



CITY COMMISSION MEETING AGENDA

CITY COMMISSION

DAYTON, OHIO

JUNE 29, 2016

8:30 A.M.

I. AGENDA SCHEDULE

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

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

II. CITY MANAGER RECOMMENDATIONS (Item #8 above)

The following recommendations are offered for City Commission approval.

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

1. Purchase Order:

AVIATION

A1. Bricker & Eckler LLP (professional legal services as needed through
12-31-16) **\$20,000.00**

1. (Cont'd):

A2. Dell Marketing LP (fifty-five computers, two PowerEdge Servers and related items) **89,640.92**

FIRE

B1. Dell Marketing LP (twenty-four thin clients and related items) **19,154.64**

PUBLIC WORKS

C1. Crown Personnel Service, Inc. (temporary employment services as needed through 12-31-16) **10,000.00**

C2. Stoops Freightliner (automotive parts and supplies as needed through 12-31-16) **60,000.00**

C3. David Williams & Associates, Inc. (Gametime brand playground equipment and parts as needed through 12-31-16) **10,000.00**

RECREATION & YOUTH SERVICES

D1. Moody's of Dayton, Inc. (emergency removal, inspection, replacement and reinstall of damaged pump assembly) **17,100.00**

WATER

E1. Kemira Chemicals, Inc. (dry, powdered, granular polymer as needed through 12-31-16) **240,000.00**

(and for the period of 01-01-17 through 06-30-19) **1,200,000.00**

E2. ML Johnson Company (Fluid Components International brand gas flow meters and related items) **15,000.00**

(and for the period of 01-01-17 through 12-31-18) **30,000.00**

E3. DXP Enterprises, Inc. (Pulsafeeder pump and related items) **12,500.00**

E4. D. M. Anderson, Inc. (Teledyne brand laboratory sampling equipment) **18,943.27**

(and for the period of 01-01-17 through 12-31-18) **40,000.00**

E5. Rawdon Myers, Inc. (four Dezurik brand valves and related items) **23,672.00**

E6. Biss Nuss, Inc. (Two Slaker feeders) **110,000.00**

(and for the period of 01-01-17 through 12-31-17) **165,000.00**

E7. John Deere Company (John Deere brand utility tractor with accessories) **76,627.76**

E8. Motrim, Inc. (MoTrim brand flail mower with accessories) **27,086.93**

E9. Ohio Machinery Co. (Caterpillar brand wheel loader with accessories) **256,400.00**

-Depts. of Aviation, Fire, Public Works, Recreation & Youth Services and Water. **Total: \$2,441,125.52**

2. **CalAmp (Radio Satellite Integrators) – Increase of Expenditure – for Annual Vehicle Web Tracking and Wireless Fees – Depts. of Public Works/Water.** **\$48,336.00**

3. **Rumpke of Ohio, Inc. – Participant Agreement** – for expansion of their operations at 1300 East Monument Avenue – Dept. of Economic Development.
\$50,000.00
(Exp. 4/30/18)

B. Construction Contracts/Estimates of Cost:

4. **W. C. Jones Asphalt Paving Co., Inc. – Contract** – for the Community Golf Course Golf Cart Path Repairs (Open Market) – Dept. of Recreation & Youth Services.
\$87,464.80

IV. LEGISLATION:

Emergency Ordinance – First and Second Reading:

5. **No. 31499-16** Authorizing the Sale of Real Estate Located on Liberty Street to CODE Credit Union for a Public Purpose; and Declaring an Emergency.

Emergency Resolution – First and Second Reading:

6. **No. 6197-16** Authorizing the Acceptance of a Grant Award from the Ohio Department of Rehabilitation and Correction in the Amount of One Hundred Forty-Eight Thousand Four Hundred Five Dollars and Zero Cents (\$148,405.00) for the Grant Period of July 1, 2016, to June 30, 2017, on Behalf of the City of Dayton, and Declaring an Emergency.

Emergency Ordinance – First Reading:

7. **No. 31500-16** Authorizing Submitting to the Electors of the City of Dayton a Proposal to Supplement the City Charter by Enacting Section 189 and to Supplement the Revised Code of General Ordinances by Enacting Section 36.102.7, and Declaring an Emergency.

Emergency Resolution – First Reading:

8. **No. 6198-16** Specifying November 8, 2016, as the Date for Submitting to the Electors of the City of Dayton a Proposal to Supplement the City Charter by Enacting Section 189 and to Supplement the Revised Code of General Ordinance by Enacting Section 36.102.7, Directing the Board of Elections of Montgomery County to Conduct the Election, and Declaring an Emergency.

Informal Resolution:

9. **No. 924-16** Supporting 114th Congress House Resolution 4076, Authored by Representative Mike Turner, The Reforming and Expanding Access to Treatment (TREAT) Act.

VI. MISCELLANEOUS:

ORDINANCE NO. 31501-16

RESOLUTION NO. 6199-16

IMPROVEMENT RESOLUTION NO. 3598-16

INFORMAL RESOLUTION NO. 925-16

1.

**CITY OF DAYTON
CITY MANAGER'S REPORT**

TO: City Manager

Date June 29, 2016

FROM: Central Services / Purchasing
Department/Division

Code _____

(CHECK ONE)

Amount \$ 2,441,125.52

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

Supplier/Vendor/Company/Individual:

NAME See Below

ADDRESS _____

Justification and description of purchase, contract or payment:

AVIATION

(A1) P1600776 – BRICKER & ECKLER LLP, COLUMBUS, OH

- Professional legal services, as needed through 12/31/2016.
- These services are required to provide legal consultation and representation in matters related to Airport Economic Development.
- The law firm of Bricker & Eckler LLP is recommended based on proven past performance, expertise and experience of its staff in related matters, therefore this purchase was negotiated.
- This amendment increases the originally authorized amount of \$10,000.00 by \$20,000.00 for a total not to exceed \$30,000.00 and therefore requires City Commission approval.
- The Department of Aviation recommends approval of this order.
- Authority: \$20,000.00

Approved Affirmative Action Program on File Yes

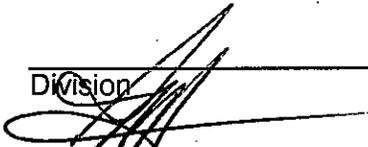
No

NA

Approved by City Commission

Clerk

Date



Division



Department

City Manager

AVIATION (CONTINUED)

(A2) P1600974 – DELL MARKETING LP, ROUND ROCK, TX

- Fifty five (55) computers, Two (2) PowerEdge Servers and related items.
- These goods are required to replace obsolete equipment.
- Dell Marketing LP is recommended because the City has standardized on Dell computing equipment, therefore this purchase was negotiated.
- The Department of Aviation recommends approval of this order.
- Authority: \$89,640.92

FIRE

(B1) P1600986-- DELL MARKETING LP, ROUND ROCK, TX

- Twenty four (24) thin clients and related items.
- These goods are required to replace obsolete equipment.
- Dell Marketing LP is recommended because the City has standardized on Dell computing equipment, therefore this purchase was negotiated.
- The Department of Fire recommends approval of this order.
- Authority: \$19,154.64

PUBLIC WORKS – FLEET MANAGEMENT

(C1) P1600687 – CROWN PERSONNEL SERVICE, INC., DAYTON, OH

- Temporary employment services, as needed through 12/31/2016.
- These services are required to provide temporary staffing to maintain normal operations in the parts stockroom.
- Rates are in accordance with the City of Dayton's existing price agreement IFB 16001K, with pricing through 12/31/2016.
- Crown Personnel Services, Inc. qualifies as a Dayton local entity.
- This amendment increases the previously authorized amount of \$10,000.00 by \$10,000.00 for a total not to exceed \$20,000.00 and therefore requires City Commission approval.
- The Department of Public Works recommends approval of this order.
- Authority: \$10,000.00

(C2) P1600448 – STOOPS FREIGHTLINER, HUBER HEIGHTS, OH

- Automotive parts and supplies, as needed through 12/31/2016.
- These supplies are required to maintain and repair heavy equipment in the City's fleet.
- Stoops Freightliner is recommended as the sole authorized local distributor for Freightliner brand products and repair services, therefore this purchase was negotiated.
- This amendment increases the originally authorized amount of \$40,000.00 by \$60,000.00 for a total not to exceed \$100,000.00 and therefore requires City Commission approval.
- The Department of Public Works recommends approval of this order.
- Authority: \$60,000.00

PUBLIC WORKS – STREET MAINTENANCE

(C3) P1600649 – DAVID WILLIAMS & ASSOCIATES, INC., ALLIANCE, OH

- Gametime brand playground equipment and parts, as needed through 12/31/2016.
- These goods are required to repair Gametime brand playground equipment to preserve the safety certification ratings and comply with industry standards.
- David Williams & Associates, Inc. is recommended as the sole authorized distributor in this region for Gametime branded equipment and parts, therefore this purchase was negotiated.
- This amendment increases the previously authorized amount of \$10,000.00 by \$10,000.00 for a total not to exceed \$20,000.00 and therefore requires City Commission approval.
- The Department of Public Works recommends approval of this order.
- Authority: \$10,000.00

RECREATION AND YOUTH SERVICES-GOLF

(D1) P1600988 – MOODY’S OF DAYTON, INC., MIAMISBURG, OH

- Emergency removal, inspection, replacement and reinstall of damaged pump assembly.
- These goods and services are required for the irrigation system at the Community Golf Course.
- Pursuant to Section 86 of the City of Dayton Charter, the Department of Recreation and Youth Services has declared an emergency, the necessary funds have been encumbered, and the supplier has been notified to proceed.
- The Department of Recreation and Youth Services recommends approval of this order.
- Authority: \$17,100.00

WATER – WATER RECLAMATION

(E1) P16000979 – KEMIRA CHEMICALS INC., LAWRENCE, KS

- Dry, powdered, granular polymer as needed through 12/31/2016.
- These goods are required to perform the dewatering process at the Wastewater Treatment Plant.
- Seventeen possible bidders were solicited and four bids were received. This order establishes a price agreement with pricing through 6/30/2019.
- The Department of Water recommends acceptance of the low bid.
- Initial encumbrance authority: \$240,000.00
- Authority to cover additional needs in the following periods:
 - 1/1/17 – 12/31/17 \$480,000.00
 - 1/1/18 – 12/31/18 \$480,000.00
 - 1/1/19 – 6/30/19 \$240,000.00

WATER – WATER RECLAMATION (CONTINUED)(E2) P1600989 – ML JOHNSON COMPANY, CINCINNATI, OH

- Fluid Components International (FCI) brand gas flow meters and related items.
- These goods are required to replace units that are worn beyond economical repair.
- ML Johnson Company is recommended as the sole regional distributor for this type of FCI brand equipment, therefore this purchase was negotiated.
- The Department of Water recommends approval of this order.
- Initial encumbrance authority: \$15,000.00
- Authority to cover additional needs in the following periods:
 - 1/1/17 – 12/31/17 \$15,000.00
 - 1/1/18 – 12/31/18 \$15,000.00

(E3) P1600985 – DXP ENTERPRISES, INC., CINCINNATI, OH

- Pulsafeeder pump and related items.
- This equipment is required to maintain daily operations of the Division of Water Reclamation.
- DXP Enterprises, Inc. is recommended as the sole regional distributor for this type of pulsafeeder brand equipment, therefore this purchase was negotiated.
- The Department of Water recommends approval of this order.
- Authority: \$12,500.00

(E4) P1600984 – D. M. ANDERSON, INC., LYNCHBURG, OH

- Teledyne brand laboratory sampling equipment.
- These goods are required to repair equipment used for industrial waste discharge to comply with Ohio Environmental Protection Agency regulations.
- D. M. Anderson, Inc. is recommended as the sole regional distributor for Teledyne brand products, therefore this purchase was negotiated.
- The Department of Water recommends approval of this order.
- Initial encumbrance authority: \$18,943.27
- Authority to cover additional needs in the following periods:
 - 1/1/17 – 12/31/17 \$20,000.00
 - 1/1/18 – 12/31/18 \$20,000.00

(E5) P1600982 – RAWDON MYERS, INC., MILFORD, OH

- Four (4) Dezurik brand valves and related items.
- These goods are required to replace valves that are worn beyond economical repair.
- Rawdon Myers, Inc. is recommended as the sole regional distributor for Dezurik brand products, therefore this purchase was negotiated.
- The Department of Water recommends approval of this order.
- Authority: \$23,672.00

WATER – WATER SUPPLY AND TREATMENT

(E6) P1600983 – BISS NUSS, INC., LOVELAND, OH

- Two (2) Slaker feeders.
- This equipment is required to maintain operations of the lime slaking systems at Ottawa Water Treatment plant.
- Biss Nuss, Inc. is recommended as the sole regional distributor of these parts, therefore this purchase was negotiated.
- The Department of Water recommends approval of this order.
- Initial encumbrance authority: \$110,000.00
- Authority to cover additional needs in the following period:
 - 1/1/17 – 12/31/17 \$165,000.00

(E7) P1600971 – JOHN DEERE COMPANY, CARY, NC

- John Deere brand utility tractor with accessories.
- This equipment is required to maintain property at the City of Dayton well fields and surrounding areas and will replace unit #1040, which will be disposed of in the best interest of the City of Dayton.
- Rates are in accordance with State of Ohio term schedule contract pricing #800276, index #STS515
- The Department of Water recommends approval of this order.
- Authority: \$76,627.76

(E8) P1600987 – MOTRIM, INC. CAMBRIDGE, OH

- MoTrim brand flail mower with accessories.
- This equipment is required to maintain property at the City of Dayton well fields and surrounding areas and will be attached to the John Deer Tractor to replace unit #1040, which will be disposed of in the best interest of the City of Dayton.
- Rates are in accordance with State of Ohio term schedule contract pricing #800276, index #STS515
- The Department of Water recommends approval of this order.
- Authority: \$27,086.93

(E9) P1600972 – OHIO MACHINERY CO., TROY, OH

- Caterpillar brand wheel loader with accessories.
- This equipment is required for road repair, grounds maintenance and snow removal at Division of Water Supply and Treatment property and will replace unit #1803, which will be disposed of in the best interest of the City of Dayton.
- Rates are in accordance with State of Ohio term schedule contract pricing #800055, index #STS515
- The Department of Water recommends approval of this order.
- Authority: \$256,400.00

The aforementioned departments recommend approval of these orders.

CITY OF DAYTON, OHIO - PURCHASING DIVISION - BID TABULATION

For: Polymer
 Dept./Div.: Water/Water Reclamation
 Requisition No.: 292WTWT6

IFB No.: 15035U
 Bids Opened: 11:00 A.M.; 4-14-2016

BIDDER NAME & STREET ADDRESS:		1		2		3		4			
No.:		BASF CORPORATION		KEMIRA CHEMICALS, INC.		POLYDYNE, INC.		SOLENIS LLC			
CITY:		FLORHAM PARK		LAWRENCE		RICEBORO		WILMINGTON			
STATE & ZIP:		NJ 07932		KS, 66049		GA 31323		DE 19803			
Recommended for Award				X							
QUALIFIES FOR LOCAL PREFERENCE?		NO		NO		NO		NO			
QUALIFIES FOR CERTIFIED PREFERENCE?		NO		NO		NO		NO			
LOCAL / CERTIFIED PREFERENCE A FACTOR IN AWARD?		NO		NO		NO		NO			
Item #	ITEM DESCRIPTION	UM	QTY	UNIT COST	BID EXT	UNIT COST	BID EXT	UNIT COST	BID EXT	UNIT COST	BID EXT
PLEASE READ ALL BID/PROPOSAL RESPONSES TO ENSURE THAT ALL INFORMATION RECEIVED FROM VENDOR IS REVIEWED AND USED IN EVALUATION PROCESS											
1	Polymer	lbs	300,000	\$1.397	\$419,100.00	\$1.29	\$387,000.00	\$1.30	\$390,000.00	\$1.45	\$607,695.00
TOTAL				\$1.397	\$419,100.00	\$1.29	\$387,000.00	\$1.30	\$390,000.00	\$1.45	\$607,695.00
Options to renew for additional 12-months July 1, 2017 through June 30, 2018 Maximum Percentage of Increase				YES 5%		YES		YES 8%		YES 3%	
Options to renew for additional 12-months July 1, 2018 through June 30, 2019 Maximum Percentage of Increase				YES 5%		YES 4%		YES 8%		YES 3%	
TERMS:				NET 30		NET 30		NET 30		NET 30	
F.O.B.:				DEST		DEST		DEST		DEST	
DELIVERY:				8 DAYS		8 DAYS		3-7 DAYS		5-Y DAYS	

• = lowest bid X = vendor selected for award

THE FOLLOWING VENDORS WERE SOLICITED BUT DID NOT BID:

- | | | | |
|---|--|--|--|
| HRC
Dayton OH 45402 | 4. Sal Chemical Company, Inc.
Weirton, WV 26062 | 8. Hill Manufacturing
Atlanta, GA 30315 | 12. Ge Betz Inc.
Trevose PA 19053 |
| 1. Tidewater Products
Toledo OH 43623 | 5. Aqua Science
Columbus OH 43219 | 9. JCI - Jones Chemical Co.
Sarasota FL 34236 | 13. Advantage Specialty Chemicals
Centerville, OH 45458 |
| 2. Atlantic Coast Polymers
Austin TX 78746 | 6. Neptune Chemical Pump Co.
North Wales, PA 19454 | 10. Miami Products & Chemical Company (LOCAL)
Dayton OH 45403 | |
| 3. MSD Environmental Services
Centerville OH 45459 | 7. Aulick Chemical Solutions
Nicholasville KY 40356 | 11. Chemical Services Inc.
Harrison Twp., OH 45414 | |

2.

CITY OF DAYTON
CITY MANAGER'S REPORT

TO: City Manager

Date June 29, 2016

FROM: Public Works/Water/Finance
Department/Division

Code

See Below

Fund Title

General Fund, St. Maint. Fund
Water Operating, Sanitary Sewer
Operating, Storm Water Operating

Amount \$

\$48,336.00

(CHECK ONE)

- Purchase Order
- Lease Agreement
- Price Agreement
- Estimate of Cost
- Award of Contract
- Payment of Voucher
- Other Increase of Expenditure

Supplier/Vendor/Company/Individual:

NAME CalAmp (Radio Satellite Integrators)
 ADDRESS 19144 Van Ness Avenue
Torrance, CA 90501

Justification and description of purchase, contract or payment:

Annual Vehicle Web Tracking and Wireless Fees

The Departments of Public Works, Water and Finance are utilizing Automatic Vehicle Location (AVL) systems on 202 City vehicles (99 Public Works; 89 Water; 14 Water Revenue). The system provides real-time tracking by integrating GPS wireless communications and GIS mapping software. Vehicle real-time and historical data is viewed through online web service. The real-time wireless data collection, transmission and online web viewing is billed through a monthly service fee in the amount of \$30 per month.

Public Works, Water and Water Revenue are requesting additional spending authority for web tracking and wireless services required for the AVL system. The original contract for Automated Vehicle Tracking (AVL) hardware and software system was implemented June 1, 2012. The term of the contract was for an initial one (1) year term, with automatic annual renewal options at the City's sole option and discretion. The contract is continuous and automatic renewal unless the City gives ninety (90) days written cancellation notice.

- 53000-3445-1166-54 - \$13,416 (Water)
- 55000-3445-1164-54 - \$12,168 (Water)
- 58000-3445-1164-54 - \$ 2,184 (Water)
- 53000-5340-1166-64 - \$ 4,368 (Water Revenue)
- 21000-6430-1164-54 - \$ 8,100 (PW)
- 10000-6440-1164-54 - \$ 8,100 (PW)

Copies of the Original Agreement and Certification of Funds in the amount of \$48,336 are attached.

Approved Affirmative Action Program on File Yes No NA

Approved by City Commission

Clerk

Date

Division [Signature]
 Department [Signature]
 City Manager [Signature]

AGREEMENT
FOR
AUTOMATIC VEHICLE LOCATION SYSTEM
BETWEEN
CITY OF DAYTON
AND
RADIO SATELLITE INTEGRATORS, INC.

This Agreement is made and entered into this 16th day of April 2012 (Effective Date), by and between the CITY OF DAYTON, located at 1736 E. Monument Ave. Dayton, Ohio 45402 (hereinafter "Customer"), and RADIO SATELLITE INTEGRATORS, INC., a Florida corporation located at 19144 Van Ness Avenue, Torrance, California (hereinafter "RSI").

WHEREAS, Customer has determined the need for an Automatic Vehicle Location System; and

WHEREAS, it has been determined that RSI's proposal can best meet Customer's needs;

NOW, THEREFORE, RSI and Customer agree as follows:

SECTION 1. AGREEMENT DOCUMENTS.

The document forming the entire agreement between Customer and RSI shall consist of this Agreement including:

- EXHIBIT A – Statement of Work
- EXHIBIT B – Cost Itemization
- EXHIBIT C – Payment Schedule
- EXHIBIT D – User Agreement
- EXHIBIT E – Acceptance Test Plan (ATP)

This Agreement and the Exhibits set forth above, contain all of the agreements, representations and understandings of the parties hereto, and supersede and replace any previous understandings, commitments, or agreements, whether oral or written.

SECTION 2. TERM.

The term of this Agreement shall begin on the date of the signing of this document by RSI and the Customer as referenced by the Effective Date on page 1 of the Agreement, and shall continue for an initial one (1) year term, with annual renewal options at the Customer's sole option and discretion.

SECTION 3. STATEMENT OF WORK.

RSI agrees to perform the services as set forth in the Statement of Work, which is attached as EXHIBIT A hereto and incorporated as though fully set forth herein.

SECTION 4. COMPENSATION.

The compensation to be paid to RSI for RSI's services is set forth in EXHIBIT B, entitled "COST ITEMIZATION," according to the schedule outlined in EXHIBIT C - "PAYMENT SCHEDULE," which are attached hereto and incorporated herein.

SECTION 5. TERMINATION.

5.1 Termination for Default.

The Customer may, by written notice of default to RSI, terminate the whole or any part of this Agreement if RSI fails to perform services within the time specified herein or any extension thereof; or if RSI fails to perform any of the other provisions of the Agreement; or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such failure within a period of ninety (90) days (or such longer period as the Customer may authorize in writing) after receipt in writing of notice from the Customer specifying such failure.

5.2 Termination for Bankruptcy or Insolvency. The Customer may, in its sole discretion, terminate this Agreement immediately, by written notice to RSI, by reason of the bankruptcy of RSI, the filing of any bankruptcy, or similar action by or against RSI, any assignment by RSI for the benefit of its creditors, or any other acts or omissions by Contractor reflecting or manifesting bankruptcy.

SECTION 6. INDEPENDENT CONTRACTOR.

It is understood and agreed that RSI, in the performance of the work and services agreed to be performed by RSI, shall act as and be an independent contractor and not an agent or employee of Customer; and as an independent contractor, RSI shall obtain no rights to retirement benefits or other benefits which accrue to Customer's employees, and RSI hereby expressly waives any claim it may have to any such rights.

SECTION 7. INDEMNIFICATION.

RSI agrees to defend, indemnify and hold harmless the Customer from any and all losses, claims, actions, costs, expenses, judgments, subrogation, or other damages resulting from injury to any person or damage to property (including loss or destruction) of whatsoever nature arising out of performance of work or services by RSI under the terms of this Agreement (including but not limited to its employees, agents, contractors subcontractors, and others designated by RSI to perform work or services in, about, or attendant to, the work and services under the terms of this Agreement). RSI shall not be held responsible for any losses, expenses, claims, subrogation, actions, costs, judgments or other damages, directly, solely and proximately caused by negligence of Customer.

SECTION 8. WAIVER.

RSI agrees that waiver by the Customer of any breach or violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other condition. The acceptance by the Customer of the performance of any work or service by RSI shall not be deemed to be a waiver of any term or condition of this Agreement.

SECTION 9. NOTICES.

All notices and other communications required or permitted under this Agreement shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To Customer: CITY OF DAYTON
1201 1736 E. Monument Ave.
Dayton, Ohio 45402
Attn: Fred Stovall

To RSI: Jonathan Michels, President
Radio Satellite Integrators, Inc.
19144 Van Ness Avenue
Torrance, CA 90501

Notice shall be deemed effective on the date personally delivered or, if mailed, five (5) days after deposit in the mail. The parties may change their respective addresses in accordance with the provisions of this section.

SECTION 10. MISCELLANEOUS

1. If any part of this Agreement is for any reason found to be unenforceable, all other parts nevertheless remain enforceable. This Agreement shall be governed and construed according to the laws of the State of California.
2. This Agreement binds and inures to the benefit of the parties and their successors and

assigns.

3. The headings of the sections and exhibits of this Agreement are inserted for convenience only. They do not constitute part of this Agreement and are not to be used in its construction.

SECTION 11. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

RSI 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.

SECTION 12. POLITICAL CONTRIBUTIONS.

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

[Remainder of this page intentionally left blank.]

WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written:

THE CITY OF DAYTON, OHIO

By [Signature]
City Manager

Stanley A. Essey
Print Name

"RSI"
RADIO SATELLITE INTEGRATORS, INC.

By [Signature]
Jonathan Michels, President

Jon Michels
Print Name

Approved as to form and correctness:
[Signature]
City Attorney

Approved by the Commission of
the City of Dayton, Ohio:
April 4, 2012

Min. Bk. I-12 Pg. 0466
Rachelle Ravender
Clerk of the Commission

1076-43-1000

3

**CITY OF DAYTON
CITY MANAGER'S REPORT**

TO: City Manager

Date June 29, 2016

FROM: Department of Economic Development

Code 28286-2600-1301-41-ED1601

Department/Division

(CHECK ONE)

Fund Title Recycle Ohio Grant

Amount \$ 50,000 (expires 4-30-2018)

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

Supplier/Vendor/Company/Individual:

NAME Rumpke of Ohio, Inc.

ADDRESS 10795 Hughes Road

Cincinnati, OH 45251

Justification and description of purchase, contract or payment:

The City received a Special Assistance Grant in the amount of \$50,000 from the Ohio Environmental Protection Agency on behalf of Rumpke of Ohio, Inc. (Rumpke). The Department of Economic Development is requesting authority to enter into a Participant Agreement for \$50,000 with Rumpke for an expansion of their operations at 1300 East Monument Avenue. Rumpke will use the funding to purchase and install a glass pre-clean system capable of removing paper and other contaminants from glass prior to introducing the glass into the glass cleaning system. In addition, the glass pre-clean system will serve as a prototype retrofit for all large scale single streams Materials Recovery Facilities located in Ohio that need to have organics, paper and lids removed prior to glass processing.

Rumpke is a successful recycling company based out of Cincinnati, Ohio. As part of this project, they are expected to invest approximately \$58,014.00 in their Dayton facility. Rumpke will retain 12 full-time permanent employment positions within three (3) years from the date this Agreement is executed.

The Agreement will commence upon execution by the City and expire April 30, 2018.

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

A Certificate of Funds is attached.

Approved Affirmative Action Program on File Yes

No

NA

Approved by City Commission

Clerk

Date

Division

Frank P. Weber

Department

John P. Paulino

City Manager

CERTIFICATE OF FUNDS

CT 161462

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

 x New Contract Renewal Contract Change Order

Contract Start Date	upon execution
Expiration Date	04/30/18
Original Commission Approval	\$ 50,000.00
Initial Encumbrance	\$ 50,000.00
Remaining Commission Approval	\$ -
Original CT/CF	
Increase Encumbrance	\$ -
Decrease Encumbrance	\$ -
Remaining Commission Approval	\$ -

Required Documentation

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

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

<p>Amount: <u> \$ 50,000.00 </u></p> <p>Fund Code <u>28286</u> - <u>2600</u> - <u>1301</u> - <u>41</u> - <u>ED1601</u> - <u> </u></p> <p style="text-align: center; font-size: small;">Fund Org Acct Prog Act Loc</p>	<p>Amount: <u> </u></p> <p>Fund Code <u>XXXX</u> - <u>XXXX</u> - <u>XXXX</u> - <u>XX</u> - <u>XXXX</u> - <u>XXXX</u></p> <p style="text-align: center; font-size: small;">Fund Org Acct Prog Act Loc</p>
<p>Amount: <u> </u></p> <p>Fund Code <u>XXXX</u> - <u>XXXX</u> - <u>XXXX</u> - <u>XX</u> - <u>XXXX</u> - <u>XXXX</u></p> <p style="text-align: center; font-size: small;">Fund Org Acct Prog Act Loc</p>	<p>Amount: <u> </u></p> <p>Fund Code <u>XXXX</u> - <u>XXXX</u> - <u>XXXX</u> - <u>XX</u> - <u>XXXX</u> - <u>XXXX</u></p> <p style="text-align: center; font-size: small;">Fund Org Acct Prog Act Loc</p>

Attach additional pages for more FOAPALS

Vendor Name: Rumpke of Ohio Inc

Vendor Address: 10795 Hughes Road Cincinnati Ohio 45251

Street City State Zipcode + 4

Federal ID: 31-1617611

Commodity Code: 91849

Purpose: Special Assistance Grant from the Ohio Environmental Protection Agency on behalf of Rumpke of Ohio, Inc.

 Purchase and install a glass pre-clean system capable of removing paper and other contaminants from glass prior to introducing the glass into the glass cleaning system

Contact Person: Jill Bramini Economic Development 6/17/2016

Department/Division Date

Originating Department Director's Signature: T. P. Weber

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: Lashae Smith 6/20/2016

Date

CF Prepared by: Cynthia Rogers-Bruce 6/21/16 CT 161462

Date CF/CT Number

Finance Department

**PARTICIPANT AGREEMENT
RUMPKE OF OHIO**

This PARTICIPANT AGREEMENT ("Agreement") is made and entered into between Rumpke of Ohio, Inc., a corporation in the State of Ohio, currently located at 1300 East Monument Avenue, Dayton, Ohio 45402 ("Company"), and the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio ("City").

WITNESSETH THAT:

WHEREAS, The Ohio Environmental Protection Agency ("OEPA") allocates funding in the form of a Special Assistance Grant to assist recycling companies with their expansion projects; and,

WHEREAS, Company intends to expand its current recycling operations by purchasing and installing a glass pre-clean system capable of removing paper and other contaminants from glass prior to introducing the glass in the glass cleaning system ("Project") for the property located at 1300 East Monument Avenue ("Project Site"); and,

WHEREAS, City received a Special Assistance Grant from the OEPA (attached hereto as Exhibit A) to provide Company with financial assistance to purchase the necessary recycling units, contingent upon Company providing the required matching funds; and,

WHEREAS, City finds it beneficial and in its best interests to provide support to Company for the project under the terms and conditions set forth herein.

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

ARTICLE 1. PROJECT.

Company will invest approximately Fifty-Eight Thousand Fourteen Dollars and Zero Cents (\$58,014.00) to purchase a glass pre-clean system capable of removing paper and other contaminants from glass prior to introducing the glass in the glass cleaning system.

As part of the project, Company will retain twelve (12) full-time permanent employment positions in the City of Dayton for an approximate total payroll of Four Hundred Forty-Six Thousand Eight Hundred Twenty-Four Dollars and Zero Cents (\$446,824.00) not later than three (3) years from the date this Agreement is executed.

Company shall complete the Project on or before December 31, 2016, unless such completion date is extended upon mutual written agreement between the parties to this Agreement. All purchasing and installation activities required to complete the Project shall be performed and completed in accordance with all applicable federal, state, and local laws, rules, regulations, and orders, including all applicable prevailing wage laws and all building, zoning, well field, and fire code requirements.

ARTICLE 2. FUNDING.

Upon completion of the Project and submission of an invoice for reimbursement of Eligible Project Costs, as outlined below, City will provide Company its OEPA Grant not to exceed Fifty Thousand Dollars and Zero Cents (\$50,000.00). Company shall use the OEPA Grant to pay for Eligible Project Costs. For purposes of this Agreement, "Eligible Project Costs" include the expenses actually incurred by Company to purchase and install a glass pre-clean system capable of removing paper and other contaminants from

glass prior to introducing the glass in the glass cleaning system at its facility at 1300 East Monument Avenue in Dayton. Company is solely responsible for all Project costs in excess of the funding provided by City hereunder. Company shall comply with and pay, if applicable, state and local prevailing wage rates.

Upon completion of the Project, Company must invoice City for reimbursement of Eligible Project Costs. The invoice(s) shall state the invoice period, state the total amount requested, detail the work and/or services performed, and contain such records, information, and/or documentation to substantiate the invoice amount. Company shall also provide evidence of payment of such costs. Appropriate City inspection personnel will verify all purchases and site work submitted for reimbursement. Unless disputed, City will disburse payment within thirty (30) days from receipt of the invoice.

ARTICLE 3. TERM.

This Agreement shall commence upon execution by City or July 1, 2016, whichever is later, and it shall expire on April 30, 2018, unless extended to a later date or earlier terminated.

ARTICLE 4. INDEMNIFICATION.

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

ARTICLE 5. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

Company shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off 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 Agreement as fully and as if specifically rewritten herein and that failure to comply therewith shall constitute a breach thereof entitling City to terminate this Agreement at its option.

ARTICLE 6. POLITICAL CONTRIBUTIONS

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

ARTICLE 7. TAX REPRESENTATION.

Company certifies that, as of the date of execution, it does not owe any delinquent taxes to the City of Dayton and/or does not owe delinquent taxes for which Company is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code or, if such delinquent taxes are owed, Company currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, or Company filed a petition in bankruptcy under 11 U.S.C. Section 101. et seq., or such a petition has been filed against Company. For the purposes of this

certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

ARTICLE 8. GRANT FUNDED EQUIPMENT

A. During the three (3) year period from the date the Company receives the machinery purchased with funds granted herein, the Company shall not convert the machinery to uses other than those for which it was originally approved for funding by the City, nor shall it transfer the machinery without cost, or sell it without prior written approval by the City. If for any reason during this three (3) year period the Company finds that the machinery is no longer needed for its originally approved use, the Company shall notify the City in writing of such finding. With written approval from the City, the Company may convert the machinery to a use other than that originally approved, transfer the machinery without cost, or sell the machinery. For conversions or sales made during the three (3) year period, the Company shall repay to the City within thirty (30) days of the approved conversion or sale of the machinery, in accordance with the following schedule:

1. If such sale is made within one (1) year of the date the Company received the machinery, the Company shall repay to the City ninety percent (90%) of the funds granted herein.
2. If such sale is made during the second (2nd) year after the date the Company received the machinery, the Company shall repay to the City seventy percent (70%) of the funds granted herein.
3. If the sale is made during the third (3rd) year after the date the Company received the machinery, the Company shall repay to the City fifty percent (50%) of the funds granted herein.

B. Following the third (3rd) year after the date the Company received the machinery, the Company may dispose of the machinery in a manner consistent with local regulations and without the approval of the City.

ARTICLE 9. EPA COMPLIANCE

Until termination of this Agreement and for a period of three (3) years following termination, EPA may require repayment of any funds, up to the full amount that has been distributed, upon a finding that the City or Company is not in substantial compliance with environmental laws or rules or has become subject to a formal enforcement action by Ohio EPA or the Ohio Attorney General's Office. If Ohio EPA requires repayment of funds pursuant to this Article, any funds already distributed to the Company, including funds that have already been spent, shall be returned to Ohio EPA within forty-five (45) days of receiving notification of termination. Any payment not received within forty-five (45) days of the due date may be referred to the Ohio Attorney General's Office for collection as a delinquent claim, and the Grantee agrees to pay the Agency all costs the Agency incurs for delinquent collections by the Ohio Attorney General's Office. Company shall require all contracts with subcontractors to include legal mechanisms (e.g. default judgments or liens) to recover funds pursuant to this Article.

ARTICLE 10. NOTICE AND DEMANDS

A notice, demand or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally as follows:

In the case of the Company to:
Rumpke of Ohio, Inc.

In the case of the City to:
City of Dayton

Attn: Benjamin Pedigo
1300 East Monument Avenue
Dayton, Ohio 45402
Email: ben.pedigo@rumpke.com

Department of Economic Development
Attn: Lila Ivanovska
101 West Third Street
Dayton, Ohio 45401
Email: lila.ivanovska@daytonohio.gov

Other arrangements for notification may be provided as mutually agreed to by the City and the Company.

ARTICLE 11. GENERAL PROVISIONS

- A. Amendment. This Agreement may only be amended by mutual agreement between the City and Company. Any such amendment shall be reduced to writing, making specific reference to this Agreement, approved by the City's Director of Economic Development or designee, executed by a duly authorized representative of each party, and if required, approved by the City Commission of the City of Dayton, Ohio.
- B. Conflict of Interest. Except as otherwise agreed, Company covenants that it 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 or completion of the Project.
- C. Governing Law. This Agreement is 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.
- D. Waiver. A waiver by either party of any breach of this Agreement shall be in writing. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it is given and will not affect City's rights with respect to any other or further breach.
- E. Assignment. This Agreement may not be assigned by either party without the express approval, in writing, of the other party.
- F. Default. Except as otherwise provided in the Agreement, in the event of any default in or breach of the Agreement, or any of its terms or conditions, by either party hereto, or any successor to such party, such party (or successor) shall upon written notice from the other, proceed immediately to cure remedy such default or breach, and, in any event, within twenty-one (21) calendar days after receipt of such notice. In case such action is not taken or not diligently pursued, or if the default or breach is not cured or remedied within an agreed upon reasonable time, the aggrieved party may institute such proceedings as may be necessary in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific action performed by the party in default or breach of its obligations. In the event of breach by the Company, its successors or assigns, of the conditions set forth in this Agreement in the manner stated therein, the City shall have the right to repayment of all funds. The City or State may recover all accounting, administrative, legal and other expenses reasonably necessary for the termination of the Agreement and cost associated with acquisition of substitute services from a third party.
- G. Negation of Participation: Third-Party Rights. Nothing contained in this Agreement shall be construed or interpreted as creating any agency, partnership, co-partnership or joint venture relationship between the parties hereto. Nothing contained herein, and nothing which may be implied hereby, is intended to or shall be construed to confer upon any person or entity, other than the parties hereto, any right or remedy under or by reason of this Agreement.
- H. Audit. Company agrees to supply additional information upon request by the City and to cooperate in any audit or review of the funding provided hereunder.

I. 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.

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

CITY OF DAYTON, OHIO

RUMPKE OF OHIO, INC.

City Manager

By: _____

Its: _____

**APPROVED AS TO FORM
AND CORRECTNESS:**

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


City Attorney

_____, 2016

Min. / Bk. _____ Pg. _____

Clerk of the Commission

Exhibit A

2016 Special Assistance Grant Agreement

This Agreement is made and entered into by and between the Director of the Ohio Environmental Protection Agency, hereinafter referred to as the **Agency**, and the **City of Dayton**, hereinafter referred to as the **Grantee**. WITNESSETH THAT:

WHEREAS the **Grantee**, as authorized under Ohio Revised Code (ORC) Chapter 3736, has applied to the **Agency** for program funding to implement a 2016 Special Assistance Grant, hereinafter referred to as the 2016 SPAG; and

WHEREAS the **Grantee** agrees to perform in compliance with the terms, promises, conditions, and assurances as outlined in the **Grantee's** 2016 SPAG Managers Manual and the 2016 SPAG Application, a copy of which is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein; and

WHEREAS the 2016 SPAG funds in the amount of **\$50,000.00**, have been encumbered. Obligations of the State of Ohio are subject to the provisions of ORC Section 126.07.

NOW THEREFORE, in consideration of the mutual covenants by and between the parties hereto, the parties agree as follows:

- I. The **Agency** hereby awards to the **Grantee** a grant not to exceed **\$50,000.00**, for the purpose of implementing the Special Assistance Grant project detailed in the **Grantee's** application. Costs incurred by the **Grantee** for items that are not part of the approved budget as contained in the **Grantee's** application, or costs in excess of amounts specified in the approved budget as contained in the **Grantee's** application will not be reimbursed by the **Agency**. Any grant-related expenditures made prior to the effective date of the grant agreement will not be reimbursed. The **Grantee** agrees to maintain and expend the required match, detailed in the **Grantee's** application.
- II. The **Agency** shall pay to the **Grantee**, subject to cash availability, one hundred percent (100% of its total grant award, to be used for project costs according to the **Grantee's** approved budget as contained in the **Grantee's** application. The parties understand and agree that all payments made under this grant award are based on actual costs and are made based upon **Grantee's** satisfactory performance of **Grantee's** obligations under this grant agreement.
- III. The **Grantee** shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability as defined in the Americans with Disabilities Act (ADA). The **Grantee** shall take affirmative action to ensure that employees are treated during employment, without regard to their race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability, as defined in the ADA. Such action shall include, but is not limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, including apprenticeship.

Ohio Environmental Protection Agency

- IV. The **Grantee** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the **Agency** setting forth the provisions of this nondiscrimination clause. Furthermore, the **Grantee** agrees to comply with all pertinent provisions of ORC Section 125.111 and the Drug Free Workplace Act.
- V. The **Grantee** shall, in all solicitations or advertisements for employees placed by or on behalf of the **Grantee**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability, as defined in the ADA.
- VI. The **Grantee** shall comply with the State Equal Employment Opportunity guidelines, and any direction as set forth by officials or agencies of the State or Federal Government that seek to eliminate unlawful employment discrimination, and with all other State and Federal efforts to assure equal employment practices under this Agreement. Before and during performance, the **Grantee** shall promptly comply with all requests and direction from the State of Ohio or any of its officials and agencies.
- VII. Upon the **Grantee's** noncompliance with the nondiscrimination clauses of this Agreement, this Agreement may be canceled, terminated or suspended in whole or in part, and the **Grantee** may be ineligible for further state contracts and such other sanctions may be imposed and remedies instituted as otherwise provided by the law.
- VIII. It is fully understood and agreed that neither **Grantee** nor any of its employees or other personnel shall at any time or for any purpose, be considered as agents or employees of the Ohio EPA. The **Grantee** certifies that neither the **Grantee** nor its employees or other personnel are public employees of the **Agency** under federal or state law for tax, Workers' Compensation, and retirement deduction purposes.
- IX. The **Grantee** shall carry out and administer the project according to all applicable federal, state, and local laws and regulations, and the terms of this Agreement, as outlined in the **Agency's** 2016 SPAG Application and Manager's Manual.
- X. The **Agency** shall at any reasonable time have the right of access to and the right to audit all books and records, financial or otherwise, pertinent to the administration and operation of this project. The **Grantee** shall keep said books and records in a common file to facilitate audits and inspections. In the event of a special audit, the **Grantee** will be responsible for the actual cost of the audit. Said costs shall be determined by the State of Ohio.
- XI. The **Grantee** by signature on this document, certifies that it: (1) has reviewed and understands the Ohio ethics and conflict of interest laws as found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43, and (2) will take no action inconsistent with those laws. The **Grantee** understands that failure to comply with Ohio's ethics and conflict of interest laws is, in itself, grounds for termination of this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

Ohio Environmental Protection Agency

- XII. The **Grantee** affirms that, as applicable to it, no party listed in Division (I) or (J) of Section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committees.
- XIII. The **Grantee** affirmatively represents and warrants to **Agency** that it is not subject to a finding for recovery under ORC 9.24 or that it has taken appropriate remedial steps required under ORC 9.24 or otherwise qualifies under that section. The **Grantee** agrees that if this representation or warranty is deemed to be false, the Agreement shall be void *ab initio* as between the parties to this Agreement, and any funds paid by **Agency** hereunder immediately shall be repaid to **Agency**, or an action for recovery immediately may be commenced by **Agency** for recovery of said funds. The **Grantee** affirmatively represents and warrants to **Agency** that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either ORC 153.02 or ORC 125.25. If this representation and warranty is false, this Agreement is void *ab initio* and **Grantee** shall immediately repay to the State any funds paid under this Agreement.
- XIV. Implementation of the approved 2016 SPAG project as outlined in the **Grantee's** 2016 SPAG Approved Application and this Agreement shall not commence until the Agreement is signed by all parties or, **May 1, 2016**, whichever is later. The **Agency** shall not be responsible for any costs incurred by the **Grantee** prior to the effective date of this Agreement.
- XV. This Agreement shall remain in effect until **April 30, 2018**. The **Agency** reserves the right at any time after execution of this Agreement, to terminate, revise, or extend the grant in whole or in part, upon written notification to the **Grantee**. In the event of such termination, the **Grantee** will be paid for approved expenditures incurred and for any noncancellable obligations properly incurred by the **Grantee** prior to termination.
- XVI. The **Grantee** reserves the right, at any time after execution of this Agreement, to terminate the program, in whole or in part, upon written notification to the **Agency**. If the **Grantee** terminates this agreement pursuant to this paragraph, the **Grantee** shall not incur any new obligations and shall make a good faith effort to cancel as many outstanding obligations as possible.
- XVII. All unspent funds and unallowed expenditures shall be returned to the **Agency** within forty-five (45) days of receiving notification of any termination. Any payment not received within forty-five days of the due date may be referred to the Ohio Attorney General's Office for collection as a delinquent claim, and the **Grantee** agrees to pay the **Agency** all costs the **Agency** incurs for delinquent collections by the Ohio Attorney General's Office.
- XVIII. Until termination of this contract (expiration date – see condition XV) and for a period of three years following termination, the **Agency** may require repayment of any funds, up to the full amount that has been distributed, upon a finding by the director that **Grantee** or the cooperating enterprise is not in substantial compliance with environmental laws or rules or has become subject to a formal enforcement action by Ohio EPA or the Ohio Attorney General's Office. If the **Agency** terminates this agreement pursuant to this paragraph, any funds already distributed to **Grantee**, including funds that have already

Ohio Environmental Protection Agency

been spent, shall be returned to the **Agency** within forty-five (45) days of receiving notification of termination. Any payment not received within forty-five days of the due date may be referred to the Ohio Attorney General's Office for collection as a delinquent claim, and the Grantee agrees to pay the Agency all costs the Agency incurs for delinquent collections by the Ohio Attorney General's Office. Grantee shall require all contracts with subcontractors to include legal mechanisms (e.g., default judgments or liens) to recover funds pursuant to this paragraph.

- XIX. The **Grantee** affirms to have read and understands Executive Order 2011-12K issued by Ohio Governor John R. Kasich and signed and completed the Standard Affirmation and Disclosure Form (Exhibit B) and shall abide by those requirements in the performance of this Agreement and perform no services required under this Agreement outside of the United States. The Executive Order is provided as an attachment (Exhibit C) and also is available at the following website: <http://www.governor.ohio.gov/Portals/0/pdf/executiveOrders/EO%202011-12K.pdf>
- XX. The **Grantee** also affirms, understands, and agrees to immediately notify the State of any change or shift in the location(s) of services performed by the **Grantee** or its subcontractors under this Agreement, and no services shall be changed or shifted to a location(s) that are outside of the United States.

If the **Grantee** or any of its subcontractors perform services under this Agreement outside of the United States, the performance of such services shall be treated as a material breach of the Agreement. The State is not obligated to pay and shall not pay for such services. If **Grantee** or any of its subcontractors perform any such services, **Grantee** shall immediately return to the State all funds paid for those services. The State may also recover from the **Grantee** all costs associated with any corrective action the State may undertake, including but not limited to an audit or a risk analysis, as a result of the **Grantee** performing services outside the United States.

The State may, at any time after the breach, terminate the Agreement, upon written notice to the **Grantee**. The State may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Agreement and costs associated with the acquisition of substitute services from a third party.

The State, in its sole discretion, may provide written notice to **Grantee** of a breach and permit the **Grantee** to cure the breach. Such cure period shall be no longer than 21 calendar days. During the cure period, the State may buy substitute services from a third party and recover from the **Grantee** any costs associated with acquiring those substitute services.

Notwithstanding the State permitting a period of time to cure the breach or the **Grantee's** cure of the breach, the State does not waive any of its rights and remedies provided the State in this Agreement, including but not limited to recovery of funds paid for services the **Grantee** performed outside of the United States, costs associated with corrective action, or liquidated damages. Executive Order 2011-12K does not apply to situations in which the Director of the Agency of Administrative Services, or the Director's designee, shall determine that it is an emergency or that it is necessary for the State to waive

Ohio Environmental Protection Agency

some or all of the requirements of EO 2011-12K. The Director shall establish standards by which Executive Agencies may request a waiver of some or all of the requirements of EO 2011-12K and by which such requests will be evaluated and may be granted.

The Grantee will not assign any of its rights nor delegate any of its duties and responsibilities under this Agreement without prior written consent of the State. Any assignment or delegation not consented to may be deemed void by the State.

Each party shall be responsible for its own acts and omissions and will be responsible for any and all damages, costs, and expenses that arise out of the performance of this Agreement and that are due to that party's own negligence, tortious acts, or other conduct or that are due to the negligence, tortious acts, or other conduct of the party's respective agents, officers, or employees.

IN WITNESS WHEREOF, the effective date of this Agreement is the date when the Director of the Ohio Environmental Protection Agency signs this Agreement, or **May 1, 2016** whichever date is later.

Grantee: City of Dayton
Cooperating Enterprise: Rumpke of Ohio
(Not a party to this agreement)

Award: \$50,000.00

(I, we) have the authority to sign this Agreement and do so in (my/our) respective capacities:

Grantee Signature

Signed: Shelley Dickstein Date: 4-25-16
Authorized Official: Ms. Shelley Dickstein, City Manager
City of Dayton

APPROVED AS TO FORM AND CORRECTNESS
[Signature]
CITY ATTORNEY

Ohio Environmental Protection Agency Signature

Signed: [Signature] 5/16/16
Craig W. Butler, Director
Ohio Environmental Protection Agency

2016 Special Assistance Grant Agreement

This Agreement is made and entered into by and between the Director of the Ohio Environmental Protection Agency, hereinafter referred to as the **Agency**, and the **City of Dayton**, hereinafter referred to as the **Grantee**. WITNESSETH THAT:

WHEREAS the **Grantee**, as authorized under Ohio Revised Code (ORC) Chapter 3736, has applied to the **Agency** for program funding to implement a 2016 Special Assistance Grant, hereinafter referred to as the 2016 SPAG; and

WHEREAS the **Grantee** agrees to perform in compliance with the terms, promises, conditions, and assurances as outlined in the **Grantee's** 2016 SPAG Managers Manual and the 2016 SPAG Application, a copy of which is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein; and

WHEREAS the 2016 SPAG funds in the amount of **\$50,000.00**, have been encumbered. Obligations of the State of Ohio are subject to the provisions of ORC Section 126.07.

NOW THEREFORE, in consideration of the mutual covenants by and between the parties hereto, the parties agree as follows:

- I. The **Agency** hereby awards to the **Grantee** a grant not to exceed **\$50,000.00**, for the purpose of implementing the Special Assistance Grant project detailed in the **Grantee's** application. Costs incurred by the **Grantee** for items that are not part of the approved budget as contained in the **Grantee's** application, or costs in excess of amounts specified in the approved budget as contained in the **Grantee's** application will not be reimbursed by the **Agency**. Any grant-related expenditures made prior to the effective date of the grant agreement will not be reimbursed. The **Grantee** agrees to maintain and expend the required match, detailed in the **Grantee's** application.
- II. The **Agency** shall pay to the **Grantee**, subject to cash availability, one hundred percent (100% of its total grant award, to be used for project costs according to the **Grantee's** approved budget as contained in the **Grantee's** application. The parties understand and agree that all payments made under this grant award are based on actual costs and are made based upon **Grantee's** satisfactory performance of **Grantee's** obligations under this grant agreement.
- III. The **Grantee** shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability as defined in the Americans with Disabilities Act (ADA). The **Grantee** shall take affirmative action to ensure that employees are treated during employment, without regard to their race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability, as defined in the ADA. Such action shall include, but is not limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, including apprenticeship.

Ohio Environmental Protection Agency

- IV. The **Grantee** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the **Agency** setting forth the provisions of this nondiscrimination clause. Furthermore, the **Grantee** agrees to comply with all pertinent provisions of ORC Section 125.111 and the Drug Free Workplace Act.
- V. The **Grantee** shall, in all solicitations or advertisements for employees placed by or on behalf of the **Grantee**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability, as defined in the ADA.
- VI. The **Grantee** shall comply with the State Equal Employment Opportunity guidelines, and any direction as set forth by officials or agencies of the State or Federal Government that seek to eliminate unlawful employment discrimination, and with all other State and Federal efforts to assure equal employment practices under this Agreement. Before and during performance, the **Grantee** shall promptly comply with all requests and direction from the State of Ohio or any of its officials and agencies.
- VII. Upon the **Grantee's** noncompliance with the nondiscrimination clauses of this Agreement, this Agreement may be canceled, terminated or suspended in whole or in part, and the **Grantee** may be ineligible for further state contracts and such other sanctions may be imposed and remedies instituted as otherwise provided by the law.
- VIII. It is fully understood and agreed that neither **Grantee** nor any of its employees or other personnel shall at any time or for any purpose, be considered as agents or employees of the Ohio EPA. The **Grantee** certifies that neither the **Grantee** nor its employees or other personnel are public employees of the **Agency** under federal or state law for tax, Workers' Compensation, and retirement deduction purposes.
- IX. The **Grantee** shall carry out and administer the project according to all applicable federal, state, and local laws and regulations, and the terms of this Agreement, as outlined in the **Agency's** 2016 SPAG Application and Manager's Manual.
- X. The **Agency** shall at any reasonable time have the right of access to and the right to audit all books and records, financial or otherwise, pertinent to the administration and operation of this project. The **Grantee** shall keep said books and records in a common file to facilitate audits and inspections. In the event of a special audit, the **Grantee** will be responsible for the actual cost of the audit. Said costs shall be determined by the State of Ohio.
- XI. The **Grantee** by signature on this document, certifies that it: (1) has reviewed and understands the Ohio ethics and conflict of interest laws as found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43, and (2) will take no action inconsistent with those laws. The **Grantee** understands that failure to comply with Ohio's ethics and conflict of interest laws is, in itself, grounds for termination of this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

Ohio Environmental Protection Agency

- XII. The **Grantee** affirms that, as applicable to it, no party listed in Division (I) or (J) of Section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committees.
- XIII. The **Grantee** affirmatively represents and warrants to **Agency** that it is not subject to a finding for recovery under ORC 9.24 or that it has taken appropriate remedial steps required under ORC 9.24 or otherwise qualifies under that section. The **Grantee** agrees that if this representation or warranty is deemed to be false, the Agreement shall be void *ab initio* as between the parties to this Agreement, and any funds paid by **Agency** hereunder immediately shall be repaid to **Agency**, or an action for recovery immediately may be commenced by **Agency** for recovery of said funds. The **Grantee** affirmatively represents and warrants to **Agency** that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either ORC 153.02 or ORC 125.25. If this representation and warranty is false, this Agreement is void *ab initio* and **Grantee** shall immediately repay to the State any funds paid under this Agreement.
- XIV. Implementation of the approved 2016 SPAG project as outlined in the **Grantee's** 2016 SPAG Approved Application and this Agreement shall not commence until the Agreement is signed by all parties or, **May 1, 2016**, whichever is later. The **Agency** shall not be responsible for any costs incurred by the **Grantee** prior to the effective date of this Agreement.
- XV. This Agreement shall remain in effect until **April 30, 2018**. The **Agency** reserves the right at any time after execution of this Agreement, to terminate, revise, or extend the grant in whole or in part, upon written notification to the **Grantee**. In the event of such termination, the **Grantee** will be paid for approved expenditures incurred and for any noncancellable obligations properly incurred by the **Grantee** prior to termination.
- XVI. The **Grantee** reserves the right, at any time after execution of this Agreement, to terminate the program, in whole or in part, upon written notification to the **Agency**. If the **Grantee** terminates this agreement pursuant to this paragraph, the **Grantee** shall not incur any new obligations and shall make a good faith effort to cancel as many outstanding obligations as possible.
- XVII. All unspent funds and unallowed expenditures shall be returned to the **Agency** within forty-five (45) days of receiving notification of any termination. Any payment not received within forty-five days of the due date may be referred to the Ohio Attorney General's Office for collection as a delinquent claim, and the **Grantee** agrees to pay the **Agency** all costs the **Agency** incurs for delinquent collections by the Ohio Attorney General's Office.
- XVIII. Until termination of this contract (expiration date – see condition XV) and for a period of three years following termination, the **Agency** may require repayment of any funds, up to the full amount that has been distributed, upon a finding by the director that **Grantee** or the cooperating enterprise is not in substantial compliance with environmental laws or rules or has become subject to a formal enforcement action by Ohio EPA or the Ohio Attorney General's Office. If the **Agency** terminates this agreement pursuant to this paragraph, any funds already distributed to **Grantee**, including funds that have already

Ohio Environmental Protection Agency

been spent, shall be returned to the **Agency** within forty-five (45) days of receiving notification of termination. Any payment not received within forty-five days of the due date may be referred to the Ohio Attorney General's Office for collection as a delinquent claim, and the Grantee agrees to pay the Agency all costs the Agency incurs for delinquent collections by the Ohio Attorney General's Office. Grantee shall require all contracts with subcontractors to include legal mechanisms (e.g., default judgments or liens) to recover funds pursuant to this paragraph.

- XIX. The **Grantee** affirms to have read and understands Executive Order 2011-12K issued by Ohio Governor John R. Kasich and signed and completed the Standard Affirmation and Disclosure Form (Exhibit B) and shall abide by those requirements in the performance of this Agreement and perform no services required under this Agreement outside of the United States. The Executive Order is provided as an attachment (Exhibit C) and also is available at the following website: <http://www.governor.ohio.gov/Portals/0/pdf/executiveOrders/EO%202011-12K.pdf>
- XX. The **Grantee** also affirms, understands, and agrees to immediately notify the State of any change or shift in the location(s) of services performed by the **Grantee** or its subcontractors under this Agreement, and no services shall be changed or shifted to a location(s) that are outside of the United States.

If the **Grantee** or any of its subcontractors perform services under this Agreement outside of the United States, the performance of such services shall be treated as a material breach of the Agreement. The State is not obligated to pay and shall not pay for such services. If **Grantee** or any of its subcontractors perform any such services, **Grantee** shall immediately return to the State all funds paid for those services. The State may also recover from the **Grantee** all costs associated with any corrective action the State may undertake, including but not limited to an audit or a risk analysis, as a result of the **Grantee** performing services outside the United States.

The State may, at any time after the breach, terminate the Agreement, upon written notice to the **Grantee**. The State may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Agreement and costs associated with the acquisition of substitute services from a third party.

The State, in its sole discretion, may provide written notice to **Grantee** of a breach and permit the **Grantee** to cure the breach. Such cure period shall be no longer than 21 calendar days. During the cure period, the State may buy substitute services from a third party and recover from the **Grantee** any costs associated with acquiring those substitute services.

Notwithstanding the State permitting a period of time to cure the breach or the **Grantee's** cure of the breach, the State does not waive any of its rights and remedies provided the State in this Agreement, including but not limited to recovery of funds paid for services the **Grantee** performed outside of the United States, costs associated with corrective action, or liquidated damages. Executive Order 2011-12K does not apply to situations in which the Director of the Agency of Administrative Services, or the Director's designee, shall determine that it is an emergency or that it is necessary for the State to waive

Ohio Environmental Protection Agency

some or all of the requirements of EO 2011-12K. The Director shall establish standards by which Executive Agencies may request a waiver of some or all of the requirements of EO 2011-12K and by which such requests will be evaluated and may be granted.

The **Grantee** will not assign any of its rights nor delegate any of its duties and responsibilities under this Agreement without prior written consent of the State. Any assignment or delegation not consented to may be deemed void by the State.

Each party shall be responsible for its own acts and omissions and will be responsible for any and all damages, costs, and expenses that arise out of the performance of this Agreement and that are due to that party's own negligence, tortious acts, or other conduct or that are due to the negligence, tortious acts, or other conduct of the party's respective agents, officers, or employees.

IN WITNESS WHEREOF, the effective date of this Agreement is the date when the Director of the Ohio Environmental Protection Agency signs this Agreement, or **May 1, 2016** whichever date is later.

Grantee: City of Dayton
Cooperating Enterprise: Rumpke of Ohio
(Not a party to this agreement)

Award: \$50,000.00

(I, we) have the authority to sign this Agreement and do so in (my/our) respective capacities:

Grantee Signature

Signed: Shelley Dickstein **Date:** 4-25-16
Authorized Official: **Ms. Shelley Dickstein, City Manager**
City of Dayton

APPROVED AS TO FORM AND CORRECTNESS
[Signature]
CITY ATTORNEY

Ohio Environmental Protection Agency Signature

Signed: [Signature] 5/16/16
Craig W. Butler, Director
Ohio Environmental Protection Agency



December 7, 2015

Mr. Chet Chaney, Grants Administrator
Ohio Environmental Protection Agency
Office of Compliance Assistance & Pollution Prevention
P.O. Box 1049
Columbus, Ohio 43216-1049

Mr. Chaney:

The City of Dayton is pleased to submit the Special Assistance Grant application on behalf of Rumpke of Ohio for their recycling facility located at 1300 East Monument Avenue. Since 2001, it has been exciting to partner with Rumpke and Ohio Environmental Protection Agency in the development of a process that is making glass recycling a viable enterprise for supplying the manufacturing community.

The City of Dayton is requesting a total of \$50,000 for the purchase of a glass pre-clean system capable of removing paper and other contaminants from glass prior to introducing the glass into the glass cleaning system. Rumpke of Ohio has been, and continues to be, a true partner in Dayton's recycling efforts and a good corporate neighbor. The City of Dayton is proud to be a part of this project.

If you have any questions, please contact me at 937-333-3621 or at ford.weber@daytonohio.gov or Lila Ivanovska at 937-333-3624 or at lila.ivanovska@daytonohio.gov.

Respectfully,

A handwritten signature in black ink that reads "Ford P. Weber". The signature is written in a cursive style.

Ford P. Weber, Director
Department of Economic Development

CITY OF DAYTON
CITY MANAGER'S REPORT

TO: City Manager Date June 29, 2016

FROM: Recreation and Youth Services/Golf Code 59002-6550-1159-56
Department/Division

(CHECK ONE) Fund Title Golf Improvements
Amount \$ \$87,464.80

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

Supplier/Vendor/Company/Individual:
 NAME W.C. Jones Asphalt Paving Co., Inc.
 ADDRESS 905 S. Broadway Street
Dayton, Ohio 45408

Justification and description of purchase, contract or payment:

COMMUNITY GOLF COURSE GOLF CART PATH REPAIRS
(OPEN MARKET)

This project consists of repairing golf cart paths at Community Golf Course, located at 2917 Berkley Street, Dayton, Ohio 45409. Work includes base excavation, asphalt removal, installation of gravel base and asphalt, and doing other work incidental thereto.

Two bids were received for this project. It is recommended that the contract be awarded to the lowest bidder, W.C. Jones Asphalt Paving Co., Inc., in the amount of \$87,464.80. This amount includes the base bid in the amount of \$82,464.80 and Alternate No. 8 Contingency Allowance in the amount of \$5,000.00. The time bid for completion is 30 calendar days.

This project is being funded using Capital Improvement Funds.

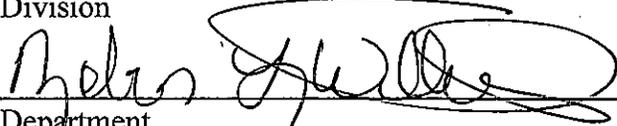
A Certificate of Funds, Tabulation of Bids, Human Relations Council's verification letter, the Bid Form from the firm recommended for award, and Location Map are attached.

Approved Affirmative Action Program on File Yes No NA

Approved by City Commission

Clerk

Date

Division


Department


City Manager

CERTIFICATE OF FUNDS

CT 161458

SECTION I - to be completed by User Department

NO DRAFT DOCUMENTS PERMITTED

NEW CONTRACT

RENEWAL CONTRACT

CHANGE ORDER

Contract Start Date	June 29, 2016
Expiration Date	June 29, 2018
Original Commission Approval	\$ 87,464.80
Initial Encumbrance	\$ 87,464.80
Remaining Commission Approval	\$ -
Original CT/CF	\$ -
Increase Encumbrance	\$ -
Decrease Encumbrance	\$ -
Remaining Commission Approval	\$ -

Required Documentation

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

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

Amount: \$ <u>87,464.80</u> Fund Code <u>59002 - 6550 - 1159 - 56 - - -</u> <small>Fund Org Acct Prog Act Loc</small>	Amount: _____ Fund Code _____ <small>Fund Org Acct Prog Act Loc</small>
Amount: _____ Fund Code _____ <small>Fund Org Acct Prog Act Loc</small>	Amount: _____ Fund Code _____ <small>Fund Org Acct Prog Act Loc</small>

Attach additional pages for more FOAPALS

Vendor Name: W.C. Jones Asphalt Paving Co., Inc. 937.228.1253

Vendor Address: 905 S. Broadway Street Dayton OH 45417

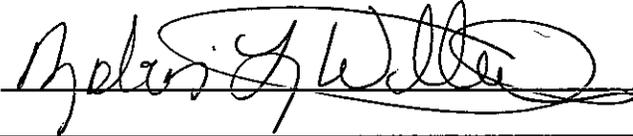
Street City State Zipcode + 4

Federal ID: 31-0955590

Commodity Code: 74521

Purpose: Community Golf Course Golf Cart Path Repairs (Open Market)

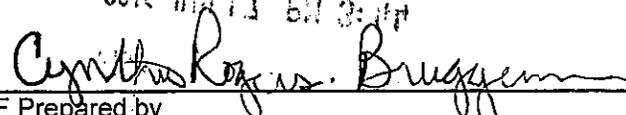
Contact Person: Kelly Pressel, Manager RYS/Golf
Department/Division 333-3383
Phone Number

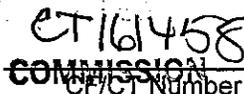
Originating Department Director's Signature:  6/15/16
Date

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.

 06/21/2016
Date

 6/17/2016
Date


 CT/CF Number
JUN 23 2016
CALENDAR

Dayton, Ohio

Bid Tabulation For: Community Golf Course Golf

Department of Public Works

Cart Path Repairs (Open Market)

Bid Opening Date:

Cost Estimate:

Estimated Time
Of Completion:

June 2, 2016

\$87,500.00

30 Calendar Days

<u>Bidders</u>	<u>Actual Amount Of Base Bid</u>	<u>Adjustment For Work Days</u>	<u>Adjustment For Comparison Purposes Only</u>
<u>* W.C. Jones Asphalt Paving Co.</u>	<u>\$82,464.80</u>	<u>-0-</u> 30 Calendar Days	<u>\$82,464.80</u>
<u>Booher Blacktop</u>	<u>\$87,130.54</u>	<u>-0-</u> 30 Calendar Days	<u>\$87,130.54</u>
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*Awarded
Revised 9/14/98



MEMORANDUM

June 14, 2016

TO: Frederick Stovall, Director
Department of Public Works

FROM: Roshawn Winburn, Business & Technical Assistance Administrator 
Human Relations Council (HRC)

SUBJECT: **Community Golf Course Golf Path Repairs (OM)**

The apparent low bidder, W.C. Jones Asphalt Paving Co., has been reviewed. The HRC contract compliance analysis of the bids submitted verified the company is an approved bidder in the City of Dayton Affirmative Action Assurance program and that the authorized representative signed the Contractor's Certification to indicate fair hiring practices. The recommended company to receive the aforementioned construction award W.C. Jones Asphalt Paving Co.

If you have any questions or need additional information contact Roshawn Winburn at 333-1439.

BID FORM

To: Director, Department of Public Works
The City of Dayton

The undersigned, having full knowledge of the site and the provisions of the plans and specifications for the following improvement, and the conditions of this bid, hereby agrees to furnish all services, labor, materials and equipment, and to construct in every respect complete:

COMMUNITY GOLF COURSE GOLF CART PATH REPAIRS

(OPEN MARKET)

in accordance with said plans and specifications on file in the office of the City Engineer at the unit prices hereinafter set forth.

COMMUNITY GOLF COURSE
GOLF CART PATH REPAIRS
(OPEN MARKET)

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>EST. QUANT.</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>TOTAL \$</u>
1	Hills Course Hole No. 4	9200	S.F.	<u>5.56</u>	<u>51,152.00</u>
2	Dales Course Hole No. 7	1440	S.F.	<u>5.80</u>	<u>8,352.00</u>
3	Hills Course Holes No. 7 and 14	400	S.F.	<u>6.00</u>	<u>2,400.00</u>
4	Concession Shack Inspection	210	S.F.	<u>6.00</u>	<u>1,260.00</u>
5	Hills Course Hole No. 2	936	S.F.	<u>5.80</u>	<u>5,428.80</u>
6	Dales Course Hole No. 10	1440	S.F.	<u>5.80</u>	<u>8,352.00</u>
7	Hills Course Hole No. 13	240	S.F.	<u>6.00</u>	<u>1,440.00</u>
8	Hills Course Hole No. 14	400	S.F.	<u>6.00</u>	<u>2,400.00</u> ^{32,400.} K65
9	Entrance to Pro Shop	280	S.F.	<u>6.00</u>	<u>1,680.00</u>

TOTAL BASE BID ~~82,384.80~~
82,464.80
6/2/16
K65

<u>ITEM</u> <u>NO.</u>	<u>DESCRIPTION</u>	<u>EST.</u> <u>QUANT.</u>	<u>UNIT</u>	<u>UNIT</u> <u>PRICE</u>	<u>TOTAL \$</u>
 <u>ALTERNATE NO. 1 - HILLS COURSE HOLE NO. 8</u>					
ALT - 1	Hills Course Hole No. 8	1,064	S.F.	<u>5.80</u>	<u>6,171.20</u>
TOTAL ALTERNATE NO. 1					<u>6,171.20</u>
 <u>ALTERNATE NO. 2 - DALES COURSE HOLE NO. 14</u>					
ALT - 2	Dales Course Hole No. 14	4,240	S.F.	<u>5.56</u>	<u>23,574.40</u>
TOTAL ALTERNATE NO. 2					<u>23,574.40</u>
 <u>ALTERNATE NO. 3 - DALES COURSE AND HILLS COURSE HOLE NO. 2</u>					
	Dales Course and Hills Course				
ALT - 3	Hole No. 2	8,512	S.F.	<u>5.56</u>	<u>47,326.72</u>
TOTAL ALTERNATE NO. 3					<u>47,326.72</u>
 <u>ALTERNATE NO. 4 - HILLS COURSE HOLE NO. 6 NEAR TEEBOX</u>					
	Hills Course Hole No. 6 Near				
ALT - 4	Teebox	2,776	S.F.	<u>5.65</u>	<u>15,684.40</u>
TOTAL ALTERNATE NO. 4					<u>15,684.40</u>
 <u>ALTERNATE NO. 5 - HILLS COURSE HOLE NO. 6 NEAR PUTTING GREEN</u>					
	Hills Course Hole No. 6 Near				
ALT - 5	Putting Green	1,744	S.F.	<u>5.75</u>	<u>10,028</u>
TOTAL ALTERNATE NO. 5					<u>10,028</u>

COMMUNITY GOLF COURSE
GOLF CART PATH REPAIRS
(OPEN MARKET)

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>EST. QUANT.</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>TOTAL \$</u>
<u>ALTERNATE NO. 6 - HILLS COURSE HOLE NO. 14 (NEW PATH)</u>					
ALT - 6	Hills Course Hole No. 14 (New Path)	1,600	S.F.	<u>5.75</u>	<u>9,200.00</u>
TOTAL ALTERNATE NO. 6					<u>9,200.00</u>
<u>ALTERNATE NO. 7 - MADDEN COURSE HOLE NO. 10</u>					
ALT - 7	Madden Course Hole No. 10	1,064	S.F.	<u>5.80</u>	<u>6,171.20</u>
TOTAL ALTERNATE NO. 7					<u>6,171.20</u>
<p>This Alternate is for a "CONTINGENCY ALLOWANCE" to be used in the event of unforeseen work which must be undertaken to complete this project. The work could be as additional quantities to the bid items or as non-bid items. The amount of this "ALLOWANCE" may vary as determined by the Engineer, but shall not exceed the maximum of This Alternate is for a "CONTINGENCY ALLOWANCE" to be used in the event of unforeseen work which must be undertaken to complete this project. The work could be as additional quantities to the bid items or as non-bid items. The amount of this "ALLOWANCE" may vary as determined by the Engineer, but shall not exceed the maximum of \$5,000.00.</p>					
<u>ALTERNATE NO. 8 - CONTINGENCY ALLOWANCE</u>					
ALT - 8	Contingency Allowance	LUMP SUM	LUMP	<u>\$5,000.00</u>	<u>\$5,000.00</u>
TOTAL ALTERNATE NO. 8					<u>\$5,000.00</u>

The consideration to be paid for the performance of the Contract of the above described project is provided as follows: This information provides for the issuance of the tax-exempt form for the purchase of materials for this project.

<u>DESCRIPTION</u>	<u>CONSIDERATION FOR MATERIALS</u>	<u>CONSIDERATION FOR OBLIGATIONS</u>	6/2/16 KCS <u>TOTAL \$</u>
TOTAL BASE BID	\$ <u>45,311.64</u>	\$ 37,073.10	\$ 82,464.80
TOTAL ALT. NO. 1 (Hills Course Hole No. 8)	\$ <u>3,394.16</u>	\$ <u>2,777.04</u>	\$ <u>6,171.20</u>
TOTAL ALT. NO. 2 (Dales Course Hole No. 14)	\$ <u>12,965.92</u>	\$ <u>10,608.48</u>	\$ <u>23,574.40</u>
TOTAL ALT. NO. 3 (Dales Course and Hills Course Hole No. 2)	\$ <u>26,029.69</u>	\$ <u>21,297.03</u>	\$ <u>47,326.72</u>
TOTAL ALT. NO. 4 (Hills Course Hole No. 6 Near Teebox)	\$ <u>8,626.42</u>	\$ <u>7,057.98</u>	\$ <u>15,684.40</u>
TOTAL ALT. NO. 5 (Hills Course Hole No. 6 Near Putting Green)	\$ <u>5,515.40</u>	\$ <u>4,512.60</u>	\$ <u>10,028.00</u>
TOTAL ALT. NO. 6 (Hills Course Hole No. 14 New Path)	\$ <u>5,060.00</u>	\$ <u>4,140.00</u>	\$ <u>9,200.00</u>
TOTAL ALT. NO. 7 (Madden Course Hole No. 10)	\$ <u>3,394.16</u>	\$ <u>2,777.04</u>	\$ <u>6,171.20</u>
TOTAL ALT. NO. 8 (Contingency Allowance)	<u>-0-</u>	<u>\$5,000</u>	<u>\$5,000</u>

TOTAL \$ 205,540.72

The time of completion fixed by the City is 30 Calendar Days.

Following are the names of all persons, firms, and corporations interested in the above bid as principals. If none, state that "No person or party other than the bidder is interested in this Bid."

NAME

ADDRESS

No person or party other than the bidder is interested in this Bid.

DISCLOSURE OF LITIGATION

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

RESPONSE: YES _____ NO

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

Bidder is

An Individual
Firm Name

Business Address

Telephone

Partnership
Firm Name

Members of Firm and
Their Business Address

Telephone

Corporation
Name

W.C. Jones Asphalt Paving Co., Inc.

State of Incorporation

Ohio

Name and Title of
Officers with Authority
to Sign Contract

Leo C. Lucas I, President

Mary C. Lucas, Vice President

Home Office Address

905 S. Broadway St., Dayton, OH 45417

Local Address

P.O. Box 188, Dayton, OH 45401

mailing

Telephone 937.228.1253 Fax 937.228.9300

E-mail LEO.LUCAS1@wcjonesasphalt.com

Federal I.D.# 31-0955590

Dated this 2nd day of June, 20 16

Bidder: W.C. Jones Asphalt Paving Co., Inc.
(Person, Firm, or Corporation)

By: Mary C. Lucas

Title: VICE PRESIDENT

BID BOND

Amount \$ 20,554.07

**TEN PERCENT OF TOTAL PROJECT INCLUDING CONTINGENCY*

We, the undersigned, are held and firmly bound unto the City of Dayton, Ohio in the sum of Twenty thousand Five Hundred & Fifty Four - 7/100 Dollars, for the payment of which well and truly to be made, we hereby, jointly and severally, bind ourselves, our heirs, executors, and administrators, firmly by these presents.

The condition of this obligation is such that, if the Bid attached hereto is accepted and the Contract award to the bidder, W.C. Jones Asphalt Paving Company, Inc.

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

Signed and sealed at Dayton, Ohio, this 2nd day of June, 2016.

x Mr. Leo C. Linn I President
W.C. Jones Asphalt paving Company, Inc.
905 South Broadway, Dayton, Ohio 45408
Bidder

Anne Tierney Anne Tierney
Attorney-in-Fact
International Fidelity Insurance Company
One Newark Center, 20th Floor, Newark, NJ 07102
Surety

USI Insurance
Name of Insurance Agency
312 Elm Street, 24th Floor
Cincinnati, Ohio 45202
Address of Insurance Agency
Telephone 513 852-6344 FAX 513 852-6460

POWER OF ATTORNEY INTERNATIONAL FIDELITY INSURANCE COMPANY

HOME OFFICE: ONE NEWARK CENTER, 20TH FLOOR
NEWARK, NEW JERSEY 07102-5207

KNOW ALL MEN BY THESE PRESENTS: That INTERNATIONAL FIDELITY INSURANCE COMPANY, a corporation organized and existing laws of the State of New Jersey, and having its principal office in the City of Newark, New Jersey, does hereby constitute and appoint

LINDA L. HOGLE, ANNE TIERNEY, LOUIS R. FISHER, THOMAS W. CHATHAM, RICHARD A. DAVIS,
PAULETTE M. AERNI, PAUL J. SCHUELER, JR., BETH MALONE, THOMAS D. CASSADY

Cincinnati, OH.

its true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said INTERNATIONAL FIDELITY INSURANCE COMPANY, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal office:

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of Article 3-Section 3, of the By-Laws adopted by the Board of Directors of INTERNATIONAL FIDELITY INSURANCE COMPANY at a meeting called and held on the 7th day of February, 1974.

The President or any Vice President, Executive Vice President, Secretary or Assistant Secretary, shall have power and authority

- (1) To appoint Attorneys-in-fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and,
- (2) To remove, at any time, any such attorney-in-fact and revoke the authority given.

Further, this Power of Attorney is signed and sealed by facsimile pursuant to resolution of the Board of Directors of said Company adopted at a meeting duly called and held on the 29th day of April, 1982 of which the following is a true excerpt:

Now therefore the signatures of such officers and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.



IN TESTIMONY WHEREOF, INTERNATIONAL FIDELITY INSURANCE COMPANY has caused this instrument to be signed and its corporate seal to be affixed by its authorized officer, this 16th day of October, A.D. 2007.

INTERNATIONAL FIDELITY INSURANCE COMPANY

STATE OF NEW JERSEY
County of Essex

Secretary

On this 16th day of October 2007, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said the he is the therein described and authorized officer of the INTERNATIONAL FIDELITY INSURANCE COMPANY; that the seal affixed to said instrument is the Corporate Seal of said Company; that the said Corporate Seal and his signature were duly affixed by order of the Board of Directors of said Company.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

A NOTARY PUBLIC OF NEW JERSEY
My Commission Expires March, 27, 2014

CERTIFICATION

I, the undersigned officer of INTERNATIONAL FIDELITY INSURANCE COMPANY do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the By-Laws of said Company as set forth in said Power of Attorney, with the ORIGINALS ON IN THE HOME OFFICE OF SAID COMPANY, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 2nd day of June, 2016

Assistant Secretary

CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 1 of 3)

In accordance with Ordinance No. 30575-06 of the City of Dayton, Ohio Revised Code of General Ordinances, I, MARY C. LUCAS, V.P. hereby certify that _____
(print name – an Officer of the company)

W.C. Jones Asphalt Paving Co., Inc. meets the following Contractor requirements relating
(company)

to this City of Dayton construction project (check all that apply):

- Comply with all City of Dayton income tax obligations and requirements
- Maintain worker's compensation insurance for all employees as required by the State of Ohio
- Comply with State or Federal prevailing wage rate laws, as applicable and required by the funding of this project
- Comply with the State of Ohio Bureau of Worker's Compensation Drug Free Workplace Policy
- Made a good faith effort to contract with one or more qualified minority business enterprises to perform work required by this project, in accordance with bid documents, ordinances, and applicable Federal and State law

By: Mary C. Lucas
(signature)

Title: VICE PRESIDENT

Date: 6/2/2016

CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 2 of 3)

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

- Operators
- 1] Health & Welfare
- 2] Pension
- 3] Training
- 4] Education & Safety
- 5] PAC/PEP Benefits

- LABORERS
- 1] Health Insurance
- 2] Pension
- 3] L-DISTRICT Council
- 4] Training
- 5] LECET, TRI.FUND,
- 7] LIUNA PAC

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

- 1] Ohio Laborers' Training & Apprentice Program

- 2] Ohio Operating Engineers Training & Apprenticeship Program

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

No subcontractors were utilized with regard to this bid.

CITY OF DAYTON, OHIO
Department of Public Works

Responsible Contractor Bidding Requirements
(Form 3 of 3)

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

We are a 100% owned
minority business
enterprise & did
not contact any
other DBE's/MBE's

during the preparation
of this bid.

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

AFFIRMATIVE ACTION PROGRAM
EQUAL EMPLOYMENT OPPORTUNITY

PROJECT: Community Golf Course Golf Cart Path Repairs - Dayton, OH LOCATION 2917 Beckley St. Dayton, OH 45409
NAME

During the performance of this contract:

W.C. Jones Asphalt Paving Co. CONTRACTOR P.O. Box 188, Dayton, OH 45401 ADDRESS 937.228.1253/228.9300 TELEPHONE / FAX

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

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

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

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

The required goals and timetables are as follows:

From 1/1/2000 to Present

Goals of Minority Worker
Utilization Expressed in
Percentage Terms
11.5%

From 4/1/80 to Present

Goals of Female Worker
Utilization Expressed in
Percentage Terms
6.9%

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

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

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

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

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

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

- a) The contractor shall notify community organizations that the contractor has employment opportunities available and shall maintain records of the organizations' responses.
- b) The contractor shall maintain a file of the names and addresses of each minority and female referred and what action was taken with respect to each referred worker. If the worker was not employed, the reason therefor. If the worker was not sent to the union hiring hall for referral, the contractor's file shall document this and the reasons therefor.

- c) The contractor shall promptly notify the Dayton Human Relations Council (HRC) when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority and/or female, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
- d) The contractor should participate in training programs in the area; especially those approved by the U.S. Department of Labor and/or the State of Ohio.
- e) The contractor shall disseminate the EEO Policy within the organization by including it in any policy manual, by publicizing it in company newspapers, annual reports, etc.; by conducting staff, employee and union representatives' meetings to explain and discuss the policy; by posting of the policy; and by specific review of the policy with minority and female employees.
- f) The contractor shall ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to all projects (both federal and non-federal) in the Economic Area during the performance of its contract or subcontract.
- g) The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority and female organizations, schools, minority and female recruitment training organizations with the Dayton Economic Area.
- h) The contractor shall make specific efforts to encourage present minority and female employees to recruit other minorities and females.
- i) The contractor shall validate all tests and other selection requirements.
- j) The contractor should develop on-the-job training opportunities; participate and assist in any association or employer-group training programs relevant to the contractor's employees needs consistent with its obligations under Part I.
- k) The contractor shall evaluate all minority and female personnel for promotional opportunities and encourage employees to seek such opportunities.
- l) The contractor shall ensure that seniority practices, job classifications, etc., do not have a discriminatory effect.
- m) The contractor shall make certain that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- n) The contractor will monitor all personnel activities to ensure that its EEO Policy is being carried out.

- o) The successful contractor shall solicit bids for work to be performed on this project under a subcontract from minority and female contractors and other business associations.
- 3.) Nothing herein is intended to relieve any contractor during the term of this project from compliance with any other local bid requirements. Further, it shall be the responsibility of each contractor to comply with all terms, conditions, and provisions of the Affirmative Action Programs.

Part II: Contractor's Certification. A contractor will not be eligible for award of a contract under this Invitation to Bid, unless such contractor has submitted as a part of the bid the following certification, which will be deemed a part of the resulting contract:

CONTRACTOR'S CERTIFICATION

W.C. Jones Asphalt Paving Co., Inc. (Contractor)

certifies that:

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

<u>Asphalt Laborers</u>	_____
<u>Operating Engineers</u>	_____
<u>Truck Driver/Hauler</u>	_____
_____	_____
_____	_____
_____	_____

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

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

SIGN: Mary C. Jones
 (Signature of Authorized Representative of Bidder)

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

**CITY OF DAYTON
CONTRACTOR NON-COLLUSION AFFIDAVIT
TO BE NOTARIZED AND SUBMITTED WITH BID FORM**

STATE OF Ohio

COUNTY OF Montgomery)

SS:

Mary C. Lucas, being first duly sworn deposes and states that:

(1) He/she is VICE PRESIDENT of
(owner, partner, officer, representative, or agent)

W.C. Jones Asphalt Paving that
(business or organization name)

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

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

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

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

Sworn to before me and subscribed in my presence

this 1st day of JUNE, 2016.

Canisha Johnson
NOTARY PUBLIC



Mary C. Lucas
SIGNED
VP
TITLE

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

STATE OF OHIO
COUNTY OF Montgomery, ss:

Mary C. Lucas being duly sworn, deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of W. C. Jones Asphalt Paving ("the Contracting Party").
2. The Contracting Party is a/an (select one):
 - Individual, partnership, or other unincorporated business association (including without limitation, a professional association organized under Ohio Revised Code Chapter 1785), estate, or trust.
 - Corporation organized and existing under the laws of the State of OHIO.
 - Labor organization.
3. I hereby affirm that the Contracting Party and each of the individuals specified in R.C. 3517.93(I)(3) (with respect to non-corporate entities and labor organizations) or R.C. 3517.93(J)(3) (with respect to corporations) are in full compliance with the political contributions limitations set forth in R.C. 3517.93(I) and (J), as applicable. I understand that a false representation on this certification constitutes a felony of the fifth degree pursuant to R.C. 3517.93(AA) and 3517.992(R)(3). Any contract that contains a falsified certification shall be rescinded.

By: Mary C. Lucas
Title: VP

STATE OF OHIO,
COUNTY OF Montgomery, ss:

Sworn to before me and subscribe in my presence by Mary C. Lucas
this 1st day of June, 2016.

Carisha Johnson
Notary Public



PROJECT: 2016 Community Golf Course Golf Cart Path Repairs Project CT16-XXXX

REPORTING PERIOD - JUNE 2016

TO: CITY OF DAYTON - CIVIL ENGINEERING

ATTN: SECTION 3 COORDINATOR

HUMAN RELATIONS COUNCIL

371 WEST SECOND STREET, SUITE 100
DAYTON, OHIO 45402

From:	MARY LUCAS
Company:	W. C. JONES ASPHALT PAVING CO., INC.
Address:	905 S. BROADWAY ST.
City, State, Zip Code:	DAYTON, OHIO 45417
Telephone / Fax No.:	(937) 228-1253/ (937) 228-9300

6/3/2016 6/10/2016 6/17/2016 6/24/2016 7/1/2016

Name of Employee	Employee ID	Address w/ City, State, and Zip	Ethnic Group & DPS Residency					Trade	Classification				No. of Hours Worked					
			Black	Hispanic	American Indian	Asian	DPS Resident		Journeyman	Helper	Apprentice	Trainee	1st Week	2nd Week	3rd Week	4th Week	5th Week	Totals
ROGER J BARRETT	8078	P. O. Box 61312 DAYTON, OHIO 45402	X					X					0.0	0.0	0.0	0.0	0.0	0.0
JOHN C. JOHNSON	7216	1217 LINDA VISTA AVE. DAYTON, OHIO 45406	X					X					0.0	0.0	0.0	0.0	0.0	0.0
LEO C LUCAS I	5340	4966 GLENCROSS RD DAYTON, OHIO 45406	X					X					0.0	0.0	0.0	0.0	0.0	0.0
MARY C. LUCAS	5340	4966 GLENCROSS RD. DAYTON, OHIO 45406	X					X					0.0	0.0	0.0	0.0	0.0	0.0
DENNIS KIRKSEY	9510	714 VERONA RD. DAYTON, OHIO 45417	X					X					0.0	0.0	0.0	0.0	0.0	0.0
FATIMA SANDERS	9802	2831 YERGAN COURT DAYTON, OHIO 45406	X					X					0.0	0.0	0.0	0.0	0.0	0.0
HENRY BARRETT JR	0497	511 N. GETTYSBURG AVE. DAYTON, OHIO 45417	X					X					0.0	0.0	0.0	0.0	0.0	0.0
GARY WALLACE	8964	1007 LENITA AVE. DAYTON, OHIO 45417	X					X					0.0	0.0	0.0	0.0	0.0	0.0
TOTALS													0.00	0.00	0.00	0.00	0.00	0.00

PROJECT: 2016 Community Golf Course Golf Cart Path Repairs Project CT16-XXXX

REPORTING PERIOD - JUNE 2016

TO: CITY OF DAYTON - CIVIL ENGINEERING
 ATTN: SECTION 3 COORDINATOR
 HUMAN RELATIONS COUNCIL
 371 WEST SECOND STREET, SUITE 100
 DAYTON, OHIO 45402

From:	MARY LUCAS
Company:	W. C. JONES ASPHALT PAVING CO., INC.
Address:	905 S. BROADWAY ST.
City, State, Zip Code:	DAYTON, OHIO 45417
Telephone / Fax No.:	(937) 228-1253/ (937) 228-9300

6/3/2016 6/10/2016 6/17/2016 6/24/2016 7/1/2016

Name of Employee	Employee ID	Address w/ City, State, and Zip	Ethnic Group & DPS Residency						Trade	Classification				No. of Hours Worked								
			Black	Hispanic	American Indian	Asian	DPS Resident	Journeyman		Helper	Apprentice	Trainee	1st Week	2nd Week	3rd Week	4th Week	5th Week	Totals				
ROGER J. BARRETT	8078	P O Box 61312 DAYTON, OHIO 45402	X					X	LABORER	X							0.0	0.0	0.0	0.0	0.0	0.0
JOHN C. JOHNSON	7216	1217 LINDA VISTA AVE. DAYTON, OHIO 45406	X					X	LABORER/ DRIVER	X							0.0	0.0	0.0	0.0	0.0	0.0
LEO C. LUCAS I	5340	4966 GLENCROSS RD DAYTON, OHIO 45406	X					X	FOREMAN	X							0.0	0.0	0.0	0.0	0.0	0.0
MARY C LUCAS	5340	4966 GLENCROSS RD. DAYTON, OHIO 45406	X					X	OFFICER								0.0	0.0	0.0	0.0	0.0	0.0
DENNIS KIRKSEY	9510	714 VERONA RD. DAYTON, OHIO 45417	X					X	LABORER	X							0.0	0.0	0.0	0.0	0.0	0.0
FATIMA SANDERS	9802	2831 YERGAN COURT DAYTON, OHIO 45406	X					X	OPERATOR	X							0.0	0.0	0.0	0.0	0.0	0.0
HENRY BARRETT JR	0497	511 N. GETTYSBURG AVE. DAYTON, OHIO 45417	X					X	LABORER	X							0.0	0.0	0.0	0.0	0.0	0.0
GARY WALLACE	8964	1007 LENITA AVE. DAYTON, OHIO 45417	X					X	CEMENT FINISHER	X							0.0	0.0	0.0	0.0	0.0	0.0
TOTALS																	0.00	0.00	0.00	0.00	0.00	0.00

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

Project Name:

Community Golf Course Golf Cart Path Repairs

This form may be used for more than one funding source. City of Dayton general fund and State of Ohio funds: The City of Dayton has adopted procurement programs for Minority-owned, Woman-owned, Small Business Enterprises, and Dayton Local Small Business in accordance with Sections 35.30 – 35.68 of the Revised Code of General Ordinances (R.C.G.O.), inclusively. Federal funds: The City of Dayton is committed to meeting HUD-established subcontracting and employment opportunities for HUD Section 3 companies certified with the Human Relations Council. This commitment applies to all projects funded through NSP/CDBG/HOME. The City of Dayton is a recipient of Department of Transportation funds and complies with the DBE program. Authorization for the program comes from 49 Code of Federal Regulations Part 26 (49 CFR 26). State Funds: When determining the level of participation the, only the total work performed by the certified subcontractor either singularly or severally, will be considered. This form must be utilized to indicate your subcontractors and must be fully completed and returned with your bid proposal, i.e., you must list the name(s), address, etc. of the subcontractor, type of work to be performed, dollar amount of the subcontract and percentage of the base bid. Use as many copies of this form as necessary to list all subcontractors. Should you have questions regarding this form, please contact the Human Relations Council (HRC) Office. (937) 333-1403.

Firm Name, Tax I.D. Number and Mailing Address	Please Check One				Type of Service or Supply to be Provided	Type of Construction Work to be Performed
	Prime Contract Bid	Joint Venture Bid	Supply or Service Subcontract	Construction Subcontract		
Certified Business Firm Name: <u>W.C. Jones Asphalt Paving Co., Inc.</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Asphalt Paving
Tax I.D. Number: <u>31-0955590</u>						
Street Address: <u>905 S. BROADWAY STREET</u>						
City/State/ Zip Code: <u>Dayton, Ohio 45417</u>						
Phone (area code/#): E-mail: <u>LEO.LUCAS1@WCJONESASPHALT.COM</u>						

Total \$ Amount of PRIME CONTRACTOR'S Base Bid: _____ Total \$ to subcontract _____ Total % subcontract: _____

PRIME CONTRACTOR'S REPRESENTATIVE	
Print Name:	<u>LEO C. LUCAS I</u>
Sign Name:	

Street Address	<u>905 S. BROADWAY ST.</u>
City/State/Zip	<u>DAYTON, OHIO 45417</u>

mailing: PO Box 188, Dayton, OH 45401

WAIVER REQUEST DOCUMENTED ACTIVITY FORM

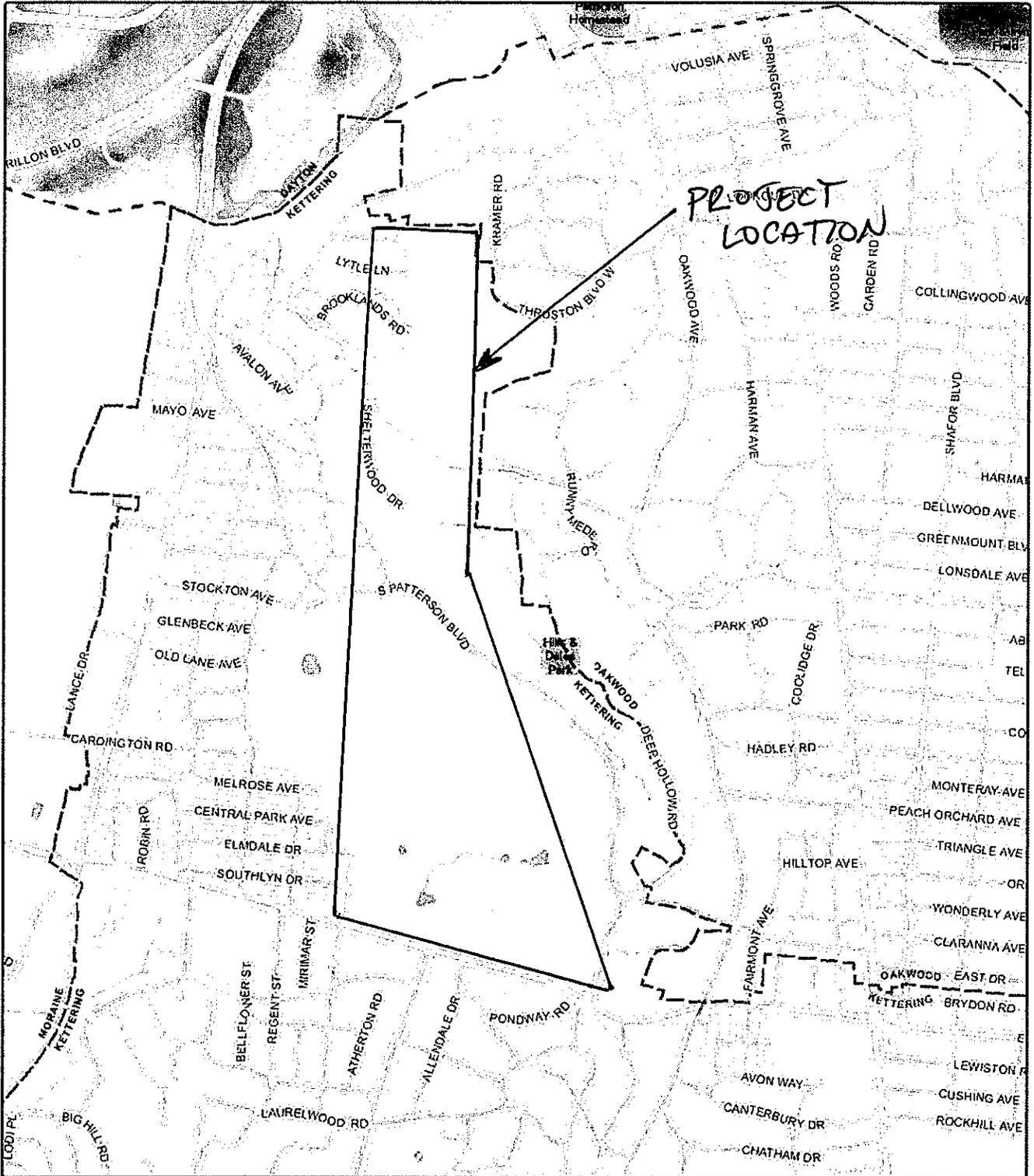
Date 6/2/2016

Project: Comm. Golf Course Golf Cart Path Repairs Participation Goal (list only one): 100%

A bidder must submit a separate form for each goal for which you are requesting a waiver. A bidder requesting a total or partial waiver of the, **MBE/WBE/SBE/DLSB or HUD3** Participation Goal must maintain supporting documentation and will be required to provide such documentation within two days of its request. The bidder must provide a written explanation of the good faith effort for all activities listed on the waiver form at the time the bid is submitted. If no explanation is provided, the waiver form will not be accepted. The City of Dayton Human Relations Council (HRC) shall review and evaluate the bidder's efforts to meet and comply with the project participation goal. A bidder will be granted a waiver for the **MBE/WBE/SBE/DLSB or HUD3** goal based on your good faith efforts; and only where the HRC determines that the bidder has completed all items in the following list of activities. In determining whether a bidder has made good faith efforts, the Executive Director of the Council, or his/her designee, may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful lowest and best bidder fails to meet the contract goal, but others meet it, the Executive Director of the Council, or his/her designee, may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. **The waiver request form must be submitted with your bid if you are requesting a waiver of any goal.**

Check if completed	Activity Description
✓	Solicited the interest of all certified MBE/WBE/SBE/DLSB or HUD3 having the capability to perform the work of the contract. The bidder must solicit this interest at least ten (10) business days before bid submittal deadline in order to allow the MBE/WBE/SBE/DLSB or HUD3 sufficient time to respond to the solicitation. Electronic communication will not be deemed as sufficient good faith effort, if it is the sole method of communication used.
✓	Divided contract work items into economically feasible units to facilitate MBE/WBE/SBE/DLSB or HUD3 participation, even when the bidder might otherwise prefer to perform these work items with its own forces.
✓	Negotiated with MBE/WBE/SBE/DLSB or HUD3 subcontractors, and has taken the subcontractors' price and capabilities, as well as the contract goals, into consideration. Rejected MBE/WBE/SBE/DLSB or HUD3 as being unqualified only with reasons based on a diligent investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
✓	Provided interested MBE/WBE/SBE/DLSB or HUD3 with plans and specifications at no cost, or directed to, the Minority Business Assistance Center (MBAC) for information about the plans, specifications, and requirements of the contract at least ten (10) business days of the bid submittal deadline in order to assist them in responding to a solicitation.
✓	Sought the assistance of the Minority Business Assistance Center (MBAC) or used the services of community organizations, contractors' groups, local, state or federal business assistance offices, or similar organizations to find subcontractors certified as (circle one: MBE/WBE/SBE/DLSB or HUD3). Contacting HRC for the certified list will not be deemed as sufficient good faith efforts.
Bidding Company Name:	<u>W. C. Jones Asphalt Paving Co., Inc.</u>

Community Golf Course



Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning verification.

Map Scale
1 inch = 1600 feet
 6/13/2016

By.....**Mr. Mims**.....

No.....**31499-16**.....

AN ORDINANCE

Authorizing the Sale of Real Estate Located on
Liberty Street to CODE Credit Union for a
Public Purpose; and Declaring an Emergency.

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 redevelopment, reuse and revitalization are key components; and,

WHEREAS, The City is committed to stimulating economic growth, vibrancy, and private sector investment within its municipal boundaries; and,

WHEREAS, The City acquired the property for the purposes of development (hereinafter “Property”); and,

WHEREAS, In order to better serve its clients, CODE Credit Union is committed to the construction of a 8,600 square foot building on the Property; and,

WHEREAS, CODE Credit Union has made an offer to purchase the Property from the City for the sum of money named and upon the other terms and conditions set forth in the Development Agreement, which is attached to the original copy of this Ordinance on file in the office of the Clerk of Commission; and,

WHEREAS, This Commission finds this sale to be in the public interest, in order to promote economic development, foster job creation and improve the quality of life within the City of Dayton; and,

WHEREAS, In order to complete the transaction in a timely manner and for the immediate preservation of the public peace, property, health and safety it is necessary that this ordinance take effect at the earliest possible time; now, therefore,

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

Section 1. That the offer to purchase the parcel of real estate described in Section 2 of this Ordinance is accepted by the Commission.

Section 2. That the City Manager is hereby authorized to proceed with the sale of the real estate described in the attached Exhibit A to CODE Credit Union, according to the terms and conditions of the Development Agreement for Sale of Land as described in the attached Exhibit B.

Section 3. That the City Manager is authorized and directed to execute the Development Agreement for the sale of the Property, on behalf of the City, and the deed in conformance with the terms and conditions of said agreement.

Section 4. That the property described above shall be sold for the purposes set forth in the various preambles of this ordinance and for the consideration to be deposited into the following account:

ECONOMIC DEVELOPMENT PROJECT FUND

40029-2610-1421-44

TEN DOLLARS AND ZERO CENTS

(\$10.00)

Section 5. That for the reasons stated in the preamble hereof, this ordinance is declared to be an emergency measure and shall take effect immediately upon passage.

Passed by the Commission.....**June 29**....., 2016

Signed by the Mayor.....**June 29**....., 2016



Mayor, City of Dayton, Ohio

Attest:



Clerk of the Commission

Approved as to form:



City Attorney

EXHIBIT A



CINCINNATI
COLUMBUS
DAYTON

6305 Centre Park Drive
West Chester, OH 45069
phone ► 513.779.7851
fax ► 513.779.7852
www.kleingers.com

June 13, 2016

**LEGAL DESCRIPTION
0.421 ACRES**

Situated in Section 10, Town 1, Range 7, M.Rs., City of Dayton, Montgomery County, Ohio, being part of a 0.846 acre tract of land conveyed to the City of Dayton in IR Deed #2016-029365 of the Montgomery County, Ohio Recorders Office, the boundary of which being more particularly described as follows:

Commencing at a 5/8" iron pin found at the southwest corner of Lot 81875 of Center City West Section Twenty One Subdivision as recorded in P.B. 144 Pg 32 and conveyed to the City of Dayton in Deed M.F. #90-502E03;

Thence along the north right of way line of Liberty Street along a curve to the left an arc distance of 100.66 feet to a bent 5/8" iron pin found, said curve having a radius of 575.00 feet, a central angle of 10°01'49", and a chord bearing S70°32'13"W a distance of 100.53 feet;

Thence continuing, along a curve to the left an arc distance of 73.42 feet to a 5/8" iron pin set at the true point of beginning, said curve having a radius of 1025.00 feet, a central angle of 04°06'14", and a chord bearing S63°28'12"W a distance of 73.40 feet;

Thence along said north right of way line, along a curve to the left an arc distance of 130.68 feet to a 5/8" iron pin found, said curve having a radius of 1025.00 feet, a central angle of 7°18'18" and a chord which bears S57°45'56"W a distance of 130.59 feet;

Thence continuing, along a curve to the left an arc distance of 59.08 feet to an iron pin found in the north line of a tract of land conveyed to Code Credit Union in deed M.F. #96-0224C12, said curve having a radius of 125.00 feet, a central angle of 27°04'51", and a chord which bears S40°34'21"W a distance of 58.53 feet;

Thence along said north line, N62°58'11"W a distance of 90.08 feet to a 5/8" iron pin set in a southerly line of a tract of land conveyed to the City of Dayton in D.B. O2 Pg 349 MCD by contract D.B. 391 PG 296;

Thence along said southerly lines the following three (3) courses:

1. N12°35'42"E a distance of 31.91 feet to a 5/8" iron pin set;
2. N58°16'19"E a distance of 66.90 feet to a 5/8" iron pin found;
3. N55°07'40"E a distance of 139.23 feet to a 5/8" iron pin found;

Thence along a new division line S34°52'20"E a distance of 88.67 feet to the point of beginning.

THE
KLEINGERS
GROUP



Containing 0.421 acres, more or less, and being subject to easements, restrictions and rights of way of record.

Bearings are based on the west line of Center City West Section Twenty Two being N12°28'41"W per P.B. 156 PG. 19.

The above description is based upon a field survey made by The Kleingers Group under the direction of Matthew D. Habedank, Ohio Professional Surveyor No. 8611. A plat of survey is recorded in Volume _____ Pg _____ of the Montgomery County Engineers Record of Land Surveys.



MATTHEW D. HABEDANK, P.S.
OHIO PROFESSIONAL SURVEYOR NO. 8611

6/13/2016
DATE



Exhibit B

DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into between CODE Credit Union, currently located at 355 West Monument Avenue, Dayton, Ohio 45402 (“Developer”), and the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio, (“City”).

WITNESSETH THAT:

WHEREAS, City Commission adopted The Greater Downtown Dayton Plan Priority Recommendations (“Greater Downtown Plan”) on November 17, 2010; and,

WHEREAS, Commission of the City of Dayton adopted its strategic plan, CitiPlan Dayton: The 20/20 Vision (“CitiPlan 20/20”), on May 5, 1999, of which context sensitive infill construction is a major component of the downtown strategy; and,

WHEREAS, The City is committed to stimulating economic growth, vibrancy, and private sector investment within its municipal boundaries; and,

WHEREAS, In order to better serve its clients, Developer is committed to an expansion in the City of Dayton; and,

WHEREAS, City finds it beneficial and in its best interests to provide support to Developer for the Project under the terms and conditions set forth herein.

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

ARTICLE 1. PURCHASE OF PROPERTIES.

A. The City shall sell and convey to Developer, subject to the covenants, conditions, and provisions stated herein, the Property described Exhibit A, attached hereto and incorporated herein. The City shall convey title to the Property to Developer by good and sufficient quitclaim deed (“Deed”). The City and Developer agree that the Property shall be conveyed “as is” without any warranty of condition or suitability for use. In addition to the conditions, covenants, and provisions stated elsewhere in this Agreement, the conveyance shall be subject to the following:

1. Purchase. Developer shall pay the amount of Ten Dollars and Zero Cents (\$10.00) to the City as the Purchase Price for the Property. Developer shall pay the Purchase Price by cash, certified check or electronic funds transfer.
2. Delivery and Conditions. The Deeds shall state that the conveyance is subject to:
 - (a) Unpaid taxes and assessments due and payable the first June or December immediately after the date of delivery of the Deeds;

- (b) Such easements and restrictive covenants as are of record;
- (c) Zoning ordinances; and
- (d) The terms and conditions of this Agreement.

- 3. Recordation of Deeds. The City shall promptly file the Deeds for recordation with the Montgomery County Recorder. This Agreement shall be attached to the Deeds as an exhibit at the time of filing for recordation.

ARTICLE 2. PROJECT DESCRIPTION.

Developer shall invest approximately Two Million Four Hundred Thousand Dollars and Zero Cents (\$2,400,000.00) to construct a new 8,600 square foot building located on the Property which is adjacent to its existing headquarters located at 335 West Monument Avenue, Dayton, Ohio, 45402.

All construction activities and other work required to complete the Project shall be performed and completed in accordance with all applicable federal, state, and local laws, rules, regulations, and orders, including all applicable prevailing wage laws and all building, zoning, well field, and fire code requirements.

ARTICLE 3. PERFORMANCE

Developer will engage the City in site planning of the Property. Developer shall carry out the development in an expeditious manner and in conformance with the site plan and elevations agreed upon by the City.

ARTICLE 4. TERM AND TERMINATION.

- A. This Agreement shall commence upon execution by City.
- B. This Agreement may be immediately terminated and Properties returned to the City in the event of or under any of the following circumstances:
 - 1. A receiver for Developer's assets is appointed by a court of competent jurisdiction.
 - 2. Developer is divested of its rights, powers, and privileges under this Agreement by operation of law.
 - 3. Developer fails to initiate the redevelopment of the Property by December 31, 2016.
 - 4. Developer'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 Developer to remedy such failure within thirty (30) days from the date of written notice from City.

5. Developer's violation of any applicable federal, state, or local law applicable to the Project and construction thereof.
6. Upon completion of the building and issuance of a certificate of occupancy.

ARTICLE 5. SPECIFIC CONDITIONS.

- A. Developer shall comply with all applicable federal, state, and local laws, including applicable prevailing wage laws, rules, regulations, and orders governing receipt and use of municipal and other public funds for the Project. All construction activities and other work required to complete the Project shall be performed and completed in accordance with all applicable federal, state, and local laws, rules, regulations, and orders, including prevailing wage laws, and all building, zoning and fire code requirements. Developer shall assume full and complete responsibility for any alleged or actual violation of the foregoing, including payment of any penalty imposed and/or repayment of improperly expended funds, if any, and shall defend, indemnify, and hold harmless City and its elected officials, officers, agents, and employees therefrom.
- B. If it becomes necessary for review, audit, or verification purposes, Developer shall allow City to inspect applicable building investment records.
- C. Developer agrees to supply additional information upon request by the City of Dayton and to cooperate in any audit or review of the funding provided hereunder.

ARTICLE 6. INDEMNIFICATION.

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

ARTICLE 7. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION.

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

It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton constitutes a material condition of this Agreement as fully and

as if specifically rewritten herein and that failure to comply therewith shall constitute a breach thereof entitling City to terminate this Agreement at its option.

ARTICLE 8. POLITICAL CONTRIBUTIONS

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

ARTICLE 9. TAX REPRESENTATION.

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

ARTICLE 10. GENERAL PROVISIONS.

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

For City: Economic Development Department
City of Dayton
P.O. Box 22, 101 W. Third Street
Dayton, OH 45401

For Developer: CODE Credit Union
355 West Monument Avenue
Dayton OH 45402

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

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

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

CITY OF DAYTON, OHIO

CODE CREDIT UNION

City Manager

By: _____

Date

Its: _____

**APPROVED AS TO FORM
AND CORRECTNESS:**

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

City Attorney *but*

_____, 2016

Min. / Bk. _____ Pg. _____

Clerk of the Commission

EXHIBIT A



CINCINNATI
COLUMBUS
DAYTON

6305 Centre Park Drive
West Chester, OH 45069
phone ► 513.779.7831
fax ► 513.779.7852
www.kleingers.com

June 13, 2016

LEGAL DESCRIPTION
0.421 ACRES

Situated in Section 10, Town 1, Range 7, M.Rs., City of Dayton, Montgomery County, Ohio, being part of a 0.846 acre tract of land conveyed to the City of Dayton in IR Deed #2016-029365 of the Montgomery County, Ohio Recorders Office, the boundary of which being more particularly described as follows:

Commencing at a 5/8" iron pin found at the southwest corner of Lot 81875 of Center City West Section Twenty One Subdivision as recorded in P.B. 144 Pg 32 and conveyed to the City of Dayton in Deed M.F. #90-502E03;

Thence along the north right of way line of Liberty Street along a curve to the left an arc distance of 100.66 feet to a bent 5/8" iron pin found, said curve having a radius of 575.00 feet, a central angle of 10°01'49", and a chord bearing S70°32'13"W a distance of 100.53 feet;

Thence continuing, along a curve to the left an arc distance of 73.42 feet to a 5/8" iron pin set at the true point of beginning, said curve having a radius of 1025.00 feet, a central angle of 04°06'14", and a chord bearing S63°28'12"W a distance of 73.40 feet;

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Thence continuing, along a curve to the left an arc distance of 59.08 feet to an iron pin found in the north line of a tract of land conveyed to Code Credit Union in deed M.F. #96-0224C12, said curve having a radius of 125.00 feet, a central angle of 27°04'51", and a chord which bears S40°34'21"W a distance of 58.53 feet;

Thence along said north line, N62°58'11"W a distance of 90.08 feet to a 5/8" iron pin set in a southerly line of a tract of land conveyed to the City of Dayton in D.B. O2 Pg 349 MCD by contract D.B. 391 PG 296;

Thence along said southerly lines the following three (3) courses:

1. N12°35'42"E a distance of 31.91 feet to a 5/8" iron pin set;
2. N58°16'19"E a distance of 66.90 feet to a 5/8" iron pin found;
3. N55°07'40"E a distance of 139.23 feet to a 5/8" iron pin found;

Thence along a new division line S34°52'20"E a distance of 88.67 feet to the point of beginning.

INSPIRED PEOPLE ► CREATIVE DESIGN ► TRANSFORMING COMMUNITIES



Containing 0.421 acres, more or less, and being subject to easements, restrictions and rights of way of record.

Bearings are based on the west line of Center City West Section Twenty Two being N12°28'41"W per P.B. 156 PG. 19.

The above description is based upon a field survey made by The Kleingers Group under the direction of Matthew D. Habedank, Ohio Professional Surveyor No. 8611. A plat of survey is recorded in Volume _____ Pg _____ of the Montgomery County Engineers Record of Land Surveys.


MATTHEW D. HABEDANK, P.S.
OHIO PROFESSIONAL SURVEYOR NO. 8611

6/13/2016
DATE





MEMORANDUM

June 21, 2016

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

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

SUBJECT: CODE Credit Union Expansion

Attached is Legislation authorizing the sale of .421 acres of City-owned real estate to CODE Credit Union. The Legislation authorizes the City Manager is authorized to execute all documents and agreements associated with the project.

Upon property transfer, CODE Credit Union will construct a two-story 8,600 SF commercial building to house its expansion. A map, site plan, and a rendering of the expansion are attached. Construction is expected to begin in mid-July 2016 and be completed in the first quarter of 2017.

In order to meet the critical deadlines related to construction, we are requesting that this resolution be passed as an **emergency with two readings at one meeting**.

If you have any questions, please contact Amy Walbridge at X3813

c: Tammi Clements
Joe Parlette
Amy Walbridge

Attachments

16-06-000001

* CODE CREDIT UNION EXPANSION SITE *

INSPIRED PEOPLE > CREATIVE DESIGN > TRANSFORMING COMMUNITIES

CITY OF DAYTON, OHIO

APPROVED BY CITY PLAN BOARD

Planning Director
Date: _____ 2016

APPROVED BY DIRECTOR OF PUBLIC WORKS

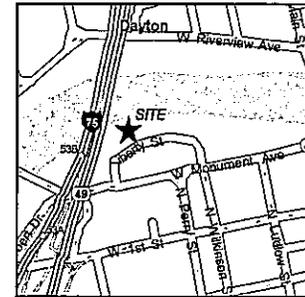
Superior of Plan
Date: _____ 2016

DATE: _____ 2016

PLANS ACCORDING TO THE PLAN OF THE REVISED AND CONSECUTIVE NUMBERS OF LOTS ON THE PLAT OF THE CITY OF DAYTON, OHIO HAVE BEEN CHECKED ON THE PLAT THIS PLAT AND RECORDED THEREOF MADE IN FILE NO. _____ PAGE _____ OF THE RECORDS OF LOT NUMBERS ON NEW SURVEYS IN HIS OFFICE.

CITY ENGINEER
OF THE CITY OF DAYTON, OHIO

RECORD PLAN CENTER CITY WEST SECTION TWENTY THREE BEING A REPLAT OF PT. LOTS 82137 & 82138 OF THE REVISED AND CONSECUTIVE NUMBERS OF LOTS ON THE PLAT OF THE CITY OF DAYTON, MONTGOMERY COUNTY, OHIO LOCATED IN SECTION 10, TOWN 1, RANGE 7, BTM TOTAL AREA=0.846 ACRES



VICINITY MAP
N.T.S



Approved by: _____

MONTGOMERY COUNTY ENGINEER JOB NO. _____

Checked by: _____ DATE: _____

DEDICATION

WE, THE UNDERSIGNED, BEING THE OWNERS AND LESSORS OF THE LAND HEREIN SURVEYED DO HEREBY ACKNOWLEDGE THE MAKING AND SIGNING OF THIS REPLAT TO BE OUR VOLUNTARY ACT AND DEED, AND DO HEREBY DEDICATE THE STREETS AND RESERVE THE EASEMENTS SHOWN HEREON TO THE PUBLIC USE OF THE PEOPLE.

EASEMENTS SHOWN WITHIN THE PLAT ARE FOR THE CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT OF WATER, SEWER, GAS, ELECTRIC, TELEPHONE OR OTHER UTILITY LINES OR SERVICES AND FOR THE EXPEDITED PRIVILEGES OF PASSING ANY AND ALL TRUCKS OR OTHER OBSTRUCTIONS TO THE FREE USE OF SAID UTILITIES, AND FOR PROVIDING ACCESS TO AND EGRESS FROM THE PREMISES FOR SAID PURPOSES, AND ARE TO BE MAINTAINED AS SUCH FOREVER.

SIGNED AND ACKNOWLEDGED IN THE PRESENCE OF: OWNER: CITY OF DAYTON

PRINT NAME: _____ TITLE: _____

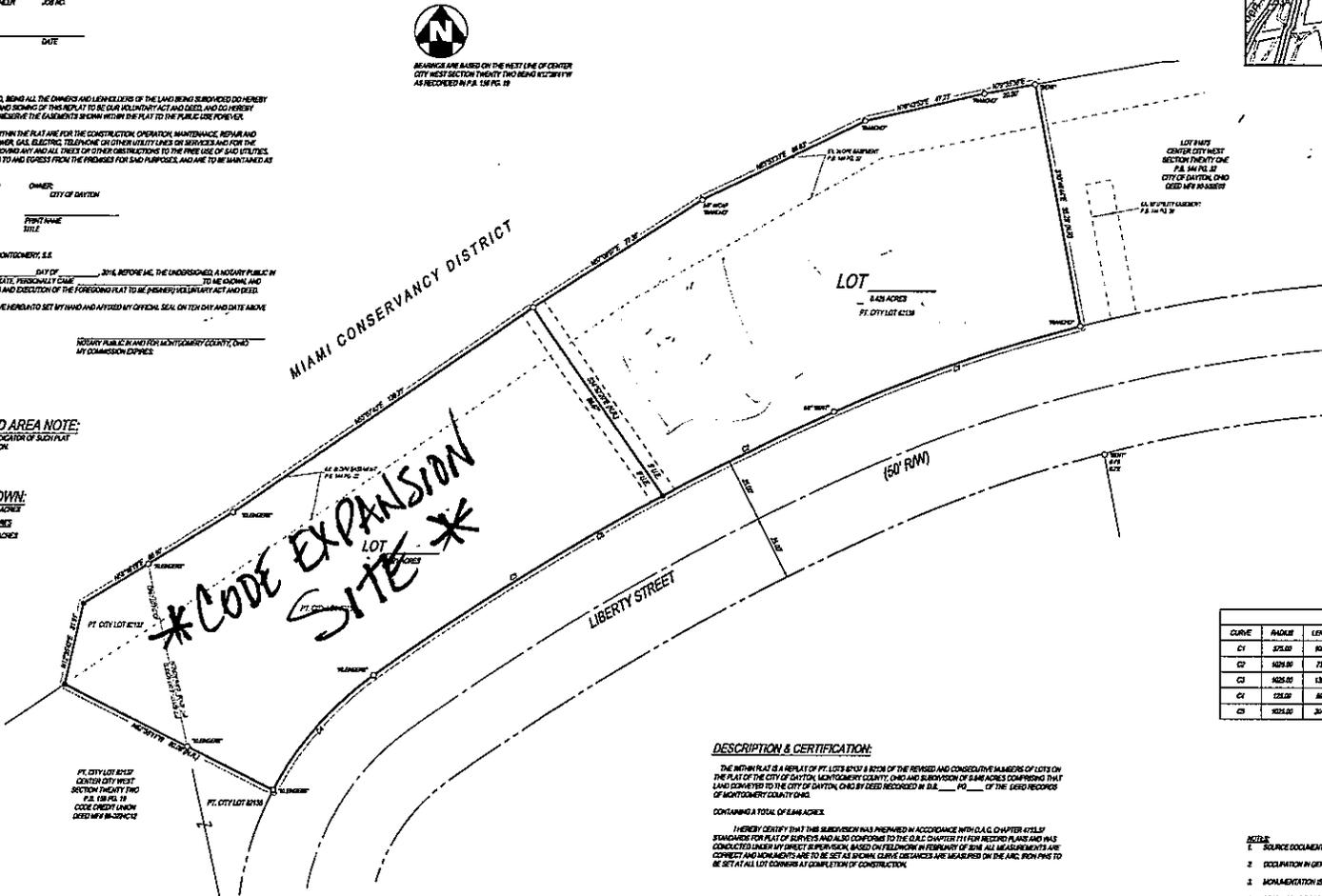
STATE OF OHIO, COUNTY OF MONTGOMERY, S.S. BE IT REMEMBERED ON THIS _____ DAY OF _____ 2016, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY SEEN TO ME SIGN, AND ACKNOWLEDGE THE MAKING AND EXECUTION OF THE FOREGOING PLAT TO BE FREELY VOLUNTARY ACT AND DEED. IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL ON THIS DAY AND DATE ABOVE WRITTEN.

NOTARY PUBLIC IN AND FOR MONTGOMERY COUNTY, OHIO
MY COMMISSION EXPIRES: _____

SUPERIMPOSED AREA NOTE:
ALL OF THE LINES OF THE SUPERIMPOSED OF SUCH PLAT ARE DRAWN AS SHOWN HEREON.

AREA BREAKDOWN:
BUILDABLE LOT ACRES = 0.846 ACRES
RIGHT-OF-WAY AREAS = 0.000 ACRES
TOTAL AREA = 0.846 ACRES

PT. LOT 82137 = 0.841 ACRES
PT. LOT 82138 = 0.005 ACRES
TOTAL = 0.846 ACRES



- LEGEND**
- 50' FROM PAV. SET AND CAP STAMPED YELLOWSTONE
 - 50' FROM PAV. FOUND
 - B.L. BUILDING SETBACK
 - U.L. UTILITY EASEMENT

CURVE	ANGLE	LENGTH	DEFL.	DIRECTION	CHORD
C1	202.00	104.86	107°07'48"	SP'321°17'	102.53
C2	102.00	71.42	178°27'48"	SP'321°17'	71.00
C3	102.00	132.68	174°07'48"	SP'321°17'	128.68
C4	122.00	82.38	272°43'12"	SP'321°17'	81.52
C5	102.00	204.16	117°27'24"	SP'321°17'	202.16

DESCRIPTION & CERTIFICATION:

THE WITHIN PLAT IS A REPLAT OF PT. LOTS 82137 & 82138 OF THE REVISED AND CONSECUTIVE NUMBERS OF LOTS ON THE PLAT OF THE CITY OF DAYTON, MONTGOMERY COUNTY, OHIO AND SUBDIVISION OF 0.846 ACRES COMPRISING THAT LAND BELONGING TO THE CITY OF DAYTON, OHIO AS RECORDED IN FILE NO. _____ OF THE GOVD RECORDS OF MONTGOMERY COUNTY, OHIO.

CONTAINING A TOTAL OF 0.846 ACRES.

I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH O.A.C. CHAPTER 167.01 STANDARDS FOR PLAT OF SURVEYS AND ALSO CONFORMS TO THE O.A.C. CHAPTER 1711 FOR REVISION PLANS AND HAS CONDUCTED UNDER MY DIRECT SUPERVISION, BASED ON FIELDWORK IN PRESENCE OF SENSIBLE MEASUREMENTS ARE CORRECT AND MONUMENTS ARE TO BE SET AS SHOWN, CURVE DISTANCES ARE MEASURED ON THE ARC, IRON PINS TO BE SET AT ALL LOT CORNERS AT COMPLETION OF CONSTRUCTION.

BY: MATTHEW J. HARBANK, CHD PROFESSIONAL SURVEYOR NO. 8111 DATE: _____



PLAT DATE: 12/07/2016
RECORD PLAT NO. 166

**RECORD PLAN
CENTER CITY WEST
SECTION TWENTY THREE
PT. LOTS 82137 & 82138
SECTION 10, TOWN 1, RANGE 7, BTM
CITY OF DAYTON
MONTGOMERY COUNTY, OHIO**

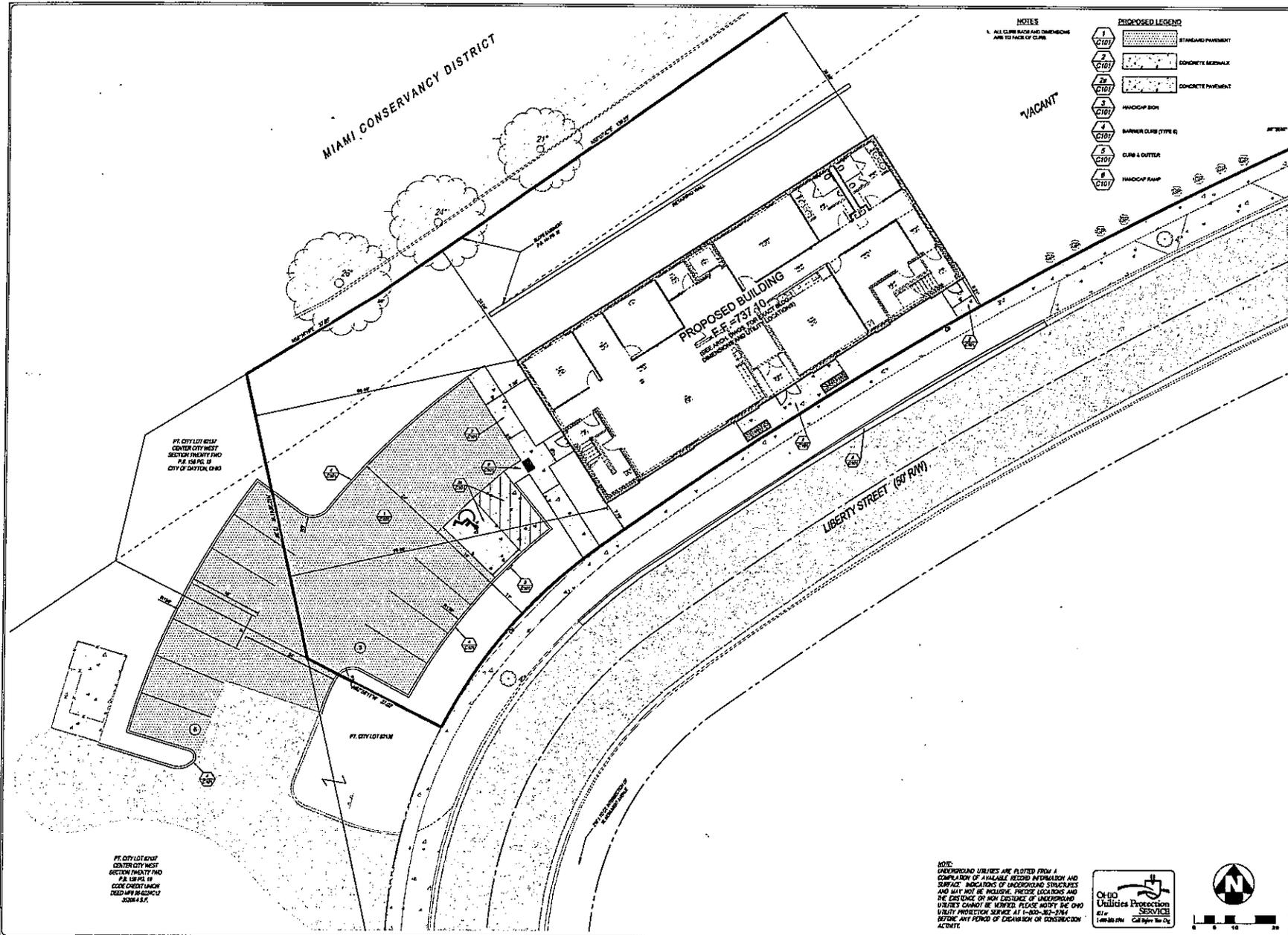
PROJECT NO: 11078/REVISION
DATE: 12/07/2016

SCALE: 1" = 20'

SHEET NAME:
CODE CREDIT UNION

DRAWING NO:
1 OF 1

CODE CREDIT UNION SITE PLAN



NOTES
1. ALL CURB RACKS AND DIMENSIONS ARE TO FACE OF CURB.

PROPOSED LEGEND

- 1 STONEWARE PAVEMENT
- 2 EDGECURB MATERIAL
- 3 EDGECURB PAVEMENT
- 4 HATCHED BOX
- 5 SHOWER CURB (TYPE 6)
- 6 CURB & CUTTER
- 8 HATCHED PAIP

PWCampbell
100 SAVA Drive
Pittsburgh, PA 15206
TEL: (412) 953-0100
FAX: (412) 953-0200

Studio 109 Designs LLC
100 SAVA Drive
Pittsburgh, PA 15206
TEL: (412) 953-0100
FAX: (412) 953-0200

PRELIMINARY CLIENT REVIEW
This drawing is preliminary and is not to be used for construction purposes.

EDC CODE CREDIT UNION
333 West Monaca Avenue
Dayton, OH 45402

LOCATION PLAN

Revision	Number	Date	Drawn By	Checked By

SD Project No.:
PWC Project No.:
TKG Project No.: 150786.000
Date: 02-22-16

C120
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NOTE:
UNDERGROUND UTILITIES ARE PLOTTED FROM A COMPARISON OF AVAILABLE RECORD INFORMATION AND SURFACE INDICATIONS OF UNDERGROUND STRUCTURES AND MAY NOT BE INCLUDING THESE LOCATIONS AND THE EXISTENCE OF ANY EXISTENCE OF UNDERGROUND UTILITIES SHOULD BE VERIFIED PLEASE NOTIFY THE OHIO UTILITY PROTECTION SERVICE AT (614) 363-2344 BEFORE ANY PERIOD OF EXCAVATION OR CONSTRUCTION ACTIVITY.

OHIO
Utilities Protection SERVICE
1-800-868-8788 Call before you dig

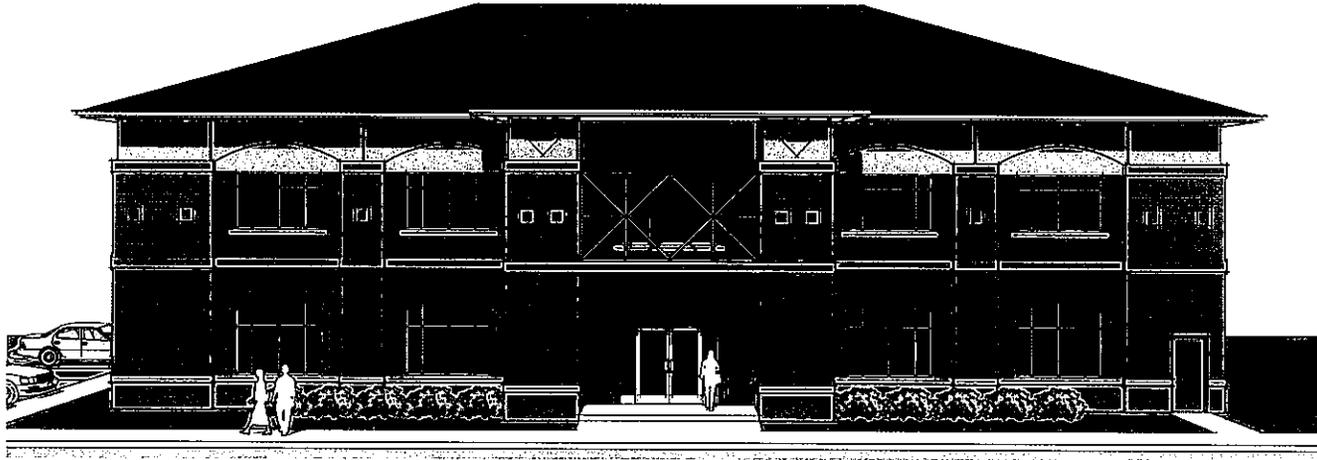
North Arrow
0 10 20

CODE CREDIT UNION ELEVATIONS

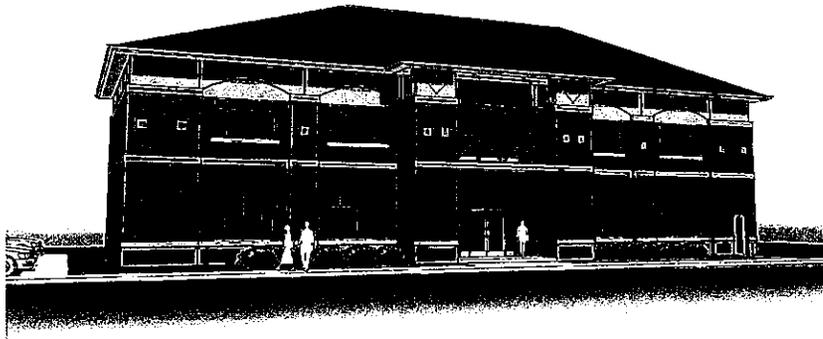
Studio109
Designs, LLC

Proposed Elevations
November, 03 2015

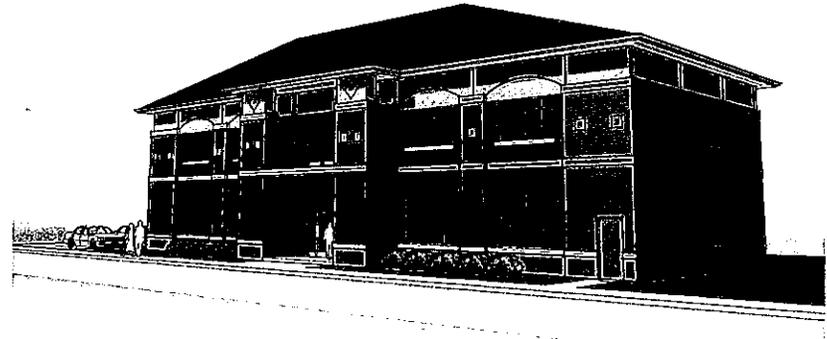
Presented to Code Credit Union



PROPOSED ELEVATION EL1-A.1



PROPOSED ELEVATION EL1-A.2



PROPOSED ELEVATION EL1-A.3

NOTE:
RENDERINGS ARE FOR ILLUSTRATION PURPOSES ONLY.
FINAL DESIGN IS SUBJECT TO FIELD INSPECTION.
FINAL MATERIALS AND COLOR SELECTIONS ARE TO
BE VERIFIED DURING THE DESIGN DEVELOPMENT PHASE.

 **PW Campbell**
BUILDING CONFIDENCE SINCE 1910

By.....**Mr. Shaw**.....

No.....**6197-16**.....

A RESOLUTION

Authorizing the Acceptance of a Grant Award from the Ohio Department of Rehabilitation and Correction in the Amount of One Hundred Forty-Eight Thousand Four Hundred Five Dollars and Zero Cents (\$148,405.00) for the Grant Period of July 1, 2016, to June 30, 2017, on Behalf of the City of Dayton, and Declaring an Emergency.

WHEREAS, The Ohio Department of Rehabilitation and Correction ("ODRC") administers a Community-Based Corrections grant program; and

WHEREAS, Dayton Municipal Court administers the Stopping the Violence program, which provides intensive programming and supervision to domestic violence offenders; and

WHEREAS, ODRC will award the City a Community-Based Corrections grant to provide funds for the Stopping the Violence Program, pursuant to the terms of the Subsidy Grant Agreement as attached to this resolution; and

WHEREAS, For the immediate preservation of the public peace, property, health and safety, it is necessary that this resolution take effect at an early date; now, therefore,

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

Section 1. That the Commission hereby accepts a Community-Based Correction grant award from the Ohio Department of Rehabilitation and Correction in the amount of One Hundred Forty-Eight Thousand Four Hundred Five Dollars and Zero Cents (\$148,405.00) for the period of July 1, 2016, to June 30, 2017, to provide funds for the Stopping the Violence Program.

Section 2. That the City Manager, or her designee, is hereby authorized to execute the Subsidy Grant Agreement as attached to this resolution and to take all other actions necessary to receive grant funds thereunder.

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

Adopted by the Commission..... **June 29**, 2016

Signed by the Mayor..... **June 29**, 2016



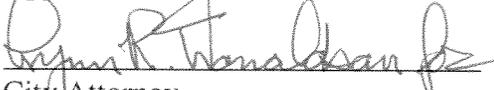
Mayor of the City of Dayton, Ohio

Attest:



Clerk of the Commission

Approved as to form:



City Attorney

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION
SUBSIDY GRANT AGREEMENT FOR
COMMUNITY-BASED CORRECTIONS PROGRAMS
NON-RESIDENTIAL MISDEMEANANT

THIS GRANT AGREEMENT (hereinafter referred to as this Agreement) pursuant to authority in Section 5149.30 to 5149.36 of the Ohio Revised Code (hereinafter referred to as RC) is made and entered into by and between the Ohio Department of Rehabilitation and Correction, Division of Parole and Community Services, Bureau of Community Sanctions, (hereinafter referred to as Grantor), 770 West Broad Street, Columbus, Ohio and The City Of Dayton (hereinafter referred to as Grantee), 335 West Third St., Room 362, Dayton, Ohio, 45402. The Grantor and the Grantee are collectively known as the Parties and separately known as the Party.

WHEREAS, the Grantee has submitted a grant application to the Grantor, and

WHEREAS, the Grantor is authorized, pursuant to RC 5149.31, RC 5149.32, and RC 5149.36 to determine and award grant funds to assist local governments in community-based corrections program services that are designed to reduce or divert the number of persons committed to state penal institutions and/or detained in and/or committed to local corrections agencies.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements set forth herein, the Parties hereto agree as follows:

1. Funds: The Grantor awards to the Grantee the sum of One Hundred and Forty-Eight Thousand Four Hundred and Five Dollars (\$148,405.00) (hereinafter referred to as Funds), to be paid in four equal installments of \$37,101.25, for the initial term as set forth in paragraph number two of this Agreement. The Grantor will make payments of Funds by electronic fund transfer to the Grantee's designee. Such payments will be made during the first month of each quarter of the Grantor's fiscal year until the Funds have been expended. The program's tax identification number is 31-6000175. Total expenditures for Fiscal Year 2017 (07/01/2016 to 06/30/2017) will not in any case exceed \$148,405.00.

This Agreement is for the following programs:

<u>Program Name</u>	<u>Application identifier</u>	<u>Amount</u>
Domestic Violence	408-DV-2017-App-DaytMuniAPD-00174	\$ 148,405
		\$
		\$
		\$
		\$
		\$

If an above "Program Name" includes a title for Pre-Sentence Investigation (PSI) services, then the following requirements apply to PSI services:

- A. The Funds can be used to hire an employee(s) or independent contractor(s) to conduct PSI reports that meet the requirements of R.C. 2951.03. The employee(s) or independent contractor(s) shall only perform duties for the Grantee related to the completion of PSI reports and shall receive training and be certified for the Ohio Risk Assessment System (ORAS).
 - B. All completed PSI reports must be emailed, within 30 days, of the sentencing/disposition date, to the email account provided by the Grantor for uploading into the Grantor's PSI portal. An ORAS shall be completed for each PSI offender and placed into the automated ORAS.
2. **Term:** This Agreement is effective as of the date indicated on the "Community Based Correction Act Program Grant Approval" letter which is incorporated herein by reference. As the current Ohio General Assembly cannot commit a future General Assembly to expenditure, this Agreement shall expire on June 30, 2017. Prior to the expiration of the initial term or any renewed term, Grantor may give written notice to the Grantee that this Agreement is being renewed and amended under the same term and conditions subject to an award of grant funds pursuant to Grantee's application in response to Grantor's Community Correction Act Grant Application. Such renewal shall begin upon the expiration of the initial term or any renewed term, as applicable, and expire as set forth in an amendment to this Agreement.
 3. **Appropriation:** The Funds are subject to Ohio General Assembly appropriation of the Grantor's proposed Community Non-Residential Programs subsidy (408) budget amount for Fiscal Year 2017. The Parties agree that the Grantor may modify the Funds if such appropriation is less than the Grantor's proposal. The modified Funds shall be determined within the Grantor's discretion.
 4. **Program Services:** During the term of this Agreement, the Grantee shall implement and be responsible for the program services as set forth in Grantee's application's (hereinafter referred to as Program Services) in response to Grantor's Community Correction Act Grant Application which are attached hereto and incorporated herein, in order to obtain Funds available through the Community Non-Residential Programs Subsidy. The comprehensive plan which is part of the Grantor's application is incorporated herein by reference. Any significant change or reduction in Program Services requires the prior written approval of the Grantor. In the event such change or such reduction is approved, the Grantor may make appropriate changes in the Funds.
 5. **Termination:** If the Grantee desires to terminate the Program Services or its participation in this Agreement, the Grantee may do so upon sending written notice to the Grantor, including a resolution to that effect. In such event and in compliance with paragraph (F) of rule 5120:1-5-07 of the Ohio Administrative Code (OAC), the Grantee shall refund to the Grantor the Funds paid to the Grantee which represents funding for Program Services not yet rendered and return equipment, supplies, or other tangible property, as determined by a financial close-out audit completed by the Grantor.
 6. **Staffing:** The Program Services' positions, salaries, and fringe benefits shall be as stated in the said application. None of the persons who will staff and operate the Program Services, including those who are receiving some or all of their salaries out of the Funds are employees or to be considered as employees of the Department of Rehabilitation and Correction.

7. **Dispute Resolution:** The Grantor's Bureau of Community Sanctions shall monitor Program Services during the term of this Agreement. The Grantee and the Chief of the Bureau of Community Sanctions will attempt to settle any dispute which arises out of or relates to this Agreement, or any breach of this Agreement. If not settled, the Grantee may engage the Grantor's Managing Director of Courts and Community for dispute resolution.
8. **Grant Manual:** The Grantee agrees to manage and account for Funds in accordance with the Grantor's "Community Corrections Act Program Grant Manual" which is incorporated herein by reference. The Grantee's Director of Program Services or designee shall be the fiscal agent to act on behalf of the Grantee and be responsible for fiscal oversight including monitoring and reviewing the expenditures of budgeted funds quarterly and tracking expenditures of Funds. Purchases made with the Funds shall be in accordance with county/state/municipal competitive bidding requirements.
9. **Local Funds:** RC 5149.33 prohibits a Grantee from reducing local funds it expends for Program Services. Grant funding shall be expended for Program Services in excess of those being made from local funds. Grant funding shall not be used to make capital improvements. If Grantee violates this paragraph, the Grantor may discontinue Funds to the Grantee, pursuant to the process set forth in paragraph (D) of OAC rule 5120:1-5-07.
10. **Program Evaluation:** Pursuant to RC 5149.31, the Grantor shall evaluate the Program Services and establish means of measuring their effectiveness. Therefore, the Grantee shall prepare and submit to the Grantor the following reports:
 - A. Statistical records for the term of this Agreement in the format and frequency as established by the Grantor. To determine if the Program Services are achieving its stated goal and objectives, the Grantee agrees to submit, within fourteen calendar days, to the Grantor intake, termination, and reassessment data for each offender placed into its Program Services. The Grantee shall maintain internet access for data collection, reporting, and transmission into the Grantor's management information systems. The Grantee shall make available all necessary records for validation and audit of this data. It is agreed that the Grantee shall be provided with the results of the Grantor's review of the intake, termination, and reassessment data at time intervals determined by the Grantor. This section does not apply to pre-sentence investigation grants.
 - B. Quarterly Financial Reports and a Year-end Financial report. The quarterly reports shall include financial information for expenditures that relate to Program Services as set forth in paragraph (C) of OAC rule 5120:1-5-05 and be submitted thirty (30) days after the end of each quarter. The year-end report shall describe the achievements of the Program Services and is due by September 30, 2017.

The Grantee shall cooperate with and provide any additional information as may be required by the Grantor in carrying out an evaluation of the Program Services. Failure to comply with any of these report requirements or other instructions for relevant information by the Grantor may result in the withholding of Funds until such time as Grantee so complies.

11. **Compliance:** All expenditures made by the Grantee with Funds shall be governed by the laws of the State of Ohio, particularly RC 5149.31, RC 5149.32, RC 5149.33, and RC 5149.36. The Grantee shall comply with the rules of OAC Chapter 5120:1-5 (Community Based Corrections Program) which are applicable under this Agreement. If Grantee fails to so comply, the Grantor shall give the

Grantee a reasonable period of time to come into such compliance. Grantee's failure to timely comply may be cause for the Grantor to terminate this Agreement or reduce Funds.

Furthermore, the Funds may be reduced or this Agreement terminated by the Grantor if either of the following circumstances applies:

- A. The quality and extent of the Program Services has been materially reduced from the level proposed in the Grantee's grant application; or
- B. There is a financial or fiscal audit disclosure involving misuse of Funds.

The Grantor's reason(s) for the intent to terminate this Agreement or reduce Funds shall be given, in writing, to the Grantee, no later than sixty (60) days, prior to the said termination or said reduction. The Grantee shall have thirty (30) days following the receipt of said notice to present a petition for reconsideration to the Grantor's Managing Director of Court and Community. Within thirty (30) days of receipt of that petition, the said Director shall respond, in writing, either approving the petition by continuing Funds or disapproving the petition and stating the reason(s) for the disapproval.

12. Conflicts of Interest and Ethics Compliance: No personnel of Grantee or member of the governing body of any locality or other public official or employee of any such locality in which, or relating to which, the work under this Agreement is being carried out, and who exercise any functions or responsibilities in connection with the review or approval of this Agreement or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to Grantor in writing. Thereafter, he or she shall not participate in any action affecting the work under this Agreement, unless Grantor shall determine in its sole discretion that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

Grantee represents, warrants, and certifies that it and its employees engaged in the administration or performance of this Agreement are knowledgeable of and understand the Ohio Ethics and Conflicts of Interest laws and Executive Order No. 2007-01S. Grantee further represents, warrants, and certifies that neither Grantee nor any of its employees will do any act that is inconsistent with such laws and Executive Order. The Grantee understands that failure to comply with Executive Order 2007-01S is, in itself, grounds for termination of this Agreement and may result in the loss of other contracts or grants with the State of Ohio. The Governor's Executive Orders may be found by accessing the following website:

<http://governor.ohio.gov/GovernorsOffice/ExecutiveOrdersDirectives/tabid/105/Default.aspx>.

13. Contract: All contracts by the Grantee for Program Services must be in writing, contain performance criteria, have itemized service costs, indicate responsibilities of parties' involved, state conditions for termination of the contract and be approved by the appropriate county officials before their implementation. A copy of such contract(s) shall be forwarded to the Bureau of Community

Sanctions.

14. **Finding for Recovery:** The Grantee warrants that it is not subject to an “unresolved” finding for recovery under R.C 9.24. If the warranty is deemed to be false, this Agreement is void ab initio and the Grantee must immediately repay to the Attorney General any Funds paid under this Agreement.
15. **Standards:** The Grantee shall comply with the standards for subsidy awards to municipal corporations and counties as set forth in R.C. 5149.31, R.C. 5149.36, and OAC rule 5120:1-5-06. In accordance with paragraphs (C) and (D) of OAC rule 5120:1-5-06, the intensive supervision, probation deviation cap shall be ten percent during the term of this Agreement, and if said cap is impermissibly exceeded then Funds shall be reduced.
16. **Certification of Funds:** It is expressly understood and agreed by the Parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either Party until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to, O.R.C. Section 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that Grantor gives Grantee written notice that such funds have been made available to Grantor by Grantor’s funding source.
17. **Compliance with Laws:** Grantee, in the execution of duties and obligations under this Agreement, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances.
18. **Drug Free Workplace:** Grantee agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the work being performed hereunder purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.
19. **Campaign Contributions:** Grantee hereby certifies that all applicable parties listed in Divisions (I) (3) or (J) (3) of R.C. 3517.13 are in full compliance with Divisions (I) (1) and (J) (1) of R.C. 3517.13.
20. **Entire Agreement or Waiver:** This Agreement contains the entire agreement between the Parties and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the Parties hereto. This Agreement supersedes any and all previous agreements, whether written or oral, between the Parties. A waiver by any Party of any breach or default by the other Party under this Agreement shall not constitute a continuing waiver by such Party of any subsequent act in breach of or in default hereunder.
21. **Notices:** All notices, consents, and communications hereunder shall be given in writing, shall be deemed to be given upon receipt thereof, and shall be sent to the addresses first set forth above.
22. **Headings:** The headings in this Agreement have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Agreement.
23. **Severability:** The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.

24. **Controlling Law:** This Agreement and the rights of the Parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning this Agreement and/or performance hereunder.
25. **Successors and Assigns:** Neither this Agreement nor any rights, duties, or obligations hereunder may be assigned or transferred in whole or in part by Grantee, without the prior written consent of Grantor.
26. **Finding for Recovery:** Grantee warrants that it is not subject to an “unresolved” under O.R.C. Section 9.24. If this warranty is found to be false, this Agreement is void ab initio and Grantee shall immediately repay to Grantor any funds paid under this Agreement.
27. **Prison Rape Elimination Act:** If the Program Services are residential services, the Grantee shall adopt and comply with the Prison Rape Elimination Act, National Standards to Prevent, Detect, and Respond to Prison Rape (28 C.F.R. Part 115). The Grantor shall monitor Grantee to ensure such compliance. The Grantor shall ensure that Grantee has been trained on their responsibilities under Grantor’s Policy on sexual abuse and sexual harassment prevention, detection and response.
28. **Execution:** This Agreement is not binding upon Grantor unless executed in full.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers, as of the day and year first written above.

FOR THE GRANTOR:

Christopher Galli

Christopher Galli, Chief
Bureau of Community Sanctions

Cynthia Mausser

Cynthia Mausser
Managing Director of Courts and Community

FOR THE GRANTEE:

County Commissioner Date

County Commissioner Date

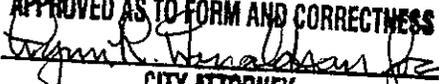
County Commissioner Date

FOR THE GRANTEE:

County Executive Date

FOR THE GRANTEE:

Mayor/City Manager Date

APPROVED AS TO FORM AND CORRECTNESS

CITY ATTORNEY

10/11/17

1st Reading # 7

NO. 31500-16

BY.....

AN ORDINANCE

Authorizing Submitting to the Electors of the City of Dayton a Proposal to Supplement the City Charter by Enacting Section 189 and to Supplement the Revised Code of General Ordinances by Enacting Section 36.102.7, and Declaring an Emergency.

WHEREAS, The City's General Fund revenues in 2016 are less than those received in 1998; and

WHEREAS, Not only are revenues stagnate, but as a result of budget cuts by the State of Ohio, the City has incurred a loss of revenue of \$38.4 million dollars; and

WHEREAS, In response to the loss of revenue, the City has reduced its workforce by approximately seven hundred (700) positions over the last fifteen (15) years; and

WHEREAS, The City must increase its resources in order to maintain operations, sustain infrastructure, strengthen neighborhoods, enhance public safety, and invest in pre-kindergarten education; and

WHEREAS, It is necessary to submit the proposal as provided in Section 1 hereof to the electors of the City for their approval, pursuant to Section 169 of the Charter of the City of Dayton and Section 9 of Article XVIII of the Ohio Constitution, not less than sixty (60) days nor more than one-hundred twenty (120) days after the passage of an ordinance providing therefore; and

WHEREAS, It is necessary that this Ordinance take effect immediately in order to submit said proposal to the electors and to provide for the immediate preservation of the public peace, property, health and safety; now, therefore,

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

Section 1. That the following be submitted to the electors of the City of Dayton on November 8, 2016:

A. That the Charter of the City of Dayton ("Charter") be amended and supplemented by the enactment of Section 189, which shall read as follows:

§189 INCOME TAX AUTHORIZATION

In order to provide for essential municipal services and necessary capital improvements, the Commission is hereby granted the authority, to the extent legally permitted and notwithstanding any provision of the Charter or Section 171 thereof, to provide by ordinance for an additional income tax at an annual rate not to exceed one-quarter of one percent (1/4%) for the period commencing January 1, 2017, and ending December 31, 2024.

This section shall take effect and be in force as of the date of certification to the Secretary of State by the Board of Elections.

B. That the Revised Code of General Ordinances be, and it hereby is, supplemented by the enactment of Section 36.102.7, which shall read as follows:

§36.102.7. IMPOSITION OF TAX; RATE

- (A) Pursuant to Section 189 of the Charter of the City of Dayton, a tax is hereby imposed and levied for the period commencing January 1, 2017, and ending December 31, 2024.
- (B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the City and shall be measured by municipal taxable income as that term is defined in Section 718.01(A) of the Ohio Revised Code.
- (C) The tax is levied in accordance with the limitations specified in Chapter 718 of the Ohio Revised Code, and this Ordinance incorporates the provisions of Chapter 718 of the Ohio Revised Code.
- (D) The rate of the tax shall be one-quarter of one percent (1/4%).
- (E) A credit pursuant to Section 718.04(D) of the Ohio Revised Code will be allowed against the tax. In the case of a resident, the resident may claim a credit against the tax in an amount equal to the lesser of (i) the amount of such tax paid to another taxing municipality or joint economic development district or (ii) the City income tax on such income taxable under this section. In no case shall the credit exceed the tax assessed under this section on the resident's taxable income that is also subject to tax in another taxing municipality or joint economic development district. In the case of a resident owner of a pass-through entity that does not conduct business in the City, the resident owner may claim a credit equal to the lesser of (i) the resident owner's proportionate share of the amount, if any, of income tax paid by the pass-through entity to another taxing municipality in the state or (ii) the

resident owner's proportionate share of the amount of City income tax that would be imposed on the pass-through entity if the pass-through entity conducted business in the City. In no case shall the credit exceed the City income tax assessed under this section on the taxable income that is also subject to tax in another taxing municipality.

- (F) Generally, the purpose of the tax is to provide for essential municipal services and necessary capital improvements as set forth in Section 36.100 of the Revised Code of General Ordinances. To the extent available, however, revenue from the tax will be used to fund pre-kindergarten education for residents of the City.

Section 2. That the proposed amendment of the Charter by the enactment of Section 189 shall be submitted by ballot to the electors of the City of Dayton at an election to be held at the usual places of voting in said City on November 8, 2016, and, if said proposed amendment is approved by a majority of the electors voting thereon, then it shall become part of the Charter, effective as of the date of certification of the abstract of said election and adoption by the Secretary of State and the Board of Elections, as provided by law.

Section 3. That the Clerk of the Commission be, and hereby is, authorized and directed to certify a copy of this Ordinance to the Board of Elections of Montgomery County, Ohio, immediately upon its passage, and to give notice of such proposed amendment by newspaper advertising in accordance with the provisions of Section 731.21.1 of the Ohio Revised Code.

Section 4. That the proposal to impose an additional income tax at an annual rate of one-quarter of one percent (1/4%) for the period commencing January 1, 2017, and ending December 31, 2024, by amending the Charter of the City of Dayton by enacting Section 189 thereof and by supplementing the Revised Code of General Ordinances by the enactment of Section 36.102.7, is hereby declared to constitute one proposal to be submitted to the electors as one issue at the election to be held November 8, 2016.

Section 5. For the reasons stated in the preamble hereof, the Commission declares this Ordinance to be an emergency which shall take effect immediately upon its passage.

PASSED BY THE COMMISSION....., 2016

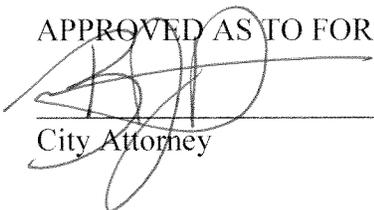
SIGNED BY THE MAYOR....., 2016

Mayor of the City of Dayton, Ohio

ATTEST:

Clerk of Commission

APPROVED AS TO FORM:



City Attorney

1st Reading

#8

By.....

No. 6198-16.....

A RESOLUTION

Specifying November 8, 2016, as the Date for Submitting to the Electors of the City of Dayton a Proposal to Supplement the City Charter by Enacting Section 189 and to Supplement the Revised Code of General Ordinances by Enacting Section 36.102.7, Directing the Board of Elections of Montgomery County to Conduct the Election, and Declaring an Emergency.

WHEREAS, Ordinance No. 31500-16, passed concurrently with the adoption of this Resolution, provides for submitting to the electors of the City of Dayton a proposal to impose an income tax at the annual rate of one-quarter of one percent (1/4%) for the period commencing January 1, 2017, and ending December 31, 2024, by supplement to the Charter of the City of Dayton by enacting Section 189 thereof, and enacting Section 36.102.7 of the Revised Code of General Ordinances; and

WHEREAS, It is necessary that this Resolution take effect immediately in order to submit said proposal to the electors and to provide for the immediate preservation of the public peace, property, health and safety; now, therefore,

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

Section 1. That November 8, 2016, be, and it hereby is, specified as the date of the election to be held to submit to the electors for their approval Ordinance No. 31500-16, which ordinance imposes an additional income tax at the annual rate of one-quarter of one percent (1/4%) for the period commencing January 1, 2017, and ending December 31, 2024, by enacting Section 189 of the Charter and Section 36.102.7 of the Revised Code of General Ordinances.

Section 2. That the Board of Elections of Montgomery County be, and it hereby is, directed to conduct the election as specified in Section 1 of this Resolution.

Section 3. That the ballot for said election specified in Section 1 of the Resolution shall be in the following form:

“Shall the Ordinance providing for a one-quarter of one percent (1/4%) levy on income (for the period commencing January 1, 2017, and ending December 31, 2024) for essential municipal services and necessary capital improvements, generally, and, to the extent revenue from the tax is available, for pre-kindergarten education for residents of the City, and the proposed amendment to the Dayton City Charter enacting Section 189 authorizing the City Commission to impose an additional levy of one-quarter of one percent (1/4%) on income (for the period commencing January 1, 2017, and ending December 31, 2024) for the same purposes, be passed?”

FOR THE INCOME TAX	
AGAINST THE INCOME TAX	

Section 4. That the Clerk of the Commission be, and hereby is, authorized and directed forthwith to file a certified copy of this Resolution together with a certified copy of Ordinance No. 31500-16 with the Board of Elections of Montgomery County, Ohio.

Section 5. For the reasons stated in the preamble hereof, the Commission declares this Resolution to be an emergency measure which shall take effect immediately upon its adoption.

ADOPTED BY THE COMMISSION..... 2016

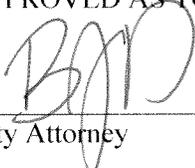
SIGNED BY THE MAYOR 2016

Mayor of the City of Dayton, Ohio

ATTEST:

Clerk of Commission

APPROVED AS TO FORM:



City Attorney

By... **Mr. Williams**

No. **924-16**

AN INFORMAL RESOLUTION

Supporting 114th Congress House Resolution 4076, Authored
by Representative Mike Turner, The Reforming and
Expanding Access to Treatment (TREAT) Act.

WHEREAS, Abuse of heroin and prescription drugs is a national epidemic, resulting in drastic increases in addiction rates, overdose deaths and incarceration; and

WHEREAS, Expanding drug treatment opportunities to incarcerated individuals is an important part of the nation's response to this crisis and has the potential to save lives and stabilize communities; and

WHEREAS, Certain Federal funds cannot be used for substance abuse treatment services provided to individuals who are incarcerated and others cannot be used in facilities above a specific size which eliminates the ability to use these funds in correctional institutions; and

WHEREAS, Representative Mike Turner (OH-10), Representative Marcia Fudge (OH-11) and Representative Niki Tsongas (MA-3) have studied this issue, have met with service providers and have spoken to their constituents in Dayton and other communities; and

WHEREAS, In the 114th Congress, House Resolution 4076, The Reforming and Expanding Access to Treatment (TREAT) Act, has been introduced which will allow Center for Substance Abuse Treatment grants to be used for individuals who are in both community-based and institutional settings and will allow Medicaid to reimburse for substance abuse treatment provided in correctional institutions to incarcerated individuals who are otherwise eligible for and enrolled in Medicaid; and

WHEREAS, The TREAT Act increases resource flexibility and expands access to treatment for incarcerated persons; now, therefore,

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

SECTION 1: That the Dayton City Commission supports and endorses for passage 114th Congress House Resolution 4076, authored by Representative Mike Turner, The Reforming and Expanding Access to Treatment (TREAT) Act.

SECTION 2. That the Dayton City Commission thanks Representatives Mike Turner, Marcia Fudge, and Niki Tsongas for introducing the TREAT Act and seeks to work with them and others to pass the Act.

ADOPTED BY THE COMMISSION **June 29**....., 2016

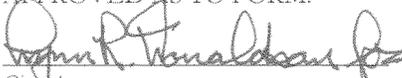
SIGNED BY THE MAYOR **June 29**....., 2016


MAYOR, CITY OF DAYTON, OHIO

ATTEST:


Clerk of Commission

APPROVED AS TO FORM:


City Attorney