CITY COMMISSION MEETING AGENDA

CITY COMMISSION	DAYTON, OHIO	MARCH 10, 2021

8:30 A.M.

I. AGENDA SCHEDULE

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

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

   AVIATION
   1. Davies Imperial Coating, Inc. (airport field and runway paint as needed through 12-31-23) $110,000.00
1. (Cont’d):

**FIRE**

B1. **PH & S Products LLC** (EMS gloves as needed through 12-31-21) $20,000.00

**PUBLIC WORKS**

C1. **Ozark Materials LLC** (roadway paint as needed through 12-31-23) $116,081.00
C2. **Potters Industries, Inc.** (free flow drop-on glass beads as needed through 12-31-23) 43,520.00
C3. **Garlands/DBS, Inc.** (roof repair and replacement including removal and installation services)-PO21071 $183,674.00
C4. **Garlands/DBS, Inc.** (roof repair and replacement including removal and installation services)-PO210712 175,292.00
C5. **Henderson Products, Inc.** (dump body deice equipment and installation services for the snowplow truck chassis) 107,998.00
C6. **Jack Doheny Companies, Inc., dba Jack Doheny Company** (one Elgin brand street cleaner) 227,452.00
C7. **Truck Country of Indiana, Inc., Stoops Western Star of Ohio** (one truck chassis) 91,780.00

**WATER**

D1. **HMS Industries LLC** (bearings, belts, gearboxes and related items as needed through 12-31-24) 44,000.00
D2. **iVideo Technologies LLC** (replacement of existing audio and video equipment systems) 64,051.20
D3. **Motion Industries, Inc.** (bearings, belts, gearboxes and related items as needed through 12-31-24) 44,000.00
D4. **Accelerated Technology Laboratories, Inc.** (annual maintenance and support services renewal agreement for laboratory equipment as needed through 12-31-21) 16,020.00

-Depts. of Aviation, Fire, Public Works, and Water. **Total: $1,243,868.20**

2. **Pure Technologies US Inc./dba Wachs Water Services – Service Agreement – 2021 Large Valve Rehabilitation Professional Services Agreement (10%SBE Goal/10% SBE Achieved) – Water/Water Engineering $1,300,000.00 (Thru 12/31/22)
   $250,000.00  
   (Thru 12/31/22)

B. **Construction Contracts:**

4. **L.J. DeWeese Co., Inc. – Award of Contract** – Salem Avenue Reconstruction Phase I (8% DBE Participation Goal/8% DBE Participation Achieved) (Federal STP Funds) (State Issue I Funds) – Dept. of Public Works/Civil Engineering  
   $2,090,223.00  
   (Thru 11/19/23)

E. **Other – Contributions, Etc.:**

5. **St. Vincent de Paul Social Services, Inc. – Other** – for the 2020 Emergency Solutions Grant.  
   $303,740.40  
   (Thru 06/30/21)

   N/A

7. **Webster 2021, LLC DBA Norwood Tool Company – Other** – for an Enterprise Zone Agreement for 2017 Webster Street - Dept. of Economic Development.  
   N/A

IV. **LEGISLATION:**

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

8. **No. 31872-21** Authorizing the City Manager to Execute a Real Estate Sale Contract, Authorizing the Conveyance of Real Property and, Declaring an Emergency.
Emergency Resolution - First and Second Reading:

9. No. 6565-21 Authorizing the Acceptance of a 2021 Childhood Obesity Prevention/Environmental Health and Sustainability Award from United States Conference of Mayors (“USCM”) and the American Beverage Foundation for a Healthy America (“ABFHA”) in the Amount of Fifty Thousand Dollars and Zero Cents ($50,000.00) on Behalf of the City of Dayton; and, Declaring an Emergency.

Ordinance – Second Reading:

10. No. 31871-21 To vacate the Alley East of Brown Street from Wyoming Street to the North Property Line of City Lot #84003.

VI. MISCELLANEOUS:

ORDINANCE NO. 31873-21
RESOLUTION NO. 6566-21
IMPROVEMENT RESOLUTION NO. 3599-21
INFORMAL RESOLUTION NO. 985-21
City Manager’s Report

Date March 10, 2021
Expense Type Purchase Order
Total Amount $1,243,868.20

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

2021 Purchase Orders

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

Includes Revenue to the City ☐ Yes ☑ No

Affirmative Action Program ☑ Yes ☐ No ☑ N/A

Description

AVIATION

(A1) P0210687 – DAVIES IMPERIAL COATINGS, INC., HAMMOND, IN

- Airfield and runway paint as needed through 12/31/2021.
- These goods are required to mark airfields and runways at Department of Aviation facilities.
- Twenty (20) possible vendors were solicited and six (6) bids were received. This order establishes a price agreement per IFB 21002D with pricing through 12/31/2023.
- The Department of Aviation requests additional authority of $80,000.00 through 12/31/2023.
- The Department of Aviation recommends acceptance of the low bid meeting specifications.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<td>$30,000.00</td>
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<tr>
<td>2022</td>
<td>DIA Airport Operations</td>
<td>51000-3221-1301-43</td>
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<tr>
<td>2023</td>
<td>DIA Airport Operations</td>
<td>51000-3221-1301-43</td>
<td>$40,000.00</td>
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</tbody>
</table>

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 06/2016
FIRE

(B1) P0210418 – PH & S PRODUCTS LLC, MINERVA, OH
- EMS gloves as needed through 12/31/2021.
- These goods are required to protect Fire and EMS working while in the line of duty.
- PH&S Products LLC has been chosen as an extension of their price agreement due to availability during this time of extreme volatility in the glove market; therefore, this purchase was negotiated.
- This amendment increases the previously authorized amount of $8,000.00 by $20,000.00 for a total not to exceed $28,000.00 and therefore requires City Commission approval.
- The Department of Fire recommends 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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<tbody>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6330-1301-71</td>
<td>$20,000.00</td>
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</table>

PUBLIC WORKS – CIVIL ENGINEERING

(C1) P0210685 – OZARK MATERIALS LLC, GREENVILLE, AL
- Roadway paint as needed through 12/31/2021.
- These goods are required to mark roadways throughout the City.
- Twenty (20) possible vendors were solicited and six (6) bids were received. This order establishes a price agreement per IFB 21002D with pricing through 12/31/2023.
- The Department of Public Works requests additional authority of $80,000.00 through 12/31/2023.
- The Department of Public Works recommends acceptance of the low bid meeting specifications.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<td>2021</td>
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<td>2023</td>
<td>Street Maintenance</td>
<td>21000-6450-1301-54</td>
<td>$40,000.00</td>
</tr>
</tbody>
</table>

(C2) P0210686 – POTTERS INDUSTRIES, INC., MALVER, PA
- Free flow drop-on glass beads as needed through 12/31/2021.
- These goods are required to mark roadways throughout the City.
- Eleven (11) possible vendors were solicited and three (3) bids were received. This order establishes a price agreement per IFB 21001D with pricing through 12/31/2023.
- The Department of Public Works requests additional authority of $30,000.00 through 12/31/2023.
- The Department of Public Works recommends acceptance of the low bid.

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<thead>
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<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<td>2022</td>
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<tr>
<td>2023</td>
<td>Street Maintenance</td>
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<td>$15,000.00</td>
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</tbody>
</table>
PUBLIC WORKS – PROPERTY MANAGEMENT

(C3) P0210711 – GARLAND/DBS, INC., CLEVELAND, OH
- Roof repair and replacement including removal and installation services.
- These goods and services are required to replace roofing at Lohrey Recreation Center.
- Rates are in accordance with the public, cooperative bid established with the US Communities Master Intergovernmental Cooperative Purchasing Agreement (MICPA) Contract #PW1925.
- The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
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<tr>
<td>2021</td>
<td>Facility Improvements</td>
<td>40003-6480-1425-54</td>
<td>$183,674.00</td>
</tr>
</tbody>
</table>

(C4) P0210712 – GARLAND/DBS, INC., CLEVELAND, OH
- Roof repair and replacement including removal and installation services.
- These goods and services are required to replace roofing at Fire Station 16.
- Rates are in accordance with the public, cooperative bid established with the US Communities Master Intergovernmental Cooperative Purchasing Agreement (MICPA) Contract #PW1925.
- The Department of Public Works recommends 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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</table>

PUBLIC WORKS – STREET MAINTENANCE

(C5) P0210694 – HENDERSON PRODUCTS, INC., BUCYRUS, OH
- Dump body, deice equipment and installation services for the snowplow truck chassis.
- These goods and services are required to upfit snowplow truck chassis with deice equipment.
- Rates are in accordance with the Sourcewell Contract #080818-HPI.
- The Department of Public Works recommends approval of this order.

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<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
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<td>2021</td>
<td>Capital Equipment</td>
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<td>$107,998.00</td>
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</table>

(Operating)
PUBLIC WORKS – STREET MAINTENANCE (CONTINUED)

(C6)  P0210655 – JACK DOHENY COMPANIES, INC., dba JACK DOHENY COMPANY, NORTHVILLE, MI
• One (1) Elgin brand street cleaner.
• This good is required to maintain City streets.
• Rates are in accordance with the State of Ohio Term Schedule Contract #800775 and Index #STS235.
• The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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</tbody>
</table>

(C7)  P0210695 – TRUCK COUNTRY OF INDIANA, INC., STOOPS WESTERN STAR OF OHIO, WAPAKONETA, OH
• One (1) truck chassis.
• This good is required for the snowplow truck.
• Rates are in accordance with the Ohio Department of Transportation (ODOT) Contract #023-21.
• The Department of Public Works recommends approval of this order.

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<thead>
<tr>
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<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021</td>
<td>Capital Equipment</td>
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<td></td>
<td>(Operating)</td>
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</tbody>
</table>

WATER – WATER RECLAMATION

(D1)  P0210691 – HMS INDUSTRIES LLC, WESTLAKE, OH
• Bearings, belts, gearboxes and related items as needed through 12/31/2021.
• These goods are required to maintain and repair equipment.
• Twelve (12) possible vendors were solicited and seven (7) responses were received. This order establishes a price agreement per IFB S21006 with pricing through 3/31/2025.
• The Department of Water requests additional authority of $33,000.00 through 12/31/2024.
• The Department of Water recommends acceptance of the low bid(s). Multiple awards are recommended to ensure ongoing competition and supply availability.

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>2021</td>
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<td>$11,000.00</td>
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<td>2022</td>
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<td>$11,000.00</td>
</tr>
<tr>
<td>2023</td>
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<td>$11,000.00</td>
</tr>
<tr>
<td>2024</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1301-54</td>
<td>$11,000.00</td>
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</table>
WATER – WATER RECLAMATION (CONTINUED)

(D2) P0210696 – iVIDEO TECHNOLOGIES LLC, STRONGSVILLE, OH

- Replacement of existing audio and video equipment systems.
- These goods and services are required to replace obsolete equipment in Water Reclamation’s conference room.
- Rates are in accordance with the State of Ohio Term Schedule Contract #800821 and Index #STS581.
- The Department of Water recommends approval of this order.

<table>
<thead>
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<td>$64,051.20</td>
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</table>

(D3) P0210690 – MOTION INDUSTRIES, INC., DAYTON, OH

- Bearings, belts, gearboxes and related items as needed through 12/31/2021.
- These goods are required to maintain and repair equipment.
- Twelve (12) possible vendors were solicited and seven (7) responses were received. This order establishes a price agreement per IFB S21006 with pricing through 3/31/2025.
- The Department of Water requests additional authority of $33,000.00 through 12/31/2024.
- The Department of Water recommends acceptance of the low bid(s). Multiple awards are recommended to ensure ongoing competition and supply availability.

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<td>Sanitary Sewer Operating</td>
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<td>$11,000.00</td>
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<tr>
<td>2022</td>
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<td>$11,000.00</td>
</tr>
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<tr>
<td>2024</td>
<td>Sanitary Sewer Operating</td>
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<td>$11,000.00</td>
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</table>

WATER – WATER SUPPLY AND TREATMENT

(D4) P0210603 – ACCELERATED TECHNOLOGY LABORATORIES, INC., WEST END, NC

- Annual maintenance and support services renewal agreement for laboratory equipment as needed through 12/31/2021.
- These services are required for Water Supply and Treatment laboratories for dial in remote support, user support website and product upgrades.
- Accelerated Technology Laboratories, Inc. is recommended as the Original Equipment Manufacturer (OEM) and sole provider of this maintenance service program; therefore, this purchase was negotiated.
- The Department of Water recommends approval of this order.

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<thead>
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<th>Fund Amount(s)</th>
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<tr>
<td>2021</td>
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<td>$16,020.00</td>
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</table>

The aforementioned departments recommend approval of these orders.
City Manager’s Report

From 3420- Water/Water Engineering
Supplier, Vendor, Company, Individual
Name Pure Technologies US Inc./dba Wachs Water Services
Address 8920 State Route 108, Suite D Columbia, MD 21045

Date March 10, 2021
Expense Type Service Agreement
Total Amount $1,300,000.00 (thru 12/31/2022)

<table>
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<th>Fund Source(s)</th>
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<tr>
<td>2021 Water Capital Funds</td>
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<td>$100,000.00</td>
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Includes Revenue to the City □ Yes ☑ No
Affirmative Action Program □ Yes ☑ No ☑ N/A

Description

2021 LARGE VALVE REHABILITATION PROFESSIONAL SERVICES AGREEMENT
(10% SBE GOAL/ 10% SBE ACHIEVED)

The Department of Water requests permission to enter into a Professional Services Agreement with Pure Technologies US Inc./dba Wachs Water Services in the amount of $1,300,000.00 for the 2021 Large Valve Rehabilitation project. The professional services to be provided consists of, but are not limited to, the evaluation and repair of large diameter valves in the water distribution system, water treatment facilities, and wastewater treatment facilities.

Three proposals were received for the above project on September 4, 2020. After evaluating the proposals, Pure Technologies US Inc./dba Wachs Water Services was chosen in response to the City’s Request for Proposal (RFP No. 20-013WTWE). Pure Technologies had the best combination of experience, approach, expertise and resources to meet the Department of Water’s objectives.

The Agreement is being funded using 2021 and 2022 Water and Sanitary Capital Funds.

The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on December 31, 2022.

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

A Certificate of Funds in the amount of $650,000.00 for 2021, proposal tabulation, and a copy of the Agreement are attached.

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
## CERTIFICATE OF FUNDS

### SECTION I - to be completed by User Department

- **X**: New Contract  
- **Renewal Contract**:  
- Change Order:  

<table>
<thead>
<tr>
<th>Required Documentation</th>
<th>Amount</th>
<th>Fund Code</th>
<th>Org</th>
<th>Acct</th>
<th>Prog</th>
<th>Act</th>
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<tbody>
<tr>
<td>Initial City Manager's Report</td>
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<td>Initial Agreement/Contract</td>
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| Only 2021 Funds                         | $ 50,000.00 | 53004 | 3430 | 1424 | 54 | WD2008 |
| Only 2021 Funds                         | $ 100,000.00 | 55003 | 3460 | 1424 | 54 | WD2008 |

### Vendor Information

- **Vendor Name**: Pure Technologies US Inc./dba Wachs Water Services
- **Vendor Address**: 8920 State Route 108, Suite D, Columbia, MD 21045
- **Federal ID**: 86-0853190
- **Commodity Code**: 30200
- **Purpose**: Condition assessment and rehabilitation of large diameter valves in the water distribution system, water treatment plants, and wastewater treatment plant.

### Contact Person

- **Lisa Burton-Yates**: Water/Water Engineering, Department/Division, Date 2/26/2021

### Originating Department Director's Signature

- **Aaron S. Zoning**: Date 3/3/2021

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

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

- **Finance Director's Signature**: Date 3/2/2021

October 18, 2011
PROFESSIONAL SERVICES PROPOSAL TABULATION
for
2021 Large Valve Rehabilitation

Proposal Due Date: 9/4/2020
Evaluation Criteria (Percentages):

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pricing Structure</td>
<td>20.00%</td>
</tr>
<tr>
<td>Previous Experience</td>
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<td>Technical Plan</td>
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<th>EVALUATION SCORE OF SELECTION COMMITTEE</th>
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<tr>
<td>Pure Technologies US Inc./dba Wachs</td>
<td>85.14</td>
<td>$1,300,000.00</td>
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<td>* Water Services</td>
<td></td>
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<tr>
<td>Hydromax</td>
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<tr>
<td>Cobalt</td>
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* RECOMMENDED FOR AWARD
February 17, 2021

TO:       Ben Swain, Senior Engineer II   
          Department of Water, Division of Water Engineering

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

SUBJECT: Large Valve Rehab RFP  
          (10% SBE Participation Goal)

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

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

PRIME CONTRACTOR
Pure Technologies U.S. Inc

CERTIFIED BUSINESS PARTICIPATION

<table>
<thead>
<tr>
<th>Company</th>
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<tr>
<td>Tall View Palladium</td>
<td>10% SBE</td>
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TOTAL COMMITTED PARTICIPATION 10% SBE

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

CAG
EXHIBIT D – PARTICIPATION/WAIVER REQUEST FORM

(Circle one: SBE/MBE/WBE/DLSB/DBE/HUD Section 3) PARTICIPATION FORM

Project Name: RFP 20013WTWE 2020 Large Valve Rehabilitation

This form may be used for more than one funding source. City of Dayton general fund and State of Ohio funds: The City of Dayton has adopted procurement programs for Minority-owned, Woman-owned, Small Business Enterprises, and Dayton Local Small Business in accordance with Sections 35.50 – 35.68 of the Revised Code of General Ordinances (R.C.G.O.), inclusively. Federal funds: The City of Dayton is committed to meeting HUD-established subcontracting and employment opportunities for HUD Section 3 companies certified with the Human Relations Council. This commitment applies to all projects funded through NSP/CDBG/HOME. The City of Dayton is a recipient of Department of Transportation funds and complies with the DBE program. Authorization for the program comes from 49 Code of Federal Regulations Part 26 (49 CFR 26). State Funds: When determining the level of participation the, only the total work performed by the certified subcontractor either singularly or severally, will be considered. This form must be utilized to indicate your subcontractors and must be fully completed and returned with your bid proposal, i.e., you must list the name(s), address, etc. of the subcontractor, type of work to be performed, dollar amount of the subcontract and percentage of the base bid. Use as many copies of this form as necessary to list all subcontractors. Should you have questions regarding this form, please contact the Human Relations Council (HRC) Office. (937) 333-1403.

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<th>Prime Contract Bid</th>
<th>Joint Venture Bid</th>
<th>Supply or Service Subcontract</th>
<th>Construction Subcontract</th>
<th>Type of Service or Supply to be Provided</th>
<th>Type of Construction Work to be Performed</th>
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<tr>
<td>City/State/Zip Code: Dayton OH 45417</td>
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<tr>
<td>Phone (area code/#): E-mail: <a href="mailto:info@tallviewpalladiuminc.com">info@tallviewpalladiuminc.com</a></td>
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<th>PRIME CONTRACTOR’S REPRESENTATIVE</th>
<th>Street Address</th>
<th>City/State/Zip</th>
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<tbody>
<tr>
<td>Print Name: Ryan McKeon</td>
<td>8920 State Route 108, Suite D</td>
<td>Columbia, MD 21045</td>
</tr>
</tbody>
</table>
PROFESSIONAL SERVICES AGREEMENT

This Agreement ("Agreement") is made this ______ day of ______, 2021, between the City of Dayton, Ohio, ("City"), and Pure Technologies US Inc./dba Wachs Water Services, 8920 State Route 108, Suite D, Columbia, MD 21045 (hereinafter referred to as the "Contractor").

WITNESSETH THAT:

WHEREAS, The City desires certain professional services in connection with Professional Services for repair of water and wastewater valves for the City of Dayton, Ohio; and,

WHEREAS, Contractor is willing to perform such professional services and represents that its staff is fully qualified to perform such services; and,

WHEREAS, The professional services to be provided under this Agreement are necessary to achieve the purposes of the City’s Water Department.

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

ARTICLE 1. TERM
The Agreement shall commence upon execution by the City and it shall terminate upon expenditure of all funds provided herein or on December 31, 2022. The City, however, reserves the right to extend the term of this Agreement to a later date by mutual written agreement, as described in Article 11, J.

ARTICLE 2. SERVICES TO BE PERFORMED BY CONTRACTOR
Contractor shall provide all professional services necessary to complete the Services that are described in Attachment A, Scope of Services, which is incorporated herein by reference.

ARTICLE 3. COMPENSATION
The total remuneration of this Agreement shall not exceed ONE MILLION THREE HUNDRED THOUSAND DOLLARS AND ZERO CENTS ($1,300,000.00) for all services to be provided by Contractor pursuant to this Agreement. All services will be paid according to Attachment B, Compensation, which is incorporated herein by reference. The 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. CITY’S RESPONSIBILITIES
The City will furnish Contractor, at no cost or expense, all reports, records, and data that might be necessary or useful to complete the Services required under this Agreement.

ARTICLE 5. STANDARD OF CARE
Contractor shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily possessed and exercised by a professional under similar circumstances at the time the services are performed. Contractor shall have no liability for defects in the Services
attributable to Contractor’s reliance upon or use of data or other information furnished by the City or third parties retained by the City.

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

ARTICLE 6. LIABILITY AND INDEMNIFICATION
Contractor shall indemnify and defend the 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 negligent performance or non-performance of this Agreement and/or the negligent acts, omissions, or conduct of Contractor and its agents, employees, contractors, sub-contractors and representatives in undertaking and performing the Services.

Notwithstanding anything herein to the contrary, neither party hereto will be liable to the other for any loss of production, loss of use of property, loss of revenue or profit, equipment downtime, business interruption, loss of goodwill, loss of anticipated savings, cost of procurement of substitute goods or services, or for any consequential, indirect, incidental, or special loss or damage suffered by the other party or any third party, or for any punitive damages, even if advised of the possibility thereof and notwithstanding the failure of essential purpose of any remedy. Contractor’s cumulative liability hereunder, whether in contract, tort, or otherwise, will in no event exceed an amount equal to 3X the aggregate consideration paid by the City to Contractor for the portion of the services that gave rise to the liability.

This Article 6 shall survive early termination or expiration of this Agreement.

ARTICLE 7. INSURANCE
During the term of this Agreement, Contractor shall maintain, at its sole cost and expense, no less than the following insurance issued by an insurance company authorized to conduct business in the State of Ohio and having an “A” rating or better by A.M. Best:

1. General liability insurance, having a combined single limit of $1,000,000 for each occurrence and $1,000,000 in the aggregate.
2. Automobile liability insurance, having a combined single limit of $1,000,000 for each person and $1,000,000 for each accident.
3. Employers’ liability insurance, having a limit of $500,000 for each occurrence.
4. Professional liability insurance, having a limit of $1,000,000 annual aggregate.
5. Contractor shall obtain a Performance bond, at Contractor’s expense, in an amount not less than $1,000,000, or such other amount as approved by the City, as a condition to award of a contract. Said bond is to be delivered to the City prior to the beginning date of contract.
6. Contractor shall maintain errors and omissions insurance in the amount of $1,000,000.00.

Current certificates of insurance for all policies and concurrent policies required to be maintained by Contractor pursuant to this Article shall be furnished to the City. All such insurance policies, excluding Professional Liability Insurance, shall name the City and its elected officials, officers, agents, employees, and volunteers as additional insureds, but only to the extent of Contractor’s
legal liability and to the extent of the policy limits stated herein. All policies of insurance required hereunder shall contain a provision requiring a minimum of thirty (30) days advance written notice to the City in the event of cancellation or diminution of coverage. In the event of a claim, Contractor shall make copies of applicable insurance policies available for review by the City. Contractor, however, shall retain its right to restrict disclosure of Contractor’s proprietary information contained in such policies in accordance with Article 8.

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

ARTICLE 8. CONFIDENTIALITY
Either party may provide the other party with information that it considers confidential or proprietary. Proprietary information is information that, if made public, would put the disclosing party at a disadvantage in the market place or trade of which the party is a part. Confidential information is information that, under the laws of the State of Ohio, is classified as being “private.” Such information shall be marked “confidential” and/or “proprietary” by the party providing it.

To the extent permitted by law, each party agrees that for a period of two (2) years following the date of disclosure of the confidential or proprietary information, it will not disclose such information of the other to any third party without the other party’s written consent. During this two-year period, each party will protect the confidential or proprietary information in the same manner that it protects its own confidential information of a similar nature. Each party agrees that it will only copy the confidential or proprietary information to the extent necessary to perform the work and services contracted for pursuant to this Agreement.

Nothing in this Article shall prohibit or limit Contractor’s disclosure of confidential information: (i) previously known to it without an agreement of confidentiality, (ii) independently developed by it, (iii) that is or becomes publicly available through no breach of this Agreement, (iv) when such disclosure is required by an order of a Court or under state or federal law, or (v) when such disclosure is authorized in writing by the City.

ARTICLE 9. OWNERSHIP OF DOCUMENTS & INTELLECTUAL PROPERTY
Except as otherwise provided in this Agreement, documents and reports prepared by Contractor as part of the Services shall become the sole and exclusive property of the City upon payment. However, Contractor shall have the unrestricted right to their use.

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

ARTICLE 10. TERMINATION
This Agreement may be terminated by the City upon written notice in the event of substantial failure by Contractor to perform in accordance with the terms of this Agreement. Contractor shall have fifteen (15) calendar days from the date of the termination notice to submit a plan to the City.

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

ARTICLE 11. STANDARD TERMS

A. DELAY IN PERFORMANCE
Neither the City nor Contractor 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 Contractor under this Agreement.

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

B. GOVERNING LAW AND JURISDICTION
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. Both Parties hereby irrevocably consent to the jurisdiction of the state and federal courts located in Montgomery County, Ohio over any suit, action, or proceeding arising out of or relating to this Agreement.

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:

Contractor: Pure Technologies US Inc./dba Wachs Water Services
8920 State Route 108, Suite D
Columbia, MD 21045
Attention: Ryan McKeon, Vice President

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

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

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

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

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

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

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

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

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

H. 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 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 Contractor from employing independent consultants, associates, and subcontractors to assist in the performance of the Services.
I. THIRD PARTY RIGHTS
Except as expressly provided in this Agreement, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Contractor.

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

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

K. POLITICAL CONTRIBUTIONS
Contractor 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 Contractor. This Agreement supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

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

CITY OF DAYTON, OHIO

City Manager

Pure Technologies US Inc./dba Wachs Water Services

By: ________________________________

Title: Vice President

APPROVED AS TO FORM
AND CORRECTNESS

2/17/2021

X Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

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

______________________________, 2021

Min./Bk.: Page:

Clerk of the Commission
ATTACHMENT A
TO
PROFESSIONAL SERVICES AGREEMENT

SCOPE OF SERVICES

City: City of Dayton, Ohio
Project: 2021 Large Valve Rehabilitation
Contractor: Pure Technologies US Inc./dba Wachs Water Services

SCOPE OF WORK


Task A – Project Planning and Administration

The Contractor shall review and identify all relevant information for work within the project scope. Dayton Water will provide all available information including; as-builts, work order history, GIS, atlas sheets, valve maintenance records, and intersection drawings. Using the available information, the Contractor shall review the attached list of valves in need of repair, as well as valves identified after the issuance of this RFP, and provide recommendations for approaches to be used, and any other information required for the success of the project.

Communication with Dayton Water throughout the project is imperative. A kick-off meeting, valve selection review workshop, condition assessment planning workshop, and at least one rehabilitation planning meeting will be held with Dayton Water, along with additional site visits and workshops as required. The kick-off meeting shall be in-person at Dayton Water. Subsequent meetings may be via online meetings or in-person as deemed appropriate.

A project plan shall be submitted to Dayton Water for review and approval before condition assessment and rehabilitation will begin. The project plan shall include an emergency contingency plan.

Project Planning shall include development of a data management plan to bring all collected data into Dayton Water information systems.

Task B – Detailed Condition Assessment

The Contractor shall perform a detailed condition assessment on the selected large valves that have been identified by Dayton Water as being in need of repair. The condition assessment shall evaluate the operability, physical condition, effectiveness of closure, and needed repairs to return the valve to full operation. The Contractor shall be responsible for any required cleaning out valve boxes to perform the condition assessment. The Contractor shall exercise the valve and document attribute characteristics. Should access be a problem for the Contractor they shall contact the Dayton Project Manager to address any problems.

City of Dayton Dept of Water

Page 8 of 13
The Contractor shall pump out any water in the vault in accordance with Dayton Water guidelines of discharge policies and ventilate the confined space prior to entering the vault. Dayton Water maintains a confined space entry permitting program, and the Contractor shall meet with Dayton Water Safety Coordinator regarding confined space entry permits and follow their guidelines and requirements for permits prior to entering any confined space. The Contractor shall vacuum out debris or pump out water from the box/vault in order to allow access to the valve operating nut and exposing both external gearing and bonnet bolts for inspection prior to operation. In order to provide this service, the Contractor must provide an industrial vacuum and water pump with every work crew. Valve bodies will be cleaned utilizing primary conventional methods with hand tools (wire brush, rags, etc.). However, in some cases it may also become necessary for the Contractor to provide a pressure washer in order to remove hardened sediment from the valves so that inscriptions and manufacturer identification markings may be uncovered. As such, the Contractor shall make a gasoline powered pressure washer available on each crew truck. The project as a whole will require, from time to time, industrial vacuums with pressure washer system with excavation capabilities capable of removing large debris from vaults. Dayton Water will provide a location for discarding materials vacuumed out of the valve structures.

The Contractor shall operate each large valve based on a plan to be submitted for each valve size and type encountered in this program. All valves shall be initially operated using the exercise mode of the valve operating machine. The Contractor shall utilize a microprocessor-controlled valve operating machine that records torque data during each rotation. This data is a deliverable under the contract. All valve operations shall be captured in a format to be loaded into Dayton Water’s ESRI Collector application. The Collector application will be made available to the Contractor at no cost. The data captured shall include photos of the valve site and valve.

Specific valve operating guidelines are to be provided by the Contractor making note of different sizes and types. At a minimum the contractor should include:

- Specific operating procedures and torque limits for all butterfly, gate, plug valves, and slide gates.
- Specific valve exercising equipment by type and manufacturer to be used on each size and type of valve.
- Detailed, written valve exercising processes that will be used by its operating crews that will include torque limits for every valve type and size anticipated in the scope of this program.
- Notification procedures for any valves found closed or any unsafe conditions that are observed.
- Specific procedures if a bypass valve is in place.

Prior to the operation of any large valve in the Dayton Water system, a bi-weekly schedule shall be submitted to the Project Manager for coordination and approval. All work shall be coordinated with the Dayton Project Manager and appropriate operations supervisors.

**Above Ground Mechanical Testing**

The field crew will use the City’s mapping system to locate valves. When valves cannot be located, a metal detector will be used, and a search conducted for fifteen minutes at a minimum. If the valve cannot be located, then a GPS point with an expected horizontal accuracy of sub one foot will be captured in the center of the search area to confirm that the crew searched in the right area. If the valve cannot be located, then the scope of this task is incomplete and not billable.

Once the valve has been located, the field crew will gain access to the valve by whatever means are necessary and approved by the Dayton project manager. This may include breaking off stuck lids, saw cutting pavement, and vacuuming the vault. The vault will always be cleaned enough so as to not physically obstruct gears or the operating nut.

The Field crew will mechanically test the valve using an EH Wachs TM7 or ERV employing a microprocessor controller. The contractor will not exceed 350 ft/lb of torque at any point without approval by the Dayton project manager and operations supervisor. The torque data for each operation will be stored and delivered in an EH Wachs Vitals database and delivered to the Dayton project manager.

Level One Condition Assessment shall include:
A field crew would perform all the above ground mechanical testing and in addition will set up confined space entry equipment and perform a permit-required entry. If corrective maintenance is performed during the level one assessment, a mechanical test of the valve will be performed to confirm the success of the maintenance. All data collected during the mechanical test will be delivered.

If the vault is deemed safe to enter, the field crew shall inspect the vault, measure it, and perform a visual inspection of the valve. This includes capturing any data on the valve (make, model, year, etc.) and recording observations related to cracks, leaks, corroded bolts or components, photographing the valve, using a pressure washer to remove debris from the gearing, bypass and valve body. The field crew will perform incidental corrective maintenance while in the vault including repacking the valve, shimming / adjusting gears to mesh better and replacing operating nuts to avoid a second mobilization to the valve. The field crew will take measurements of any external actuator component that needs to be replaced. This level of inspection is recommended for asset management programs and when valves that do not have gearboxes do not operate correctly or at all. This requires a two or possibly three-person crew depending on the configuration of the vault. Some permit entries require a person stationed outside the valve continuously who would keep track of personnel going into the vault which would limit their ability to assist with the inspection.

Level Two Condition Assessment shall include:
A field crew will perform all the above mechanical testing and level one inspection tasks and in addition they will remove the gearbox cover plate and observe the enclosed gears and stem during mechanical testing. The valve technician will reset stops to seat the disk when stops are adjustable. They will apply an anticorrosion coating to the gears while recording their mesh and general condition as in a Level 1 inspection. This level of inspection is recommended for valves with enclosed gear cases as part of an asset management program or when the valve does not operate correctly or at all. This requires a two or three-person crew as in the level one condition assessment.

The Contractor shall include be responsible to submit a traffic control plan and perform any traffic control for the condition assessment and rehabilitation. All traffic control must be in accordance with the Ohio Manual of Uniform Traffic Control Devices (latest edition) and approved by City of Dayton Traffic Engineering.

The Contractor shall be responsible for any additional permits required for any work. This includes any permits and requirements with the Miami Conservancy District for work around the levees and river, as well as street cut permits.

The Contractor shall evaluate the information gathered by the condition assessment and compile a report to be provided to Dayton Water. The report shall include detailed information about the condition of the valves and recommendations for any work that may need to be performed. Each valve identified for rehabilitation shall have a recommended scope, repair plan, and cost estimate. The project team will review the recommended plan, provide comments, and recommend follow-up actions.

Task C – Valve Rehabilitation
The Contractor shall complete repairs of all types as they are deemed economic and feasible by Dayton Water. As a first step, all valve work orders must be prioritized in coordination with Dayton Water. The Contractor shall repair valves (including by-pass valves) that are identified for repair and approved by Dayton Water. The Contractor shall be responsible for all tools, equipment, labor, and materials.

- Large valve repairs will include, but are not limited to: operation nut repair and/or replacement, pinion gear repair and/or replacement, large gear repair and/or replacement, stem replacement, bushings repair and/or replacement, packing gland repair and/or replacement, bonnet bolt replacement and other repairs that may be necessary, up to and including full replacement, and as agreed with Dayton Water.
The Contractor shall also provide minor repairs as they are encountered throughout this program as requested by Dayton Water. Minor repairs are defined as repairs that can return a valve to full operability and do not require backhoe excavation or breaking the pressure barrier of the water system including:

1. Raising valve boxes in asphalt - Locate the paved over valve, cut asphalt (small cut), jackhammer down to the cover, apply risers to raise to existing street level, and restore based on City of Dayton Rules and Regulations for Making Openings in a Public Way (latest edition).

2. Raising valve boxes in outside of paved areas - Locate the buried valve, dig down to the cover, apply risers to raise to existing ground level, backfill with compacted soil.

3. Re-alignment of the roadway boxes - Mis-aligned roadway boxes will be excavated using high-pressure water and vacuum system and re-aligned to allow proper operation.

4. Replacement of rounded or missing operating nuts (buried valves) - The Contractor shall gain access to the lower section of roadway boxes by utilizing vacuum excavation, if necessary, or other means within the water main easement including but not limited to traffic control, removal and installation of roadway boxes, temporary restoration of pavement, grubbing and seeding. The Contractor shall remove any existing operation nut pieces from the valve stem and lower section of the roadway box, removing existing operating nut screws, re-tap the stem when necessary and securely install an operating nut.

The Contractor shall create work orders for all required repairs that are needed in order to bring the valves in the system up to 100% operability. These work orders will be entered into Infor Public Sector. Work orders will specifically note the discrepancy of the valve and the repair activity required to return the valve to full operability. Work orders will contain, at a minimum, the following information:

- Valve ID
- Size of valve
- Type of valve
- Specific valve discrepancy (category and details)
- Specific repair activity required to return the valve to full operability

The Contractor shall include be responsible to submit a traffic control plan and perform any traffic control for the condition assessment and rehabilitation. All traffic control must be in accordance with the Ohio Manual of Uniform Traffic Control Devices (latest edition) and approved by City of Dayton Traffic Engineering.

The Contractor shall be responsible for all site restoration to City of Dayton Standards, or as required by permits from Miami Conservancy District.
ATTACHMENT B
TO
PROFESSIONAL SERVICES AGREEMENT

COMPENSATION

City: City of Dayton, Ohio
Project: 2021 Large Valve Rehabilitation
Contractor: Pure Technologies US Inc./dba Wachs Water Services

Hourly Rate Table

Work shall be performed for the Division of Water Utility Field Operations, Division of Water Supply and Treatment, and the Division of Water Reclamation. Work shall be tracked and paid for separately. Tasks performed for multiple divisions concurrently (including travel) shall be paid by each division in proportion to the amount of work performed for each division.

Unit pricing is based upon work crews traveling for a minimum of one week of work. Kick-off meetings and in-person project planning meetings will be planned such that multiple divisions coordinate meetings on the same trip.

1. The total “Not-To-Exceed” fee for performance of the Scope of Services, as outlined in Attachment A to this Agreement, is $1,300,000.00. This amount includes all direct and indirect labor charges, material cost, overheads, and profits plus all other fees and charges including expenses. Such direct expenses include:
   a. Travel, subsistence, and incidental costs.
   b. Use of motor vehicles on a monthly rental basis for assigned vehicles and on a mileage basis or rental cost basis for vehicles used for short periods.
   c. Long distance telephone costs, and Project “onsite” telephone costs.
   d. Reproduction of reports.
   e. Postage and shipping charges for Project-related materials.

Total Contract Amount for 2 years
Water Utility Field Operations (WUFO) - $1,000,000
Water Supply and Treatment (WST) - $100,000
Water Reclamation (WRF)- $200,000

<table>
<thead>
<tr>
<th>Task</th>
<th>Unit Cost</th>
<th>Quantity</th>
<th>Total</th>
<th>Basis for payment</th>
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<tbody>
<tr>
<td>A.1 Kick-off Meeting - WUFO</td>
<td>$1,500</td>
<td>1</td>
<td>$1,500.00</td>
<td>Labor and Materials</td>
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<tr>
<td>A.2 Kick-off Meeting – WST</td>
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<td>1</td>
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<td>Labor and Materials</td>
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<tr>
<td>A.3 Kick-off Meeting – WRF</td>
<td>$1,500</td>
<td>1</td>
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<td>Labor and Materials</td>
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<tr>
<td>A.4 Field Crew Travel Expenses - WUFO</td>
<td>$1,500</td>
<td>6</td>
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<td>A.5 Field Crew Travel Expenses – WST</td>
<td>$1,500</td>
<td>3</td>
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<td>Labor and Materials</td>
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<td>Task B</td>
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<tr>
<td>----------------------------------------------------------------------</td>
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<td>----------------------------------</td>
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<tr>
<td>B.1 16 – 18 inch Mechanical Testing – WUFO</td>
<td>$477.30</td>
<td>150</td>
<td>$71,595.00</td>
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<td>B.2 20 – 30 inch Mechanical Testing – WUFO</td>
<td>$604.58</td>
<td>150</td>
<td>$90,687.00</td>
<td>Each</td>
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<td>B.3 36 – 48 inch Mechanical Testing - WUFO</td>
<td>$1018.25</td>
<td>82</td>
<td>$83,496.50</td>
<td>Each</td>
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<tr>
<td>B.4 Permit Required Confined Space Entry - WUFO</td>
<td>$248.20</td>
<td>100</td>
<td>$24,820.00</td>
<td>Each</td>
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<tr>
<td>B.5 Removal of Gear Case Cover / Lubrication - WUFO</td>
<td>$1168.85</td>
<td>35</td>
<td>$40,909.75</td>
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<tr>
<td>B.6 Hourly Crew Rate (Tasks as Directed by Dayton PM) — WUFO</td>
<td>$374.03</td>
<td>12</td>
<td>$4,488.36</td>
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<td>B.7 Operating Nut Replacement - WUFO</td>
<td>$350.66</td>
<td>5</td>
<td>$1,753.30</td>
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<td>B.8 Packing Gland Repair (materials incl) - WUFO</td>
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<td>$1,753.30</td>
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<td>B.9 Adjustment of Gear Mesh – WUFO</td>
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<td>B.10 Air Release / Vacuum Valve Testing - WUFO</td>
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<td>B.11 Fire Hydrant Inspection / Testing M17 – WUFO (excluding flow test)</td>
<td>$60.00</td>
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<td>B.12 Extraordinary Traffic Control /day/ lane - WUFO</td>
<td>$700.00</td>
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<td>B.13 Valves in Treatment Facilities or Grounds - WST</td>
<td>$374.03</td>
<td>10</td>
<td>$3,740.30</td>
<td>Hour</td>
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<tr>
<td>B.14 Valves in Treatment Facilities or Grounds - WRF</td>
<td>$374.03</td>
<td>10</td>
<td>$3,740.30</td>
<td>Hour</td>
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<td>B.15 Electrical Actuator Evaluation – WST</td>
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<tr>
<td>B.16 Electrical Actuator Evaluation – WRF</td>
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**Task C**

Dependent upon Task B

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<th>Total Not To Exceed</th>
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<tbody>
<tr>
<td></td>
<td>$1,300,000.00</td>
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City of Dayton Dept of Water
City Manager's Report

From 3420 - Water/Water Engineering
Supplier, Vendor, Company, Individual
Name RA Consultants LLC
Address 115 Linwood Street, Suite 2
Dayton, Ohio 45405

Date March 10, 2021
Expense Type Contract Modification
Total Amount $250,000.00 (thru 12/31/2022)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tbody>
<tr>
<td>2021 Water Capital Fund</td>
<td>53003-3420-1159-54-WD2002</td>
<td>$100,000.00</td>
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<tr>
<td>2021 Sanitary Capital Fund</td>
<td>55004-3420-1159-54-WD2002</td>
<td>$100,000.00</td>
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<tr>
<td>2021 Storm Capital Fund</td>
<td>58002-3420-1159-54-WD2002</td>
<td>$ 50,000.00</td>
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Includes Revenue to the City: Yes
Affirmative Action Program: Yes

PROFESSIONAL SERVICES AGREEMENT FOR STAFF SUPPLEMENTATION ENGINEERING SUPPORT FIRST AMENDMENT

The Department of Water requests permission to enter into a First Amendment with RA Consultants LLC in the amount of $250,000.00 to cover additional services needed from RA Consultants to assist the Department of Water, Division of Water Engineering staff by providing engineering staff supplementation services as needed. Consultant’s staff will assist with the capital improvement program execution and other technical tasks as assigned for a two-year period, or until the expenditure of all funds, whichever comes first.

The original Agreement was approved on March 11, 2020 in the amount of $150,000.00. This First Amendment will increase the contract amount to $400,000.00 and extend the term to December 31, 2022.

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

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

Signatures/Approval

Division
Aaron S. Zonin

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>
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<tr>
<td>Contract Start Date</td>
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<tr>
<td>Expiration Date</td>
<td>12/31/2022</td>
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<td>Original Commission Approval</td>
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<td>Initial Encumbrance</td>
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<td>Remaining Commission Approval</td>
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<td>Original CT/CF</td>
<td>CT20-2537</td>
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<td>Increase Encumbrance</td>
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<tr>
<td>Decrease Encumbrance</td>
<td>$-</td>
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<tr>
<td>Remaining Commission Approval</td>
<td>$-</td>
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</table>

NO DRAFT DOCUMENTS PERMITTED

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

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<thead>
<tr>
<th>Amount: $100,000.00 (Seq.1)</th>
<th>Amount: $100,000.00 (Seq.2)</th>
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<tr>
<td>Fund Code 53003 - 3420 - 1159 - 54 - WD2002 -</td>
<td>Fund Code 55004 - 3420 - 1159 - 54 - WD2002 -</td>
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<td>Org</td>
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<td>Fund</td>
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</table>

<table>
<thead>
<tr>
<th>Amount: $50,000.00 (Seq.3)</th>
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<tbody>
<tr>
<td>Fund Code 58002 - 3420 - 1159 - 54 WD2002</td>
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<tr>
<td>Fund</td>
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</table>

Attach additional pages for more FOAPALS

Vendor Name: RA Consultants
Vendor Address: 115 Linwood St., Suite 2 Dayton Ohio 45405
Street City State Zipcode + 4
Federal ID: 20-0654077
Commodity Code: 96896
Purpose: Amendment No.1 to Professional Services Agreement for Water Engineering Staff Supplementation

Contact Person: Lisa Burton-Yates Water/Water Engineering 2/26/2021
Department/Division Date
Origining Department Director’s Signature: Aaron S. Zonin

SECTION II - to be completed by the Finance Department

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

Finance Director’s Signature: [Signature]
Date: 3/1/2021

CF/Prepared by: [Signature]
Date: 3/1/2021

CF/CT Number: CT20-2537

Finance Department
October 16, 2011
FIRST AMENDMENT TO THE
AGREEMENT FOR PROFESSIONAL SERVICES

This First Amendment is dated this ______ day of ________________, 2021, between the City of Dayton, Ohio ("City") and RA Consultants LLC, 115 Linwood St, Suite 2, Dayton, OH 45405 (hereinafter referred to as the "Consultant").

WHEREAS, On March 11, 2020 the Commission of the City of Dayton, Ohio, approved an Agreement for Professional Services, CT20-2537, ("Agreement") between the City and Consultant; and

WHEREAS, The City desires additional professional services for Staff Supplementation Engineering Support for the City of Dayton, Ohio; and,

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

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

ARTICLE 1 - TERM
The Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on December 31, 2022 whichever date is earlier. The City, however, reserves the right to extend the term of this Agreement to a later date by mutual written agreement, as described in Article 11, J.

2. Article 2, Services To Be Performed By Consultant shall be amended to include the following:

ARTICLE 2 – SERVICES TO BE PERFORMED BY CONSULTANT
Consultant shall provide all professional services described in Attachment A (REVISED 02/05/2021), which is attached hereto and incorporated herein.

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

ARTICLE 3 - COMPENSATION
The total remuneration of this Agreement shall not exceed FOUR HUNDRED THOUSAND DOLLARS AND ZERO CENTS ($400,000.00) for all services to be provided by Consultant pursuant to this Agreement. The City shall request cost estimates for any necessary work. All services will be paid according to Attachment B (REVISED 02/05/2021), which is incorporated herein by reference. The Consultant 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.

4. The City and Consultant hereby agree that Attachment A (REVISED 02/05/2021) and Attachment B (REVISED 02/05/2021), which are attached hereto, shall be a part of the Agreement and incorporated as if fully rewritten therein.

5. Except as amended by this First Amendment, all terms, covenants and conditions contained within the Agreement remain in full force and effect.
IN WITNESS WHEREOF, the City and Engineer have caused this First Amendment to be executed, each by a duly authorized representative, on the date first set forth above.

CITY OF DAYTON, OHIO

________________________________________
City Manager

Date: ________________________________

RA CONSULTANTS LLC

By: ________________________________

Title: President

APPROVED AS TO FORM
AND CORRECTNESS:

2/22/2021

X Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

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

______________________________ , 2021

Min./Bk.: _______ Page: _______

Clerk of the Commission
ATTACHMENT A (Revised 02/05/2021)
TO
PROFESSIONAL SERVICES AGREEMENT

SCOPE OF SERVICES

City: City of Dayton, Ohio
Project: Staff Supplementation Engineering Support Services for City of Dayton
         Department of Water
Consultant: RA Consultants, LLC

SCOPE OF WORK

RA Consultants shall assist the City of Dayton, Department of Water staff by providing engineering staff supplementation services as needed. Consultant’s staff will assist with capital improvement program execution and other technical tasks as assigned for a three-year period, or until the expenditure of all funds, whichever comes first.

The local RA Consultants office located at 115 Linwood Street, Dayton Ohio will serve as the project headquarters.

Potential tasks to support City of Dayton, Department of Water staff include, but are not limited to, the following:

1. Develop, coordinate, design, and manage capital improvements and master plan projects for the Division of Water Engineering. Plan, coordinate, schedule, and review work of engineering staff members so that projects and tasks are technically sound, meet division guidelines and procedures, and are completed on schedule.
2. Manage the Water, Sanitary, and Storm Capital Improvement Program through the survey, design, bidding and award phases. Ensure plan development is consistent and projects are on schedule.
3. Continue to develop and enhance the Project Access Database for projects and performance measures regarding Capital. Keep an updated project schedule and provide monthly updates.
4. Provide Water Engineering assistance (including survey, field data collection, contract administration, plan review, inspection, etc.) and serve on committees in support of other Divisions and Departments within the organization as needed/assigned. Continue to guide department RFPs to contract execution.
5. Research each proposed project background and assemble back up documents supporting project requirements and scope.
6. Produce initial scope document for each project after reviewing planning level scope, history, project limits, and other supporting data.
7. Develop and prepare preliminary design alternatives. Review various alignment opportunities based on depth of cut, etc. against topography info.
8. Identify probable right-of-way costs for design alternatives.
9. Research and develop engineering estimates for proposed capital improvement projects, to include working with others on researching and reviewing property acquisitions needed for capital improvements.
10. Obtain and research underground utility records information on each project to include Ohio Utility Protection Service (OUPS) requests, customer service request database, Atlas Sheets, GIS, CCTV, Document Management, and other historical records.
11. Identify and develop project team resource requirements assignments to be used throughout project execution.
12. Develop preliminary design and construction cost estimates.
13. Review each project for external funding possibilities such as Water Pollution Control Loan Funding or grants as applicable. Complete and submit all preliminary funding applications for the external funding.
14. Assist in preparing projects for funding and present projects as necessary.
15. Prepare and manage the RFP process for selecting consultants when a specialized study of the project scope is warranted.
16. Manage consultant studies as needed to adherence to budget and schedule.
17. Negotiate study contract details, fees, and schedules. Review and approve consultant invoices.
18. Coordinate planning work with City of Dayton Department of Water, governmental, and regulatory agencies.
19. Participate in the development and implementation of goals, objectives, policies and priorities of the City of Dayton Department of Water Engineering Division: recommend and implement resulting policies and procedures.
20. Schedule and review work performed by City of Dayton Department of Water staff or consultants to ensure requirements are met.
21. Provide assistance to the consultants and Water Department engineering personnel; prepare and present reports and other correspondence as appropriate and necessary.
22. Supervise field activities and investigations, as necessary.
23. Participate in training sessions, workshops, etc. as required.
24. Assist those contacted in the course of duty in and effective, efficient and professional manner.
26. Perform review of both public and private improvement plans submitted to the department for review and comment. Coordinate and assign plan reviews to staff, track plan review progress, attend plan review related meetings, coordinate with City One Stop Center, communicate planned improvements with construction staff, and other work incidental to plan review.
28. Provide on-site inspection of construction projects as assigned by the City of Dayton, Department of Water. Inspection tasks include, but are not limited to, the following:
   - Review contractor’s installation for conformance to the contract plans and specifications and advise the City of Dayton to variance or issues arising during the construction.
   - Prepare daily reports of construction activity using the City of Dayton’s standard inspector forms and daily diary of detailed activities at the site.
   - Prepare sketches and mark-up construction plans of as-built conditions.
   - Witness testing performed by an independent testing lab and provide copies of reports to the City of Dayton, Department of Water.
   - Receive direction and perform other duties as requested by the City of Dayton, Department of Water.
29. Other tasks as requested by the City of Dayton, Department of Water
ATTACHMENT B (Revised 02/05/2021)
TO
PROFESSIONAL SERVICES AGREEMENT

COMPENSATION

City: City of Dayton, Ohio
Project: Professional Engineering Staff Supplementation Support Services for City of Dayton Department of Water
Consultant: RA Consultants, LLC

HOURLY RATE TABLE

<table>
<thead>
<tr>
<th>PERSONNEL CATEGORY</th>
<th>MAXIMUM HOURLY RATE</th>
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<tbody>
<tr>
<td>Administrative</td>
<td>$105.54</td>
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<tr>
<td>Construction Inspector I</td>
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<tr>
<td>Construction Inspector II</td>
<td>$136.89</td>
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<tr>
<td>Construction Inspector III</td>
<td>$168.25</td>
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<tr>
<td>Finance Manager</td>
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<td>GIS Manager</td>
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<tr>
<td>GIS Tech I</td>
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<td>GIS Tech II</td>
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<td>President</td>
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<td>Project Engineer I</td>
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<td>Senior Survey Tech</td>
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<td>Technician II</td>
<td>$84.25</td>
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<tr>
<td>Technician III</td>
<td>$107.07</td>
</tr>
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</table>

All rates valid thru 12/31/2022. Rates subject to a 3% increase thereafter.
### City Manager's Report

**From**
3420- Water/Water Engineering

**Supplier, Vendor, Company, Individual**

**Name**
RA Consultants LLC

**Address**
115 Linwood St
Suite 2, Dayton, OH 45405

**Date**
March 11, 2020

**Expense Type**
Service Agreement

**Total Amount**
$150,000.00 (thru 03/31/2022)

### Fund Source(s) vs. Fund Code(s) vs. Fund Amount(s)

<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>2020 Water Capital Fund</td>
<td>53003-3420-1159-54-WD2002</td>
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<td>2020 Sanitary Capital Fund</td>
<td>55004-3420-1159-54-WD2002</td>
<td>$60,000.00</td>
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<td>2020 Storm Capital Fund</td>
<td>58002-3420-1159-54-WD2002</td>
<td>$30,000.00</td>
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**Includes Revenue to the City**
Yes

**Affirmative Action Program**
Yes

### PROFESSIONAL SERVICES AGREEMENT FOR STAFF SUPPLEMENTATION ENGINEERING SUPPORT

The Department of Water requests permission to enter into a Professional Services Agreement with RA Consultants LLC in the amount of $150,000.00 for Staff Supplementation Engineering Support and provide engineering staff supplementation services as needed. Consultant’s staff will assist with capital improvement program execution, provide engineering assistance, and perform other technical tasks as assigned.

This project is being funded using 2020 Water, Sanitary, and Storm Capital Funds.

This Agreement shall commence upon execution by the City and it shall expire upon expenditure of all funds provided herein or on March 31, 2022.

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

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

### Signatures/Approval

**Department**

**City Manager**

**Approved by City Commission**

- **Ch**
  - March 11, 2020

**Date**

- Updated 8/2016
PROFESSIONAL SERVICES AGREEMENT

This Agreement ("Agreement") is made this 12th day of May, 2020, between the City of Dayton, Ohio, ("City"), and RA Consultants LLC with an office at 115 Linwood St., Suite 2, Dayton, OH 45405 (hereinafter referred to as the "Consultant").

WITNESSETH THAT:

WHEREAS, The City desires certain professional services in connection with Professional Services for Staff Supplementation Engineering Support for the City of Dayton, Ohio; and,

WHEREAS, Consultant is willing to perform such professional services and represents that its staff is fully qualified to perform such services; and,

WHEREAS, The professional services to be provided under this Agreement are necessary to achieve the purposes of the City’s Water Department.

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

ARTICLE 1. TERM
The Agreement shall commence upon execution by the City and it shall terminate upon expenditure of all funds provided herein or on March 31, 2022. The City, however, reserves the right to extend the term of this Agreement to a later date by mutual written agreement, as described in Article 11, J.

ARTICLE 2. SERVICES TO BE PERFORMED BY CONSULTANT
Consultant shall provide all professional services necessary to complete the Services that are described in Attachment A, Scope of Services, which is incorporated herein by reference.

ARTICLE 3. COMPENSATION
The total remuneration of this Agreement shall not exceed ONE HUNDRED FIFTY THOUSAND AND ZERO CENTS ($150,000.00) for all services to be provided by Consultant pursuant to this Agreement. All services will be paid according to Attachment B, which is incorporated herein by reference. The Consultant 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. CITY’S RESPONSIBILITIES
The City will furnish Consultant, at no cost or expense, all reports, records, and data that might be necessary or useful to complete the Services required under this Agreement.

ARTICLE 5. STANDARD OF CARE
Consultant shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily possessed and exercised by a professional under similar circumstances at the time the services are performed. 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 the City has notified Consultant in writing of any such error within that period, Consultant shall perform, at no additional cost to the City, such Services within the original Project as may be necessary to remedy such error.

ARTICLE 6. LIABILITY AND INDEMNIFICATION
Consultant agrees to defend, indemnify, and hold harmless City, its elected officials, employees and agents from and against claims, losses, damages, and expenses (including reasonable attorneys’ fees) to the extent 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 the Consultant or its employees, agents, and representatives.

This Article 6 shall survive termination of this Agreement.

ARTICLE 7. INSURANCE
During the term of this Agreement, Consultant shall maintain, at its sole cost and expense, 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 and its elected officials, officers, agents, employees, and volunteers as additional insureds, but only to the extent of Consultant’s legal liability and to the extent of the policy limits stated herein. All policies of insurance required hereunder shall contain a provision requiring a minimum of thirty (30) days advance written notice to the City in the event of cancellation or diminution of coverage. In the event of a claim, Consultant shall make copies of applicable insurance policies available for review by the City. Consultant, however, shall retain its right to restrict disclosure of Consultant’s proprietary information contained in such policies in accordance with Article 8.

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

ARTICLE 8. CONFIDENTIALITY
Either party may provide the other party with information that it considers confidential or proprietary. Proprietary information is information that, if made public, would put the disclosing party at a disadvantage in the market place or trade of which the party is a part. Confidential
information is information that, under the laws of the State of Ohio, is classified as being "private." Such information shall be marked "confidential" and/or "proprietary" by the party providing it.

To the extent permitted by law, each party agrees that for a period of two (2) years following the date of disclosure of the confidential or proprietary information, it will not disclose such information of the other to any third party without the other party's written consent. During this two-year period, each party will protect the confidential or proprietary information in the same manner that it protects its own confidential information of a similar nature. Each party agrees that it will only copy the confidential or proprietary information to the extent necessary to perform the work and services contracted for pursuant to this Agreement.

Nothing in this Article shall prohibit or limit Consultant's disclosure of confidential information: (i) previously known to it without an agreement of confidentiality, (ii) independently developed by it, (iii) that is or becomes publicly available through no breach of this Agreement, (iv) when such disclosure is required by an order of a Court or under state or federal law, or (v) when such disclosure is authorized in writing by the City.

ARTICLE 9. OWNERSHIP OF DOCUMENTS & INTELLECTUAL PROPERTY
Except as otherwise provided in this Agreement, documents and reports prepared by Consultant as part of the Services shall become the sole and exclusive property of the City upon payment. However, Consultant shall have the unrestricted right to their use.

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

ARTICLE 10. TERMINATION
This Agreement may be terminated by the City upon written notice in the event of substantial failure by Consultant to perform in accordance with the terms of this Agreement. Consultant shall have fifteen (15) calendar days from the date of the termination notice to submit a plan to the City.

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

ARTICLE 11. STANDARD TERMS

A. DELAY IN PERFORMANCE
Neither the City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either the City or Consultant under this Agreement.
Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

B. GOVERNING LAW
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.

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

Consultant: RA Consultants LLC
10856 Kenwood Road,
Cincinnati, Ohio 45242
Attention: John P. Allen, President

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

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

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

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

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

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

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

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

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

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

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

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

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

K. POLITICAL CONTRIBUTIONS
Consultant affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

L. INTEGRATION
This Agreement represents the entire and integrated agreement between the City and Consultant. This Agreement supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.
IN WITNESS WHEREOF, the City and Consultant, each by a duly authorized representative, have executed this Agreement as of the date set forth above.

CITY OF DAYTON, OHIO

[Signature]

City Manager

RA CONSULTANTS LLC

By: [Signature]

Title: [Signature]

APPROVED AS TO FORM AND CORRECTNESS

[Signature]

City Attorney

APPROVED:

[Signature]

Director, Department of Water

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

[Signature]

March 11, 2020

Min./Bk.: I-14, Page: 0151

Rashelle Lavender

Clerk of the Commission

City of Dayton Dept of Water

Page 7 of 10
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
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<th>Renewal Contract</th>
<th>Change Order</th>
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<tr>
<td></td>
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Required Documentation

| X | Initial City Manager’s Report |
|   | Initial Certificate of Funds |
|   | Initial Agreement/Contract |

Amount: $80,000.00 (Seq. 1)

| Fund Code | 53003 - 3420 - 1159 - 54 - WD2002 - |
|           | Fund Org Acct Prog Act Loc |

Amount: $30,000.00 (Seq. 2)

| Fund Code | 56004 - 3420 - 1159 - 54 - WD2002 - |
|           | Fund Org Acct Prog Act Loc |

Purpose: Award of Professional Services Agreement for Water Engineering Staff Supplementation

Vendor Name: RA Consultants
Vendor Address: 115 Linwood St., Suite 2, Dayton, Ohio 45406
Federal ID: 20-0854077
Commodity Code: 99888

Contact Person: Lisa Burton-Yates
Originating Department: Water/Water Engineering
Date: 2/28/2020

SECTION II - to be completed by the Finance Department

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

Financial Director's Signature: [Signature]
Prepared by: [Signature]
Date: 2/28/2020

CT26-2537

October 18, 2011
ATTACHMENT A
TO
SCOPE OF SERVICES

City: City of Dayton, Ohio
Project: Staff Supplementation Engineering Support Services for City of Dayton Department of Water
Consultant: RA Consultants, L.L.C

SCOPE OF WORK

RA Consultants shall assist the City of Dayton, Department of Water staff by providing engineering staff supplementation services as needed. Consultant’s staff will assist with capital improvement program execution and other technical tasks as assigned for a two-year period, or until the expenditure of all funds, whichever comes first.

The local RA Consultants office located at 115 Linwood Rd, Dayton Ohio will serve as the project headquarters, and will be led by RA’s Kaitlyn M. Mueller, P.E.

Potential tasks to support City of Dayton, Department of Water staff include, but are not limited to, the following:

1. Develop, coordinate, design, and manage capital improvements and master plan projects for the Division of Water Engineering. Plan, coordinate, schedule, and review work of engineering staff members so that projects and tasks are technically sound, meet division guidelines and procedures, and are completed on schedule.
2. Manage the Water, Sanitary, and Storm Capital Improvement Program through the survey, design, bidding and award phases. Ensure plan development is consistent and projects are on schedule.
3. Continue to develop and enhance the Project Access Database for projects and performance measures regarding Capital. Keep an updated project schedule and provide monthly updates.
4. Provide Water Engineering assistance (including survey, field data collection, contract administration, plan review, inspection, etc.) and serve on committees in support of other Divisions and Departments within the organization as needed/assigned. Continue to guide department RFPs to contract execution.
5. Research each proposed project background and assemble back up documents supporting project requirements and scope.
6. Produce initial scope document for each project after reviewing planning level scope, history, project limits, and other supporting data.
7. Develop and prepare preliminary design alternatives. Review various alignment opportunities based on depth of cut, etc. against topography info.
8. Identify probable right-of-way costs for design alternatives.
9. Research and develop engineering estimates for proposed capital improvement projects, to include working with others on researching and reviewing property acquisitions needed for capital improvements.
10. Obtain and research underground utility records information on each project to include Ohio Utility Protection Service (OUPS) requests, customer service request
11. Identify and develop project team resource requirements assignments to be used throughout project execution.
12. Develop preliminary design and construction cost estimates.
13. Review each project for external funding possibilities such as Water Pollution Control Loan Funding or grants as applicable. Complete and submit all preliminary funding applications for the external funding.
14. Assist in preparing projects for funding and present projects as necessary.
15. Prepare and manage the RFP process for selecting consultants when a specialized study of the project scope is warranted.
16. Manage consultant studies as needed to adherence to budget and schedule.
17. Negotiate study contract details, fees, and schedules. Review and approve consultant invoices.
18. Coordinate planning work with City of Dayton Department of Water, governmental, and regulatory agencies.
19. Participate in the development and implementation of goals, objectives, policies and priorities of the City of Dayton Department of Water Engineering Division: recommend and implement resulting policies and procedures.
20. Schedule and review work performed by City of Dayton Department of Water staff or consultants to ensure requirements are met.
21. Provide assistance to the consultants and Water Department engineering personnel; prepare and present reports and other correspondence as appropriate and necessary.
22. Supervise field activities and investigations as necessary.
23. Participate in training sessions, workshops, etc. as required.
24. Assist those contacted in the course of duty in and effective, efficient and professional manner.
26. Perform review of both public and private improvement plans submitted to the department for review and comment. Coordinate and assign plan reviews to staff, track plan review progress, attend plan review related meetings, coordinate with City One Stop Center, communicate planned improvements with construction staff, and other work incidental to plan review.
27. Other tasks as requested by the City of Dayton, Department of Water
SCOPE OF SERVICES
ATTACHMENT B
TO
AGREEMENT FOR ENGINEERING SERVICES

City: City of Dayton, Ohio
Project: Professional Engineering Staff Supplementation Support Services for City of Dayton Department of Water
Consultant: RA Consultants, LLC

Hourly Rate Table

<table>
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<tr>
<th>NAME</th>
<th>HOURLY RATE</th>
<th>ESTIMATED NUMBER OF HOURS</th>
<th>TOTAL</th>
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<tr>
<td>Kaitlyn Mueller</td>
<td>$145.00</td>
<td>900</td>
<td>$134,850.00</td>
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<td>Chelsey Pacquette</td>
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10
SALEM AVENUE RECONSTRUCTION – PHASE I
(8% DBE PARTICIPATION GOAL/8% DBE PARTICIPATION ACHieved)
(FEDERAL STP FUNDS) (STATE ISSUE I FUNDS)

This project consists of the reconstruction of Salem Avenue from Manhattan Avenue to North Avenue.

Ten bids were received for this project. It is recommended that the contract be awarded to the lowest bidder, L.J. DeWeese Co., Inc., in the amount of $2,090,223.00. This amount includes the base bid in the amount of $1,963,764.50, Alternate No. 1, Geogrid, in the amount of $17,483.50, Alternate No. 2, Asphalt Rejuvenating Agent, in the amount of $11,975.00, and Alternate No. 3, Asphalt with Fiber, in the amount of $97,000.00. The estimated cost for the project was $2,380,000.00. The time bid for completion is November 19, 2021.

This project is being funded using Federal STP Funds and State Issue I Funds.

A Certificate of Funds, Tabulation of Bids, ODOT’s verification letter, Bid Form from the firm recommended for award, and location map are attached.

**Signatures/Approval**

*Approved by City Commission*

**Clerk**

**Date**

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

X NEW CONTRACT

Contract Start Date: Upon Execution
Expiration Date: November 19, 2023
Original Commission Approval: $2,090,223.00
Initial Encumbrance: $2,090,223.00

X RENEWAL CONTRACT

X CHANGE ORDER

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

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

Amount: $2,090,223.00

<table>
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<tr>
<th>Fund Code</th>
<th>Fund</th>
<th>Org</th>
<th>Acct</th>
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Amount: ____________

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<tr>
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<td></td>
</tr>
</tbody>
</table>

Vendor Name: L.J. DeWeese Co., Inc. (937) 440-1736
Vendor Address: 3616 Tipp-Cowlesville Road Tipp City OH 45371
Street City State Zipcode + 4
Federal ID: 31-0602186

Commodity Code: 91831

Purpose: Salem Avenue Reconstruction - Phase I
(8% DBE Participation Goal) (Federal STP Funds) (State Issue I Funds)

Contact Person: Joe Weinel

Originating Department Director's Signature: [Signature]
Date: 2-24-21

SECTION II - to be completed by the Finance Department

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

Finance Director Signature: [Signature]
Date: 3/9/2001

Finance Department

October 18, 21
**Dayton, Ohio**  
Bid Tabulation For: Salem Avenue Reconstruction Phase I  
(8% DBE Participation Goal) (Federal STP Funds)  
(State Issue I Funds)

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<th>Estimated Time Of Completion:</th>
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<table>
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<tr>
<th>Bidders</th>
<th>Actual Amount Of Base Bid</th>
<th>Adjustment For Work Days</th>
<th>Adjustment For Comparison Purposes Only</th>
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<td>* L.J. DeWeese Co., Inc.</td>
<td>$1,963,764.50</td>
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<td>$1,963,764.50</td>
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<td>Double Jay Construction, Inc</td>
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<td>Milcon Concrete, Inc.</td>
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<td>Outdoor Enterprise</td>
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<td>R.B. Jergens Contractors</td>
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<td>John R. Jurgensen</td>
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<td>Belgray, Inc.</td>
<td>$2,399,626.00</td>
<td>-0-</td>
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*Awarded*  
Revised 9/14/98
The DBE Plan for the subject project is acceptable as follows: Prime Contract Amount $2,090,223.00 x 8% = $167,217.84

The DBE Goal will be met with participation from:

- First Star Safety performing maintenance of traffic, ground mounted supports and removal of supports, signage, posts, assembly and hardware in the amount of $11,019.00
- Key Cable & Supplying PVC pipe, Quazite boxes and cover, poles/luminaire, wires in the amount of $120,106.66 (supply = $200,117.77 x 60%)
- Kes Harris Trucking hauling pavement removals in the amount of $52,800.00

Please remember that the DBE Goal is a percentage of the overall contract. If the project increases or decreases the dollar amount of the DBE Goal may change accordingly. Please let the district CCO and myself know if you should have any changes to the DBE Plan for the subject project.

As far as DBE goal is concerned you may now proceed with contract signing. Within 30 days of the prime contract execution (or before the date the DBE sub needs to start work—whichever comes first) the prime needs to have executed sub agreements/purchase orders for all DBEs submitted to the District CCO—(included in this email) for review and acceptance.
CITY OF DAYTON, OHIO
DEPARTMENT OF PUBLIC WORKS

Bid

Salem Ave. Reconstruction- Phase 1

Bidder
L.J. DeWeese Co., Inc.
3616 Tipp-Cowlesville Rd.
Tipp City, Ohio 45371
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<th>Item Code</th>
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<td>3</td>
<td>$200.00</td>
<td>$600.00</td>
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<td>201</td>
<td>Stump Removed, 18'-30&quot;</td>
<td>Each</td>
<td>3</td>
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<td>Stump Removed, 30'+</td>
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<td>L.F.</td>
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<td>$25.00</td>
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<td>202</td>
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<td>Each</td>
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<td>Pipe Removed</td>
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<td>Pavement Removed (Asphalt on Concrete)</td>
<td>S.Y.</td>
<td>12,560</td>
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<td>Concrete Driveway Removed</td>
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<td>Hour</td>
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<td>Sign, Double Faced Street Name, As Per Plan</td>
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<td>Sign &amp; Support Assembly, Pole Mounted, Hardware &amp; Installation</td>
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<tr>
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<td>$4,500.00</td>
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<td>1,920</td>
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## Salem Avenue Reconstruction - Phase 1 (#7477141)

**Owner:** City of Dayton Ohio  
**Solicitor:** Dayton OH, City of  
**02/11/2021 12:00 PM EST**

<table>
<thead>
<tr>
<th>Item Code</th>
<th>Item Description</th>
<th>UoM</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Extension</th>
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### Allowances and Contingency

**Total:** $230,000.00

| Add Alternate No. 1 | $17,483.50 |
| Add Alternate No. 2 | $11,975.00 |
| Add Alternate No. 3 | $97,000.00 |

**Base Bid Total:** $1,963,764.50
Bidder is
An Individual
Firm Name

Business Address

Telephone

Partnership
Firm Name

Members of Firm and
Their Business Address

Telephone

Corporation
Name

State of Incorporation

Name and Title of
Officers with Authority
to Sign Contract

Home Office Address

Local Address

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

E-mail kldilbone@yahoo.com

Kristen Dilbone, President
Jeremy Hench, Vice-President
3616 Tipp-Cowlesville Rd., Tipp City, Ohio 45371
Same

Federal I.D.# 31-0602186
Dated this 11 day of February 2021

Bidder: Kristen Dilbone

(Person, Firm, or Corporation)

By: Kristen Dilbone

Title: President

Digitally signed by Kristen Dilbone
Date: 2021.02.11 10:22:14 -05'00'
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_________
Bond Number: SOH21562370

Contractor Information
Principal: L J DeWeese Co. Inc
Address: 3616 Tipp-Cowiesville 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: 2/11/2021
Estimated Contract Price: 3100000
Time For Completion:
Liquidated Damages:
Estimated Work On Hand:
Amount of Bid Security: 3100000
Contract # or IFB #: 7477141
Description of Job: Salem Avenue Reconstruction Phase 1
Job Breakdown:

Electronic Bidding Information
Bid Security Percentage: 10
Bid Security Maximum: 3100000
Owner Assigned Contractor Number: 6596932

Primary Agency:
Arnold Insurance Agency Inc
Power of Attorney Limited to: unlimited

Entered By: Mark Arnold - 1/29/2021 11:09:42 AM ET
Approved & Executed By:

Mark Arnold
Mark Arnold (Signed: 29-Jan-2021 11:09 AM EST (UTC-06:00))
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, Jillian Froment, 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, 2019 that it has admitted assets in the amount of $2,101,389,646, liabilities in the amount of $533,948,430, and surplus of at least $1,567,441,217.

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

Jillian Froment, Director
WESTERN SURETY COMPANY
Sioux Falls, South Dakota
Statement of Net Admitted Assets and Liabilities
December 31, 2019

<table>
<thead>
<tr>
<th>ASSETS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonds</td>
<td>$1,943,152.245</td>
</tr>
<tr>
<td>Stocks</td>
<td>27,166.227</td>
</tr>
<tr>
<td>Cash, cash equivalents, and short-term investments</td>
<td>27,903.793</td>
</tr>
<tr>
<td>Receivables for securities</td>
<td>-</td>
</tr>
<tr>
<td>Investment income due and accrued</td>
<td>17,854.019</td>
</tr>
<tr>
<td>Premiums and considerations</td>
<td>56,706.632</td>
</tr>
<tr>
<td>Amounts recoverable from reinsurers</td>
<td>1,307,522</td>
</tr>
<tr>
<td>Current federal and foreign income tax recoverable and interest thereon</td>
<td>2,678.469</td>
</tr>
<tr>
<td>Net deferred tax asset</td>
<td>11,798.536</td>
</tr>
<tr>
<td>Receivable from parent, subsidiaries, and affiliates</td>
<td>12,821.583</td>
</tr>
<tr>
<td>Other assets</td>
<td>601</td>
</tr>
<tr>
<td>Total Assets</td>
<td>$2,101,389.646</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIABILITIES AND SURPLUS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Losses</td>
<td>$206,051.147</td>
</tr>
<tr>
<td>Loss adjustment expense</td>
<td>52,124.445</td>
</tr>
<tr>
<td>Commissions payable, contingent commissions and other similar charges</td>
<td>9,862.381</td>
</tr>
<tr>
<td>Other expenses (excluding taxes, license and fees)</td>
<td>3,624</td>
</tr>
<tr>
<td>Taxes. License and fees (excluding federal and foreign income taxes)</td>
<td>3,875.999</td>
</tr>
<tr>
<td>Federal and foreign income taxes payable</td>
<td>-</td>
</tr>
<tr>
<td>Unearned premiums</td>
<td>248,521.840</td>
</tr>
<tr>
<td>Advance premiums</td>
<td>6,112.006</td>
</tr>
<tr>
<td>Ceded reinsurance premiums payable (net of ceding commissions)</td>
<td>1,073,324</td>
</tr>
<tr>
<td>Amounts withheld or retained by company for account of others</td>
<td>5,332.206</td>
</tr>
<tr>
<td>Provision for reinsurance</td>
<td>290.516</td>
</tr>
<tr>
<td>Payable to parent, subsidiaries and affiliates</td>
<td>2,905</td>
</tr>
<tr>
<td>Payable on security transactions</td>
<td>-</td>
</tr>
<tr>
<td>Other Liabilities</td>
<td>97,836</td>
</tr>
<tr>
<td>Total Liabilities</td>
<td>$533,948.430</td>
</tr>
</tbody>
</table>

Surplus Account:
- Common stock: $4,000,000
- Gross paid in and contributed surplus: $280,071,837
- Unassigned funds: $1,283,369.380
- Surplus as regards policyholders: $1,567,441,217
- Total Liabilities and Capital: $2,101,389,646

I, Amy Smith, Senior 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, 2019, 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: Amy Smith
Senior Vice President

Subscribed and sworn to me this ** day of March 2020
My commission expires:

YOLANDA JIMÉNEZ
OFFICIAL SEAL
Notary Public, State of Illinois
My Commission Expires
September 24, 2021
6. **FEDERALLY REQUIRED EEO CERTIFICATION FORM**

The bidder hereby certifies that he **has**, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that he **has**, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements. **The Bidder must select the appropriate “has or has not” above.**
CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 1 of 2)

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

1. Kristen Dilbone, President

________________________________________ hereby certify that

(print name – an Officer of the company)

L.J. DeWeese Co., Inc.

________________________________________ meets the following Contractor requirements

(company)

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

By: ________________________________

Signature

Title: ________________________________

Date: ________________

February 11, 2021
A. Please provide a complete listing of the fringe benefits provided to employees expected to be utilized at the project site, including, but not limited, to health insurance and retirement benefits. {Reference to benefits traditionally provided on past, similar projects can be made.}

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.

Key Cable Supply

Rick Horns Trucking

First Star Safety

Plese Electric

John R. Hengsten
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

being duly sworn, deposes and states as follows:

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

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

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

By: Kristen Dilbone

Title: President
CITY OF DAYTON
CONTRACTOR NON-COLLUSION AFFIDAVIT
TO BE SUBMITTED WITH THE BID

STATE OF Oh }  SS:
COUNTY OF Miami )

Kristen Dilbone __________________________, being first duly sworn deposes and
states that:

(1) He/she is President __________________________ of

L.J. DeWeese Co., Inc. __________________________ that

(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
concurred, 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.

Kristen Dilbone  Digitally signed by Kristen Dilbone
SIGNED  Date: 2021.02.11 10:24:28 -05'00'
President
TITLE
Contractor Qualifications

Project: Salem Ave Reconstruction, Phase 1

Contractor: J D DeWeese Co., Inc.

Contractor is prequalified with Ohio Department of Transportation to perform work? Yes [X] No [ ]

Prime contractor will perform 31 percent of base bid. Prime contractor is required to perform no less than 30 percent of the total contract price.

Date: January 11, 2021
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

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>Goals of Minority Worker Utilization Expressed in Percentage Terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 1/1/2000 to Present</td>
</tr>
<tr>
<td>Goals of Female Worker Utilization Expressed in Percentage Terms</td>
</tr>
<tr>
<td>From 4/1/80 to Present</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 work force in that trade on all projects (both federal and non-federal) in the Economic Area during the performance of this contract. The working hours for minority and female work and training must be uniform throughout the length of this contract, on all projects and for each of the trades. Further, the transfer of minority and/or female or trainee from employer-to-employer or from project-to-project for the sole purpose of meeting the contractor's goals shall be a violation of this Affirmative Action Program.

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

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

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

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

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

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

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

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

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

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

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

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.

   Laborer
   Cement Mason
   Operator

   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: Kristen Dilbone
Digitally signed by Kristen Dilbone
Date: 2021.02.11 10:34:39 -05'00'

(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 2390 - Planning & CD / Land Use Administration
Supplier, Vendor, Company, Individual
St. Vincent de Paul Social Services, Inc.
Address 124 W. Apple St.
Dayton, OH 45402

Date March 10, 2021
Expense Type Other, (See Description Below)
Total Amount $303,740.40 (thru 6/30/2021)

<table>
<thead>
<tr>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020 Emergency Solutions Grant (ESG)</td>
<td>25002-2390-1159-31-PL1945</td>
<td>$303,740.40</td>
</tr>
</tbody>
</table>

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

Description

Subrecipient Agreement – 2020 Emergency Solutions Grant

The Department of Planning and Community Development requests approval to enter into an Agreement with St. Vincent de Paul Social Services, Inc., in the amount of $303,740.40, to provide shelter for homeless individuals and families. The City of Dayton has been awarded 2020 Emergency Solutions Grant (ESG) funding from the U.S. Department of Housing & Urban Development (HUD) to improve the quality of existing emergency shelters and provide critical social and supportive services necessary to assist homeless individuals in becoming self-sufficient.

The St. Vincent de Paul Gateway Shelters are the only two emergency shelters for the general homeless population in our community. The St. Vincent de Paul Gateway Shelters provide vital operational and basic human services to the homeless men, women and families in our community, in order to ensure their secure and safe shelter during the length of their homelessness and while they are working with case management on housing-focused plans. Operational and human services provide beds, shower facilities, three daily meals, clothing, personal hygiene items, mail and message services, lockers to store belongings, infants’ and children’s needs, and 24-hour contracted security.

This Agreement shall commence upon execution and it shall terminate on June 30, 2021.

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

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

Signatures/Approval

Approved by City Commission

Division

Department

City Manager

FORM NO. MS-16

Updated 8/2016
"CMR — St. Vincent Shelter Operations Agreement" History

- Document created by Miranda Brooks (miranda.brooks@daytonohio.gov)  
  2021-02-25 - 4:19:35 PM GMT - IP address: 75.186.30.18

- Document emailed to Todd M. Kinskey (todd.kinskey@daytonohio.gov) for signature  
  2021-02-25 - 4:22:22 PM GMT

- Email viewed by Todd M. Kinskey (todd.kinskey@daytonohio.gov)  
  2021-02-25 - 4:48:31 PM GMT - IP address: 74.83.54.61

- Document e-signed by Todd M. Kinskey (todd.kinskey@daytonohio.gov)  
  Signature Date: 2021-02-25 - 4:49:07 PM GMT - Time Source: server - IP address: 74.83.54.61

- Agreement completed.  
  2021-02-25 - 4:49:07 PM GMT
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td>Required Documentation</td>
</tr>
<tr>
<td>Expiration Date</td>
<td>06/30/21</td>
<td>X Initial City Manager's Report</td>
</tr>
</tbody>
</table>

- Original Commission Approval: $303,740.40
- Initial Encumbrance: $303,740.40
- Remaining Commission Approval: $-

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

<table>
<thead>
<tr>
<th>Amount: $303,740.40</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund Code: 25002 - 2390 - 1159 - 31 - PL1945 - XXXX</td>
</tr>
</tbody>
</table>

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

Attach additional pages for more FOAPALs

Vendor Name: St. Vincent de Paul Social Services, Inc
Vendor Address: 124 W. Apple Street Dayton OH 45402
Federal ID: 311132259
Commodity Code: 96199
Purpose: Provide emergency shelter for the general homeless population in Dayton.

Contact Person: Jeff Green
Planning & Community Development
Date: 2/25/2021

SECTION II - to be completed by the Finance Department

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

Finance Director's Signature: [Signature]
Date: 3/2/2022

October 18, 2011
"CF — St Vincent Shelter Operations" History

Document created by Miranda Brooks (miranda.brooks@daytonohio.gov)
2021-02-25 - 4:23:35 PM GMT - IP address: 75.186.30.18

Document emailed to Todd M. Kinskey (todd.kinskey@daytonohio.gov) for signature
2021-02-25 - 4:23:48 PM GMT

Email viewed by Todd M. Kinskey (todd.kinskey@daytonohio.gov)
2021-02-25 - 4:49:21 PM GMT - IP address: 74.83.54.61

Document e-signed by Todd M. Kinskey (todd.kinskey@daytonohio.gov)
Signature Date: 2021-02-25 - 4:49:43 PM GMT - Time Source: server - IP address: 74.83.54.61

Agreement completed.
2021-02-25 - 4:49:43 PM GMT
EMERGENCY SOLUTIONS GRANT PROGRAM
SUBRECIPIENT AGREEMENT
ST. VINCENT DE PAUL SOCIAL SERVICES, INC.
CFDA 14.231
E-20-MC-39-0010

THIS SUBRECIPIENT AGREEMENT ("Agreement") is entered into this day _____ of ____________, 2021, between the CITY OF DAYTON, OHIO (hereinafter referred to as "City") and ST. VINCENT DE PAUL SOCIAL SERVICES, INC. a not-for-profit corporation organized under the laws of the State of Ohio, (hereinafter referred to as "Subrecipient").

WITNESSETH THAT:

WHEREAS, The United States Department of Housing and Urban Development ("HUD") awarded the City grant funding under the “Emergency Solutions Grant Program," as authorized by the Stewart B. McKinney Homeless Assistance Act, including Subpart B of Title IV of the Act; and,

WHEREAS, The Subrecipient operates and manages night homeless shelters for men, women, and dependent children ("Program"); and,

WHEREAS, The Program qualifies for the receipt of funding under the Emergency Solutions Grant Program, and that providing a portion of the City’s grant award from HUD to the Subrecipient for its Program is consistent with the objectives of the Emergency Solutions Grant Program.

NOW, THEREFORE, In consideration of the mutual promises and covenants hereinafter set forth, the parties hereto mutually agree as follows:

I. GRANT OF FUNDS

The City grants the Subrecipient a portion of its Emergency Solutions Grant Program award from HUD in an amount not to exceed THREE HUNDRED AND THREE THOUSAND SEVEN HUNDRED FORTY DOLLARS AND FORTY CENTS ($303,740.40) for the costs of managing and operating the Program.

II. SCOPE OF SERVICES

A. Program

The Subrecipient shall, in a manner satisfactory to the City, manage and operate the Program, as described in Exhibit A, which is attached hereto and incorporated herein. The Subrecipient shall be solely responsible for all aspects of operating the Program, and shall use the funds provided hereunder for those costs listed in Exhibit A under the heading “Use of Funds.”

B. Special Requirements

1. The Subrecipient agrees to provide matching funds equal to the amount of grant funding to be provided by the City hereunder. Calculation of the matching funds
shall be determined according to the HUD regulations set forth in 2 CFR Part Subpart D 200.36.

2. Any building for which Emergency Solutions Grant Program funds are used must be maintained as a shelter for the homeless for the period prescribed by the HUD regulations set forth in 2 CFR Subpart D 200.311.

3. Any Emergency Solutions Grant Program funds used for building renovation, conversion or major rehabilitation must meet the local government standard of being in a safe and sanitary condition.

4. Homeless individuals must be given assistance in obtaining appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living and obtaining other federal, state, local, and private assistance that may be available for such individuals.

5. To the maximum extent practicable, homeless individuals and families must be involved in the construction, renovation, maintenance, and operation of facilities assisted under the Emergency Solutions Grant Program, and in providing services for occupants of these facilities.

6. The Subrecipient must comply with applicable federal laws concerning non-discrimination and equal opportunity accessibility, lead-based paint, flood insurance, drug and alcohol free facility and use of debarred, suspended, or ineligible subrecipients. (See Appendix II to Part 200)

C. Monitoring and Evaluation

1. Subrecipient agrees that the City and HUD, or its agents shall monitor, evaluate and may provide guidance and direction to Subrecipient in the conduct of the work and activities to be performed under the terms of this Agreement.

2. The City will monitor the performance of the Subrecipient against goals and performance standards as set forth in Exhibit C. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the City, Agreement suspension or termination procedures may be initiated.

III. TIME OF PERFORMANCE

This Agreement shall be effective upon approval by the City Commission. The services and work to be performed by the Subrecipient shall commence July 1, 2020, through June 30, 2021, at which time all work must be satisfactorily completed in compliance with this Agreement.
IV. BUDGET AND PAYMENT PROCEDURES

A. Budget

Exhibit B, which is attached hereto and incorporated herein, shall serve as the official line item budget for the Program to be funded under this Agreement. In order to provide sufficient flexibility in the operation of the Program, the Subrecipient may amend the budget by transfer of funds between budget line items, so long as no line item is changed by more than 10% of that amount presently set out for that particular line item and such change would not violate 2 CFR Subpart D and E. A transfer of funds greater than 10% in any one line item shall not be effective until copies of the proposed amended budget are presented to and approved by the City's Director of Planning and Community Development.

B. Payment Procedures

1. The City shall reimburse to the Subrecipient funds available under this Agreement based upon information submitted by the Subrecipient and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Subrecipient.

2. Disbursements shall be made for merchandise or services that have been properly budgeted and authorized which are accompanied by an invoice, Agreement, purchase order, or other authorization properly approved. Disbursements shall be made after certification by the Subrecipient that the Subrecipient has received the merchandise or services. All disbursements are to be made by check. No checks are to be payable to Cash. All checks shall be pre-numbered.

3. Expenditures under this Agreement shall be made solely for Program goods and services, which will be utilized during the Agreement term. The Subrecipient shall not spend funds for services, which are to be furnished beyond the Agreement term. Funds spent for services, supplies, or consumed in whole or in part beyond the term of the Agreement shall be unallowable expenses with respect to that portion of goods or services consumed or supplied beyond the term hereof.

4. No funds are to be encumbered for the payment of Program costs incurred prior to the order to proceed, or costs incurred with respect to any action of the Subrecipient after the City has requested that the Subrecipient furnish data concerning such action prior to proceeding further, unless and until the Subrecipient is thereafter advised in writing that the City does not object to so proceeding.

5. Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards.
V. GENERAL CONDITIONS

A. Compliance

1. The Subrecipient agrees that the HUD regulations set forth in 2 CFR Part 200 Subpart D are applicable to the grant funds it receives pursuant to this Agreement.

2. The Subrecipient agrees that the work and services authorized by this Agreement shall be performed in accordance with any and all applicable local, state and federal regulations, directives or guidelines.

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

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

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

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

B. Independent Contractor

The parties hereby agree that at all times, the Subrecipient shall be an Independent Contractor and not subject to control by the City, 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.
Subrecipient understands and agrees that any and all persons retained or hired to perform the duties and responsibilities under this Agreement are not City employees, and not entitled to any of the emoluments of City employment, including for the purposes of Ohio Employee Retirement System membership. Further, the Subrecipient shall be responsible for paying such agents, Subrecipients and sub-Subrecipients, withholding from their pay, all local, state and federal taxes, and Workers Compensation Insurance. Subrecipient further acknowledges and agrees that none of its employees are public employees for the purpose of membership and/or participation in the Ohio Public Employees Retirement System (OPERS).

C. Indemnification

The Subrecipient shall defend, indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against legal liability for all claims, losses, damages and expenses 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 Program, including any violation of state, federal or local laws, rules and regulations governing the use or expenditure of Emergency Solutions Grant Program funding and/or the acts, omissions or conduct of the Subrecipient, its employees, contractors and/or agents.

In the event the Subrecipient violates any HUD regulations or requirements, and specifically those related to the Emergency Solutions Grant Program, the Subrecipient shall assume full and complete responsibility for said violations, including payment of the penalty imposed or re-payment of improperly expended funds, and shall defend, indemnify, and hold the City, its elected officials, officers, agents and employees harmless.

D. Insurance & Bonding:

The Subrecipient shall carry sufficient insurance coverage to protect Agreement assets from loss due to theft, fraud and/or undue physical damage, and at a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances by the City. The Subrecipient shall comply with the bonding and insurance requirements of 2 CFR Part 200 Subpart D.

E. Amendments

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

F. Entire Agreement / Integration

This Agreement, together with all Exhibits and attachments referenced herein, represents the entire and integrated Agreement between the City and the Subrecipient. 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.
G. Waiver

A waiver by either party 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 waiving party’s rights with respect to any other or further breach.

H. Governing Law

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

I. Reference to Laws

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

J. Notices

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

To City: City of Dayton, Ohio
Department of Planning and Community Development
101 West Third Street
Dayton, Ohio 45402
Attn: Jeffrey N. Green
Jeff.Green@daytonohio.gov

To Subrecipient: St. Vincent de Paul Social Services
124 W. Apple St.
Dayton, Ohio 45402
Attn: Rob Andrews
randrews@stvincentdayton.org

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

VI. FINANCIAL MANAGEMENT

A. Accounting Standards

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

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

VII. DOCUMENTATION AND RECORD KEEPING

A. Records to be Maintained

1. The Subrecipient shall maintain all records required by the federal regulations specified in 2 CFR Subparts D and E that are pertinent to the activities to be funded under this Agreement. Such records shall include, but not be limited to:

   (a) Records providing a full description of each activity undertaken;

   (b) Records demonstrating that each activity undertaken meets one of the Emergency Solutions Grant eligible activities;

   (c) Records required to determine the eligibility of activities;

   (d) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with Emergency Shelter Grant assistance;

   (e) Records maintained in the Dayton Montgomery County Homeless Management Information System (HMIS), with continuous participation and at minimum 90% completion rate for Universal Data Elements by the Subrecipient;

   (f) Financial records as required by 2 CFR Part 200.

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

3. At any time during normal business hours and as often as the City may deem necessary, the Subrecipient shall make available to the City all of its records with respect to all matters covered by this Agreement, and will permit the City to audit, examine, and make excerpts of transcripts from such records and to make audits of all agreements, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. The City may require the Subrecipient to provide by an independent CPA at the Subrecipient's expense, an audit of this Agreement. In performing such audits, the Subrecipient shall require the auditor to comply with all City rules and regulations governing auditing.

B. Retention
The Subrecipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after receipt of final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

C. Client Data

The Subrecipient shall maintain client data demonstrating client eligibility for the services to be provided under the terms of this Agreement. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of services provided. Such information shall be made available to the City or its designees for review upon request.

D. Disclosure

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

E. Property Records

The Subrecipient shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 2 CFR 200 Subpart D, as applicable.

F. Close-Outs

The Subrecipient's obligation to the City shall not end until all closeout requirements are completed. Activities during this close-out include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and receivable accounts to the City), and determining the custodianship of records.

G. Audits & Inspections

All Subrecipient's records with respect to any matters covered by this Agreement shall be made available to the City, City agency, its designees or the Federal Government and its agencies or designees, at any time during normal business hours, as often as the City or the Federal Government, its agencies or designees deem necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after completion. Failure of the Subrecipient to comply
with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning subrecipient audits and, as applicable, 2 CFR 200 Subpart F.

H. Subcontracting:

1. The Subrecipient represents that it has or will secure at its own expense, all personnel required to perform the work and services under this Agreement for the Program. All of the work and services required will be performed by the Subrecipient or under its supervision and all personnel engaged in the work and services shall be fully qualified and shall be authorized or permitted under federal, state and local law to perform such work and services.

2. None of the work or services covered by this Agreement shall be subcontracted without written approval of the City. Any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

VIII. REPORTING AND PAYMENT PROCEDURES

A. Program Income

The Subrecipient shall report quarterly all "program income," as defined at 2 CFR 200.307 generated by activities carried out with Emergency Shelter Grant funds made available under this Agreement. The use of program income by the Subrecipient shall comply with the requirements set forth at 2 CFR 200.307. By way of further limitations, the Subrecipient may use such income during the Agreement period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program balances on hand. All unused program income shall be returned to the City at the end of the Agreement period. Any interest earned on cash advances from the U.S. Treasury is not program income and shall be remitted promptly to the City.

B. Indirect Costs

If indirect costs are charged, the Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient share of administrative costs and shall submit such plan to the City for approval, in a form specified by the City.

C. Progress Reports

The Subrecipient shall submit a Progress Report to the City in the form, content, and frequency as required by the City.

D. Procurement

1. The Subrecipient shall comply with the City’s policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal
property as defined by such policy as may be procured with funds herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

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

IX. EQUAL EMPLOYMENT OPPORTUNITY

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

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

B. The Subrecipient shall comply with all other applicable federal, state and local laws, regulations, and/or orders pertaining to equal employment opportunity.

X. TERMINATION

In addition to all other remedies provided under this Agreement or at law, the City may terminate this Agreement in the event or for the following reasons:

A. The Subrecipient's failure, for any reason, to fulfill in a timely and proper manner its obligations under this Agreement;

B. The Subrecipient's breach of any term or condition of this Agreement;

C. The Subrecipient's violation of any applicable federal, state and/or local law, rule, regulation, OMB Circular, executive order or directive, including any provision of the Stewart B. McKinney Homeless Assistance Act, as amended by the National Affordable Housing Act;

D. The Subrecipient's submission of any invoices, reports or records that are incorrect, fraudulent and/or incomplete in any material respect;

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

F. Suspension or termination of the Emergency Solutions Grant Program grant award to the City under which this Agreement is made. However, if the grant is merely reduced and in the absence of any contrary grantor agency directive, the Subrecipient may readjust its budget and recommend amendment(s) to the City; or
G. When required or directed by HUD to terminate, assign, or transfer this Agreement.

In the event the City terminates this Agreement for reasons (a) through (g) above, the Subrecipient may be required to repay, at the City's discretion, all or a portion of the funds disbursed to the Subrecipient under this Agreement. Notwithstanding, it is understood that in the event of termination for any of the aforementioned reasons, all unexpended funds in the Subrecipient's possession on the date of termination shall be immediately returned to the City.

XI. CONFLICT OF INTEREST

No member of the governing body of the City and no other officers, officials, agents or employees of the City or government of the United States of America, shall have any personal financial interest, direct or indirect, in this Agreement. The Subrecipient shall take appropriate steps to insure compliance.

XII. INTEREST OF SUBRECIPIENT

The Subrecipient covenants that no person who presently exercises any function or responsibilities in connection with the program has any personal financial interest, direct or indirect, in the Agreement. The Subrecipient covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in any parcels of property within the City which thereby causes conflict in any manner or degree with the performance of its work or services hereunder.

XIII. ENTIRE AGREEMENT

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

XIV. REFERENCES TO LAW

All references to federal, state or local laws, regulations, or orders contained in this Agreement shall include any and all subsequent amendments, modifications, additions or other changes as may be enacted or codified by the proper governmental authority during the term of this Agreement.
IN WITNESS WHEREOF, the City and the Subrecipient, each by a duly authorized representative, have executed this Agreement as of the date first set forth above.

THE CITY OF DAYTON, OHIO

________________________
City Manager

ST. VINCENT DE PAUL SOCIAL SERVICES, INC.

Michael Vanderburgh

________________________
Executive Director

APPROVED AS TO FORM AND CORRECTNESS:

________________________
City Attorney

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

________________________, 2021

Min. / Bk. _______ Page _______

________________________
Clerk of the Commission
EXHIBIT “A”
SCOPE OF SERVICES
ST. VINCENT DE PAUL SOCIAL SERVICES, INC.

1. PROGRAM

St. Vincent de Paul Gateway Shelters are the only two emergency shelters for the general homeless population in our community. The St. Vincent de Paul Gateway Shelters provide vital operational and basic human services to the homeless men, women and families in our community in order to ensure their secure and safe shelter during the length of their homelessness and while they are working with case management on housing-focused plans.

Both facilities provide 24-hour shelter for usual capacities of 289 single men, 181 single women, and 30 families with an average of 60 children. In 2019, St. Vincent de Paul provided 161,856 units of shelter to 1,945 single men, 1,000 single women, and 408 families with 580 adults (primarily women) and 703 children.

Operational services are comprised of maintenance, security, and all other services related to providing one 24-hour day of shelter that includes a bed, shower, a place to be during the day, three meals, laundry, personal hygiene items, clothing, storage of belongings, and the use of an address and telephone.

2. COMMUNITY DEVELOPMENT GOALS AND OBJECTIVES

- Provide temporary assistance to individuals that would have become homeless but for this assistance;
- Reduce the number of households entering shelter; and
- Reduce length of time households spend in shelter.

3. OUTCOME MEASUREMENTS: PERFORMANCE AND OUTCOME MEASURES

In accordance with U.S. Department of Housing and Urban Development (HUD) requirements, the City has implemented a performance measurement system that is based on an outcomes-based approach to funding projects. The City requires recipients of federal funds to assess the productivity and impact of their programs. This Performance and Outcome Measurement System will help to quantify the effectiveness of programs and establish clearly defined outcomes.
Outcomes-based measurement focuses on results rather than processes and provides an assessment tool for the City and its grantees. The implementation of an outcomes funding framework intends to improve results, accountability, and cost-effectiveness of funded programs.

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

4. **SUBRECIPIENT RESPONSIBILITIES**

The Subrecipient will be responsible for the following aspects of managing the program:

- Comply with all ESG regulations;
- Market program in conjunction with the City;
- Provide prevention, and rapid re-housing assistance to eligible families and individuals; and
- Preparation of reports to the City as detailed in Article VIII of the Agreement.

5. **BUDGET**

The **THREE HUNDRED AND THREE THOUSAND SEVEN HUNDRED FORTY DOLLARS AND FORTY CENTS ($303,740.40)** in ESG funds will be used solely for Emergency Shelter Operations.

6. **STAFFING**

The Subrecipient shall assign the following staff as Key Personnel to the ESG Emergency Shelter Operations program:

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

<table>
<thead>
<tr>
<th>Staff Member Title</th>
<th>General Program Duties</th>
<th>Time Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shelter Manager</td>
<td>Oversight and implementation of all shelter operations; HMIS, scheduling of staff</td>
<td>1 FTE</td>
</tr>
<tr>
<td>Maintenance Supervisor</td>
<td>Performs or contracts for maintenance of buildings, appliances, equipment, outdoor property, at both shelters</td>
<td>1 FTE</td>
</tr>
<tr>
<td>Food Service Supervisor</td>
<td>Supervise kitchens and food preparation for both shelters; plan menus for 300 to 400 people daily at both shelters</td>
<td>1 FTE</td>
</tr>
<tr>
<td>Client Advocate</td>
<td>Assists clients with daily needs by providing oversight and direction</td>
<td>6 FTE</td>
</tr>
</tbody>
</table>

### 7. PAYMENT PROCEDURES

The City will reimburse Subrecipient for expenditures for the Project and in accordance with the line-item budget set forth in Exhibit B. Subrecipient shall submit all invoices and supporting records and documentation to the City’s Department of Planning and Community Development. Subrecipient shall comply with the following requirements for the submission of requests for reimbursement:

**A. Invoice Information**

Subrecipient’s invoice shall contain the following:

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

**B. Supporting Documentation**

Subrecipient shall collect, maintain, and submit the following documentation and information with invoices for payment.

For Project administration, the Subrecipient will include:

1. Number of hours worked on the program/project funded, and
2. Summary of work performed by employee during the time for which payment was made.
For supplies/materials, the documentation and information shall include:

Invoice from vendor or company detailing the item(s)/services purchased and a copy of Contractor's check showing that Subrecipient paid the vendor for goods/services.

For professional services provided by a subcontracted entity, the documentation and information shall include:

1. A copy of the subcontract must be submitted (at least one during the Agreement period, if Contractor will seek reimbursement on several invoices); and

2. Contractor must require that the subcontracted agency submit the same level of documentation and information that Contractor must provide to seek payment from the City and such information and documentation must be submitted by the Contractor to the City with its invoice. At a minimum, the subcontracted agency should provide Contractor a cover memo, on company letterhead, which summarizes the request for payment, the amount requested, services provided for the requested amount, and information on clients served, if applicable. Unless disputed or the City determines that there is insufficient documentation to substantiate the invoice, the City will tender payment to Subrecipient within thirty (30) days from the date the City receives the invoice.

8. DOCUMENTATION AND RECORD KEEPING

In order to ensure that program participants and activities meet the program eligibility criteria, the Subrecipient must keep the following documents:

A. Referrals from social service agencies documenting that program participant were indeed homeless at the time they entered the Program;

B. Dates when participating families/individuals entered and exited from the Program;

C. The services that each Program participant received; and

D. Follow-up services provided to those Program participants who exit the Program during this program.

Subrecipient will maintain case files, including above information for a period of not less than five (5) years after completion of the program. Subrecipient will maintain these and other documents and financial records in accordance with the requirements for record retention specified in Article VII of the Agreement.

9. REPORTING PROCEDURES

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

A. Initial Progress Report
No later than fifteen (15) days from the effective date of this Agreement, the Subrecipient shall submit to the City an initial report, which summarizes progress, initiated to date.

B. Quarterly Progress Report

On the fifth (5th) day of the month following the end of a quarter, beginning with the fourth quarter of the 2021 Fiscal Year, the Subrecipient must submit a progress report which details at a minimum the following:

1. Total number of individuals who applied for assistance;
2. Total number of individuals approved for assistance;
3. Demographic profile of applicants and approved recipients;
4. Number of individuals assisted;
5. Description of assistance completed for each individual assisted;
6. Percentage of applicants who were from low and moderate income households; and,
7. Status of funding i.e. expenditures and remaining balance.

All reports shall be submitted to the City’s Department of Planning and Community Development.
The Subrecipient will be reimbursed for eligible costs shown in the following budget and based on the appropriate documentation up to a maximum of $303,740.40 per the term of the Agreement.

<table>
<thead>
<tr>
<th>Eligible Activities</th>
<th>City ESG FY2020 Activity Amount</th>
<th>Matching Funds Activity Amount</th>
<th>Project Total Activity Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff &amp; Benefits</td>
<td>$303,740.40</td>
<td>$2,065,424</td>
<td>$2,369,164.40</td>
</tr>
<tr>
<td>Food, food service</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utilities – gas, water, elec, phone</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Professional services</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supplies – cleaning, office, shelter</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Maintenance/repair</td>
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<tr>
<td>Security</td>
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</tr>
<tr>
<td>Misc Op Costs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administration</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Emergency Solutions Grants Subtotal</td>
<td>$303,740.40</td>
<td>$2,065,424</td>
<td>$2,369,164.40</td>
</tr>
</tbody>
</table>
City Manager’s Report

From 2600 - Economic Development

Supplier, Vendor, Company, Individual
Name Webster 2020, LLC DBA Norwood Tool Company
Address 2122 Winners Circle
          Dayton, Ohio 45404

Fund Source(s) Fund Code(s) Fund Amount(s)
N/A N/A $ N/A

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

Description
Enterprise Zone Agreement – Webster 2020, LLC DBA Norwood Tool Company

The Department of Economic Development requests approval to enter into an Enterprise Zone Agreement with Webster 2020, LLC DBA Norwood Tool Company, currently located at 2122 Winners Circle. The Company intends to construct a new 33,120 square foot manufacturing facility at 2043 Webster Street. The Company will invest no less than $1,400,000.00 in the project and create a minimum of twenty (20) new full-time positions.

The Enterprise Zone Agreement will support the project by providing the Company with a 75% abatement of real property taxes on the new improvements for a period of ten years following completion of the project. No exemption shall commence after the 2022 tax year nor extend beyond the 2032 tax year.

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

Signatures/Approval

Division

Department

City Manager

Approved by City Commission

Clerk

Date

FORM NO. MS-16

Updated 8/2016
February 25, 2021

TO:      Shelley Dickstein, City Manager
FROM:    Ford P. Weber, Director
DEPARTMENT OF ECONOMIC DEVELOPMENT

SUBJECT: Enterprise Zone Agreement with Webster 2020 LLC DBA Norwood Tool Company

The Department of Economic Development is requesting adoption of the attached Enterprise Zone Agreement with Webster 2020 LLC DBA Norwood Tool Company currently located at 2122 Winners Circle.

The Company intends to construct a new 33,120 square foot manufacturing facility at 2043 Webster Street. The Company will create a minimum of twenty (20) new full-time positions.

The Enterprise Zone Agreement will support the project by providing the Company with a 75% abatement of real property taxes on the new improvements for a period of ten years following completion of the project. No exemption shall commence after the 2022 tax year nor extend beyond the 2032 tax year.

The Department of Law has reviewed and approved the Agreement as to form and correctness. If you have any questions, please contact me at extension 3621.

FPW
ENTERPRISE ZONE AGREEMENT #272

THIS ENTERPRISE ZONE AGREEMENT #272 ("Agreement") is dated this ______ day of ______________, 2021 between the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio, (hereinafter referred to as the "City") and Webster 2020, LLC DBA Norwood Tool Company, a corporation authorized to conduct business in the State of Ohio with offices located at 2122 Winners Circle, Dayton, Ohio 45404, (hereinafter the "Enterprise").

WITNESSETH THAT:

WHEREAS, The City encourages the development of real property and the acquisition of personal property in the areas designated as Enterprise Zones; and,

WHEREAS, By Resolution No. 4603-94 approved July 27, 1994, the Commission of the City of Dayton designated certain areas of the City as an "Urban Jobs and Enterprise Zone" pursuant to Chapter 5709 of the Ohio Revised Code, and declared that incentives for businesses offered by such Zones will enhance efforts to promote the viable and diverse economic activity necessary for rejuvenation of the Zones; and,

WHEREAS, Effective August 17, 1994, the Director of Development of the State of Ohio determined that the areas designated by the Commission of the City of Dayton in Resolution No. 4603-94 contain the characteristics set forth in Section 5709.61(A) of the Ohio Revised Code, and certified said areas as an "Urban Jobs and Enterprise Zone" under Chapter 5709 of the Ohio Revised Code; and,

WHEREAS, The City is willing to provide the Enterprise with the incentives available for development in an "Urban Jobs and Enterprise Zone" under Chapter 5709 of the Ohio Revised Code; and,

WHEREAS, The Enterprise desires to construct a new manufacturing facility within the City of Dayton, Ohio; and,

WHEREAS, The Enterprise will invest not less than One Million Four Hundred Thousand Dollars and Zero Cents ($1,400,000.00) nor more than One Million Four Hundred Fifty Thousand Dollars and Zero Cents ($1,450,000.00) to construct a new manufacturing facility at 2043 Webster Street in the City of Dayton, or at a corresponding address identified by the City as part of the customary permitting process ("Property"); and,

WHEREAS, The Property is located within a designated Enterprise Zone and the Enterprise seeks to obtain the development incentives that are available to an enterprise that creates and retains job opportunities in the Enterprise Zone; and,

WHEREAS, The Enterprise submitted an “Application For A Proposed Agreement” to the City pursuant to Section 5709.62(B) of the Ohio Revised Code, which is attached hereto as Attachment A ("Application"); and,
WHEREAS, The Enterprise’s Application has been investigated and the City Manager recommended approval of the Application to the Commission of the City of Dayton on the basis that the Enterprise is qualified by financial responsibility and business experience to create and preserve employment opportunities in the Enterprise Zone and to improve the economic climate of the City; and,

WHEREAS, The Property is also located in the Dayton School District, and the Dayton School Board has been notified in accordance with Section 5709.83 of the Ohio Revised Code, and been given a copy of the Application; and,

WHEREAS, Pursuant to Sections 5709.62(C)(1) and 5709.631 of the Ohio Revised Code, the parties set forth their agreement with regard to the matters hereinafter contained.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and the benefits to be derived by the parties from the execution hereof, the parties agree as follows:

Section 1. Project Investment Promise

The Enterprise will conduct its business operations within the City of Dayton by: (1) Constructing an approximately 33,120 square foot manufacturing facility on the Property (more specifically described as Montgomery County Auditor Parcels R72-15601-0036, and R72-15601-0039 and 0083 will be consolidated in a new plat at a later date), which is hereinafter referred to as (“Project”). Pursuant to Section 5709.631(A)(2) of the Ohio Revised Code, the Project investment to be made by the Enterprise includes the construction of a manufacturing facility having an estimated cost of One Million Four Hundred Thousand Dollars and Zero Cents ($1,400,000.00) to One Million Four Hundred Fifty Thousand Dollars and Zero Cents ($1,450,000.00).

The Project will begin on or after March 15, 2021 and the construction of the new manufacturing facility will be completed on or before December 31, 2022. The total investment for this Project is greater than ten percent (10%) of the market value of the Property and improvements thereon as represented on the Application.

Section 2. Tax Abatement

A. Real Property Tax Exemption. Pursuant to Section 5709.62(C)(1)(b) of the Ohio Revised Code, the City grants the Enterprise a tax exemption for the real property improvements made under the Project. Said exemption shall cover seventy-five percent (75%) of the increased value of the real property as a result of the Project. The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. No exemption shall commence after the 2022 tax year nor extend beyond the 2032 tax year.

B. Non-abated Taxes. The Enterprise shall pay such real and tangible personal property taxes as are not exempted under this Agreement and charged against such Property and shall file all tax reports and returns as required by law. If the Enterprise fails to pay such taxes or to file such returns and reports, all incentives granted under this Agreement are
taxes or to file such returns and reports, all incentives granted under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.

Section 3. Survival of Tax Exemptions Granted

Pursuant to Section 5709.631(B)(6) of the Ohio Revised Code, if for any reason the Enterprise Zone designation expires, the Director of the Ohio Department of Development revokes certification of the zone, or the City revokes the designation of the zone, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Enterprise materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation granted under this Agreement.

Section 4. Project Employment Promise

As part of the Project and as a material condition of this Agreement, the Enterprise shall create twenty (20) new permanent full-time employment positions at the facility on the Property with an annual payroll of Eight Hundred Thousand Dollars and Zero Cents ($800,000.00). The Enterprise shall create and fill these additional twenty (20) employment positions with all twenty (20) positions created and filled not later than December 31, 2023. The Enterprise shall maintain these additional twenty (20) employment positions from the date of creation until expiration of the tax exemptions granted hereunder.

Section 5. Compliance

The Enterprise shall complete the Project, on the terms and conditions contained herein, and shall maintain the Project and remain in the Enterprise Zone as provided herein, for the entire period during which the Enterprise receives the tax exemptions granted under this Agreement.

If the Enterprise materially fails to fulfill its obligations under this Agreement, other than with respect to the number of employee positions estimated to be created or retained under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement is fraudulent, the City may terminate or modify the exemptions from taxation granted under this Agreement and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this Agreement.

In any three-year period during which this Agreement is in effect, if the actual number of employee positions created or retained by the Enterprise is not equal to or greater than seventy-five percent (75%) of the number of employee positions estimated to be created or retained under this Agreement during that three-year period, the Enterprise shall repay the amount of taxes on property that would have been payable had the property not been exempted from taxation under this agreement during that three-year period. In addition, the City may terminate or modify the exemptions from taxation granted under this Agreement.
Section 6. Hiring

In accordance with Resolution No. 4627-94 adopted by the Commission of the City of Dayton, the Enterprise shall establish provisions for hiring the twenty (20) new full-time permanent employees promised in Section 4 above based on the following criteria:

A. The Enterprise shall make every possible effort to hire residents of the Enterprise Zone or the City of Dayton to fill not less than fifty percent (50%) of the new employment positions to be created hereunder. In the event that neither residents of the Enterprise Zone nor the residents of the City of Dayton are qualified to fill fifty percent (50%) of the new employment positions, the Enterprise may request a waiver of particular positions from the City Manager upon submission of the documentation set forth in Subsection C below.

B. The Enterprise shall establish and maintain a working relationship with City-designated job placement and employment organizations, such as the Montgomery County Job Center and the City’s Priority Boards, to assist with employment recruitment and satisfaction of the employment promise set forth in Section 4.

C. The Enterprise shall document its efforts to hire personnel from the Enterprise Zone and the City of Dayton, Ohio. Such documentation shall consist of, but not be limited to, newspaper advertisements, employment referrals from designated job placement or employment agencies and organizations, and job applications received, reviewed, and rejected. All documentation is subject to audit.

Section 7. Reporting Requirements and Certification of Eligibility

A. Reports and Forms. The Enterprise shall submit the following reports as required to maintain the status of the tax exemption. Each report shall include the name, address, zip code, and date of employment for each employee for purposes of verifying employment compliance. Each report shall also include the amount of total City of Dayton, Ohio annual wage withholding taxes paid for the previous year.

i) Mid-Year Employment Status Report – must be filed with the City no later than the 10th day of June for each year this Agreement is in effect, and

ii) Annual Certification of Investment and Employment – must be filed no later than the following 15th of January for each year this Agreement is in effect.

iii) The Enterprise must file the appropriate tax forms with the County Auditor and with the Ohio Department of Taxation to maintain the exemptions covered in this Agreement.

B. Continued Certification. In addition to the reports required above, the Enterprise shall provide to the proper tax incentive review council (the City of Dayton Tax Incentive Review Council (“TIRC”)) any information the council reasonably requires to evaluate the Enterprise’s compliance with the Agreement, including returns filed or annual reports filed
pursuant to Section 5711.02 or 5727.08 of the Ohio Revised Code, if requested by the
council. Upon receipt of requested information and the required reports demonstrating the
Enterprise’s compliance with the terms and conditions of this Agreement, the City will
annually certify to the State of Ohio and to the Montgomery County Auditor that the
Enterprise is eligible for the exemptions provided for herein.

Pursuant to Section 5709.85(C)(1) of the Ohio Revised Code, the TIRC, in determining
whether the Enterprise has complied with the Agreement, shall take into consideration any
fluctuations in the business cycle unique to the Enterprise and, on the basis of such
determination, submit to the City written recommendations for continuation, modification, or
cancellation of this Agreement.

Section 8. Fees and Payments

A. Annual Program Fee. The Enterprise shall pay the City an annual fee of Two
Hundred Fifty Dollars and Zero Cents ($250.00) no later than June 10th of each year that this
Agreement is in effect. All annual fee payments shall be made payable to the order of “The
City of Dayton, Ohio” and sent to the attention of the City’s Enterprise Zone Manager. The
City shall deposit the annual fee in a special fund created for such purpose, and funds shall be
used exclusively for complying with Section 5709.68 of the Ohio Revised Code and by the
Tax Incentive Review Council created under Section 5709.85 of the Ohio Revised Code,
exclusively for the purposes of performing the duties prescribed thereunder. It is understood
and agreed that the City retains the right to modify, at any time and with the approval of the
Commission of the City of Dayton, the annual fee, which the Enterprise agrees to pay;
provided, however, that such annual fee does not exceed One Thousand Dollars and Zero
Cents ($1,000.00).

Section 9. Enterprise Representations

A. Delinquent Taxes. The Enterprise certifies that at the time this Agreement is executed,
the Enterprise does not owe any delinquent real or tangible personal property taxes to any taxing
authority of the State of Ohio, and does not owe delinquent taxes for which the Enterprise is
liable under Chapter 5727, 5733, 5735, 5739, 5741, 5743, 5747, or 5753, of the Ohio Revised
Code; or, if such delinquent taxes are owed, the Enterprise currently is paying the delinquent
taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality
thereof, has filed a petition in bankruptcy under 11 U.S.C.A. Section 101, et seq., or such a
petition has been filed against the Enterprise. For purposes of the 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.

B. No False Statements. The Enterprise affirmatively covenants that it has made no false
statements to the State or political subdivision in the process of obtaining approval for the
Enterprise Zone incentives. If any representative of the Enterprise has knowingly made a false
statement to the State or political subdivision to obtain the Enterprise Zone incentives, the
Enterprise shall be required to immediately return all benefits received under the Enterprise Zone
Agreement pursuant to Section 9.66(C)(2) of the Ohio Revised Code and shall not be eligible for
any future economic development assistance from the State, any state agency or a political
subdivision pursuant to Section 9.66(C)(1) of the Ohio Revised Code. Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to Section 2921.13(D)(1) of the Ohio Revised Code.

Section 10. Non-Discrimination

A. Hiring. The City developed a policy to ensure recipients of Enterprise Zone tax benefits practice non-discrimination hiring in its operations. By executing this Agreement, the Enterprise is committing to following non-discriminatory hiring practices, and acknowledging that no individual may be denied employment solely based on race, religion, sex, disability, color, national origin, or ancestry.

B. Construction and Purchasing. The Enterprise shall use its best efforts to award its construction and purchase contracts as provided for in the Revised Code of General Ordinances (R.C.G.O.) of the City of Dayton, Sections 35.30 through 35.35, to assure participation by Minority Business Enterprise (“MBE”) and Female Business Enterprises (“FBE”) in order to reach the goal of twenty percent (20%) for MBE and five percent (5%) for FBE for construction projects and five percent (5%) for MBE and two percent (2%) for FBE for the procurement of goods and services.

Section 11. General Provisions

A. Ministerial Acts. The City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

B. Assignment or Transfer. This Agreement is not transferable or assignable without the express, written approval of the City.

C. Amendments. The City Manager is authorized, on behalf of the City, to execute any amendments to this Agreement that do not affect the term or percentage of the tax exemption as granted by the Commission of the City of Dayton.

D. Enforceability. The failure of any party hereto to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of any such provision, nor in any way affect the validity of this Agreement or any part hereof, or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of or noncompliance with this Agreement shall be held to be a waiver of any other or subsequent breach or noncompliance.

E. Revocation. Exemptions from taxation granted under this Agreement shall be revoked, if it is determined that the Enterprise, any successor enterprise, or any related member (as those terms are defined in Section 5709.61 of the Ohio Revised Code) has violated the prohibition against entering into this Agreement under Division (E) of Section 3735.671 or Sections 5709.62, 5709.63 or 5709.632 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections.
F. **Governing Law and Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of Ohio. By executing this Agreement, the Enterprise consents to the original jurisdiction of the courts located in Montgomery County, Ohio with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement.

G. **Mutual Benefit.** The terms and provisions hereof shall bind and inure to the benefit of the parties hereto and each respective successors and City-approved assigns (including successive as well as immediate successors and assigns).

H. **Effective Date.** The Enterprise and City acknowledge that this Agreement must be approved by formal action of the legislative authority of the City as a condition for the agreement to take effect. This Agreement takes effect upon such approval.

[SIGNATURE PAGES TO FOLLOW]
IN WITNESS WHEREOF, the parties hereto intending to be legally bound, have each caused this Agreement to be executed by their duly authorized representative as of the date and year first above written.

Webster 2020, LLC
DBA Norwood Tool Company

By: [Signature]

Print Name: Kenneth J. Hemmelgarn, Jr.
Title: Manager

STATE OF Ohio )
COUNTY OF Montgomery )SS:

BE IT REMEMBERED that on the 24th day of February, 2021, before a Notary Public in and for said state and county personally came Webster 2020, LLC DBA Norwood Tool Company by

Kenneth J. Hemmelgarn, Jr. its Manager,

who represented that (he/she) had full power and authority to bind same and acknowledged the signing thereof to be its and (his/her) voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year first above written.

RYAN M. RINDLER
NOTARY PUBLIC, STATE OF OHIO
My Commission Expires 11/19/2023

Notary Public
CITY OF DAYTON, OHIO

City Manager

STATE OF OHIO

COUNTY OF MONTGOMERY

BE IT REMEMBERED that on the ___ day of ______________, 2021, before a Notary Public in and for said county personally came the City of Dayton, Ohio, by

__________________________, its ______________________, who acknowledged the signing thereof to be its and (his/her) voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year first above written.

__________________________
Notary Public

APPROVED AS TO FORM
AND CORRECTNESS:

2/19/2021

x Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

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

___________________________. 2021

Min./Bk.:______ Page:_______
APPLICATION FOR A PROPOSED AGREEMENT BETWEEN

THE CITY OF DAYTON, OHIO

AND THE ENTERPRISE

This Application MUST be Approved by the Dayton City Commission Prior to the Start of the Project for Which Development Incentives are Being Requested.

Contact Information
1. Enterprise Name(s)  ____________ Webster 2020, LLC  DBA Norwood Tool Company
2. Enterprise Address  ____________ 2122 Winners Circle
3. Contact Person(s)  ____________ Kenneth J. Hemmelgarn, Jr.
   Telephone Number  ____________ 937-228-4101  Fax Number  ____________ 937-228-1608
   Email  ____________ Ken@NorwoodTool.com
4. Project Address  ____________ 2043 Webster Street
5. Contact Person at Project Location:  ____________ Kenneth J. Hemmelgarn, Jr.
   Telephone Number  ____________ 937-228-4101  Fax Number  ____________ 937-228-1608
   Email  ____________ Ken@NorwoodTool.com

Business Information
6. Nature of Business:  ____________ Manufacturing  (Wholesale, Distribution, etc.)
7. Name of Principal Owner(s) and Officer(s)  ____________ Kenneth J. Hemmelgarn, Jr.
   ____________ Brian J. Hemmelgarn
8. Form of Business:  ____________ Partnership  ____________
   Proprietorship  ____________ LLC  ____________ X  Other  ____________
9. List 6 Digit NAICS Number(s)  ____________ 333514
10. Is Business Seasonal?  YES  ____________  NO  ____________ X
Project Information

11. What are the Current Number of Employees — At Project Site? ______ 0 ______
   In the Rest of Ohio? ______ 1,150 ______
   (Itemize Full-Time and Part-Time by Permanent or Temporary Status
   __________________________
   All permanent full-time

12. If a Consolidation, What Are the Components? (Itemize Location, Assets, and Employment
   Positions to be Transferred)

13. Will The Project Result in the Relocation of Employment Positions or Assets From One
   OHIO Location to Another? YES ______ NO ______ X ______ (If NO, Go To #14)

   Supply the Following Information on a Separate Attachment:
   A. Location(s) From Which Employment and Assets Will Be Moved and Current
      Remaining Employment Level.
   B. Location(s) Where Employment and Assets Will be Moved To (the Project Site) and
      the Current Employment Level at Site.
   C. Detail the Number of Employees and Assets That Will be moved from Site 13 (A) to
      Site 13(B).

14. Describe Project (Number of Square Feet, Relocation, Purchase Equipment):
   __________________________
   Construct a new 33,120 +/- manufacturing building for lease to Norwood Tool Company
   __________________________
   __________________________

15. The Enterprise Zone Project Will Begin ______ March ______, 2021 and All
   Acquisition, Construction, and Relocation Will Be Completed By ______ December ______, 2022
   Provided A Tax Exemption Is Approved.

Employment Pledge Information

16. Estimate the Number of New Employees the Enterprise Intends to Hire at the Project
   Site. (ONLY Use Full-Time Equivalents of Permanent New Jobs.) ______ 20 ______

   State the Number of Years for Hiring New Position(s) (Must Be Less Than Five Years):
   ______ 2 ______ Years.
Indicate The Number Of Jobs Pledged and Jobs Retained Below:

<table>
<thead>
<tr>
<th>YR 1</th>
<th>YR 2</th>
<th>YR 3</th>
<th>YR 4</th>
<th>YR 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

17. Estimate the Dollar Amount of Annual Payroll for Each Year:

<table>
<thead>
<tr>
<th>YR 1 $</th>
<th>YR 1 $</th>
<th>YR 6 $</th>
<th>YR 2 $</th>
<th>YR 2 $</th>
<th>YR 7 $</th>
<th>YR 3 $</th>
<th>YR 3 $</th>
<th>YR 8 $</th>
<th>YR 4 $</th>
<th>YR 4 $</th>
<th>YR 9 $</th>
<th>YR 5 $</th>
<th>YR 5 $</th>
<th>YR 10 $</th>
<th>YR 10 $</th>
</tr>
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<tbody>
<tr>
<td>400,000</td>
<td>0</td>
<td>0</td>
<td>800,000</td>
<td>0</td>
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<td>800,000</td>
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<td>0</td>
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<td>0</td>
<td>800,000</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

WAGE PER HR = $14 WAGE PER HR = $0

Investment Pledge Information

18. State the Market Value of the Existing Facility As Determined For Local Property Tax Information: $590 (Take From Tax Bill, the 100% Value of Improvements. Do NOT Include the Value of Land.)

19. State the Business' Total Current Investment in the Facility As Of the Proposal Submission: $92,000

20. Estimate the Dollar Amount to Be Invested By the Enterprise to Establish, Expand, Renovate or Occupy a Facility.

<table>
<thead>
<tr>
<th>Item</th>
<th>Minimum</th>
<th>Maximum</th>
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<tbody>
<tr>
<td>Acquisition of Building</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Acquisition of Land</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Addition(s)/New Construction</td>
<td>$1,400,000</td>
<td>$1,450,000</td>
</tr>
<tr>
<td>Improvements to Existing Building(s)</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Machinery and Equipment</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Furniture and Fixtures</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Inventory</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

TOTAL NEW PROJECT INVESTMENT $1,400,000 $1,450,000
21. Has The Enterprise Previously Entered Into an Enterprise Zone Agreement With Any Local Legislative Authority at Any Site Where the Employment or Assets Will Be Relocated as a Result of This Proposal? YES _____ NO X _____ (If NO, Go To #23)
   A. List the Local Legislative Authorities, Date, and Term Of The Incentives for Each Enterprise Zone Agreement: N/A

22. State The Reason The Enterprise Is Requesting Tax Incentives. Be as Quantitative as Possible.
   To offset the cost of acquisition and redevelopment of this distressed property.

23. Submit ALL Of The Following Attachments:
   A. Specify the Following: a) Type of Building, b) Type of Renovation, c) Type and Amount of Machinery and Equipment, d) Type and Amount of Furniture and Fixtures, and e) Type and Amount of Inventory.
   B. Map of The Project Site at a Scale of 1 inch = 200 Feet, Including Parcel Identification Numbers.
   C. A Copy of the Last Tax Bill That Contained Current Tax Value of Land and Building(s) for Each Parcel.
   D. Financial Statements for Prior Three (3) Years. N/A
   E. Financial Statement for Current Year-To-Date. N/A
   F. Financial Projections for Three (3) Years. N/A
   G. The Latest County Return on Tangible Personal Property, Form 920 or Form 945 If Inter-County. N/A
   H. A List of Present Investment in Machinery, Equipment, Furniture, Fixtures, and Inventory. N/A
Tax and Environmental Information

24. Does the Enterprise owe:

A. Any delinquent taxes to the State of Ohio or a political subdivision of the state?
   Yes ☐ No ☑

B. Any money to the State or a state agency for the administration or enforcement of any environmental laws of the State?
   Yes ☐ No ☑

C. Any other money to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not?
   Yes ☐ No ☑

D. If yes to any of the above, please provide details of each instance including but not limited to the location, amounts and / or case identification numbers (add additional sheets if necessary).
Information Request Authorization

Submission of this application expressly authorizes the City of Dayton and/or Montgomery County to contact the Ohio Environmental Protection Agency to confirm statements contained within this application including item #21 and to review applicable confidential records.

As part of this application, the Enterprise may also be required to directly request from the Ohio Department of Taxation/City of Dayton Tax Division or complete a waiver form allowing the Ohio Department of Taxation/City of Dayton Tax Division to release specific tax records to the local jurisdictions considering the incentive request.

Applicant agrees to supply additional information upon request.

Certification

The applicant affirmatively covenants that the information contained in and submitted with this application is complete and correct and is aware of the ORC Sections 9.66(C)(1) and 2921.13(D)(1) penalties for falsification which could result in the forfeiture of all current and future economic development assistance benefit as well as a fine of not more than $1,000 and/or a term of imprisonment of not more than six months.

Webster 2020 LLC
(Name of Enterprise)

2/10/2021
(Date)

Kenneth J. Hemmelgarn, Jr. Member
(Typed Name and Title)

OFFICE USE ONLY

Recommended Type: Real Tangible Both
(PLEASE CIRCLE ONE)

Recommended Rate: _________% Recommended Term: _________ Years

ED Reviewer: ____________________________
Attachment 23A

A.  A) 33,120 +/- Square foot manufacturing building
B) N/A
C) 12 horizontal machining centers, various mills and lathes, air compressor equipment and forklift trucks.
D) Tool makers benches, breakroom furniture and inspection equipment.
E) Stainless steel and aluminum round and rectangle bar stock, boxes, skids and packaging materials.
Parcel Identification Numbers:
R72 15601 0036
R72 15601 0039
R72 15601 0083
**RUSS JOSEPH**  
MONTGOMERY COUNTY OHIO TREASURER  
451 W. THIRD STREET • 2ND FLOOR  
DAYTON, OH 45422-1475

**REAL PROPERTY**  
1st HALF 2019  
DUE: 2/14/2020

**PARCEL LOCATION:** WEBSTER ST  
**PARCEL ID:** R72 15601 0038  
**TAX DISTRICT:** DAYTON CITY  
**OWNER NAME:** KBK WEBSTER PROPERTIES LTD

**LEGAL INFORMATION:**  
64695 PT  
156-1-83

**Gross Tax Rate:** 116.34  
**Non Business Credit Factor:** 0.096392  
**Acres:** 6  
**Appraised Value:**  
<table>
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<th>Land</th>
<th>Improvement</th>
<th>Total</th>
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<tbody>
<tr>
<td>11,220</td>
<td>0</td>
<td>11,220</td>
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</table>

**Effective Tax Rate:** 109.667889  
**Owner Occupancy Credit Factor:** 0.024088  
**Class:** C  
**TAXABLE VALUE:**  
<table>
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<th>Land</th>
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<tbody>
<tr>
<td>3,930</td>
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**CAUV Recoupment:** 0.00  
**Dayton Metro Library:** 12.31

**TAX VALUES**  
<table>
<thead>
<tr>
<th>Description</th>
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<tbody>
<tr>
<td>Gross Taxes</td>
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<td>Owner Occupancy Credit</td>
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<td>Homestead Reduction</td>
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<tr>
<td>Current Net Real Estate Taxes</td>
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<tr>
<td>Current Net Taxes &amp; Asmts(YEAR)</td>
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<td>Current Net Taxes &amp; Asmts(HALF)</td>
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<tr>
<td>Past Due Special Assessments</td>
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**Total**  
| Rate | 467.48 |

**CURRENT TAX DISTRIBUTION**  
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**SPECIAL ASSESSMENT**  
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**Total**  
| Delinquent | 0.00 |

**PLEASE NOTE**  
PAYMENTS MAY BE MADE IN PERSON, ONLINE, OR BY MAIL.

**FULL YEAR TOTAL**  
| Rate | 467.48 |

**PAYMENTS**  
| Rate | 0.00 |

**OTHER CREDITS**  
| Rate | 0.00 |

**HALF YEAR DUE**  
| Rate | $251.97 |

**Return Bottom Portion with Payment**

TO AVOID 10% PENALTY PAY ON OR BEFORE 2/14/2020

If you need a stamped receipt, return entire bill with a self-addressed stamped envelope. No receipt will be returned unless requested.

Your cancelled check is a valid receipt.
**REAL PROPERTY**
1st HALF 2019
DUE: 2/14/2020

**PARCEL ID:** R72 15601 0038
**TAX DISTRICT:** DAYTON CITY
**OWNER NAME:** KBK WEBSTER PROPERTIES LTD

**LEGAL INFORMATION:**
64695 PT

---

**PARCEL LOCATION:** 2043 WEBSTER ST

---

**TAX VALUES**

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**CURRENT TAX DISTRIBUTION**

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**APPRAISED VALUE**

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**TAXABLE VALUE**

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**SPECIAL ASSESSMENT**

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**TOTAL**

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<td></td>
<td>533.71</td>
</tr>
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</table>

**PLEASE NOTE**
PAYMENTS MAY BE MADE IN PERSON, ONLINE, OR BY MAIL.

**6160-00**

Return Bottom Portion with Payment

**TO AVOID 10% PENALTY PAY ON OR BEFORE 2/14/2020**

If you need a stamped receipt, return entire bill with a self-addressed stamped envelope. No receipt will be returned unless requested.

Your cancelled check is a valid receipt.
City Manager’s Report

From 2600 - Economic Development

Supplier, Vendor, Company, Individual

Name Webster 2021, LLC DBA Norwood Tool Company

Address 2122 Winners Circle
 Dayton, Ohio 45404

Date March 10, 2021

Expense Type Other, (See Description Below)

Total Amount $N/A

Fund Source(s) Fund Code(s) Fund Amount(s)
N/A N/A $ N/A

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

Description

Enterprise Zone Agreement – Webster 2021, LLC DBA Norwood Tool Company

The Department of Economic Development requests approval to enter into an Enterprise Zone Agreement with Webster 2021, LLC DBA Norwood Tool Company, currently located at 2122 Winners Circle. The Company intends to construct a new 42,750 square foot warehouse at 2017 Webster Street. The Company will invest no less than $1,400,000.00 in the project and create a minimum of ten (10) new full-time positions.

The Enterprise Zone Agreement will support the project by providing the Company with a 75% abatement of real property taxes on the new improvements for a period of ten years following completion of the project. No exemption shall commence after the 2022 tax year nor extend beyond the 2032 tax year.

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

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 8/2016
February 25, 2021

TO: Shelley Dickstein, City Manager

FROM: Ford P. Weber, Director Department of Economic Development

SUBJECT: Enterprise Zone Agreement with Webster 2021 LLC DBA Norwood Tool Company

The Department of Economic Development is requesting adoption of the attached Enterprise Zone Agreement with Webster 2021 LLC DBA Norwood Tool Company currently located at 2122 Winners Circle.

The Company intends to construct a new 42,750 square foot warehouse facility at 2017 Webster Street. The Company will create a minimum of twenty (20) new full-time positions.

The Enterprise Zone Agreement will support the project by providing the Company with a 75% abatement of real property taxes on the new improvements for a period of ten years following completion of the project. No exemption shall commence after the 2022 tax year nor extend beyond the 2032 tax year.

The Department of Law has reviewed and approved the Agreement as to form and correctness. If you have any questions, please contact me at extension 3621.

FPW
ENTERPRISE ZONE AGREEMENT #273

THIS ENTERPRISE ZONE AGREEMENT #273 ("Agreement") is dated this ______ day of ____________, 2021 between the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio, (hereinafter referred to as the "City") and Webster 2021, LLC DBA Norwood Tool Company, a corporation authorized to conduct business in the State of Ohio with offices located at 2122 Winners Circle, Dayton, Ohio 45404, (hereinafter the "Enterprise").

WITNESSETH THAT:

WHEREAS, The City encourages the development of real property and the acquisition of personal property in the areas designated as Enterprise Zones; and,

WHEREAS, By Resolution No. 4603-94 approved July 27, 1994, the Commission of the City of Dayton designated certain areas of the City as an "Urban Jobs and Enterprise Zone" pursuant to Chapter 5709 of the Ohio Revised Code, and declared that incentives for businesses offered by such Zones will enhance efforts to promote the viable and diverse economic activity necessary for rejuvenation of the Zones; and,

WHEREAS, Effective August 17, 1994, the Director of Development of the State of Ohio determined that the areas designated by the Commission of the City of Dayton in Resolution No. 4603-94 contain the characteristics set forth in Section 5709.61(A) of the Ohio Revised Code, and certified said areas as an "Urban Jobs and Enterprise Zone" under Chapter 5709 of the Ohio Revised Code; and,

WHEREAS, The City is willing to provide the Enterprise with the incentives available for development in an "Urban Jobs and Enterprise Zone" under Chapter 5709 of the Ohio Revised Code; and,

WHEREAS, The Enterprise desires to construct a new warehouse facility within the City of Dayton, Ohio; and,

WHEREAS, The Enterprise will invest not less than One Million Four Hundred Thousand Dollars and Zero Cents ($1,400,000.00) nor more than One Million Four Hundred Fifty Thousand Dollars and Zero Cents ($1,450,000.00) to construct a new warehouse facility at 2017 Webster Street in the City of Dayton, or at a corresponding address identified by the City as part of the customary permitting process ("Property"); and,

WHEREAS, The Property is located within a designated Enterprise Zone and the Enterprise seeks to obtain the development incentives that are available to an enterprise that creates and retains job opportunities in the Enterprise Zone; and,

WHEREAS, The Enterprise submitted an "Application For A Proposed Agreement" to the City pursuant to Section 5709.62(B) of the Ohio Revised Code, which is attached hereto as Attachment A ("Application"); and,
WHEREAS, The Enterprise’s Application has been investigated and the City Manager recommended approval of the Application to the Commission of the City of Dayton on the basis that the Enterprise is qualified by financial responsibility and business experience to create and preserve employment opportunities in the Enterprise Zone and to improve the economic climate of the City; and,

WHEREAS, The Property is also located in the Dayton School District, and the Dayton School Board has been notified in accordance with Section 5709.83 of the Ohio Revised Code, and been given a copy of the Application; and,

WHEREAS, Pursuant to Sections 5709.62(C)(1) and 5709.631 of the Ohio Revised Code, the parties set forth their agreement with regard to the matters hereinafter contained.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and the benefits to be derived by the parties from the execution hereof, the parties agree as follows:

Section 1. Project Investment Promise

The Enterprise will conduct its business operations within the City of Dayton by: (1) Constructing an approximately 42,750 square foot warehouse facility on the Property (more specifically described as Montgomery County Auditor Parcels R72-15601-0011, R72-15601-0012, R72-15601-0033, and R72-15601-0034 will be consolidated in a new plat at a later date), which is hereinafter referred to as (“Project”). Pursuant to Section 5709.631(A)(2) of the Ohio Revised Code, the Project investment to be made by the Enterprise includes the construction of One Million Four Hundred Thousand Dollars and Zero Cents ($1,400,000.00) to One Million Four Hundred Fifty Thousand Dollars and Zero Cents ($1,450,000.00).

The Project will begin on or after March 15, 2021 and the construction of the new warehouse facility will be completed on or before December 31, 2022. The total investment for this Project is greater than ten percent (10%) of the market value of the Property and improvements thereon as represented on the Application.

Section 2. Tax Abatement

A. Real Property Tax Exemption. Pursuant to Section 5709.62(C)(1)(b) of the Ohio Revised Code, the City grants the Enterprise a tax exemption for the real property improvements made under the Project. Said exemption shall cover seventy-five percent (75%) of the increased value of the real property as a result of the Project. The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. No exemption shall commence after the 2022 tax year nor extend beyond the 2032 tax year.

B. Non-abated Taxes. The Enterprise shall pay such real and tangible personal property taxes as are not exempted under this Agreement and charged against such Property and shall file all tax reports and returns as required by law. If the Enterprise fails to pay such taxes or to file such returns and reports, all incentives granted under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.
rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.

Section 3. Survival of Tax Exemptions Granted

Pursuant to Section 5709.631(B)(6) of the Ohio Revised Code, if for any reason the enterprise zone designation expires, the Director of the Ohio Department of Development revokes certification of the zone, or the City revokes the designation of the zone, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless the Enterprise materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemptions from taxation granted under this Agreement.

Section 4. Project Employment Promise

As part of the Project and as a material condition of this Agreement, the Enterprise shall create ten (10) new permanent full-time employment positions at the facility on the Property with an annual payroll of Four Hundred Thousand Dollars and Zero Cents ($400,000.00). The Enterprise shall create and fill these additional ten (10) employment positions with all ten (10) positions created and filled not later than December 31, 2023. The Enterprise shall maintain these additional ten (10) employment positions from the date of creation until expiration of the tax exemptions granted hereunder.

Section 5. Compliance

The Enterprise shall complete the Project, on the terms and conditions contained herein, and shall maintain the Project and remain in the Enterprise Zone as provided herein, for the entire period during which the Enterprise receives the tax exemptions granted under this Agreement.

If the Enterprise materially fails to fulfill its obligations under this Agreement, other than with respect to the number of employee positions estimated to be created or retained under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement is fraudulent, the City may terminate or modify the exemptions from taxation granted under this Agreement and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this Agreement.

In any three-year period during which this Agreement is in effect, if the actual number of employee positions created or retained by the Enterprise is not equal to or greater than seventy-five percent (75%) of the number of employee positions estimated to be created or retained under this Agreement during that three-year period, the Enterprise shall repay the amount of taxes on property that would have been payable had the property not been exempted from taxation under this agreement during that three-year period. In addition, the City may terminate or modify the exemptions from taxation granted under this Agreement.
Section 6.  Hiring

In accordance with Resolution No. 4627-94 adopted by the Commission of the City of Dayton, the Enterprise shall establish provisions for hiring the ten (10) new full-time permanent employees promised in Section 4 above based on the following criteria:

A. The Enterprise shall make every possible effort to hire residents of the Enterprise Zone or the City of Dayton to fill not less than fifty percent (50%) of the new employment positions to be created hereunder. In the event that neither residents of the Enterprise Zone nor the residents of the City of Dayton are qualified to fill fifty percent (50%) of the new employment positions, the Enterprise may request a waiver of particular positions from the City Manager upon submission of the documentation set forth in Subsection C below.

B. The Enterprise shall establish and maintain a working relationship with City-designated job placement and employment organizations, such as the Montgomery County Job Center and the City’s Priority Boards, to assist with employment recruitment and satisfaction of the employment promise set forth in Section 4.

C. The Enterprise shall document its efforts to hire personnel from the Enterprise Zone and the City of Dayton, Ohio. Such documentation shall consist of, but not be limited to, newspaper advertisements, employment referrals from designated job placement or employment agencies and organizations, and job applications received, reviewed, and rejected. All documentation is subject to audit.

Section 7.  Reporting Requirements and Certification of Eligibility

A. Reports and Forms. The Enterprise shall submit the following reports as required to maintain the status of the tax exemption. Each report shall include the name, address, zip code, and date of employment for each employee for purposes of verifying employment compliance. Each report shall also include the amount of total City of Dayton, Ohio annual wage withholding taxes paid for the previous year.

i) Mid-Year Employment Status Report – must be filed with the City no later than the 10th day of June for each year this Agreement is in effect, and

ii) Annual Certification of Investment and Employment – must be filed no later than the following 15th of January for each year this Agreement is in effect.

iii) The Enterprise must file the appropriate tax forms with the County Auditor and with the Ohio Department of Taxation to maintain the exemptions covered in this Agreement.

B. Continued Certification. In addition to the reports required above, the Enterprise shall provide to the proper tax incentive review council (the City of Dayton Tax Incentive Review Council ("TIRC")) any information the council reasonably requires to evaluate the Enterprise’s compliance with the Agreement, including returns filed or annual reports filed pursuant to Section 5711.02 or 5727.08 of the Ohio Revised Code, if requested by the
council. Upon receipt of requested information and the required reports demonstrating the Enterprise’s compliance with the terms and conditions of this Agreement, the City will annually certify to the State of Ohio and to the Montgomery County Auditor that the Enterprise is eligible for the exemptions provided for herein.

Pursuant to Section 5709.85(C)(1) of the Ohio Revised Code, the TIRC, in determining whether the Enterprise has complied with the Agreement, shall take into consideration any fluctuations in the business cycle unique to the Enterprise and, on the basis of such determination, submit to the City written recommendations for continuation, modification, or cancellation of this Agreement.

Section 8. Fees and Payments

A. Annual Program Fee. The Enterprise shall pay the City an annual fee of Two Hundred Fifty Dollars and Zero Cents ($250.00) no later than June 10th of each year that this Agreement is in effect. All annual fee payments shall be made payable to the order of “The City of Dayton, Ohio” and sent to the attention of the City’s Enterprise Zone Manager. The City shall deposit the annual fee in a special fund created for such purpose, and funds shall be used exclusively for complying with Section 5709.68 of the Ohio Revised Code and by the Tax Incentive Review Council created under Section 5709.85 of the Ohio Revised Code, exclusively for the purposes of performing the duties prescribed thereunder. It is understood and agreed that the City retains the right to modify, at any time and with the approval of the Commission of the City of Dayton, the annual fee, which the Enterprise agrees to pay; provided, however, that such annual fee does not exceed One Thousand Dollars and Zero Cents ($1,000).

Section 9. Enterprise Representations

A. Delinquent Taxes. The Enterprise certifies that at the time this Agreement is executed, the Enterprise does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which the Enterprise is liable under Chapter 5727, 5733, 5735, 5739, 5741, 5743, 5747, or 5753, of the Ohio Revised Code; or, if such delinquent taxes are owed, the Enterprise currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. Section 101, et seq., or such a petition has been filed against the Enterprise. For purposes of the 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.

B. No False Statements. The Enterprise affirmatively covenants that it has made no false statements to the State or political subdivision in the process of obtaining approval for the Enterprise Zone incentives. If any representative of the Enterprise has knowingly made a false statement to the State or political subdivision to obtain the Enterprise Zone incentives, the Enterprise shall be required to immediately return all benefits received under the Enterprise Zone Agreement pursuant to Section 9.66(C)(2) of the Ohio Revised Code and shall not be eligible for any future economic development assistance from the State, any state agency or a political subdivision pursuant to Section 9.66(C)(1) of the Ohio Revised Code. Any person who provides
a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to Section 2921.13(D)(1) of the Ohio Revised Code.

Section 10. Non-Discrimination

A. **Hiring.** The City developed a policy to ensure recipients of Enterprise Zone tax benefits practice non-discrimination hiring in its operations. By executing this Agreement, the Enterprise is committing to following non-discriminatory hiring practices, and acknowledging that no individual may be denied employment solely based on race, religion, sex, disability, color, national origin, or ancestry.

B. **Construction and Purchasing.** The Enterprise shall use its best efforts to award its construction and purchase contracts as provided for in the Revised Code of General Ordinances (R.C.G.O.) of the City of Dayton, Sections 35.30 through 35.35, to assure participation by Minority Business Enterprise ("MBE") and Female Business Enterprises ("FBE") in order to reach the goal of twenty percent (20%) for MBE and five percent (5%) for FBE for construction projects and five percent (5%) for MBE and two percent (2%) for FBE for the procurement of goods and services.

Section 11. General Provisions

A. **Ministerial Acts.** The City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

B. **Assignment or Transfer.** This Agreement is not transferable or assignable without the express, written approval of the City.

C. **Amendments.** The City Manager is authorized, on behalf of the City, to execute any amendments to this Agreement that do not affect the term or percentage of the tax exemption as granted by the Commission of the City of Dayton.

D. **Enforceability.** The failure of any party hereto to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of any such provision, nor in any way affect the validity of this Agreement or any part hereof, or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of or noncompliance with this Agreement shall be held to be a waiver of any other or subsequent breach or noncompliance.

E. **Revocation.** Exemptions from taxation granted under this Agreement shall be revoked, if it is determined that the Enterprise, any successor enterprise, or any related member (as those terms are defined in Section 5709.61 of the Ohio Revised Code) has violated the prohibition against entering into this Agreement under Division (E) of Section 3735.671 or Sections 5709.62, 5709.63 or 5709.632 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections.
F. **Governing Law and Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of Ohio. By executing this Agreement, the Enterprise consents to the original jurisdiction of the courts located in Montgomery County, Ohio with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement.

G. **Mutual Benefit.** The terms and provisions hereof shall bind and inure to the benefit of the parties hereto and each respective successors and City-approved assigns (including successive as well as immediate successors and assigns).

H. **Effective Date.** The Enterprise and City acknowledge that this Agreement must be approved by formal action of the legislative authority of the City as a condition for the agreement to take effect. This Agreement takes effect upon such approval.

**[SIGNATURE PAGES TO FOLLOW]**
IN WITNESS WHEREOF, the parties hereto intending to be legally bound, have each caused this Agreement to be executed by their duly authorized representative as of the date and year first above written.

Webster 2021, LLC
DBA Norwood Tool Company

By: [Signature]
Print Name: Kenneth J. Hemmelgarn, Jr.
Title: Manager

STATE OF Ohio )
COUNTY OF Montgomery )SS:

BE IT REMEMBERED that on the 24th day of February, 2021, before a Notary Public in and for said state and county personally came Webster 2021, LLC DBA Norwood Tool Company by

Kenneth J. Hemmelgarn, Jr. its Manager

who represented that (he/she) had full power and authority to bind same and acknowledged the signing thereof to be its and (his/her) voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year first above written

RYAN M. RINDLER
NOTARY PUBLIC, STATE OF OHIO
My Commission Expires 11/19/2023

Notary Public
CITY OF DAYTON, OHIO

City Manager

STATE OF OHIO

COUNTY OF MONTGOMERY

BE IT REMEMBERED that on the ___ day of ________________, 2021, before a Notary Public in and for said county personally came the City of Dayton, Ohio, by

________________________, its ______________________, who acknowledged the signing thereof to be its and (his/her) voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year first above written.

Notary Public

APPROVED AS TO FORM
AND CORRECTNESS:

☑ Recoverable Signature

X Amelia N. Blankenship for

City Attorney
Signed by Blankenship, Amelia

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

_________________________, 2021

Min./Bk.:_______ Page:_________
OHIO DEPARTMENT OF DEVELOPMENT
OHIO ENTERPRISE ZONE PROGRAM

APPLICATION FOR A PROPOSED AGREEMENT BETWEEN
THE CITY OF DAYTON, OHIO
AND THE ENTERPRISE

This Application MUST be Approved by the Dayton City Commission Prior to the Start of the Project for Which Development Incentives are Being Requested.

Contact Information
1. Enterprise Name(s) ______________ Webster 2021, LLC  DBA Norwood Tool Company
2. Enterprise Address ___________________ 2122 Winners Circle
3. Contact Person(s) ___________________ Kenneth J. Hemmelgarn, Jr.
   Telephone Number ___________________ 937-228-4101  Fax Number ___________________ 937-228-1608
   Email _______________ Ken@NorwoodTool.com
4. Project Address ___________________ 2017 Webster Street
5. Contact Person at Project Location: _______________ Kenneth J. Hemmelgarn, Jr.
   Telephone Number ___________________ 937-228-4101  Fax Number ___________________ 937-228-1608
   Email _______________ Ken@NorwoodTool.com

Business Information
6. Nature of Business: _______________ Manufacturing (Wholesale, Distribution, etc.)
7. Name of Principal Owner(s) and Officer(s) ___________________ Kenneth J. Hemmelgarn, Jr.
   _______________ Brian J. Hemmelgarn
8. Form of Business: _______________ Partnership _______________
   Proprietorship _______________ LLC  X  Other _______________
9. List 6 Digit NAICS Number(s) _______________ 333514
10. Is Business Seasonal? YES ________ NO ________ X ________
Project Information

11. What are the Current Number of Employees — At Project Site? ____ 0 ____
   In the Rest of Ohio? ____ 1,150 ____
   (Itemize Full-Time and Part-Time by Permanent or Temporary Status
   All permanent full-time)

12. If a Consolidation, What Are the Components? (Itemize Location, Assets, and Employment
    Positions to be Transferred)

13. Will The Project Result in the Relocation of Employment Positions or Assets From One
    OHIO Location to Another? YES _______ NO _____ (If NO, Go To #14)

    Supply the Following Information on a Separate Attachment:
    A. Location(s) From Which Employment and Assets Will Be Moved and Current
       Remaining Employment Level.
    B. Location(s) Where Employment and Assets Will Be Moved To (the Project Site) and
       the Current Employment Level at Site.
    C. Detail the Number of Employees and Assets That Will be moved from Site 13 (A) to
       Site 13(B).

14. Describe Project (Number of Square Feet, Relocation, Purchase Equipment):
    ___________________________________________________________________
    Construct a new 42,750 +/- warehouse building for lease to Norwood Tool Company
    ___________________________________________________________________
    ___________________________________________________________________

15. The Enterprise Zone Project Will Begin _______ March _______ 2021 _____ and All
    Acquisition, Construction, and Relocation Will Be Completed By _______ December _______ 2022 _______
    Provided A Tax Exemption Is Approved.

Employment Pledge Information

16. Estimate the Number of New Employees the Enterprise Intends to Hire at the Project
    Site. (ONLY Use Full-Time Equivalents of Permanent New Jobs.) _______ 10 _______

    State the Number of Years for Hiring New Position(s) (Must Be Less Than Five Years):
    _______ 2 _______ Years.
Indicate The Number Of Jobs Pledged and Jobs Retained Below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Jobs</th>
</tr>
</thead>
<tbody>
<tr>
<td>YR 1</td>
<td>5</td>
</tr>
<tr>
<td>YR 2</td>
<td>5</td>
</tr>
<tr>
<td>YR 3</td>
<td>3</td>
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<tr>
<td>YR 4</td>
<td>4</td>
</tr>
<tr>
<td>YR 5</td>
<td></td>
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</table>

**NOTE:** 50% of all NET NEW PROJECT INVESTMENT must be reinvested in the workplace.

17. Estimate the Dollar Amount of Annual Payroll for Each Year:

<table>
<thead>
<tr>
<th>Year</th>
<th>New Jobs $</th>
<th>Retained $</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>YR 1</td>
<td>200,000</td>
<td>0</td>
<td>YR 6</td>
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<tr>
<td>YR 2</td>
<td>400,000</td>
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<td>YR 7</td>
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<td>YR 4</td>
<td>400,000</td>
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<td>YR 9</td>
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<tr>
<td>YR 5</td>
<td>400,000</td>
<td>0</td>
<td>YR 10</td>
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WAGE PER HR = $14

Investment Pledge Information

18. State the Market Value of the Existing Facility As Determined For Local Property Tax Information: $0 (Take From Tax Bill, the 100% Value of Improvements. Do NOT Include the Value of Land.)

19. State the Business’ Total Current Investment in the Facility As Of The Proposal Submission: $43,430

20. Estimate the Dollar Amount to Be Invested By the Enterprise to Establish, Expand, Renovate or Occupy a Facility.

<table>
<thead>
<tr>
<th>Investment Category</th>
<th>Minimum</th>
<th>Maximum</th>
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<tbody>
<tr>
<td>Acquisition of Building</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Acquisition of Land</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Addition(s)/New Construction</td>
<td>$1,400,000</td>
<td>$1,450,000</td>
</tr>
<tr>
<td>Improvements to Existing Building(s)</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Machinery and Equipment</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Furniture and Fixtures</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Inventory</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

**TOTAL NEW PROJECT INVESTMENT**

$1,400,000

$1,450,000
21. Has The Enterprise Previously Entered Into an Enterprise Zone Agreement With Any Local Legislative Authority at Any Site Where the Employment or Assets Will Be Relocated as a Result of This Proposal? YES _____ NO X _____ (If NO, Go To #23)
   A. List the Local Legislative Authorities, Date, and Term Of The Incentives for Each Enterprise Zone Agreement: N/A

22. State The Reason The Enterprise Is Requesting Tax Incentives. Be as Quantitative as Possible.
   To offset the cost of acquisition and redevelopment of this distressed property.

23. Submit ALL Of The Following Attachments:
   A. Specify the Following: a) Type of Building, b) Type of Renovation, c) Type and Amount of Machinery and Equipment, d) Type and Amount of Furniture and Fixtures, and e) Type and Amount of Inventory.
   B. Map of The Project Site at a Scale of 1 inch = 200 Feet, Including Parcel Identification Numbers.
   C. A Copy of the Last Tax Bill That Contained Current Tax Value of Land and Building(s) for Each Parcel.
   D. Financial Statements for Prior Three (3) Years. N/A
   E. Financial Statement for Current Year-To-Date. N/A
   F. Financial Projections for Three (3) Years. N/A
   G. The Latest County Return on Tangible Personal Property, Form 920 or Form 945 If Inter-County. N/A
   H. A List of Present Investment in Machinery, Equipment, Furniture, Fixtures, and Inventory. N/A
Tax and Environmental Information

24. Does the Enterprise owe:

A. Any delinquent taxes to the State of Ohio or a political subdivision of the state?
   Yes ☐ No ☒

B. Any money to the State or a state agency for the administration or enforcement of any environmental laws of the State?
   Yes ☐ No ☒

C. Any other money to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not?
   Yes ☐ No ☒

D. If yes to any of the above, please provide details of each instance including but not limited to the location, amounts and / or case identification numbers (add additional sheets if necessary).
Information Request Authorization

Submission of this application expressly authorizes the City of Dayton and/or Montgomery County to contact the Ohio Environmental Protection Agency to confirm statements contained within this application including item #21 and to review applicable confidential records.

As part of this application, the Enterprise may also be required to directly request from the Ohio Department of Taxation/City of Dayton Tax Division or complete a waiver form allowing the Ohio Department of Taxation/City of Dayton Tax Division to release specific tax records to the local jurisdictions considering the incentive request.

Applicant agrees to supply additional information upon request.

Certification

The applicant affirmatively covenants that the information contained in and submitted with this application is complete and correct and is aware of the ORC Sections 9.66(C)(1) and 2921.13(D)(1) penalties for falsification which could result in the forfeiture of all current and future economic development assistance benefit as well as a fine of not more than $1,000 and/or a term of imprisonment of not more than six months.

Webster 2021 LLC
(Name of Enterprise)

01/10/2021
(Date)

Kenneth J. Hemmelgarn, Jr. Member
(Typed Name and Title)

OFFICE USE ONLY

Recommended Type:       Real       Tangible       Both
(PLEASE CIRCLE ONE)

Recommended Rate:         %       Recommended Term:       Years

ED Reviewer: ________________________________
Attachment 23A

A.  
  A) 42,750 +/- Square foot warehouse building
  
  B) N/A
  
  C) Various saws, air compressor equipment and forklift trucks.
  
  D) Storage racks, breakroom furniture and inspection equipment.
  
  E) Stainless steel and aluminum round and rectangle bar stock, boxes, skids and packaging materials.
Please note payments may be made in person, online, or by mail.

RUSS JOSEPH
MONTGOMERY COUNTY OHIO TREASURER
451 W. THIRD STREET • 2ND FLOOR
DAYTON, OH 45422-1475

PARCEL LOCATION: LUCILLE DR

OWNER NAME: KBK WEBSTER PROPERTIES LTD

TAX BILL PREPARED ON: 01/15/2020

KBK WEBSTER PROPERTIES LTD
2122 WINNERS CIR
DAYTON, OH 45404-1148

PARCEL ID: R72 15601 0011

MAKE CHECK PAYABLE TO: RUSS JOSEPH, MONTGOMERY COUNTY TREASURER

PAY THIS AMOUNT

HALF YEAR: $114.24

FULL YEAR: $212.41

0000212417 0000114247 0001872015601000118 171
**PLEASE NOTE**
PAYMENTS MAY BE MADE IN PERSON, ONLINE, OR BY MAIL.

Return Bottom Portion with Payment

**LUCELLE**

**REAL PROPERTY**
1st HALF 2019
DUE: 2/14/2020

**PARCEL LOCATION:** 1953 LUCILLE DR

**PARCEL ID:** R72 15601 0012

**OWNER NAME:** KBK WEBSTER PROPERTIES LTD

**TAX BILL PREPARED ON:** 01/15/2020

**PAY THIS AMOUNT**
HALF YEAR: $125.55
FULL YEAR: $223.72

**0000233728 0000125558 0001872015601000127 171**
**RUSS JOSEPH**  
MONTGOMERY COUNTY OHIO TREASURER  
451 W. THIRD STREET - 2ND FLOOR  
DAYTON, OH 45422-1475

**REAL PROPERTY**  
1st HALF 2019  
DUE: 2/14/2020

<table>
<thead>
<tr>
<th>PARCEL LOCATION: 2015 WEBSTER ST</th>
<th>PARCEL ID: R72 15601 0033</th>
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</thead>
<tbody>
<tr>
<td>OWNER NAME: KBK WEBSTER PROPERTIES LTD</td>
<td>TAX DISTRICT: DAYTON CITY</td>
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<tr>
<td>TAX BILL PREPARED ON: 01/15/2020</td>
<td>OWNER NAME: KBK WEBSTER PROPERTIES LTD</td>
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<td>MAKE CHECK PAYABLE TO: RUSS JOSEPH, MONTGOMERY COUNTY TREASURER</td>
<td>TAX BILL PREPARED ON: 01/15/2020</td>
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</tbody>
</table>

### TAX VALUES

<table>
<thead>
<tr>
<th>Gross Tax Rate</th>
<th>Non Business Credit Factor</th>
<th>Owner Occupancy Credit Factor</th>
<th>Acres</th>
<th>Class</th>
<th>Total</th>
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<td>116.34</td>
<td>0.005587</td>
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<tr>
<td>CAUV Recoupment</td>
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<tr>
<td>Farm Rollback</td>
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<td>Current Net Real Estate Taxes</td>
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<td>Current Special Assessments</td>
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### TAXABLE VALUE

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<th>Land</th>
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<td>560</td>
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<td>560</td>
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### SPECIAL ASSESSMENT

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<td>41100 MCDAP MCSAQUFER PRES SURED</td>
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<td>43000 M.C.D. MIAMI CONSERVANCY DIST</td>
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<tr>
<td>41001 MCD DAM SAFETY INITIATIVE FUND</td>
<td>0.00</td>
<td>1.14</td>
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**PLEASE NOTE**  
PAYMENTS MAY BE MADE IN PERSON, ONLINE, OR BY MAIL.

Return Bottom Portion with Payment

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**RUSS JOSEPH**  
MONTGOMERY COUNTY OHIO TREASURER  
451 W. THIRD STREET - 2ND FLOOR  
DAYTON, OH 45422-1475

**REAL PROPERTY**  
1st HALF 2019  
DUE: 2/14/2020

<table>
<thead>
<tr>
<th>PARCEL LOCATION: 2015 WEBSTER ST</th>
<th>PARCEL ID: R72 15601 0033</th>
</tr>
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<tbody>
<tr>
<td>OWNER NAME: KBK WEBSTER PROPERTIES LTD</td>
<td>TAX DISTRICT: DAYTON CITY</td>
</tr>
<tr>
<td>TAX BILL PREPARED ON: 01/15/2020</td>
<td>OWNER NAME: KBK WEBSTER PROPERTIES LTD</td>
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<tr>
<td>MAKE CHECK PAYABLE TO: RUSS JOSEPH, MONTGOMERY COUNTY TREASURER</td>
<td>TAX BILL PREPARED ON: 01/15/2020</td>
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**PAY THIS AMOUNT**

<table>
<thead>
<tr>
<th>HALF YEAR:</th>
<th>FULL YEAR:</th>
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<tbody>
<tr>
<td>$28.93</td>
<td>$51.28</td>
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**RUSS JOSEPH**  
MONTGOMERY COUNTY OHIO TREASURER  
451 W. THIRD STREET • 2ND FLOOR  
DAYTON, OH 45422-1475

**REAL PROPERTY**  
1st HALF 2019  
DUE: 2/14/2020

**PARCEL LOCATION:** 2017 WEBSTER ST  
**PARCEL ID:** R72 15601 0034  
**TAX DISTRICT:** DAYTON CITY  
**OWNER NAME:** KBK WEBSTERS LTD  
**LEGAL INFORMATION:**  
64657

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<td>CAUV Recoupment</td>
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</tbody>
</table>

PLEASE NOTE PAYMENTS MAY BE MADE IN PERSON, ONLINE, OR BY MAIL.  

Return Bottom Portion With Payment

**RUSS JOSEPH**  
MONTGOMERY COUNTY OHIO TREASURER  
451 W. THIRD STREET • 2ND FLOOR  
DAYTON, OH 45422-1475

**REAL PROPERTY**  
1st HALF 2019  
DUE: 2/14/2020

**PARCEL LOCATION:** 2017 WEBSTER ST  
**PARCEL ID:** R72 15601 0034  
**OWNER NAME:** KBK WEBSTERS LTD  
**MAKE CHECK PAYABLE TO:**  
RUSS JOSEPH, MONTGOMERY COUNTY TREASURER  

**PAY THIS AMOUNT**  
**HALF YEAR:** $680.80  
**FULL YEAR:** $1,339.14

0001339147 0000680806 00016720156010000341 171

BACK
AN ORDINANCE

Authorizing the City Manager to Execute a Real Estate Sale Contract, Authorizing the Conveyance of Real Property and, Declaring an Emergency.

WHEREAS, The City owns approximately 46 acres of real property located at the Dayton International Airport ("Airport") in the City of Dayton, as depicted on the attached Exhibit A ("Property"); and,

WHEREAS, NorthPoint Development, LLC, a development company with prior experience developing land at the Airport, desires an option to purchase the Property for the construction of a future commercial building; and,

WHEREAS, To effectuate the City’s goals of encouraging redevelopment, and improving the economic welfare of City of Dayton residents, the City desires to grant an option on the Property to NorthPoint Development, LLC; and,

WHEREAS, It is necessary that this Ordinance take effect immediately upon its passage to provide for immediate preservation of the public peace, property, health and safety of the City; now, therefore,

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

Section 1. That the City Manager, or her designee, is authorized to execute a Real Estate Sale Contract in substantial form and substance to the attached Exhibit B.

Section 2. That the City Manager, or her designee, is authorized and directed to execute any documents necessary for the future conveyance of the Property to NorthPoint Development, LLC or its successors and assigns.

Section 3. That for the reasons stated in the preamble hereof, this ordinance is declared to be an emergency measure and shall take effect immediately upon passage.

PASSED BY THE COMMISSION........................, 2021

SIGNED BY THE MAYOR............................, 2021

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
REAL ESTATE SALE CONTRACT

THIS REAL ESTATE SALE CONTRACT (this “Contract”) is made as of the Effective Date (as defined below) by and between NorthPoint Development, LLC, a Missouri limited liability company, or its assigns (“Buyer”) and the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio (“Seller”).

WITNESSETH:

1. **Subject Property.** Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to purchase from Seller, subject to the terms and conditions hereinafter set forth, 44.5547 acres of that certain real property depicted in Exhibit A, attached hereto and incorporated herein (all hereinafter referred to as the “Subject Property”). 44.5547 acres of the Subject Property is vacant land, and an existing structure is present on approximately 1 acre of the Subject Property.

2. **Purchase Price.** The “Purchase Price” for the Subject Property shall be Thirty-Six Thousand and 00/100 Dollars ($36,000.00) per acre, which is the fair market value of the Subject Property as of the date of execution of this Contract. For purposes of calculating the Purchase Price at Closing, the acreage shall be determined by the Buyer’s ALTA Survey of the Subject Property. Buyer agrees to pay the Purchase Price as follows:

   (a) Five Hundred and 00/100 Dollars ($500.00) (the “Earnest Deposit”) to be delivered to Escrow Agent (as hereinafter defined) within five (5) business days following the Effective Date, in the form of a check payable to, and to be deposited in escrow with, Chicago Title Insurance Company, having an address at 6700 College Boulevard, Ste. 300, Overland Park, Kansas 66211, Attn: Randi Canon (the “Escrow Agent”), which Earnest Deposit shall be nonrefundable unless Seller fails to close or Buyer terminates this Contract in accordance with the terms of Section 5, Section 6, Section 8, or Section 10 of this Contract, and the Earnest Deposit shall be fully applicable to the Purchase Price at Closing;

   (b) On the Closing Date (as defined in Section 3), Buyer shall deliver the Purchase Price (i.e. less the Earnest Deposit) to the Escrow Agent for distribution to Seller, by cashier’s or certified check or by wire transfer in immediately-available funds, and subject to any prorations set forth in this Contract.

3. **Closing; Costs at Closing.**

   (a) Subject to the terms and conditions hereof, the Closing shall occur no later than fifteen (15) days following the expiration of the Subject Property and Title Review Period (the “Closing Date”).

   (b) On the Closing Date, the parties shall pay any and all closing costs as follows:

      (i) The costs of any escrow charges, or similar costs, charged by Escrow Agent, shall be evenly split among Buyer and Seller.

      (ii) Any costs related to the recording of the deed shall be paid by Buyer.
(iii) The costs of releasing any and all liens, judgments, and other encumbrances, as well as any recording costs in connection therewith, shall be paid by Seller, except to the extent such liens, judgments, or other encumbrances arise as a result of the act or omission of Buyer or its agents or employees, in which case such costs shall be paid by Buyer.

(iv) All survey costs and other due diligence costs and expenses shall be paid by Buyer.

(v) The base premium of the basic Title Policy (as defined herein below) shall be paid by Seller, and Buyer shall pay any other title costs including, without limitation, costs related to the Title Commitment, extended coverage, any endorsements to the Title Policy, and any lender’s title policy.

(vi) The cost of any transfer tax associated with the sale of the Subject Property shall be paid by Seller.

(vii) Except as otherwise specifically set forth herein, any costs attributable only to one party, such as each party’s attorneys’ fees, shall be paid by such party.

(viii) Any and all other costs or expenses not otherwise addressed in this Contract shall be paid by the parties as the same is customary in the Dayton, Ohio metropolitan area.

(ix) Buyer is to pay an additional Ninety-Five Thousand and 00/100 Dollars ($95,000) as a contribution for the Firehouse structure located on the site.

4. Taxes. Seller is responsible for all taxes, general and special, against the Subject Property which are due and have accrued before the Closing Date. Buyer shall assume all of such taxes and assessments becoming due and accruing on the Closing Date and thereafter.

5. Subject Property and Title Review Period. During the period ending sixty (60) days following the Effective Date (“Subject Property and Title Review Period”), Buyer may, at its own cost and expense, review the state and condition of the Subject Property and the state and condition of title to the Subject Property and cause a title company of its choice (the “Title Company”) to issue a commitment (the “Title Commitment”) for an ALTA Owner’s Policy of Title Insurance in the amount of the Purchase Price (the “Title Policy”). On or prior to the expiration of the Subject Property and Title Review Period, Buyer may terminate this Contract by providing written notice thereof to Seller and/or provide Seller with written notice of its objection to any exceptions to title to the Subject Property other than (i) any exceptions arising as a result of the act or omission of Buyer or its agents or employees, all of which shall be deemed Permitted Exceptions, and (ii) the standard printed survey exceptions, unless Buyer provides, at its own cost an expense a survey sufficient to cause the Title Company to remove same. Upon receipt of such written objections, Seller shall have the right but not the obligation to remove, discharge or correct such liens, encumbrances or objections and shall have a period of thirty (30) days after receipt of notice thereof in which to do so (and, if necessary, the Closing Date shall be extended therefore). If Seller shall be unwilling or unable to remove or discharge such liens, encumbrances or
objections within such period, then Buyer may, at its option, no later than five (5) days after Seller notifies Buyer of Seller’s unwillingness or inability, either terminate this Contract and receive a refund of its Earnest Deposit or accept title in its then-existing condition, in which case all such exceptions shall be deemed Permitted Exceptions. The foregoing notwithstanding, Buyer acknowledges that Seller may place of record such utility and avigation easements affecting the Subject Property as may be reasonably necessary in connection with the operation of the Airport or the development of parcels surrounding the Subject Property, and Buyer shall cooperate with Seller in connection with the same. Notwithstanding any provisions of this Contract to the contrary, Seller agrees that it shall deliver to the Title Company an owner’s affidavit and other documents reasonably necessary for the Title Company to deliver to Buyer the Title Policy with certain standard exceptions deleted therefrom or endorsements made thereto which are customarily deleted or endorsed based upon such owner’s affidavit; provided, however, Seller may limit and qualify any statements made therein to Seller’s actual knowledge, without any independent investigation, and further exclude any matters arising out of or resulting from the act or omission of Buyer, as the party in possession of the Subject Property pursuant to any ground lease, or any party acting on behalf of or at the request of Buyer. Seller shall not be deemed in default of its obligation hereunder if the Title Company is unable or unwilling to remove the standard exceptions or issue any requested endorsement with such limitation and qualifications in the owner’s affidavit. Notwithstanding any provisions of this Contract to the contrary, Buyer may, by providing written notice to Seller/Seller’s counsel (Suzanne Beck at sbeck@flydayton.com) terminate the Subject Property and Title Review Period at Buyer’s unilateral option and proceed to Closing upon a Closing Date to be mutually agreed upon by Buyer and Seller.

6. **Closing Condition.** Buyer’s obligation to close the transaction set forth herein shall be subject to, and conditioned upon, the satisfaction of the following “**Closing Condition**”: no condition, event, or circumstance has occurred since the expiration of the Subject Property and Title Review Period, not caused or permitted by Buyer, that materially adversely affects the state of title to the Subject Property. In the event that the aforementioned Closing Condition is not satisfied as of the Closing Date, Buyer shall have the right to terminate this Contract on the Closing Date, in which event the Earnest Deposit shall be immediately returned to Buyer, and the parties shall have no further obligations hereunder each to the other.

7. **Closing Documents.** Seller shall deliver to Buyer on the Closing Date at the office of the Escrow Agent a Quitclaim Deed (“**Deed**”), in a form reasonably acceptable to Buyer and the Title Company, properly executed and quitclaiming Seller’s right, title and interest in and to the Subject Property, subject only to the Permitted Exceptions and the following restrictions and reservations, which shall run with the land:

   (a) The City of Dayton reserves unto itself, its successors and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the premises herein identified. This public right of flight shall include the right to cause in said airspace any noise as may be inherent in the operation of any aircraft now known or hereafter used for navigation of or flight in said airspace, and for use of said airspace for landing at, taking off from, or operating from the Airport.

   (b) The City of Dayton reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of entry onto the real property herein conveyed to cut,
remove, or lower any building, structure, poles, trees, or other object, whether natural or otherwise, of a height in excess of 14 CFR Part 77 standards and requirements, as amended, or any similar regulations which may hereinafter be enacted, regarding obstructions in navigable airspace. This public right shall include the right to mark or light as obstructions to air navigation, any and all buildings, structures, poles, trees, or other object that may at any time project or extend above said surfaces.

(c) Buyer expressly agrees for itself, its successor and assigns to restrict the height of structures, objects of natural growth, and other obstructions on the Premises, and that it will not construct, nor permit to stand, on said Premises any building, structure, poles, trees, or other object, whether natural or otherwise, of a height in excess of 14 CFR Part 77 standards and requirements regarding obstructions in navigable airspace, as amended, or any similar regulations which may hereinafter be enacted relating to the Airport.

(d) Buyer agrees to comply with the notification and review requirements covered in 14 CFR Part 77 (FAA Form 7460-1) for any structure or building planned on the Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises, Buyer shall file a notice consistent with the requirements of 14 CFR Part 77 (FAA Form 7460-1) prior to the commencement of construction of any facility, structure or other item on the Premises.

(e) Buyer expressly agrees for itself, its successors and assigns, to not hereafter use, nor permit, nor suffer use of the Premises in such a manner as to create electrical interference with radio communication between the installation upon the Airport and aircraft or as to make it difficult for fliers to distinguish between airport lights and others, or as to impair visibility in the vicinity of the Airport, or as otherwise to endanger the landing, taking off, or maneuvering of aircraft.

(f) Buyer expressly agrees for itself, its successors and assigns, to not hereafter use nor permit, nor suffer the use of the Premises in such a manner as to create a potential for attracting birds and other wildlife which may pose a hazard to aircraft.

(g) The City of Dayton reserves the right to further develop or improve the landing area of the Airport as it sees fit, without interference or hindrance.

(h) The land shall be subordinate to the provisions or any requirements or any existing or future agreements between the City of Dayton and the United States, relative to the development, operation, or maintenance of the Airport.

(i) The aforesaid covenants and agreements shall run with the land, as hereinafter described, for the benefit of the City of Dayton and its successors and assigns in the ownership and operation of the Airport.

(j) The City of Dayton will, by agreement with the FAA, commit all proceeds from the sale of the Premises to the development, maintenance and operations of the City’s airport system, in conformance with the FAA’s revenue use policy.
(k) Buyer expressly agrees for itself, its successors and assigns, that the Premises will only be used for purposes that are compatible with noise levels of airport operations. The Premises must not be used for residential purposes, which purposes include single family, multifamily or mobile home development; for educational facilities; or other noise sensitive land use not compatible with airport noise as described in 14 CFR Part 150, as amended.

8. **Condemnation.** Seller represents that it has no actual knowledge of any pending or threatened condemnation, eminent domain or equivalent proceeding or action which would affect the Subject Property. If, after the Effective Date and before the date and time of Closing, Seller obtains actual knowledge that any such proceeding or action is commenced or threatened against the Subject Property or the owner(s) thereof, Seller shall provide Buyer with written notice thereof promptly after Seller has knowledge thereof and Buyer shall have the option of continuing with this Contract and receiving all proceeds of such action or proceedings (or sale in lieu thereof), or terminating this Contract by written notice to Seller within ten (10) days after receiving such written notice from Seller. If this Contract is so terminated, the Earnest Deposit shall be immediately returned to Buyer and the parties shall have no further obligations each to the other.

9. **Foreign Investment in Real Property Tax Act and Tax Reform Act Reporting.** Seller agrees to execute and deliver any instrument, affidavit and statement and to perform any acts reasonably necessary to comply with the provisions of the Foreign Investment in Real Property Act.

10. **Breach At or Prior to Closing.**

   (a) If Buyer should fail to consummate the transaction contemplated in this Contract for any reason other than a default by Seller under this Contract, or the exercise by Buyer of a right to terminate this Contract as provided herein, then the Earnest Deposit shall be paid to Seller as total liquidated damages (due to the difficulty and inconvenience of measuring actual damages and the fact that the Earnest Deposit represents as fair an approximation of actual damages as the parties can now determine) and in full satisfaction of all of Buyer’s obligations hereunder.

   (b) If Buyer has performed all of its obligations under this Contract and Seller breaches its obligations hereunder, then Buyer may, as its exclusive remedies: (i) specifically enforce the terms of this Contract, or if specific performance is not available to Buyer for any reason, receive from Seller reimbursement of all of Buyer’s actual costs in connection with this Contract, and its activities in connection herewith, or (ii) terminate this Contract, in either of which case the entire Earnest Deposit shall be immediately returned to Buyer.

11. **AS IS.** Buyer hereby acknowledges that Buyer has made or will make its decision to purchase the Subject Property solely in reliance upon Buyer’s own inspection and review of the Subject Property. Buyer agrees to accept the physical condition of the Subject Property “as is”, “where is”, “with all faults”, and without express or implied warranties or any nature whatsoever. The warranties being disclaimed include, without limitation, implied warranties of merchantability, habitability, tenantability and fitness for a particular purpose.
12. **Notices.** All notices required or permitted hereunder shall be in writing and shall be deemed made when delivered in person, or by delivery service, electronic mail, or confirmed telex transmission or when mailed by certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Buyer: NorthPoint Development, LLC  
Attn: Nathaniel Hagedorn, CEO  
4825 NW 41st Street, Ste. 500  
Riverside, MO 64150  
Phone: (816) 888-7381  
nathaniel@northpointkc.com

with a copy to:

NorthPoint Development, LLC  
Attn: Leo Salinger  
4825 NW 41st Street, Ste. 500  
Riverside, MO 64150  
Phone: (816) 683-4973  
lsalinger@northpointkc.com

If to Seller: City of Dayton, Ohio  
Department of Aviation  
Attn: Gilbert Turner, Director  
3600 Terminal Drive, Suite 300  
Vandalia, Ohio 45377  
Phone: 937-454-8212  
E-mail: gturner@flydayton.com

13. **Miscellaneous.** This Contract (i) supersedes any letter of intent or prior agreement between the Buyer and Seller and constitutes the entire agreement between Buyer and Seller relating to the subject matter hereof and there are no other terms, conditions, promises, understandings, statements or representations, express or implied, concerning the sale contemplated hereunder, (ii) shall be governed by the laws of the State of Ohio, with exclusive venue for any litigation in Montgomery County, Ohio, and if in federal court, in the United States District Court for the Southern District of Ohio, (iii) shall be freely assignable by Buyer without the consent of Seller to any affiliate of Buyer, to any entity controlled by or under common control with Buyer, to any entity in which Buyer or Buyer’s affiliates (NorthPoint Holdings, LLC or NPD Management, LLC) is a Member, to any entity in which NPD Management, LLC is the manager, or to the Dayton Montgomery County Port Authority, but otherwise may not be assigned by Buyer without the prior written consent of the Seller, which consent shall not be unreasonably withheld, conditioned, or delayed, and (iv) shall not be modified or amended other than by a written instrument executed by both parties hereto. For purposes of this Contract, “affiliate” shall mean any entity controlled by Buyer, controlling Buyer, under common control of Buyer, or NP Dayton Building VII, LLC, a Missouri limited liability company.
Furthermore, Buyer agrees to use its best efforts:

(a) toward achieving a five percent (5%) Minority Business Enterprise, Small Business Enterprise, and/or Women Business Enterprise (MBE/SBE/WBE) subcontractor and/or vendor participation on future Dayton construction projects; and

(b) to provide Seller with a list of its current tenant’s labor force zip codes and/or other demographic information, as may be requested, in order to assist in confirming what portion of warehouse labor lives within the City of Dayton.

14. Attorneys’ Fees. In case a lawsuit shall be brought because of the breach or alleged breach of any agreement or obligation contained in this Contract on the part of either party to be kept or performed, each party shall be responsible for its own attorneys’ fees and expenses in connection with such lawsuit.

15. Partial Invalidity. If any provisions of this Contract or the application thereof to any party or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Contract shall not be affected thereby and each provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

16. Commission and Consulting Fees. Each party hereto represents and warrants to the other that no persons or entities are entitled to a brokerage commission, finder’s fee, or other compensation with respect to the transactions contemplated hereby.

17. Right to Exchange Real Property. Either party, through the use of a qualified intermediary, may transfer or acquire the Subject Property through a tax free exchange, deferred exchange or reverse exchange of real property pursuant to Section 1031 of the Internal Revenue Code; provided, however (i) in no event shall any such exchange, or the exchanging party’s inability to complete any such exchange, impair or otherwise affect the Closing Date, and (ii) the non-exchanging party shall have no obligation or liability to the exchanging party or any other person or entity in any respect for any matters in connection with any such exchange other than payment of the Purchase Price in exchange for the conveyance to Buyer of fee simple title to the Subject Property by deed subject only to those matters permitted under this Contract.

18. Waiver of Jury Trial. BUYER AND SELLER HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING, COUNTERCLAIM OR DEFENSE BASED ON THIS CONTRACT, OR ARISING OUT OF, UNDER OR IN ANY CONNECTION WITH THIS CONTRACT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO RELATING TO THIS CONTRACT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BUYER AND SELLER ENTERING INTO THIS CONTRACT.

19. Legal Holidays and Business Days. If any date herein set forth for the performance of any obligations by Seller or Buyer or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday...
or legal holiday. As used herein, the term “legal holiday” means any federal holiday for which financial institutions or post offices in the State of Ohio are generally closed for observance thereof. As used herein, the term “business day” shall mean a day which is not a Saturday, Sunday or legal holiday.

20. **Construction of Contract.** This Contract shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties. Both Seller and Buyer have contributed or had the opportunity to contribute substantially and materially to the preparation of this Contract.

21. **Effective Date.** The “Effective Date” of this Contract shall be the date this Contract is fully executed by the last of Seller and Buyer to sign.

22. **Time is of the Essence.** Time is of the essence of this Contract.

23. **Execution in Counterparts, Electronic Mail and Fax.** This Contract may be executed in several counterparts. All counterparts so executed shall constitute one agreement and shall be binding on all parties, even though all the parties did not sign the original or the same counterpart signature page. Hand signatures transmitted by fax or electronic mail such as PDF are also permitted as binding signatures to this Contract.

[Remainder of Page Intentionally Blank]
IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed as of the Effective Date.

BUYER:

NorthPoint Development, LLC, a Missouri limited liability company

Dated: ____________, 2020

By: __________________________
    Nathaniel Hagedorn, Manager

SELLER:

City of Dayton, Ohio

Dated: ____________, 2020

By: __________________________
    Name: _______________________
    Title: ________________________

APPROVED AS TO FORM
AND CORRECTNESS:

3/4/2021

X  Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

Approved by Ordinance No. __________, passed ______. 
EXHIBIT A

Subject Property Depiction

See Next Page
By..............................................

AN ORDINANCE

Authorizing the City Manager to Execute a Real Estate Sale Contract, Authorizing the Conveyance of Real Property and, Declaring an Emergency.

WHEREAS, The City owns approximately 46 acres of real property located at the Dayton International Airport ("Airport") in the City of Dayton, as depicted on the attached Exhibit A ("Property"); and,

WHEREAS, NorthPoint Development, LLC, a development company with prior experience developing land at the Airport, desires an option to purchase the Property for the construction of a future commercial building; and,

WHEREAS, To effectuate the City’s goals of encouraging redevelopment, and improving the economic welfare of City of Dayton residents, the City desires to grant an option on the Property to NorthPoint Development, LLC; and,

WHEREAS, It is necessary that this Ordinance take effect immediately upon its passage to provide for immediate preservation of the public peace, property, health and safety of the City; now, therefore,

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

Section 1. That the City Manager, or her designee, is authorized to execute a Real Estate Sale Contract in substantial form and substance to the attached Exhibit B.

Section 2. That the City Manager, or her designee, is authorized and directed to execute any documents necessary for the future conveyance of the Property to NorthPoint Development, LLC or its successors and assigns.

Section 3. That for the reasons stated in the preamble hereof, this ordinance is declared to be an emergency measure and shall take effect immediately upon passage.

PASSED BY THE COMMISSION......................, 2021

SIGNED BY THE MAYOR........................., 2021

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
March 4, 2021

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

FROM: Gil Turner, Director  
       Department of Aviation

SUBJECT: An Ordinance Authorizing the City Manager to Execute a Real Estate  
         Sale Contract, Authorizing the Conveyance of Real Property and  
         Declaring an Emergency.

The Department of Aviation requests the attached Ordinance be placed on the March 10, 2021  
City Commission calendar for approval.

NorthPoint Development, LLC has constructed six commercial buildings at the Dayton  
International Airport and has one additional building under construction. The company now  
desires to purchase a 44-acre parcel located within the City of Dayton for future commercial  
development in the City. Any future sale of the property will be for the fair market value of the  
property as determined by an appraisal. The Ordinance will authorize execution of a Real Estate  
Sale Contract and the future sale of the property.

The Federal Aviation Administration (FAA) is reviewing our request to release this property from  
its federal grant assurances, and we anticipate its concurrence within a few weeks. In the interest  
of time and the pressing deadlines associated with this development, I am requesting this  
Ordinance be passed and the Real Estate Sale Contract authorized now with the understanding  
that the Real Estate Sale Contract will not be executed until we receive the final release letter  
from the FAA.

The Law Department has approved the Ordinance as to form. If you have any questions or  
would like additional information, please contact me at 454-8212.

GT/sb

c: Mr. Parlette  
    Ms. Lofton
A RESOLUTION

Authorizing the Acceptance of a 2021 Childhood Obesity Prevention/Environmental Health and Sustainability Award from United States Conference of Mayors ("USCM") and the American Beverage Foundation for a Healthy America ("ABFHA") in the Amount of Fifty Thousand Dollars and Zero Cents ($50,000.00) on Behalf of the City of Dayton; and, Declaring an Emergency.

WHEREAS, United States Conference of Mayors ("USCM") and the American Beverage Foundation for a Healthy America ("ABFHA") announced the 2021 Childhood Obesity Prevention/Environmental Health and Sustainability Awards; and.

WHEREAS, The City of Dayton was awarded second place in the mid-size city category for its Dayton Sprouts program; and,

WHEREAS, The Dayton Sprouts program will work to engage youths and their families, ages 6-17, about the importance and steps to living a healthy and sustainable life; and,

WHEREAS, The Dayton Sprouts program is a multi-tiered program to help youths gain a broader understanding of what it means to live a healthy lifestyle and reduce their impact on the environment; and,

WHEREAS, The Commission finds it in the best interest of the City of Dayton to receive this award of grant funding; and

WHEREAS, In order to start the Dayton Sprouts program as soon as practical and for the immediate preservation of the public peace, property, health and safety, it is 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 or her designee is authorized and directed to execute any documents necessary to accept the 2021 Childhood Obesity Prevention/Environmental Health and Sustainability Awards from the USCM and the ABFHA, in the maximum amount of Fifty Thousand Dollars and Zero Cents ($50,000.00), in support of the City’s Dayton Sprouts program.
Section 2. That for the reasons stated in the preamble hereof, the Commission declares this resolution to be an emergency measure which shall take effect immediately upon its adoption.

ADOPTED BY THE COMMISSION .................................................., 2021

SIGNED BY THE MAYOR.............................................................., 2021

ATTEST:

______________________________
MAYOR OF THE CITY OF DAYTON, OHIO

______________________________
Clerk of the Commission

APPROVED AS TO FORM:

______________________________
City Attorney
MEMORANDUM

February 23, 2021

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

FROM: Robin L. Williams, Director
       Department of Recreation and Youth Services

SUBJECT: Resolution to Accept Grant

Please find attached a resolution to accept a grant in the amount of $50,000. The grant helps address childhood obesity prevention and sustainability education goals.

The 2021 Childhood Obesity Prevention/Environmental Health and Sustainability Award from the United States Conference of Mayors (USCM) and the American Beverage Foundation for a Healthy America (ABHFA) for $50,000 will fund a program called Dayton Sprouts.

Dayton Sprouts is an Exploration of Healthy Eating and a Sustainable Lifestyle. The program will be implemented by the Department of Recreation and Youth Services with assistance from the Sustainability Office through existing youth programs including summer camp and after-school programs. The granting agency does not require a grant agreement therefor the program will be bound by the application.

Please contact Meredith Weber at x1735 or Lisa Barhorst at x1705 if you require additional information.

RW/mw

c: S. Marcellus
   M. Charles
GRANT APPLICATION APPROVAL FORM

Date: 1/27/2021

Department/Division
Submitting Application: Recreation and Youth Services /Recreation Programs

Project Title: Dayton Sprouts: An Exploration of Healthy Eating and A Sustainable Lifestyle for Youth in Dayton, O

CFDA Title and Number: n/a

(CFDA = Catalog of Federal Domestic Assistance. This information is required by the Department of Finance if the original source of the money if from the federal government, even if the application is going to a state or local authority.)

Brief Description of Project:
Our program, Dayton Sprouts, will work to engage 400 youths and their families, ages 6-17, within the City of Dayton about the importance and steps to living a healthy and sustainable life. The multi-tiered program will help them gain a broader understanding of what it means to live a healthy lifestyle, encourage them to make healthy choices, and teach them how these choices can limit their carbon footprint in the process. This program is meant to run continuously throughout the entire year, giving options for new families to join throughout and continued education for families that have been participating all year.

Name and phone of staff person to be called when signed application is ready: Meredith Weber x1735

Name of staff person responsible for this grant: Lisa Barhorst x1705

Deadline for submission to funding agency: Grant was submitted and City of Dayton was selected.

When will grant award decision be made? (Estimate if necessary) Grant was submitted and City of Dayton was selected.

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<th>LEVEL</th>
<th>AGENCY/FUNDING SOURCE</th>
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<td>Other</td>
<td>United States Conference of Mayors (USCM) and American Beverage Foundation for a</td>
<td>$ 50,000.00</td>
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<tr>
<td>TOTAL</td>
<td>$ 50,000.00</td>
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(Note: City of Dayton funds committed to a grant must be accompanied by a Certificate of Funds.)

I have reviewed this material and believe it to be correctly completed and believe the project proposed is appropriate for the City of Dayton.

Director’s Signature: [signature]

[Signature Image]

Date: 1/27/2021

Review and Approval

We have reviewed this material and believe it to be correctly completed and believe the project proposed is appropriate for the City of Dayton.

Director, Department of Procurement, Management & Budget

[Signature]

Date

Director of Finance (IF CASH MATCH IS REQUIRED)

[Signature]

Date

City Manager’s Office

[Signature]

Date
From: Dalen Harris <dharris@usmayors.org>
Sent: Tuesday, December 22, 2020 6:49 PM
To: Whaley, Nan <Nan.Whailey@daytonohio.gov>
Cc: Charles, Mark <Mark.Charles@daytonohio.gov>; Hollingsworth, Torey <Victoria.Hollingsworth@daytonohio.gov>; Judy Sheahan <jsheahan@usmayors.org>
Subject: Congratulations - 2021 Childhood Obesity Prevention/Environmental Health and Sustainability Grants Award

Mayor Whaley,

On behalf of The United States Conference of Mayors (USCM) and our partner the American Beverage Foundation for A Healthy America (ABFHA), congratulations! Your city has been selected as the 2nd place recipient for the 2021 Childhood Obesity Prevention/Environmental Health and Sustainability Grants Award in the Medium City category. You will be receiving a grant in the amount of $50,000 to further your city’s efforts to reduce childhood obesity and improve environmental health.

Judy Sheahan or I will also be reaching out to the individual(s) listed as staff contacts on the grant application with additional information in the coming days. In the meantime, I want to inform you that the official awards ceremony will take place virtually during USCM’s 89th Winter Meeting, and more details on the date and time will be provided to you soon. Additionally, we ask that you delay any plans to share this news publicly in your local media markets or with related partners until after the award presentation during the 2021 USCM Winter Meeting. Thereafter, we strongly encourage you to share this news publicly.

Again, congratulations and thank you for the work you do each and every day to combat childhood obesity and improve the environmental health of your city residents. Please do not hesitate to give me a call or email if you need any additional information.

Kind regards,

Dalen

Dalen A. Harris

Assistant Executive Director

US Conference of Mayors

D: 202-861-6707
M: 202-425-6917

dharris@usmayors.org

www.usmayors.org
The 2021 Childhood Obesity Prevention/Environmental Health and Sustainability Awards

2. Basic Program Information

1. What’s the name/title of the program/initiative you’re submitting for consideration?
   Dayton Sprouts: An Exploration of Healthy Eating and A Sustainable Lifestyle for Youth in Dayton, OH

2. Name of city applying for the award:
   Dayton

3. State or Territory in which the city applying for the award is located:

   Select from the drop-down menu to the right

   Alabama    Alaska    American Samoa    Arizona    Arkansas    California    Colorado    Connecticut    Delaware

4. Please select the population category of the city applying for the award:
   Medium City (population 75,000-250,000)

5. Mayor First Name
   Nan

6. Mayor Last Name
   Whaley

7. Which of the award categories does your program/initiative address?
   Both/Hybrid

8. Specify whether this application is for: (Check the appropriate box)
   Development of a New Program

3. Mayoral Staff and Lead Application Contact Information

9. Mayoral Staff Contact Information
   First Name
   Mark
   Last Name
   Charles
4. Community & Program Descriptions; Mayoral Letter of Support

11. Community Description/Statement of Need:

The City of Dayton, often referred to as the Gem City, is a hub for creativity and innovation. Famously, the Wright Brothers designed the first airplane within the City limits, and businesses like National Cash Registry (NCR) flourished and established roots in our humble City. The people of Dayton have always pushed the limits of innovation, leading to the most patents per capita than any other comparable city within the United States. However, as pressure to move outside metropolitan hubs grew, industries dwindled, jobs moved away and the City of Dayton began to face the immense, multi-faceted challenges we still feel today.

After large manufacturing anchor institutions such as National Cash Register (NCR) and General Motors (GM) closed their doors, many were left without jobs and the City population drastically declined. Many houses and businesses were left empty and the opioid epidemic began to run rampant. Dayton shared a common concern with other rust belt cities, where it has become increasingly difficult to overcome these simultaneous challenges. Dayton has and will continue to be a home of creativity and resilience with the willingness to rise up and solve issues with minimal resources. Although we have begun to see signs of economic revitalization in the past several years, the scars of our past have left detrimental marks within our community that need to be addressed. These include racial inequities.

Dayton has a long history of systemic racism. Redlining pushed many African Americans to the West side of the City, making it difficult for them to purchase property elsewhere. Jobs and loans were limited for African Americans, exacerbating the wealth gap and minimizing resources on the West Side. These systemic race issues can be clearly seen in food access data. On the West side of our community, where it is predominately African American, 68,000 individuals live with limited access to a store that serves healthy and nutritious options. Within the past several decades, most major grocery stores have left the West and North sides of Dayton, leaving close to a hundred thousand people without close accessibility to a grocery store. The West and North Dayton are currently facing a food apartheid, where people of color are disproportionately left without easy access to healthy foods.

Individuals are forced to shop at corner stores or dollar stores where higher-priced, unhealthy food is the only option. With limited options available, youth are forced to embrace these options as their new normal. In 2017, 50% of youth within Dayton were considered overweight or obese. This rate stems from a lack of exercise and a lack of places to obtain healthy meals. Within Dayton, the median household income is only $31,000. Often, many families will prioritize rent and utility bills over their food budget, therefore opting to use less money and often buying cheaper, unhealthier foods. Even when available, if youth are unfamiliar, sometimes referred to as food illiterate, they will
default to unhealthy options. This calls for a need to pair access with education to increase familiarity and comfortability with healthy foods.

Within the Dayton city limits, the West side of Dayton has the least access to parks and greenspaces in comparison to the south side of the City. Along with the lack of green spaces, we see the highest number of superfund and brownfield sites within the West and North parts of the City. Youth within the North and West part of the City do not have as many spaces to safely recreate with friends and families. Providing healthy and safe spaces to recreate has always been a priority for the City, but financial barriers have prevented the City from achieving desired goals.

Despite all of these challenges, Dayton is actively working to fight this disparity in our community and break the cycle of poverty. There are several organizations working to address environmental justice issues around the city. These issues vary from the lack of choice in food to the impact of landfills in minority communities. Local urban farms can be found scattered across the city in once vacant land. A Food Equity Coalition has been established and created a plan to address food insecurity. The MetroParks system has worked to create lush and accessible corridors from fragmented green spaces. Monumental climate commitments have been made through the voices of our community and the inaugural Sustainability office.

The City could not accomplish this needed work without the help of our non-profit community. Through the work of the Dayton-area Five Rivers Metroparks and the University of Dayton Hanley Sustainability Institute, our community understands the importance of conservation. Healthy food is becoming increasingly accessible through the work of Homefull’s new mobile grocer and the movement started from the first cooperative grocery store in the community led by Co-Op Dayton. CleanEnergy4All, a locally-based environmental justice non-profit, works closely with the intersections of many of these issues, engaging the community on a neighborhood level to address climate protection, resilience, and equity.

As a community we are increasing food accessibility through our food equity plan, but we still do not have a food literacy program encouraging families to choose healthy alternatives. Among all of this momentum for food justice is a need to better engage youth, the future of our city, where obesity and healthy living habits stress a large population of our citizens. While our budget is limited, our City has a strong infrastructure set up to engage youth in lifestyle programs. We aim to use our current summer camp programs and recreation centers but revitalize it with more resources and expertise from our community partners.

When the 2008 financial crisis hit, one of the hardest decisions was cutting the Recreation and Youth Service budget. Many of the existing programs within the department had to be cut, and youth within Dayton were left with limited options of ways to engage in structured, healthy activities. Recreation and Youth Services still functions on a very minimal budget with limited programming and funding. This department engages the most youth out of all the departments within the City. We see this grant as an opportunity to offer more services for youth and families within the City. In addition to the Recreation and Youth Service department, the University of Dayton, CleanEnergy4All, Department of Water, and Sustainability Office within the City have come together to partner on this initiative to educate and engage youth in a more active lifestyle within the City.

If awarded this grant, we plan to kick-start a program for youth that live within Dayton City limits. This program will educate youth on how to make healthy choices while also encouraging and teaching about minimizing their carbon footprint. This initiative will be working in tandem with other initiatives laid out in our Food Equity Plan and we hope this program will plant the seeds for a long-term decrease in the obesity rate in youth as well as initiate sustainability practices for families within the community.

12. Description of the Proposed Program/Initiative:

Our program, Dayton Sprouts, will work to engage 400 youths and their families, ages 6-17, within the City of Dayton about the importance and steps to living a healthy and sustainable life. The multi-tiered program will help them gain a broader understanding of what it means to live a healthy lifestyle, encourage them to make healthy choices, and teach them how these choices can limit their carbon footprint in the process. This program is meant to run continuously throughout the entire year, giving options for new families to join throughout and continued education for families that have been participating all year.

Phase 1: Plant
In partnership with the City of Dayton Recreation and Youth Services, as well as the Department of Water, Sustainability Office, and the University of Dayton, Dayton Sprouts will begin at the City of Dayton recreation center 8-week youth and teen summer camp. Most attendees (and in this case, our target population) in the summer camp
program live within Dayton city limits. A large majority live in the West and North sides of Dayton, which is predominately the most food insecure. Each week, the camp attendees will learn about different sustainability and healthy living themes. The youth will also participate in growing their own vegetable sprouts from a take-home kit they receive at the beginning of the summer. The kit will contain all the resources they need to grow a tomato plant at home, with very minimal maintenance and space. The campers will learn how to tend to their own plant throughout the growing cycle. Each week will talk about different aspects of growing food such as soil and land health, water quality, and composting. These lessons directly relate to not only the health of the plants but our bodies and environment as well. This project will be a way to bring home the lessons from camp and to engage with the rest of the family. A garden at the recreation center will also be used to demonstrate the care needed and to track the growth of our plants throughout the summer.

Additional activities during the camp will reinforce and connect to the healthy eating and active living themes. A field trip to visit a local urban farm will encourage the campers to engage with the local food system. In collaboration with our community partners, hands-on cooking classes will be conducted with vegetables grown in the garden and at home. Each child will attend 3 cooking classes throughout the summer to receive their “healthy chef certification.” This certification will showcase that eating healthy can also be delicious as well as giving youth hands on experience with preparing healthy meals. After each child receives their healthy chef certification, they will bring in a tomato from their plant at home to create a large meal for their families. At this event, each family will receive an activity booklet, otherwise known as a “passport” that will be used to guide them through phase two after the 8-week camp has ended.

Phase 2: Nourish
After the camp ends, each child within the summer camp will receive an activity booklet, which we are calling a passport.

Any family within the city is welcome to opt into the passport program as well, even if they did not participate in the summer program. The purpose of this passport will be to continue the healthy eating and sustainability education youth received during the summer. The passport will highlight many of the programs and initiatives our community partners are championing. While we hope to engage the whole family through this process, the passport will be age-appropriate with multiple versions of the passport depending on the age group.

The activities will be hands-on and located across the city as well as at home. We will use resources across city departments to consider and address barriers for families to participate such as public transportation. In addition to a physical paper passport, a simple app will be developed to aid participants in activities. This app will serve all the same features as the physical passport but will give youth and families an option to go digital if they do not want to bring in their physical passport to get stamped at the recreation centers as well as ensure engagement continues even if the passport is misplaced.

New activities will be created such as a geocache hunt along the Great Miami River to teach about our local waterway and a grocery store photo scavenger hunt. We will also use existing programming such as Metropark events to educate the community on free local resources. Finally, activities such as a healthy meal photo contest can be completed at home at any time. After each activity is completed, participants will return to the Recreation Center to get a stamp in their booklet and enter a raffle for a variety of prizes. The passport will also have space for the child and family to record activities that they do to maintain a healthy lifestyle, and tips and tricks when it comes to waste reduction. The goal is for each family to finish 5 activities per month from August to December. The overall goal of the passport is for the youth to build healthy habits by staying active in the program.

Phase 3: Harvest
In addition to the activities available in the passport, monthly activities will be held at the Recreation Center to educate about healthy eating habits and sustainable living. We will leverage our many community partners to host one of these monthly events. These activities include cooking and composting classes, learning about our waterways and protecting our local ecosystems, gardening classes, and a family recreation night about exercising. This monthly event will complement the activities available in the passport and will act as a time to share their experiences and receive their stamps. Moreover, this phase will be aimed at families and encouraging the entire family to make healthy decisions. If any families are uncomfortable attending any activities, we will have activity boxes available for youth and families to take home.

We firmly believe this program will be effective as the multi-tier approach as well as the food and prize incentives will keep youth and families engaged. Especially during COVID, where many after school programs are cancelled, Dayton Sprouts will keep youth and families occupied through a large variety of activities through the duration of the year.
Program Outcomes:
Objective 1: Educating and engaging youth in food literacy programming.
Measuring Metric: The passport program will be the main mechanism for tracking the education and progress of youth engaged in the program.

Objective 2: Experiential learning through hands-on engagement with food preparation, gardening, cooking, and composting.
Measuring Metric: Throughout the program, our goal is to have youth participate in at least 3 activities per week as well as tend to their plants throughout the duration of the summer.

Objective 3: Youth actively understanding and engaging in reducing their carbon footprint.
Measuring Metric: We will be tracking our composting program throughout the summer by weighing the food waste we add to the compost bin. There will be incentives for youth to collect compost to add it to the bin. Moreover, the passport activities and phase 2 and 3 recreation programs will also serve as benchmarks for engagement in the program.

Objective 4: Engagement in 30-minute activity, 5 times a week.
Measuring Metric: Our goal is to inspire body positivity, loving our bodies, and being grateful for the gifts they give us. Therefore, we will track activity in our passport booklet but there will not be a formal measuring of physical changes.

This program is unique as it will serve to create a more holistic look at living a healthy lifestyle. The experiential learning approach will aid in a broader understanding of our food systems and showcase that a healthy lifestyle is rewarding. Most notably, our passports will allow families to continue to do activities outside of our summer camp program. Our passport is designed to offer a variety of options for families to participate outside and inside the home. Especially in the time with COVID, the passport will still give educational opportunities that are social-distanced and with their family. This passport program will give autonomy and ownership to youth in engaging in a healthy lifestyle while still incentivizing them to continue the program after the summer. This also helps us track our progress throughout the duration of the program.

Lastly, this program can be replicated for different communities and easily adopted. Most notably, our passport booklet and app can be utilized by other cities to achieve similar goals. Moreover, because this program is built into an existing camp programming, cities can easily integrate this framework into their unique offerings.

Project Budget:
Project Coordinator for 12 months. $50,000
Environmental Educator $30,000
Passport Design and Printing $10,000
Digital App Development and creation $20,000
Garden Equipment $2,000
Cooking Classes from local Dayton chef $4,000
Food for Classes $2,000
Incentives for Completion of Passport $2,000

Total: $120,000
13. COVID-19 Response

Well much is still unknown in terms of what the summer of 2021 is going to look like, we believe this program will be effective despite any restrictions due to COVID. If summer camp attendance numbers are restricted, we are confident that more families will want to enroll into our passport program. The passport programs will give youth a wide variety of activities to do both with their families and on their own. There will be a variety of activities depending on how much time the child has to devote to the program. Because the passport program will also have an app, it will be easy for families who do not feel comfortable going to the Recreation centers or attending any in person events. They will still have an even chance at winning prizes and will receive the same food literacy programming as the youth who attend in person. Moreover, we also are creating activity boxes that will be available to youths and families to replace any in person activity in Phase 1-3. These activity boxes are for families whose children are not attending summer camp or monthly activities, and will still deliver similar experiences at home. We also plan on recording our monthly activities at the recreation center so families can tune in at home.

14. Please upload your Mayoral Letter of Support. (Required for submission; MUST be in PDF format.)

USCM_Childhood_Obesity_LOS_Whaley_11_5_2020.docx.pdf

15. Attachments (Optional):

Dayton_Sprouts_2_Overview.pdf
Dayton_Sprouts_Passport_Example.pdf
Food_Equity_Plan_Link.pdf

16. Final Report Requirement:

I understand and agree to these terms.
U.S. Conference of Mayors
1620 Eye St. N.W.
Washington, DC 20006

November 5, 2020

Dear US Conference of Mayors Childhood Obesity Prevention/Environmental Health and Sustainability Awards Committee,

I am writing to offer my enthusiastic support for the City of Dayton submission for this year’s grant application cycle. The Dayton Sprouts program is an innovative way to educate and engage children and families on healthy and sustainable lifestyles. Within our City, we currently have an epidemic of obesity—nearly 50% of children within City limits are considered obese and we currently lack sufficient resources to engage children and family in education around lifestyle choices. The problem of obesity in Dayton is likely to be exacerbated by COVID-19 as children are more isolated and unable to engage in their usual after-school activities.

There is a direct connection between health and environmental sustainability. We wish not to isolate the issue of obesity and active lifestyles but treat it holistically through the proper education of sustainable habits. We hope to specifically address the need to reduce our carbon footprint by connecting with nature and inspiring individual actions such as waste reduction, composting, and outdoor gardening.

If awarded this grant, we will be able to educate and engage 400 children and their families within the Dayton community in a safe and meaningful way. This program will compliment similar initiatives happening within the City but works to address the educational component we have been lacking in our pursuit to create a more healthy and viable community. I believe this application is unique as our program will continue to engage children and families year-round and can serve as a model for other communities.

Thank you for your consideration and time,

Nan Whaley
Mayor of Dayton
A RESOLUTION

Authorizing the Acceptance of a 2021 Childhood Obesity Prevention/Environmental Health and Sustainability Award from United States Conference of Mayors (“USCM”) and the American Beverage Foundation for a Healthy America (“ABFHA”) in the Amount of Fifty Thousand Dollars and Zero Cents ($50,000.00) on Behalf of the City of Dayton; and, Declaring an Emergency.

WHEREAS, United States Conference of Mayors (“USCM”) and the American Beverage Foundation for a Healthy America (“ABFHA”) announced the 2021 Childhood Obesity Prevention/Environmental Health and Sustainability Awards; and,

WHEREAS, The City of Dayton was awarded second place in the mid-size city category for its Dayton Sprouts program; and,

WHEREAS, The Dayton Sprouts program will work to engage youths and their families, ages 6-17, about the importance and steps to living a healthy and sustainable life; and,

WHEREAS, The Dayton Sprouts program is a multi-tiered program to help youths gain a broader understanding of what it means to live a healthy lifestyle and reduce their impact on the environment; and,

WHEREAS, The Commission finds it in the best interest of the City of Dayton to receive this award of grant funding; and

WHEREAS, In order to start the Dayton Sprouts program as soon as practical and for the immediate preservation of the public peace, property, health and safety, it is 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 or her designee is authorized and directed to execute any documents necessary to accept the 2021 Childhood Obesity Prevention/Environmental Health and Sustainability Awards from the USCM and the ABFHA, in the maximum amount of Fifty Thousand Dollars and Zero Cents ($50,000.00), in support of the City’s Dayton Sprouts program.
AN ORDINANCE

To Vacate the Alley East of Brown Street from Wyoming Street to the North Property Line of City Lot #84003.

WHEREAS. The City Commission did on the 2nd day of December, 2020, by Resolution No. 6552-20, declare its intention to vacate the alley east of Brown Street from Wyoming Street to the north property line of City Lot #84003; and

WHEREAS. The Board of Revision of Assessments, after a hearing regularly held for the purpose of consideration of objections to said proposed vacation, as provided by the Charter of the City of Dayton, has recommended that the alley east of Brown Street from Wyoming Street to the north property line of City Lot #84003; vacated; and

WHEREAS. The City Plan Board has approved said vacation; and

WHEREAS. The vacation of the alley east of Brown Street from Wyoming Street to the north property line of City Lot #84003; described herein will enable the abutting property owner to develop this property; and

WHEREAS. The Commission is satisfied that there is good cause for said vacation and that it will serve the public interest and welfare and should be made; now, therefore,

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

Section 1. That the alley east of Brown Street from Wyoming Street to the north property line of City Lot #84003; being more particularly bounded and described in as follows:

Being all of the 16.5 foot alley east of the Brown Street from 50 foot Wyoming Street to the north property line of City Lot #84003

is hereby vacated. The vacation shall be subject to the following conditions:

A. DP&L shall retain an easement over, under, and through the vacated area for its existing aerial electric facilities. With written consent from DP&L these facilities may be relocated or abandoned at the expense of the applicant.

B. The City of Dayton Department of Water shall retain an easement over, under, and through the vacated area for its existing eight-inch sanitary sewer. With written consent from City of Dayton Department of Water these facilities may be relocated or abandoned at the expense of the applicant.
Passed by the Commission.............................................., 2021

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

Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

City Attorney
February 23, 2021

TO: Shelley Dickstein  
City Manager

FROM: Joseph Weinel, Chief Engineer  
Division of Civil Engineering

SUBJECT: The Vacation of the Alley East of Brown Street from Wyoming Street to the North Property Line of City Lot #84003

Attached is the ordinance to vacate the subject property. Please present this legislation to the City Commission for their action.

Petition No. 21493 requesting the vacation was received from RE NVC Dayton II LLC on September 25, 2020. Resolution No. 6552-20 declaring the Commission’s intention to vacate was adopted on December 2, 2020. The Board of Revision of Assessments recommended the vacation on January 20, 2021. The vacation will enable the abutting property owners to develop this property.

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

JRW

Attachments

cc: Mr. Parlette  
Ms. Lofton  
Mr. Stovall  
Department of Planning  
Department of Law  
Clerk of Commission  
Secretary / Board of Revision of Assessments