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: Finance Briefing – D. Shannon
   5:00 PM
   https://www.daytonohio.gov/330/Government-TV
17. Miscellaneous (See Section VI)

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

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

1. Purchase Orders:

   INFORMATION TECHNOLOGY
   A1. TT Faster LLC dba Faster Asset Solutions (annual software maintenance and support services.) $17,887.46
1. (Cont’d):

**PUBLIC WORKS**

**B1. Crown Personnel Service, Inc.** (temporary staffing services as needed through 12/31/21)  
$15,000.00

**B2. Rehrig Pacific Company** (trash containers with identification tags)  
$304,384.80

**WATER**

**C1. American National Red Cross** (first aid training as needed through 12/31/21)  
$11,232.00

**C2. Beau Townsend Ford, Inc.** (one 2021 cargo van with optional equipment)  
$44,455.00

**C3. Kelden Equipment, Inc.** (two boiler control replacements and related items)  
$70,754.00

**C4. Argus Group Holdings LLC dba Premier Safety** (medical first aid supplies as needed through 12/31/21)  
$15,000.00

**C5. Commercial Metal Fabricators, Inc.** (machine fabrication services as needed through 12/31/21)  
$90,000.00

**C6. Cronin CDJR LLC** (one 2021 four-wheel drive pickup truck with various optional equipment)  
$34,867.00

**C7. Fairborn Cement Company LLC** (Portland concrete as needed through 12/31/21)  
$20,000.00

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

Total: $623,580.26

$20,000.00  
(Thru 6/30/2021)

Dayton Dragons  
$88,500.00  
(Thru 12/31/2023)

4. **RA Consultants, LLC – Contract Modification** - second amendment – for consulting services – Department of Economic Development  
$50,000.00  
(Thru 12/31/2022)
II. LEGISLATION:

5. No. 6568-21 In Support of Amtrak’s Proposed Expansion of Passenger Rail Services in Ohio and for the Congressional Actions Needed to Authorize and Appropriate Funds to the Expansion.

III. MISCELLANEOUS:

ORDINANCE NO. 31876-21

RESOLUTION NO. 6569-21

IMPROVEMENT RESOLUTION NO. 3599-21

INFORMAL RESOLUTION NO. 987-21
City Manager’s Report

From 2730 – PMB/Procurement
Supplier, Vendor, Company, Individual
Name See Below
Address See Below
Date March 31, 2021
Expense Type Purchase Order
Total Amount $623,580.26

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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</thead>
<tbody>
<tr>
<td>See below</td>
<td>See below</td>
<td>See below</td>
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</tbody>
</table>

Includes Revenue to the City ☑ No
Affirmative Action Program ☑ Yes

Description

INFORMATION TECHNOLOGY

(A1) P0210763 – TT FASTER LLC dba FASTER ASSET SOLUTIONS, VIRGINIA BEACH, VA
- Annual software maintenance and support services.
- These services are required to maintain the City’s fleet management system for the Departments of Aviation, Fire, Procurement, Management and Budget, Public Works, and Water.
- TT Faster LLC dba Faster Asset Solutions, formerly CCG Systems, Inc. is recommended as the original software developer; therefore, this purchase was negotiated.
- The Department of Information Technology recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
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<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-5560-1166-65</td>
<td>$17,887.46</td>
</tr>
</tbody>
</table>

Signatures/Approval

Approved by City Commission

Clerk

Date

Updated 06/2016
PUBLIC WORKS – PROPERTY MANAGEMENT

(B1) P0210521 – CROWN PERSONNEL SERVICE, INC., DAYTON, OH
  • Temporary staffing services as needed through 12/31/2021.
  • These services are required to augment staff to maintain daily operations.
  • Rates are in accordance with the City of Dayton’s existing price agreement IFB 18066JL
    with pricing through 12/31/2023.
  • This amendment increases the previously authorized amount of $10,000.00 by $15,000.00
    for a total not to exceed $25,000.00 and therefore requires City Commission approval.
  • Crown Personnel Service, Inc. qualifies as a Dayton local entity.
  • The Department of Public Works recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6480-1159-54</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>

PUBLIC WORKS – WASTE COLLECTION

(B2) P0210768 – REHRIG PACIFIC COMPANY, LOS ANGELES, CA
  • Trash containers with identification tags.
  • These goods are required to provide trash containers to City residents and other municipal
    customers receiving trash collection services.
  • Rates are in accordance with the OMNIA Partners Contract #00254.
  • 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>
<tr>
<td>2021</td>
<td>General Fund</td>
<td>10000-6440-1301-32</td>
<td>$304,384.80</td>
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</table>

WATER – WATER ADMINISTRATION

(C1) P0210735 – AMERICAN NATIONAL RED CROSS, AMERICAN RED CROSS – HEALTH &
SAFETY, DAYTON, OH
  • First aid training as needed through 12/31/2021.
  • These services are required to provide Cardiopulmonary Resuscitation (CPR) training.
  • The Dayton Area Chapter of the American Red Cross is a local, non-profit source for First Aid, CPR and AED training; therefore, this purchase was negotiated.
  • American National Red Cross, American Red Cross – Health & Safety qualifies as a Dayton local entity.
  • The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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<td>2021</td>
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<td>2021</td>
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<td>2021</td>
<td>Water Engineering</td>
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<td>$320.00</td>
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</table>
WATER – WATER RECLAMATION

(C2) P0210757 – BEAU TOWNSEND FORD, INC., VANDALIA, OH

- One (1) 2021 cargo van with optional equipment.
- This vehicle and equipment are required for the daily operations of the Division and will replace Unit #4003 which will be disposed of in the best interest of the City.
- Ten (10) possible vendors were solicited and four (4) bids were received. This order establishes a price agreement per IFB 21009D with pricing through 3/31/2022.
- The Department of Water 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>
</tr>
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<tr>
<td>2021</td>
<td>Sanitary Sewer Operating</td>
<td>55000-3460-1412-54</td>
<td>$44,455.00</td>
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</tbody>
</table>

(C3) P0210618 – KELDEN EQUIPMENT, INC., BATAVIA, OH

- Two (2) boiler control replacements and related items.
- These goods and services are required to repair boiler controls at the Water Reclamation Plant.
- Pursuant to Section 86 of the City of Dayton Charter, the City has declared an emergency, the necessary funds have been encumbered, and the supplier has been notified to proceed.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB N18038 with pricing through 12/31/2021.
- This amendment increases the previously authorized amount of $197,364.00 by 70,754.00 for a total not to exceed $268,118.00 and therefore requires City Commission approval.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
</tr>
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<tr>
<td>2021</td>
<td>Waste Water Treatment</td>
<td>55003-3460-1412-54-SF1606</td>
<td>$70,754.00</td>
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</table>

WATER – WATER SUPPLY AND TREATMENT

(C4) P0210765 – ARGUS GROUP HOLDINGS LLC dba PREMIER SAFETY, CHESTERFIELD, MI

- Medical first aid supplies as needed through 12/31/2021.
- These goods are required to stock inventories for Dayton Water Department operations.
- Rates are in accordance with the City of Dayton’s existing price agreement IFB 16052N with pricing extended through 12/31/2021.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
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<tr>
<td>2021</td>
<td>Water Operating</td>
<td>53000-3430-1301-54</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>
WATER – WATER SUPPLY AND TREATMENT (CONTINUED)

(C5) P0210762 – COMMERCIAL METAL FABRICATORS, INC., DAYTON, OH
- Machine fabrication services as needed through 12/31/2021.
- These services are required to maintain and repair existing equipment.
- Commercial Metal Fabricators, Inc. is recommended based upon proven past performance, professional expertise and local proximity; therefore, this purchase was negotiated.
- Commercial Metal Fabricators, Inc. qualifies as a Dayton local entity.
- The Department of Water requests additional authority of $60,000.00 through 12/31/2023.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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</thead>
<tbody>
<tr>
<td>2021</td>
<td>Water Operating</td>
<td>53000-3430-1167-54</td>
<td>$30,000.00</td>
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<tr>
<td>2022</td>
<td>Water Operating</td>
<td>53000-3430-1167-54</td>
<td>$30,000.00</td>
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<tr>
<td>2023</td>
<td>Water Operating</td>
<td>53000-3430-1167-54</td>
<td>$30,000.00</td>
</tr>
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</table>

(C6) P0210758 – CRONIN CDJR LLC, LEBANON, OH
- One (1) 2021 four-wheel drive pickup truck with various optional equipment.
- This vehicle are required to support the daily operations of the Division and will replace Unit #814 which will be disposed of in the best interest of the City.
- Rates are in accordance with the established price agreement per IFB 20041D with pricing through 3/31/2021.
- The Department of Water recommends approval of this order.

<table>
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<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
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<td>2021</td>
<td>Water Operating</td>
<td>53000-3430-1412-54</td>
<td>$34,867.00</td>
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</tbody>
</table>

WATER – WATER UTILITY FIELD OPERATIONS

(C7) P0210752 – FAIRBORN CEMENT COMPANY LLC, XENIA, OH
- Portland concrete as needed through 12/31/2021.
- These goods are required to repair water and sewer line excavations.
- Fairborn Cement Company LLC is recommended as the sole provider who responded to the City’s request; therefore, this purchase was negotiated.
- The Department of Water recommends approval of this order.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Fund Source(s)</th>
<th>Fund Code(s)</th>
<th>Fund Amount(s)</th>
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</thead>
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<tr>
<td>2021</td>
<td>Water Operating</td>
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<td>$10,000.00</td>
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<tr>
<td>2021</td>
<td>Sanitary Sewer Operating</td>
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<td>$7,000.00</td>
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<tr>
<td>2021</td>
<td>Storm Water Operating</td>
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<td>$3,000.00</td>
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The aforementioned departments recommend approval of these orders.
SERVICE AGREEMENT

The Human Relations Council (HRC) requests permission to enter into a Professional Service Agreement with David Pigford in the amount of $20,000.00 to oversee elements of the Greater Dayton Minority Business Assistance Center's Historic Preservation Initiative.

Dayton Human Relations Council is host to the Dayton MBAC and administers programing on behalf of the State Ohio's Development Services Agency. The State has identified a new strategic focus for the centers on historic preservation. The Greater Dayton region is home to over 20 historical districts. Renovations and care for these historic neighborhoods oftentimes take special training. Funding from the 2019-2021 MBAC grant will be used to support this agreement to assist with the development of a historic preservation training program for minority, women-owned and small, disadvantaged businesses and tradespersons. Funding will also provide other services as needed to assist minority, women-owned and small, disadvantaged businesses. This agreement will enable the HRC to research, create, record and document programming elements of the Dayton MBAC's Historic Preservation Initiative to be incorporated within MBAC operations. It will also help to identify potentially historic preservation projects and project development resources for disadvantaged businesses across the region.

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

The Agreement will commence upon execution and will expire on June 30, 2021.

Signature/Approval

Approved by City Commission

Clerk

Date

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

<table>
<thead>
<tr>
<th></th>
<th>New Contract</th>
<th>Renewal Contract</th>
<th>Change Order</th>
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<tr>
<td>Contract Start Date</td>
<td>Upon Execution</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date</td>
<td>06/30/21</td>
<td></td>
<td></td>
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<tr>
<td>Original Commission Approval</td>
<td>$ 20,000.00</td>
<td>Initial City Manager's Report</td>
<td>Initial Certificate of Funds</td>
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<tr>
<td>Initial Encumbrance</td>
<td>$ 10,000.00</td>
<td>Initial Agreement/Contract</td>
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</tr>
<tr>
<td>Remaining Commission Approval</td>
<td>$ 10,000.00</td>
<td>Copy of City Manager's Report</td>
<td>Copy of Original Certificate of Funds</td>
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Amount: $ 10,000.00

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<th>Fund Code</th>
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<tr>
<td>28258</td>
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<td>1400</td>
<td>1159</td>
<td>57</td>
<td>00</td>
<td>300</td>
</tr>
</tbody>
</table>

SECTION II - to be completed by the Finance Department

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

Finance Director/Signature: [Signature]
Date: 3/24/2021

CF Prepared by: [Signature]
Date: 3/24/21
CF/CT Number: CT21 - 2955
March 24, 2021

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

FROM: Erica Fields, Executive Director
Human Relations Council

RE: Historical Preservation Memo

Dayton Human Relations Council is host to the Greater Dayton Minority Business Assistance Center and administers programing on behalf of the State Ohio’s Development Services Agency.

The State has identified a new strategic focus for the centers on historic preservation. The Greater Dayton region is home to over 20 historical districts. Renovations and care for these historic neighborhoods often times take special training. Funding from the MBAC grant will be used to support a contract position to assist with the development of a historic preservation training program for minority, women-owned and small, disadvantaged businesses and tradespersons and provide other services as needed to assist minority, women-owned and small, disadvantaged businesses. The Historic Preservation Specialist will be required to research, create, record and document programming elements of the Dayton MBAC’s Historic Preservation Initiative to be incorporated within MBAC operations and to identify potentially historic preservation projects and project development resources for disadvantaged businesses across the region.

The Law Department has reviewed and approved this agreement as to form and correctness. We request that this be placed on the February, 2021 Commission Calendar.

If you have any questions, please contact me at x1407.
DATE: March 23, 2021

TO: LaShea Lofton, Deputy City Manager/Acting Finance Director
City Manager’s Office

FROM: Erica Fields, Executive Director
Human Relations Council

SUBJECT: Agreement for Historical Preservation Professional

Attached is a copy of the above referenced Agreement, Certificate of Funds, and City Manager report. Funding from the Minority Business Assistant Center grant will be used to support this agreement to assist with the development of a historic preservation training program for minority, women-owned and small, disadvantaged businesses and tradespersons and provide other services as needed to assist minority, women-owned and small, disadvantaged businesses. This agreement will enable the HRC to research, create, record and document programming elements of the Dayton MBAC’s Historic Preservation Initiative to be incorporated within MBAC operations and to identify potentially historic preservation projects and project development resources for disadvantaged businesses across the region.

Please send an executed copy of the Certificate of Funds back to HRC for our records.

Please call me at x1407 if you have any questions.
HISTORIC PRESERVATION SPECIALIST FOR THE MINORITY BUSINESS ASSISTANCE CENTER AGREEMENT

This agreement for HISTORIC PRESERVATION SPECIALIST FOR THE MINORITY BUSINESS ASSISTANCE CENTER AGREEMENT ("Agreement") dated this ___ day of __________________, 2021, is between the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio ("City") and David Pigford ("Contractor").

WITNESSETH THAT:

WHEREAS, the Ohio Development Service Agency (ODSA), Minority Business Development Division (MBDD) administers a Minority Business Assistance Center program to provide counseling, training, business development, strategic management, and technical assistance to Ohio’s minority, women-owned, socially and economically disadvantaged business community; and

WHEREAS, in September 2019 Dayton, became the largest city in Ohio recognized by the National Registry of Historic Places as possessing a Downtown Historic District including 108 buildings having historic significance and eligibility for State and Federal historic tax credits along with other development incentives; and

WHEREAS, Dayton, Ohio is home to 20 historic districts with a combined total of 2803 historically significant buildings, many of which are vacant, require remodeling, renovation and repair. A percentage of these structures are candidates for adaptive re-use and could be given new life as facilities supporting commercial, residential, educational, governmental, faith-based or other activities representing an enormous potential number of projects involving contracting opportunities for Minority Business Enterprises (MBEs) and Woman Business Enterprises (WBEs) and job creation requiring specialized historic preservation training; and

WHEREAS, in accordance with U.S. Federal Procurement Compliance Guidelines regarding award of contracts and grants for historic preservation, efforts shall be made to ensure adherence to the Federal Government’s policy to award a fair share of contracts and subcontracts to MBEs and WBEs requiring specific affirmative action steps to be taken to assure MBEs and WBEs are utilized when possible as sources of supplies, equipment, construction, and services; and

WHEREAS, a Historic Preservation Initiative will be incorporated within the FY 2021 / FY 2022 MBAC ODSA Grant Application along with the subsequent FY 2021 / FY 2022 MBAC Grant Agreement and will be an operational program within the MBAC as a community and economic development activity for minority, women-owned and small, disadvantaged businesses; and

WHEREAS, the need for specialized services of a Historic Preservation Specialist will be required to research, create, record and document programming elements of the Dayton
MBAC Historic Preservation Initiative to be incorporated within MBAC operations and to identify potentially historic preservation projects and project development resources for minority, women-owned and small, disadvantaged businesses; and

WHEREAS, the Historic Preservation Specialist will assist with the development of a historic preservation construction trades contractor training program for minority, women-owned and small, disadvantaged businesses and tradespersons and will provide other services as needed to assist minority, women-owned and small, disadvantaged businesses:

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

ARTICLE 1.  SCOPE OF SERVICES

Contractor shall provide services as described in Exhibit A – Scope of Services, attached hereto and incorporated herein as Exhibit A - Scope of Services, in a manner satisfactory to the City ("Services"). These Services shall be provided to the MBAC and minority, women-owned, small and disadvantaged businesses.

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

ARTICLE 2.  TERM OF CONTRACT

This Agreement shall commence the date of execution first set forth above and shall terminate on June 30, 2021, or at such time as all funds designated hereunder are expended, whichever occurs first.

ARTICLE 3.  PAYMENT

A. TOTAL REMUNERATION
The City shall pay an amount not to exceed Twenty Thousand Dollars and Zero Cents ($20,000.00) to Contractor for the performance of the Services. The City will determine allowable and allocable costs in accordance with the OMB Circular A-87 “Cost Principles for State, Local and Indian Tribal Governments” codified at 2 CFR Part 225 (together with Appendices A-D) and any other applicable federal, state or local laws or regulations.

B. INVOICE
Contractor shall submit invoices to the Director of the Human Relations Council for approval. If approved by the Director of the Human Relations Council, then the City will remit payments to Contractor within thirty (30) days after receipt of the invoice. If the invoices have not been paid within thirty (30) days, then the Contractor shall notify the Director of the Human Relations Council.
C. REIMBURSEMENT

Following execution of this Agreement by the City and the Contractor, the disbursement of the funds will be made on a reimbursement basis to the Contractor for expenditures incurred and/or hours accumulated in relation to operation of the MBAC. Contractor shall submit all invoices and supporting documentation to the Director of the Human Relations Council. Invoices are due every Monday by close of business for the duration of the Agreement unless otherwise discussed with the Director of the Human Relations Council.

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

1. City Contract number;
2. Invoice number;
3. Period covered;
4. A printed or electronic copy of the activity report for the invoice period;
5. Total amount requested;
6. Agreement funding balance;
7. Signature of the Contractor; and,
8. Signature of the MBAC Program Director.

D. HOURS AND RATE
Contractor shall not perform Service in excess of Two Hundred Fifty (250) hours during the term of this Agreement. If additional hours are required then the Contractor must request amendment of this Agreement prior to expiration date of June 30, 2021. Contractor will be compensated at an hourly rate of Eighty Dollars and Zero Cents ($80.00) to a maximum amount of Twenty Thousand Dollars ($20,000.00).

ARTICLE 4. INDEPENDENT CONTRACTOR

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

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

ARTICLE 5. ASSIGNMENT

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

ARTICLE 6. SUBCONTRACTING

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

ARTICLE 7. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

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

It is expressly agreed and understood by Contractor that Section 35.14, 35.15, and 35.16 of the Reviewed Code of the General Ordinances of the City of Dayton regarding equal employment opportunity and the use of certified MBE/WBE/SBEs, as constituting a material condition of the Agreement as fully and as specifically rewritten herein and that failure to comply therewith shall constitute a breach thereof, entitling the City to terminate this Agreement at its option.

ARTICLE 8. RECORDS TO BE MAINTAINED BY CONTRACTOR

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

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

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

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

ARTICLE 9.  INDEMNIFICATION AND INSURANCE

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

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

  Automobile liability insurance with the following coverages: bodily injury liability in the amount not less than One Hundred Thousand Dollars ($100,000.00) per person, Three Hundred Thousand Dollars ($300,000.00) per accident; and, property damage liability in an amount not less than One hundred Thousand Dollars ($100,000.00) per accident.

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

ARTICLE 10.  TERMINATION

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

ARTICLE 11. PROJECT REPORTING

Contractor shall submit weekly electronic reports via Salesforce or the appropriate electronic information reporting system provided by the State of Ohio Development Services Agency as supporting documentation for any and all invoices submitted for payment for Services rendered under this Agreement. Said Project Report shall include description of the Services performed, date Services were performed, total hours expended, identification of MBAC clients, etc.

All reports to be posted and submitted within 72 hours from time of Service or activity. Failure to submit project reports and such breach continues uncured for more than fourteen (14) days, such failure will be grounds for termination of the balance of this Agreement or other remedies such as accrual of liquidated damages, fines or other penalties. Each will be considered on a case-by-case basis and review of the circumstances for such occurrence by the HRC Executive Director. Penalties so assessed will be deducted from any outstanding invoice in process by the City.

This Article shall survive amendment, termination, or expiration of this Agreement.

ARTICLE 12. OWNERSHIP OF WORK PRODUCT

All documents, deliverables, specifications, reports, databases, software or other work product prepared by the Contractor as part of the Services performed under this Agreement will be considered a “work made for hire” and, upon payment by the City, shall become the sole and exclusive property of the City. However, the Contractor shall have the right to use the same for marketing purposes. For any other use, Contractor shall first obtain written consent of the City. Notwithstanding the foregoing Contractor shall retain its rights to any standard documents specifications, reports, databases, software or other work product and proprietary property.

ARTICLE 13. GENERAL PROVISIONS

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

B. Waiver.
A waiver by the City of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance(s) and for the specific purpose(s) for which it is given and shall not affect the City’s rights with respect to any other or further breach.
C. Notices and Communication.
Any written notices, invoices, or other communication required or permitted by this Agreement shall be delivered personally, sent by express delivery, certified mail or first-class U.S. mail, postage per-paid to the address specified herein. Such written communication shall be addressed, faxed or emailed to:

City of Dayton:
Human Relations Council ("HRC")
ATTN: Erica Fields, Executive Director
371 W. 2nd Street, Ste 100
Dayton, Ohio 45402
(937) 333-1407 Office  (937) 222-4589 Fax
ericafields@daytonohio.gov

Contractor:
David Pigford
907 West Fifth St., Ste 117
Dayton, Ohio 45402
(248) 210-3110
dpigford@aol.com

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

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

Contractor represents that no member of the governing body of the City and no other officer, official agent, or employee of the City has any personal financial interest, direct or indirect in Contractor's business.

Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, that would cause conflict in any manner or degree with the performance of this Agreement. Contractor will immediately report the discovery of any potential conflict of interest to the City.

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

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

G. Assignment.
Contractor shall not assign any rights or duties under this Agreement without written consent of the City. Unless otherwise stated in the City’s written consent to an assignment, no assignment will release or discharge the Contractor from obligation under this Agreement. Notwithstanding, nothing contained in this Subsection shall prevent the Contractor from employing or subcontracting with independent contractors, associates, and subcontractors to assist in the performance of the Services.

H. Governing Law and Venue.
This Agreement shall be governed and construed under the laws of the State of Ohio. The Contractor irrevocably submits to the original jurisdiction of the courts located within the County of Montgomery, State of Ohio, with regard to any controversy arising out of, relating to, or in any way concerning the execution, performance, or interruption of this Agreement and Exhibit A.

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

THE CITY OF DAYTON, OHIO

______________________________
City Manager

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

______________________________, 2021

Min. / Bk. _______ Pg. ________

______________________________
Clerk of the Commission

APPROVED AS TO FORM AND CORRECTNESS:

2/12/2021

X Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia
EXHIBIT A

SCOPE OF SERVICES
MBAC Historic Preservation Specialist

Purpose

The role of the Historic Preservation Specialist is to research, create, record and document supportive program elements of the Dayton MBAC Historic Preservation Initiative to be incorporated within the FY2021 and FY2022 MBAC Grant Proposal by carrying out the following action steps from Date of Execution to June 30, 2021 as outlined below:

1. Inventory of candidate historic properties/sites
   a) Location by address of each property
   b) Verification of ownership
   c) Statement of historic significance
   d) Physical condition report summary
   e) Potential for restoration, rehabilitation and/or adaptive reuse
   f) Estimate of fair market value and cost of restoration/rehab/reuse

2. Compilation of historic preservation project development resources
   a) Survey of existing project development firms
   b) Potential Funding Resources
   c) Identification of Contractors by trade with Historic Preservation Expertise/Interest

3. Historic preservation construction trade training program
   a) General Curriculum
   b) Instructional equipment, tools and supplies
   c) Promotional materials, flyers, brochures, etc.

Detailed Description

1. Inventory of candidate historic property/site — listing of properties located within established historic districts of Dayton, Ohio or vicinity which possess potential historical significance and could serve as opportunities for community and/or economic development, job creation and improvement of property values along with tangible quality of life issues.

This inventory will be organized in a manner to allow compilation of relevant data of each candidate property as follows:

   a) Location by address of each property by street address, zip code and neighborhood designation (if any).
b) Verification of ownership as per Montgomery County Tax and Recorders Records. If ownership is established, contact will be made to determine possible disposition as to intention, desire to sale property/site or plans to restore, renovate or reuse the property in question.

c) Statement of historic significance on a prima facie basis as prescribed by standards required for nomination to the National Registry of Historic Places and/or verification of current status if presently listed or pending nomination as appropriate.

d) Physical condition report summary based upon cursory visual inspection and documented photographically with notation of material deterioration by age, weather, vandalism, vermin/insect intrusion, etc.

e) Potential for adaptive reuse in accordance with building type, e.g. residential, commercial, institutional, recreational, faith-based, fire-rating, etc. in relation to apparent or potential community need.

f) Approximate estimate of values and cost in relation to current fair-market value before and after restoration/reuse, cost of restoration by square foot, material and labor cost estimate, etc.

2. Compilation of historic preservation project development resources - to be used for projects under development and/or consideration.

a) Survey of existing project development firms by name, location, project preference and scope, history of firm and projects successfully completed or underway, availability to take on projects along with timeline for such availability.

b) Potential Funding Resources including but not limited to private and public sector funding resources by name, contact information, funding application deadlines as well as type of approach required, range of funding availability, type of funding as to loans, grants, in-kind, consulting and voluntarism, etc.

c) Identification of Historic Preservation Contractors by trade based upon results of Historic Preservation Expertise/Interest Survey organized by firm name, contact person and contact information, area of trade expertise and preferred mode of notification of possible contract opportunities.

3. Historic Preservation Construction Trade Training Program - to be offered based upon information gathered during execution of above described steps and activities.

a) General Curriculum as listing by trade and description of classes, instructional format, extent of hands-on and classroom/labs and evaluation testing as required including identification of existing regional construction trades training programs.

b) Instructional equipment, tools and supplies for each class provided by program or required to be supplied by students.
c) Promotional materials, flyers, brochures, etc. to describe training coursework, curriculum, pre-requisites, suggested advertisements, etc.

Progress Reporting

Activity Reports detailing activities performed by total hour and date, each shall be submitted along with each invoice for services rendered and will be compiled into monthly/quarter and final reports in accordance with grant reporting requirements.

- End of Exhibit A-
Agreement with the City of Dayton

"Agreement with the City of Dayton" History

Document created by Esther Rohm (esther.rohm@daytonohio.gov)
2021-03-24 - 7:38:37 PM GMT - IP address: 198.30.33.2

Document emailed to David Pigford (dpigford@aol.com) for signature
2021-03-24 - 7:39:07 PM GMT

Email viewed by David Pigford (dpigford@aol.com)
2021-03-24 - 7:52:39 PM GMT - IP address: 69.147.93.14

Document e-signed by David Pigford (dpigford@aol.com)
Signature Date: 2021-03-24 - 7:58:35 PM GMT - Time Source: server - IP address: 68.37.87.47

Agreement completed.
2021-03-24 - 7:58:35 PM GMT
From 3410 - Water Director

Supplier, Vendor, Company, Individual
Name Palisades Arcadia Baseball, LLC
Address P.O. Box 2107
Dayton, OH 45401-2107

Date March 31, 2021
Expense Type Service Agreement
Total Amount $88,500.00 (thru 12/31/2023)

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<td>$29,500.00</td>
</tr>
</tbody>
</table>

Includes Revenue to the City □
Affirmative Action Program □

Description

DAYTON DRAGONS MARKETING AGREEMENT

The Department of Water requests permission to enter into a Marketing Agreement with Palisades Arcadia Baseball, LLC (“The Dayton Dragons”) in the amount of $88,500.00 to bring outreach, awareness, and educational opportunities about the City’s award-winning water utility. The Water Department will be featured throughout the 2021 – 2023 Dayton Dragon’s seasons utilizing several media styles.

The Water Department will receive exposure through the use of “profiles” to air before, during and after home games on LCD televisions screens placed throughout the Stadium concourse along with commercial telecast, radio spots, and the right to use the Stadium Plaza area to market the Department’s products and services.

The terms set forth in the Marketing Agreement shall commence upon execution by the City and shall expire upon expenditure of all funds provided herein or on December 31, 2023, with the option to renew for two (2) additional 12-month periods.

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

A Certificate of Funds in the amount of $29,500.00 for fiscal year 2021 is attached.

Signatures/Approval

Approved by City Commission

Division
Michael Powell

Department

City Manager

FORM NO. MS-16

Updated 8/2016
CERTIFICATE OF FUNDS

SECTION I - to be completed by User Department

X New Contract

Renewal Contract

Change Order:

Contract Start Date 3/31/2021
Expiration Date 12/31/2023
Original Commission Approval $88,500.00
Initial Encumbrance $29,500.00
Remaining Commission Approval $59,000.00

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

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

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

Amount: $29,500.00
Fund Code 53000 - 9970 - 1192 - 54 -

Fund Code

Fund - Org - Acct - Prog - Act - Loc

Amount: 
Fund Code

Fund - Org - Acct - Prog - Act - Loc

Attach additional pages for more FOAPALs

Vendor Name: Palisades Arcadia Baseball, LLC
Vendor Address: P.O. Box 2107 Dayton Ohio 45401-2107

Street City State Zipcode + 4

Federal ID: 46-5672433
Commodity Code: 91503
Purpose: Award of Contract for Marketing Sponsorship Agreement

Contact Person: Lisa Burton-Yates Water/Water Engineering 3/19/2021
Department/Division Date

Originating Department Director’s Signature: Michael Powell

SECTION II - to be completed by the Finance Department

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

Finance Director Signature

Date

CF Prepared by

Date

CF/CT Number

Finance Department
AGREEMENT FOR MARKETING SPONSORSHIP

THIS AGREEMENT, dated this ___ day of _____________, 2021 is between the City of Dayton, Ohio, ("City") and Palisades Arcadia Baseball LLC ("The Dayton Dragons"), PO Box 2107, Dayton, Ohio 45401-2107.

WITNESSETH:

WHEREAS, The City of Dayton, Department of Water is seeking the opportunity to market Dayton Water and water services with The Dayton Dragons; and,

WHEREAS, A Sponsorship and Advertising agreement with The Dayton Dragons will provide the opportunity for the Water Department to be featured throughout the 2021-2023 Dayton Dragon seasons utilizing several media styles; and,

WHEREAS, The Dayton Dragons are qualified and available to provide the Services to the City

NOW THEREFORE, in consideration of the promises contained in this Agreement ("Agreement"), the City and The Dayton Dragons 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, 2023, whichever date is earlier. The Dayton Dragons and the City shall enter into this contract with options to renew the contract for two (2) additional 12-month periods, contingent upon satisfaction with the work, availability of funds and mutual agreement of both parties.

ARTICLE 2. SERVICES TO BE PERFORMED BY THE DAYTON DRAGONS

The Dayton Dragons 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 in this Agreement shall not exceed EIGHTY EIGHT THOUSAND FIVE HUNDRED DOLLARS ($88,500.00) and shall be paid as follows:

- Year One (April 1, 2021 thru December 31, 2021) – Twenty Nine Thousand Five Hundred Dollars ($29,500.00)
- Year Two (January 1, 2022 thru December 31, 2022) – Twenty Nine Thousand Five hundred Dollars ($29,500.00)
- Year Three (January 1, 2023 thru December 31, 2023) – Twenty Nine Thousand Five Hundred Dollars ($29,500.00)

The Dayton Dragons shall submit one invoice per contract year. 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 to the Dayton Dragons, at no cost or expense, all marketing materials that might be necessary or useful to help complete the Services required under this Agreement.
ARTICLE 5. STANDARD OF CARE

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

ARTICLE 6. LIABILITY AND INDEMNIFICATION

The Dayton Dragons shall indemnify and defend the City and its elected officials, officers, agents and employees, from and against all claims, losses, damages, and expenses for bodily injury, death, or third party property damage to the extent such claims, losses, damages, or expenses are caused by The Dayton Dragon’s negligent or willful acts, errors, or omissions.

This Article 6 shall survive early termination of this Agreement.

ARTICLE 7. INSURANCE

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

(1) General liability insurance, having a combined single limit of $1,000,000 for each occurrence and $1,000,000 in the aggregate.
(2) Automobile liability insurance, having a combined single limit of $1,000,000 for each person and $1,000,000 for each accident.
(3) Employers’ liability insurance, having a limit of $500,000 for each occurrence.
(4) Professional liability insurance, having a limit of $1,000,000 annual aggregate.

Current certificates of insurance for all policies and concurrent policies required to be maintained by Engineer 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 The Dayton Dragons’ 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, The Dayton Dragons shall make copies of applicable insurance policies available for review by the City. The Dayton Dragons, however, shall retain its right to restrict disclosure of Engineer’s proprietary information contained in such policies in accordance with Article 8.

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

ARTICLE 8. OWNERSHIP OF DOCUMENTS & INTELLECTUAL PROPERTY

Except as otherwise provided in this Agreement, documents and reports prepared by The Dayton Dragons as part of the Services shall become the sole and exclusive property of the City upon payment. However, The Dayton Dragon’s shall have the unrestricted right to their use.

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

ARTICLE 9. TERMINATION

This Agreement may be terminated by the City upon written notice in the event of substantial failure by The Dayton Dragons to perform in accordance with the terms of this Agreement. The Dayton Dragons shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

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

Any such termination shall not relieve The Dayton Dragons of any liability to the City of damages sustained by virtue of any breach by The Dayton Dragons. The City will be under no further monetary obligation or commitment to The Dayton Dragons. The City may terminate The Dayton Dragons at any time upon thirty (30) days written notice to The Dayton Dragons.

ARTICLE 10. STANDARD TERMS

A. DELAY IN PERFORMANCE

Neither the City nor The Dayton Dragons 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 The Dayton Dragons 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:
Sponsor: Palisades Arcadia Baseball, LLC
PO Box 2107
Dayton, Ohio 45401-2107
Attention: Robert Murphy, Team President

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

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

D. EQUAL EMPLOYMENT OPPORTUNITY

The Dayton Dragons 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 The Dayton Dragons 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 CONSULTANT

By executing this Agreement for professional services, The Dayton Dragons acknowledges and agrees that it will be providing services to the City as an “independent consultant”. As an independent consultant for the City, The Dayton Dragons shall be prohibited from representing or allowing others to construe the parties' relationship in a manner inconsistent with this Article. The Dayton Dragons 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.

The Dayton Dragons, its employees and any persons retained or hired by The Dayton Dragons 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, The Dayton Dragons shall be responsible to withhold and pay, or cause such agents, The Dayton Dragons and sub-contractors to withhold and pay, all applicable local, state and federal taxes.

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

H. ASSIGNMENT

The Dayton Dragons 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 The Dayton Dragons from employing independent consultants, associates, and sub-contractors 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 The Dayton Dragons.

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

The Dayton Dragons 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 The Dayton Dragons. 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 THIS PAGE INTENTIONALLY LEFT BLANK.]
IN WITNESS WHEREOF, the City and The Dayton Dragons, each by a duly authorized representative, have executed this Agreement on the date first written above.

CITY OF DAYTON, OHIO

________________________________________
City Manager

Date: ________________________________

APPROVED:

________________________________________
Director, Department of Water

APPROVED AS TO FORM
AND CORRECTNESS

X  Amelia N. Blankenship for

City Attorney
Signed by: Blankenship, Amelia

APPROVED BY THE COMMISSION
OF THE CITY OF DAYTON, OHIO

______________________________, 2021

Min./Bk. __________  Pg. __________

Clerk of Commission
ATTACHMENT A

TO

AGREEMENT FOR DAYTON DRAGONS PLAYBALL SPONSORSHIP AND ADVERTISING

City: City of Dayton, Ohio
Project: Sponsorship and Advertisement
Name: Palisades Arcadia Baseball LLC (The Dayton Dragons)

SCOPE OF SERVICES

In consideration for the Fee paid to The Dayton Dragons, the City will receive the following Sponsorship Elements during the Term:

MEDIA

1. **Dominant Print Identity.** Full page advertisement in the Dragons Playball Game Day Program, which is distributed complimentary to all fans at each Dragons home game.
   - 17 games
   - Full page, color ad
   - Flexibility to change your messaging throughout the season

2. **Television.** 1, :30-second television commercial for 25 home Dragons broadcasts.

3. **Radio.** 1, :30-second radio commercial for 140 live broadcasts

4. **In-Stadium video Network.** Rotated equally with other key sponsors on the Dragons in-stadium video network.

HOSPITALITY

1. **Season Tickets.** 4 tickets to 35 games with a VIP parking pass.

2. **Luxury Suites.** 3 nights in a luxury suite to include 20 tickets and 2 VIP parking passes.

3. **Group Tickets.** 50 group outing tickets.

4. **First Pitch.** Designate the first pitch before one sold-out Dayton Dragons game.

5. **Dragons Kids Day.** 25 family invitations to “Dragons Kids Day.”

AND MORE...

- Use of the Dragons Logo and Brand for Marketing Efforts
- One Activation On The Plaza Before A Game
- Use Of The Dragons Mascot For An Event
City Manager's Report

From: 2600 - Economic Development
Supplier, Vendor, Company, Individual
Name: RA Consultants, LLC
Address: 115 Linwood Street
Dayton, Ohio 45405

Expense Type: Contract Modification
Date: March 31, 2021
Total Amount: $50,000.00 thru 12-31-2022

Fund Source(s) | Fund Code(s) | Fund Amount(s)
---|---|---
Real Estate Development Fund | 16304-2600-1159-41 | $50,000.00

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

Description:

Professional Services Agreement – Second Amendment

The Department of Economic Development is requesting approval of a Second Amendment to a Professional Services Agreement with RA Consultants, LLC. The amendment will allow up to $50,000.00 in additional "as needed" consulting services and extend the agreement through December 31, 2022.

The services may include surveys and boundary descriptions, plat design services, professional design documents, and other technical assistance as needed. The consultant was originally selected through a competitive public bid process in partnership with the Department of Procurement, Management & Budget. This brings the total agreement to $100,000.00. The Consultant will be reimbursed for labor and eligible expenses in accordance with the established rates in the Agreement, and subsequently updated by this Amendment.

The Amendment will be effective upon execution and will expire on December 31, 2022.

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

A Certificate of Funds is attached.

Signatures/Approval

Approved by City Commission

Clerk
Date

Updated 8/2016
March 16, 2021

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

    LaShea Lofton, Acting Director
    Finance Department

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

SUBJECT: Request for Certificate of Funds – RA Consultants, LLC

Attached please find a Certificate of Funds and a Second Amendment to a Professional Services Agreement with RA Consultants, LLC for review and approval by the Dayton City Commission.

The Amendment adds additional funding for specialized “as needed” engineering services for 2021 and 2022. The company has provided quality customer service, and the Department of Economic Development is recommending approval of the amended Agreement at this time.

If you have any questions, please contact me at extension 3621 or Keith Klein of our staff by email.

FPW/kek
# CERTIFICATE OF FUNDS

## SECTION I - to be completed by User Department

<table>
<thead>
<tr>
<th>New Contract</th>
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<th>Change Order</th>
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<td>Initial City Manager’s Report</td>
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<tr>
<td>Initial Certificate of Funds</td>
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<tr>
<td>Initial Agreement/Contract</td>
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<td>CT171686, CT191686, CT20-1686 Increase Encumbrance</td>
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<td>Decrease Encumbrance</td>
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<tr>
<td>Copy of Original Certificate of Funds</td>
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### Amount: $50,000.00

**Fund Code:** 16304 - 2600 - 1159 - 41 - 
**Fund** | **Org** | **Acct** | **Prog** | **Act** | **Loc**
--- | --- | --- | --- | --- | ---

### Amount: ___________

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

**Attach additional pages for more FOAPALs**

**Vendor Name:** RA Consultants, LLC

**Vendor Address:** 115 Linwood Street Suite 2 Dayton Ohio 45405  
Street | City | State | Zipcode + 4
--- | --- | --- | ---

**Federal ID:** 20-0654077

**Commodity Code:** 91842

**Purpose:** Professional Services Agreement to provide as-needed for surveying services and engineering support that may be necessary for various development projects.

### Contact Person: Jill Bramini

**Originating Department Director’s Signature:**

---

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

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

**Finance Director Signature:**

---

**Date:** 3/22/2021

**CF Prepared by:**

---

**Date:** 3/22/2021

**CF/CT Number:** CT21-1486

---

**Date:** 3/22/2021

**Finance Department**

October 18, 2011
SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT ("Second Amendment"), is between the City of Dayton, Ohio ("City") and RA Consultants, LLC, an Ohio corporation with offices for the transaction of business at 115 Linwood Street, Suite 2, Dayton, Ohio 45405 (hereinafter the "Consultant").

WHEREAS, On April 12, 2017 the City Commission approved a professional services agreement ("Agreement") between the City and the Consultant that allowed the Consultant to provide engineering and surveying consulting services on an "as-needed" basis; and,

WHEREAS, On December 13, 2019 the City Manager executed a first amendment to extend the Agreement through December 31, 2021; and,

WHEREAS, In order to accommodate the City’s need for additional services, both parties have agreed to amend the Agreement.

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

Section 1. The first sentence of Article 2, TERM AND TERMINATION, is hereby deleted in its entirety and replaced with the following:

This Agreement is effective upon execution by the City and will expire December 31, 2022, unless extended or terminated by mutual agreement of the parties.

Section 2. The first sentence of Article 3, COMPENSATION, is hereby deleted in its entirety and replaced with the following:

The total remuneration in this Agreement shall not exceed One Hundred Thousand Dollars and Zero Cents ($100,000.00) for the Services to be provided.

Section 3. The cost schedule attached as Exhibit A of the Agreement shall be deleted and replaced with the revised schedule attached and incorporated as Exhibit A of this Second Amendment, and shall apply to any work following the date of execution of this Second Amendment.

Section 4. Except as amended herein, all other provisions of the Agreement, as now amended, remain in full force and effect and remain unchanged.
IN WITNESS WHEREOF, the parties have caused this Second Amendment to be executed, each by a duly authorized representative, on the day and date set forth below.

CITY OF DAYTON, OHIO

__________________________
City Manager

RA CONSULTANTS, LLC

By: _______________________

Its: President

APPROVED AS TO FORM AND CORRECTNESS:

3/11/2021

X John Musto for

__________________________
City Attorney

Signed by Musto, John

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

__________________________, 2021

Min. Bk. _____ Pg. _____

__________________________
Clerk of the Commission
Exhibit A
# RA CONSULTANTS, LLC
## HOURLY RATE TABLE

<table>
<thead>
<tr>
<th>PERSONNEL CATEGORY</th>
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<td>Construction Inspector I</td>
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<td>Construction Inspector II</td>
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<td>Construction Inspector III</td>
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<td>Technician III</td>
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*All rates valid thru 12/31/2022. Rates subject to a 3% increase thereafter.*
FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT ("First Amendment"), is between the City of Dayton, Ohio ("City") and RA Consultants, LLC, an Ohio corporation with offices for the transaction of business at 115 Linwood Street, Suite 2, Dayton, Ohio 45405 (hereinafter the "Consultant").

WHEREAS, On April 12, 2017 the City Commission approved a professional services agreement ("Agreement") between the City and the Consultant that allowed the Consultant to provide engineering and surveying consulting services on an "as-needed" basis; and,

WHEREAS, In order to accommodate the City’s need for additional services, both parties have agreed to amend the Agreement.

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

Section 1. The first sentence of Article 2, TERM AND TERMINATION, is hereby deleted in its entirety and replaced with the following:

This Agreement is effective upon execution by the City and will expire December 31, 2021, unless extended or terminated by mutual agreement of the parties.

Section 2. Except as amended herein, all other provisions of the Agreement, as now amended, remain in full force and effect and remain unchanged.

IN WITNESS WHEREOF, the parties have caused this Second Amendment to be executed, each by a duly authorized representative, on the day and date set forth below.

CITY OF DAYTON, OHIO

Shelby R. Dickenstein
City Manager

Date: 12-13-19

RA CONSULTANTS, LLC

By: John E. Pull

Its: President

APPROVED AS TO FORM
AND CORRECTNESS:

City Attorney

**No Commission Action Required**
City Manager's Report

From: 2600 - Economic Development
Supplier, Vendor, Company, Individual: RA Consultants, LLC
Address: 115 Linwood Street, Suite 2
Dayton, Ohio 45406

Date: April 12, 2017
Expense Type: Service Agreement
Total Amount: $50,000.00 (thru 12-31-2019)

Fund Source(s): Real Estate Development
Fund Code(s): 16304-2800-1159-41
Fund Amount(s): $50,000.00

Description:
Surveying and Engineering Services
The Department of Economic Development is requesting permission to enter into a Professional Services Agreement with RA Consultants, LLC (Consultant) to provide "as-needed" surveying services and engineering support that may be necessary for various development projects. The Consultant will be reimbursed for labor and eligible expenses in accordance with the established rates in the Agreement.

The Agreement provides up to $50,000.00 for surveys and boundary descriptions, plat design services, professional design documents, and other technical assistance as needed. The consultant was selected through a competitive public bid process in partnership with the Division of Purchasing. This is one of two consultants that were selected to provide these services through the period ending December 31, 2019.

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

A Certificate of Funds is attached.

Signatures/Approval:

Division: Law
Department: Finance
City Manager: 

Approved by City Commission

Date: April 12, 2017

Updated 8/2016
SECTION I - to be completed by User Department

<table>
<thead>
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<th>Contract Start Date</th>
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| Original CTCF | Increase Encumbrance | $          | -          | Copy of City Manager's Report |
|               | Decrease Encumbrance  | $          | -          | Copy of Original Certificate of Funds |
|               | Remaining Commission Approval | $          | -          |                           |

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<tr>
<td>Prog: XXXX - Act:</td>
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<tr>
<td>Loc: XXXX</td>
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</tbody>
</table>

Attach additional pages for more FOAPALs

Vendor Name: RA Consultants, LLC
Vendor Address: 115 Linwood Street Suite 2 Dayton Ohio 45405
Federal ID: 20-0654077
Commodity Code: 51842
Purpose: Professional Services Agreement to provide as-needed for surveying services and engineering support that may be necessary for various development projects.

Contact Person: Jill Bramini
Economic Development Department/Division: 3/31/2017 Date

SECTION II - to be completed by the Finance Department

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

Finance Director's Signature: [Signature]
Date: 4-3-17

CF Prepared by: [Signature]
Date: 4-3-17 CT 17-1686

Finance Department: [Signature]
October 18, 2011
PROFESSIONAL SERVICES AGREEMENT
Engineering and Surveying

THIS AGREEMENT ("Agreement") is made and entered into between the City of Dayton, Ohio (hereinafter the "City"), a municipal corporation in and of the State of Ohio, and RA Consultants, LLC, an Ohio corporation with offices for the transaction of business at 115 Linwood Street, Suite 2, Dayton, Ohio 45405 (hereinafter the "Consultant").

WITNESSETH:

WHEREAS, on May 5, 1999, the Commission of the City of Dayton adopted its strategic plan, CitiPlan Dayton: The 20/20 Vision ("CitiPlan 20/20"), of which land redevelopment, reuse, and revitalization are key components;

WHEREAS, the City occasionally requires certain professional services related to real estate surveying and engineering in connection with various projects;

WHEREAS, the Department of Economic Development has selected the Consultant as the best qualified to provide the services through a public Request for Proposal (RFP) process; and

WHEREAS, the Consultant is willing to perform the professional services and represents that its staff is fully qualified and available to perform the services.

NOW, THEREFORE, in consideration of the promises contained in this Agreement ("Agreement"), the City and the Consultant agree as follows:

ARTICLE 1. SERVICES TO BE PERFORMED BY THE CONSULTANT

The Consultant will provide, upon the City's request, services that include, but are not limited to, one or more of the following:

A. Surveys and boundary descriptions of parcels of real estate and associated improvements identified by the City;

B. Plat design services to meet all City zoning and engineering requirements; and

C. Professional documents and drawings affixed with the appropriate license or seals.

Consultant will also provide technical assistance, as needed, including, but not limited to, bid specifications, grant preparation, consultations, field inspections, public meetings, bid reviews, and recommendations. Additional services may be requested as needed.

Consultant will furnish services under this Agreement when requested in writing by the City. Once the City has identified services which it desires Contractor to perform, the City shall submit a written "Work Request" to Consultant. Within ten (10) business days from the date of receipt of a Work Request, Consultant shall provide the City with a written "Scope of Services," which shall include costs for the services requested by the City and a time frame for completion.

Upon the City's review of the Scope of Services to be provided as stated in a City Work Request, the City shall indicate its acceptance of the Scope of Services and issue a "Notice to Proceed," which shall reference and incorporate the Scope of Services. The Notice to Proceed will serve as authorization of said services and allow funds to be disbursed.
ARTICLE 2. TERM AND TERMINATION

This Agreement is effective upon execution by the City and will expire December 31, 2019, unless extended or terminated by mutual agreement of the parties. This Agreement may be immediately terminated in the event of or under any of the following circumstances:

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

Any such termination shall not relieve the vendor of any liability to the City for damages sustained by virtue of any breach by the vendor. The City will be under no further monetary obligation or commitment to the vendor. The City may terminate this contract at any time upon thirty (30) days written notice to the vendor.

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

ARTICLE 3. COMPENSATION

Total remuneration in this Agreement shall not exceed Fifty Thousand Dollars and Zero Cents ($50,000.00) for the Services provided. The City shall request cost estimates for any necessary work. The City shall pay the Consultant according to the cost schedule in Exhibit A, which is incorporated herein by reference.

The Consultant will submit, not more frequently than monthly, invoices for payment of the Services provided. The invoices shall specify the invoice period, state the total amount requested, detail the work and services performed and hours dedicated to performance of same, and be accompanied by supporting information and records that substantiate the invoice amount. The City shall pay the invoices within thirty (30) days from receipt thereof, unless disputed.

ARTICLE 4. PROFESSIONAL QUALIFICATIONS, SERVICES AND STANDARDS

The Consultant represents that it is qualified and permitted by law to perform the Services required hereunder and that it has, and will maintain, adequate facilities and sufficient personnel to perform the Services. The Consultant represents and warrants that all personnel engaged in the performance of the Services to be provided are qualified and permitted to do the work assigned.

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

All memorandums shall be submitted to the City in draft form. The City reserves the right to request changes and/or modifications to the draft memorandums before accepting any final memorandums.
All work is to be completed in accordance with all applicable local, state, or federal regulations. Additionally, all "field" personnel must comply with OSHA Health and Safety Training requirements per 29 CFR 1910.120. A Health and Safety Plan shall be completed before commencing work, if applicable.

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

ARTICLE 5. LIABILITY AND INDEMNIFICATION

Consultant 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 performance or non-performance of this Agreement and/or the acts, omissions, or conduct of Consultant and its agents, employees, contractors, sub contractors and representatives in undertaking and performing the Services. This Article shall survive early termination or expiration of this Agreement.

ARTICLE 6. INSURANCE

During the performance of the services under this Agreement, the Consultant shall maintain with an insurance company authorized to conduct business in the State of Ohio and having at least an "A" rating from A.M. Best, no less than the following insurance:

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. Errors and omissions insurance in the amount of $1,000,000.

The Consultant shall name the City, and its elected officials, officers, employees, and agents, as an additional insured on all insurance policies furnished and maintained pursuant to items (1) and (2) above. The Consultant shall provide the City with a certificate of insurance before commencing work. The Consultant must maintain the policies in good standing for the duration of the Project. The Consultant shall provide the City certificates of insurance that include a provision that such insurance will not be canceled without at least thirty (30) days written notice to the City, demonstrating compliance with this Article. The City’s examination of, or failure to request or demand, any evidence of insurance hereunder, will not constitute a waiver of any requirement of this Article, and the existence of any insurance will not limit the Consultant’s obligations under provisions hereof. 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.

All project contractors are required to include the City and the Consultant as additional insureds on their commercial liability insurance policies, and are required to defend, indemnify, and hold harmless the City and the Consultant from the contractor’s negligence.

ARTICLE 7. OWNERSHIP OF WORK PRODUCT

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, 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 8. EQUAL EMPLOYMENT OPPORTUNITY

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

It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton constitutes a material condition of this contract as fully as if specifically rewritten herein and that failure to comply therewith will constitute a breach hereof.

ARTICLE 9. INDEPENDENT CONTRACTOR

The parties agree that, at all times, the Consultant will be an independent contractor and not subject to control by the City, except as provided pursuant to this Agreement. As an independent contractor, the parties hereby agree that the relationship between the parties will 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.

The Consultant understands and agrees that any and all persons retained or hired to perform the duties and responsibilities under this Agreement are not the City’s employees and are not entitled to any of the emoluments of City of Dayton employment. Further, the Consultant will be responsible to withhold and pay, or cause such agents, contractors, or sub-contractors to withhold and pay, all local, state, and federal taxes. Consultant acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System ("OPERS") membership.

ARTICLE 10. MISCELLANEOUS CONDITIONS AND OBLIGATIONS

All work that does not conform to all applicable local, state, or federal regulations will not be accepted. Unacceptable work, whether the result of poor workmanship, use of defective materials, damage through carelessness, or any other cause found to exist prior to final acceptance of the work, shall be corrected or removed immediately and completed or replaced in an acceptable manner at the Consultant’s expense. If contractors are involved in any part of the services provided hereunder, a representative of the Consultant must be onsite to ensure compliance with the provisions in this Agreement. The Consultant is also responsible for any work completed that is not authorized in writing by the City.

The Consultant shall apply for and obtain all necessary permits and manifests, and file any other necessary paperwork. If applicable, the Consultant will be required to field locate all existing utilities prior to the start of work at the Project site. The Consultant will contact the Ohio Utilities Protection Service ("OUPS") at least seventy-two (72) hours (three (3) work days) prior to the start of work. The Consultant shall notify all other entities that might have underground utilities in the area and are non-members of OUPS.

ARTICLE 11. COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original and such counterparts shall constitute one and the same instrument.
ARTICLE 12. GENERAL PROVISIONS

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

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

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

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

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

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

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

   Consultant: John Allen, President
               RA Consultants, LLC
               115 Linwood Street, Suite 2
               Dayton, Ohio 45405

   The City: Department of Economic Development
              City of Dayton, Ohio
              101 W. Third St.
              Dayton, Ohio 45402

H. Severability. The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any provision of this Agreement void shall in no way affect the validity or enforceability of any other provision of this Agreement. Any void, unenforceable, invalid, or illegal provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular provision.
ARTICLE 13. POLITICAL CONTRIBUTIONS
Consultant affirms and certifies that it complies with Ohio Revised Code 3517.13 limiting political contributions.

IN WITNESS WHEREOF, the City and the Consultant, each by a duly authorized representative, have executed this Agreement on the date first written above.

CITY OF DAYTON, OHIO

[Signature]
City Manager

RA CONSULTANTS, LLC

By: [Signature]
Its: [Signature]

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]
City Attorney

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

[Signature]
Clerk of the Commission

April 12, 2017
Min. / Bk. 1-14 Pg. 0575
## Hourly Rates / Miscellaneous Costs

<table>
<thead>
<tr>
<th>Position</th>
<th>Employee</th>
<th>Hourly Rate</th>
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</thead>
<tbody>
<tr>
<td>Sr. Project Manager</td>
<td>Dan Martin</td>
<td>$125 per hour</td>
</tr>
<tr>
<td>Chief Surveyor</td>
<td>Chuck Kluener</td>
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</tr>
<tr>
<td>Field Support II</td>
<td>Kirk Brokamp</td>
<td>$82 per hour</td>
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<tr>
<td>Field Support I</td>
<td>Dave Metz / Brian Oyer</td>
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<tr>
<td>Engineer I</td>
<td>Adam Klump</td>
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<tr>
<td>Designer</td>
<td>Eric Hammons</td>
<td>$72 per hour</td>
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<table>
<thead>
<tr>
<th>Miscellaneous Costs</th>
<th>Price</th>
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</thead>
<tbody>
<tr>
<td>Transportation</td>
<td>$.54 per mile</td>
</tr>
<tr>
<td>Shipping, Outside Reprographics, Courthouse Prints &amp; Misc. Expenses</td>
<td>At Cost</td>
</tr>
</tbody>
</table>
A RESOLUTION

In Support of Amtrak’s Proposed Expansion of Passenger Rail Services in Ohio and for the Congressional Actions Needed to Authorize and Appropriate Funds to the Expansion.

WHEREAS, Ohio, with only three (3) Amtrak routes – two (2) confined mostly to the northern edge of the state – sees only thirty-two (32) passenger trains crossing the state per week. It has far fewer intercity or regional passenger rail services than any of its neighbors except Kentucky; and,

WHEREAS, Ohio, the nation’s seventh most populous state is only the twenty-seventh highest Amtrak ridership state and has the lowest ratio of Amtrak riders per resident of the top ten most populous states, according to Amtrak; and,

WHEREAS, Among the top ten most populous states near Ohio, Amtrak riders per one thousand (1,000) residents are forty-two (42) in Michigan, one hundred eighty-six (186) in Illinois, two hundred fifty-eight (258) in Pennsylvania and three hundred twenty-two (322) in New York compared to just six (6) Amtrak riders per one thousand (1,000) residents in Ohio; and,

WHEREAS, Ohio is the most populous state in the nation without any ongoing passenger rail development or operating program as it has no funds budgeted for passenger rail development in the currently proposed Ohio Department of Transportation biennial budget – making it the sixth such biennial budget in a row with no funding for passenger rail planning, development or operations; and,

WHEREAS, Ohio, because of its legacy industrial status, has the fifth most railroad industrial supplier employment in the nation according to the Ohio Department of Transportation; and,

WHEREAS, Amtrak reports that it spent Forty Million Dollars and Zero Cents ($40,000,000.00) in 2019 on goods and services purchased from Ohio railroad industry suppliers, mostly for the provision and improvement of passenger rail services outside of Ohio, meanwhile Amtrak in 2019 spent Six Hundred Sixty-Seven Million Dollars and Zero Cents ($667,000,000.00) on goods and services from suppliers in Illinois, Indiana, Kentucky, New York, Pennsylvania and West Virginia for an average of One Hundred Eleven Million Dollars and Zero Cents ($111,000,000.00) for each of those six (6) states; and,

WHEREAS, At the end of 2019 Amtrak employed thirty-two (32) people in Kentucky and West Virginia, one hundred ninety-six (196) people in Michigan, seven hundred forty-seven (747) people in Indiana, one thousand two hundred eighty-four (1,284) people in Illinois, one thousand five hundred seventy-eight (1,578) people in New York and two thousand seven hundred (2,700) people in Pennsylvania, but only fifty-two (52) people
earning wages of Five Million Four Hundred Thousand Dollars and Zero Cents ($5,400,000.00) in Ohio; and,

WHEREAS, The employment multiplier for transportation sector jobs is 3.76 according to the Economic Policy Institute, meaning that for every Amtrak job added another 2.76 jobs are created among suppliers and in communities where employees live and work; and,

WHEREAS, Amtrak proposes to increase the number of passenger trains in Ohio by five hundred seventy-two percent (572%) from thirty-two (32) trains per week to two hundred fifteen (215) trains per week and the number of stations by two hundred fourteen percent (214%) from seven (7) existing to potentially twenty-two (22) stations by 2035 suggests an approximate corollary increase in employment in Ohio from Fifty-two (52) to three hundred (300) permanent Amtrak jobs and eight hundred twenty-eight (828) induced permanent jobs; and,

WHEREAS, In Michigan, a Grand Valley University study found that the twenty-two (22) Michigan communities with Amtrak stations enjoyed Sixty-Two Million Dollars and Zero Cents ($62,000,000.00) annually in traveler cost savings and local business benefits in 2009 and that was before Amtrak ridership grew sixty percent (60%) in Michigan as a result of Eight Hundred Million Dollars and Zero Cents ($800,000,000.00) worth of state-backed improvements to infrastructure and trains producing 110 MPH speeds and better on-time performance; and,

WHEREAS, Amtrak proposes to increase the number of weekly train arrivals and departures at Cincinnati from six (6) to one hundred and four (104) trains per week, at Cleveland from twenty-eight (28) to one hundred fifty-four (154) weekly, at Columbus and Dayton from zero (0) to forty-two (42) per week, and at Toledo from twenty-eight (28) to seventy (70) weekly; and,

WHEREAS, Safe, fast, modern, convenient passenger rail service offers time-savings and productivity benefits as business travelers can work and meet en route and all travelers can eat, drink or relax aboard an all-weather transportation mode, making Ohio a more attractive place to live and work, and to visit for business or pleasure; and,

WHEREAS, According to the 2019 U.S. Department of Energy Data Book, travel by Amtrak train is forty-seven percent (47%) more energy efficient than traveling by car and thirty-three percent (33%) more energy efficient than domestic air travel, and pollution emissions have a direct correlation to energy efficiency, thus the more energy-efficient a travel mode is, the less pollution it emits; now, therefore,

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

Section 1. That the Commission hereby asks Ohio Senators Sherrod Brown and Robert Portman as well as Congressperson Mike Turner to support a renewal of the five-year federal Surface Transportation Reauthorization in 2021 that includes Amtrak’s proposed Corridors Development Program authorized at Twenty-Five Billion Dollars and Zero Cents ($25,000,000,000.00) for capital improvements and Three Hundred Million Dollars and Zero Cents ($300,000,000.00) for operations over five (5) years.

Section 2. That the Commission urges Ohio Senators Brown and Portman, as well as Congressperson Mike Turner to provide in the upcoming Transportation and Housing Urban
Development appropriations bill Five Billion Dollars and Zero Cents ($5,000,000,000.00) for capital improvements and Sixty Million Dollars and Zero Cents ($60,000,000.00) for operations to fund Amtrak’s Corridor Development Program.

Section 3. That copies of this Resolution be transmitted to the Washington D.C. offices of Senators Brown and Portman, Congressperson Mike Turner, to Derrick James, Senior Government Affairs Officer, Amtrak, 500 W. Jackson Blvd., Chicago, IL 60661 and jamesde@Amtrak.com, as well as to Stu Nicholson, Executive Director, All Aboard Ohio, 3136 Kingsdale Center, Upper Arlington, OH 43221 and stu.nicholson@allaboardohio.org.

ADOPTED BY THE COMMISSION..........................................., 2021

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

Mayor of the City of Dayton, Ohio

Attest:

__________________________
Clerk of the Commission

Approved as to form:

__________________________
City Attorney