr>
<th>DATE</th>
<th>ACTIVITY</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>06/01/2021</td>
<td>Recurring Software Fee</td>
<td>6,750.00</td>
</tr>
<tr>
<td></td>
<td>Neighborly Software recurring license fee</td>
<td></td>
</tr>
<tr>
<td></td>
<td>for five (5) licenses, paid annually in advance for</td>
<td></td>
</tr>
<tr>
<td></td>
<td>September 1, 2021 - May 31, 2022 at $150 per license per</td>
<td></td>
</tr>
<tr>
<td></td>
<td>month:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5 licenses x $150 per month x 9 months = $6,750</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(invoice split with #1847)</td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL DUE**

$6,750.00

THANK YOU.

---

PO/CT/CF/TR ORDER # APPROVED AMT
ACCOUNT DISTRIBUTION 0205-2390-1159 - 81
(Payment without order MUST have account codes)
DATE GOODS/SVCS REC'D September 21, 2021
FINAL PAY - YES/NO (Circle One)
DIVISION APPROVAL
DEPT APPROVAL
City Manager's Report

From 2390 - Planning & CD/Community Dev
Supplier, Vendor, Company, Individual
Name Benevate, Inc. dba Neighborly Software
Address 3423 Piedmont Rd., Suite 216
Atlanta, GA 30305

Date May 1, 2019
Expense Type Service Agreement
Total Amount $15,000.00 (thru 5/31/2020)

Fund Source(s)  Fund Code(s)  Fund Amount(s)
2019 Community Development Block Grant (CDBG)  26205-2390-1414-32  $15,000.00

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

Description
CDBG Service Agreement for Neighborly Software Implementation

The Department of Planning and Community Development requests approval to enter into a Software as a Service (SaaS) Service Agreement in the amount of $15,000.00 with Benevate, Inc. dba Neighborly Software. The Service Agreement will provide funds to implement Neighborly Software for the Community Development Block Grant (CDBG) Program, covering the implementation fee and one year of service fees for five administrative users. Neighborly Software is a grant management tool that aids in administration, compliance, and recordkeeping for U.S. Department of Housing and Urban Development grantees.

Funding for the Service Agreement comes from the 2019 CDBG administration allocation. The IT Governance Board granted approval to utilize this software through the 2019 budget process.

The Service Agreement shall commence upon execution by the City and shall terminate on May 31, 2020.

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

A Certificate of Funds is attached.

Signatures/Approval

Division

Department

City Manager
FORM NO. MS-16

Approved by City Commission

Clerk

Date

May 1, 2019

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

Renewal Contract

Change Order:

Contract Start Date: Execution by the City: 05/31/20

Expiration Date: 05/31/20

Original Commission Approval: $15,000.00

Initial Encumbrance: $15,000.00

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: $15,000.00

Fund Code: 26205 - 2390

Org: 1414

Acct: 32 - XXXX - XXXX

Prog: XXXX - XXXX - XXXX

Act: XXXX - XXXX - XXXX

Loc: XXXX - XXXX - XXXX

Amount:

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

Org: XXXX - XXXX - XXXX

Acct: XXXX - XXXX - XXXX

Prog: XXXX - XXXX - XXXX

Act: XXXX - XXXX - XXXX

Loc: XXXX - XXXX - XXXX

Vendor Name: Renevate, Inc. dba Neighborly Software

Vendor Address: 3423 Piedmont Rd., Suite 216, Atlanta, GA 30305

Street: City

State: Zipcode + 4

Federal ID: 810880368

Commodity Code: 92099

Purpose: The Software as a Service (SaaS) Service Agreement with Renevate, Inc. dba Neighborly Software covers the start-up implementation fees and annual service fees for five administrative users for implementation of the Neighborly Software for the Community Development Block Grant (CDBG) Program.

Contact Person: Erin Jeffries

PCD/Community Development: 4/17/2019

Department/Division: Date

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: 4-22-19

Finance Department:

CF Prepared by: [Signature]

Date: 4/22/19

CT19-2280

Date: CT19-2280

CF/CT Number:

October 18, 2011
August 19, 2019

TO: City Commission Office
    Shelley Dickstein, City Manager
    Department of Finance

FROM: Erin M. Jeffries, Division Manager - Community Development
      Department of Planning and Community Development

SUBJECT: Request for Signature – CDBG Service Agreement for Neighborly Software Implementation

Attached for your review and signature are four (4) originals of the CDBG Service Agreement for Neighborly Software Implementation between the City of Dayton and Benevate, Inc., dba Neighborly Software.

This Service Agreement provides $15,000.00 in 2019 CDBG funds to implement Neighborly Software for the CDBG Program, covering the implementation fee and one year of service fees for five administrative users. Neighborly Software is a grant management tool that aids in administration, compliance, and recordkeeping for HUD grantees.

The City Commission granted authorization for execution of this Agreement on May 1, 2019, by the City Manager's Report, Calendar Item #2.

This Agreement has been reviewed by this office and is ready for your signature.

Please contact me at extension 3863 with any questions. Thank you.

APPROVED:

[Signature]

Todd M. Kinskey, Director
Department of Planning and Community Development

EMJ/
Attachment

C: Project File
**BENEVATE INC. (dba NEIGHBORLY SOFTWARE) SAAS SERVICES ORDER FORM**

<table>
<thead>
<tr>
<th>Customer: City of Dayton, OH</th>
<th>Contact: Erin Jeffries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address: 101 W. Third Street I Dayton, Ohio 45402</td>
<td>Phone: (937) 333-3863</td>
</tr>
<tr>
<td>Services: Company will use commercially reasonable efforts to provide Customer the services described in the Services Statement of Work (&quot;SOW&quot;) attached as Exhibit A hereto (the &quot;Services&quot;).</td>
<td></td>
</tr>
<tr>
<td>Services Fees: $9,000 per year, payable annually in advance, subject to the terms of Section 4 and Per User Pricing attached as Exhibit D hereto.</td>
<td>Initial Service Term: One year from Effective Date</td>
</tr>
<tr>
<td>Implementation Services: Company will use commercially reasonable efforts to provide Customer the services described in the Implementation Services Statement of Work attached as Exhibit C hereto (&quot;Implementation Services&quot;), and Customer shall pay Company the Implementation Fee at Effective Date.</td>
<td></td>
</tr>
<tr>
<td>Implementation Fee (one-time): $6,000</td>
<td></td>
</tr>
</tbody>
</table>

**SAAS SERVICES AGREEMENT**

This SaaS Services Agreement ("Agreement") is entered into on this 27th day of Aug 2019 (the "Effective Date") between Benevate Inc with a place of business at 3423 Piedmont Rd. NE, Suite 216, Atlanta, GA 30305 ("Company"). and the Customer listed above ("Customer"). This Agreement includes and incorporates the above Order Form, as well as the attached Terms and Conditions and contains, among other things, warranty disclaimers, liability limitations and use limitations. There shall be no force or effect to any different terms of any related purchase order or similar form even if signed by the parties after the date hereof.

**BENEVATE Inc.:**

By: [Signature]
Name: J. Jason Rusnak
Title: President, Benevate Inc

**CITY OF DAYTON, OH:**

By: [Signature]
Name: Shelley Dickstein
Title: City Manager

**APPROVED AS TO FORM AND CORRECTNESS**

[Signature]
City Attorney

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

[Signature]
May 20, 2019
Min. Book 15, Page 0542
Clerk of the Commission
1. **SAAS SERVICES AND SUPPORT**

1.1 Company will use commercially reasonable efforts to provide Customer the services described in the Statement of Work ("SOW") attached as Exhibit A hereto.

1.2 Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Customer the Services as described in accordance with the Service Level Terms attached hereto as Exhibit B.

2. **RESTRICIONS AND RESPONSIBILITIES**

2.1 Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to the Services ("Software"); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by Company or authorized within the Services); use the Services or any Software for timesharing or service bureau purposes.

2.2 Customer represents, covenants, and warrants that Customer will use the Services in compliance with all applicable laws and regulations. Customer hereby agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys’ fees) in connection with any claim or action that arises from an alleged violation of the foregoing.

2.3 Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment").

3. **CONFIDENTIALITY; PROPRIETARY RIGHTS**

3.1 Each party (the “Receiving Party”) understands that the other party (the “Disclosing Party”) has disclosed or may disclose, to the extent allowable under Ohio law, business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “Proprietary Information” of the Disclosing Party). Proprietary Information of Company includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Customer includes non-public data provided by Customer to Company to enable the provision of the Services (“Customer Data”). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use or divulge to any third person any such Proprietary Information.

3.2 Customer shall own all right, title and interest in and to the Customer Data, as well as any data that is based on or derived from the Customer Data and provided to Customer as part of the Services.

3.3 Company shall own and retain all right, title and interest in and to (a) the Services and Software, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with Implementation Services or support, and (c) all intellectual property rights related to any of the foregoing.

3.4 Notwithstanding anything to the contrary, Company shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Company will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business.

4. **PAYMENT OF FEES**

4.1 Customer will pay Company the then applicable fees described in the Order Form for the Services and Implementation Services in accordance with the terms therein (the “Fees”). Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Service Term.

4.2 Company may choose to bill through an invoice, in which case, full payment for invoices must be received by Company thirty (30) days after the mailing date of the invoice. The fees do not include any taxes, including, without limitation, sales, use or excise tax. If Customer is a tax-exempt entity, you agree to provide Company with a tax exempt certificate. Otherwise, Company will pay all applicable taxes to the proper authorities and Customer will reimburse Company for such taxes. If Customer has a valid direct-pay permit, you agree to provide us with a copy. For clarity, Company is responsible for paying Company’s income taxes, both federal and state, as applicable, arising from Company’s performance of this Agreement.

4.3 The parties acknowledge that appropriation of funds is a governmental function which the Customer cannot contractually commit itself in advance to perform and this Agreement does not constitute such commitment. The Customer’s obligation to pay under this Agreement is contingent upon Customer’s annual appropriation of funds for such purpose, and the non-appropriation of funding for such purpose in any fiscal year shall immediately relieve both parties of their respective obligations hereunder, as of the last day for which funds have been appropriated. The Customer shall endeavor, upon determining that sufficient funds will not be budgeted and appropriated in any fiscal year under this.
Agreement, to provide prompt written notice within 30 days of such event.

5. TERM AND TERMINATION

5.1 Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the Order Form.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days’ notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided.

5.3 Upon the termination of this Agreement Company shall, within five (5) business day following the termination of this Agreement, provide Customer, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Service Provider), with a final extract of the Customer Data in electronic format. Further, Company shall certify to Customer the destruction of any Customer Data within the possession or control of Company, but such destruction shall occur only after the Customer Data has been returned to Customer. This Section shall survive the termination of this Agreement.

6. WARRANTY AND DISCLAIMER

Company shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Implementation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Company or by third-party providers, or because of other causes beyond Company’s reasonable control, but Company shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

HOWEVER, COMPANY DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED “AS IS” AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7. INDEMNITY

Company shall hold Customer harmless from liability to third parties resulting from infringement by the Service of any United States patent or any copyright or misappropriation of any trade secret, provided Company is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement; Company will not be responsible for any settlement it does not approve in writing.

8. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON OR PROPERTY DAMAGE, COMPANY AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND COMPANY’S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. INSURANCE

9.1 During the course of performing services under this Agreement, Company agrees to maintain the following levels of insurance: (a) Commercial General Liability of at least $1,000,000; (b) Professional Liability (E&O) of at least $1,000,000; (c) Cyber Liability of at least $1,000,000; and (d), Workers Compensation complying with applicable statutory requirements. Company will add Customer as an additional insured, primary and noncontributory, to our Commercial General Liability policy. Company will provide Customer with copies of certificates of insurance upon Customer’s written request.

10. MISCELLANEOUS

10.1 If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

10.2 This Agreement is not assignable, transferable or sublicensable by Customer except with Company’s prior written
consent. Company may transfer and assign any of its rights and obligations under this Agreement without consent.

10.3 This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein.

10.4 No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Company in any respect whatsoever.

10.5 All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

10.6 Company may use Customer’s name and logo in a list of customers section on its website.

10.7 This Agreement shall be governed and construed in all respects in accordance with the laws of the State of Ohio.

10.8 The parties hereby agree that at all times, Company shall be an Independent Contractor and not subject to control by the Customer, except as provided herein. As an Independent Contractor, the parties hereby agree that the relationship between the parties shall not be held out or construed as employer-employee, joint-venture, or principal-agent. Neither party shall act or represent itself in such a manner as to assume or create any obligation on behalf of, or in the name of the other party, without the prior written and express authority to do so by a duly authorized representative of the other party. Company understands and agrees that any and all persons retained or hired to perform the duties and responsibilities under this Agreement are not Customer employees, and not entitled to any of the emoluments of Customer employment, including for the purposes of Ohio Employee Retirement System membership. Further, the Company shall be responsible for paying such agents, contractors, and subcontractors, withholding from their pay, all local, state and federal taxes, and Workers Compensation Insurance.

10.9 Company will, in all solicitations or advertisements for employees placed by or on behalf of Company, state that it is an Equal Opportunity or Affirmative Action employer. 10.10 Non-Discrimination: Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off determination, rates of pay or other forms of compensation, or selection for training, including apprenticeship.

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

10.11 Company affirms and certifies that it is in compliance with Ohio Revised Code §3517.13 limiting political contributions.
EXHIBIT A

Services Statement of Work

1. SaaS Services Description. Company will provide Customer with hosted software for the enrollment, qualification, administration and reporting of the following activities:
   a. Public Facilities
   b. Property Demolition
   c. Public Services / Economic Development
   d. Housing Rehabilitation

   Company will make available to Customer all updates, and any documentation for such updates, to the Services. Company will ensure that (i) new features or enhancements to existing features are synchronized with the previous version, and (ii) updates will not degrade the performance, functionality, or operation of the Services.

2. Training Services. Company will conduct one (1) eight (8) hour training session, which may be recorded by Customer. The purpose of the training sessions is to familiarize administrator personnel with the workflow and functionality of hosted software.

3. Technical Support. Company will provide Technical Support to Customer via electronic mail on weekdays during the hours of 9:00 am through 5:00 pm Eastern time, with the exclusion of Federal Holidays (“Support Hours”). Customer may initiate a helpdesk ticket during Support Hours by emailing support@neighborlysoftware.com. Company will use commercially reasonable efforts to respond to all Helpdesk tickets within one (1) business day.

4. Data Storage. Company agrees that any and all Customer data will be stored, processed, and maintained solely in data centers located in the United States.

5. Backup and Recovery of Customer Data. As a part of the Services, Company is responsible for maintaining a backup of Customer Data and for an orderly and timely recovery of such data in the event that the Services may be interrupted. Company shall maintain a contemporaneous backup of Customer Data that can be recovered within four (4) hours at any point in time.

6. Loss of Data. In the event of any act, error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of Customer Data or the physical, technical, administrative, or organizational safeguards put in place by Company that relate to the protection of the security, confidentiality, or integrity of Customer Data, Company shall, as applicable: (a) notify Customer as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with Customer in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by Customer; (c) in the case of Personally Identifiable Information (PII), at Customer’s sole election, (i) notify the affected individuals who comprise the PII as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for six (6) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; Notification to affected individuals, as described above, shall comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Company’s representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Company has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Company. This Section shall survive the termination of this Agreement.
EXHIBIT B

Service Level Terms

The Services shall be available 99.5%, measured monthly, excluding holidays and scheduled downtime. Further, any downtime resulting from outages of third party connections or utilities or other reasons beyond Company’s control will also be excluded from any such calculation. Customer's sole and exclusive remedy, and Company's entire liability, in connection with Service availability shall be a “Performance Credit.”

1) Definitions.

(a) “Actual Uptime” shall mean the total minutes in the reporting month that the Services were actually available for normal use.

(b) "Maintenance Window" shall mean the total minutes in the reporting month represented by the following day(s) and time(s) during which Company shall maintain the Services: Tuesday, Thursday, Saturday 11pm-3am ET.

(c) “Scheduled Downtime” shall mean the total minutes in the reporting month represented by the Maintenance Window.

(d) “Scheduled Uptime” shall mean the total minutes in the reporting month less the total minutes represented by the Scheduled Downtime.

2) Calculation. (Actual Uptime / Scheduled Uptime) * 100 = Percentage Uptime (as calculated by rounding to the second decimal point)

3) Performance Credit. Performance credits may not be redeemed for cash and will only apply a credit to the month in which the incident occurred.

(a) Where Percentage Uptime is equal to or greater than 99.5%, no Performance Credit will be due to Customer.

(b) Where Percentage Uptime is less than 99.5%, Customer shall be due a Performance Credit in the amount of 5% of the Services Fees (as calculated on a monthly basis for the reporting month)
EXHIBIT C

Implementation Services Statement of Work

This Implementation Services Statement of Work describes the Services to be performed, and Deliverables to be provided, by Company in completion and satisfaction of the Implementation Services.

1) **Company Key Roles.** Company will assign an Engagement Manager who will be Customer’s primary contact person and who will coordinate all the activities of the Implementation team.

2) **Customer Key Roles.** Customer will assign a person to be the focal point to coordinate the user and technical support and resources needed for the implementation, and to be responsible for approvals and decisions. This person will coordinate data collection and reconciliation, review each stage of the implementation process, and provide end-user involvement with systems and user acceptance training. Schedule and cost estimates assume that personnel acting in the roles noted above to be reasonably and readily available to the Company team as needed throughout the project. Additionally, all approvals and decisions are made within a reasonable time period.

3) **Implementation Steps.** The following are the general steps which make up the implementation process:
   - Kickoff meeting
   - Program Design and Documentation
   - System Configuration and Signoff
   - Data Review and Validation
   - Administrator Training
   - Historical Data Collection (if applicable)

4) **Implementation Deliverables.** The following are the items that will be delivered as part of implementation:
   a. Program Design and Documentation
      - List of all documents to be uploaded into the system as part of the Program
      - List of all documents to be generated by the system as part of the Program
   b. System Configuration
      - Create Administrator accounts in the system
      - Configure Customer enrollment application in the system
      - Configure Customer specific approvals and workflow in the system, including up to thirty (30) documents/images to be uploaded
      - Configure up to ten (10) program documents to be generated by system
   c. Data Review and Validation
      - Provide up to five (5) business days for Customer to test and validate system data and configuration
   d. Administrator Training
      - Conduct one (1) eight (8) hour training session, which may be recorded by Customer.
   e. Historical data conversion
      - Upload Customer historical “active” data (i.e. outstanding loans, grants, etc.) to be provided by Customer in an electronic format specified by Company and no cost is associated with this conversion

5) **Customer Responsibilities**
   a. Design and approve data elements, program workflow, and eligibility criteria
   b. Identify all program documents required to be stored in the system
   c. Identify all program documents to be generated by the system
   d. Provide historical data in electronic format specified by Company
   e. Test and approve system configuration
   f. Provide final sign-off that the system meets all requirements (“Go Live”) 
   g. Participate in administrator training session
EXHIBIT D

Per User Pricing

Additional user licenses may be purchased, pro-rata to the Initial Service Term, based on the pricing table below.

<table>
<thead>
<tr>
<th>Per User Description</th>
<th>Per User Per Month Pricing</th>
<th>Number of Users Included in Order Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Full User License – Ability to create and edit data records, run reports, and generate program documents.</td>
<td>1-10 Users $150*</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>11-20 Users $125</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>21+ Users $75</td>
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</tr>
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</table>

*Note: City of Dayton is receiving an early adopter discount for Ohio equal to $25 off annual recurring fees per administrative user (e.g. Full User License) for the life of the relationship.
City Manager’s Report

Date December 1, 2021
Expense Type Payment of Voucher
Total Amount $9,979.88 Through 12/31/2021

6530 - RYS/Programs
Supplier, Vendor, Company, Individual
Gordon Food Service Inc.
Dept CH 10490
Palatine, IL 60065-0490

Fund Source(s)  Fund Code(s)  Fund Amount(s)
General Fund  10000-6530-1301-56  $9,979.88

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

Description

Payment of Voucher - Gordon Food Service Inc.

The Department of Recreation (REC) requests a Payment of Voucher in the amount of Nine Thousand, Nine Hundred Seventy Nine Dollars and Eighty Eight Cents ($9,979.88) from budgeted funds to pay a 2021 invoice with Gordon Food Services for the purchase of candy for our 2021 Fall Harvest drive through event, which was held on Sunday, October 31, 2021.

Currently, the Department of Recreation has two team members primarily responsible for carrying out our administrative functions, which include facilitation of procurement and payment for goods and services. During the processing timeframe for this encumbrance, both of our administrative team members contracted the Covid-19 virus and were out on leave for approximately three weeks. This required other team members within the department to process these administrative tasks.

Per the City’s processes, the purchase order for this encumbrance posted to our Banner system on October 21, 2021, and the Department of Recreation was notified it was submitted to the Department of Finance for final approval. Our team acted in good faith, believing the normal process for the purchase order had occurred. This purchase was made on October 27, 2021, before final approval of the purchase order. Due to the aforementioned circumstances, this purchase was made without prior approval, causing this Payment of Voucher.

The Department of Recreation is training additional team members and establishing a third level of back-up for administrative tasks, to ensure this does not occur in the future.

A Certificate of Funds in the amount of $9,979.88 is attached.

Signature/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

<table>
<thead>
<tr>
<th></th>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
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<tbody>
<tr>
<td>Contract Start Date</td>
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<tr>
<td>Expiration Date</td>
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<td></td>
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<td>Original Commission Approval</td>
<td>$</td>
<td>-</td>
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<tr>
<td>Initial Encumbrance</td>
<td>$ 9,979.88</td>
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<tr>
<td>Remaining Commission Approval</td>
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</table>

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

<table>
<thead>
<tr>
<th>Amount:</th>
<th>$ 9,979.88</th>
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<tr>
<td>Fund Code</td>
<td>10000 - 6530 - 1301 - 55 - XXX - XXXX</td>
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<td>revelations</td>
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<tr>
<td>Fund Code</td>
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Attach additional pages for more FOAPALs

Vendor Name: Gordon Food Service Inc.
Vendor Address: Dept CH 10490 Palatine, IL 60055-0490
Federal ID: 381249848
Commodity Code: 39334
Purpose: Fall Harvest candy 2021.

Contact Person: Tay Rakestraw
RYS/Recreation Department/Division 11/15/2021
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
Date 11/19/21

CF Prepared by
Date 11/19/21

Finance Department
October 18, 2011
<table>
<thead>
<tr>
<th>ITEM</th>
<th>BRAND</th>
<th>DESCRIPTION</th>
<th>INNER PACK</th>
<th>PACK</th>
<th>PRICE</th>
<th>QTY</th>
<th>EXT. PRICE</th>
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<tbody>
<tr>
<td>244711</td>
<td>Welch's</td>
<td>Snacks, Fruit, Chewy, Single-Serve, 0.9 Ounce Location: Aisle 3</td>
<td>40 Count Box</td>
<td>6/Case</td>
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<td>840810</td>
<td>Tootsie Roll</td>
<td>Lollipops, Caramel Apple Location: Aisle 3</td>
<td>48 Each Box</td>
<td>12/Case</td>
<td>$97.99</td>
<td>11</td>
<td>$1,077.89</td>
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<td>312703</td>
<td>Darlington</td>
<td>Cookies, Chocolate Chip, Soft, Shelf-Stable, Individually Wrapped</td>
<td>0.75 Ounce Each</td>
<td>210/Case</td>
<td>$50.99</td>
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<td>$611.88</td>
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<tr>
<td>875960</td>
<td>Nestle</td>
<td>Candy Bars, Assorted, Minature Location: Aisle 3</td>
<td>40 Ounce Bag</td>
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<td>284581</td>
<td>Austin</td>
<td>Crackers, Zoo, Animal, 2 Ounce Location: Aisle 3</td>
<td>36 Count Box</td>
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<td>536321</td>
<td>Tootsie Roll</td>
<td>Candy, Child's Play Location: Aisle 3</td>
<td>3.5 Pound Bag</td>
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<td>881146</td>
<td>Hershey's</td>
<td>Candy, Assorted Chocolate Bars, Miniatures, Party Pack Location: Aisle 3</td>
<td>35.9 Ounce Bag</td>
<td>9/Case</td>
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<td>881072</td>
<td>Hershey's</td>
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<td>31.5 Ounce Bag</td>
<td>9/Case</td>
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<td>$989.10</td>
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<td>112150</td>
<td>Tootsie Roll</td>
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<td>100 Count Box</td>
<td>10/Case</td>
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<td>$404.70</td>
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<td>879432</td>
<td>Reese's</td>
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<td>35.6 Ounce Bag</td>
<td>9/Case</td>
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<td>$98.91</td>
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<tr>
<td>ITEM</td>
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<td>INNER PACK</td>
<td>PACK</td>
<td>PRICE</td>
<td>QTY</td>
<td>QTY PRICE</td>
</tr>
<tr>
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<tr>
<td>235051</td>
<td>Starburst</td>
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<td>777201</td>
<td>Dum Dum</td>
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<td>Twix</td>
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<td></td>
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<td>$0.31/oz</td>
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</table>