



## CITY COMMISSION MEETING AGENDA

CITY COMMISSION

DAYTON, OHIO

NOVEMBER 16, 2011

6:00 P.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 -- COMMISSIONER WHALEY
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 and City Commission's Recommendations  
(See Sections II and III)
9. Citizen Comments on City Manager's and City Commission's Recommendations
10. City Commission Action on City Manager's and City Commission'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: **2012 Budget Presentation – (B. LaBrier) – 3:30 p.m.**  
**City Manager's Large Conference Room**
17. Miscellaneous (See Section VI)

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### 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 31<sup>st</sup> of the  
current year).**

**1. 2011 Purchase Orders:**

**AVIATION**

A1. Com-Net Software Specialists, Inc. (computer hardware, software and installation services)	\$32,696.10
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1. (Cont'd):

A2. Emerson Network Power (uninterruptible power supply – UPS – maintenance services)	\$25,292.20
A3. Ohio Cat (installation of new switch gear)	62,195.00

**CENTRAL SERVICES**

B1. Hervey, Inc. (annual computer software license renewal including professional software consulting and support services)	25,000.00
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**FIRE**

C1. EMSAR Medical Repair Inc. (maintenance, parts and labor to inspect and repair Ferno Washington brand products as needed through 12-31-11)	3,200.00
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**PUBLIC WORKS**

D1. KE Rose Co. (five salt spreaders and related equipment)	32,250.00
D2. Rotonics Manufacturing, Inc. (50, three-hundred gallon plastic refuse containers)	15,500.00

**WATER**

E1. George Byers Sons, Inc. (one mid-size passenger vehicle)	16,683.00
E2. Dell Marketing LP (computer network switches)	34,411.80
E3. Gardner Denver (blowers and replacement parts as needed through 12-31-11)	48,000.00
E4. Godwin Pumps of America, Inc. (one trailer mounted trash pump)	36,831.94
E5. YSI Incorporated (replacement parts for the Lime Reclamation Facility)	15,660.00

-Depts. of Aviation, Central Services, Fire, Public Works, and Water.

**Total: \$347,720.04**

2. **JYG Innovations – Professional Services Agreement** – to provide information technology services and support needed at the Dayton International Airport – Dept. of Aviation/Admin. & Finance. **\$270,000.00**  
**(\$90,000.00 Per Year for 3 Years)**
3. **St. Mary Development Corporation – Lease Agreement** -- for facilities located at 2160 E. Fifth Street aka the Southeast Priority Board Office to support administrative operations – Dept. of Central Services/Facilities Mgmt. **\$100.00**  
**(Nine Year Ten Months)**

#### E. Other – Contributions, Enterprise Zone Agreements, Etc.:

- COMMISSIONER  
LOVELACE

4. **West Carrollton, Ohio – Permission to Bid – for a used 1997 ambulance on GovDeals, a government auction site – Dept. of Fire. \$25,000.00 (Not to Exceed)**

### III. CITY COMMISSION 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 31<sup>st</sup> of the current year).**

- COMMISSIONER WILLIAMS 5. **Central Business Equipment Co. dba Governor's Square Office Center – Purchase Order** – for the purchase of custom printed file folders for a period through 12-31-11 \$12,917.50  
(and for the period of 01-01-12 through 12-31-14) 45,000.00  
-The Municipal Court/Clerk of Court. Total: \$57,917.50

#### IV. LEGISLATION:

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



### **Emergency Resolution – First and Second Reading:**

7. No. 5868-11 Supporting a Request by The Gem City Engineering Co. to Establish an Urban Setting Designation at 401 Leo Street, and Declaring an Emergency.

### Ordinance – First Reading:

8. **No. 31119-11** Consenting to the Replacement of the Webster Street Bridge over the Mad River within the City of Dayton, and Agreeing to Cooperate in Matters Incidental Thereto, Including the Execution of Agreements Necessary to Implement this Ordinance.

**Ordinances – Second Reading:**

9. **No. 31115-11** Consenting to the Improvement of Traffic Signal Operation Citywide within the City of Dayton and Agreeing to Cooperate in Matters Incidental Thereto, Including the Execution of Agreements Necessary to Implement this Ordinance.
10. **No. 31116-11** Vacating Cecil Court from Warren Street to the East Property Line of Part Lot No. 2441, the Alley East of Warren Street from Cecil Court to 80 Feet South of Cecil Court, and the Alley East of Warren Street from Buckeye Street to Cecil Court.
11. **No. 31117-11** Amending Section 35.14 of the Revised Code of General Ordinances in Order to Modify the Threshold Dollar Amount for Contracts Requiring Inclusion of Equal Opportunity Clauses.

**Resolution – Second Reading:**

12. **No. 5867-11** Accepting a Grant Award from the Ohio Emergency Management Agency in the Amount of Three Hundred Seventeen Thousand Four Hundred Nineteen Dollars (\$317,419.00) on Behalf of the City of Dayton.

**Informal Resolution:**

- COMMISSIONER  
LOVELACE**
13. **No. 843-11** Objecting to the New Permit Application for a Type C-1, C-2 Liquor Permit #8868886, to Third Street Petroleum, LLC, 727 West Third Street, Dayton, Ohio 45402.

**VI. MISCELLANEOUS:**

**ORDINANCE NO. 31120-11**

**RESOLUTION NO. 5869-11**

**IMPROVEMENT RESOLUTION NO. 3598-11**

**INFORMAL RESOLUTION NO. 844-11**

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

TO: City Manager

Date November 16, 2011

FROM: Central Services / Purchasing  
*Department/Division*

(CHECK ONE)

Purchase Order       Lease Agreement  
 Price Agreement       Estimate of Cost  
 Award of Contract       Payment of Voucher  
 Other      2011 Purchase Orders

Amount \$ 347,720.04

Supplier/Vendor/Company/Individual:

NAME See Below

ADDRESS \_\_\_\_\_

**Justification and description of purchase, contract or payment:**

## AVIATION – ADMINISTRATION AND FINANCE

(A1) P1101091 – COM-NET SOFTWARE SPECIALISTS, INC., MIAMISBURG, OH

- Computer hardware, software and installation services.
  - These products and services are required to upgrade the Flight Information Display System (FIDS) at the new cell phone lot at the Dayton International Airport.
  - Com-net Software Specialist, Inc. is recommended as current FIDS supplier, therefore this purchase was negotiated.
  - The Department of Aviation recommends approval of this order.
  - Authority: \$32,696.10

**\$32,696.10**

Approved Affirmative Action Program on File  Yes

No

□ NA

Approved by City Commission

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**Division**

Clerk

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**Department**

Date

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**Department**

## City Manager

AVIATION – ADMINISTRATION AND FINANCE – (CONTINUED)

(A2) P1101105 – EMERSON NETWORK POWER, WESTERVILLE, OH

- Uninterruptible power supply (UPS) maintenance services.
- These services are required to ensure operations in the event of power outages.
- Emerson Network Power is recommended as the original equipment manufacturer (OEM) and sole provider of this maintenance service program, therefore this purchase was negotiated.
- The Department of Aviation recommends approval of this order.
- Authority: \$25,292.20

(A3) P1100957 – OHIO CAT, TROY, OH

- Installation of new switch gear.
- This equipment is required to accommodate an emergency powered generator for the new baggage handling system.
- This service falls outside the scope of the annual maintenance agreement for existing generator equipment.
- This amendment increases the originally authorized amount of \$25,000.00 by \$62,195.00 for a total not to exceed \$87,195.00, and therefore requires City Commission approval.
- The Department of Aviation recommends approval of this order.
- Authority: \$62,195.00

CENTRAL SERVICES – INFORMATION TECHNOLOGY

(B1) P1101096 – HERVEY, INC., DALLAS, TX

- Annual computer software license renewal, including professional software consulting and support services.
- This program and related services are required to maintain the CityBots program for the Human Relations Council.
- Hervey, Inc. is recommended as the original software developer and sole source of this proprietary software service agreement, therefore this purchase was negotiated.
- The Department of Central Services recommends approval of this order.
- Authority: \$25,000.00

FIRE

(C1) P1100773 – EMSAR MEDICAL REPAIR INC., GALLOWAY, OH

- Maintenance, parts, and labor to inspect and repair Ferno Washington brand products, as needed through 12/31/2011.
- Inspection of Dayton Fire Department cots is necessary to ensure the safety of patients and Fire personnel.
- EMSAR Medical Repair Inc is the sole authorized service provider for Ferno-Washington, therefore this order was negotiated.
- This amendment increases the previously authorized amount of \$8,500.00 by \$3,200.00 for a total not to exceed \$11,700.00 and therefore requires City Commission approval.
- The Department of Fire recommends approval of this order.
- Authority: \$3,200.00

PUBLIC WORKS – STREET MAINTENANCE

(D1) P11011004 – KE ROSE CO., HUBER HEIGHTS, OH

- Five (5) salt spreaders and related equipment.
- This equipment is required for the City's deicing operations.
- Three possible bidders were solicited and two bids were received.
- The Department of Public Works recommends low bid meeting specifications.
- Authority: \$32,250.00

PUBLIC WORKS – WASTE COLLECTION

(D2) P1101109 – ROTONICS MANUFACTURING, INC., BENSENVILLE, IL

- Fifty (50), three hundred gallon Plastic Refuse Containers.
- These containers are required to collect litter and waste in high volume areas.
- Eight possible bidders were solicited and one bid was received.
- The Department of Public Works recommends acceptance of the low bid.
- Authority: \$15,500.00

WATER – WATER ENGINEERING

(E1) P1101094 – GEORGE BYERS SONS, INC., COLUMBUS, OH

- One (1) mid-size passenger vehicle.
- This vehicle is required for daily operations of the City's Division of Water Engineering and will replace Unit #859 which will be disposed of in the best interest of the City of Dayton.
- Twelve possible bidders were solicited and four bids were received.
- The Department of Water recommends low bid meeting specifications.
- Authority: \$16,683.00

## CITY OF DAYTON, OHIO - PURCHASING DIVISION - BID TABULATION

For: NEW 2012 MODEL MID-SIZE PASSENGER CAR

Dept./Div.: WATER / WATER ENGINEERING / DESIGN

Requisition No.: 1WTWE025

IFB No.: D-11106

Bids Opened: 11:00 A.M.; 10-13-2011

No.: BIDDER NAME & STREET ADDRESS:		1 WHITE ALLEN	2 BYERS FORD	3 INTERSTATE FORD INC	4 KEY CHRYSLER JEEP DODGE	4 ALTERNATE KEY CHRYSLER JEEP DODGE
CITY: STATE & ZIP: Recommended for Award		DAYTON OH 45405	DELAWARE OH 43015 X	MIAMISBURG OH 45342	XENIA OH 45385	XENIA OH 45385
QUALIFIES FOR LOCAL PREFERENCE?		YES	NO	NO	NO	NO
QUALIFIES FOR CERTIFIED PREFERENCE?		NO	NO	NO	NO	NO
LOCAL / CERTIFIED PREFERENCE A FACTOR IN AWARD?		NO	NO	NO	NO	NO
Item #	ITEM DESCRIPTION	U/M	UNIT COST	UNIT COST	UNIT COST	UNIT COST

PLEASE READ ALL BID/PROPOSAL RESPONSES TO ENSURE THAT ALL INFORMATION RECEIVED FROM VENDOR IS REVIEWED AND USED IN EVALUATION PROCESS

1	Mid-size passenger car Model year:  Firm Price Agreement Through December 31, 2011 YES / NO	Each	\$19,490.00	X \$16,683.00	\$16,890.00	• \$16,575.00 without heated mirrors	\$18,187.00 with heated mirrors
			YES	NO	YES	YES	YES
		TERMS: F.O.B.: DELIVERY:	NET 30 DEST 45 DAYS	NET 30 DEST 60 - 90 DAYS	NET 30 DEST 120 DAYS	NET 30 DEST 90 - 120 DAYS	NET 30 DEST 90 - 120 DAYS

• = lowest bid X = vendor selected for award

## THE FOLLOWING VENDORS WERE SOLICITED BUT DID NOT BID:

HRC  
Dayton OH 454021. Reichard (Local)  
Dayton OH 454062. Beau Townsend Ford  
Vandalia OH 453773. Hidy Ford  
Beavercreek OH 454344. Bob Ross  
Centerville OH 454595. Middletown Ford  
Middletown OH 450426. Golling's Arena  
Dayton OH 454157. Smedley Chevrolet  
Vandalia OH 453778. Langs  
Beavercreek OH 45434

WATER – WATER ENGINEERING - (CONTINUED)

(E2) P1101111 – DELL MARKETING LP., ROUND ROCK, TX

- Computer network switches.
- This equipment is required to upgrade existing Storage Area Network/Network Attached Storage (“SAN/NAS”) Systems at the Department of Water. Existing systems are near obsolescence/end of useful service and will no longer be supported.
- Dell Marketing LP is recommended as the City has standardized on Dell computing equipment, therefore this purchase was negotiated.
- The Department of Water recommends approval of this order.
- Authority: \$34,411.80

WATER – WATER SUPPLY & TREATMENT

(E3) P1101107 – GARDNER DENVER, LOVELAND, OH

- Blowers and replacements parts, as needed through 12/31/2011.
- These parts are required to repair and maintain existing equipment.
- Gardner Denver Inc. is recommended as the original equipment manufacturer (OEM), therefore this purchase was negotiated.
- The Department of Water recommends approval of this order.
- Authority: \$48,000.00

(E4) P1101093 – GODWIN PUMPS OF AMERICA, INC., PAINESVILLE, OH

- One (1) trailer mounted trash pump.
- This equipment is required to provide a compact and maneuverable portable pumping system for well field maintenance operations.
- Rates are in accordance with State of Ohio term schedule contract pricing #7751100608.
- The Department of Water recommends approval of this order.
- Authority: \$36,831.94

(E5) P1101066 – YSI INCORPORATED, YELLOW SPRINGS, OHIO

- Replacement parts for the Lime Reclamation Facility.
- These parts are required to monitor waste residual streams.
- YSI, Inc. is recommended as the original equipment manufacturer (OEM), therefore this purchase was negotiated.
- The Department of Water recommends approval of this order.
- Authority: \$15,660.00

The aforementioned departments recommend approval of these orders.

2.

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

TO: City Manager

FROM: Aviation / Administration & Finance  
Department/Division

(CHECK ONE)

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

Justification and description of purchase, contract or payment:

**PROFESSIONAL SERVICES AGREEMENT**

The Department of Aviation requests permission to enter into Professional Services Agreement with JYG Innovations ("JYG"). Under this Agreement, JYG will provide information technology ("IT") services and support needed at the Dayton International Airport, including IT systems engineering, design and implementation, monitoring of system security and final tier problem resolution services.

This Agreement is effective on the date of execution by the City and shall expire on November 30, 2014, with an option to renew for two additional years. The total amount payable under this Agreement is an amount not to exceed \$270,000.00, or \$90,000 per contract year.

JYG Innovations is certified with the City of Dayton as a Minority-Owned, Women-Owned and Small Business Enterprise in the City's Procurement Enhancement Program. The Agreement was reviewed and approved as to form and correctness by the Department of Law. A Certificate of Funds in the amount of \$15,000 for the remainder of 2011 is attached.

Approved Affirmative Action Program on File     Yes

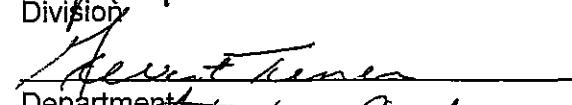
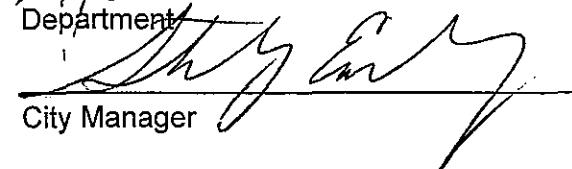
No

NA

Approved by City Commission

Clerk

Date

  
Division \_\_\_\_\_  
  
Department \_\_\_\_\_  
City Manager 

# CERTIFICATE OF FUNDS

CT 11-0251

## *SECTION I – to be completed by User Department*

NEW CONTRACT       RENEWAL CONTRACT       CHANGE  
**ORDERS**

Contract start date:	November 16, 2011
Expiration Date:	November 30, 2014
Original Commission Approval	<b>\$270,000.00</b>
Initial Encumbrance	<b>\$15,000.00</b>
Remaining Commission Approval	<b>\$255,000.00</b>
Original CT/CF	
Increase Encumbrance	<b>+</b>
Decrease Encumbrance	<b>( )</b>
Remaining Commission Approval	<b>\$</b>

### NO DRAFT DOCUMENTS PERMITTED

#### Required documentation

- Initial City Manager's Report
- Initial CF
- Initial Agreement/Contract

Copy of City Manager's Report

Copy of original CF

Fund Code: 51000 -3210-1151-43 Fund      Org      Acct      Prog      Activity      Location	Fund Code: _____ Fund      Org      Acct      Prog      Activity      Location
Fund Code: _____ Fund      Org      Acct      Prog      Activity      Location	Fund Code: _____ Fund      Org      Acct      Prog      Activity      Location

Attached additional pages for more FOAP's

Vendor Name: JYG Innovations	
Vendor Address: 180 Fivepines Court	Clayton, Ohio 45315
	(City /State/Zip)
Federal ID: 271356468	
Commodity Code: 91880	

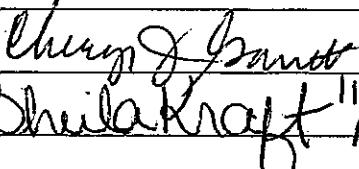
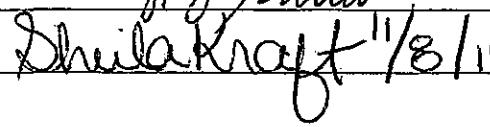
Purpose: This contract will provide IT support services to the Dayton International Airport. The contract provides for 20 hours per week of IT support services to include IT system engineering, design and implementation, monitoring of system security and final tier problem resolution services.

Contact Person: Pamela Hixon Department/Division: Aviation/Administration and Finance Contact 937-264-3594

Originating Director's Signature 

## *SECTION II – to be completed by Finance Department*

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

Finance Director Signature		Date 11/8/11	
CF Prepared by/Date		CF/CT Number	CT 11-0251



Ohio Department of Public Safety  
DIVISION OF HOMELAND SECURITY  
<http://www.homelandsecurity.ohio.gov>

**GOVERNMENT BUSINESS AND FUNDING CONTRACTS**  
In accordance with section 2909.33 of the Ohio Revised Code

**DECLARATION REGARDING MATERIAL ASSISTANCE/NO ASSISTANCE TO A TERRORIST ORGANIZATION**

This form serves as a declaration of the provision of material assistance to a terrorist organization or organization that supports terrorism as identified by the U.S. Department of State Terrorist Exclusion List (see the Ohio Homeland Security Division Web site for reference copy of the Terrorist Exclusion List).

Any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided. Failure to disclose the provision of material assistance to such an organization or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree.

For the purposes of this declaration, "material support or resources" means currency, payment instruments, other financial securities, funds, transfer of funds, and financial services that are in excess of one hundred dollars, as well as communications, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

**COMPLETE THIS SECTION ONLY IF YOU ARE AN INDEPENDENT CONTRACTOR**

LAST NAME	FIRST NAME	MI	
HOME ADDRESS			
CITY	STATE	ZIP	COUNTY
HOME PHONE	WORK PHONE		

**COMPLETE THIS SECTION ONLY IF YOU ARE A COMPANY, BUSINESS OR ORGANIZATION**

LAST NAME <b>GAMBLIN</b>	FIRST NAME <b>JACQUELINE</b>	MI <b>Y.</b>	
BUSINESS/ORGANIZATION NAME <b>JY6 INNOVATIONS</b>		PHONE <b>937-475-2272</b>	
BUSINESS ADDRESS <b>180 FIVEPINES CT</b>			
CITY <b>CLAYTON</b>	STATE <b>OH</b>	ZIP <b>45315</b>	COUNTY <b>MONTGOMERY</b>

**DECLARATION**

In accordance with section 2909.32 (A)(2)(b) of the Ohio Revised Code

For each question, indicate either "yes," or "no" in the space provided. Responses must be truthful to the best of your knowledge.

1. Are you a member of an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
2. Have you used any position of prominence you have with any country to persuade others to support an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
3. Have you knowingly solicited funds or other things of value for an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
4. Have you solicited any individual for membership in an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
5. Have you committed an act that you know, or reasonably should have known, affords "material support or resources" to an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
6. Have you hired or compensated a person you knew to be a member of an organization on the U.S. Department of State Terrorist Exclusion List, or a person you knew to be engaged in planning, assisting, or carrying out an act of terrorism?  Yes  No

In the event of a denial of a government contract or government funding due to a positive indication that material assistance has been provided to a terrorist organization, or an organization that supports terrorism as identified by the U.S. Department of State Terrorist Exclusion List, a review of the denial may be requested. The request must be sent to the Ohio Department of Public Safety's Division of Homeland Security. The request forms and instructions for filing can be found on the Ohio Homeland Security Division Web site.

**CERTIFICATION**

I hereby certify that the answers I have made to all of the questions on this declaration are true to the best of my knowledge. I understand that if this declaration is not completed in its entirety, it will not be processed and I will be automatically disqualified. I understand that I am responsible for the correctness of this declaration. I understand that failure to disclose the provision of material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List, or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree. I understand that any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided by myself or my organization. If I am signing this on behalf of a company, business or organization, I hereby acknowledge that I have the authority to make this certification on behalf of the company, business or organization referenced on page 1 of this declaration.

X

APPLICANT SIGNATURE

11/9/11

DATE

**PROFESSIONAL SERVICES AGREEMENT  
FOR IT SUPPORT SERVICES  
AT THE DAYTON INTERNATIONAL AIRPORT**

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**PROFESSIONAL SERVICES AGREEMENT**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_ between the City of Dayton, Ohio, a municipal corporation in and of the State of Ohio, ("City") and **JYG Innovations**, a corporation authorized to conduct business in the State of Ohio, ("Consultant").

**WITNESSETH THAT:**

**WHEREAS**, The City finds it advantageous to engage a firm to provide information technology ("IT") services and support, including engineering and final tier problem resolution services, for the City's Department of Aviation IT network and related systems; and

**WHEREAS**, Consultant represents that it is an experienced and qualified technology business solutions provider, which is able to provide the Professional Services requested; and

**WHEREAS**, The parties enter into this Agreement to set forth the terms and conditions for the performance of IT Professional Services by Consultant for the City.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants set forth hereinafter, the City and Consultant agree as follows:

**ARTICLE I  
PROFESSIONAL SERVICES**

**A. Representations**

Consultant warrants and represents that: (1) it is qualified and permitted by law to perform all the Professional Services to be furnished pursuant to the terms of this Agreement; and (2) all personnel engaged in the performance of the Professional Services to be provided hereunder are qualified, experienced, capable and, as applicable, licensed to perform the work and services they are designated to perform.

**B. Professional Services**

Consultant shall provide technical support, including IT engineering and final tier IT problem resolution services, for the computer network and systems, including all related data and systems, within the City's Department of Aviation. Specifically, Consultant will perform the technical IT work and services as described in Exhibit A, which is attached hereto and incorporated herein by reference. For purposes of this Agreement, all work, services and deliverables to be provided by Consultant under this Agreement is referred to hereinafter as the

“Professional Services.” In the performance of the Professional Services on-site at Department of Aviation facilities at the James M. Cox Dayton International Airport (“Airport”), Consultant and its employees, agents, and contractors shall comply with all applicable federal, state and local laws, rules, regulations, orders and procedures governing the Airport, including access to and use of the Airport and aeronautical facilities.

### **C. Representations, Covenants and Warranties**

The Professional Services performed under this Agreement shall comply with all applicable federal, state, and local laws, regulations or orders, and agency association standards or other standards governing the performance of the particular professional service.

Consultant acknowledges that it is fully responsible for the Professional Services provided to the City, whether directly with its own staff or indirectly with contractors/agents. Consultant represents and warrants to the City that: (1) the Professional Services will be performed in a manner that meets the highest professional standards of the industry for IT technical and support services; (2) none of the Professional Services or any tangible deliverables associated with the Professional Services will violate the intellectual property rights or any other proprietary, privacy, contractual or legal rights of any third party; (3) no tangible deliverable provided by Consultant as part of the Professional Services will be subject to any lien or encumbrance; and (4) all tangible deliverables provided as part of the Professional Services will be free from defects in design and workmanship and fit for their intended purposes and use by the City.

Consultant further represents and warrants to the City that: (1) it will not access the City’s Department of Aviation or any other City network, system or application (hereinafter collectively the “network”) other than solely for the purpose of performing the Professional Services; and (2) Consultant will access the network with equipment provided by the City or, if Consultant uses remote access with its own devices and computers to perform the Professional Services, Consultant shall use only devices and computers that have state-of-the-art virus protection software, encryption, security and privacy features, and disaster recovery solutions.

Consultant represents, guarantees and warrants to the City that all Professional Services performed hereunder: (1) shall be free of known viruses, worms, Trojan horses and the like; and (2) shall be free from any code, trap door, time bomb, or other third party code designed to restrict, remove or disable intellectual property because of the passage of time, alleged failure to make payments due or otherwise, but excepting therefrom documented security measures such as password expiration functions.

### **D. Personnel**

The City reserves the right to conduct, for security reasons and compliance with federal laws, rules, regulations and procedures governing access to airports and aeronautical facilities, a background investigation on any person assigned by Consultant to perform any of the Professional Services required hereunder. Consultant agrees to fully cooperate with the City in this endeavor and to provide any information, to the extent allowed by law, which is reasonably necessary to perform such background investigation. Dependent upon the results of the

background check, City may request that Consultant immediately remove any person from performance of the Professional Services. It is Consultant's responsibility for advising all personnel providing the Professional Services required hereunder of the City's business policies, procedures and security requirements.

#### **E. Access to Airport Property**

As directed by the City, Consultant shall insure that its employees, contractors and agents requiring access in connection with performance of the Professional Services to the City's Department of Aviation facilities located in the "sterile areas" at the Airport are properly identified with a City-issued security access badge (or such other media) and that said badge is prominently displayed at all times while such persons are in the sterile areas. For purposes of this Agreement, "sterile areas" include all non-public areas of the Airport, including the designated "Security Identification Display Area" ("SIDA") and the Airport Operations Area ("AOA"), as these terms are defined by Title 49 Code of Federal Regulations, Part 1542, as may be amended or replaced, and the City's approved Airport security program, and those areas of the Airport located beyond security checkpoint. For Consultant's employees, agents and contractors not issued a security access badge; Contractor shall comply with and enforce the federal and City policies, procedures and requirements related to the escort of such persons within sterile areas of the Airport. Consultant shall comply with all City policies, procedures and requirements for the issuance of the security access badge, and waives any claim against the City resulting from the City's refusal to issue or revocation of a security access badge pursuant to applicable laws, rules, regulations, policies and procedures.

## **ARTICLE II COMPENSATION**

Total amount of remuneration in this Agreement shall not exceed the sum of Two Hundred Seventy Thousand Dollars (\$270,000) for the Professional Services provided by Consultant pursuant to the terms of this Agreement, inclusive of reimbursable expenses.

#### **A. Compensation for Professional Services**

Payment for the Professional Services provided by Consultant is at the following hourly rates for the specific categories of personnel involved in providing the Professional Services hereunder:

Applications Engineer.....	\$ 94.00
Senior System Engineer.....	\$ 91.00
Systems Engineer.....	\$ 75.00

Hourly time charges shall be determined on a portal-to-portal basis, with partial hourly billings based on ten (10) minute minimum increments.

#### **B. Reimbursable Expenses**

In addition to the compensation for Professional Services, the City agrees to reimburse Consultant for its expenses reasonably incurred in completion of the Professional Services

provided under this Agreement. However, payment for such reimbursable expenses is subject to the following limitations:

1. Local automobile travel expenses are included in the hourly rates paid as compensation for services. Automobile travel expenses for any destination outside of Montgomery County, Ohio will be reimbursable at the rate of fifty cents (\$.50) per mile.
2. Reimbursable expenses are limited to those out-of-pocket expenses paid by Consultant to some third party, excluding itself, and its employees, excluding any other consultant and sub-consultants and excluding any third party in which Consultant has an ownership interest or Consultant receives payments or benefits in consideration for service or product orders given to that third party.
3. Amounts billed as reimbursable expenses are limited to direct costs incurred by Consultant and shall not include any multiple or additional percentage of those costs.
4. In order to be reimbursable, expenses must have been reasonably appropriate or must have been necessary, when evaluated in the light of the services to be performed. The cost of alcoholic beverages or entertainment shall not be reimbursed.
5. Signed, legible and explanatory receipts must be submitted for all reimbursable expenses, if requested by the City.

#### **C. Billing Frequency**

Consultant shall submit invoices, not more frequently than monthly or in such frequency as the parties may agree, for payment of the Professional Services actually provided and reimbursable expenses. Invoices shall detail the Professional Services provided during the invoice period and number of hours devoted to performance of the services (by labor category), list the total amount requested together with itemized hourly billings (by labor rate) and amount of reimbursable expenses incurred during the invoice period, listed by category and type of expense. All invoices shall be accompanied by supporting documentation and information that substantiates the invoiced amount and expenses incurred. The City agrees to tender payment of all invoices within thirty (30) days from the City's receipt of an invoice, unless the City disputes the invoice.

### **ARTICLE III RECORDS AND RETENTION**

Consultant shall use Generally Accepted Accounting Principles ("GAAP") in recording and documenting all costs and expenditures related in whole or part to the performance of this Agreement. Such costs and expenditures for the Professional Services provided under this Agreement shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other accounting documents and other evidence (collectively, "records"). All records shall be clearly identified and readily accessible. At any time during normal business hours and as often as the City may request, Consultant shall make available to the City, the

Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees, all of its records related to this Agreement and performance of the Professional Services. Consultant shall also permit the City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies and any of their designees to audit, examine, and make excerpts or transcripts from such records and to have audits made of all contract(s), invoices(s), materials, payrolls, personnel records, conditions of employment and other data pertaining in whole or in part to matters covered by this Agreement.

All records relating to the Professional Services provided under this Agreement, including any and all supporting documentation for invoices submitted to the City, shall be retained by Consultant and made available for review by the City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of four (4) years after the termination or expiration of this Agreement.

Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the records pertaining to this Agreement, which commences prior to the expiration of the four-year period, Consultant shall retain such records until completion of the actions and resolution of all issues or the expiration of the four-year period, whichever occurs later.

## **ARTICLE IV TERM AND RENEWAL**

This Agreement shall commence on the Effective Date or November 1, 2011, whichever is later, and expire on November 30, 2014, with an option to renew for two additional years, unless earlier terminated.

## **ARTICLE V INSURANCE AND INDEMNITY**

### **A. Indemnification**

Consultant shall indemnify and hold harmless the City and its elected officials, officers, employees, and representatives from and against all expenses, damages, claims, suits, or liabilities (including reasonable attorney's fees) arising out of the performance or non-performance of this Agreement and/or infringement or alleged infringement of any patent, copyright, trademark, or other intellectual property right, privacy or similar right of any third party and/or the acts, omissions or conduct of Consultant or its employees and agents; excepting such claims, losses, damages and expenses or liabilities that are solely caused by or arise out of the negligence or intentional acts of the City, its officers, employees and agents. Consultant agrees to indemnify the City for any fines or penalties levied against the City by the Federal Aviation Administration, Transportation Security Administration, or other governmental authority resulting from the acts, omissions or conduct of Consultant or its employees and agents.

## **B. Insurance Requirements**

During the term of this Agreement, Consultant shall, at its expense, maintain with an insurance company authorized to do business in the State of Ohio and having at least an "A" rating from A.M. Best, Professional Liability Insurance, having a minimum One Million Dollar (\$1,000,000) annual aggregate and General Liability Insurance, having a minimum One Million Dollar (\$1,000,000) annual aggregate. Said policy shall name the City, Ohio, its elected officials, officers, agents, and employees as additional insureds. Consultant shall also maintain Workers' Compensation Insurance in such amounts as prescribed by law for each of its employees involved in the performance of this Agreement, and shall require all contractors, subcontractors and other engaged by Consultant to perform any of the Professional Services hereunder to maintain same.

All policy/policies of insurance to be maintained pursuant to this Article shall contain a provision stating that said insurance may not be canceled or terminated without thirty (30) days prior written notice to the City. Upon execution of this Agreement, Consultant shall furnish the City with a copy of such certificate(s) of insurance demonstrating compliance with this Article and, at the City's request, shall permit the inspection of a complete copy of the policy or policies of insurance. It is agreed that all premiums and costs of the insurance required hereunder is not reimbursable or otherwise chargeable to the City. The insurance required hereunder shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law. The City maintains the right to modify, delete, alter or change the insurance requirements contained in this Article upon advance reasonable notice to Consultant.

## **ARTICLE VI TERMINATION**

This Agreement may be terminated by either party upon giving written notice of termination to the other party at least thirty (30) days prior to the effective date of such termination. In addition, this Agreement may be immediately terminated in the event or under any of the following circumstances:

1. If a receiver for Consultant's assets is appointed by a court of competent jurisdiction.
2. Consultant is divested of its rights, powers and privileges under this Agreement by operation of law.
3. Consultant's breach of any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of Consultant to remedy such breach within thirty (30) days from the date of written notice from the City specifying the nature of the breach.
4. The City's breach of any term, covenant or condition of this Agreement to be kept, performed and observed by it, and the failure of the City to remedy such

breach within thirty (30) days from the date of written notice from the Consultant specifying the nature of the breach.

In the event of termination, the City is not obligated to pay for any Professional Services performed or expenses incurred subsequent to the effective date of termination, and, upon such payment, Consultant shall provide to the City copies of all data, reports, summaries, and such other information and materials, whether completed or in process.

## **ARTICLE VII EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION**

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

## **ARTICLE VIII CONFIDENTIALITY**

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

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

Nothing in this Article shall prohibit or limit either party's use or disclosure of confidential or proprietary information: (i) previously known to it without agreement of confidentiality, (ii) independently developed by it, (iii) acquired by it from a party which is not, to the other party's knowledge, under an obligation not to disclose such information, (iv) is or becomes publicly

available through no breach of this Agreement by the other party, (v) such disclosure is required by an order of a Court or under state and/or federal law; or (vi) such disclosure is authorized in writing by a party to this Agreement.

## **ARTICLE IX** **DELIVERABLES AND OWNERSHIP**

All documents, software, hardware, databases, scripts and/or routines provided to or made available to Consultant by the City for performance of the Professional Services shall remain the sole and exclusive property of the City (or the third party authorizing/licensing the City's use thereof), and shall not be reproduced or used by Consultant for any purpose other than completing the Professional Services. Consultant is responsible for any and all liability resulting from its breach of the aforementioned sentence.

Except as otherwise provided in this Article IX, all materials developed, modified, changed, generated, and/or produced by Consultant, its employees and/or contractors, in the performance of the Professional Services including, but not limited to, computer software, computer software programming code(s), documentation, databases, scripts, routines, flow charts, diagrams, specifications, reports and data (collectively, the "Work Product") shall, upon payment, become the sole and exclusive property of the City. Any other invention, product, computer program or specifications, whether patentable or unpatentable, which is made, conceived, or first actually or constructively reduced to practice by Consultant as a result of Professional Services provided hereunder (individually, an "Invention" and collectively, the "Inventions") also shall, upon payment, become the City's sole and exclusive property.

If the Work Product, or any portion of it, is not considered work-made-for-hire, or if Consultant is entitled to claim any other ownership interest in the Work Product or Inventions, then, Consultant shall transfer, grant, convey, assign, and relinquish to City all of its worldwide right, title, and interest in and to such Work Product and Inventions, under patent, copyright, trade secret, and trademark law, in perpetuity or for the longest period otherwise permitted by law. Consultant agrees to perform any and all acts that may be deemed reasonably necessary or desirable by City to evidence the transfer of ownership to the City of the Work Product and Inventions.

It is understood that certain pre-existing intellectual property developed by Consultant and provided to the City may be provided hereunder. In such instance, Consultant shall advise the City, in writing, that it is providing its pre-existing intellectual property and shall grant the City an irrevocable, perpetual, exclusive, worldwide, royalty-free right and license to use such intellectual property and to make copies of same for (i) development and testing; (ii) Y2K or such other compliance testing; (iii) disaster recovery, backup, archive and restore testing and implementation purposes; and (iv) for any other purposes contemplated by this Agreement.

Any license or property right to intellectual property, which Consultant does not own, that is procured by Consultant as part of the Professional Services shall be issued and/or secured in the name of the City of Dayton, Ohio.

## **ARTICLE X** **GENERAL PROVISIONS**

### **A. Entire Agreement and Invalid Provisions**

This Agreement represents the entire and integrated Agreement between the City and Consultant and supersedes all prior negotiations, representations and agreements, whether oral or written. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

### **B. Independent Contractor**

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

Consultant and all employees and any other persons retained or hired by Consultant to perform the Professional Services or assume any duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to any of the emoluments of employment with the City of Dayton and Consultant shall indemnify the City against any such claims by its employees, agents, contractors and consultants for such City employee benefits. Consultant is responsible to withhold and pay or, if such persons are contractors, require its contractors to pay, all applicable local, state and federal taxes.

### **C. Amendments**

This Agreement may be amended by mutual agreement between the City and Consultant, provided that no amendment shall be effective unless it is reduced to a writing, which makes specific reference to this Agreement, executed by a duly authorized representative of each party and, if applicable or required, approved by the Commission of the City of Dayton, Ohio.

### **D. Applicable Law and Venue**

This Agreement shall be governed and construed under the laws of the State of Ohio. By execution hereof, Consultant irrevocably submits to the original jurisdiction of the courts located

within the County of Montgomery, State of Ohio, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement.

## **E. Notices and Communications**

Any written notice or other communication required or permitted by this Agreement shall be made in writing and shall be delivered personally, sent by express delivery, certified U.S. mail, postage pre-paid, to the respective party at the following address:

If to the City: City of Dayton, Ohio - Department of Aviation  
James M. Cox Dayton International Airport  
3066 Terminal Drive, Suite 300  
Vandalia, Ohio 45377  
Attn: Director of Aviation

If to Consultant: JYG Innovations  
180 Fivepines Court  
Clayton, OH 45315  
Attn: Jacqueline Y. Gamblin, CEO

Nothing contained in this Subsection shall be construed to restrict the transmission of routine communications between the parties.

## **F. Assignment and Subcontracting**

Consultant shall not assign any rights or duties under this Agreement without the prior written consent of the City. Unless otherwise stated in the City's written consent to an assignment, no assignment will release or discharge Consultant from any obligation under this Agreement. Notwithstanding, nothing contained in this Subsection shall prevent Consultant from employing or subcontracting with independent consultants, associates, and subcontractors to assist in the performance of the Professional Services required; provided, that the City is satisfied with the independent consultants, associates and/or subcontractors' performance of such services.

## **G. Meetings and Evaluation of Performance**

Consultant shall meet with the City and its designees at such times designated by the City to review and discuss performance of this Agreement and/or the Professional Services. Consultant shall allow the City to conduct inspections or monitoring, and shall cooperate with the City, its employees, agents and other independent contractors, in all respects concerning the performance of the Professional Services and the review and monitoring of Consultant's performance under this Agreement.

## H. Ohio Revised Code § 3517.13 Compliance

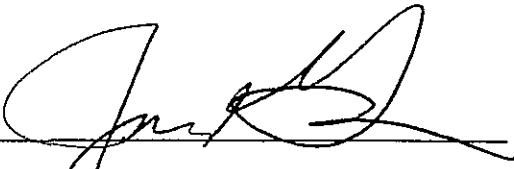
The Consultant affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

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

**CITY OF DAYTON, OHIO**

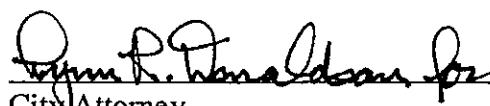
\_\_\_\_\_  
City Manager

**JVG INNOVATIONS**

By: 

ITS: \_\_\_\_\_

**APPROVED AS TO FORM AND  
CORRECTNESS:**

  
\_\_\_\_\_  
Lynn R. McDonald, Jr. SPB  
City Attorney

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

\_\_\_\_\_, 20\_\_\_\_

Min. / Bk. \_\_\_\_\_ Pg. \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Commission

## EXHIBIT A

Consultant will perform the following work and services for the City's Department of Aviation:

- Perform server system administration and operations.
- Monitor data backup processes.
- Maintain desktop computer systems.
- Assist users with problem resolution.
- Monitor network availability and operational status.
- Monitor system security posture including antivirus signatures, system patches, Pix firewall rules, and ISA server.
- Manage user add, remove, and changes in Active Directory.
- Provide IT systems design and implementation guidance.
- Communicate status of project activities and actions with the Airport IT staff.
- Infuse new technologies into the environment as requested.
- Provide final-tier problem resolution services as requested.
- Assist with VoIP implementation.

Consultant shall assign one of its Programmers to provide on-site (at the Airport) support and off-site (remote) monitoring support to provide the Professional Services up to a maximum of twenty (20) hours per week during the term of this Agreement. In addition, Consultant shall provide Application Engineer, Senior Systems Engineer and Systems Engineer labor categories to provide Professional Services on an as needed basis and upon the verbal or written pre-approval from the City's Director of Aviation or his designee.

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

TO: <u>City Manager</u>	Date <u>November 16, 2011</u>
FROM: <u>Central Services/Facilities Management</u> <i>Department/Division</i>	Code <u>10000-5540-29411-54</u>
(CHECK ONE)	
<input type="checkbox"/> Purchase Order	<input checked="" type="checkbox"/> Lease Agreement
<input type="checkbox"/> Price Agreement	<input type="checkbox"/> Estimate of Cost
<input type="checkbox"/> Award of Contract	<input type="checkbox"/> Payment of Voucher
<input type="checkbox"/> Other	
Fund Title <u>General</u>	
Amount \$ <u>\$100 (nine year ten months)</u>	
Supplier/Vendor/Company/Individual:	
NAME	<u>St. Mary Development Corporation</u>
ADDRESS	<u>2160 E. Fifth Street</u>

Justification and description of purchase, contract or payment:

## **Southeast Priority Board Lease Agreement**

Central Services recommends that the City enter into a lease agreement for facilities located at 2160 E. Fifth Street (aka the Southeast Priority Board Offices). This space will be used to support administrative operations of the St. Mary Development Corporation (SMDC). In addition to the \$10 annual fee, SMDC will take responsibility for the upkeep of parkland surrounding the building, maintaining it for public use. SMDC will also provide continued use of space for Southeast Priority Board meetings. Terms allow the lease to be extended for two additional periods of ten years each with 180 day notice prior to expiration of the current term.

This recommended lease agreement covers the period upon signature through September 30, 2021.

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

A certificate of revenue in the amount of \$100 is attached.

## Attachments

Approved Affirmative Action Program on File  Yes

No /  NA

~~Penoyd Carrera~~  
Division

---

## Department

~~City Manager~~

Clerk

\_\_\_\_\_

Date \_\_\_\_\_

# CERTIFICATE OF REVENUE

## TO BE COMPLETED BY THE DEPARTMENT

*Customer Information:* Name St. Mary Development Corporation  
Address 519 Xenia Ave  
City Dayton State Ohio Zip+4 45410 -   
Customer # 311275208 Address Location # F1  
Federal ID# 311275208

*Revenue Information:* Fund 10000 Organization 5540 Revenue 29411 Program 54

*Contract Information:* Contract Start Date Effective Date Contract Expiration Date 9/30/2021

*Billing Information:* Rate: \$10.00 Arrears \_\_\_\_\_ Pre-bill \_\_\_\_\_  
Monthly (1<sup>st</sup> month of billing) \_\_\_\_\_  
Quarterly (1<sup>st</sup> month of quarter) \_\_\_\_\_  
Semi-annual (1<sup>st</sup> month of half) \_\_\_\_\_  
Annual (1<sup>st</sup> month of billing) December 2011  
Other (explain) \_\_\_\_\_  
Rate Change Date \_\_\_\_\_ Rate Change Amount \_\_\_\_\_

*Description of Services (wording on invoice):* \_\_\_\_\_

Lease agreement between the City of Dayton and St. Mary Development Corporation for the property known as the Southeast Priority Board and Sims Park, 2160 E. Fifth St., Dayton, Ohio, Lot#5503. Rate of \$10/annually for 10 years, ending in 2021.

Departmental Approval 07/10/11

## TO BE COMPLETED BY FINANCE

City Reference Number 2-75208-1 Auditor AM Date 11-8-11

I hereby certify that the agreement containing a source of revenue to the City of Dayton is officially in the Accounts Receivable data base and contains the terms and conditions necessary for collection.

Director of Finance

O. J. Smith

## LEASE AGREEMENT

THIS LEASE AGREEMENT dated this \_\_\_\_\_ day of \_\_\_\_\_, 2011 ("Effective Date") is between the City of Dayton, Ohio, a municipal corporation under the laws of the State of Ohio ("Lessor"), and St. Mary Development Corporation ("Lessee").

WHEREAS, Lessor agreed to lease the land and premises known as the Southeast Priority Board and Sims Park, 2160 East Fifth Street, Dayton, Ohio, ("Premises"), to St Mary Development Corporation, an Ohio non-profit Corporation;

NOW, THEREFORE, Lessor and Lessee, for and in consideration of the covenants and agreements hereinafter set forth, agree as follows:

1. Lessor, for and in consideration of the covenants and agreement hereinafter set forth, does hereby lease to the Lessee, the Premises known and described to wit:

Being situated in the City of Dayton, Montgomery County, Ohio, and being lot number 5503, bounded by Columbus Street, Huffman Avenue and East Fifth Street.

2. In consideration of the sum of Ten Dollars (\$10.00) per year (\$100.00 per term, including each option term) paid by Lessee and received by Lessor and all maintenance activities required for the upkeep of the facility and continued public use of the park land, Lessor hereby leases to Lessee the Premises for the term of this Lease Agreement

3. The term of this Lease Agreement shall commence upon the Effective Date and shall terminate on September 30, 2021 ("Termination Date").

4. Provided Lessee is not in default under this Lease Agreement, Lessee shall have the right, at Lessee's option, to extend the Term of this Lease Agreement for two (2) additional periods of ten (10) years each commencing October 1, 2021, and October 1, 2031. The Option Term may be exercised by Lessee's delivery of written notice to Lessor given within one hundred eighty (180) days prior to expiration of the ten current term.

5. Lessee shall not, on the basis of race, color, religion, sex, ancestry, national origin, place of birth, age, marital status, or handicap deny to any person the use, benefits or services provided upon the Premises, nor provide any use, services or benefits to a person which are different or provided in a different manner from those provided to others under the same program or activity.

6. The Lessee shall not adopt rules, regulations, or practices for the operation on the Premises which are discriminatory in nature.

7. Lessee further agrees that it shall not enter into any lease or other agreement respecting the Premises without incorporating into such lease or agreement terms to insure the Premises will be used, occupied, and available for the provisions of neighborhood services and other benefits that will be available without regard to race, color, religion, sex, ancestry, national origin, place of birth, age, marital status, or handicap.

8. Lessee may sublet a portion of the Premises upon approval by Lessor, such approval not to be unreasonably withheld. The amount of the sublease shall be at a rate equal to the lower of "cost" or "market." "Cost" is Lessee's annual cost of operating and maintaining the Premises. "Market" is the fair market value of a lease of similar type and location.

9. Lessee shall not voluntarily create, cause, or allow to be created, any debt, lien, mortgage, charge or encumbrance against the Premises which in any way will impair or otherwise adversely affect the preservation of the Premises for all the use or uses set out in this Lease.

10. Lessee shall be responsible for the preventative maintenance and routine janitorial functions relative to the day-to-day upkeep of the Premises, including the building, sidewalks, parking lots and mechanical systems. Lessee shall continually maintain during the term of this Lease Agreement a contract with a reputable service contractor or contractors for full preventative maintenance services for mechanical systems on the Premises.

11. Lessee shall cause the Premises, including all sidewalks, open space and parking areas, to be kept open and free from nuisance and shall be responsible for timely removal of snow and ice from all sidewalks and parking areas of the Premises.

12. Lessee shall be responsible for the maintenance, repair and housekeeping of the entire Premises. Lessee shall be responsible for the maintenance, replacement and repair of all glass windows on the Premises.

13. In the event the Premises are ever placed on the tax duplicate by the Montgomery County Auditor, Lessor reserves the right to increase the rental rate to the extent of any real property taxes on the Premises.

14. Lessee's occupancy and operation of the Premises shall be in accordance with all laws, ordinances, codes and regulations applicable thereto. Lessee understands that the Premises are considered historic structures and any interior and exterior improvements must meet City of Dayton Historic Preservation requirements.

15. Lessee shall, at its own expense, correct any defects in the design and/or construction of existing improvements on the Premises, including major repairs to the roof, floors, walls and any other structural problems.

16. Lessee shall not permit, commit or suffer waste or impairment of the Premises, its site, or any part thereof.

17. Lessee shall pay all charges for public utilities, including gas, electric power, water, and any sewer rental and ground water charges relating to the Premises, including buildings and parking lots, during the term of this Lease Agreement. Lessee shall also pay any assessments as found on the property tax bill.

18. Lessee shall, at Lessee's cost, provide and keep in force adequate fire and liability insurance on the Premises payable to the Lessor. All policies required by this Lease Agreement will be in a form and with companies satisfactory to the Lessor and shall name Lessor, its elected officials, officers, employees, and agents as additional insureds.

Lessee shall furnish to the Lessor Certificates of Insurance respecting all insurance maintained by Lessee pursuant to this Lease Agreement and naming Lessor, its elected officials, officers, employees, and agents as additional insureds. For purpose of this Lease Agreement, "adequate insurance" shall include the following types and amounts of coverage:

a. Fire and extended coverage insurance on the building to be maintained in an amount sufficient at all times to prevent Lessor or Lessee from becoming a coinsurer under the terms of such policy or policies.

b. Boiler insurance covering any boilers servicing the building in a minimum amount of \$50,000.

c. Public liability insurance with limits of at least \$500,000.

d. Workers' Compensation insurance as required by Ohio law.

19. Lessor shall have the right to make inspections of the Premises at reasonable times upon 48 hours prior notice, except in the event of an emergency.

20. All loss, cost or damages which may occur or be claimed with respect to any person or persons, corporation, property or chattels on or about the Premises, or to the Premises itself, resulting from activities of either party pursuant to this Lease Agreement shall be the responsibility of the respective parties as such liabilities may be determined by a court of law or pursuant to any other appropriate procedure.

21. Lessee, at the expiration of the term of this Lease Agreement, may remove all trade fixtures owned by Lessee which can be removed without costly injury to, or undue defacement of, the Premises, provided all rents and other amounts due are paid in full and all damage to the Premises is promptly repaired.

21. Lessee, at the expiration of the term of this Lease Agreement, may remove all trade fixtures owned by Lessee which can be removed without costly injury to, or undue defacement of, the Premises, provided all rents and other amounts due are paid in full and all damage to the Premises is promptly repaired.

22. Lessee, at the expiration of the term of this Lease Agreement, shall surrender the premises to the Lessor in good order and repair, reasonable wear and tear excepted.

23. Any notice or other communication to Lessor or a Lessee pursuant hereto shall be deemed validly given, serviced or delivered upon deposit in the United States mail, registered and with proper postage and registration fee prepaid, addressed as follows:

To Lessor: City of Dayton  
Director of Central Services  
101 West Third Street  
P.O. Box 22  
Dayton, Ohio 45401

To Lessee: St. Mary Development Corporation  
Director of Administration  
2160 E. Fifth Street  
Dayton, Ohio 45403

or to such other address on either party may designate by written notice to the other delivered in accordance with the provisions of this Article.

24. In the event Lessee fails to keep and perform any of the covenants, conditions, agreements, provisions, or terms of this Lease Agreement and, if Lessee does not correct such breach within a reasonable time, after receipt of written notice from Lessor to correct such breach, it shall be lawful for Lessor to have the right, at once and without further notice to Lessee, to enter into the Premises and repossess the same as if this Lease Agreement had not been made, without prejudice, however, to any rights or action to which Lessor is entitled by law and pursuant to and in accordance with the applicable laws governing forcible entry and detainer actions.

25. In the event any provision of this Lease Agreement is held to be invalid, void or unenforceable, it shall in no way affect, impair or invalidate any other provision, and all other provisions of this Lease Agreement shall remain in full force and effect.

This Lease Agreement constitutes the full understanding between the parties. No waiver, modification or addition to this Lease Agreement shall be valid unless it is made in writing or otherwise properly executed by the parties hereto.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease  
Agreement as of the Effective Date.

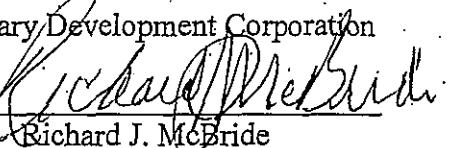
THE CITY OF DAYTON, OHIO

By \_\_\_\_\_

Printed Name

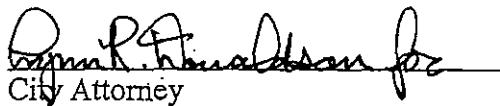
Printed Title

St. Mary Development Corporation

By   
Richard J. McBride

Title: President

APPROVED AS TO FORM  
AND CORRECTNESS:

  
D. R. Thompson  
City Attorney

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

\_\_\_\_\_, 2011

Min. Bk. \_\_\_\_\_ Pg. \_\_\_\_\_

Clerk of the Commission

STATE OF OHIO, MONTGOMERY COUNTY, OHIO SS:

Before me, a Notary Public in and for said County, personally came \_\_\_\_\_, the \_\_\_\_\_ of the City of Dayton, Ohio, one of the parties in the foregoing Lease Agreement, and acknowledged that \_\_\_\_\_ he did sign said Lease Agreement as his voluntary act and deed.

In Testimony Whereof, I have hereunto subscribed my name and affixed my notarial seal this \_\_\_\_\_ day of \_\_\_\_\_.

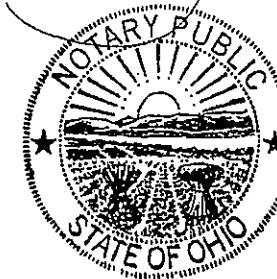
\_\_\_\_\_  
Notary Public

STATE OF OHIO, MONTGOMERY COUNTY, OHIO SS:

Before me, a Notary Public in and for said County, personally came Richard J. McBride, President of St. Mary Development Corporation, one of the parties in the foregoing Lease Agreement, and acknowledged that he did sign said Lease Agreement as his voluntary act and deed:

In Testimony Whereof, I have hereunto subscribed my name and affixed my notarial seal this 3rd day of November, 2011.

  
Notary Public



JULIANNE F. ARNOLD, Notary Public  
In and for the State of Ohio  
My Commission Expires July 15, 2012

4.

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

TO: City Manager

Date November 16, 2011

FROM: Dayton Fire Department  
*Department/Division*

Code 10000-6330-1412-71

(CHECK ONE)

- Purchase Order       Lease Agreement  
 Price Agreement       Estimate of Cost  
 Award of Contract       Payment of Voucher  
 Other      Permission to Bid

Fund Title General Fund

Amount \$ \$25,000.00 (not to exceed)

Supplier/Vendor/Company/Individual:

West Carrollton, Ohio

NAME \_\_\_\_\_

ADDRESS 300 East Central Avenue  
West Carrollton, OH 45449

Justification and description of purchase, contract or payment:

The Dayton Fire Department is seeking permission to bid on a used 1997 ambulance, which is currently for sale on GovDeals, a government auction site. Dayton Fire's bid will not exceed \$25,000 for this piece of equipment.

Dayton Fire would like to bid on this ambulance in an effort to upgrade the condition of our current medic fleet. This particular unit only has approximately 75,600 miles, which is less than all but two of the medics currently in the City's fleet. Several of Dayton's medics have over 200,000 miles. If Dayton Fire is able to win the bid, this apparatus would improve the condition of the City's fleet for minimal cost.

Certificate of Funds is attached.

Approved Affirmative Action Program on File     Yes

No

NA

Approved by City Commission

Clerk

Division

Department

City Manager

Date

# CERTIFICATE OF FUNDS

CTII-0253

## SECTION I – to be completed by User Department

NEW CONTRACT

RENEWAL CONTRACT

CHANGE ORDERS

Contract start date:	November 21, 2011
Expiration Date:	
Original Commission Approval	\$25,000.00
Initial Encumbrance	\$25,000.00
Remaining Commission Approval	\$0.00
Original CT/CF	
Increase Encumbrance	+
Decrease Encumbrance	( )
Remaining Commission Approval	\$

### NO DRAFT DOCUMENTS PERMITTED

#### Required documentation

- Initial City Manager's Report
- Initial CF
- Initial Agreement/Contract

- Copy of City Manager's Report
- Copy of original CF

Fund Code: <u>10000</u> - <u>6330</u> - <u>1412</u> - <u>71</u> - <u> </u> - <u> </u> Fund      Org      Acct      Prog      Activity      Location	Fund Code: <u> </u> - <u> </u> Fund      Org      Acct      Prog      Activity      Location
Fund Code: <u> </u> - <u> </u> Fund      Org      Acct      Prog      Activity      Location	Fund Code: <u> </u> - <u> </u> Fund      Org      Acct      Prog      Activity      Location

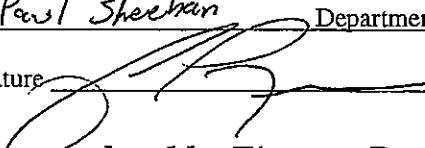
Attached additional pages for more FOAP's

Vendor Name: <u>West Carrollton, Ohio</u>	Vendor Address: <u>300 East Central Ave.</u>	<u>West Carrollton, OH 45449-1806</u>
	(Street)	(City /State/Zip)
Federal ID: <u>316001092</u>		

Commodity Code: 07003

Purpose: Permission to bid on a used ambulance (up to \$25,000) through the GovDeals website.

Contact Person: Chief Paul J. Sheehan Department/Divison Fire Contact 937-333-4562

Originating Director's Signature 

## SECTION II – to be completed by Finance Department

I hereby certify that the amount of money required to meet the payments called for in the aforesaid request has 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	<u>Cherry Banta</u>	<u>11/11/11</u>	
CF Prepared by/Date	<u>Shelley Kraft 11/11</u>	CF/CT Number	<u>CTII-0253</u>



**MEMORANDUM**

---

November 9, 2011

**To:** Timothy Riordan  
City Manager

**From:** Herbert C. Redden  
Director of Fire Services

*hcr*

**SUBJECT:** Acquisition of Used Ambulance

On November 7, 2011, the Dayton Fire Department became aware of a used ambulance from the West Carrollton Fire Department for sale on GovDeals, a government auction site. It has been determined that this vehicle would be an asset to the department's emergency medical fleet. This vehicle is a 1997 Horton Ambulance mounted on a Freightliner chassis. This vehicle only has 75,600 miles. This mileage is the second lowest of any medic in our existing fleet. If purchased, this unit would be placed in frontline service until the mileage warranted moving it to reserve status. Garage Supervisor Kevin Shoup and Assistant Chief Sheehan inspected the vehicle today and verified that it is in excellent condition. The auction concludes on Monday November 21 at 8:00 P.M. The current bid is \$7,000 with a reserve of approximately \$10,000. This medic is easily worth up to \$25,000. The Trotwood Fire Department is also interested in bidding on this vehicle. It is understood that being an auction, there is no guarantee that we will win or that the bidding will not exceed our predetermined bid limit. However, if successful, we will have made a substantial improvement to our apparatus inventory for very little cost.

HCRII/mp

c: Mr. Earley

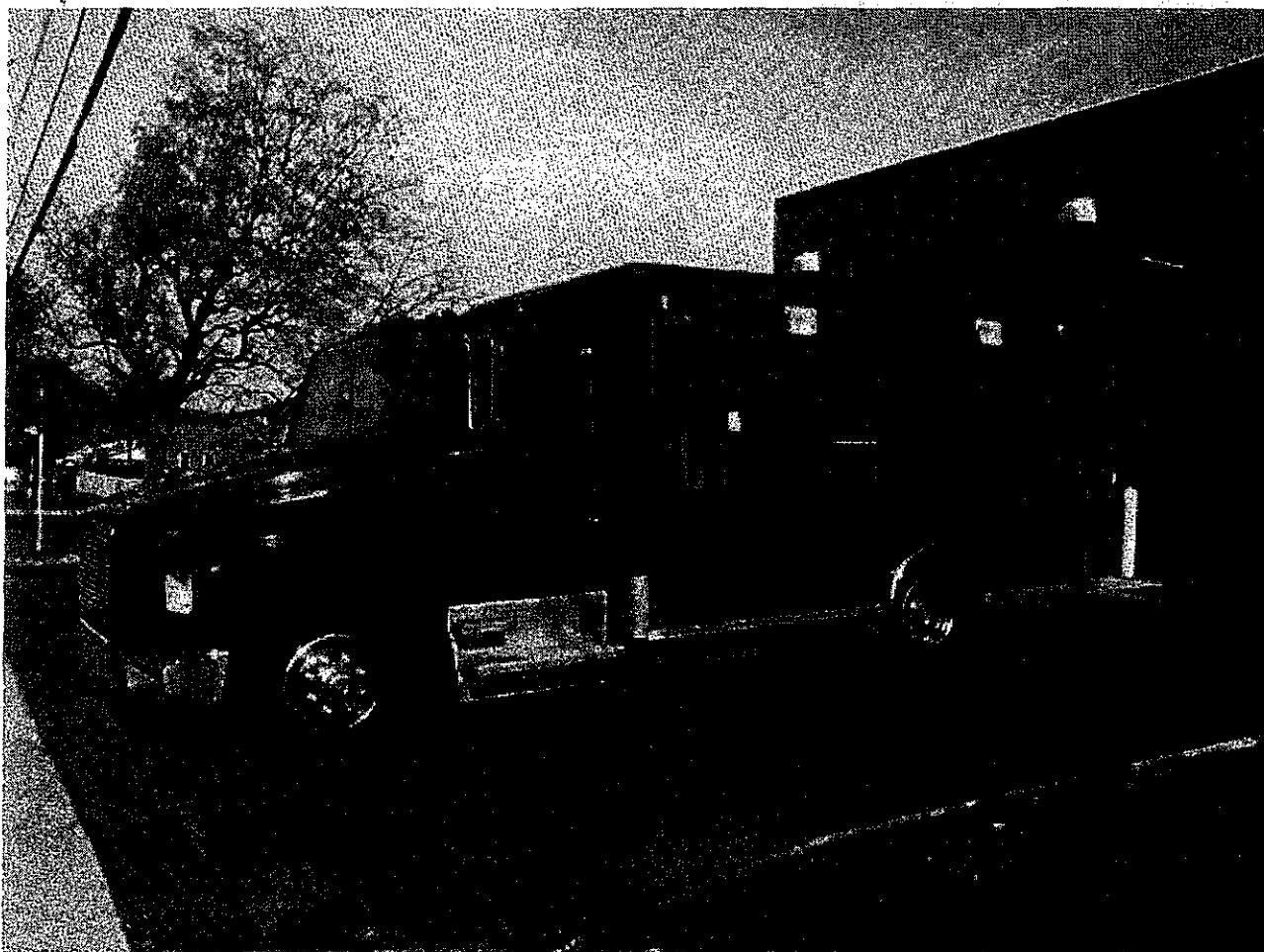
Life expectancy = 10 front line + 4 reserve yrs					
Year	CV#	Assignment	Model	Mileage	Age
1992	774	Medic 118	Braun	212,901	19
2001	781	Medic 108	Horton	100,756	10
1993	773	Medic 113	Horton	237,279	18
1995	740	Medic 110	Horton	232,585	16
1995	741	Medic 218	Horton	226,792	16
1995	742	Medic 115	Horton	272,196	16
2008	734	Medic 8**	Horton	83,319	3
2008	735	Medic 15**	Horton	79,881	3
2000	783	Medic 116*	McCoy-Miller	60,931	11
2003	738	Medic 14	Horton	179,157	8
2003	739	Medic 18	Horton	190,790	8
2006	782	Medic 13	Horton	156,522	5
2006	784	Medic 16	Horton	137,587	1
2006	792	Medic 11	Horton	114,672	5

**9.9286**

\* rechassised in 2000

\*\*rechassised in 2008





5.

**CITY OF DAYTON**  
**DAYTON MUNICIPAL COURT REPORT**

TO: City Commission

Date November 16, 2011

FROM: The Municipal Court/Clerk of Court

Code 10000-2500-1301-74

(CHECK ONE)

Fund Title General Fund

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

Amount \$ 57,917.50

Supplier/Vendor/Company/Individual:

NAME Central Business Equipment Co. dba  
ADDRESS Governor's Square Office Center  
1303- H Lyons Road  
Dayton, OH 45458

Justification and description of purchase, contract or payment:

P1101086- CENTRAL BUSINESS EQUIPMENT Co.

- 37,000 Custom printed file folders.
- These folders are required to maintain Court records and filing system.
- Six possible bidders were solicited and three bids were received.
- This order establishes a price agreement through 12/31/2014.
- The Dayton Municipal Court recommends acceptance of the low bid.
- Initial encumbrance authority: \$12,917.50
- Authority to cover additional needs in the following periods:

• 1/1/12 – 12/31/12	\$15,000.00
• 1/1/13 – 12/31/13	\$15,000.00
• 1/1/14 – 12/31/14	\$15,000.00

Approved Affirmative Action Program on File  Yes

No

NA

Approved by City Commission

Clerk

Date

By MR. Williams

No. 31118-11

## AN ORDINANCE

Providing Temporary Appropriations for the Ordinary  
Operating and Capital Expenses of the City of Dayton  
Pending Passage of the Year 2012 Annual Appropriation  
Ordinance, and Declaring an Emergency.

WHEREAS, Pursuant to the City Charter, an annual appropriations ordinance cannot be passed before the second Monday in January; and

WHEREAS, No obligations for the expenditure of money may be made except pursuant to appropriations approved by the Commission of the City of Dayton; and

WHEREAS, State law permits the passage of a temporary appropriations measure pending passage of an annual appropriations ordinance; and

WHEREAS, To allow for the timely processing of 2012 orders necessary for the usual daily operation of the various Departments of the City of Dayton, it is necessary that this Ordinance take effect at the earliest possible date; now, therefore,

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

Section 1. That, effective January 1, 2012, monies in the treasury of the City of Dayton or monies available for use from revenue accruing to the City, are appropriated in the specified amounts to the following funds for the purposes identified:

GOVERNMENTAL FUND TYPE	2012 Recommendation
<i>(1) General Fund - 10</i>	
1200 Clerk of Commission	313,200
1300 Civil Service Board	408,600
1400 Human Relations Council	215,400
2100 City Manager's Office	354,900
2101 Department of Public Affairs	225,100
2300 Dept. of Planning and Community Development	
Expenses	601,800
Transfers Out	40,000
Total	641,800
2400 Department of Building Services	680,400
2500 Clerk of Courts	1,145,700
2510 Municipal Court	1,345,200
2600 Office of Economic Development	347,100
2700 Department of Management and Budget	224,900
3400 Department of Water	28,800
3500 Convention Center	941,400

		2012 Recommendation
5200	Department of Law	688,400
5300	Department of Finance	1,099,400
5500	Department of Central Services	5,009,500
5600	Department of Human Resources	309,700
6200	Department of Police	14,592,300
6300	Department of Fire	11,272,200
6400	Department of Public Works	
	Expenses	6,384,100
	Transfers Out	40,000
	Total	6,424,100
6500	Department of Recreation & Youth Services	
	Expenses	1,103,600
	Transfers Out	40,000
	Total	1,143,600
9980	Non-Departmental	
	Expenses	343,700
	Transfers Out	234,200
	Total	577,900
16999	Special Projects	616,800
75000	Income Tax Fund	
	Transfers Out	1,716,500
	Total	1,716,500
	<b>Total General Fund</b>	<b>50,322,900</b>

**(2) Special Revenue**

**Roadway Maintenance Fund – 21999**

**Street Maintenance Fund - 21000**

6400	Department of Public Works	1,826,900
	<b>Total Roadway Maintenance Fund</b>	<b>1,826,900</b>
6400	Department of Public Works	266,700
	<b>Total Highway Maintenance Fund</b>	<b>266,700</b>
	<b>Total Roadway Maintenance Fund</b>	<b>2,093,600</b>

**HUD Programs Operating**

**Community Dev. Block Grant Fund - 26204-26209**

2300	Dept. of Planning and Community Development	382,800
2400	Department of Building Services	942,300
5300	Department of Finance	143,300
6500	Department of Recreation & Youth Services	109,600
	<b>Total Community Dev. Block Grant Fund</b>	<b>1,578,000</b>

**Neighborhood Stabilization Program (NSP) 26602 - 26603**

2300	Dept. of Planning and Community Development	49,100
2400	Department of Building Services	25,200
	<b>Total Neighborhood Stabilization Program</b>	<b>74,300</b>

2012  
Recommendation

<b>HOME Operating Fund - 27000</b>		
2300	Dept. of Planning and Community Development	63,300
	<b>Total HOME Operating Fund</b>	<b>63,300</b>
<b>Total HUD Programs Operating</b>		<b>1,715,600</b>
<b>HUD Programs Non-Operating</b>		
<b>Fair Housing Grant Fund - 23919</b>		
1400	Human Relations Council	30,000
	<b>Total Fair Housing Grant Fund</b>	<b>30,000</b>
<b>Emergency Shelter Fund - 25999</b>		
2300	Dept. of Planning and Comm. Dev.	964,600
	<b>Total Emergency Shelter Fund</b>	<b>964,600</b>
<b>Community Dev. Block Grant Capital Fund - 26002 - 26905</b>		
	Miscellaneous Capital Projects	1,787,500
	<b>Total Community Dev. Block Grant Non-Operating Fund</b>	<b>1,787,500</b>
<b>HOME Capital Fund - 27998</b>		
	Miscellaneous Capital Projects	1,714,900
	<b>Total HOME Non-Operating Fund</b>	<b>1,714,900</b>
<b>Neighborhood Stabilization Program II (NSP II)</b>		
2300	Dept. Planning and Comm. Dev.	7,249,500
	<b>Total Neighborhood Stabilization Program II</b>	<b>7,249,500</b>
<b>Neighborhood Stabilization Program III (NSP III)</b>		
2300	Dept. Planning and Comm. Dev.	1,033,300
	<b>Total Neighborhood Stabilization Program III</b>	<b>1,033,300</b>
<b>NSP Miscellaneous Projects - 26604 - 26704</b>		
	Miscellaneous Capital Projects-HUD Direct Allocation	537,300
	Miscellaneous Capital Projects-State Allocation	209,400
	<b>Total Neighborhood Stabilization Program</b>	<b>746,700</b>
<b>Total HUD Programs Non-Operating</b>		<b>13,526,500</b>
<b>ARRA~Energy Efficiency &amp; Conserv. - 28010</b>		
3400	Department of Water	156,600
	<b>Total ARRA~Energy Efficiency &amp; Conserv.</b>	<b>156,600</b>

2012  
Recommendation

<b>Miscellaneous Grants - 28000; 29000</b>	
Various Departments	
Expenses	5,561,600
Transfers Out	0
Total	5,561,600
<b>Total Miscellaneous Grants</b>	<b>5,561,600</b>
 <b>Other Special Revenue - 22111-513</b>	
Various Departments	3,270,900
<b>Total Other Special Revenue Fund</b>	<b>3,270,900</b>
 <i>Total Special Revenue</i>	<b>26,324,800</b>
 <b><i>(3) Debt Service</i></b>	
<b>General Debt Retirement Fund - 31100-33100</b>	
5300     Department of Finance	6,758,100
<b>Total General Debt Retirement Fund</b>	<b>6,758,100</b>
 <b>Total Debt Service</b>	<b>6,758,100</b>
 <b><i>(4) Capital Project Funds</i></b>	
<b>General Capital Fund - 40000</b>	
Miscellaneous Capital Projects	12,174,500
<b>Total General Capital Fund</b>	<b>12,174,500</b>
 <i>Total Capital Project Funds</i>	<b>12,174,500</b>
 <b><i>(5) Permanent Funds</i></b>	
<b>Permanent Fund - 71000</b>	
Various Departments	16,700
<b>Total Permanent Fund</b>	<b>16,700</b>
 <b>TOTAL GOVERNMENTAL FUND</b>	<b>95,597,000</b>
 <b>PROPRIETARY FUND TYPE</b>	
 <b><i>(6) Enterprise Funds</i></b>	
<b>Aviation Operating Fund - 51000</b>	
3200-	
9990     Department of Aviation	
Expenses	7,943,100
Transfers Out	1,733,300
Total	9,676,400
<b>Total Aviation Operating Fund</b>	<b>9,676,400</b>
 <b>Aviation Capital Fund - 51001 - 52999</b>	
Miscellaneous Capital Projects	9,889,400
<b>Total Aviation Capital Fund</b>	<b>9,889,400</b>

2012  
Recommendation

**Water Operating Fund - 53000**

3400	Department of Water - 3400, 3440, 3470, and 9980	
	Expenses	13,544,400
	Transfers Out	1,800,000
	Total	15,344,400
5200	Department of Law	75,000
5300	Department of Finance	1,286,000
	<b>Total Water Operating Fund</b>	<b>16,705,400</b>

**Water Capital Fund - 53001 - 53999**

	Miscellaneous Capital Projects	5,263,900
	<b>Total Water Capital Fund</b>	<b>5,263,900</b>

**Sanitary Sewer Operating Fund - 55000**

3400	Department of Water - 3400 and 9980	
	Expenses	8,532,000
	Transfers Out	2,000,000
	Total	10,532,000
5300	Department of Finance	800
	<b>Total Sanitary Sewer Operating Fund</b>	<b>10,532,800</b>

**Sanitary Sewer Capital Fund - 55001 - 55999**

	Miscellaneous Capital Projects	5,574,100
	<b>Total Sanitary Sewer Capital Fund</b>	<b>5,574,100</b>

**Storm Water Operating Fund - 58001 - 58999**

3400	Department of Water - 3400 and 9980	
	Expenses	1,479,400
	Transfers Out	250,000
	Total	1,729,400
5300	Department of Finance	400
6400	Department of Public Works	388,400
	<b>Total Storm Water Operating Fund</b>	<b>2,118,200</b>

**Storm Water Capital Fund - 58010**

	Miscellaneous Capital Projects	776,500
	<b>Total Storm Water Capital Fund</b>	<b>776,500</b>

**Golf Operating Fund - 59000**

6500	Department of Recreation & Youth Services	1,273,000
	<b>Total Golf Operating Fund</b>	<b>1,273,000</b>

**Golf Capital - 59001**

	Miscellaneous Capital Projects	15,200
	<b>Total Golf Capital Fund</b>	<b>15,200</b>

***Total Enterprise Funds*** **61,824,900**

***(7) Internal Service Funds***

**Fleet Management Fund - 61000**

6400	Department of Public Works	2,472,900
	<b>Total Fleet Management Fund</b>	<b>2,472,900</b>

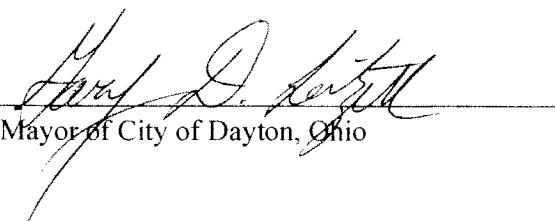
			2012 Recommendation
<b>Document Management Services Fund - 62100</b>			
5500	Department of Central Services		233,800
	<b>Total Document Management Services Fund</b>		<b>233,800</b>
<b>Healthcare Self Insurance - 63000</b>			
5600	Department of Human Resources		10,000,000
	<b>Total Healthcare Self Insurance Fund</b>		<b>10,000,000</b>
<b>Workers' Compensation Fund - 65000</b>			
5200	Department of Law		35,400
5600	Department of Human Resources		334,600
	<b>Total Workers' Compensation Fund</b>		<b>370,000</b>
<b>Plumbing Shop - 66000</b>			
5500	Department of Central Services		194,800
	<b>Total Plumbing Shop Fund</b>		<b>194,800</b>
<b>Fire Fleet Management - 67000</b>			
6330	Department of Fire		432,300
	<b>Total Fire Fleet Management Fund</b>		<b>432,300</b>
<b><i>Total Internal Service Funds</i></b>			<b>13,703,800</b>
<b>TOTAL PROPRIETARY FUND</b>			<b>75,528,700</b>
<b>TOTAL ALL FUNDS</b>			<b>171,125,700</b>

Section 2. That monies herein appropriated shall be charged to and included in the 2012 annual appropriations ordinance.

Section 3. 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 NOVEMBER 16, 2011

SIGNED BY THE MAYOR NOVEMBER 16, 2011

  
Mayor of City of Dayton, Ohio

ATTEST:

Rashella Lavender  
Clerk of the Commission

APPROVED AS TO FORM:

Dawn R. McDonald Jr.  
City Attorney



## MEMORANDUM

---

November 7, 2011

**TO:** Timothy H. Riordan, City Manager

**FROM:** Barbara LaBrier, Director *BLB*  
Office of Management & Budget

**SUBJECT:** 2012 Temporary Appropriation Ordinance

Attached for your review and submission to the City Commission is the 2012 Temporary Appropriation Ordinance. Section 157 of the City Charter restricts passing an annual appropriation ordinance before the second Monday in January. State of Ohio statute requires governmental units to appropriate public funds prior to incurring expenses, and also allows governments until April 1 to pass a final appropriation. The City of Dayton's fiscal year ends December 31. This ordinance is designed to satisfy both our statutory obligation and Section 157 of the Charter. It provides an interim authorization to expend funds for City obligations between January 1, 2012 and the date the annual appropriation ordinance is adopted.

Using a pro-rated portion of the 2011 Budget, we have included allocations for all departments and agencies. In addition, we have included an appropriation in a new fund (Fund 63000, Healthcare Self Insurance) to cover our transition to self-insurance.

We are requesting that this ordinance be submitted for the City Commission calendar as an emergency ordinance with two readings (First Reading on Nov. 16<sup>th</sup>, Second Reading and Adoption on Nov. 23<sup>rd</sup>). Typically, Management and Budget delays the submission of the Temporary Appropriation until late in the year to allow the next year's budget process a level of progress. If you have any questions or require additional information concerning the ordinance, please contact me.

BLB/sb

Attachment

C: Mr. Earley  
Ms. Dickstein  
Ms. Garrett  
Mr. Hager  
Ms. Stueland  
Management & Budget Staff

By MS. Whaley

No. 5868-11

## **A RESOLUTION**

Supporting a Request by The Gem City Engineering Co. to Establish an Urban Setting Designation at 401 Leo Street, and Declaring an Emergency.

**WHEREAS**, The Gem City Engineering Co. (“GEM”) was established in Dayton in 1936; and

**WHEREAS**, GEM has occupied the property located at 401 Leo Street since 1982 (“Site”); and

**WHEREAS**, The Site is recognized as a brownfield property, due to historical or perceived environmental contamination at the Site; and

**WHEREAS**, GEM will address the historical environmental impact of the Site in accordance with the requirements of the Ohio Voluntary Action Program (“VAP”); and

**WHEREAS**, GEM’s investment in the site will help to retain the existing jobs at the Site while ensuring that the Site is ready for future development; and

**WHEREAS**, GEM is seeking an Urban Setting Designation (“USD”) for the Site from the Ohio Environmental Protection Agency (“OEPA”) pursuant to the requirements of the Ohio VAP, in order to facilitate the Site’s redevelopment while meeting all applicable cleanup standards protective of human health, safety and the environment; and

**WHEREAS**, USDs have been adopted as a tool to promote brownfield redevelopment in many communities throughout Ohio; and

**WHEREAS**, OEPA, pursuant to the requirements of the VAP, requires that the City of Dayton formally state its position on designation requests within the corporate boundary; and

**WHEREAS**, GEM has provided all relevant environmental data and Site plans to assist the City of Dayton to independently evaluate the USD request for the Site; and

**WHEREAS**, City of Dayton staff finds that the USD property proposed by the GEM meets the criteria for conferring legislative support; and

**WHEREAS**, The City of Dayton’s Environmental Advisory Board also recommended support of the designation; and

**WHEREAS**, It is necessary for the immediate preservation of the public peace, property, health and safety that this resolution take effect at an early date, in order that the company may meet the application requirements of the Ohio Environmental Protection Agency; now therefore,

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

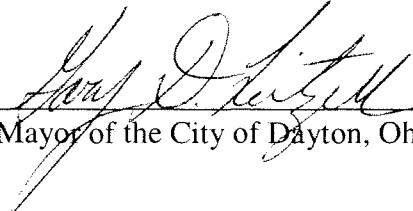
**Section 1.** That the City of Dayton, Ohio expresses its support for The Gem City Engineering Co.'s application for an Urban Setting Designation for the Site located at 401 Leo Street.

**Section 2.** That the City Manager is authorized and directed to provide all reasonable and necessary support to The Gem City Engineering Co. in its pursuit of an Urban Setting Designation.

**Section 3.** For the reasons stated in the preamble hereof, this resolution is declared to be an emergency measure and shall take effect immediately upon its adoption.

Adopted by the Commission NOVEMBER 16, 2011

Signed by the Mayor NOVEMBER 16, 2011

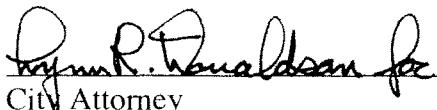
  
\_\_\_\_\_  
Mayor of the City of Dayton, Ohio

ATTEST:

  
\_\_\_\_\_  
Rashella Lender

Clerk of the Commission

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Bryan R. Donaldson Jr.  
City Attorney

May 2009

# Urban Setting Designation

## Introduction

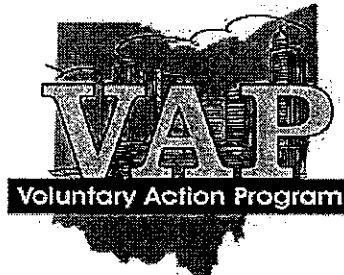
Ohio's Voluntary Action Program (VAP) was created to give businesses and property owners a way to investigate possible environmental contamination due to hazardous substances or petroleum releases, clean up the property if necessary and receive a covenant not to sue (CNS); that is, a promise from the State of Ohio that no more cleanup is needed.

A volunteer may evaluate the environmental conditions at a property and cleanup the property, if necessary, by employing the services of either a certified professional or other qualified persons. If the property meets the applicable cleanup standards for the use of that property, a certified professional prepares a No Further Action (NFA) letter for the property. The volunteer or certified professional must employ the services of a certified laboratory to perform analyses that form the basis of the NFA letter.

Upon favorable review of a complete NFA letter submitted to the Agency, the director of Ohio EPA will issue a covenant not to sue releasing the person who undertook the voluntary action from liability for additional cleanup. This covenant is transferable to subsequent property owners.

## Ground Water Protection

Ohio EPA's ground water protection requirements for voluntary cleanups are designed to address risks to residents and the environment posed by contaminated ground water. Cleanups that bring the underground water supply quickly back to pristine conditions can be very costly without necessarily improving health and safety, and may often mean the difference between a brownfield



being cleaned up and redeveloped or remaining an abandoned scar on the urban landscape.

When developing the VAP regulations, Ohio EPA recognized that many brownfield properties are located in highly urbanized areas which rely on community water systems to supply residents with safe drinking water. In those areas, ground water that contains chemicals from prior industrial or commercial activities poses no perceptible risk to the community because the ground water is not being used and will not be used for drinking water purposes in the foreseeable future. In these situations, an Urban Setting Designation (USD) may be appropriate.

A USD recognizes that cleaning up the ground water to drinking water standards is not necessary because no one will be drinking the ground water. Other possible exposures to contaminated ground water (such as exposures to wildlife or streams in the area) still must be addressed even when a USD is granted for an area.

USDs can be granted only by the director of Ohio EPA. A written submittal to the director requesting a USD must be made by a certified professional. The request must successfully demonstrate the property (or properties) meets all the criteria of a USD as specified in Ohio Administrative Code (OAC) rule 3745-300-10 before such a designation can be granted. All USD requests must be

submitted and approved by the director prior to completion of an NFA letter which relies upon a USD for applicable ground water standards for a property.

## Threshold Criteria

In order for a property to be considered for a USD, it must, at a minimum, first meet the following criteria:

## Urban Setting Designation

- it must be located within the boundaries of a city or township with a population of at least 20,000 residents;
- at least 90 percent of the parcels within the city or urban township where the property lies must be connected to a community water system;
- it cannot be located within an Ohio EPA-endorsed wellhead protection area or one submitted for endorsement; and
- there can be no wells used for potable purposes located within one half mile. For properties that are above a sand and gravel aquifer that produces more than 100 gallons per minute or are above a consolidated sole source aquifer, the certified professional must show that there is no reasonable expectation that any potable water wells will be installed within one half mile. (Consolidated sole source aquifers in Ohio include the aquifer beneath Catawba Island and the Allen County combined aquifer systems located in portions of Allen, Auglaize, Mercer, Putnam and Van Wert counties in western Ohio.)



# Urban Setting Designation

## Approval Process

All requests for a USD must be prepared by a certified professional and must demonstrate how the threshold criteria have been met. The written request must provide the name and location of the volunteer and the property for which the designation is sought, along with a legal description of the property. The written request also must indicate if the local government favors the designation.

At the time the written request is made of the director of Ohio EPA, the local governments and all local governments within one half mile of the proposed USD property must be notified. This notice is to ensure that local governments understand the purpose and ramifications of the USD so that they may provide meaningful and informed input to Ohio EPA. The director may request additional information from the volunteer, the local government, the certified professional and area residents that may be relevant to the approval of the USD.

## Public Participation

Public participation and notification is an important part of the USD approval process. Residents and interested parties are mailed pertinent information about the proposed USD along with this fact sheet and are provided an opportunity to submit information to Ohio EPA that supports the USD or indicates that the criteria may not have been met. USD mailings are conducted within a few weeks after a USD request has been received. Information about the USD is also announced to the public through news releases issued by Ohio EPA to the media and known citizen groups in the area. If significant interest is shown or concerns are raised by residents or interested parties, Ohio EPA, along with the USD applicant, will hold a public meeting.

## Approval Criteria

Before a USD can be approved by the director, the written request must successfully demonstrate that:

- all threshold criteria have been met;
- the USD is not likely to have an adverse environmental impact on surrounding jurisdictions;
- the USD is not likely to adversely impact regional water resource needs and water resource obligations; and
- the USD is not likely to expose people in the region to contaminated ground water now and in the future. This is determined by the evaluation, among other things, of current and future regional use of ground water.

If you have any questions regarding the USD approval process or the VAP in general, please contact the VAP staff at (614) 644-2924. In addition, information is available at <http://www.epa.ohio.gov/derr/volunt.html>.



## MEMORANDUM

November 11, 2011

**TO:** Timothy H. Riordan, City Manager

**FROM:** Timothy S. Downs, Deputy Director *TS*  
Office of Economic Development

**SUBJECT:** Resolution Supporting a Property Specific Urban Setting Designation for Gem City Engineering, Inc. at 401 Leo Street

This memorandum accompanies and explains the attached emergency resolution supporting an application to the Ohio Environmental Protection Agency (Ohio EPA) to establish an Urban Setting Designation (USD) for the property located at 401 Leo Street. Gem City Engineering is the applicant and the owner of the property. An Ohio EPA fact sheet explaining the purpose of a USD is attached.

It is our recommendation that the City Commission support the application for a USD because:

- USD's are an established tool for facilitating redevelopment and investment in Dayton and other urban areas across Ohio.
- The owner has indicated that a successful application will facilitate job retention and future investment in Dayton.
- All applicable USD criteria for resident health and safety have been met and that granting the USD would not pose an appreciable risk to the City's drinking water supply or the multi-jurisdictional designated Well Field Protection Area.
- The owner has invested substantial resources in remediating environmental concerns at the property.
- The owner has provided City staff an opportunity to review the application and supporting data.
- The owner met with the City's Environmental Advisory Board to present an overview of the application and answer any questions.
- The Environmental Advisory Board met Friday, November 11, 2011, and will provide a letter of support to the City Commission.

We are requesting emergency authorization in order to facilitate a timely review by the Ohio EPA at the earliest possible date.

Please contact me at x3621 if you have any questions or need further information.

APPROVED:

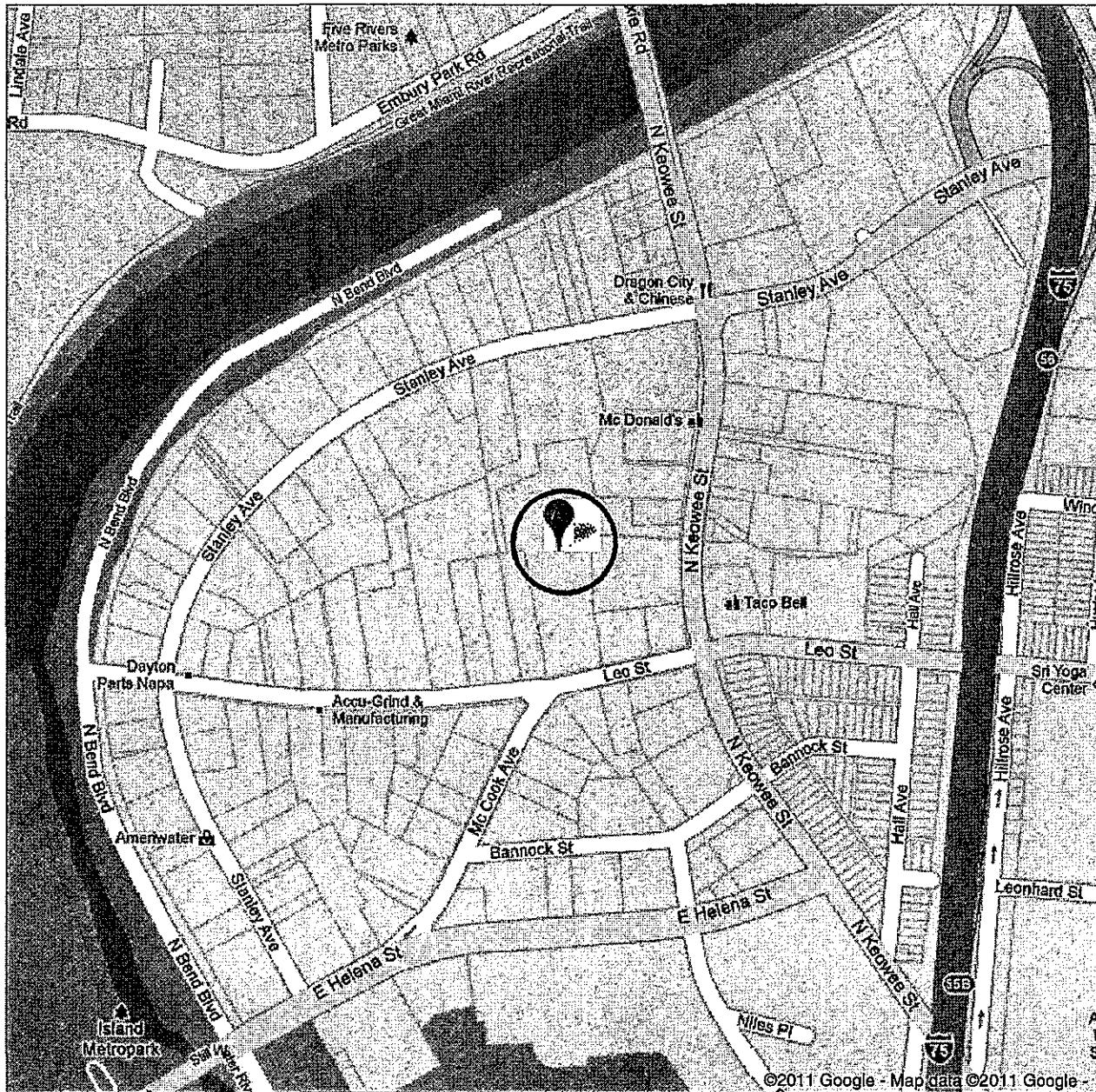
Shelley Dickstein  
Shelley Dickstein, Assistant City Manager  
for Strategic Development

C: Stanley Earley  
Tammi Clements

**Google**

Address 401 Leo St  
Dayton, OH 45404

Notes Gem City Metal  
Urban Setting Designation



By.....

No.....31119-11.....

**AN ORDINANCE**

Consenting to the Replacement of the Webster Street Bridge over the Mad River within the City of Dayton, and Agreeing to Cooperate in Matters Incidental Thereto, Including the Execution of Agreements Necessary to Implement this Ordinance.

WHEREAS, The State of Ohio Department of Transportation ("ODOT") has identified the need for the replacement of the Webster Street Bridge over the Mad River in the City of Dayton, identified by ODOT as MOT Webster Street Bridge Replacement; and

WHEREAS, The City of Dayton intends to cooperate with the State of Ohio Director of Transportation in the planning, design and construction of the said improvement; now, therefore,

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

Section 1. That the Commission hereby gives consent to the Director of Transportation to complete the replacement of the Webster Street Bridge over the Mad River, said project being in the public interest and identified by ODOT as MOT Webster Street Bridge Replacement ("Project").

Section 2. That the City shall cooperate with the Director of Transportation in the Project as follows:

- A. The City will assume and bear all costs of the Project, less the amount of Federal-Aid set aside by the Director of Transportation for financing the Project from funds allocated by the Federal Highway Administration, U.S. Department of Transportation.
- B. In addition, the City also agrees to assume and bear 100% of the cost of any construction items requested by the City for the Project which are not necessary for the Project, as determined by the State and Federal Highway Administration.

Section 3. That the City agrees that all right-of-way required for the Project will be acquired and/or made available in accordance with current State and Federal regulations. The City also understands that right-of-way costs include eligible utility costs. The City agrees that all utility accommodation, relocation and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

Section 4. That upon completion of the Project, and unless otherwise agreed, the City shall: (1) provide adequate maintenance of the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C. Section 116; (2) provide ample financial provisions, as necessary, for such maintenance of the Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

Section 5. That the City Manager is hereby authorized on behalf of the City to enter into contracts with the Director of Transportation to complete the Project.

Passed by the Commission....., 2011

Signed by the Mayor....., 2011

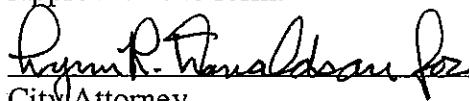
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Mayor of the City of Dayton, Ohio

Attest:

Clerk of the Commission

Approved as to form:

  
\_\_\_\_\_  
Clerk of the Commission  
City Attorney



## MEMORANDUM

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November 7, 2011

**TO:** Timothy H. Riordan  
City Manager

**FROM:** Stephen Finke, Assistant Director  
Department of Public Works *SJF*

**SUBJECT:** MOT Webster Street Bridge Replacement  
Preliminary Legislation

Attached is preliminary legislation between the City of Dayton and the Ohio Department of Transportation for the MOT Webster Street Bridge Replacement project, which consists of the replacement of the Webster Street Bridge over the Mad River. This legislation is necessary prior to the City receiving Federal funding to design and construct the project. The project is being funded using Surface Transportation Program (STP) funds (80% up to a maximum of \$5,746,400). It will be a Local Public Agency (LPA) project in which the City will perform the design, bidding, and construction inspection. It is anticipated that the project will be bid in the fall of 2015.

Please present the attached Ordinance to the City Commission at the November 16, 2011 meeting. The Department of Law has reviewed and approved the Ordinance, and a copy of ODOT's funding approval letter is attached.

If you have any questions, please contact me at 3839.

SJF/kgs

Attachments

March 8, 2011

Mr. Timothy Riordan  
City Manager  
City of Dayton  
101 W. Third Street  
Dayton, Ohio 45402

Dear Mr. Riordan;

Congratulations, on March 03, 2011 the MVRPC Board of Directors approved your request for regionally controlled funds as shown below and detailed on the attached project summary sheet(s).

- Broadway Street Bikeway - \$295,085 CMAQ
- East Fifth Street and Hamilton Avenue Bikeway - \$685,144 CMAQ
- Helena Street/Keowee Street Bikeways - \$212,043 CMAQ
- Intersection Advance Detection - \$88,000 CMAQ
- Traffic Signal Communication Enhancement - \$770,000 CMAQ
- Keowee Street Reconstruction - \$2,695,396 STP
- Webster Street Bridge Replacement - \$5,746,400 STP
- North Main Street Transportation Enhancements - \$299,200 TE
- Watervliet Avenue Transportation Enhancements - \$299,200 TE

Pursuant to the Policies and Procedures for the STP/CMAQ and TE Programs approved projects must be fully programmed with ODOT and MVRPC within three months of the original approval. **This date must be met in order to avoid retraction of your funding.** Please contact your ODOT District office to schedule a meeting to begin this process. At this meeting, a detailed project scope and a tentative project development schedule will be determined with the assistance of both ODOT District and MVRPC staff. Based upon this determination, a final funding year will be recommended for official incorporation into the MVRPC SFY2012-SFY2015 TIP.

**It is important to be aware, that all cost overruns realized at bid opening will be the sole responsibility of the project sponsor. Once approved, a project's scope can not be changed without the Board's approval.** The amount of funds available for reimbursement for a project will be capped at the approved amount shown in the summary. The matching federal funds will be reimbursed at the percentage shown in the summary.

Please note that these federal funds are being awarded by MVRPC as the administrator of the funds for the Federal Highway Administration (FHWA). As such, it is MVRPC's intention to be fully recognized as the provider of the funds as described above. Please make sure that any announcements, publications, press releases, etc. state that these federal funds are being provided through MVRPC.

## **Webster Station Neighborhood**



Map created by City of Dayton Department of Public Works



By MS. Whaley

No. 3115-11

**AN ORDINANCE**

Consenting to the Improvement of Traffic Signal Operation Citywide within the City of Dayton and Agreeing to Cooperate in Matters Incidental Thereto, Including the Execution of Agreements Necessary to Implement this Ordinance.

WHEREAS, The State of Ohio Department of Transportation ("ODOT") has identified the need for the improvement of traffic signal communication and detection in the City of Dayton, identified by ODOT as MOT Traffic Signal Enhancement; and

WHEREAS, The City of Dayton intends to cooperate with the State of Ohio Director of Transportation in the planning, design, and construction of said improvement; now, therefore,

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

Section 1. That the Commission hereby gives consent to the Director of Transportation to complete the installation of traffic signal communication and detection equipment, said project being in the public interest and identified by ODOT as MOT Traffic Signal Enhancement ("Project").

Section 2. That the City shall cooperate with the Director of Transportation in the Project as follows:

- A. The City will assume and bear all costs of the Project, less the amount of Federal-Aid set aside by the Director of Transportation for financing the Project from funds allocated by the Federal Highway Administration, U.S. Department of Transportation.
- B. In addition, the City also agrees to assume and bear 100% of the cost of any construction items requested by the City for the Project which are not necessary for the Project, as determined by the State and Federal Highway Administration.

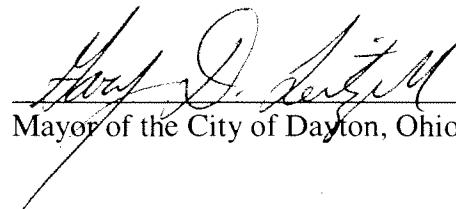
Section 3. That the City agrees that all right-of-way required for the Project will be acquired and/or made available in accordance with current State and Federal regulations. The City also understands that right-of-way costs include eligible utility costs. The City agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

Section 4. That upon completion of the Project, and unless otherwise agreed, the City shall: (1) provide adequate maintenance of the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C. Section 116; (2) provide ample financial provisions, as necessary, for such maintenance of the Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

Section 5. That the City Manager is hereby authorized on behalf of the City to enter into contracts with the Director of Transportation to complete the Project.

Passed by the Commission..... NOVEMBER 16, 2011

Signed by the Mayor..... NOVEMBER 16, 2011

  
\_\_\_\_\_  
Mayor of the City of Dayton, Ohio

Attest:

Rashella Lavender  
Clerk of the Commission

Approved as to form:

Ryan R. Johnson Jr.  
City Attorney



## MEMORANDUM

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October 28, 2011

**TO:** Timothy H. Riordan  
City Manager

**FROM:** Stephen Finke, Assistant Director  
Department of Public Works *HJ*

**SUBJECT:** MOT Traffic Signal Enhancement  
Preliminary Legislation

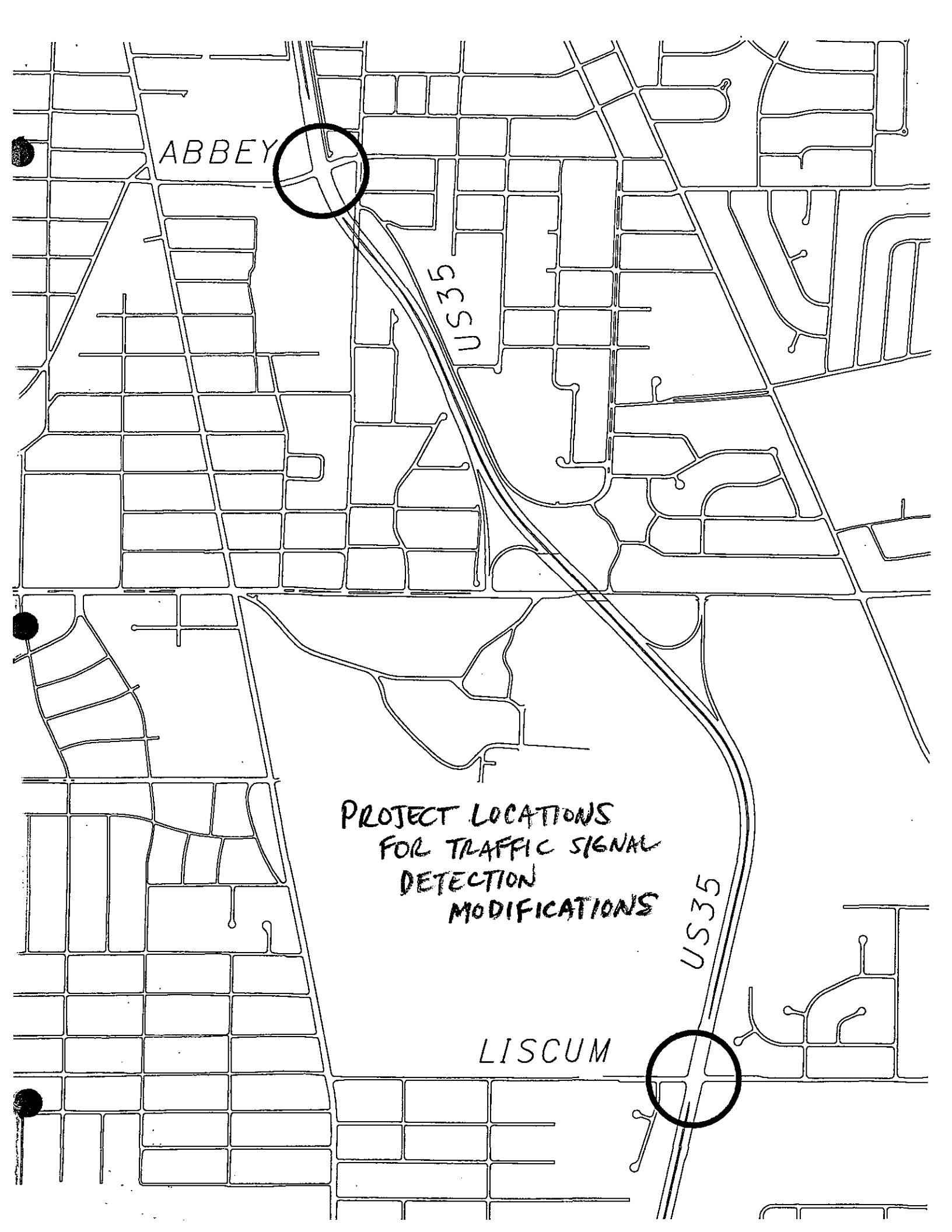
Attached is preliminary legislation between the City of Dayton and the Ohio Department of Transportation for the MOT Traffic Signal Enhancement project, which consists of the installation of traffic signal detection and controller modifications citywide. This legislation is necessary prior to the City receiving Federal funding to design and construct the project. The project is being funded using Congestion mitigation Air Quality (CMAQ) funds (80% up to a maximum of \$858,000). It will be a Local Public Agency (LPA) project in which the City will perform the design, bidding, and construction inspection. It is anticipated that the project will be bid in March of 2012.

Please present the attached Ordinance to the City Commission at the November 9, 2011 meeting. The Department of Law has reviewed and approved the Ordinance, and a copy of ODOT's funding approval letter is attached.

If you have any questions, please contact me at 3839.

SJF/kgs

Attachments

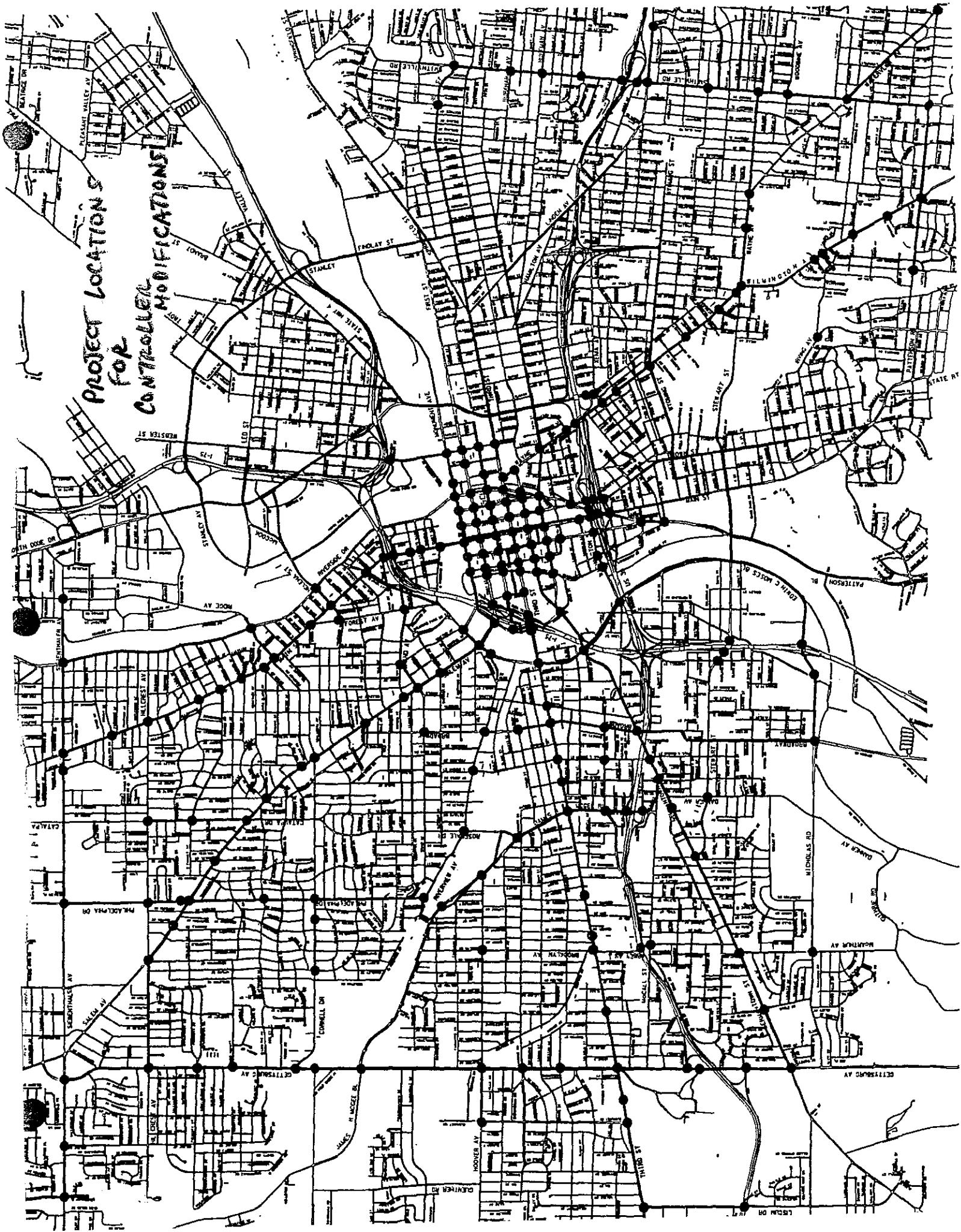


ABBEY

PROJECT LOCATIONS  
FOR TRAFFIC SIGNAL  
DETECTION  
MODIFICATIONS

LISCUM

Project Location S  
for  
Controllable  
Modifications



By MR. Leitzell

No. 3116-11

**AN ORDINANCE**

Vacating Cecil Court from Warren Street to the East Property Line of Part Lot No. 2441, the Alley East of Warren Street from Cecil Court to 80 Feet South of Cecil Court, and the Alley East of Warren Street from Buckeye Street to Cecil Court.

WHEREAS, This Commission on September 7, 2011, by Resolution No. 5847-11, declared its intention to vacate Cecil Court from Warren Street to the east property line of City Part Lot No. 2441, the alley east of Warren Street from Cecil Court to eighty (80) feet south of Cecil Court, and the alley east of Warren Street from Buckeye Street to Cecil Court;

WHEREAS, The Board of Revision of Assessments, after a hearing regularly held for the purpose of consideration of objections to said proposed vacation, as provided by the Charter of the City of Dayton, has recommended that Cecil Court from Warren Street to the east property line of City Part Lot No. 2441, the alley east of Warren Street from Cecil Court to eighty (80) feet south of Cecil Court, and the alley east of Warren Street from Buckeye Street to Cecil Court be vacated; and

WHEREAS, The City Plan Board has approved said vacation; and

WHEREAS, The vacation of Cecil Court from Warren Street to the east property line of City Part Lot No. 2441, the alley east of Warren Street from Cecil Court to eighty (80) feet south of Cecil Court, and the alley east of Warren Street from Buckeye Street to Cecil Court described herein will enable the abutting property owners to develop this property; and

WHEREAS, The Commission is satisfied that there is good cause for said vacation and that it will serve the public interest and welfare and should be made; now, therefore,

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

Section 1. That Cecil Court from Warren Street to the east property line of City Part Lot No. 2441, the alley east of Warren Street from Cecil Court to eighty (80) feet south of Cecil Court, and the alley east of Warren Street from Buckeye Street to Cecil Court being more particularly bounded and described as follows:

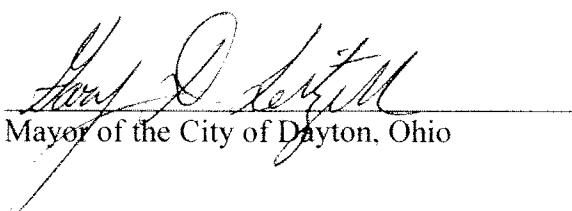
Being all of the 16.5 foot Cecil Court from the 66 foot Warren Street to the east property line of City Part Lot No. 2441, all of the 16.5 foot alley east of Warren Street from the 16.5 foot Cecil Court to 80 feet south of Cecil Court and the 10 foot alley east of Warren Street from the 49.5 Buckeye Street to the 16.5 foot Cecil Court.

is hereby vacated. The vacation shall be subject to the following conditions:

- A. The vacated area shall be marked in a manner acceptable to the City Engineer to indicate that it is not public right-of-way.
- B. The alley mouth at Warren Street shall be removed and replaced with curb and walk, or a driveway shall be constructed. All work shall be completed within ninety (90) days of the vacation and to City of Dayton standards.
- C. No drainage shall be impounded on the existing right-of-way. The drainage plan shall be submitted to the Division of Civil Engineering for review and approval.
- D. The alley proposed to connect the remaining right-of-way shall be constructed by the applicant to City Standards and dedicated before the vacation becomes effective.
- E. DP&L shall retain an easement on vacated Cecil Court and the vacated alley east of Warren Street from Buckeye Street to Cecil Court for DP&L's existing electric facilities. With written consent from DP&L, the electric facilities may be relocated or abandoned at the expense of the applicant.
- F. Vectren shall retain an easement on vacated Cecil Court for Vectren's existing gas pipeline. With written consent from Vectren, the pipeline may be relocated or abandoned at the expense of the applicant.
- G. AT&T shall retain an easement over the entire vacated area for AT&T's existing facilities. With written consent from AT&T, the facilities may be relocated or abandoned at the expense of the applicant.
- H. Time Warner shall retain an easement over the entire vacated area for Time Warner's existing facilities. With written consent from Time Warner, the facilities may be relocated or abandoned at the expense of the applicant.

Passed by the Commission..... NOVEMBER 16....., 2011

Signed by the Mayor..... NOVEMBER 16....., 2011

  
\_\_\_\_\_  
Mayor of the City of Dayton, Ohio

Attest:

Rashilla Lavender

Clerk of the Commission

Approved as to form:

Robert R. Donaldson Jr.

City Attorney



## MEMORANDUM

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October 27, 2011

**TO:** Timothy H. Riordan  
City Manager

**FROM:** Stephen Finke, Assistant Director  
Department of Public Works

417

**SUBJECT:** The Vacation of Cecil Court from Warren Street to the east property line of City Part Lot #2441, the alley east of Warren Street from Cecil Court to 80 feet south of Cecil Court and the alley east of Warren Street from Buckeye Street to Cecil Court.

Attached is the ordinance to vacate the subject property. Please present this legislation to the City Commission for their action.

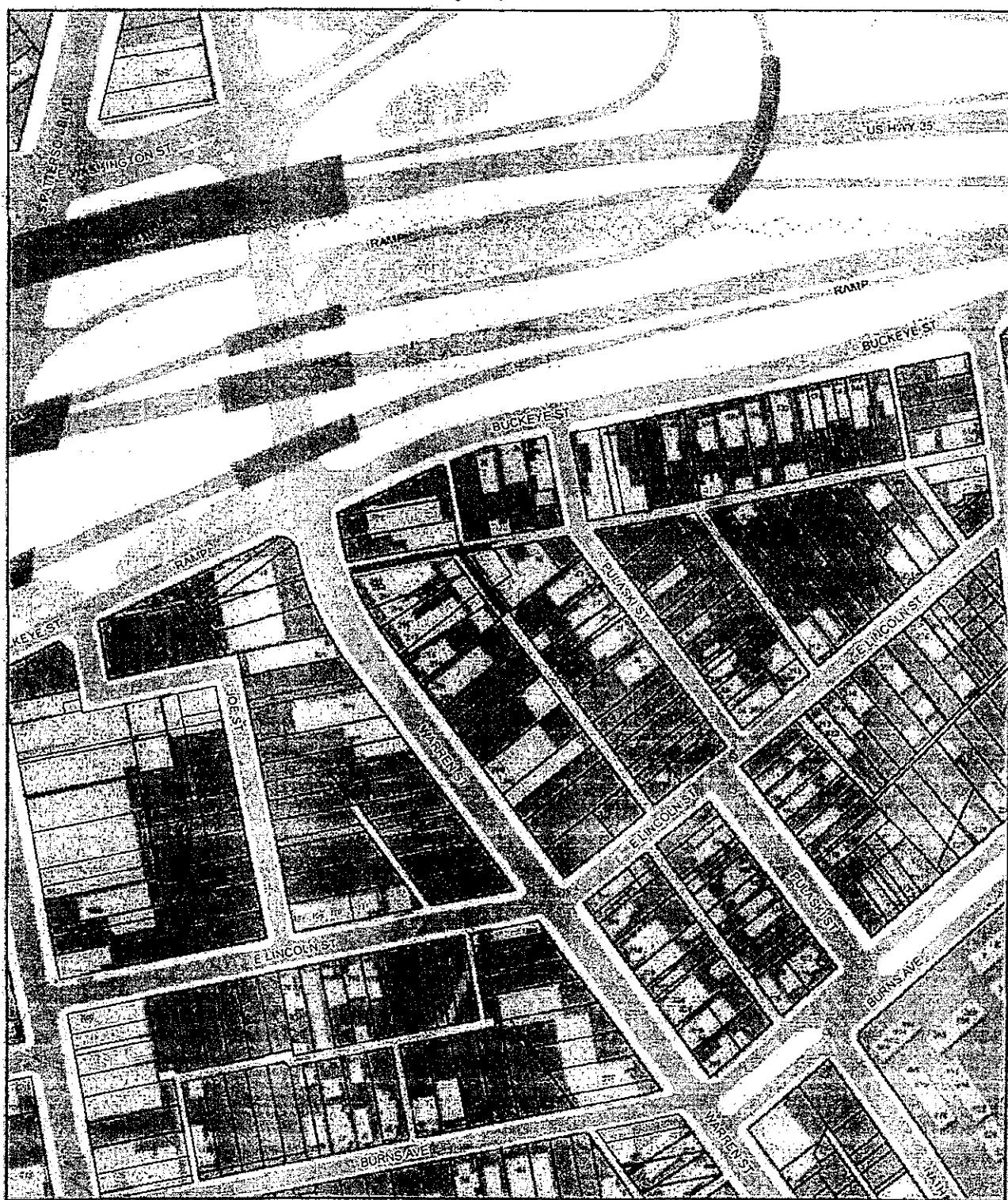
Petition No. 20659 requesting the vacation was received from Schaeffer Engineering on August 4, 2011. Resolution No. 5847-11 declaring the Commission's intention to vacate was adopted on September 7, 2011. The Board of Revision of Assessments recommended the vacation on October 18, 2011. The vacation will enable the abutting property owners to develop this property.

SJF:jrw

Attachments

cc: Department of Planning  
Department of Law  
Clerk of Commission  
Secretary / Board of Revision of Assessments

Dayton, OH eGIS



*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 = 200 feet

BY MR. LOVELACE

NO. 31117-11

**AN ORDINANCE**

Amending Section 35.14 of the Revised Code of General Ordinances in Order to Modify the Threshold Dollar Amount for Contracts Requiring Inclusion of Equal Opportunity Clauses.

**WHEREAS**, The Commission of the City of Dayton recognizes that discrimination in any form is harmful to a community; and

**WHEREAS**, The Commission of the City of Dayton, by Ordinance Number 23466, passed August 20, 1969, created the Human Relations Council; and

**WHEREAS**, The Human Relations Council is charged with the duty to recommend this Commission pass legislation to promote and insure equal rights and opportunities for all persons; and

**WHEREAS**, The Human Relations Council routinely develops, administers and amends policies and procedures as necessary to prevent discriminatory employment practices and enforce non-discrimination by entities with which the City enters into contractual agreements; and

**WHEREAS**, The Commission of the City of Dayton enacted Section 35.14 of the Revised Code of General Ordinances, enacted by Ordinance Number 22510, passed on May 10, 1967, and amended by Ordinance Number 25240, passed on February 9, 1977, further amended by Ordinance Number 26090, passed on October 15, 1980, and further amended by Ordinance Number 30698, passed November 21, 2007; and

**WHEREAS**, Section 35.14 of the Revised Code of General Ordinances requires all contracts entered into by the City involving the expenditure of Five Hundred Dollars or more to incorporate certain equal opportunity clauses; and

**WHEREAS**, To aid in the ability of the Executive Director of the Human Relations Council and his staff to enforce violations of Section 35.14, the Human Relations Council has recommended this Commission pass legislation amending Section 35.14 to modify the threshold dollar amount for contracts requiring inclusion of equal opportunity clauses; now, therefore,

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

Section 1. That Section 35.14 of the Revised Code of General Ordinances of the City of Dayton which shall be amended to read as follows:

The Human Relations Council shall, in its Policies and Procedures, adopt a policy declaring a threshold dollar amount of expenditure of City of Dayton funds requiring inclusion of equal employment opportunity language. All contracts entered into by the City involving the expenditure of funds which meet or exceed that threshold dollar amount shall incorporate equal opportunity clauses, which shall read as follows:

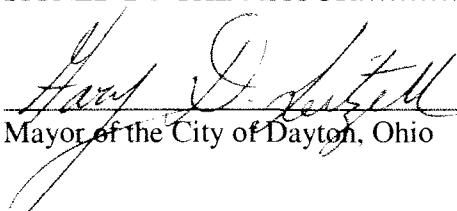
- (A) The contractor or vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap. The contractor or vendor shall take affirmative action in accordance with the terms outlined in its proposal and the provisions of this contract to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor or vendor agrees to post in conspicuous places, available to employees and applicants, notices to be provided by the city setting forth the provisions of the nondiscrimination clauses.
- (B) The contractor or vendor shall in all solicitations or advertisements for employees placed by or on behalf of the contractor or vendor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap.
- (C) The contractor or vendor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the city advising the labor union or workers' representative of the contractor's or vendor's commitments, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (D) The contractor or vendor shall comply with all rules, regulations, and relevant orders promulgated by the Human Relations Council pursuant to its duties created by ordinance.
- (E) The contractor or vendor shall file, and shall cause each of his subcontractors and material suppliers to file, compliance reports with the Human Relations Council as may be directed. Compliance reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs and employment statistics of the contractor, vendor, material supplier, or subcontractor and shall be in such form as the Human Relations Council may prescribe.
- (F) The contractor or vendor shall furnish all information and reports required by this contract and by the rules, regulations, and orders of the Human Relations Council pursuant hereto, and shall permit reasonable access to his books, records, and accounts by the Human Relations Council or its representative, as necessary for purposes of investigation to ascertain compliance with this contract and rules, regulations and orders.
- (G) In the event of the contractor's or vendor's failure to comply with the equal employment opportunity and affirmative action provisions of this contract, including the affirmative action undertaking outlined in its proposal, or with any

of the rules, regulations, or orders herein referred to, it is agreed that the city, at its option, may do any or all of the following:

- (1) Cancel, terminate, or suspend this contract, in whole or in part, except if this contract constitutes a lease of real estate for a period exceeding three years. Nothing herein contained shall prevent the city from enforcing the terms and conditions of any such lease by injunction or other appropriate relief.
  - (2) Declare the contractor or vendor ineligible for further city contracts.
  - (3) Recover from the contractor or vendor by set-off against the unpaid portion of the contract price, or otherwise pursuant to this contract, the sum of \$50.00 per day, as liquidated damages and not as a penalty, for each day that the contractor or vendor shall fail to comply with these provisions of the contract, as determined by the Human Relations Council in accordance with its rules and regulations, the said sum being fixed and agreed upon by and between the contractor and the city because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages which the city would sustain in the event of such a breach of contract, and that amount is agreed to be the amount of damages which the city would sustain.
  - (4) Impose such other sanctions as may be imposed by the Human Relations Council pursuant to ordinances passed by the Commission, or seek such other remedies as may be provided by law.
- (H) The contractor or vendor shall include the provisions of this contract in every subcontract, so that such provisions shall be binding upon each subcontractor. The contractor or vendor shall take such action with respect to any subcontractors as the Human Relations Council may direct as a means of enforcing such provisions, including sanctions for noncompliance. However, in the event the contractor or vendor becomes involved in, or is threatened with litigation with a subcontractor as a result of such direction by the Human Relations Council, the contractor or vendor may request the city to enter into such litigation to protect the interests of the city.

PASSED BY THE COMMISSION NOVEMBER 16, 2011

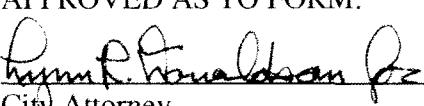
SIGNED BY THE MAYOR NOVEMBER 16, 2011

  
\_\_\_\_\_  
Mayor of the City of Dayton, Ohio

ATTEST:

  
\_\_\_\_\_  
Clerk of Commission

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney



## MEMORANDUM

---

October 20, 2011

**TO:** Rashella Lavender  
Clerk of Commission

**FROM:** Thomas J. Wahlrab, Executive Director *TJW*  
Human Relations Council

**SUBJECT:** Ordinance – Amendment

Please find enclosed an ordinance, approved as to form by the Law Department, authorizing the amendment of Section 35.14 of the Revised Code of General Ordinances in order to modify the threshold dollar amount for contracts requiring inclusion of equal opportunity clauses.

This amendment to the RCGO will assist the Human Relations Council in its enforcement and administration of policies and procedures to prevent discriminatory practices by entities with which the City enters into contractual agreements. This legislation will ensure equal rights and opportunities for all persons, as is the charge of the Human Relations Council. It requires all contracts entered into by the City involving expenditures of five hundred dollars (\$500.00) or more to incorporate certain equal opportunity clauses.

The Human Relations Council is requesting that this item be placed on the Commission calendar for approval on Wednesday, November 9, 2011. Also attached is a copy of the policies and procedures that will guide the process outlined in the amended ordinance and a file copy of the memorandum to the City Manager (August 22, 2011), which may help in understanding this request.

Please feel free to call me at 333-1407 if you have any questions.

TJW/brh

Attachments

**CITY OF DAYTON HUMAN RELATIONS COUNCIL (HRC)**

**AFFIRMATIVE ACTION ASSURANCE (AAA)**

**POLICIES AND PROCEDURES MANUAL**

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# **Human Relations Council (HRC)**

## **Affirmative Action Assurance (AAA) Policies**

### **Procedures Manual**

#### **Overview**

The City of Dayton's Revised Code of General Ordinances (Sections 35.14, 35.15 & 35.16) require the City to ensure that a company doing business with the City of Dayton adopt and implement a nondiscriminatory policy in employment. The HRC and the City's Departments of Central Services and Finance work cooperatively to ensure that the City's financial and procurement systems and all affected Departments implement and adhere to processes that ensure all entities contracted by the City. Entities 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. The City of Dayton has a longstanding practice of ensuring that companies and vendors with which it does business adopt and implement nondiscriminatory policies and affirmative action programs for employment consistent with the demographics of the Metropolitan Statistical Area (MSA) closest to the entity.

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 written Agreements as fully and as if specifically rewritten therein and that failure to comply therewith shall constitute a breach thereof entitling the City to terminate the Agreement at its option, and may bar an entity from receiving future City contracts. Except as provided below, an entity shall not be entered into or maintained in the City's Approved Vendors List without prior affirmative action approval or contract compliance review by the HRC. From time to time, the HRC, the City's Department of Central Services and Finance Department shall identify exemptions or exceptions to the AAA Policy requirements. Current exemptions or exceptions are outlined in Section II below.

Procedurally, the HRC may require the appropriate AAA Form for any entity the City intends to contract with, or from any entity that requests approval. As a matter of efficiency and practicality, however, the HRC shall ensure compliance only for those entities with which the City intends to contract at least Two Thousand Five Hundred (\$2,500) cumulative dollars and/or employers with 50 or more employees. Upon reviewing the appropriate AAA Form submitted by an entity, the HRC issues a determination. Consideration for approval depends on various factors relating to the business (i.e., demographic data in the company's Metropolitan Statistical Area (MSA), the technical nature of the company's business, dollar volume, and percentages within the entity's MSA of individuals whose demographics are identified by Section 35.14 as

those against whom employment discrimination shall not occur based upon comparison to the population and other demographics in the entity's MSA.

### **Favorable Determinations Four Ways**

The HRC and Finance Department may issue a **favorable AAA determination** in four ways:

1. The HRC may approve the Company's AAA Plan for one year. This allows the company to be entered into the City's financial and procurement systems as an **Approved Vendor** and City agencies and departments may complete contracts and other payment obligations with the entity, unimpeded, for the entire AAA approval period.
2. The HRC may issue a **Contract Compliance Review (CCR) Approval** after the HRC has conducted a scheduled review of an Approved Vendor. These Compliance Reviews are conducted on at least an annual basis.
3. The HRC may determine that the entity or vendor is such that it is **exempt** from the AAA Process, and it is therefore placed in Approved Vendor status in the financial and procurement systems. Examples of instances when a company may be determined to be **Exempt** are outlined below in Section II.
4. The HRC may determine that the entity and the nature of the transaction is such that it is an **exception** from the AAA Process. This determination gives the HRC or HRC's designee the ability to place the entity in an Approved Vendor status only for that particular transaction. Examples of instances when a company may be **Exceptioned** are outlined below in Section II.

The HRC monitors an entity's **ongoing** approved vendor status through aCCR. CCRs are conducted at scheduled intervals on an at least an annual basis for each Approved Vendor. An unsatisfactory or failed compliance review (for a prior Approved Vendor) may cause the City's financial and procurement systems to discontinue or suspend the processing of certain contracts, purchase orders and other transactions with that entity.

As such, the HRC, Central Services, and Finance Departments shall work collaboratively to ensure that the AAA and Compliance Review Processes are efficient and that they contribute to the City's long-held value of ensuring equal employment opportunity while optimizing the City's ability to do business.

The City of Dayton AAA Form is intended to ensure that all entities doing business with the City are committed to a policy of equal employment within its MSA. This AAA form is akin to the Federal Department of Labor EEO-1 Report/Form. A company is required to submit the AAA or an EEO-1 Report.

## **Section I. AAA Approval and Duration**

Entities must be AAA Approved or will be barred from awards of contractual obligations by the City. In the case of an AAA Renewal, the HRC sends notice of renewal to all entities a minimum of six weeks prior to the AAA expiration. Prospective applicants' failure to obtain AAA approval or renewal may result in forfeiture of contract award. AAA approval will expire twelve (12) months after approval in accordance with the Ohio Revised Code of General Ordinances (RCGO). Upon approval, the entity will be placed on, or remain on the City's Approved Vendor's List for one year. This will enable the entity to do business with the City of Dayton, and any and all other entities for which the City's HRC provides AA compliance monitoring and assurance.

## **Section II. Applicability of AAA Policy**

The HRC, Central Services and Finance Departments work cooperatively to ensure that the AAA and Compliance Review Processes are efficient and timely. From time to time, the HRC, Central Services and Finance Departments may identify certain **exemptions or exceptions** to the AAA Policy requirements while continuing to maintain the City's long-held value of ensuring equal employment opportunity. There shall be a bi-annual meeting of the HRC, Central Services and Finance Departments to review the practice of identifying and processing the exemptions and exceptions to the AAA Policy and/or to identify policy that allows these determinations to be made and executed.

### **A. AAA Exemptions (Entities that are not subject to AAA):**

The HRC shall determine that the entity or vendor is **exempt** from the AAA Process and that entity shall be placed in Approved Vendor status in the City's financial and procurement systems. Exemptions shall be provided for the following entities/vendors and the City's financial and procurement systems shall allow transactions:

1. Government Entities
2. Entities that receive Payroll deduction payments. Example: United Way, United Negro College Fund, Garnishment Agencies, etc.
3. City of Dayton Employees
4. Memberships and Subscriptions to Professional Organizations (Example: American Payroll Association, GFOA, BNA Payroll Library, etc.)

The HRC is authorized to determine additional instances when it is appropriate to exempt an entity, is authorized to provide that exemption and/or to delegate that authority.

**B. AAA Exceptions – (Entity and/or the *nature of the transaction is not subject to AAA Process*):**

Exceptions shall be granted at the sole discretion of the HRC or HRC's designee. The HRC shall determine that an entity and/or the nature of the transaction is excepted from the AAA Process. The HRC may delegate authority to the Finance to place the entity in Approved Vendor status in the City's financial and procurement systems). Exceptions shall be provided for the following entities/vendors:

1. Purchase of real estate.
2. Payments to Acting Judges (only invoices to judges in this capacity); any other invoices for work done for the City will require an approved AAA, via the normal process.
3. Payments to youth employment students, in a program lasting approximately 12 weeks, operated by Recreation and Youth Services, giving adolescents an opportunity to work and earn money.
4. Payments for employee or citizen travel. This would include payments to the Vendor who is providing the training/seminars, hotels, etc.
5. Payments to vendors whose AAA approval expired after the date the Contract or Purchase Order (P.O.) was established, but before the Contract/P.O. expires, and requires payment of invoices to fulfill that Contract/P.O.
6. Payments to utility companies- for utility services only. Other services would require AAA approval, via the normal process.
7. Final payments of a deceased employee's wages to the Estate or Beneficiary.
8. Payments for moral obligations /settlements; items the Law Department deems in the best interest for the City to pay, or items ordered by the Courts.
9. Payments to arbitrators, conciliators and/or mediators when the City does not have a choice of which vendor will be used.
10. Any payment that is not the result of the City purchasing a product or service.  
Example: refunds, payments mandated by law, donations, etc.
11. Payment for an invoice for which the City of Dayton has already received the service or product.
12. Payments for Service/Maintenance Agreements.
13. Payments to Sole Proprietorships (HRC will give a 1-year exception, with a review each year.)
14. Payments for other items that are mutually agreed upon by HRC and Finance.

The HRC is authorized to determine additional instances when it is appropriate to except an entity, is authorized to provide that exception and/or to delegate that authority

### **C. Authorized Payments to Excepted Recipients**

Designated Finance Department staff will be authorized to process payments to Excepted entities as shown above with monthly reports to HRC of all exceptions.

### **D. Limitations on Use of Exemptions and Exceptions**

The Departments of Central Services and Finance processing will not have the authority to process payments to **Excepted** entities.

## **Section III. The HRC Affirmative Action (AAA) and Contract Compliance Review (CCR) Approval Methods**

The following are the two methods by which a non-exempt or non-excepted entity seeking to enter into a contract with the City of Dayton can be granted AAA or CCR approval by the **Human Relations Council**:

### **A. Affirmative Action Assurance (AAA) Approval**

AAA Approval is a one-year approval for new entities seeking to do business with City prior to the award of a contract. The company is placed on the City's **Approved Vendors List** for one year and the City's financial and procurement systems are enabled to complete transactions with this approved entity during the AAA approval period. The HRC Contract Compliance Officer or designee evaluates the Company's percentage within the entity's MSA of individuals whose demographics are identified by R.C.G.O. Section 35.14 as those against whom employment discrimination shall not occur based upon comparison to the population and other demographics in the entity's MSA.

Once approved by the HRC, or otherwise exempted or excepted, the City's financial and procurement systems(s) will show the entity has been granted Affirmative Action approval by the **Human Relations Council** and shall allow transactional processing. While approved, the entity shall be allowed to enter into contracts with the City of Dayton.

## **Contract Compliance Review (CCR) Approval (for Approved Vendor s)**

A CCR is conducted for all approved entities in the City's financial and procurement system(s) at least annually. Compliance Review letters are sent to all Approved Entities, along with a CCR Form, 6 weeks prior to the expiration of their current AAA or CCR approval period (see, Appendix A).

When the CCR Forms are returned, they are reviewed by the Compliance Officer who compares employment and MSA demographic data with the AAA forms on file. The Compliance Officer is authorized to renew or not renew approval.

If the CCR Form is approved, the Compliance Officer logs the approval into the City's financial and procurement systems(s) and issues notice of approval to the entity (see Appendix B).

If the CCR Form is not approved, the Compliance Officer sends a Compliance Denial Letter to the entity stating the reason(s) (see Appendix C). The HRC is required to offer assistance to the entity to better develop its AA Policy and attain approved status. If the entity returns an amended review form and is compliant, the Compliance Officer may issue an approval letter for a designated period up to one year

### **B. Considerations for Approval and non-approval and Six Month Review Approvals**

#### **1. Considerations for Decisions of AAA and CCR**

The HRC shall review entities with which the City intends to contract in amounts requiring City Commission authorization, regardless the number of individuals it employs. The HRC may determine that the number of employees does not warrant further review for approval regardless the entity's MSA or individuals it employs whose demographics are identified by R.C.G.O. Section 35.14, 35.15 as those against whom employment discrimination shall not occur based upon comparison to the population and other demographics in the entity's MSA.

Larger companies (50 or more employees) that employ few or no individuals whose demographics are identified by R.C.G.O. Section 35.14, 35.15, and 35.16 as those against whom employment discrimination shall not occur based upon comparison to the population and other demographics in the entity's MSA may be given consideration for

approval if the HRC determines that other relative factors (e.g., contractual obligation) warrant consideration.

The CCR form is reviewed, and if approved, the entity will be placed upon, or remain on the City's Approved Vendor's List in the City's financial and procurement systems(s).

## **2. HRC Process for Six Month Review Approvals**

Entities that are determined by the HRC to be deficient in attaining or maintaining its AA policy may be given conditional approval by the Compliance Officer. In these instances, approval is granted for six months rather than the standard one-year approval. This is intended to provide for improvement in the entity's compliance with its policy, additional review from the HRC and additional opportunities for the HRC to offer assistance to the entity.

Internally, the Compliance Officer returns the Affirmative Action Assurance form and a six-month conditional approval letter to HRC Staff with specific recommendations for increasing policy compliance. The six-month approval letter is also issued to the entity stating the six-month approval and informing the entity of the specific recommendations.,

The Compliance Officer shall inform the entity that the six-month conditional approval is provided to allow time to effect policy compliance improvement, require additional HRC review and offer assistance to the entity to effect improvement. At the end of the six-month period, a compliance review of the company is conducted and may include a site visit. If the HRC determines that adequate progress toward policy compliance has been achieved, the entity is approved for an additional six months and may subsequently be reviewed annually, or semi-annually. If the HRC determines that adequate progress toward policy compliance has not been achieved, the HRC shall deny approval.

The Compliance Officer shall determine a schedule of contact and follow up with the entity for the duration of any six-month approval at the time the approval is granted and is responsible to ensure it is achieved and shall maintain documentation of same.

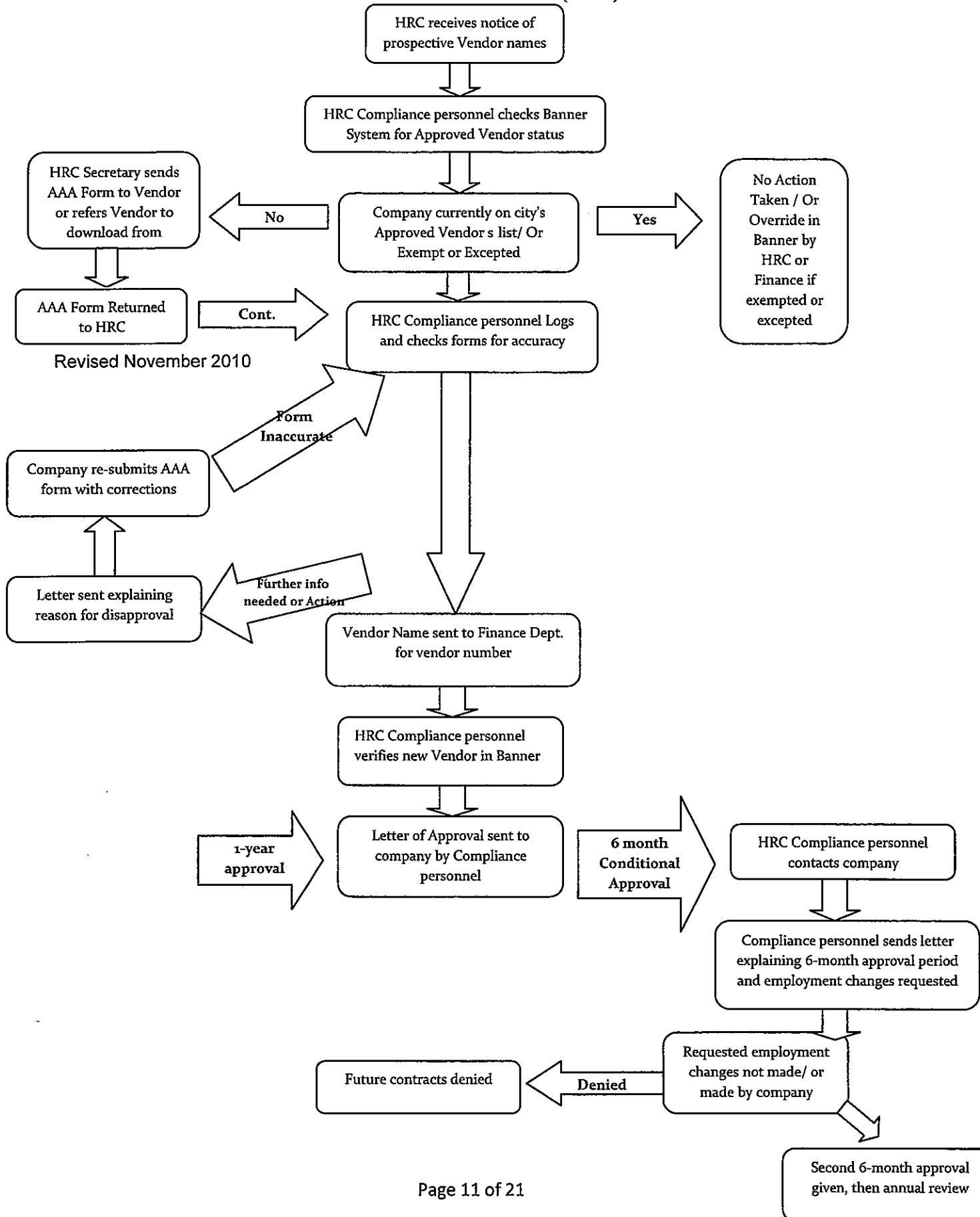
## **Section IV    Miscellaneous Provisions**

The HRC, Central Services and Finance Departments will ensure that the City's AAA and Compliance Review Processes are efficient and fully integrated in the City's procurement and financial transaction processes. The following provisions, are intended to enhance the AAA Policy and Procedures:

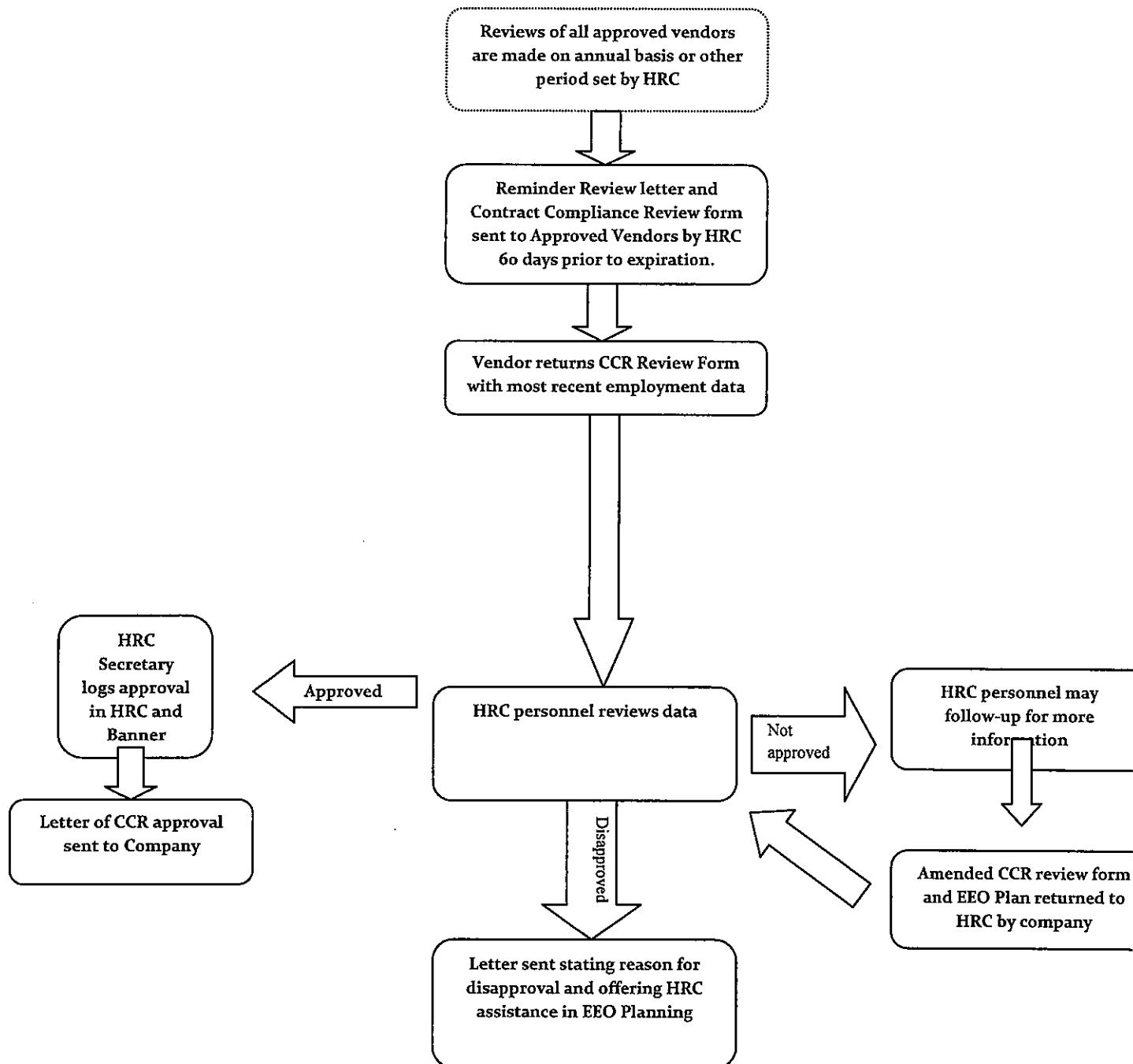
- There shall be a bi-annual meeting of the HRC, Central Services and Finance Departments to review the practice of identifying and processing the exceptions and exemptions to the AAA Policy.
- City Manager and Commission Agency Reports requiring City Commission authorization shall indicate AAA approved status (including exceptions and exemptions).
- The HRC may recommend to the Dayton City Commission amendments to the Ordinances.

This AAA Policy Manual is intended to help the City institute procedures that enhance administrative efficiencies while ensuring that the AAA Ordinance supports the City's core values and ability to ensure equal employment opportunities for all.

## AFFIRMATIVE ACTION ASSURANCE (AAA) FLOWCHART



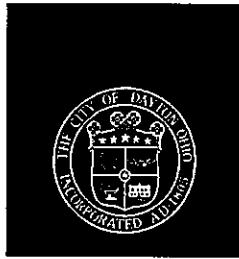
## CONTRACT COMPLIANCE REVIEW (CCR) FLOWCHART



## **APPENDIX A – CONTRACT COMPLIANCE REVIEW (CCR) LETTER AND FORM**

Judy Zimmerman  
Chairperson

Thomas J. Wahlfab  
Executive Director



**CITY OF DAYTON, OHIO  
HUMAN RELATIONS COUNCIL**

371 West Second Street, Suite 100, Dayton, OH 45402-1417  
(937) 333-1403 / 333-1413 / FAX 222-4589

Dear Business Person:

Enclosed please find the City of Dayton's Contract Compliance Review Form. In accordance with the City of Dayton Revised Code of General Ordinances, you must file this form annually with the Dayton Human Relations Council.

After your form is reviewed, if approved, your company will remain on the Approved Bidder's List. This will enable you to do business with the City of Dayton, Dayton Public Schools, and the Regional Transit Authority (RTA).

Please complete and return this form to the Human Relations Council as soon as possible. If not returned and approved, your company will be removed from the Approved Bidder's List.

If you have any questions or need additional information, please contact me at (937) 333-1413.

Sincerely,

A handwritten signature in black ink that appears to read "Vicki Krapf".

Vicki Krapf  
Administrative Typist II

VK/

Enclosure

NOTE: This form does not certify your company as a Minority, Female or Small Business Enterprise.

**CITY OF DAYTON  
HUMAN RELATIONS COUNCIL  
CONTRACT COMPLIANCE REVIEW**

This review is designed to evaluate your company's compliance with the Affirmative Action Program in employment, which your company agreed to implement upon signing the Affirmative Action Assurance form. This Compliance Review is in accordance with Sections 35.14, 35.15 and 35.16 of the City of Dayton Revised Code of General Ordinances and will be conducted on an annual basis.

Please Type or print legibly.

Federal ID # \_\_\_\_\_

Name of Firm \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_ E-Mail \_\_\_\_\_

Has your firm name changed in the last year?  Yes  No \_\_\_\_\_  
(FORMER NAME)

Name of President or Manager \_\_\_\_\_

Is your firm 51% or more owned by minority persons?  Yes  No

Is your firm 51% or more owned by female persons?  Yes  No

Your firm was approved \_\_\_\_\_ (one year only)

1. How many employees have been hired since your approval? \_\_\_\_\_  
A. How many minorities? \_\_\_\_\_ How many females? \_\_\_\_\_

2. How many promotions have been awarded since your approval?  
A. How many minorities? \_\_\_\_\_ How many females? \_\_\_\_\_

3. Does your firm still have in place a written equal employment opportunity policy?  Yes  No If yes, attach a copy.

4. If not, would you accept the enclosed sample as your policy? (see sample)  Yes  No

Complete the following:

Date Statistics Compiled \_\_\_\_\_

**EEO - 1 FORM MAY BE SUBSTITUTED FOR THIS GRID**

Occupations	Total Males	Male Employees					Total Females	Female Employees				Total All Employees	
		Minority Groups						Minority Groups					
		Black	Hispanic	Asian Pacific Islanders	Am. Indian Alaskan Natives	Black	Hispanic	Asian Pacific Islanders	Am. Indian Alaskan Natives	Black	Hispanic		
Officials and Managers													
Professionals													
Technicians													
Sales Workers													
Office and Clerical													
Craftsmen (Skilled)													
Operatives (Semi-skilled)													
Laborers													
Service Workers													
Total													
Total Employment From Previous Report if Any													

Figures for the following classifications shall also be included in the appropriate category above the "Total" line.

Apprentices												
On-the-job Trainees	White Collar											
Production												

DATE \_\_\_\_\_ SIGNATURE (PLEASE PRINT NAME NEXT TO SIGNATURE/Authorized Person Only)

DO NOT WRITE BELOW THIS LINE

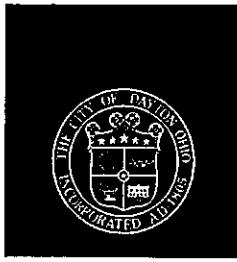
APPROVED \_\_\_\_\_  
COMMENTS: \_\_\_\_\_

DATE \_\_\_\_\_ HUMAN RELATIONS COUNCIL  
PLEASE RETURN TO: CITY OF DAYTON, Human Relations Council  
371 W. Second Street, Suite 100  
Dayton, OH 45402 (937) 333-1413 Fax: (937) 222-4589

## APPENDIX B – CCR APPROVAL LETTER

Judy Zimmerman  
Chairperson

Thomas J. Wahlrab  
Executive Director



### CITY OF DAYTON, OHIO HUMAN RELATIONS COUNCIL

371 West Second Street, Suite 100, Dayton, OH 45402-1417  
(937) 333-1403 / 333-1413 / FAX 222-4589

January 12, 2011

«PERSON»  
«COMPANY»  
«ADDRESS»  
«CITY»

Dear «SALUTATION»:

We have received your Contract Compliance Review Form and determined the following:

X It is approved for one year and will expire  
on January 31, 2012.

If you have any questions, please contact me at (937)333-1413.

Sincerely,

*Vicki Krapf*

Vicki Krapf  
Administrative Typist II

VK

NOTE: The above noted approval places your company on the City of Dayton's Approved Bidder's List. This does not certify your company as a Minority, Female or Small Disadvantaged Business Enterprise.

## APPENDIX C – CCR DENIAL LETTER

Judy Zimmerman  
Chairperson  
Thomas J. Wahlrab  
Executive Director



CITY of DAYTON, OHIO  
HUMAN RELATIONS COUNCIL  
371 West Second Street, Suite 100, Dayton, OH 45402-1417  
(937) 333-1405 / 333-1403 / 333-1413 / FAX 222-4589

Date

Contact Name  
Company Name  
Address  
City, State, Zip Code

Dear Contact Name:

After reviewing the data you submitted to us on your Contract Compliance Review Form, we still have concerns regarding the level of minority utilization within your organization. In the past, we have issued your company a six-month approval period because we recognize your desire to conduct business with the City of Dayton. The City of Dayton has a population that is approximately 42% minority and 52% female. In comparison, an examination of your workforce indicates a       % minority utilization rate.

We requested additional information regarding advertisements and the publications used to recruit employees, as well as outlines of other recruitment methods you may have used and your company failed to provide it. Failure to provide the requested data has resulted in your removal from the City of Dayton's Approved Bidder's List. Your company's Affirmative Action Assurance (AAA) approval has been removed.

We work very hard to encourage and facilitate Equal Employment Opportunity. If there is anything we can do to help your company set and achieve goals for a diverse workforce in the future, do not hesitate to contact me at (937) 333-1395. Thank you for your interest in doing business with the City of Dayton.

Sincerely,

Catherine Crosby  
Assistant Director  
Copy to:      Mr. Thomas Wahlrab  
                  Ms. Marci Wright

## APPENDIX D – AAA ORDINANCE

[This DRAFT is a placeholder for the Ordinance which will be approved by the Commission.]

BY..... NO.....

### AN ORDINANCE

Amending Section 35.14 of the Revised Code of General  
Ordinances in Order to Modify the Threshold Dollar  
Amount for Contracts Requiring Inclusion of Equal  
Opportunity Clauses.

**WHEREAS**, The Commission of the City of Dayton recognizes that discrimination in any form is harmful to a community; and

**WHEREAS**, The Commission of the City of Dayton, by Ordinance Number 23466, passed August 20, 1969, created the Human Relations Council; and

**WHEREAS**, The Human Relations Council is charged with the duty to recommend this Commission pass legislation to promote and insure equal rights and opportunities for all persons; and

**WHEREAS**, The Human Relations Council routinely develops, administers and amends policies and procedures as necessary to prevent discriminatory employment practices and enforce non-discrimination by entities with which the City enters into contractual agreements; and

**WHEREAS**, The Commission of the City of Dayton enacted Section 35.14 of the Revised Code of General Ordinances, enacted by Ordinance Number 22510, passed on May 10, 1967, and amended by Ordinance Number 25240, passed on February 9, 1977, further amended by Ordinance Number 26090, passed on October 15, 1980, and further amended by Ordinance Number 30698, passed November 21, 2007; and

**WHEREAS**, Section 35.14 of the Revised Code of General Ordinances requires all contracts entered into by the City involving the expenditure of Five Hundred Dollars or more to incorporate certain equal opportunity clauses; and

**WHEREAS**, To aid in the ability of the Executive Director of the Human Relations Council and his staff to enforce violations of Section 35.14, the Human Relations Council has recommended this Commission pass legislation amending Section 35.14 to modify the threshold dollar amount for contracts requiring inclusion of equal opportunity clauses; now, therefore,

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

Section 1. That Section 35.14 of the Revised Code of General Ordinances of the City of Dayton which shall be amended to read as follows:

The Human Relations Council shall, in its Policies and Procedures, adopt a policy declaring a threshold dollar amount of expenditure of City of Dayton funds requiring inclusion of equal employment opportunity language. All contracts entered into by the City involving the expenditure of funds which meet or exceed that threshold dollar amount shall incorporate equal opportunity clauses, which shall read as follows:

- (A) The contractor or vendor 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. The contractor or vendor shall take affirmative action in accordance with the terms outlined in its proposal and the provisions of this contract to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor or vendor agrees to post in conspicuous places, available to employees and applicants, notices to be provided by the city setting forth the provisions of the nondiscrimination clauses.
- (B) The contractor or vendor shall in all solicitations or advertisements for employees placed by or on behalf of the contractor or vendor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap.
- (C) The contractor or vendor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the city advising the labor union or workers' representative of the contractor's or vendor's commitments, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (D) The contractor or vendor shall comply with all rules, regulations, and relevant orders promulgated by the Human Relations Council pursuant to its duties created by ordinance.
- (E) The contractor or vendor shall file, and shall cause each of his subcontractors and material suppliers to file, compliance reports with the Human Relations Council as may be directed. Compliance reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs and employment statistics of the contractor, vendor, material supplier, or subcontractor and shall be in such form as the Human Relations Council may prescribe.
- (F) The contractor or vendor shall furnish all information and reports required by this contract and by the rules, regulations, and orders of the Human Relations Council pursuant hereto, and shall permit reasonable access to his books, records, and accounts by the Human Relations Council or its representative, as necessary for purposes of investigation to ascertain compliance with this contract and rules, regulations and orders.
- (G) In the event of the contractor's or vendor's failure to comply with the equal employment opportunity and affirmative action provisions of this contract, including the affirmative action undertaking outlined in its proposal, or with any of the rules, regulations, or orders herein referred to, it is agreed that the city, at its option, may do any or all of the following:
  - (1) Cancel, terminate, or suspend this contract, in whole or in part, except if this contract constitutes a lease of real estate for a period exceeding three years. Nothing herein contained shall prevent the city from enforcing the terms and conditions of any such lease by injunction or other appropriate relief.
  - (2) Declare the contractor or vendor ineligible for further city contracts.
  - (3) Recover from the contractor or vendor by set-off against the unpaid portion of the contract price, or otherwise pursuant to this contract, the sum of \$50.00 per day, as liquidated damages and not as a penalty, for each day that the contractor or vendor shall fail to comply with these provisions of the contract, as determined by the Human Relations Council in accordance with its rules and regulations, the said sum being fixed and agreed upon by and between the contractor and the city because of the impracticability and

extreme difficulty of fixing and ascertaining the actual damages which the city would sustain in the event of such a breach of contract, and that amount is agreed to be the amount of damages which the city would sustain.

- (4) Impose such other sanctions as may be imposed by the Human Relations Council pursuant to ordinances passed by the Commission, or seek such other remedies as may be provided by law.
- (H) The contractor or vendor shall include the provisions of this contract in every subcontract, so that such provisions shall be binding upon each subcontractor. The contractor or vendor shall take such action with respect to any subcontractors as the Human Relations Council may direct as a means of enforcing such provisions, including sanctions for noncompliance. However, in the event the contractor or vendor becomes involved in, or is threatened with litigation with a subcontractor as a result of such direction by the Human Relations Council, the contractor or vendor may request the city to enter into such litigation to protect the interests of the city.

**ATTEST:**

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**PASSED BY THE COMMISSION** , 2011

Clerk of Commission

**SIGNED BY THE MAYOR** , 2011

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APPROVED AS TO FORM:

Mayor of the City of Dayton, Ohio

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City Attorney



## MEMORANDUM

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# FILE COPY

August 22, 2011

**TO:** Timothy Riordan, City Manager

**FROM:** Thomas J. Wahlrab, Executive Director  
Human Relations Council

**SUBJECT:** Affirmative Action Assurance Program Change Recommendations

The City of Dayton's Revised Code of General Ordinances (Sections 35.14, 35.15 & 35.16) require the City to ensure that a company doing business with the City of Dayton adopt and implement a nondiscriminatory policy in employment. The City of Dayton has a longstanding practice of not ignoring the issue of racial barriers to equal employment opportunity and ensuring that companies and vendors with which it does business adopt and implement nondiscriminatory policy and affirmative action programs.

Administration of the provisions of Section 35.14 is assigned to the Human Relations Council (HRC). The policies that guide the implementation of the Affirmative Action Assurance (AAA) Program have been in place for over 30 years. The Human Relations Council makes the following recommendations concerning the Affirmative Action Assurance Program:

**Exemptions and Exceptions:** The adoption of an Exemptions list that would not be subject to AAA review and an Exceptions list which would be given a window of approval by HRC or delegated Finance individuals, in order to pay an invoice.

The HRC routinely provides authorization for "windows," or temporary periods that allow payments to vendors without going through the formal AAA approval process. The reasons for the provision of "windows" for these selected expenditures vary, but what they all have in common is that no level of AAA scrutiny for these types of transactions advances the purposes of the AAA program.

To continue to include expenditures in the AAA process that may not be affected by AAA scrutiny undermines the purpose of AAA and the intention of the City's EEO policy. It is the intention of the HRC to maintain AAA scrutiny of those expenditures when such scrutiny may affect employment practices.

A list of Exemptions (such as Government entities), and Exceptions (such as moral obligations, and memberships) is attached. *Exemptions* will not need an AAA review or the completion of the AAA form. *Exceptions* will be given a window of approval (by HRC or delegated Finance individuals) in order to pay an invoice.

The following Department of Finance positions, in consultation with, and as approved by, the Human Relations Council, will have authority to provide a limited and reasonable period of temporary authorization that would allow for the completion of payment to the vendor:

- Financial Services Supervisor of Payroll and Disbursements
- Financial Analyst I, assigned to Payroll and Disbursements Office
- Financial Technician II, assigned to Payroll and Disbursements Office.

NOTE: None of the above staff positions have the authority to set up vendors or encumber funds.

This memorandum will serve as the authorization for the Department of Finance to provide Affirmative Action Assurance approval for the attached exemptions/exceptions list.

**General Ordinance Section 35.14 removal of a dollar figure:** The removal of a dollar figure at which AAA review is required in the General Ordinances Section 35.14 and in its place, a reference to HRC's AAA Policy and Procedure Manual, which will include a dollar figure.

To aid in the governance of the City it is recommended that a dollar figure not be included in the Ordinance itself and that the Ordinance reference the AAA Policy and Procedure manual in which a dollar figure would be established. With this change, the dollar figure could be altered as needed without the need for Commission approval.

**Change in the amount at which AAA review is required:** A change in the dollar figure at which AAA review is required from the current figure of \$500.00 to a new figure of \$2,500.00.

The AAA Policy and Procedure Manual will modify the threshold dollar amount for vendors requiring AAA approval from the current threshold of \$500.00 to a cumulative dollar threshold of \$2,500.

The rationale behind this number falls with the authorized approvals that have been given by the City Commission and City Manager for current Payment without Orders (PWO). These PWO's allow the Department Directors to handle low dollar or one-time purchases in order to meet operational needs in a timely manner, and do not necessitate the scrutiny and approval reviews of higher dollar needs.

It needs to be noted that extensive conversations with a number of City staff persons has taken place concerning the AAA threshold dollar amount. Beyond these conversations, staff members have reviewed the practices of other governmental entities. While the threshold dollar figure being recommended is not what some City staff would recommend, it is my understanding that all are willing to go along with this figure.

CC:        Mr. Earley  
              Ms. Garrett  
              Mr. Hager  
              Mr. Gray

## **ATTACHMENT A: Affirmative Action Assurance Exceptions and Exemptions List**

### ***Exceptions***

1. Purchase of real estate.
2. Payments to Acting Judges (only invoices to judges in this capacity); any other invoices for work done for the City will require an approved AAA, via the normal process.
3. Payments to youth employment students, in a program lasting approximately 12 weeks, operated by Recreation and Youth Services, giving adolescents an opportunity to work and earn money.
4. Payments for employee or citizen travel. This would include payments to the Vendor who is providing the training/seminars, hotels, etc.
5. Payments to vendors whose AAA approval expired after the date the Contract or Purchase Order (P.O.) was established, but before the Contract/P.O. expires, and requires payment of invoices to fulfill that Contract/P.O.
6. Payments to utility companies – for utility services only. Other services would require AAA approval, via the normal process.
7. Final payments of a deceased employee's wages to the Estate or Beneficiary.
8. Payments for moral obligations/settlements; items the Law Department deems in the best interest for the City to pay, or items ordered by the Courts.
9. Payments to arbitrators, conciliators and/or mediators when the City does not have a choice of which vendor will be used.
10. Any payment that is not the result of the City purchasing a product or service. Example: refunds, payments mandated by law, donations, etc.
11. Payment for an invoice for which the City of Dayton has already received the service or product.
12. Payments for Service/Maintenance Agreements.
13. Payments to Sole Proprietorships (HRC will give a 1-year exception, with a review each year.)
14. Payments for other items that are mutually agreed upon by HRC and Finance.

### ***Exemptions***

1. Government Entities
2. Entities that receive Payroll deduction payments. Example: United Way, United Negro College Fund, Garnishment Agencies, etc.
3. City of Dayton Employees
4. Memberships and Subscriptions to Professional Organizations (Example: American Payroll Association, GFOA, BNA Payroll Library, etc.)

BY MR. Joseph

NO. 5867-11

**A RESOLUTION**

Accepting a Grant Award from the Ohio Emergency Management Agency in the Amount of Three Hundred Seventeen Thousand Four Hundred Nineteen Dollars (\$317,419.00) on Behalf of the City of Dayton.

WHEREAS, The Ohio Emergency Management Agency administers a Metropolitan Medical Response System grant program; and

WHEREAS, The City of Dayton submitted a Metropolitan Medical Response System grant application seeking funding to establish and implement a Metropolitan Medical Response System; and

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

WHEREAS, Ohio Emergency Management Agency approved the City of Dayton's grant application and will award the City a Metropolitan Medical Response grant subject to the City's acceptance; now, therefore,

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

Section 1. That the City Manager is authorized to accept a Metropolitan Medical Response grant in the amount of THREE-HUNDRED SEVENTEEN THOUSAND FOUR HUNDRED NINETEEN DOLLARS (\$317,419.00) and execute any and all documents and agreements on behalf of the City of Dayton that are necessary to accept the grant from the Ohio Emergency Management Agency.

ADOPTED BY THE COMMISSION NOVEMBER 16, 2011

SIGNED BY THE MAYOR NOVEMBER 16, 2011

Patricia L. Lavelle  
MAYOR OF THE CITY OF DAYTON, OHIO

ATTEST:

Rashella Lavender  
Clerk of Commission

APPROVED AS TO FORM:

Dawn R. Anderson  
City Attorney

By MR. Leitzell

No. .... 843-11 .....

## **AN INFORMAL RESOLUTION**

Objecting to the New Permit Application for a  
Type C-1, C-2 Liquor Permit #8868886,  
to Third Street Petroleum, LLC,  
727 West Third Street, Dayton, Ohio 45402.

WHEREAS, Section 4303.26 of the Revised Code of Ohio authorizes the legislative authority of a municipal corporation to object to the issuance of liquor permits issued under Sections 4303.02 to 4303.23 of the Revised Code of Ohio, within the limits of such municipal corporation and request a hearing thereon; and

WHEREAS, The City Commission has caused an investigation to be made by Departments of the City of Dayton and has received complaints/objections concerning the proposed permit premises within the City of Dayton; and

WHEREAS, It appears from such investigation that the place for which the permit is sought is so located with respect to the neighborhood that substantial interference with public decency, sobriety, peace or good order would result from the issuance of the permit and operation thereunder by the applicant; and that the number of permits already existent in the neighborhood is such that the issuance or transfer of location of a permit would be detrimental to and substantially interfere with the morals, safety, or welfare of the public; now, therefore,

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

Section 1. That the City Commission of the City of Dayton objects to the issuance of a Type C-1, C-2 Liquor Permit, #8868886, to Third Street Petroleum, LLC, 727 West Third Street, Dayton, Ohio 45402, for all the statutory reasons provided in Section 4303.292, as well as for the reasons stated in the preamble, and that the said City Commission requests that the Division of Liquor Control also reject the application for issuance for good cause.

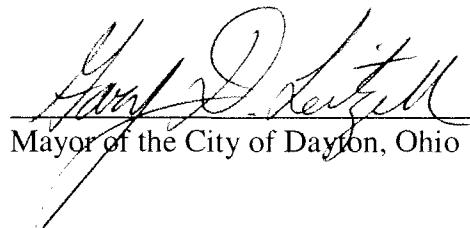
Section 2. That two (2) certified copies of this informal resolution, together with a request that a hearing be held in the City of Dayton, the county seat of the county in which said permit premises are located, be sent to the Superintendent of the Ohio Division of Liquor Control no later than November 18, 2011.

Section 3. That Mr. John J. Danish, as City Attorney for the City of Dayton, or an Assistant City Attorney designated by him, is hereby authorized and directed to appear on behalf of the Commission of the City of Dayton before the Ohio Division of Liquor Control, at

such time and place as a hearing is scheduled with respect to the objection to the issuance of said permit, and to state the Commission's reasons for objecting to the issuance of the said permit and submit evidence in support thereof.

Adopted by the Commission.....NOVEMBER 16....., 2011

Signed by the Mayor.....NOVEMBER 16....., 2011

  
\_\_\_\_\_  
Gary D. Leggitt  
Mayor of the City of Dayton, Ohio

Attest:

Rashella Lavender  
Clerk of the Commission

Approved as to form:

John J. Daniels  
\_\_\_\_\_  
John J. Daniels  
City Attorney



## MEMORANDUM

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November 7, 2011

**TO:** Timothy H. Riordan  
City Manager

**FROM:** John J. Danish   
City Attorney

**SUBJECT:** New Permit Application  
Permit #8868886, Type C-1, C-2  
Third Street Petroleum, LLC  
727 West Third Street  
Dayton, OH 45402

This office has been asked to review the attached information and prepare, if necessary, legislation objecting to the above-referenced application. The Dayton Police Department and Sinclair Police do not oppose the application. However, the Duke E. Ellis Huffman Development Institute, a physician with PriMed Physicians, the President of ISS, property manager for City Forest of Dayton, President and CEO of Granville Woods Technology and residents of the Wright Dunbar neighborhood oppose the application, stating that the issuance would interfere with the public decency, sobriety, peace and good order of the neighborhood. Based on the foregoing, and in order to preserve the objection until more information may be obtained, the Law Department recommends an objection. Legislation is attached.

If you have any questions or concerns, please do not hesitate to contact me or Assistant City Attorney Shanon Potts.

JJD/smp

Attachment

cc: Chief Biehl  
Asst. Chief Hess  
Ms. Potts



## MEMORANDUM

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November 7, 2011

TO: John Danish, Law Director  
Department of Law

FROM: Kery T. Gray *KTG*  
Executive Assistant

**SUBJECT: Liquor Application**

**THIRD STREET PETROLEUM LLC  
727 WEST THIRD STREET  
DAYTON, OHIO 45402**

**Liquor License Application No. 8868886 (NEW)**

Please review the attached information and based upon your analysis, prepare the necessary legislation, if you so desire on this new liquor application. Please note there is no Objection from the Police Department; however, there are several objections from citizens, Wright Dunbar Inc., Duke E. Ellis Human Development Institute, PriMed Physicians, City Forest of Dayton, and Granville Woods Technology. If the Law Department determines that an objection should be cited, then the legislation should be prepared for the November 16, 2011, City Commission Meeting and postmarked back to Ohio Department Liquor Control by November 18, 2011.

If you have any questions, please contact me. Thank you for your consideration in this matter.

KTG:amj

Attachments

cc: Shanon Potts, City Commission, City Manager's Office

11/7/2011 2:12

**City of Dayton****Liquor Permit Investigation**

Renewal:	Transfer: New	Application:
Permit DBA: <b>Clark Station</b>	Permit #: <b>8868886</b>	
Permit Address: <b>727 W. Third St.</b>	Permit Type: <b>C1-C2</b>	
City, State, Zip Code: <b>Dayton, Ohio 45402</b>	Permit Phone #:	
Applicant Name: <b>Jasdev Singh</b>	Home Phone #: <b>419-604-9275</b>	
Applicant Address: <b>104 Shawnee Rd. Cridersville, Ohio 45806</b>		
Company Name: <b>Third Street Petroleum LLC</b>		
Date Received by Commission Clerk: <b>10-19-11</b>	Due Date: <b>11-18-11</b>	
Date Received by Police Department: <b>10-20-11</b>	Due Date: <b>10-31-11</b>	

**Investigation Area:**

PRIORITY BOARD	POLICE DISTRICT
Person Contacted: PLN	Person Contacted: Lt. Michael Wilhelm
Date Contacted: 10-27-2011	Date Contacted: 10-27-2011
Date of Response:	Date of Response: 10-31-2011
Objection: Information being sent.	Objection: No

Police Reports Attached

Yes

Zoning Investigation Attached

Yes

Investigator Narcotics Bureau:

Det. Michelle Moser *Det. Michelle Moser* Date: 10-31-2011

Commander, Narcotics Bureau:

Lt. Brian Johns *Brian Johns* Date: 10/31/11Superintendent  
Special Investigations Division:Major E.M. Davis *Major E.M. Davis* Date: 10/31/11

Chief of Police:

Richard A. Biddle *Richard A. Biddle* Date: 10/31/11

Recommendation of Chief:

Objection YESNO

Date Commission Clerk

11/14/11

Law Department Review:

City Manager's Approval:

Clark Station  
727 W. Third St.  
Dayton, Ohio 45402  
Permit #: 8868886  
Class: C1-C2

Page Two

#### **LOCATION AND TYPE OF PERMIT**

This business is located across West Third Street Bridge. It has been a gas station for several years, but in the last few years it has been closed. It is a few blocks east of the Wright Brothers Cycle Shop and several other renovated shops. In the past there have been issues with loitering and drug sales. I spoke with Mr. Jasdev Singh, one of the applicants. He stated he is well aware of the issues in the past and will not tolerate the loitering and sales. He has other permits in Ohio with no current violations.

The company is in the process of painting and cleaning up the business. There is one C1-C2 permit at 900 W. Third St. doing business as the Tasty Bird. There are several new houses and renovated houses in these blocks behind the businesses on West Third Street.

**COMPANY:** Third Street Petroleum LLC

#### **OFFICERS AND/OR MANAGING MEMBERS**

<b>Jasdev Singh</b>	5% or greater voting interest -- 5% membership interest
Criminal History	None
Drivers License	Valid Ohio License
<b>Narinder Kaur</b>	5% or greater voting interest -- 5% membership interest
Criminal History	None
Drivers License	Valid Ohio License
<b>Kirandeep Kaur</b>	5% or greater voting interest – 5% membership interest
Criminal History	None
Drivers License	Valid Ohio License
<b>Tajinder Singh</b>	5% or greater voting interest – 5% membership interest
Criminal History	None
Drivers License	Valid Ohio License
<b>Mandeep Kaur</b>	5% or greater voting interest – 5% membership interest
Criminal history	None
Drivers License	Valid Ohio License

#### **OTHER PERMITS**

Yes in Miami County. No active violations

#### **COMMANDER AND DIVISION**

Lt. Kimberly Hill is the Commander of the West Patrol Operations Division and voices no objection to this new permit being issued.



## MEMORANDUM

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20686

October 19, 2011

TO: Richard Biehl, Chief of Police

FROM: Rashella Lavender, Clerk of Commission

Subject: Liquor License Application No.8868886 (NEW)

**THIRD STREET PETROLEUM LLC  
727 WEST THIRD ST  
DAYTON, OHIO 45402**

Under Section 4303.26 Revised Code of Ohio, the Director of Liquor Control must notify the legislative body of a Municipal Corporation of a pending application for issuance or transfer of a Class C or D Permit and provide such Municipal Corporation the opportunity for a hearing upon the advisability of the issuance or transfer of such permit.

The attached application is now before the City for review and comments. Your prompt investigation will provide the Law Department, the City Manager and the City Commission with information necessary for a formal response.

Your report must be in the City Commission Office no later than  
**November 2, 2011.**

RL/amj

Attachment

cc: Priority Boards  
Steve Carne  
Shannon Potts  
John Aeschbury  
Paula Powers

NOTICE TO LEGISLATIVE  
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL  
6606 TUSSING ROAD, P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005  
(614)644-2360 FAX(614)644-3166

886886		PERMIT NUMBER	NEW	TO
			TYPE	THIRD STREET PETROLEUM LLC
				727 WEST THIRD ST
				DAYTON OH 45402
ISSUE DATE				
10 13 2011				
FILING DATE				
C1 C2				
PERMIT CLASSES				
57	044	A	254612	RECEIPT NO.
FROM 10/18/2011				

PERMIT NUMBER		TYPE	
ISSUE DATE			
FILING DATE			
PERMIT CLASSES			
TAX DISTRICT		RECEIPT NO.	



MAILED 10/18/2011

RESPONSES MUST BE POSTMARKED NO LATER THAN.

11/18/2011

**IMPORTANT NOTICE**

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.  
 REFER TO THIS NUMBER IN ALL INQUIRIES A NEW 886886

(TRANSACTION & NUMBER)

**(MUST MARK ONE OF THE FOLLOWING)**

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
 THE HEARING BE HELD  IN OUR COUNTY SEAT.  IN COLUMBUS.

WE DO NOT REQUEST A HEARING.

DID YOU MARK A BOX?  IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)-  Clerk of County Commissioner

(Date)

Clerk of City Council

Township Fiscal Officer

CLERK OF DAYTON CITY COUNCIL  
 101 W THIRD ST  
 P O BOX 22  
 DAYTON OHIO 45401

LDR OFFICE USE ONLY	
NEW	TRANSFER
PERMIT # 8868886	

OHIO DEPARTMENT OF COMMERCE - DIVISION OF LIQUOR CONTROL

6606 Tussing Road, P.O. Box 4005, Reynoldsburg, Ohio 43068-9005

Telephone: (614) 644-2431 • <http://www.com.ohio.gov/liqr>

**LIMITED LIABILITY COMPANY DISCLOSURE FORM**

(This form must accompany all applications of an LLC business entity)

SECTION A.

Name of Limited Liability Company Third Street Petroleum LLC	DBA Name
Permit Premises Address 727 West Third Street	City, State Dayton OH
Township, if in Unincorporated Area	Zip Code 45402
Tax Identification No (TIN) 45-3112972	

Limited Liability Company ("LLC") - Chapter 1705 Ohio Revised Code. Indicate below the managing members, LLC Officers, and all persons with a 5% or greater membership or voting interest, and attach a copy of the Articles of Organization filed with the Ohio Secretary of State.

Please be advised that any social security numbers provided to the Division of Liquor Control in this application may be released to the Ohio Department of Public Safety, the Ohio Department of Taxation, the Ohio Attorney General, or to any other state or local law enforcement agency if the agency requests the social security number to conduct an investigation, implement an enforcement action, or collect taxes.

SECTION B. List the top five (5) officers of the captioned business. If an office is NOT held, please indicate by writing NONE.

→ EACH OFFICER LISTED BELOW MUST HAVE A BACKGROUND CHECK PERFORMED BY BCI&I AND SUBMIT A PERSONAL HISTORY BACKGROUND FORM. PLEASE READ "BACKGROUND CHECK INFORMATION" DLC4191.

NAME OF OFFICER	SOCIAL SECURITY NUMBER	DATE OF BIRTH
1) CEO None		
2) President None		
3) Vice-President None		
4) Secretary None		
5) Treasurer None		

SECTION C. List the managing members and all persons with a 5% or greater membership or voting interest in the LLC.

→ THE INDIVIDUALS LISTED BELOW MUST HAVE A BACKGROUND CHECK PERFORMED BY BCI&I AND SUBMIT A PERSONAL HISTORY BACKGROUND FORM. PLEASE READ "BACKGROUND CHECK INFORMATION" DLC4191.

1) Name Jasdev Singh	Social Security No. (if individual)	<input type="checkbox"/> Managing Member
Residence Address 104 Shawnee Road	Tax Identification No. (if applicable)	<input checked="" type="checkbox"/> 5% or greater voting interest
City and State Cridersville OH	Zip Code 45806	<input checked="" type="checkbox"/> 5% or greater membership interest
Telephone No 419-604-9275	Date of Birth 12/12/1969	
2) Name Narinder Kaur	Social Security No. (if individual)	<input type="checkbox"/> Managing Member
Residence Address 770 Plumridge Trail	Tax Identification No. (if applicable)	<input checked="" type="checkbox"/> 5% or greater voting interest
City and State Sidney OH	Zip Code 45365	<input checked="" type="checkbox"/> 5% or greater membership interest
Telephone No 937-492-0477	Date of Birth 03/17/1961	

(PLEASE SEE REVERSE SIDE SHOULD YOU NEED ADDITIONAL SPACE )

STATE OF OHIO, Franklin COUNTY ss.

I, Jasdev Singh, being first duly sworn, according to law, deposes and says that he/she is (Title) Member

of the Third Street Petroleum LLC, a business duly authorized by law to do business in the State of Ohio, and that the statements made in the foregoing affidavit are true.

(Signature) Jasdev Singh (Print Name and Title) Jasdev Singh, Member

Sworn to and subscribed in my presence this 16th day of September 2011



JENNIFER S. JONES  
Notary Public, State of Ohio

My Commission Expires 09-04-2012

Jennifer S. Jones  
Notary Public

(Notary Expiration)

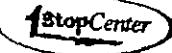
## DLC4032 (LIMITED LIABILITY COMPANY DISCLOSURE FORM)

SECTION C.  
(CONTINUED)

List the managing members and all persons with a 5% or greater membership or voting interest in the LLC.

THE INDIVIDUALS LISTED BELOW MUST HAVE A BACKGROUND CHECK PERFORMED BY BCI&I AND SUBMIT A PERSONAL HISTORY BACKGROUND FORM. PLEASE READ "BACKGROUND CHECK INFORMATION" DLC4191.

3) Name	Kirandeep Kaur	Social Security No. (if individual)	<input type="checkbox"/> Managing Member
Residence Address	110 Valley Forge Court	Tax Identification No. (if applicable)	<input checked="" type="checkbox"/> 5% or greater voting interest
City and State	Eaton OH	Zip Code	<input checked="" type="checkbox"/> 5% or greater membership interest
Telephone No.	937-307-5266	Date of Birth	03/30/1977
4) Name	Tajinder Singh	Social Security No. (if individual)	<input type="checkbox"/> Managing Member
Residence Address	7816 Spring Garden Ct.	Tax Identification No. (if applicable)	<input checked="" type="checkbox"/> 5% or greater voting interest
City and State	West Chester OH	Zip Code	<input checked="" type="checkbox"/> 5% or greater membership interest
Telephone No.	513-410-4101	Date of Birth	03/21/1966
5) Name	Mandeep Kaur	Social Security No. (if individual)	<input type="checkbox"/> Managing Member
Residence Address	201 Carrie Drive	Tax Identification No. (if applicable)	<input checked="" type="checkbox"/> 5% or greater voting interest
City and State	Wilmington OH	Zip Code	<input checked="" type="checkbox"/> 5% or greater membership interest
Telephone No.		Date of Birth	03/13/1976
6) Name		Social Security No. (if individual)	<input type="checkbox"/> Managing Member
Residence Address		Tax Identification No. (if applicable)	<input type="checkbox"/> 5% or greater voting interest
City and State		Zip Code	<input type="checkbox"/> 5% or greater membership interest
Telephone No.		Date of Birth	
7) Name		Social Security No. (if individual)	<input type="checkbox"/> Managing Member
Residence Address		Tax Identification No. (if applicable)	<input type="checkbox"/> 5% or greater voting interest
City and State		Zip Code	<input type="checkbox"/> 5% or greater membership interest
Telephone No.		Date of Birth	
8) Name		Social Security No. (if individual)	<input type="checkbox"/> Managing Member
Residence Address		Tax Identification No. (if applicable)	<input type="checkbox"/> 5% or greater voting interest
City and State		Zip Code	<input type="checkbox"/> 5% or greater membership interest
Telephone No.		Date of Birth	
9) Name		Social Security No. (if individual)	<input type="checkbox"/> Managing Member
Residence Address		Tax Identification No. (if applicable)	<input type="checkbox"/> 5% or greater voting interest
City and State		Zip Code	<input type="checkbox"/> 5% or greater membership interest
Telephone No.		Date of Birth	



**LIQUOR LICENSE APPLICATION CHECKLIST**

NAME OF ESTABLISHMENT THIRD STREET PETROLEUM LLC

ADDRESS 727 WEST THIRD ST

LOT NUMBER 8771, 8772, 8773, 8774, 8775

ZONING

DISTRICT MNC

CURRENT OCC. CERT. Service Station with beer and wine sales

LEGAL ZONING USE Service Station with beer and wine sales (Retail)

PROPOSED ZONING USE Service Station with beer and wine sale (Retail)

PERMITTED  CONDITIONAL  NONCONFORMING

NEW C.O. REQUIRED NO APPLICANT NOTIFIED

EXISTING CLASS PERMIT C1, C2

PROPOSED CLASS PERMIT C1, C2

HAS THE BUSINESS EXPANDED OUTSIDE? NO

IF YES, WAS A PERMIT ISSUED?

COMMENTS

*Denise Gilliam*

REVIEWED BY

10/24/11

DATE



## MEMORANDUM

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November 2, 2011

**TO:** Rashella Lavender  
Clerk of Commission

**FROM:** Mary E. Taylor, Citizen Participation Coordinator  
Planning and Community Development

**SUBJECT:** Liquor License Application No. 8868886 (NEW)

Third Street Petroleum LLC  
727 West Third Street  
Dayton Ohio 45402

In reference to the new liquor license application number 6668886 located at 727 West Third Street, please be advised of the following. Correspondence requesting comments was mailed to property owners in the Wright Dunbar and Wolfcreek neighborhoods.

The majority of the correspondence indicates a ground swell of opposition to this or any liquor license being permitted at the former Sunoco Station along the Wright Dunbar Business Corridor and abutting neighborhoods.

Additionally, I received telephone communication from Robert E. Turner a resident at 20 Shannon Street. He is opposed to this or any other liquor license at this location. With regularity, he had people standing on or around his house. This resident is not opposed to a gas station.

The overriding concern of the business community responses is that yet another liquor permit at this gateway to the Wright-Dunbar Business corridor and the National Park is unacceptable. It is not the type of business and customer base that was neither planned for nor expected by both business owners and residents invested in the area.

Your review of this strong opposition is attached for your consideration and is appreciated. Please call me at extension 2024 if more information is needed.

**C:** Mary M. Ellington, Chairperson, Innerwest Priority Board  
Shannon Potts, Department of Law,  
Brian Inderrieden, Land Use and Citizen Participation Manager

Attachments (8) Revised Number



Department of Public Safety  
Sinclair Police



November 1, 2011

Division of Citizen Participation  
101 W. Third Street  
Dayton, Ohio 45402  
ATTN: Mary E. Taylor

RE: Liquor License Application  
Third Street Petroleum, LLC  
727 W. Third Street  
Dayton, Ohio 45402

Dear Ms. Taylor:

The Sinclair Community College Department of Public Safety has conducted an analysis of the property located at 727 W. Third Street as it pertains to the type of impact we could expect from the issuance of a new liquor license within such close proximity to our college property.

After discussing this proposed application with members of the Dayton Police Department, it is our intention not to object to the issuance of the license at this time, however; we would reserve the right to reverse our decision should the establishment become the source of disruption in the area.

Professionally,

Charles J. Gift, M. A., CLEE  
Director of Public Safety and  
Chief of Police

Your levy support guarantees quality and affordability.



October 31, 2011

Mary E. Taylor  
Division of Citizen Participation  
City of Dayton  
101 West Third Street  
Dayton, Ohio 45402

Re: Liquor License Application for 727 West Third Street (8868886)

Dear Ms. Taylor,

Wright Dunbar, Inc. would like to register opposition to the liquor license application for 727 West Third Street.

Reopening of the convenience store at 727 West Third Street would negatively impact the commercial redevelopment efforts of Wright Dunbar, Inc. including potentially impacting the proposed Duke E. Ellis Institute expansion which could create up to 100 new jobs within this community. The addition of another liquor establishment across the street from current liquor establishment Tasty Bird located at 900 West Third promises to increase traffic at unreasonable hours, reduce the marketability of both residential and commercial properties, increase loitering and panhandling, as well as increase trash in the Business District.

Wright Dunbar, Inc. remains devoted to being a positive force for change in the western portion of the City of Dayton. Our strategic plan remains focused on the critical objectives of attracting residents, jobs and businesses to the area, while at the same time solidifying heritage tourism to the area and supporting the Dayton Aviation Heritage National Historical Park, among others. The sale of liquor at 727 West Third Street will not be conducive to attracting jobs, investors, and visitors to this important sector of the City of Dayton.

Please feel free to contact me if you have any questions.

Sincerely,

  
Idotha Bobtsie Neal  
President

**Taylor, Mary**

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**From:** Mary Drewry [mary.drewry@wright.edu]  
**Sent:** Monday, October 31, 2011 3:37 PM  
**To:** Taylor, Mary  
**Cc:** Larry C. James; Carol Sampson  
**Subject:** Opposition to Liquor License

Dear Ms. Taylor,

I just received notice of the Liquor License application for 727 W. Third St. I am writing to express my opposition to licensing this establishment to sell liquor. I am the Executive Director of the Duke E. Ellis Human Development Institute which is located across the street on Grimes Street. Our hours of operation are from 8:30 a.m. to 9:00 p.m. Monday through Thursday and 8:30 a.m. to 5:00 p.m. on Fridays. We provide mental health services to people of all ages from the community, including young children. It is well known that the previous owner of this gas station sold liquor and intoxicated individuals were seen walking the neighborhood drinking pint bottles of beer from a brown paper bag. This presents a safety issue for our clients, students and staff who attend the Ellis Institute on a daily basis.

For the sake of our immediate neighborhood and the entire Wright Dunbar area, please deny this application.

Thank you.

Sincerely,  
Mary Ann Drewry

**Taylor, Mary**

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**From:** Alonzo Patterson [alonzo.patterson@primedphysicians.com]  
**Sent:** Monday, October 31, 2011 4:18 PM  
**To:** Taylor, Mary  
**Subject:** Liquor license

I am a physician with PriMed Physicians and would like to express my opposition to a liquor license for the Sunoco station on West Third Street. Where I welcome new business to the neighborhood there are plenty of other business opportunities in the Wright-Dunbar Business district that does not involve carry out alcohol.

Alonzo Patterson III, M.D.

The information contained in this email and any attachments is confidential and may be subject to copyright or other intellectual property protection. If you are not the intended recipient, you are not authorized to use or disclose this information, and we request that you notify us by reply mail or telephone and delete the original message from your mail system.

## **Taylor, Mary**

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**From:** Clarence R. McGill Jr [rmcgill@iss-unlimited.com]  
**Sent:** Monday, October 31, 2011 4:38 PM  
**To:** Taylor, Mary  
**Cc:** 'Carol Sampson'  
**Subject:** Liquor Application

Good Afternoon Mary,

When I relocated my company to the Wright Dunbar location I was under the impression that this area was going to be a Business District. Although owning and operating a liquor store is a business it's not typically located in areas where you find business such as we are trying to attract in our Business District. It is also the type of business that I rather not be located near.

I'm extremely opposed to this liquor application being approved for this location, and hope that Third Street Petro LLC would consider relocating their planned operation within a shopping center such as Westtown or similar centers.

By approving this application, I'm sure the Wright Dunbar Business District will die. I'm sure there are studies available to substantiate what I'm saying. I would love to be a part of something special that Wright Dunbar Inc. is creating, but if the right chooses are not made when deciding where certain types of businesses are located, I myself would also have to pack my office and employees and relocate. What does this mean, just \$300,000 annual tax base with planned additional tax base of \$200,000 within the next 12 months.

Thanks for your time and allowing me to comment.

P.S. The email address provided in the city letter is incorrect, it could cause others who may want to comment problems trying to reach you.

Clarence R. McGill  
President, ISS  
1024 W. Third St  
Dayton, OH 45402

## **Taylor, Mary**

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**From:** Jan Velkoff [jan.velkoff@kmgprestige.com]  
**Sent:** Tuesday, November 01, 2011 11:29 AM  
**To:** Taylor, Mary  
**Subject:** liquor license

We at City Forest of Dayton manage 70 rental homes in the district where the old Sunoco is located. This year we have seen a rise in theft in this area. We are against the proposed liquor license for the Third Street location. We feel this would only contribute to the theft issue we are dealing with now and would attract undesirable cliental to the Wright Dunbar area that we are trying to revitalize with new housing and schools.

Please consider our view.

Thank you

Jan Velkoff, CAM, HCCP, SHCM  
City Forest of Dayton  
Property Manager  
9 N. Williams St.  
Dayton, OH 45402  
937-222-4735 phone  
937-222-4787 fax  
937-414-6638 cell phone

**Taylor, Mary**

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**From:** Ray Wilcoxson [wilcoxson@hotmail.com]  
**Sent:** Tuesday, November 01, 2011 12:45 PM  
**To:** Taylor, Mary  
**Subject:** Pending Liquor License

My name is Ray Wilcoxson jr., and I live at 230 N. Williams St. and I am writing to express my concern regarding a pending liquor license for an establishment at 772 W. Third Street. I do not support this establishment selling alcohol in my neighborhood. I have small children and I feel that more alcohol consumption in this area will adversely affect the neighborhood. Thank you,

Ray Wilcoxson

**Taylor, Mary**

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**From:** makeda mccloud [mdmck4@yahoo.com]  
**Sent:** Tuesday, November 01, 2011 12:41 PM  
**To:** Taylor, Mary  
**Subject:** Third Street Liquor License

Hello,

I am writing to express my concern regarding a pending liquor license for an establishment at 727 W. Third Street. My name is Makeda Wilcoxson and I reside at 230 N. Williams Street. I do not support the sale of alcohol at this establishment. We have children as to most of the families in this neighborhood. We are steadily working to improve the environment in which are children are growing up in and I feel that easily accessible alcohol is not condusive to that mission. Thank you,

Makeda Wilcoxson

## **Johnson, Anita**

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**From:** Lavender, Rashella  
**Sent:** Friday, November 04, 2011 3:55 PM  
**To:** Johnson, Anita  
**Subject:** FW: Response to request for liquor license located at 727 West Third Street.

**From:** Taylor, Mary  
**Sent:** Friday, November 04, 2011 9:14 AM  
**To:** Lavender, Rashella; Potts, Shanon; Moser, Michelle; Inderrieden, Brian; 'Mary Ellington'  
**Cc:** 'tony.manuel@stan-solutions.com'  
**Subject:** FW: Response to request for liquor license located at 727 West Third Street.

Greetings:

Please be aware of this additional correspondence relative to the new liquor application at 727 West Third Street for your records.

Thank you.

Mary E. Taylor | Department of Planning and Community Development | 937.333.2024 | [mary.taylor@daytonohio.gov](mailto:mary.taylor@daytonohio.gov)

**From:** Tony Manuel [mailto:[tony.manuel@stan-solutions.com](mailto:tony.manuel@stan-solutions.com)]  
**Sent:** Thursday, November 03, 2011 9:11 PM  
**To:** Carol Sampson; Taylor, Mary; Alexander, Ray  
**Subject:** Response to request for liquor license located at 727 West Third Street.

Mary Taylor,

Response to request for liquor license located at 727 West Third Street.

To Whom it may Concern:

My name is J. Tony Manuel. I am the President and CEO of Granville Woods Technology, located at 823 W. Third Street. STAN Solutions is an award winning wireless communications and engineering firm. Granville Woods is a training facility. We concentrate our expertise towards retraining displaced workers, or unskilled individuals that may have purchased the property in 2008 and spent the next year concentrating our efforts into repairing and cleaning up the property. Our overwhelming task has been keeping the individuals that migrate into this area from congregating and trashing the yards and streets.

I am against this facilities request to sell liquor in this area. This will adversely affect the improved transformation the Gateway.

It will hurt my ability to conduct business in this area, because it will re-introduce the quick sale of liquor back to the area. Any given time you ride down West Third Street before you pass Shannon. Look at the people who sit outside this establishment formally known as Tasty Bird, the last location that was granted a liquor license for this area. We are continually cleaning up the discarded bottles. We hold face to face discussions with some violators in an attempt to prevent them from publicly urinating, or defacing property, or improperly discarding trash.

change, as purchasing liquor becomes more accessible in this area. This is a continued ongoing day to day struggle w  
take us back, hurt my ability to conduct business in this area, tarnish our gateway and increase the deteriorated erosio

I respectfully request you deny this liquor license request for 727 W.Third St

Sincerely,

J. Tony Manuel  
STAN Solutions, LLC  
Cell: 937.416.6113  
Office: 937.938.1905  
Fax: 937.531.6638